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Indonesia's Digital Sovereignty as the WTO Electronic Transmission Duties Moratorium Expires in 2026 as a Challenge to International Trade Law

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Abstract: **The 1998 WTO moratorium on customs duties for electronic transmissions has created a tax vacuum at digital borders, leading to significant tax base erosion for developing nations. As digital goods shift from tangible to intangible formats, the legal distinction between goods (GATT) and services (GATS) has become blurred, threatening the fiscal sovereignty of countries like Indonesia. This study aims to analyze the legal implications of the termination of the WTO moratorium at the 14th Ministerial Conference (MC-14) in Cameroon 2026 and evaluate Indonesia's readiness to assert its digital sovereignty through fiscal regulations. The research employs a normative juridical approach combined with a comparative interest group analysis and content analysis of secondary data from the WTO, UNCTAD, and reputable economic journals. The study finds that Indonesia's digital economy is projected to reach USD 155 billion by 2026, with the Media and Entertainment sector growing three-fold. The failure to extend the moratorium in 2026 restores Indonesia's sovereign right to impose digital customs duties. However, Indonesia faces challenges regarding Legal Lacuna, specifically in digital valuation, Rules of Origin, and potential retaliation from major tech-exporting nations. Conclusion: The end of the moratorium provides a legal basis for Indonesia to create a level playing field between physical and digital goods. It is recommended that the Indonesian government harmonize PMK 60/2022 with international standards and explore blockchain technology for efficient digital border tax collection.**

Keywords: **Digital Sovereignty, WTO Moratorium, Electronic Transmission, Customs Duties, Indonesia, International Trade Law.**

1. INTRODUCTION

The journey of international trade law in responding to the digital boom only formally began in 1998. That was the turning point, with the adoption of the Declaration on Global Electronic Commerce at the Second WTO Conference in Geneva. At that time, WTO members agreed to take a step that was initially considered temporary but turned out to have a very long-term impact: they promised not to collect customs duties on electronic transmissions. This was the forerunner of what we now know as the WTO E-commerce Moratorium (Hidayat et al., 2023; Kwak & Roh, 2023).

The problem is, this supposedly temporary moratorium has been continually extended at every KTM meeting for nearly three decades. Legally speaking, this policy has actually created an anomaly in global trade: a tax vacuum right at the digital border (Andrenelli & Lopez-Gonzalez, 2019; OECD Trade Policy Papers, 2023). The world has become accustomed to

enjoying duty-free imports for any content delivered electronically. Back when digital trade was still in its infancy, this was considered normal and not a threat to a country's fiscal sovereignty. But now, the story is different. This facility has shifted; from being a mere incentive for the fledgling tech industry, it has now become a hegemonic force dictating the structure of global trade (Hidayat & Pamutra, 2023).

This transformation was triggered by a fundamental paradigm shift: the dematerialization of goods. Previously, information and entertainment products were tangible. To watch a movie, you had to use a DVD or celluloid, to listen to music, you had to use a CD, to install software, you had to use a floppy disk or flash drive, and even to read a book, you had to use a printed copy (Kuhlmann & Francis, 2024; United Nations Conference on Trade and Development (UNCTAD) Research Papers, 2020). Under the GATT regime, these physical goods had a clear status; once they crossed the border, customs had the right to collect import duties. However, digitalization has dissolved all these physical boundaries. Thanks to streaming, cloud computing, and software-as-a-service (SaaS) models, all these goods have evaporated into invisible, intangible electronic transmissions.

This shift has triggered a major crisis in international customs law. Once the physical form is lost, so too is the control of customs authorities at the border. The logic is this: if a physical book is subject to a 10% tax at the port, but an e-book with the exact same content can be imported via the internet without paying a single cent in tax due to a moratorium, therein lies the legal imbalance. There is a very real erosion of the tax base (Hanappi et al., 2024; Hoa Binh University & Nguyen, 2025). The argument that taxable objects disappear when their physical form disappears is what has made many developing countries increasingly concerned, and they are questioning whether the moratorium is still appropriate amidst the current digital economic boom.

March 2026 will likely be remembered in the history of international law as the crucial moment that ended the era of certainty in global digital trade (Azmeh et al., 2020) The 14th Ministerial Conference (MCC) in Cameroon silently witnessed the end of a tradition. For years, the extension of the digital tax moratorium relied on an increasingly fragile consensus. We saw how major powers like the United States, the European Union, and Japan desperately pushed for this tax-free status to be permanently patented for the sake of efficiency (Cheng & Brandi, 2019). However, on the other hand, the developing country bloc, spearheaded by India and South Africa, and strengthened by Indonesia's firm stance, began to launch fierce resistance.

