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**General Council**

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**WORK PROGRAMME ON ELECTRONIC COMMERCE****BROADENING AND DEEPENING THE DISCUSSIONS ON THE MORATORIUM  
ON IMPOSING CUSTOMS DUTIES ON ELECTRONIC TRANSMISSIONS**

*Communication from Australia; Canada; Chile; Colombia; Hong Kong, China; Iceland;  
Republic of Korea; New Zealand; Norway; Singapore; Switzerland and Uruguay*

The following communication, dated 26 March 2020, is being circulated at the request of the delegations of Australia; Canada; Chile; Colombia; Hong Kong, China; Iceland; Republic of Korea; New Zealand; Norway; Singapore; Switzerland and Uruguay.

**1 INTRODUCTION**

1.1. In recent years, discussions on the extension of the Moratorium on imposing customs duties on electronic transmissions have intensified. Some Members have raised among the main issues a potential loss of government revenue associated with tariff reductions on trade in digitizable goods.

1.2. While recognising the importance of this concern, we consider it timely to adopt a more holistic approach, by taking into account other relevant factors and their impact on consumers and on export competitiveness, and placing existing empirical evidence into a wider economic context. With this perspective, we wish to draw Members' attention to a publication on electronic transmissions and international trade issued in November 2019 by the OECD and entitled "Electronic transmissions and international trade - shedding new light on the moratorium debate" (hereafter referred to as 'the study').<sup>1</sup> The study argues that the overall benefits of duty free electronic transmissions outweigh the potential forgone government revenues due to the E-Commerce Moratorium.

1.3. Our submission aims to capture and highlight essential elements of this study which we strongly believe should be considered in the current discussions on the extension of the Moratorium.

**2 THE ECONOMIC BENEFITS OF ELECTRONIC TRANSMISSIONS**

2.1. By focusing on revenue implications, positive effects that digitalization can bring to the economy have not been included in the discussions that have taken place so far. The study sheds light on the economic benefits associated with electronic transmissions.

2.2. The study notes work, which found that the use of foreign value-added is associated with positive economic outcomes such as export, diversification, productivity growth and increased domestic value-added in exports. Developed economies are not the only ones to benefit from such trends with ICT-enabled services, like telecommunication services, financial services or other

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<sup>1</sup> Andrenelli, A. and J. López González (2019-11-13), "Electronic transmissions and international trade - shedding new light on the moratorium debate", OECD Trade Policy Papers, No. 233, OECD Publishing, Paris.  
<http://dx.doi.org/10.1787/57b50a4b-en>

OECD trade policy brief, "Shedding new light on the debate about duties on electronic transmissions" (December 2019)  
[https://issuu.com/oecd.publishing/docs/shedding\\_new\\_light\\_on\\_the\\_debate\\_about\\_duties\\_on\\_e](https://issuu.com/oecd.publishing/docs/shedding_new_light_on_the_debate_about_duties_on_e)

business services, experiencing a growth at an average pace of 10 to 13% between 2005 and 2017 for developing countries.

2.3. The study notes that the process of digitalization can reduce the overall costs of production and remove transportation of certain products.

2.4. The study uses an example of a record company that no longer has to bear the costs of physically producing a physical carrier medium. It notes that a good that was delivered physically, but is now transmitted electronically, no longer incurs transportation costs.

2.5. The study highlights work that found, on average, transportation costs can represent between 20 to 30% of total trade costs. Given the fact that developing economies generally incur higher transportation costs, such reductions could contribute to levelling the playing field.

2.6. The study cites that by bringing access to an increasing amount and cheaper types of intermediate goods and services, the digital economy enables firms to reap input benefits and grow their export competitiveness. The authors of the study find that digitally deliverable services enhance export competitiveness of all firms, including SMEs.

2.7. Furthermore, the study highlights the effect that digitization and the adoption of digital technologies can have in enabling an increasing number of firms, including SMEs, to export. The use of websites by companies established in developing economies increased their predisposition to become exporters compared to those that do not use websites.

2.8. The study notes that duties applied by other countries on electronic transmissions, and their content, might impair the ability of domestic SMEs to export.

2.9. All the benefits outlined by the study presuppose the non-imposition of tariffs on electronic transmissions. The latter are likely to deliver considerable improvements with respect to providing access to cheaper goods and services as well as enabling businesses to export without facing additional obstacles.

### **3 AN INSIGHTFUL WELFARE ANALYSIS OF ELECTRONIC TRANSMISSIONS**

3.1. Members have been referring to many different estimates in past discussions on this matter, which did not take into consideration the benefits associated with relevant reductions of trade costs, potential gains in productivity and increased consumer welfare. The welfare analysis in the study provides a clear illustration of what is induced by the absence of duties on electronic transmissions in terms of both revenue loss and the welfare surplus for consumers. Taking into consideration consumer welfare would bring depth to the discussion and could help move them forward

3.2. The welfare analysis outlines that the reduction in production and transportation costs associated with digital deliveries, as well as the removal of the tariff, can lead to a reduction in price. In consequence, the increase in demand leads to a rise in imports and an increase in consumer surplus, part of which is associated with redistribution from the domestic producer and part of which is from government revenue to the consumer. The study is unambiguous: the overall impact to the economy is "positive and large".

