# Setting the Record Straight

## Correcting Misleading Empirical Evidence and Other Errors About the Moratorium on Customs Duties on Electronic Transmissions

Simon J. Evenett and Johannes Fritz[1], 7 June 2022.

A WTO Ministerial Conference beckons and attention span is at a premium. So that officials don't get the wrong end of the stick, responsible analysts must be careful when presenting evidence on highly-charged matters, such as renewing the moratorium on customs duties on electronic transmissions. Sadly, a 3 June 2022 paper put out by the South Centre fails to meet that test.

The study contends that in upholding the moratorium "[n]ot only are [developing countries] losing the fiscal space but are also losing their regulatory space as they are unable to regulate the growing imports of digitizable products". Neither claim holds up. This note offers a corrective, lest time-pressed diplomats be misled and set back the open trading system during these fraught times.

### Exaggerated claims on developing countries dependence on tariff revenues

The paper leaves cogent methodological criticism of previous studies unaddressed and instead repeats estimates of apparent tariff revenue losses by developing countries from adhering to the Moratorium. Headline numbers suggest that developing countries lost $56 billion of tariff revenue during the years 2017-2020, including $7.7 billion lost by Least Developed Countries (LDCs) alone.

The essence of the paper's argument is that a third of developing countries remain dependent on tariff revenues to fund their governments. Readers are led to believe that, in the absence of the Moratorium, developing countries would have collected a lot more revenue. These claims are vitiated by data errors and a failure to offer readers meaningful comparators:

- To demonstrate their dependence on tariff revenue, table 3 of the paper lists 40 developing countries where customs duties collected account for more than 10% of tax revenues during the years 2017-2021. Taxes are not the only way to finance government. Using data on total state "revenues (excluding grants)" from the *World Development Indicators* database, the same source used in the South Centre's study, the number of developing countries financing a fifth or more of their revenues falls to seven (from 15 based on the flawed tax revenue metric.). Somalia, the top of the paper's list, sees tariff dependence fall from 60% to 51%. Nauru, second on the list, sees dependence fall from 44% to 11%. Botswana's dependence falls from 40% to 28%.
- The South Centre paper inadvertently presents evidence *against* the proposition that multilateral trade obligations constrain fiscal space. Five of the top 10 developing nations listed in the South Centre paper as being most dependent on import tariffs (in Table 3) are *not* members of the WTO. Thus, their governments aren't obliged to follow the Moratorium on customs duties. Yet, to the best of our knowledge, none of these five nations have implemented customs duties on electronic transmissions. This undermines the claim that the Moratorium constrains much-needed fiscal freedom.

[1] The authors are Founder and CEO, respectively, of the St. Gallen Endowment for Prosperity Through Trade, an independent non-profit foundation established under Swiss Law. The Endowment is a spin-off from a decade-plus research initiative undertaken in the University of St. Gallen, where Evenett is a Professor of International Trade and Economic Development. The Endowment is the institutional home of the Global Trade Alert and the Digital Policy Alert.

- The South Centre study contends that developing countries are forgoing vital customs duty revenues. Yet, of the 10 most tariff-dependent developing countries that *are* WTO members, all voluntarily set their average applied MFN tariff rates below their bound rates. In four of the five, the applied tariff rate is at least 10 percentage points below the bound rate. In short, these governments willingly forgo fiscal space, calling into question the value of putting such space on a pedestal in deliberations on the Moratorium.[2]
- Tariff revenue losses for LDCs of $7.7 billion over years 2017 to 2020 grab the reader's attention, especially when (as the paper does) compared to the cost of vaccinating their populations. But it pales when compared to the total value of imports of $1,057 billion by LDCs over the same time frame. Raising LDC MFN tariff rates by 0.75% would more than covered the revenues apparently lost due to the Moratorium. The flaw here is not to compare headline numbers to meaningful comparators—once one does so, the billion-dollar totals lose their power to shock.

## The Moratorium does not prevent effective regulation of the digital economy

The paper does not define for the benefit of readers the term "regulatory space," yet strong claims are made concerning the impact of the Moratorium on it. In the conclusion, the paper contends that the Moratorium will "take away the regulatory space of the governments in the developing and least developed countries who will be unable to control the imports of luxury items like the video games." Earlier in a paragraph devoted to regulatory space, the paper asserts that "Customs duties are the most simple and effective policy tool in the hands of the governments to regulate conspicuous consumption through imports and channelize their precious domestic financial resources towards more productive investments" (page 15). Two correctives are needed here:

- It is widely understood that many types of regulation bear upon the behaviour of digital companies and the development of that sector, not just customs tariffs. The paper mentions video games—if states want to regulate access and the content of such games, they can do so much more effectively with content regulation measures, among others. Moreover, if the goal is to, as the paper states, to shift "precious domestic [personal] resources away from conspicuous consumption" then a nationality-blind tax on digitally-delivered services is the better option. Complaints about "conspicuous consumption" apply with as much force to domestic streaming services as they do to foreign supplied ones, for example. For these reasons we know of no credible analyst who has demonstrated that customs duties are the simplest[3] and most effective *regulatory* tool in the digital economy.
- The Moratorium refers only to customs duties—not to other regulations. In the absence of global rules on regulating the digital economy, developing countries have already considerable regulatory autonomy. That autonomy will not expand if the Moratorium lapses.

We offer this corrective precisely because the renewal of the Moratorium is likely to be a point of contention during MC12. The assertion that a multilateral trade norm denudes developing countries of significant amounts of revenue during these fraught times needs to be supported with compelling evidence and logic. Neither can be found in the South Centre's recent publication.

---

[2] The source for the tariff rates data was the last edition of the WTO's *Tariff Profiles* and, where applied tariff rates were not found there, the World Development Indicators.
[3] Our understanding is that, as a technical matter, collecting border taxes on streaming services delivered from abroad is neither simple nor evidently cost-effective.