Current WTO Debate on the E-Commerce Moratorium: Scope and Impact

A Statement from the Global Services Coalition

April 2020

The Global Services Coalition (GSC) is committed to promoting constructive multilateral rules that expand global trade. The WTO e-commerce moratorium on duties on electronic transmissions, which WTO members have supported for more than twenty years, has proven to be an especially valuable mechanism for expanding the benefits of e-commerce and cross-border trade to developed and developing countries alike. The GSC commends WTO members for confirming the extension of the moratorium to the next WTO Ministerial Conference (MC12) and urges WTO members to make the moratorium permanent at MC12.

The moratorium allowing information flows to remain duty-free has helped give rise to a dramatic expansion in the depth and breadth of digital trade. Over the decades people and businesses globally have gained access to innovative, low-cost digital methods to communicate, sell goods and services, make payments, learn, and entertain.

Information flows are now more central to the development of world trade than at any previous time. These flows are continuing to expand, not least in response to the COVID-19 crisis. We therefore feel bound to address a series of criticisms levelled against the moratorium in the WTO framework in recent weeks. We offer our response below.

Revenue implications of moratorium. Critics of the moratorium have referred to UNCTAD research from 2019 that estimates the moratorium could prevent countries worldwide from collecting more than $10 billion in tariff revenue.[1] But other economists have called into question the methodology underlying the UNCTAD study, contending that it exaggerates the likely gains in tariff revenues for countries that abandoned the moratorium and started imposing duties on electronic transmissions. The UNCTAD model is based on the unrealistic scenarios that governments would impose customs duties at the highest possible rate, and also that physical goods would be fully digitized.

In contrast to the UNCTAD argument, the OECD study suggests that allowing the moratorium to lapse would be an economic mistake. Indeed, the OECD determined that placing duties on electronic transmissions would exact greater costs than any marginal gains in tariff revenues. According to its

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[1] UNCTAD 2019, *Growing Trade in Electronic Transmissions: Implications for the South*, UNCTAD Research Paper, No. 29, https://unctad.org/en/PublicationsLibrary/ser-rp-2019d1_en.pdf

analysis, countries that began imposing duties on electronic transmissions would suffer a net loss in consumer welfare and export competitiveness.

Imposing duties on electronic transmissions would also not generate meaningful government revenue, according to the OECD. Even according to the most generous estimates, it projects that governments in developing countries that began to impose duties would stand to increase total government revenues by only about 0.08% - 0.23% of total revenues.

That is in part because the universe of products potentially subject to duties is relatively small. At most, only about 1% of today's total physical trade can be digitized. As noted below, 3D printing is not expected to change that figure much in coming years.

The OECD study also notes that there are other non-discriminatory means for governments to raise revenue. Some counties already use consumption taxes, which, being non-discriminatory, are compatible with WTO rules.

The OECD's findings are consistent with earlier research from the European Centre for the International Political Economy (ECIPE)[2] that likewise showed an economic benefit for countries that maintain the moratorium.

If any one country opted out of the moratorium and began imposing duties on electronic transmissions, would others do the same? Critics of the moratorium in the WTO framework seem to assume – for no very obvious reason – that they would not do so. The Global Services Coalition doubts this. It could well be that the desire for new sources of revenue would motivate other countries to follow suit. Assuming a scenario of widespread reciprocity, ECIPE found, for instance, that India would stand to lose 49 times more in economic growth than it would generate in duty revenues, and South Africa would lose over 25 times more.

In short, opting out of the moratorium appears likely to exact considerably higher economic and social welfare costs than it would yield in benefits.

Collateral damage of protectionist industrial policies. Critics of the moratorium are in effect advocating a form of digital protectionism through digital import substitution. They are arguing that developing countries should be able to enact digital tariffs to discourage imports, so that local companies can be shielded from competition. Rather than promoting the growth of business, such policies are likely to be costly and ineffective.

In fact, digital tools provide a cost-effective means for businesses – especially micro-, small- and medium-sized firms - to market and deliver their products to new overseas markets. In developing countries in particular, enterprises that create their own web presence and offer digital delivery are shown to be more likely to become exporters.[3] The GSC welcomes the continuation of the work of the WTO Joint Statement Initiative (JSI) on MSMEs at this time, and hopes that it will identify the value of such digital tools for MSMEs.

[2] Hosuk-Lee Makiyama and Badri Narayanan, *The Economic Losses from Ending the WTO Moratorium on Electronic Transmissions* (Brussels: ECIPE, August 2019), https://ecipe.org/publications/moratorium/

[3] Andrenelli, *Electronic Transmissions*, 28.

Online channels allow countries with strengths in particular industries to more easily reach foreign customers. For example, one study of global value chains[4] found that despite its relatively modest population, Korea ranked third globally in terms of global motion picture revenue, boasting an income share of 6% of the world total. Korea's sophisticated film industry not only generates award-winning films of its own, but also provides specialized services in pre-production, production, post-production and distribution for movies from other countries.

In addition, it is likely that import tariffs on alleged "digitizable goods" – should that be technically feasible - would adversely impact the delivery of other digital services attached to these "digitizable goods." With the increasing interdependence between goods and services, particularly when they are delivered online, it may not always be feasible to impose a duty on a "digitized product" without also impacting on a related or bundled service.

