Quantifying the impact of the Moratorium on Customs Duties on Electronic Transmissions

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Impact of the Moratorium depends on the Scope of the Moratorium

- ***Shifting Goalpost for developing countries! - Digitized products*** *(WTO 2003)*→***Digitizable products*** *(WTO, 2016)*→ '***Services including wholesale & retail; recreational; communications; and other business services'*** *(ECIPE, 2019)*→ ***Digital deliveries including foreign business services via Mode1*** *(OECD, 2019)*

- **This scope of moratorium as covering 'digitized products' was also agreed by WTO (2003),** which stated that *"The products concerned consist* ***sound recordings, audiovisual works, video games, computer software and literary works****, …* ***that can be delivered in a physical form*** *such as CDs, CD-ROMs, DVDs, videos, books, newspapers and magazines,* ***or in an electronic form over the Internet****."* **(IP/C/W/128/Add.1)**

Potential Tariff Revnue Loss from Digitizable Products

- Pérez-Esteve and Schuknecht (1999), Mattoo and Schuknecht (2000), UNCTAD (2000) and Mattoo, Pérez-Esteve and Schuknecht (2001)).

- **Unctad (2000) <u>arrived at the conclusion that the moratorium should be removed</u>** as more than 90% of the potential tariff revenue loss is borne by the developing countries.

- **WTO (2016)** highlighted that **physical trade in 'digitizable products'** has been falling at an **annual rate of -2.7%** since 2000. The loss of tariff revenue was found to be **US$ 756 million**, of which 92% is lost by the developing countries.

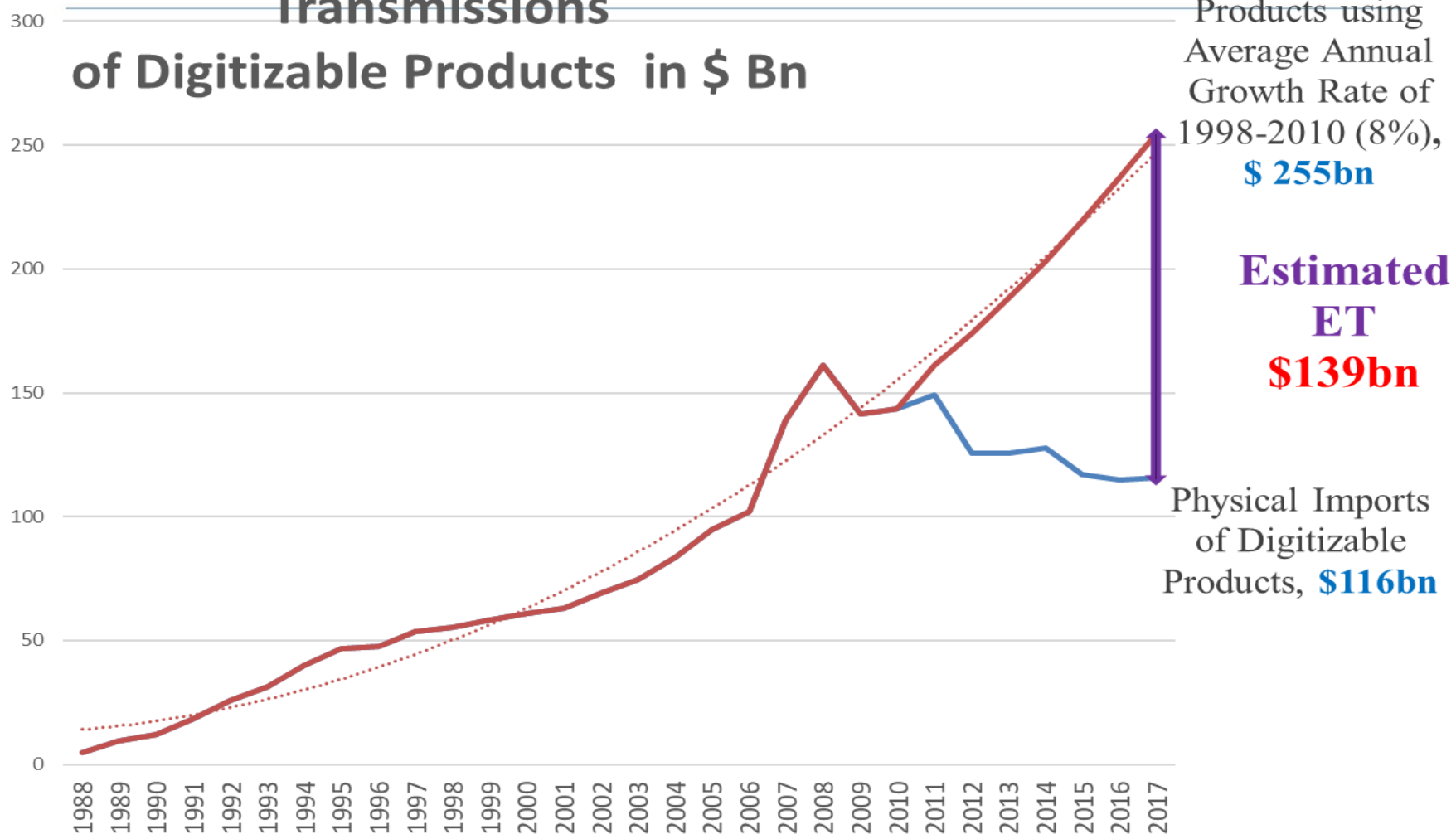
UNCTAD Research Paper 29 (2019)

- **Moratorium is not on physical imports** but on electronic transmissions so ***potential tariff revenue loss should be estimated as that tariff revenue which countries lose from online imports of digitizable products.***

- **For the first time, online global imports of digitizable products were estimated and associated potential tariff revenue loss from the moratorium calculated**.

