Paper on Global Services Coalition Priorities for WTO MC 13

The Global Services Coalition (GSC) represents the private sector services and digital industries around the globe in promoting economic growth, inclusivity, and opportunity for all. GSC members represent services and digital industries including (but not limited to) financial services, telecommunications and IT services, transportation, logistics and express delivery services, business and professional services, construction, distribution, education, health, energy and environmental services and audio-visual services.

WTO Reform

The GSC is a longstanding supporter of the multilateral rules-based system for global trade. We are concerned, however, that the lack of progress on critical reform issues and the absence of a functioning Appellate Body deprives WTO members of the ability to have an effective means to enforce multilateral rules thereby undermining their value. In addition, inefficiencies in the WTO decision making processes and negotiations and difficulties in reaching consensus among WTO members also threaten the effectiveness of the WTO as an institution and point to the critical need for reform. We therefore endorse the WTO Director General's call to make WTO reform one of the deliverables at the WTO's 13th Ministerial Conference in February 2024.

Addressing 21st Century Services and Digital Issues

WTO members must achieve deliverables on services and digital issues at MC 13 as services and digital trade are now the driving forces in the global economy, including:

1) ***Supporting all Economic Sectors and Creating New Jobs:***
Services and digital technologies promote the operation and growth of all sectors of the global economy, including manufacturing and agriculture. A rapidly increasing share of services is digitally enabled. The ICT sector now surpasses the auto sector in their respective contributions to global GDP.

2) ***Promoting developing countries' economic diversification and growth:***
As a recent joint study by the WTO and World Bank documents,[1] services are the future of global trade, including for developing economies. Services now account for the bulk of global GDP, comprising 50 per cent of global trade in value-added terms, compared to 16 per cent for agriculture and 34 per cent for manufacturing. The share of services in total employment has grown significantly for both developing and developed economies since 1995. Developing economy exports of services are becoming higher value added, as services help to knit developing economy exports into global value chains. Services inputs, whether produced locally or imported, are increasingly used in the manufacture of products for sale abroad. Services value-added content embedded in exported goods has become an important way for services firms in developing economies to link into GVCs and tap bigger export markets.

3) Fostering Small Business Growth and Greater Opportunities for Women:
Small Business Growth: The adoption of digitally enabled services tools has rapidly gained momentum for small companies in developing and developed markets alike. As a case in point, a survey in Indonesia in 2021 found more than 90% of MSMEs are already using digital services in their business operations. By using digital tools, respondents reported an average 20% decrease in marketing costs and 17% decline in delivery costs. Digitally enabled services tools provide small businesses with greater access both to domestic and foreign markets and facilitate necessary access to financing, insurance and distribution.

Women: Services employ an outsized share of women workers: In 2021, 59 per cent of employed women worked in the services sector around the world. That includes an estimated 43 percent of women in lower middle-income and 30 percent in low-income economies. On a global basis, the WTO/World Bank study reports that women own a relatively higher percentage of export-oriented services firms than they own of export-oriented manufacturing firms (though both fields have a higher percentage of companies led by men). Improved access to technology is of particular benefit to women. In 2022, only 50% of women in developing economies used the internet, and only 19% of women in least developed economies did (compared to 86% in the developed world). By providing greater predictability and transparency in digital trade policy, a strong WTO e-commerce agreement would bolster efforts to improve access to infrastructure investment, technology and digital skills building. That could help more low-income women gain access to a smartphone or other digital tools to aid in entrepreneurship.

4) Facilitating Clean Economies and Combating Climate Change:

[1] WTO and World Bank, Trade in Services for Development, 2023, https://www.wto.org/english/res_e/publications_e/trade_in_serv_devpt_e.htm

Digitally enabled services play a critical role in efforts to promote clean economies and to combat climate change. Technologies such as satellite tracking and data analytics can aid in weather forecasting and the projection of energy production and demand; AI and the internet of things can enable more efficient modes of transport; advanced architectural models can improve the efficiency of building design and construction; and in agriculture, the use of sensors combined with advanced computing can help minimize water use and optimize efficient land use management.

5) ***Enabling Sustainable and Resilient Supply Chains:***
As illustrated during the recent pandemic, digitally enabled services play a critical role in times of crisis when supply chains are stressed and essential vaccines and other supplies of medical goods and services or disaster relief resources may be in short supply.

