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Income support for farmers can put India in sync with WTO rules

Asit Ranjan Mishra, Live Mint

New Delhi, 31 January, 2019: Increasing focus on income support schemes for farmers and the poor ahead of the general elections may help the next government reform India's subsidy regime to make it compatible with World Trade Organization (WTO) norms. India's farm subsidy and export subsidy are increasingly being challenged at the WTO for violating multilateral trading rules.

Earlier this month, Union minister Arun Jaitley had hinted that the government is preparing a direct income support scheme for farmers to be announced in the interim budget scheduled for Friday. The centre's move could be seen in view of large scale protests by farmers and the electoral losses in the recent assembly elections.

Congress president Rahul Gandhi upped the ante on Monday and promised to implement a quasi universal basic income scheme for the poor through which a certain amount will be directly transferred to beneficiary bank accounts every month to ensure a minimum standard of living.

"The promises of direct income transfers taken to its logical conclusion will include farm subsidies, thus doing away with the requirement for large domestic procurements, which are not fully compatible with WTO rules. As direct income support is considered part of the Green Box at WTO, we will be out of the mess. We are constantly worried that we will cross the 10% limit on farm subsidies. Our current farm subsidy regime is actually breeding inefficiencies," a senior government official said, requesting anonymity.

While India insists that its public procurement of rice, which increased from $2 billion in 2015-16 to $2.5 billion in 2016-17, was in line with its WTO commitments, the US, among others, claims that India may have breached its permissible limit of food subsidies.

India announces minimum support prices (MSP) for 23 crops, but the subsidy is largely restricted to paddy and wheat, where the amount of government procurement is huge.

WTO rules cap government procurement for subsidised food programmes by developing countries at 10% of the total value of agricultural production based on 1986-89 prices. These figures are always reported in dollar terms.

In a 12-page counter notification on 9 May, the US alleged India's MSP programmes for wheat and rice breached New Delhi's permissible levels of trade-distorting domestic support at the WTO. It claimed India's market price support for wheat is over 60% of the value of production in each of the four years (between 2010 and 2013) for which India has notified data. "India's apparent MPS for rice appears to have been over 70% of the value of production in each of the past four years," the US said. However, India rejected the claims.

The proposed income transfer scheme will open the option of reforming India's export subsidies, the official said. "MEIS (Merchandise Exports from India Scheme) should be recast in a different way. If we can do it for agriculture on such a large scale, why should 50% of MEIS go to multinational companies? We can rather provide production subsidies to the MSMEs, which will make us WTO compatible and nobody can question us," the official said.

In March 2018, the US had challenged India's export subsidy programmes, including support to special economic zones, at the WTO. Under the special and differential provisions of WTO's agreement on subsidies and countervailing measures, the so-called least-developed countries and developing countries, whose per capita gross national income (GNI) is below $1,000 a year, at the 1990 exchange rate, are allowed to provide export incentives to any sector that has a share below 3.25% in global exports. However, they need to stop all export incentives if per capita GNI crosses $1,000 for three straight years. According to a notification by the Committee on Subsidies and Countervailing Measures in 2017, India's per capita GNI crossed $1,000 for three consecutive years in 2015.

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WTO to probe Donald Trump's China tariffs

Geneva, 28 January 2019: The World Trade Organization decided Monday to investigate the tariffs Washington slapped on $250 billion worth of Chinese goods, as the two countries prepare to meet for renewed trade talks.

The WTO's Dispute Settlement Body (DSB) has agreed to establish an expert panel to review US President Donald Trump's decision to hit China with tariffs on a quarter of a trillion dollars' worth of goods, according to a Geneva trade official with insight into the case.

The DSB accepted Monday to launch the probe after China filed a second request for its case to be heard.

Under WTO regulations, parties in a dispute can block a first request for the creation of an arbitration panel, but if the parties make a second request, it is all but guaranteed to go through.

China's representative told the assembly Monday that the tariffs imposed last year were "a blatant breach of the United States' obligations under the WTO agreements and is posing a systemic challenge to the multilateral trading system."