The Cameroon impasse broke when the WTO consensus mechanism reached a deadlock; for the first time since 1998, the moratorium failed to be extended. This was not simply a technicality or administrative oversight, but a resounding political-legal statement: the supremacy of untaxed digital trade was over (Kozul-Wrigh & Banga, 2020). The collapse of this status quo automatically restores each country's sovereign right to determine its own fiscal fate over electronic transmissions entering its territory. The resulting domino effect is regulatory fragmentation, with each country busy formulating its own digital tariff standards without any multilateral orchestration (Janow & Mavroidis, 2019).

In this turmoil, Indonesia has positioned itself as a key actor, actively challenging distributive injustice within the WTO regime. Jakarta's legal argument is straightforward: digital sovereignty is an extension of contemporary territorial sovereignty. Through various international platforms, our Ministry of Finance and Ministry of Trade continue to warn that a protracted moratorium only creates economic asymmetry. Imagine, technology-producing countries can freely enjoy market access, while developing countries like Indonesia can only watch their tax base shrink sharply due to the migration of goods to digital formats untouched by traditional customs (Meltzer, 2019).

Indonesia's culminating action in Cameroon is not an anti-free trade stance, but rather a determined effort to improve the imbalanced playing field. Legally, Indonesia has already gained a head start through regulations on Electronic Trading Tax (PMSE) and VAT on imported digital goods (Noonan & Plekhanova, 2020). However, as long as the WTO moratorium remains binding, import duty instruments that have historically served as protectors of local industries remain untouched. With the failure of the Cameroon agreement, our legal standing now has greater leverage to implement a more comprehensive fiscal policy, while simultaneously urging the international community not to simply indulge cross-border technology corporations (Tanodomdej, 2023).

After the 2026 event, international trade officially entered a grey zone or legal lacuna which is quite worrying (Hanappi, 2023). Herein lies the urgency: we need to quickly map out how international law will respond to this ruleless situation. To date, we have no established standards for taxing data flowing across borders, determining the customs value of software code, or applying Rules of Origin principles to digital goods.

This uncertainty is clearly a threat to businesses. Global technology companies are now facing the risk of double taxation or tariffs that can change at any time in various countries. Furthermore, fundamental WTO principles such as Most-Favored-Nation (MFN) and National Treatment are now being seriously tested (Elsig & Klotz, 2021). Without standardized rules, digital import duties risk being twisted into a new protectionist tool that stifles innovation. Therefore, analyzing legal solutions from experts is crucial to finding common ground between protecting state sovereignty and the sustainability of the global digital ecosystem (Maseeh Ullah et al., 2025).

Technically, Indonesia's readiness can be seen from its proactive measures under the PMSE regime. Its legal foundation is firmly established through Minister of Finance Regulation No. 60/PMK.03/2022 (Kurniawan & ., 2021). However, we must critically acknowledge that this PMK only touches on the VAT realm and has not yet touched on customs duties.

Herein lies the legal conundrum, once the WTO moratorium expires in March 2026, will Indonesia be able to convert the PMSE VAT into a digital import duty, or will it instead increase it? If we insist on doing so without a multilateral framework, we will immediately run into Article III of the GATT 1994 on National Treatment. Essentially, we are obliged to treat imported products the same as similar local products. The question is, if we tax software from Silicon Valley, should local software also be subject to the same burden to avoid being deemed discriminatory? If only foreign goods are taxed, Indonesia could be dragged to the WTO's Dispute Settlement Body for alleged violations of the principle of non-discrimination (Alief Ramdan et al., 2025; Elisabeth, 2023).

From a development law perspective, the infant industry argument is often used as a shield to justify this differential treatment in the name of healthy competition. This review's international literature review is vital in finding a theoretical basis that can legitimize our digital fiscal policy without undermining international commitments. Without synchronization between PMK 60/2022 and the new post-moratorium norms, Indonesia will be trapped in a never-ending trade dispute.

This review article is primarily designed to examine the consistency and efforts of Indonesia's legal diplomacy in strengthening its national customs position, particularly regarding the increasingly complex taxation of the PMSE sector. Through this review, the author aims to map whether Indonesia's steps are sufficiently robust to protect fiscal sovereignty amidst uncertain global dynamics (Mahatma & Abbas, 2023). Furthermore, this paper aims to gain a deeper understanding of the practical implementation of PMK Number 60/PMK.03/2022, from the procedures for appointing collectors to the VAT reporting mechanism for the use of digital goods and services from outside the customs area. This evaluation is crucial to determine whether the regulation is capable of closing the legal loopholes that have plagued cross-border digital transactions (Liu, 2023). Finally, this article is expected to enrich the scientific knowledge of readers, especially fellow students, and serve as a means for the writing team to sharpen their analytical skills in responding to contemporary legal issues that are developing very rapidly in this digital era.