High Standard E-Commerce JSI

To produce all of these benefits, the WTO E-Commerce JSI negotiations must produce a high standard outcome. These benefits cannot be assumed. As the OECD Digital Services Trade Restrictiveness Index (DSTRI) indicates, the level of digital trade restrictiveness, particularly data localization requirements, has increased over the last decade, most notably in the OECD countries and in the Asia-Pacific. Africa has seen some easing although the average level of restrictiveness remains much higher than elsewhere. The latest research identifies a strong consistent global correlation between high levels of digital regulatory restrictiveness and poor services trade performance.[2]

A high standard E Commerce Framework Agreement must include provisions that:

1) Enable cross-border data flows.
2) Discipline localization requirements.
3) Secure basic non-discrimination principles.
4) Expand market access for services related to e-commerce, including via commercial presence and cross-border digital delivery
5) Prohibit customs duties on e-transmissions and confirm that for greater certainty this Moratorium covers the electronic transmissions and the content being transmitted.
6) Facilitate technology transfer, including by disciplining forced transfers and protecting critical source code and algorithms.
7) Foster innovative encryption technologies.
8) Ensure technology of choice.
9) Promote a free and open internet.
10) Promote transparency and stakeholder participation in the development of regulations and standards.
11) Advance innovative authentication methods.

[2] OECD, "Shedding New Light on the Evolving Regulatory Framework for Digital Trade," May 2022, https://repository.uneca.org/handle/10855/48750?show=full

12) Enable trade facilitation that builds on TFA, including streamlined and simplified customs processes, such as paperless trade, e-invoicing, and increasing informal and de minimis customs thresholds.
13) Enhance secure and interoperable e-payment systems.
14) Discourage fragmentation in regulation of services and digital trade by encouraging use of relevant international standards.
15) Encourage enforceable consumer protection.
16) Ensure adequate protection of personal data.
17) Promote cooperation, coordination and harmonization on cybersecurity.
18) Reaffirm the longstanding recognition of the right to regulate.
19) Make the Moratorium on customs duties on e-transmissions permanent.
20) Include capacity building assistance for SMEs.

We commend the JSI co-convenors and e-commerce negotiators for the progress they have achieved to date in a number of the areas noted above, including e-commerce formalities, open government data, paperless trading, cybersecurity, and transparency. However, in order to achieve a high-standard, commercially meaningful outcome, the JSI negotiations must go further and achieve agreement on high standard provisions such as cross-border data flows, data localization, protection of personal data, prohibitions on mandatory transfer of source code, a permanent Moratorium on customs duties on electronic transmissions, secure and interoperable e-payment systems, and commitments on e-commerce related services market access.

It is important to recognize that such a framework would be fully compatible with the well-established principle of a government's right to regulate and would provide governments the necessary policy space to pursue legitimate public policy objectives. Policies to promote digital growth and innovation are consistent with – and indeed benefit from – government measures to maintain strong protections for personal privacy and cybersecurity, develop frameworks for the responsible use of artificial intelligence, and address other emerging digital issues.

Multilateral Extension of the E-Commerce Moratorium

The WTO E-Commerce Moratorium and the WTO E-Commerce Work Programme should simultaneously both be extended multilaterally and a forward-looking the E-Commerce Work Programme should also be formally agreed. The E-Commerce Work Programme dedicated sessions on the Moratorium have been productive and have allowed for a constructive exchange of views between members. The Work Programme Chair is to be commended for her leadership in driving these discussions. It has been important for WTO members to have the opportunity to air their questions and concerns and to better understand the impact of the Moratorium, particularly on SMEs and developing economies.

In that regard, the discussions in the dedicated sessions have prompted a large body of new data and analysis supporting the benefits of the Moratorium, especially for developing countries and SMES, underscoring that:

1) Digitally enabled services imports and exports are fueling growth and diversification in all WTO members, including developing economies.

2) Intermediate imports to and exports from developing countries of digital services and adoption of digital tools are benefiting developing country MSME competitiveness.
3) Digital services imports and exports contribute to sustainability outcomes.
4) Cost-benefit analysis underscores the net benefits of the Moratorium to developing countries.
5) Government revenue increases associated with eliminating the Moratorium would be marginal.
6) Non-discriminatory tax alternatives to import duties have better potential to enhance government revenue in developing countries.

The areas of new study and analysis noted above provide strong evidence of the benefits that would result from extending the WTO Moratorium and should be helpful in responding to questions raised in the dedicated E-commerce Work Programme discussions. Attached as an Annex to this document is a more detailed description of the studies cited and their key findings.

The GSC concludes that the Moratorium should be extended. At the same time, the productive discussions that have taken place within the WTO E-commerce Work Programme should be maintained in order to continue to fully address all WTO members' concerns and to build a broader understanding.

