

**General Council Meeting
22-23 November 2021**

Statement by India – Delivered by Ambassador & PR to the WTO

Agenda item 8: WORK PROGRAMME ON ELECTRONIC COMMERCE

A. REPORT BY THE CHAIR

B. COMMUNICATION FROM AUSTRALIA; CANADA; CHILE; COLOMBIA; COSTA RICA; ECUADOR; EL SALVADOR; GEORGIA; GUATEMALA; HONG KONG, CHINA; ICELAND; KOREA; REPUBLIC OF MEXICO; NEW ZEALAND; NORWAY; PERU; SINGAPORE; SWITZERLAND; SEPARATE CUSTOMS TERRITORY OF TAIWAN; PENGHU; KINMEN AND MATSU; THAILAND; UKRAINE; UNITED KINGDOM; AND URUGUAY (WT/GC/W/831/REV.2)

Chair, India has been advocating evidence-based decision on the question of moratorium on customs duties on electronic transmissions. The current submission WT/GC/W/831/REV.2 does not really provide any evidence as to why this moratorium should continue. [We will be addressing this topic in more detail in the next Agenda Item 8C.]

C. THE MORATORIUM ON CUSTOMS DUTIES ON ELECTRONIC TRANSMISSIONS: NEED FOR CLARITY ON ITS SCOPE AND IMPACT-COMMUNICATION FROM INDIA AND SOUTH AFRICA (WT/GC/W/833)

Chair, India has been advocating evidence-based decision on the question of moratorium on customs duties on electronic transmissions. In order to arrive at a conclusion on this topic which addresses an effective way to promote digital trade, a broader discussion with information and data is paramount to ensure productive negotiations.

If the WTO is to truly attempt to promote digital trade, it cannot be based on a discussion of a single policy instrument or a one size fits all solution. Therefore, for any decision on the moratorium on customs duties on electronic transmissions is to go forward at this ministerial, it must also include recognition of the other tools beyond the moratorium, which are available to promote digital trade.

It is in this context that India and South Africa have jointly submitted the paper titled “The Moratorium on Customs Duties on Electronic Transmissions: Need for Clarity on its Scope and Impact” (WT/GC/W/833).

This paper as well as our earlier paper WT/GC/W/798 made it clear that the scope of this moratorium itself is not well-defined. Our current paper brings out four key conceptual and methodological issues in the arguments made by the proponents in WT/GC/W/799/Rev.1. There is no single solution. It needs multifaceted approach.

First, our paper explains how using a methodological sleight of hand, the proponents of WT/GC/W/799/Rev.1 conclude that while digital trade is booming, they still need greater market access through the continuation of this moratorium.

The convenience of the methodology used to gain undue advantage in their arguments is astonishing.

When assessing the total trade of electronic transmissions, the proponents of WT/GC/W/799/Rev.1 consider only digitizable goods and conclude that trade in these goods remains modest. But when estimating the impact of the moratorium on exports, especially of MSMEs, they consider the extended scope of the moratorium by including services and find the positive impact to be huge. This scope expansion of the moratorium to include services has been done without giving any rationale or argument to support this understanding.

Secondly, our paper shows how the proponents of WT/GC/W/799/Rev.1 have not just conveniently defined the scope using two contradictory arguments simultaneously, they have also glossed over the fact that the cost of the moratorium is being disproportionately being borne by the developing countries. The paper outlines UNCTAD data which shows that the annual loss of tariff revenue from this moratorium based on the identification of a small number of digitizable goods in five areas is USD 10 billion on an annual basis. A more recent view from the UNCTAD places this loss at USD 12 billion.

The proponents of WT/GC/W/799/Rev.1 characterize this loss as a small one. However, they fail to mention that almost all this loss is being borne by the developing countries. As per UNCTAD studies, the developing countries are letting go revenue to the tune of 4.35% of their total customs revenue. This impact is a mere 0.24% for the developed countries. This is yet another example of how the arguments made by the proponents is based on cherry-picked data.

Third, these submissions also do not reflect the impact that new technologies such as 3D printing can have on domestic industries especially MSMEs in developing countries. While 3D printing is currently at a nascent stage in developing countries, its market is expected to grow at a rapid pace. The most affected sectors could include sectors such as textiles and clothing, footwear, auto-components, toys, mechanical appliances, and hand tools, etc. which generate large scale employment for low skilled workers and are sectors in which most MSMEs operate. Not a word is spoken by the proponents of WT/GC/W/799/Rev.1 on these concerns.

Fourth, we explain in our paper how the proponents of WT/GC/W/799/Rev.1 do not address the concerns of the developing countries with respect to the importance of preserving their policy space. Customs duties are used by countries to support nascent domestic industries, regulate an unwanted surge in imports and facilitate industrialization. Customs duties have been resorted to by developed countries to provide protection to their industry and to enable them to become internationally competitive. The submissions suggest that instead of imposing tariffs on electronic transmissions, governments could consider imposing non-discriminatory internal taxes for raising revenue. Internal taxes are not an alternative to customs duties and serve a different purpose. For countries that want to promote digital industrialisation, customs duties should remain part of the toolbox to be deployed based on the strategic objectives of each country in pursuit of industrial policy.

Chair, our paper thus makes it clear that the proponents of the moratorium on customs duties on electronic transmissions have abjectly failed in demonstrating any concrete benefits this moratorium brings to the WTO Members at large.

Let us be clear that the moratorium on customs duties on electronic transmissions is not a silver bullet to promote digital trade. There may be many other ways to achieve the same end objective.

In light of this, we reiterate our commitment to evidence-based policy making in WTO and call upon the proponents of the moratorium on customs duties on electronic transmissions to back their claims with relevant, consistent and non-contradictory data.