2. METHODOLOGY

The analysis in this review article is not haphazardly compiled, but rather based on a systematic legal research methodology framework. This is crucial to ensure the validity of the analysis and the unbiased conclusions. Because we are exploring the dynamics of trade law in a highly fluid digital ecosystem, I decided to integrate three main approaches:

Normative Legal Approach (Statutory Approach)

This method serves as the backbone of the research, focusing primarily on normative aspects through literature review. The author delves deeper into various international legal instruments that underpin the WTO, from the 1994 GATT text on the classification of goods to the GATS, which regulates digital services market commitments. Here, the author attempts to provide a legal interpretation of the gaps or gaps that emerged after the moratorium in Cameroon's KTM-14 ended in 2026. By borrowing the principles of Pacta Sunt Servanda and the principle of good faith, the analysis aims to examine how the rules of the analog era are forced to remain relevant in the face of a digital reality that recognizes no boundaries (Willemyns, 2019; Zuo, 2024a).

Comparative Approach to Interest Groups

To ensure the review's results are not superficial and one-sided, this research is not limited to a single article. The author uses a comparative study to contrast various arguments from different poles of interest. I attempt to dissect the sharp contrast between the legal doctrines of developed countries (such as the US, which values the free flow of data) and the policies of

developing countries like Indonesia, which emphasize digital fiscal sovereignty. This comparison is vital to understanding why the Most-Favored-Nation (MFN) principle was applied contradictorily in response to the end of the moratorium on import duties on electronic transmissions (Kelsey, 2018).

Content Analysis and Secondary Data Methods (Content Analysis)

This research is also strengthened by content analysis of secondary data from authoritative sources. The author examines official WTO reports, UNCTAD data on the shift in the digital economy, and scholarly articles from reputable journals such as the Journal of International Economic Law. By connecting statistical figures regarding potential revenue loss and data transmission rates, I attempt to construct a robust synthesis. The goal is clear: to ensure that this abstract legal analysis remains grounded in real empirical data and does not simply end up as theoretical discourse floating in the clouds (Lavdari, 2021).

3. MAIN DATA AND ANALYSIS

Fiscal Impact Analysis, Weighing Economic Losses and Opportunities

The core of the heated debate over the end of the WTO Moratorium actually boils down to concrete figures regarding potential revenue losses. Based on data from UNCTAD reports and various international economic literature, developing countries are collectively estimated to lose up to USD 10 billion in potential import duties annually. This staggering figure represents the price to be paid for maintaining a global digital tax-free policy (OECD Trade Policy Papers, 2023; Serafica et al., 2020).

Specifically for Indonesia, the surge in imports of electronic transmissions, ranging from software and entertainment content like films and music to analytical data, continues to show an exponential upward trend. Assuming an average import duty rate of 5% to 10%, the fiscal space the country could reap is actually significant. However, a critical analysis in this review finds that the problem is not simply about filling state coffers, but rather about unhealthy market distortions. Without digital import duties, there is a significant price imbalance, with physical books being taxed more expensive than their digital counterparts. Legally, this situation clearly violates the principle of tax neutrality (Kallummal, 2020).

Escalation of Indonesia's Digital Economy Value (2020–2026)

To understand why post-WTO moratorium policies are so urgent, we need to capture the magnitude of digital transactions circulating in Indonesia. The table below summarizes this growth projection.

Table 1: Projected Value of Indonesia's Digital Economy (in Billions USD)

Year	E-commerce	Media & Entertainment (Digital)	Transportation & Food Services	Total Value of the Digital Economy
2020	35	5	11	51
2022	58	7	13	78
2024	82	10	18	110
2026*	115	15	25	155

**Projections based on compound annual growth rate (CAGR).*

Looking at the data in Table 1, a remarkable surge over the past six years is evident. The Digital Media & Entertainment sector, home to streaming, music, and games as the primary electronic transmission medium, has tripled. From just $5 billion in 2020, it is predicted to reach $15 billion by 2026.

Legally, these figures provide a strong signal that items previously exempted from import duties through the WTO moratorium are no longer merely secondary commodities but have become the backbone of a new economy. If Indonesia continues to adhere to the moratorium when transaction values have already exceeded USD 155 billion, it would mean the country is wasting a significant revenue opportunity that could be used to finance national digital infrastructure. This phenomenon can be seen in the PMSE growth trend, which shows a sharp and unstoppable increase (Banga et al., 2025; Teltscher, 2002).

