

## RI to defend skeptical stance on digital goods tax moratorium at WTO

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Ahead of next month's 13th Ministerial Conference (MC13) at the World Trade Organization, Indonesia has demanded clarification over a decades-old moratorium on e-commerce that prevents it from imposing customs duties on electronic goods.

The moratorium, to which WTO member states agreed in the 1998 Declaration on Global Electronic Commerce, is lined up for reaffirmation at the MC13 from Feb. 26 to 29 in Abu Dhabi. The moratorium expires on March 31 if WTO members do not unanimously agree on its renewal.

Some countries have proposed a permanent moratorium on customs duties on electronic transmissions (CDET), which would effectively ban countries from levying on any import duties on digital products, such as software. But Jakarta has been swimming against the current since 2017 as it looks to terminate the agreement.

"Indonesia contends that the import duties moratorium applies only to the electronic transmission and does not include the content or goods and services that are electronically transmitted," Djatmiko Bris Witjaksono, director general of international trade negotiations at the Trade Ministry, told The Jakarta Post on Friday.

The government has appointed Djatmiko to handle the CDET moratorium talks at next month's MC13.

Djatmiko also told the Post that Indonesia, along with India, South Africa, Pakistan, Bangladesh and Sri Lanka, had proposed that the WTO clarify the definition, scope and impact of the moratorium before members decide whether or not to keep it in place.

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"To date, there is no clarity on those [aspects] of the moratorium," he explained, and that the issue had revealed different views among WTO member states.

He declined to comment on whether the government would start imposing an import duty on software in April if the moratorium expired on March 31.

Finance Ministry Regulation No. 190/2022, issued in December that year, recognizes transmissions of digital products as a type of import.

While it does not levy a duty on such transmissions, affected businesses must file certain statements on the products transmitted with the Customs and Excise Office, which suggests the regulation could serve as an instrument for imposing a duty in the future.

If the WTO moratorium is lifted, the customs office says it will review the ministerial regulation with the Fiscal Policy Agency.

"For now, we don't have that in view yet," Customs and Excise Director General Askolani told the Post on Thursday, pointing out that talks on a digital products tax had not begun yet.

International Chamber of Commerce (ICC) secretary-general John Denton told the Post on the same day that the motivation behind Jakarta's position might be a financial one, given that some products like books and DVDs were mostly transmitted digitally today. Since the WTO moratorium prevented the government from imposing a duty on such goods, it was losing out on potential revenues.

"So they think the answer is to raise revenue from across the data blocks. But there is no evidence that the revenue they raise will be of sufficient value that will actually make a difference," Denton said.

A duty would instead lead to an "inefficiency interruption" in the global digital economy and risked retaliation from other countries, he explained.

"So we're urging the Indonesian government to reconsider [its] position and support the maintenance of the moratorium. There are other things that can be done if they're worried about the revenue side," Denton said.

According to Djatmiko, while the WTO Ministerial Declarations and Decisions are binding in nature, they are not open to dispute. This means that other member states cannot lodge a dispute case over breaches of the CDET moratorium "or retaliate against Indonesia's policy".

The ICC's Denton pointed out that Jakarta's timing could not be worse, since the WTO dispute settlement system was not working effectively at present.

The United States has been vetoing since 2016 the appointment of arbiters for the WTO Appellate Body as it pushes for reforms in the organization, effectively paralyzing the dispute settlement mechanism.

Denton opined that Indonesian support for the moratorium would help the country's plan to become a member of the Organization for Economic Cooperation and Development (OECD), because other OECD countries were in favor of the moratorium.

While acknowledging that the OECD's accession process required gradual domestic changes, Djatmiko said the government would still fight attempts to make the CDET moratorium permanent, as that was not in the interest of developing and least-developed countries (LDCs).

"The enforcement of the moratorium tends to yield benefits for developed countries [only] and potentially harms developing countries and LDCs, whose medium, small and micro enterprises lack adequate digital infrastructure and human capital," he said.

Although prevailing regulations do not impose any import duty on digitally transmitted products, local firms have deemed the status quo bad for business.

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