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OUR REF:	WTO Moratorium on Customs Duties on Electronic Transmissions	FAX:	
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Mr Dondo Mogajane

Director-General of the National Treasury

REQUEST THAT NATIONAL TREASURY COMMISSIONS AN EVIDENCE-BASED ECONOMIC STUDY RELATED TO THE TWO WTO MORATORIUM ON CUSTOMS DUTIES ON ELECTRONIC TRANSMISSIONS

As the E-Commerce Advisory Committee (ECAC) hosted by the FSCA we very much appreciate your letter of support (dd 12 December 2019) for the continuation of this Committee, and we hereby wish to bring the following matter to your attention.

Following our previous letter to you on the so-called 'Electronic Transmissions Moratorium' of the World Trade Organisation (WTO) the ECAC has asked me to write to you again to suggest the need for commissioning an evidence-based economic study on the benefits/downsides of this 'moratorium' in order to inform whether the RSA should support or reject the Moratorium when it comes up for decision at the WTO 2021 Ministerial Meeting.

Background

The Moratorium is a consensus agreement of the WTO which has been in force thanks to routine renewals for 21 years. The Moratorium prevents WTO Members from applying customs duties to cross-border electronic transmissions.

Definition: There is much debate over what exactly is covered by the term "electronic transmissions". The WTO held a conference on 13 July 2020, which reviewed the different points of view. This meeting could not agree on how to accurately estimate possible global revenues if customs duties were applied on cross-border electronic transmissions. The OECD, for example, suggests that these revenues could be anything between US\$ 280 million and US\$ 8.2 billion globally, but everything depends on the definition of "electronic transmissions".

In June 2020, the **Parliamentary Budget Office (PBO)** published a well-considered report on the Digital Economy and Taxation Consideration. This rightly points out that there is a need to ensure that “all economic activities should be subjected to similar taxation rules and related regulations” and it notes that some digital multinational enterprises (MNEs) are avoiding taxation. The PBO report therefore suggests that efforts are made to rectify this situation in the RSA. However, the PBO goes on to advise that the RSA votes against the Moratorium at the WTO when this comes up next year. The PBO spends half a page on this issue, but fails to make a convincing link between the taxation of MNEs and the imposition of customs duties on cross-border electronic transmissions, or to address the concerns the ECAC raised with you, Minister, in November last year.

The ECAC was informed that the **South African delegation to the WTO** has so far indicated that it will oppose the renewal of the Moratorium on Customs Duties on Electronic Transmissions, inter alia due to the perceived potential gain in customs revenue from electronic transmissions, especially for developing countries. Thus, we feel that it is urgent to ensure a balanced perspective on this topic.

The ECAC has identified five key issues which we believe have not yet been properly considered:

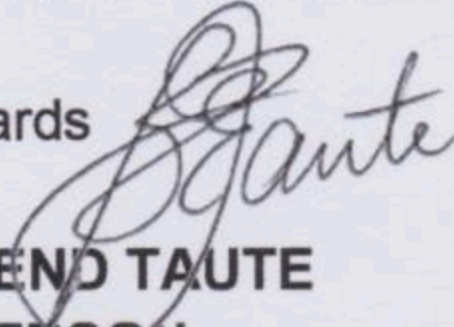
1. **Revenue vs Cost:** Before deciding to introduce such a new customs duty in the RSA, a study should be undertaken to discover what are the likely revenues and what are the likely collection costs. The ECAC is concerned that the cost of applying such a new, complex customs duty will fall disproportionately on consumers and SME's;
2. **The African Free Trade Area:** The ECAC wondered how the imposition of a new customs duty would square with the RSA's commitment under the AfCFTA to reduce tariffs between countries on the continent. A solution could be to apply the customs duties only to electronic transmissions arriving from non-African sources, however this may raise technical challenges. We humbly suggest that a government position on this potential contradiction with RSA's role as a leader within the AfCFTA is required to avoid any mixed messages;
3. **3D Printer technology:** The ECAC noted that such a customs duty would fall specifically on the cross border electronic transmissions necessary to exploit the benefits of 3D printers in the RSA. Given the high cost of 3D printers, the ECAC was concerned that adding additional costs to the operation of 3D printers in the RSA would be counter-productive;
4. **E-Learning:** During the WTO conference on the Moratorium, Kenya made a valid point that imposing customs duties on cross-border electronic transmissions would increase the cost of e-learning and impact on the transfer of skills to Africa from developed countries, and
5. **Impact on the Digital Divide:** The members of the ECAC were also concerned that introducing a customs duty on cross-border electronic transmissions will increase the digital divide by increasing the cost to the 'digital poor' in the RSA, an issue which the government is committed to address.

Recommendation: In our humble opinion, therefore, we recommend that before the RSA decides to vote against the renewal of the Moratorium at the WTO, a rigorous, objective and evidence-based study should be undertaken to understand better whether introducing a customs duty on cross-border electronic transmissions would actually benefit or disadvantage the RSA economy and the uptake of the digital economy, also considering that:

- There is adequate time before the WTO Ministerial meeting in mid-2021 to undertake such a study;
- It would fall within the ambit of National Treasury to commission such a study;
- ECAC members would gladly contribute to such a study, bringing perspectives from a range of government departments and private sector representatives; and
- The Presidential Commission on the Fourth Industrial Revolution can be approached for their perspectives on this matter as it relates to socio-economic development and benefiting from the Fourth Industrial Revolution.

For further information, please contact the Dr Barend Taute, at the following phone number 083 310 2616 and/or email at barendjet@mweb.co.za.

Kind regards



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