Online services, including those from abroad, help to make local businesses more competitive. Throughout the world, successful businesses, both small and large, are likely to use some combination of digital marketing, payments, IT services, accounting, sales tracking, inventory management, communications and computer storage tools, so as to enable the enterprise to focus on its core business. As a result, a digital import substitution policy could undermine rather than promote the growth of developing country businesses that rely on data transfers, both domestic and foreign, to make themselves more competitive.

Role of 3D printing. It has been claimed that the moratorium is no longer helpful to developing countries. Concerns raised include the suggestion that the advent of 3D printing, which allows for the digital transfer of instructions that can be used to "print" physical products, could threaten the health of local manufacturers.

We believe this claim is vastly overstated. Notably, a November 2019 OECD study[5] cited a number of limitations that have slowed the adoption of 3D printing technology. The report concluded that 3D printing was unlikely to lead to significant changes in physical trade for the foreseeable future. Most pertinent to the claims that have been made, the OECD study noted that 3D printing does not provide significant opportunities for economies of scale, which suggests it will not easily replace more traditional manufacturing models. The OECD study also points to constraints on the size of items that can be printed; on the strength of materials that may be used; and on the ability of 3D printing to incorporate multiple different materials as inputs. All are factors likely to check the widespread adoption of 3D printing.

Indeed, the McKinsey Global Institute recently forecast that 3D printing is likely to replace only 1 to 2% of physical trade by 2030.[6] The claims about the threat presented by 3D printing appear to be

[4] Sébastien Miroudot, *Hallyuwood: Korea's Comparative Advantage in the Global Motion Picture Industry* (Manila, Philippines: Kritika Kultura, Ateneo de Manila University, January 2019), 62, https://journals.ateneo.edu/ojs/index.php/kk/article/view/2978/2807

[5] Andrea Andrenelli and Javier Lopez Gonzalez, *Electronic Transmissions and International Trade –Shedding New Light on the Moratorium Debate*, (Paris: OECD, November 2019), https://www.oecd-ilibrary.org/trade/electronic-transmissions-and-international-trade-shedding-new-light-on-the-moratorium-debate_57b50a4b-en

[6] McKinsey Global Institute, *Globalization in Transition: The Future of Trade and Value Chains*, McKinsey & Company (2019), https://www.mckinsey.com/featured-insights/innovation-and-growth/globalization-in-transition-the-future-of-trade-and-value-chains

significantly overstated and, at a minimum, would not seem to provide a compelling rationale for forsaking the moratorium.

Other reasons to support the WTO e-commerce moratorium. There are a number of other factors that come into play in assessing the value of the moratorium. First, digitally delivered products tend to be more affordable and accessible. Consider transport expenses, which account for as much as 20 to 30 percent of the cost of merchandise trade in countries with less developed infrastructure.[7] Digital delivery significantly reduces these costs, thereby improving consumer welfare.

Second, digital transactions reduce corruption. From an enforcement perspective, digital transactions are preferable because they are transparent. Countries stand to benefit from pushing more business into the digital realm, where transactions can be more easily documented and accounted for.

Third, tariffs hurt consumers. The economic record shows that when duties are imposed, the affected local importing businesses tend to pass on the higher costs to domestic consumers. In other words, local consumers end up bearing the brunt of duties. The use of tariffs is also generally associated with relatively lower output and productivity.

And fourth, it's technically unclear how governments could determine fair rules for collecting such custom duties on electronic transmissions. If the idea were to impose custom duties on alleged "digitizable goods," there would be a need to identify the origin of the cross-border data transfers that would be transformed into physical products in the country of destination, as that is a necessary step for applying a tariff. This would be very difficult given the dynamic nature of data flows. Indeed, in the process of being sent over the internet, data is broken down into smaller packets that may end up traveling along different routes – and through different jurisdictions - along the way to a final destination, where the packets are then re-assembled into a single coherent message. It would be a complex and perhaps arbitrary exercise to designate a single country as the source of these multiple data subsets, each of which potentially travels through various jurisdictions before arriving at its destination.

Scope of moratorium. Finally, a note on the reach of the moratorium. Some critics of the moratorium suggest that the ban on duties can be interpreted to apply only to the electronic transmission itself – the bits and bytes within it – and not the content that is being transmitted. But in practice, such a narrow interpretation would render the moratorium meaningless. It is only the content transmitted electronically that possesses commercial value.

Conclusion. The agreement to protect digital trade from tariffs has stood the test of time. Digital trade has transformed consumer access to online services and boosted economic competitiveness around the world. Abandoning an approach that has worked so well for so long would be a mistake.

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About the Global Services Coalition. The GSC is an international network of trade associations that represent services companies based in Asia, Australia, the European Union and North America. The GSC speaks for the services sector in its members' respective countries on matters of international trade and investment. Services enable and support every economic sector from manufacturing to agriculture. Through digital technology, services promote economic growth, job creation and competitiveness.

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[7] Andrenelli, *Electronic Transmissions*, 7.

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