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Visualization of Electronic Transmission Trends

Graph Interpretation, The graph above (Figure 1) illustrates a consistent upward trend. The growth line indicates that Indonesian society's dependence on imported digital products is increasing. Legally, this graph reinforces the theory Base Erosion(tax base erosion). When consumption shifts from physical to digital goods, but import duty regulations do not accompany it, then this occurs. *Gap* fiscal which is getting wider every year (S & S, 2025). This is the logical justification for Indonesia's diplomatic position at the 2026 Cameroon-14th Conference to end the moratorium.

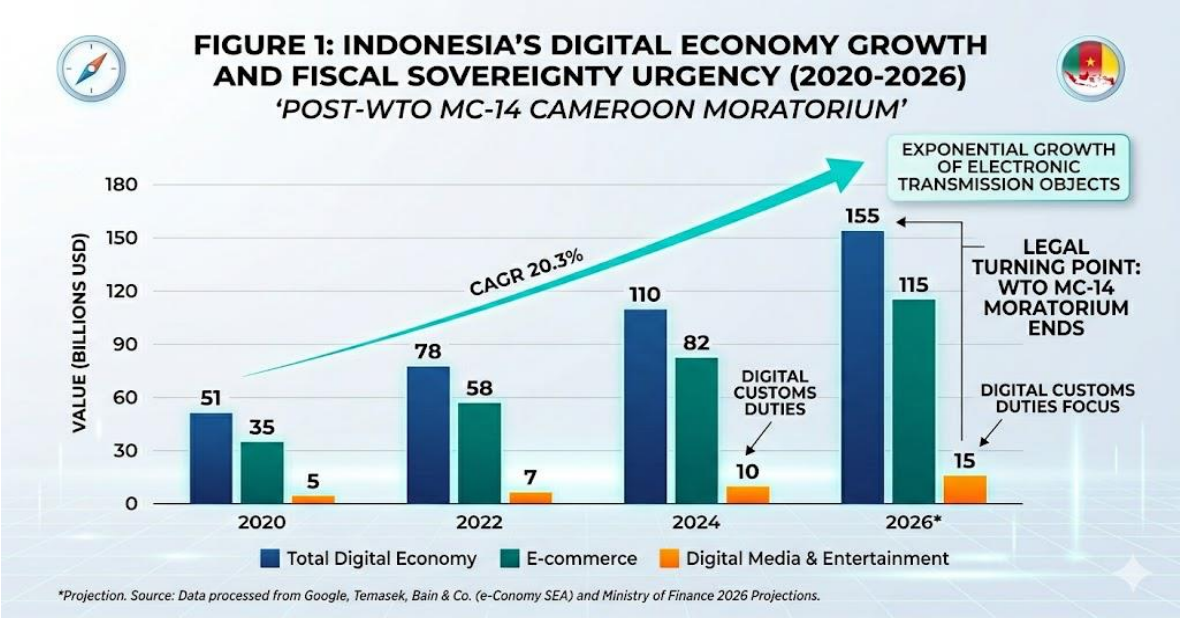

Figure 1. The growth of Indonesia's digital economy and the importance of sovereignty (2020- 2026) after the end of the WTO MC-14 Cameroon moratorium(Israniа et al., 2025)

Legal Classification Problems between Goods (GATT) versus Services (GATS)

This in-depth analysis of the article addresses the most fundamental issue in International Trade Law: the Problem of Classification. Are electronic transmissions goods or services? If they are categorized as goods (GATT), then Indonesia has the right to impose import duties at the border. If they are categorized as services (GATS), then the imposition of import duties is prohibited, and the rules regarding market access and national treatment apply (Richards & Farrokhnia, 2016).

The failure of the 2026 KTM-14 in Cameroon stems from the inability of member states to agree on this definition. Data from various WTO dispute rulings indicate a tendency for digital products to be hybrid in nature. This review argues that maintaining a rigid separation between the GATT and GATS for digital products is a legal anachronism. Post-2026, the world needs a new category called Digital Assets with its own legal regime to avoid overlapping jurisdictions between goods and services regulations (Willemyns, 2021).

Law Enforcement Challenges and Digital Rules of Origin

Technical data presented in the literature suggests that the biggest challenge lies not in rulemaking, but in enforcement. How do Indonesian Customs authorities detect a multi-million dollar architectural design file arriving via email attachment? Determining the customs value of data is extremely difficult. Is it the file size (megabytes) that is valued or the intellectual value within it?

