

THE WTO MORATORIUM ON CUSTOMS DUTIES ON ELECTRONIC TRANSMISSIONS

A primer for business



WHAT IS IT?

Since 1998 World Trade Organization (WTO) Members have agreed not to impose customs duties on electronic transmissions.

While the term “electronic transmissions” is not defined, it is commonly held to encompass anything from software, emails, and text messages to digital music, movies and videogames.

The moratorium is not set in stone: every two years governments agree to extend the moratorium at the biennial WTO Ministerial Conference.

Due to an aberration in the WTO Ministerial Conference scheduling, the moratorium is due to lapse on 31 December 2019—unless a decision is taken at a WTO General Council meeting in December to extend the moratorium until the 12th WTO Ministerial Conference in Nur-Sultan, Kazakhstan in June 2020.

There is a significant risk that the moratorium will not be renewed this December, leaving governments free to experiment with applying damaging tariffs to cross-border data flows.

WHY DOES IT MATTER?

The moratorium has enabled exponential growth in use of the Internet and the flourishing of the digital economy.

Unencumbered by traditional tariffs—a notoriously inefficient and distortive method of raising revenue—the creative potential of humanity has been unleashed, leading to ingenious products and services that have greatly benefited society and led to productivity gains in all facets of the global economy.

Recently, a small number of countries—such as India, Indonesia and South Africa—have indicated a desire to end the moratorium and to begin unilaterally imposing tariffs on cross-border data flows.

Their argument is that the digitalisation of previously physical goods (CD-ROMs to mp3s, DVDs to online streaming, printed books to eBooks) has led to losses in customs revenue.

While these countries have identified a legitimate problem, the proposed solution is misguided. No country has been able to explain how it would even be possible to collect customs duties on data flows without causing significant disruption to the digital world.

A number of recent papers have shown that the unilateral imposition of customs duties on electronic transmissions will:

1. have distortive effects on growth of the digital economy
2. be cost-prohibitive and technologically unfeasible
3. likely fall foul of several existing free trade agreements under the most favoured nation principle.

Rather than impose customs duties, we think that a combination of internal taxation and international tax reform, undertaken by the OECD, is the best path forward for governments seeking to protect national revenue bases in the context of the digital economy.

WHAT YOU CAN DO

1. Raise the issue of the moratorium with your members.
2. Share the [ICC Issues Paper](#) with key government ministries and relevant networks: The business case for a permanent prohibition on customs duties on electronic transmissions.
3. Call for governments to agree an extension of the moratorium until the 12th WTO Ministerial Conference without delay.