The GSC appreciates the continued strong leadership of Director General Okonjo-Iweala in addressing the importance of services and digital issues. We look forward to working with her deputies, the JSI co-convenors and WTO Members to achieve extension of the e-commerce Moratorium at MC13 and to support the rapid achievement of a high standard JSI e-commerce framework.

Global Services Coalition
Asia Pacific Services Coalition
Australian Services Roundtable
Business NZ
Canadian Chamber of Commerce
Coalition of Services Industries
European Services Forum
Hong Kong Coalition of Services Industries
Indonesia Services Dialogue
Japan Services Network
Taiwan Coalition of Services Industries
TheCityUK

Recent Research
on the WTO Moratorium on Customs Duties on Electronic Transmissions:
an Overview

The information that follows summarizes takeaways from recent studies on the WTO Moratorium on duties on electronic transmissions. A growing body of research has highlighted the value of traded digital services for greater inclusiveness in the global economy, including the significant advantages of the Moratorium for developing economies, for MSMEs, and for women, youth and remote communities.
Such research has also drawn attention to the benefits of continuing to avoid the imposition of customs duties and instead adopting alternative non-discriminatory types of taxes for governments seeking to boost fiscal revenue. In addition, the current tariff-free system facilitates trade in services and technologies used to promote environmental sustainability and mitigate climate change.

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Digital services boost growth and diversification in developing economies. **Services are of value to** all **economies, including developing economies, whose relative share of global services exports is expanding.**

Developing economies' share of global commercial services exports jumped from 24 per cent to 34 per cent between 2005 and 2022, according to a 2023 joint report by the WTO and World Bank, *Trade in Services for Development*.

Export growth in ICT, finance and other services has offered a path to greater diversification for a number of developing economies. For example, computer services exports from Bangladesh grew an average of 31 percent from 2019 to 2022, while Pakistan has also seen double-digit growth in the sector. India and the Philippines have emerged as global leaders in computer services and business process outsourcing.

Beyond the economic realm, access to services in developing economies related to health, education, finance, transport and finance have also proven essential for making progress toward UN Sustainable Development Goals.

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Digital services are of particular value to women. **Many women in developing economies rely on digitally delivered services to run small businesses, according to a forthcoming report from the Trade Experettes based on research and discussions with women leaders and business owners in Latin America, the Caribbean, Africa and Asia-Pacific.**

By keeping costs low and thereby promoting greater access to digital services, the e-commerce Moratorium has expanded opportunities for women-owned businesses to export and join in global value chains.

The report will call for more research to be conducted to evaluate the potential social and economic impacts of eliminating the e-commerce Moratorium on women-led or -owned businesses and jobs, particularly in developing countries.

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Digital services imports can promote sustainability**. Trade in digital services plays a critical role in efforts to help WTO members transition to a low-carbon economy and to monitor and mitigate climate change.**
A 2023 WTO/World Bank report pointed out that services are less sensitive to the impacts of climate change than sectors that rely on land use and other natural resources, and therefore offer an important means of economic diversification.
It detailed a growing body of environmental services in use around the world, including the operation of renewable energy generation, advisory services on reducing vehicle emissions and improving the efficiency of agricultural practices, and the application of clean technologies in manufacturing.

The Moratorium enables customs duty-free access to such services, which are becoming critical components of sustainability initiatives around the world.

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Digital services imports benefit MSMEs and enhance job growth**. Indian small companies that use imported digital services enjoy significant economic benefits, including a bigger work force, productivity gains, and enhanced production output**.
Such were the findings of a 2023 study by Dr. Badri Narayanan Gopalakrishnan, an Indian economist and former head of trade and commerce at NITI Aayog. The study, titled *The Impact of Cross-border Digital Transmissions on the MSME Sector in India and the Benefits of the WTO E-commerce Moratorium*, was based on the most recent available MSME data from Indian government sources.
It highlighted the value to small Indian firms of imported digital services, such as e-commerce platforms, social media for marketing and communication, and digital payment applications.
Among its findings:

- Digital services imports have a positive and significant impact on employment by MSMEs. Every 1% rise in imported digital services production inputs by MSMEs is associated with a 0.4-0.8% rise in MSME employment.
- Digital services imports have a positive and significant impact on gross value-added output of MSMEs in India. Every 1% rise in imported digital services inputs by MSMEs is associated with a 0.1-0.2% rise in MSME output.

