

**Pathfinder Initiative Proposal for a
Permanent Customs Duty Moratorium on Electronic Transmissions,
Including Content Transmitted Electronically¹
Submission by Australia, Canada, Chile, Korea, Mexico, New Zealand,
Peru, Singapore, the United States, and Chinese Taipei,**

Supporters of this Pathfinder Proposal:

Australia, Brunei, Canada, Chile, Japan, Korea, Mexico, New Zealand, Peru, Singapore, Chinese Taipei and the United States

Introduction

There has been long-standing work on e-commerce in APEC, which typically has related to trade in goods using e-commerce platforms and the many policy or regulatory issues that underpin such trade. However, digital trade has become more diverse and complex, presenting potential new trade obstacles for governments and businesses beyond simple electronic purchase transactions, the definitional remit of e-commerce. While digital trade is an emerging and growing area of the global economy worthy of discussion and APEC's leadership, APEC economies should remain mindful of traditional trade issues presented through the digital medium. Old style trade barriers such as customs duties should not be placed on digital products (loosely defined as those products that can be electronically transmitted – such as books, videos, music, games, software, and applications). This would only impede trade in these products, and run contrary to the idea of expanding economic activity over the Internet. After spending years lowering tariffs and duties on physical products, APEC economies should not start to impose new tariffs and duties in the virtual world. As a first step towards addressing next generation trade and investment issues in digital trade, and even before naming “digital trade” as a next gen issue, APEC economies should endeavor to lead the global standard of removing traditional trade impediments in the digital world, such as agreeing not to impose customs duties on electronic transmissions, including content transmitted electronically, providing predictability for businesses and consumers. Not imposing customs duties will also prevent a barrier to entry for SMEs, thereby encouraging greater use of e-commerce, particularly in developing economies.

APEC Economies' Actions on Customs Duty Moratorium on Electronic Transmissions, Including Content Transmitted Electronically

One obligation that is found in many recent FTAs/RTAs throughout APEC is the commitment not to impose customs duties on electronic transmissions, including content transmitted electronically. A moratorium on such customs duties has existed since 1998 at the WTO, and APEC economies have followed this commitment. The continued renewal of the moratorium does underscore that WTO

¹ This proposal is without prejudice to how the World Trade Organization addresses the moratorium on customs duties on electronic transmission.

members see the importance of not imposing duties on such electronic transmissions as an important driver of trade and economic growth. However, the WTO moratorium is not permanent, though historically it is approved in two-year increments. Many APEC economies have gone beyond the incremental WTO commitment by binding the moratorium in FTAs/RTAs with other APEC member economies. In total, 15 APEC economies have entered into agreements containing the moratorium since 2008.

Most recently, a permanent commitment not to impose such customs duties was cemented for 12 economies participating in the Trans-Pacific Partnership (TPP) agreement.

The supporting APEC economies of the Pathfinder affirm APEC's leadership in developing innovative digital trade policies, as well as supporting the multilateral trading system, by going beyond the WTO temporary moratorium and effecting a permanent moratorium on customs duties for electronic transmissions, including content transmitted electronically in the APEC region. It would certainly advance APEC toward the Bogor Goals of free and open trade and investment in the region.

Proposal

Based on the common FTA practice, the supporting APEC economies seek Leaders' endorsement of a Pathfinder initiative to maintain a permanent moratorium on customs duties on electronic transmissions, including content transmitted electronically.² Supporting economies will seek to enhance participation in the Pathfinder through continued dialogue in relevant APEC fora and identify capacity building opportunities.

² This moratorium shall not preclude an APEC Economy from imposing internal taxes, fees or other charges on content transmitted electronically, provided that such taxes, fees or charges are imposed in a non-discriminatory manner.