3.3. The study finds that the imposition of equivalent duties on electronic transmissions could negate those positive effects by increasing the price of the digital delivery, which shifts some of the consumer welfare back to the domestic producers and the government. Governments and producers would recover some of the revenue foregone but the amount recovered would depend on the elasticity of demand. The study also highlights that this would occur at the expense of consumer surplus. The positive welfare impact would decrease as the price of the digital product increases. Consequently, by introducing equivalent duties on electronic transmissions, governments would create a "deadweight loss" to the economy. The overall benefits associated with digitization (i.e. lower trade costs) would be reduced and weaker economies would miss an opportunity to overcome their trade cost disadvantages.

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#### **4 THE APPLICATION OF INTERNAL NON-DISCRIMINATORY TAXES AS AN ALTERNATIVE TO TARIFFS**

4.1. The study not only provides important elements regarding who bears the burden of tariffs, but also regarding the potential alternative sources of government revenue which would be better suited to the digital economy. The study notes that tariffs increase the price of a product to the domestic consumer. The extent to which the domestic price increases is dependent on the tariff pass-through, which ranges from full pass-through to none. If there is no pass-through, then the foreign company fully absorbs the tariff through reduced revenue. If there is full pass-through, then the domestic price increases in proportion to the tariff. Recent work quoted by the study notes that quasi complete-pass tends to be the most common – that is, foreign companies fully pass-on the price increase to domestic consumers. Moreover, recent work conveyed in the study has also demonstrated that tariff increases, in the medium-term, negatively affect domestic output and productivity, employment and lead to higher inequality and real exchange rate appreciation.

4.2. The study highlights other means for governments to generate revenue. The use of consumption taxes, such as value added taxes (VAT) or goods and services taxes (GST) could represent a better alternative. Examples of VAT/GST applied to digital services and intangibles are provided and point out that internal non-discriminatory taxes provide a broader tax base, and thus more stable. According to the study, evidence indicates developing countries that adopt indirect taxes such as VAT experience 40 to 50% less tax revenue instability than countries that do not use indirect taxes. The OECD study suggests that consumption taxes are a feasible alternative to customs duties for generating revenue.

4.3. In this respect, it should be noted that the OECD International VAT/GST Guidelines have been adopted by the G20 leaders and endorsed by more than 100 jurisdictions and organisations. Furthermore, the OECD has produced a report on best practices to implement international VAT/GST collection schemes.<sup>2</sup>

#### **5 PLACING PREVISIONS AND POTENTIAL REVENUE IMPLICATIONS INTO PERSPECTIVE**

5.1. Finally, the study points out that a clear distinction needs to be drawn between potential and effective trade digitisation, as it is unlikely that all product categories that can be digitized will be fully digitized.

5.2. Members also need to be aware that, in all probability, the value of trade that is likely to become digitizable in the near future will also be smaller than expected. Even when one considers the highest available estimates, which include a proxy for trade that has already been digitised, it remains relatively modest, representing only 1.2% of total trade. Any approach considering all trade in respective products to be digitizable, clearly overestimates the actual impact. The study provides the example of e-books for which the sales have stabilized to approximately 20% of all book sales.

5.3. Uncertainties resulting from new technologies and their impact on what could become future digitally deliverable products have been recurrent issues in discussions on the Moratorium. In particular, the study sets the question of the impact of 3D printing on trade and customs revenues into a realistic frame. While fears have been expressed that additive manufacturing could be used to manufacture a very broad range of goods, the study explains that the use of 3D printing has been increasing slowly as the opportunities for economies of scale are limited. Only certain materials are suited for use as 'ink' in 3D printers and the size of their casing as well as printing time are parameters limiting the complexity and type of products that can be printed.

5.4. According to a report by McKinsey Global Institute cited in the study, the scope of products that can be made through this technology remains thus relatively low. Similarly, the amount of physical trade that will eventually be replaced by 3D printing in the near future is likely to remain limited.

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<sup>2</sup> Mechanisms for the Effective Collection of VAT/GST, OECD, 2017  
<http://www.oecd.org/tax/consumption/mechanisms-for-the-effective-collection-of-vat-gst.htm>

## **6 CONCLUSION**

6.1. The OECD study indicates that lifting the Moratorium would have limited effects on government revenue implications and that it would ultimately come at the expense of gains that are more significant in consumer welfare and export competitiveness. In this perspective and for further discussion, we would like to encourage Members to consider carefully all the elements contained in that study. When reflecting on revenue implications, we call for Members to consider internal taxes or internal charges in line with WTO commitments which could serve as alternative sources of government revenue. We continue to support open, inclusive and transparent discussions on electronic commerce and on the Moratorium in particular.

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