Dr. Narayanan concluded that ending the Moratorium on the imposition of customs duties on electronic transmissions would undermine Indian economic growth by raising the price of key digital services inputs.
In addition, his soon-to-be-published research focused on Indonesia and Thailand found similar links between MSMEs' use of digital service imports and enhanced productivity and output.

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<u>Digital services imports and adoption of digital tools facilitate exports by small business</u>**. A survey of Indonesian MSMES using digital services found that small firms not only saw increased sales and profits and were able to expand their payrolls, but were also much more likely to export.**
A study by the Indonesia Services Dialogue in cooperation with the Indonesia Ministry of Cooperatives and MSMEs highlighted the value of digitally enabled services to Indonesian small business. The study, *Digital Adoption and Dependency on Digital Goods and Services in MSME: A Survey of MSME in Java and Bali*, was based on a survey of 764 MSMEs in the period from February to August 2021. It found that:

- After MSMEs started using digital services, they saw revenues and profits increase by an average of over 20% on a monthly basis, with the typical consumer base increasing by 31% and the average work force expanding by 3 employees.
- More than 90% of MSMEs surveyed used digital services (such as social media tools) for marketing. More than half of those surveyed use digital services for business operations (61%) and delivery of goods or services offered (59%).
- The survey also showed that adoption of digital tools meant that MSMEs were 4.6 times more likely to export abroad. This finding suggests that policies that make it more expensive for MSMEs to adopt digital tools would be highly likely to hurt MSME exports.

The MSME respondents surveyed represented a broad cross-section of the economy, with 60% engaged in manufacturing, 32% in retail/hotels/restaurants and smaller numbers in the agriculture, forestry and fishery sectors, as well as transportation.
As many as 61% of the MSMEs surveyed were run by women entrepreneurs. The ISD research suggests that raising the cost of service imports, which would make it harder for small business to use key service inputs, would be especially detrimental to women entrepreneurs.

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<u>If the Moratorium lapses, MSMEs expect slower sales growth</u>**. Nearly two thirds of MSMEs surveyed in Kenya and South Africa projected they would see a significant or moderate impact on potential growth if the Moratorium expired and they were forced to comply with any new customs duty requirements. With added costs and additional customs requirements to navigate, most said they would also expect to become less internationally competitive.**

A forthcoming study from New Markets Lab, which conducted surveys with 292 MSMEs in multiple industries in Kenya and South Africa, found MSMEs indicate their business could suffer if the Moratorium expires. Moreover, over 65% of MSMEs were not aware of the moratorium's existence or the potential for WTO members to let it expire in February 2024.

Three fifths (60%) said they have little or no capacity to comply with additional customs administrative requirements.

The majority of MSMEs surveyed by NML, 55%, said they would need customers to help shoulder the burden of added costs, which could have the effect of hurting their business. For example, an animation studio in South Africa that depends on digital e-commerce said if it is required to pay duties on those transactions, it would need to pass on the new costs to its clients. A Kenyan firm that provides micro-financing to 10 million women-owned MSMEs via mobile phone said new duties could force up their lending costs, potentially rendering credit unaffordable for many clients.

According to NML, the study results indicate an urgent need for greater empirical assessment of the potential impact of lifting the Moratorium on MSMEs in the developing world.

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***Cost-benefit analysis underscores the net benefits of the Moratorium*. Customs duties levied on electronic transmissions would cost more in the form of lost economic growth and a shrunken tax base than they would generate in additional tariff revenues.**

A study from the European Centre for International Political Economy (ECIPE) titled *The Economic Losses from Ending the WTO Moratorium on Electronic Transmissions* determined that developing economies reap significant economic benefits from maintaining the WTO Moratorium. The study found that:

- Customs duties would depress consumption, resulting in lower economic growth and a smaller tax base.
- ECIPE also considered the scenario that if a given WTO member opts out of the Moratorium – in other words, begins imposing duties on electronic transmissions – others are likely to follow suit. Assuming a scenario of widespread reciprocal duties on international e-commerce transactions, a number of developing economies stood to lose many times in economic growth what they would generate in customs revenues.

Domestic employment and GDP would also suffer in the short run, according to a 2020 Indonesian report titled *Economic Assessment of Import Duty on Electronically- Transmitted Products: Key Findings*.

Other conclusions noted in the paper related specifically to Indonesia:

- Indonesian MSMEs that make greater use of digital technologies were found to be more internationally competitive, according to the Indonesian Ministry of MSMEs and Ministry of ICT.
- The World Bank projected that boosting digital engagement by Indonesia's MSMEs would increase annual economic growth by 2%.
- In a worst-case scenario in which tariffs imposed by Indonesia were matched by retaliatory tariffs from key trading partners, Indonesia would suffer a net fiscal deficit.

