
Electronic Transmissions and the Moratorium on Custom Duties

Rashmi Banga

Senior Economic Affairs Officer

Unit on Economic Cooperation and Integration among
Developing Countries (ECIDC), GDS, UNCTAD

Rashmi.banga@un.org



The image features a large, irregular blue ink splatter on a white background. The splatter has a textured, painterly appearance with some darker blue and grey tones at the edges. Centered within the blue area is white text.

All Digital Technologies
Need Data and Software,
which are the Heart and
the Brain of the Digital
Revolution

Data and Software are both Electronically Transmitted!

- *Important to regulate trade in Electronic Transmissions*

Implications of No Custom Duties on or Moratorium on Electronic Transmissions- (UNCTAD Research Paper 29)

What are Electronic Transmissions?

- Debate in the WTO since early 1990s: whether ET should be treated as **‘goods’** and be exposed to custom duties or as **‘services’** where GATS schedules apply or treated as **‘IP’**?
- US-GATT; EU-GATS..and some countries wanted them under IP. But then both **USA and EU agreed that the existing practice of no custom duties should continue**
- In 1998, WTO adopted a Declaration on global electronic commerce, which included **a two-year Moratorium** on custom duties on ET. Since then the Moratorium has been renewed every two years (except for 2003-05) with some Members demanding to make it permanent.

Electronic Transmissions are 'Digitizable Products'

- ET are on-line deliveries of 'digitizable products', e.g., of music, printed matter/e-books, films, software and video games- *49 Products in the HS codes.*
- **Out of 95 developing countries, 86 developing countries were net importers of digitizable products in 2017**, with top three net importers being Thailand (\$1.8 billion) followed by India (\$1.7 billion) and Mexico (\$1.1 billion).

Limitations of Existing Literature on Implications of Moratorium

- Pérez-Esteve and Schuknecht (1999), Mattoo and Schuknecht (2000), UNCTAD (2000) and Mattoo, Pérez-Esteve and Schuknecht (2001), WTO (2016) and UNCTAD (2017)- **Impact of Moratorium on physical imports of Digitizable products estimated but not ET or on-line imports.**
- As online trade increases, physical trade will decrease so custom revenue will decline indicating a much lower loss in tariff revenues of the governments.
- **ECIPE (2019)** uses CGE modelling to estimate the impact of custom duties on ET. **A critique of the paper is published in ASSRJ (international refereed journal- Vol.6, No.8, Aug. 2019)**
- ECIPE (2019) applies tariffs to four broad services sectors which include retail and wholesale services; recreational and other services; communications; and business services to estimate the impact of Moratorium on GDP, employment, FDI, etc.
- **Services are not ET or digitizable products; and This goes against GATS commitments!**
- Important to estimate imports in ET to estimate the impact of the Moratorium



