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E-comm Talks: India Must Stand Firm

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(The editorial is based on the article “E-comm talks: India must stand firm” which appeared in Businessline for 26th January 2019. In this editorial, we’ll discuss India’s decision to keep off the recent plurilateral talks at the WTO that is seeking to regulate the global digital economy.)

Recently, a group of 75 countries announced its decision to launch negotiations on the trade-related aspects of e-commerce at the WTO, but India has decided to stay away from plurilateral talks.

What is a Plurilateral Agreement in WTO?

It refers to an agreement which member countries can be party to on a voluntary basis. On the other hand, all the member countries are party to a multilateral agreement.

Background

- Over the past three years, there has been an aggressive **push by the developed countries to initiate negotiations** aimed at finalizing binding rules on different dimensions of the digital economy.
- **The announcement of the plan to start the e-commerce negotiations was made at the World Economic Forum (WEF) meet in Davos.**
- A joint statement of the 75 countries that include EU members, the US, China, Japan, Australia, Russia, Brazil, Turkey, Peru, Myanmar, Nigeria, and New Zealand confirmed their intention to commence WTO negotiations on the trade-related aspects of e-commerce.
- Countries seek to achieve a high standard outcome that builds on existing WTO agreements and frameworks with the participation of as many WTO members as possible.
- **70 countries, including China, issued a joint statement confirming their intention to commence WTO negotiations on trade-related aspects of electronic**

commerce.

- Speaking at the same platform a day earlier, Shinzo Abe, Japan's Prime Minister, announced that he would "set in train a new track for looking at data governance — call it the Osaka Track — under the roof of the WTO".

What the developed countries of the digital world are seeking through the WTO negotiations on digital economy and e-commerce?

- **First, they want to have access to the free and unrestricted flow of data** — the raw material that fuels their business. Their principal targets are large developing countries, such as China, India, Indonesia, Nigeria, and South Africa, which generate large volumes of digital data.
- **Second, they seek to curtail the role of governments in regulating almost all key aspects of the digital economy.**
- **Third, they want to leverage the negotiation to reduce their cost of doing business** and enhance their incomes, including, by prohibiting countries from imposing taxes on them and on their products.

India's Stand

- India did not even be an observer at the plurilateral negotiations at the moment as India thinks as it thinks it is not the right time to take on multilateral obligations in the area of e-commerce rules.
- India, which was earlier considering the possibility of becoming an observer if the e-commerce negotiations were launched, has decided against it now as it could lead to more pressure for participation.
- More than half of the 164 WTO members, including large developing countries such as India, South Africa and Argentina, have decided not to be part of the talks.

Implications on India

- **The digital giants have managed to disguise their deep commercial interests and have succeeded in projecting these negotiations as being beneficial for developing countries.**
- Prominent countries including India, Indonesia and most of the countries in Africa are firmly opposed to these negotiations, especially on the issue of cross-border data flows.
- **With the weight of more than 70 countries behind the plurilateral initiative and the joint statement at Davos, India is likely to come under intense pressure from different directions to join the e-commerce negotiations.**
- Given Abe's statement about Osaka Track on data governance, negotiations on e-commerce at the WTO is likely to be the foremost item on the agenda of the leaders,

when they meet later this year, during the last week of June, in Osaka for the G20 Summit. At this meeting, Abe and leaders of some developed countries would seek to persuade India's Prime Minister to join the WTO negotiations.

- **In e-commerce, India already has a multilateral work programme agreed to by ministers, which will be undermined by the plurilateral initiative.**
- The Indian delegation to the WTO had reportedly stated that developing countries needed policy space in areas such as ownership and use and flow of data in sunrise sectors like cloud computing and data storage.
- **The recent tightening of e-commerce marketplace rules by the government has led to protests from companies such as Amazon and Flipkart and also rumblings in Davos, where many countries have called for a stable e-commerce policy environment in India.**
- Joining forces against the proposed e-commerce negotiations at the WTO, a group of civil society organisations from various countries issued a statement opposing the talks on the grounds that it would constrain policy space for development.

Way Forward

- However, even for a plurilateral agreement on e-commerce to become a part of the WTO, **it would require the consensus of the entire membership, including countries not part of the plurilateral group.**
- At the core of India's approach on this issue lies the reality that the country would be one of the largest creators of data in the world. **This advantage can be leveraged to nurture its domestic digital economy so that it acquires a share in the digital economy commensurate with its status as a significant global source of data.**
- If India is compelled by any future agreement at the WTO to allow unrestricted free flow of data across borders, then its ambition in the high-value digital segment would take a hit. In such a scenario, the country would be unable to monetize the raw material of the digital economy and would be reduced to becoming merely a consumer of digital products.
- Domestically, India is likely to see lobby groups and experts lament that by staying out of the negotiations on e-commerce, India is missing out an opportunity to influence the rules that may get finalized. This commonly heard sentiment totally ignores the reality, and past experience, at the negotiating table.
- **On issues of their deep interest, it is the developed countries that inevitably write the core rules.** The influence of developing countries has been limited to fighting for some exceptions. Even if we do not like it, this stark reality needs to be acknowledged.
- Further, there is hardly any issue in e-commerce negotiations, on which India may stand to gain. Instead, its participation would be more about limiting the damage that might arise from binding rules in this area. Given the mood of the proponents, it is unlikely that they will accommodate any development concerns of India. In short, even

if the country is inside the negotiating room, it is unlikely to wield any meaningful influence on the final rules.

- **No nation can prosper if it hands over its raw material to other countries for free. This is precisely what would be required of India if it becomes a party to an agreement on e-commerce at the WTO. If the country has to benefit from opportunities in the digital world, then the entire government must speak in one voice and act coherently at multiple international platforms and protect the national interest. Failure to do so would compromise our digital future.**