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***Tax revenue increases associated with eliminating the Moratorium are likely to be marginal*. Potential foregone government revenues due to the Moratorium on e-transmissions are estimated to be low for developing economies, and absent the Moratorium, any enhanced tax revenues would be offset by new burdens for SMEs and consumers.**
A 2019 OECD study, Electronic Transmissions and International Trade - Shedding New Light on the Moratorium Debate, estimated that even when taking the highest estimates, the foregone customs revenue due to the Moratorium amounts to a relatively small amount, only about 0.08% to 0.23% of overall government revenue on aggregate for developing economies.

The report noted that the burden of tariffs would fall mainly on domestic consumers who would face higher prices rather than on foreign services suppliers. Meanwhile greater digitalization, including the ability to deliver and to source digital services, is paving the way for new export opportunities, including for SMEs, and some of these opportunities would be foregone.

The report also pointed out that some academic studies that project the costs of the Moratorium to governments in terms of lost tariff revenue have likely overestimated the potential benefits of ending it. Those studies have been based on debatable assumptions, including that any good that could be digitized would be digitized, and the use of estimates based on bound, not applied, tariffs. But in any case, the OECD study concluded that the opportunity cost of foregone government revenue is low.

On a related front, in *Setting the Record Straight: Correcting Misleading Empirical Evidence and Other Errors About the Moratorium on Customs Duties on Electronic Transmissions*, Simon Evenett and Johannes Fritz raise questions about research that claims developing countries are highly dependent on tariff revenue, and therefore stand to forego substantial revenue by adhering to the Moratorium.

As Evenett and Fritz point out, only about half a dozen developing countries rely on import tariffs for at least 20% of their budgets. Half of the countries that are most dependent on tariffs are not even members of the WTO and so not obliged to uphold the Moratorium. Yet they have nonetheless opted not to implement duties on electronic transmissions.

And of those developing countries that do belong to the WTO, the majority have set tariff rates at least 10 percentage points below the maximum permitted under their WTO commitments. In short, it appears that developing countries choose to refrain from maximizing tariff collection even when it would be allowed, presumably because of the well-documented economic costs associated with high tariffs. Such an approach suggests developing countries “willingly forego” fiscal space, suggest Evenett and Fritz.

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***There are non-discriminatory taxation alternatives for enhancing government revenue*. In most cases, any potential loss of fiscal revenue due to the Moratorium on customs duties on e-transmissions can be compensated for by the use of non-discriminatory taxes, such as value-added tax (VAT) and goods and services tax (GST).** (VATs and GSTs are non-discriminatory because they apply to both domestic and imported services).
In 50 out of 70 economies evaluated, the use of VATs or GSTs completely offset any potential foregone revenues resulting from the Moratorium, according to the OECD's Andrea Andrenelli and Javier López-González, who reported these findings as part of a workshop for the Work Programme on Electronic Commerce in 2023.
The OECD concluded that the benefits of the Moratorium, in the form of consumer welfare, export competitiveness and SME integration in global markets, are likely to outweigh the costs.

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For governments that want to tax electronic transmissions, value-added taxes are more efficient and generate more revenue than tariffs. A study from the International Monetary Fund estimated that at the global level, a VAT on electronic transmissions would yield about 150 percent more potential revenue than tariffs.

The 2023 report by the IMF, *Fiscal Revenue Mobilization and Digitally Traded Products: Taxing at the Border or Behind It?*, concluded that non-discriminatory VATs are the preferred way to tax electronic transmissions.

Because VATs are broad-based and exclude intermediate inputs, the study found they are not likely to distort consumption and production decisions. As a result, VATs have minimal impact on economic output and welfare.

VATs are also easier to implement and administer. Tax administrators can build on existing infrastructure that can be adapted to handle digital trade, while drawing on extensive international experience with VAT implementation. In contrast, little is known about implementing tariffs on electronic transmissions.

The greater revenue generation associated with VATs compared to tariffs was highest for high-income countries, due to their large share of global imports combined with low tariffs relative to VAT rates. Results were mixed for middle-income countries, while low-income countries had relatively lower revenue potential for both VATS and tariffs, due to lower levels of digital imports.

The study recommends that governments invest in updating and enhancing domestic VAT infrastructure rather than creating a new system to implement customs duties on electronic transmissions. It suggests further investment by the global community would be helpful in modernizing the tax and customs infrastructure of developing countries amid rapid digitization.

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Global Services Coalition
September 2023