- **Using HS codes of 49 digitizable Products -*films, music, printed matter, software and video games* – potential tariff revenue loss for 91 countries was estimated.**

Global Physical Imports and Electronic Transmissions of Digitizable Products in $ Bn



Conservative estimates

Estimated Potential Tariff Revenue Loss ?

	Physical Imports of Digitizable Products ($Mn)	Estimated On-Line Imports or ET of Digitizable Products ($Mn)	Estimated Total Imports of Digitizable Products ($Mn)	**Simple Average of Bound Duties in 2017 (%)**	**Simple Average of MFN Duties in 2017 (%)**	**Potential Tariff Revenue Loss using Average Bound Duties ($Mn)**	**Potential Tariff Revenue Loss using Average MFN Duties ($Mn)**
WTO Developing members	26 399	51 558	79 957	12.6	6.5	**10 075**	**5 197**
WTO High-Income Members (21)	81604	62 962	144 566	0.2	0.2	**289**	289
Sub-Saharan Africa	1195	4474	5669	46.4	10.9	**2 630**	618
Middle East - North Africa	1 011	4 360	5 371	18.9	8.43	**1 015**	453
WTO LDC members (31)	191	2 804	2 995	50.3	11.5	**1 506**	344

ET as Potential Source of Tariff Revenue for Developing Countries?

- Average Bound duties are as high as 92% in Rwanda, followed by Nigeria (80%), Pakistan (62%), Jamaica (50%), Malawi (45%) and Tunisia and Guatemala (40%)
- **While average Bound tariffs on Digitizable products is 0.09% in EU countries, followed by USA (0.02%) and Switzerland (0%). *Moratorium does not impact their imports or tariff revenues.***

- **Developing countries can generate 40 times more tariff revenue than developed countries by imposing custom duties on ET, which are digitizable products.**

Scope of the Moratorium is widened by ECIPE (2019)

- **Scope of the moratorium includes online services**, which are- *Online retailing services; Internet publishing, web search portals, directories and information services; Motion picture and video and sound recordings: Software and programming, Data hosting, system services and data transfers*: *Advertising (online portion only).-* ***No WTO document is reffered to while selecting services under the scope of the moratorium***
- The paper **applies customs duties on the broad four services sectors-*wholesale and retail trading services (trd); recreational and other services (ros); communications (cmn); and business services*** *n.e.c. (obs).* –***why are these customs duties applied on services and how are they calculated?***
- **Using CGE models arrives at GDP losses if moratorium is removed. However,** ***the model used assumes away presence of monopolies*** like Google, Amazon, etc. And ***assumes that imported foreign services cannot be substituted by domestic services.***

Scope of the Moratorium has been further extended by OECD (2019)

- OECD refers to electronic transmissions as "cross-border digital deliveries" and **includes all digitally delivered foreign business services (i.e., which are delivered via Mode 1),** including online financial services, legal services, etc.. ***However, these services are disciplined under GATS with a positive list approach*** which provides considerable flexibilities to developing countries in terms of regulating their imports of services.

- **UNCTAD Research paper 47** (June 2020) provides a strong evidence supported by economic literature and legal judgements on how **'intangibles' differ significantly from 'services'** and their trade has been classified under goods trade rather than under services trade.

UNCTAD Research Paper 47

- Using the new database provided by WTO, i.e., TISMOS finds that more than 90 developing countries have experienced **more than 50 percent rise in their imports of services via Mode 1 since 2010**.

- ***The total imports of services via Mode 1 is estimated at USD 705 billion for WTO developing members as compared to USD 80 billion of digitizable products.***

- **It is important to document the consensus on the scope of the Moratorium as covering those intangible goods which are shipped electronically. They have physical form and HS code before the importation and can take physical form after their importation.**
- **Indonesia's HS Chapter 99 could be a good example to follow.**

COVID-19 and the Moratorium

- In the time of COVID-19, it is predicted that 49 millions will be pushed under extreme poverty, mostly in Africa and Asia, it is the time to **save precious domestic financial resources and regulate imports of luxury items like movies, music and video games.**
- **Customs duties are the <u>only</u> simple and effective policy tool to regulate as well as generate tariff revenue from these imports.**
- ***Digital technologies like 3D printing will allow products to be printed within the national boundaries without physical presence of foreign firms or products crossing borders. Only software crosses the borders!***
- **Custom duties will provide a level playing field to the budding digital industries** ***in developing countries and help in their digital industrialization.***
- **Why provide S&DT to exporters of ET (which are mainly big digital platforms) when expoters of physical products face customs duties?**

- UNCTAD Research Paper 29- https://unctad.org/en/PublicationsLibrary/ser-rp-2019d1_en.pdf
- UNCTAD Research Paper 47- https://unctad.org/en/PublicationsLibrary/ser-rp-2020d6_en.pdf
- Banga (2019)- Critique of Modelling Impact of Moratorium on Electronic Transmissions using CGE
- https://journals.scholarpublishing.org/index.php/ASSRJ/article/view/6966/4434
- Boston University Policy Brief which shows that developing countries can never recover lost revenue
- http://www.bu.edu/gdp/2020/07/06/growing-share-of-online-trade-undercuts-government-ability-to-pull-in-revenue/
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