Rules of Origin (Origin of Goods), where in physical trade, the origin of goods is determined by where they are produced. In digital trade, software can be developed in India, hosted on a server in Singapore, and sold by a United States company. This analysis concludes that without an international agreement on Digital Rules of Origin, Indonesia's imposition of import duties has the potential to trigger significant legal uncertainty for technology investors (Burri & Polanco Lazo, 2019).

United States Hegemony vs. Indonesia's Digital Sovereignty

The data reveals a stark contrast in policy orientations. The United States, as the largest digital exporter, uses the Freedom of Transboundary Data Flow doctrine as a protective instrument for its Big Tech companies. On the other hand, Indonesia, through its PMSE regulations, demonstrates its position as a market-seeking country, seeking to ensure that any economic value generated within its jurisdiction contributes to the fiscal sector (Chin & Zhao, 2022; Zuo, 2024b). This review assesses that Indonesia's position in the Cameroon-14 Conference of Ministers rejecting the moratorium extension is a bold but risky move. Based on data from international trade disputes, unilateral steps to impose digital tariffs could trigger retaliation from trading partners in the form of tariff barriers on other leading Indonesian export commodities (such as palm oil or nickel). Therefore, legal analysis must consider the balance between digital sovereignty and the stability of international trade relations.

4. DISCUSSION

Deconstructing Digital Sovereignty in the WTO Regime

The main discussion in the reviewed articles highlights that the concept of state sovereignty is undergoing redefinition in cyberspace. Traditionally, sovereignty has been defined as complete control over territorial territory, including physical borders. However, data on Figure 1shows that economic value now flows through channels that are not physically visible (Pierucci, 2025).

The article's author argues that the failure of the moratorium in Cameroon's 2026 KTM-14 represents a legal rebellion by developing countries against the remnants of digital colonialism, including Indonesia, as a developing country facing tax losses. Indonesia, with its significant market bargaining power, can no longer be forced to accept tax-free schemes that systematically drain potential domestic revenue (Jiang, 2024). However, this discussion also provides a critical note: digital sovereignty must not degenerate into blind protectionism that would actually cut off public access to global technological innovation.

Harmonization of PMK 60/2022 with Post-2026 International Standards

One of the most crucial points in this discussion is how Indonesia will harmonize its domestic regulations. Although Indonesia already has...PMK No. 60/PMK.03/2022, this regulation still applies to consumption taxes (VAT). The legal challenge post-2026 is to formulate a new tax that can be recognized by the WTO as a digital import duty without violating commitments. *National Treatment* (Mahpudin, 2024).

This analysis finds that Indonesia needs to encourage the existence of a Plurilateral Agreement at the regional level (such as ASEAN) to create common standards regarding *Digital Customs Duties* Without this harmonization, global technology companies will face a jungle of varying regulations in each country, which will ultimately increase service costs for consumers in Indonesia.

Dispute Settlement Mechanism

The discussion also noted the significant risk of a WTO dispute. If Indonesia were to unilaterally impose tariffs, data-exporting countries would likely take the matter to the WTO. *Dispute Settlement Body* (DSB) WTO (Niu, 2025). Remembering the present *Appellate Body* The WTO is still experiencing a functional crisis, Indonesia must be ready with strong legal arguments based on *General Exceptions* in Article XX of the GATT, which allows countries to take extraordinary measures to protect the public interest and national economic morality.

5. CONCLUSION AND RECOMMENDATIONS

Conclusion

Based on a comprehensive analysis of journal articles and Indonesian digital economy data from 2020-2026, several main conclusions can be drawn as follows:

a. The 2026 Cameroon KTM-14 event marked a historical turning point that legally ended the uncertainty surrounding the status of electronic transmissions in international law. This gave Indonesia the right to uphold its fiscal sovereignty.

b. The post-2026 legal lacuna requires a rapid response in the form of the creation of new related technical standards. *Digital Customs Valuation* And *Rules of Origin* digital so that there is no overlapping taxation.

c. The imposition of digital import duties is a legitimate instrument for creating *level playing field* between physical and digital goods traders, while protecting the country's tax base from threats *base erosion*.

Recommendation

In closing, the author recommends several strategic steps,

a. Immediately revise the technical tax regulations to accommodate the new classification of digital products post-WTO moratorium while still adhering to the principle of non-discrimination.

b. Further studies are needed regarding the use of technology. *Blockchain* or *smart contracts* as a digital import duty collection automation tool at the cyber border to be efficient and transparent.

c. Understanding international trade law is no longer sufficient by simply reading the old GATT texts, but requires mastering the technical aspects of the digital economy and the international political dynamics that underlie it.

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