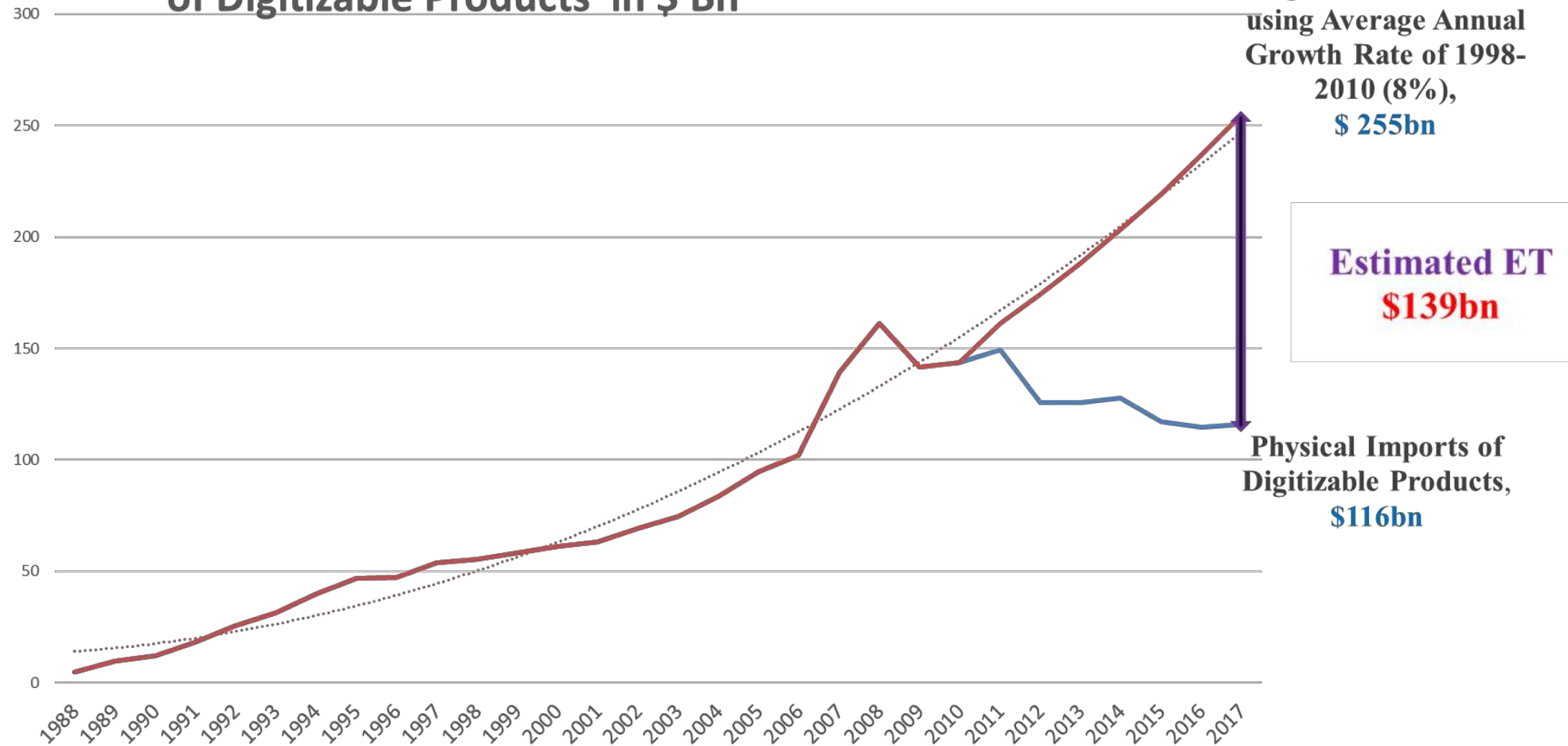
Methodology Adopted to Estimate Trade in ET:

UNCTAD Research Paper 29 (2019)

- ***Step 1: Identify those products which are digitizable***—49 Products at HS Combined-films, music, printed matter, software and video games
- ***Step 2: Estimates the global physical imports in each of these 49 digitizable products in the period 1998-2017***, using the correlation tables and concordance matrices of HS 1992, HS1996, HS2007, HS2012 and HS 2017 for 171 countries.
- ***Step 3: Apply the average annual growth rates of physical imports of digitizable products in 1998-2010 to estimate the physical imports of these products in 2011-2017.***
- ***Step 4:*** The difference between the estimated physical imports without digitalization in 2011-2017 and the actual physical imports with digitalization provides the estimates of on-line imports i.e., Electronic Transmissions.



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



Potential Tariff Revenue?

