

# Understanding the scope, definition and impact of the WTO e-commerce Moratorium

- › With the WTO e-commerce Moratorium subject to renewal at the WTO Ministerial Conference (MC 13) in early 2024, Members are currently discussing its scope, definition and impact.
- › The potential fiscal implications of the Moratorium are small, representing, on average, around 0.1% of total government revenue. For most countries, foregone revenue would be offset by rising GST/VAT revenue on digital services imports.
- › Lifting the Moratorium would imply losses in competitiveness and increased trade costs that will hit developing countries and smaller actors most, including SMEs and women-owned firms.
- › Overall, there is a strong economic case to renew the e-commerce Moratorium at MC13.

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## The WTO e-commerce Moratorium is up for renewal in 2024 at MC 13

For more than two decades, the WTO Moratorium on applying customs duties on electronic transmissions (henceforth the “Moratorium”) has supported a stable, predictable and duty-free environment that has enabled digital trade to thrive. In recent years, however, several WTO Members have questioned the opportunity costs of the Moratorium. Their concerns range from a lack of clarity on issues of scope and definition of the Moratorium to its potential foregone customs revenue implications, and the desire to maintain “policy space” in light of rapid technological change.

These discussions are not new. Issues around the scope and impact of the Moratorium have been debated for nearly 25 years. However, when it was last renewed, at the 12th Ministerial Conference in June 2022 (MC12), WTO Members also agreed to intensify discussions on the scope, definition, and impact of the Moratorium. In February 2024, at the upcoming WTO Ministerial Conference (MC13), WTO Members will, once again, discuss whether or not to renew the Moratorium.

## Regional trade agreements provide insights on the potential scope and definition of the Moratorium

Some WTO Members question whether the Moratorium applies to the ‘content’ of the transmission (e.g. movies or e-book downloaded) or its ‘carrier-medium’ (i.e. the bits and bytes that carry the content). Some have also questioned whether the Moratorium affects the ability of countries to raise taxes beyond customs duties, or if the Moratorium affects other commitments made in the WTO.

Language used by over 100 countries on the non-imposition of customs duties on electronic transmissions (NICDET provisions) in regional trade agreements (RTAs) gives new insights into some of these issues. For example, one of the most common

clarifications is that internal taxation is outside the scope of the NICDET commitment hence not affecting non-discriminatory taxes such as VAT/GST. Digital trade chapters also generally reaffirm that NICDET provisions have little incidence on the wider regulation of electronic delivery of services (meaning that the WTO General Agreement on Trade in Services or RTA commitments and flexibilities remain). Members also increasingly clarify that NICDET commitments apply to the content of the electronic transmission. There are no trade agreements clarifying that NICDET provisions apply to the ‘carrier-medium’ of electronic transmissions.

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## The potential fiscal implications of the Moratorium are small

Some WTO Members worry that not imposing customs duties on electronic transmissions may lead to foregone customs revenue. That is, a country importing a movie via an electronic transmission foregoes the tariff revenue associated with its import via a physical carrier medium, such as through a DVD. They argue that the rapid pace of digitalisation increases the scale of the problem, especially for developing countries, which tend to charge higher tariffs on these items.

However, imports of “digitisable goods”, which are physical goods that can be digitised and subsequently sent across

borders digitally (like a CD or a book), have generally been growing in developing countries over the last decade, continuing to generate tariff revenue. In other words, while we may be importing fewer DVDs, we are importing more USBs and SSDs.

New evidence suggests that the foregone customs revenue that can be attributed to the Moratorium is generally small, on average equal to 0.68% of total customs revenue or 0.1% of overall government revenue. Moreover, in most cases, the VAT/GST applied on digital services imports would completely offset potential fiscal revenue effects of the Moratorium.

## The Moratorium generates benefits for developing countries, domestic competitiveness and SMEs

If countries were to apply existing tariffs on digitisable goods to digital services (which is where electronic transmissions are measured in existing trade statistics), imports and exports of low-income countries would fall by 32% and 2.5% respectively. For middle-income countries losses would be of 6% and 0.4% and for high-income countries of 0.04% and 0.5%. In terms of trade effects, low-income countries would suffer most from lifting the Moratorium.

Tariffs on electronic transmissions would also reduce domestic competitiveness. Businesses have been adopting digital

solutions, such as software or computer services (whether imported digitally or via physical carrier), often sourced from abroad, to enable their digital transformation. Increases in prices of such digital inputs would lead to reductions in competitiveness. This would not be the case for VAT/GST because these apply to final and not intermediate consumption.

The impact of greater barriers on electronic transmissions is likely to be asymmetric, affecting SMEs most. Being able to deliver trade digitally is associated with higher propensities to export for smaller firms.

## There is a strong economic case for the renewal of the e-commerce Moratorium

As WTO Members discuss whether or not to extend the Moratorium at the next Ministerial Conference, they should consider the emerging evidence suggesting that the potential

foregone revenue costs of the Moratorium are small and that its lapse would come at the expense of wider gains in the economy.



### References:

Andrenelli, A. and J. Lopez Gonzalez (2023), “Understanding the potential scope, definition and impact of the WTO e-commerce Moratorium”, OECD Trade Policy Papers, No. 275, OECD Publishing, Paris, <https://doi.org/10.1787/59ceace9-en>.

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