	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



		Potential Tariff Revenue Loss using Bound Duties on Physical Imports of Digitizable Products (USD 1000)	Potential Tariff Revenue Generation from Electronic Transmissions (ET) using Bound Duties (USD 1000)	Total Tariff Revenue Loss from Moratorium using Bound Duties (USD 1000)	Total Tariff Revenue Loss from Moratorium using MFN Duties (USD 1000)	Total Tariff Revenue Loss from Moratorium using Effectively Applied Duties (USD 1000)
1	China	147 702	345 296	492 999	492 999	453 205
2	India	173 757	323 432	497 189	497 189	467 476
3	Mexico	893 927	971 809	1 865 737	311 502	123 291
4	Nigeria	489 046	91 872	580 917	85 831	85 758
5	Thailand	498 328	1 246 614	1 744 942	365 220	300 770
6	Fiji	41 256	71 852	113 108	113 108	105 939
7	Guatemala	114 734	45 747	160 480	24 680	15 816
8	Pakistan	278 091	89 149	367 240	51 043	48 880
9	Paraguay	28 878	232 022	260 900	260 900	223 413
10	Tunisia	48 332	98 082	146 414	21 868	28 010
11	Malawi	57 876	40 124	98 000	20 384	12 871
12	Indonesia	26 378	27 765	54 143	54 143	40 607
13	Vietnam	44 998	6 590	51 588	46 463	39 874
14	Panama	48 846	122 984	171 830	46 586	50 675
15	Jamaica	51 597	27 806	79 403	13 006	17 786

ET can be a Potential Fast Growing Source of Tariff Revenue for Developing Countries

- ❑ 14 countries have average Bound duties higher than 20%.
- ❑ 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%).
- ❑ **Developing countries can generate US\$ 10 billion per annum tariff revenue, which is 40 times more than developed countries by imposing custom duties on 49 digitizable products.**



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- Estimated Tariff Revenue Loss of Moratorium for **WTO Developing countries** - US\$ 10 billion; **Sub-Saharan Africa** –US\$2.6 billion; **WTO LDC**- US\$ 1.5billion; **WTO High Income members**- US\$ 289 million.
 - **Tariff revenue loss of moratorium on custom duties on physical imports of digitizable products for developing countries is 30 times more than that for the developed countries.**
 - The estimates show that **95% of world's total tariff revenue loss due to Moratorium will be borne by the developing countries.**
 - Conservative estimates. Do not include custom surcharges and duties



Technical Feasibility of Levying Custom Duties on ET

- **Intangible Imports** are now being taxed in many countries.
- New laws have been framed to tax imports of digital products and services in **Australia and New Zealand**.
- **EU** has also initiated a two-stage process for taxing the intangible imports of goods and services (mainly online) from outside EU
- **Indonesian government** amended its law in 2018 bringing electronic transmission into the ambit of custom duties. Regulation 17 became effective from March 2018 which provided a new Chapter 99 covering intangible goods (i.e., software and other digital products) that were previously not covered under Indonesia's tariff system
- In 2017, **India** also initiated compulsory registration under GST for foreign companies providing Online Information Database Access and Retrieval services (OIDAR services)



3D PRINTING AND FUTURE ET

- The use of 3D printing is no longer a niche area in international trade
- It is predicted (ING 2017) that with the current growth in investments in 3D printing, **50% of the manufactured products will be printed in 2060, which will wipe out 40% of cross-border trade.**
- A core resource for 3D printing is computer-aided designs or CAD files which are transmitted electronically.
- With latest technology, namely high-speed sintering, **mass production is becoming possible with 3D printers** where mass-producing up to 100,000 (smaller) components in a day will be possible at a speed which is 100 times faster!



Implications of 3D printing –*Threat to All Negotiated Tariffs and GATS Commitments!*



➤ ***Tariffs will not Matter!***

➤ ***FDI Policies will not Matter!*** – a foreign firm can have mass production of shoes within the national boundary of the country, without actually exporting shoes or having a physical presence

Concluding Remarks

- ☺ Digital technologies like robotics, artificial intelligence, 3D printing etc all need software and data, which are transmitted electronically. This implies that digital revolution will exponentially increase trade in ET
- ▀ **With Moratorium on custom duties on ET developing countries can lose control over their negotiated GATT tariffs and GATS commitments**
- ⚙ Developing countries can generate **40 times more tariff revenue** than developed countries by imposing custom duties on ET.
- » Trade in ET can become a game-changer in the coming years so it is necessary to have policy space for regulating this trade.



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