The US representative meanwhile slammed the Chinese request for a WTO probe as "entirely hypocritical", pointing to the "discriminatory duties on over $100 billion in US exports" imposed by China.

At the same time, the representative added, creating a panel was useless since China "has already taken the unilateral decision that the US measures cannot be justified, and China has already imposed tariff measures on US goods" in retaliation.

The WTO has in recent months created panels to investigate complaints from a long line of countries over Trump's decision to slap them with tariffs of 25% on steel and 10% on aluminium.

The news of the fresh WTO probe came as senior US and Chinese officials prepared to meet in Washington this week, hoping to move toward a bargain to end their unprecedented trade war.

Since last year, the world's two largest economies have exchanged tit-for-tat tariffs on more than $360 billion in two-way trade, with the largest amount, more than $250 billion, imposed by Washington.

At a meeting in Argentina last month, Trump and his Chinese counterpart Xi Jinping agreed to bury the hatchet provisionally -- with Trump delaying a sharp increase on US duties for $200 billion in Chinese goods until March 1.

Washington has made its demands clear: China must agree to far-reaching "structural" reforms in its trade practices, curbing massive state intervention in markets and the alleged theft of American technological know-how, including through hacking and the forced transfer of intellectual property.

Trump also wants to cut the soaring US trade deficit with China, which in 2017 hit a record $375 billion, not including trade in services.

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India under pressure as China joins WTO talks

Kirtika Suneja, The Economic Times

New Delhi, January 26, 2018: China’s sudden move to join the US, Japan, Australia, EU and Singapore for developing trade rules for ecommerce has put pressure on India to join the talks, which have been opposed by more than half of the World Trade Organistion (WTO) members.

China, which joined the league of 75 other countries on Friday had, till recently, opposed binding provisions for cross-border data flow, preventing data localisation and protection of source code, like India. “This is an abrupt move by China. It will put us under pressure to join the plurilateral,” said an official. At the Buenos Aires WTO ministerial, many countries had rejected the agenda on digital trade.

“We confirm our intention to commence WTO negotiations on trade-related aspects of electronic commerce,” the group said on Friday at the World Economic Forum in Davos. Experts fear this move will impact talks of the Regional Comprehensive Economic Partnership trade pact where rules on ecommerce could seep in. “Till now, China’s stance was somewhat closer to ours. It has made a sudden switch overnight and is likely to exempt itself from binding rules for cross-border data flows,” said an expert.

India has told the WTO that developing countries need to maintain policy space in certain aspects of ecommerce such as ownership and use and flow of data in “sunrise sectors like cloud computing and data storage” and in the facets related to hosting of servers, big data analytics and M2M (machineto-machine) communication.

Terming binding rules on ecommerce as “premature digital liberalisation”, civil society groups said that economic sovereignty and future development prospects of developing and poor countries are threatened as a few global players dominate the digital trade.

“These proposed negotiations on ecommerce which, if concluded, would severely constrain the policy space of countries to develop their economies in the future, and would accelerate the global disadvantaging of workers and small enterprises in all countries vis-àvis large corporations that characterises the current global economy,” said a group of 18 civil society organisations from places like India, Finland, Norway, the UK and Africa.

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India presses China to import more Indian products to reduce trade deficit

The Economic Times

Beijing, January 22, 2018: India on Tuesday pressed China to import more Indian goods, especially pharmaceutical and IT products, as top commerce officials of the two countries held talks in Beijing on the widening trade deficit, which last year crossed USD 57 billion.

Commerce Secretary Anup Wadhawan also discussed the progress made under Regional Comprehensive Economic Partnership (RCEP) during his talks with Wang Shouwen, Vice Minister of China's Ministry of Commerce, the Indian Embassy here said in a press release.

Wadhawan on Monday held talks with Zhang Jiwen, Vice Minister of General Administration of China Customs (GACC) which is responsible for examining market access and quarantine issues for India's agriculture and allied products.

The two sides held a detailed discussion on the widening trade deficit, the press release said.

The trade deficit in 2018, according to Chinese official data, climbed to USD 57.86 billion from USD 51.72 billion in 2017 in about USD 95.54 total bilateral trade.

India's exports to China went up to USD 18.84 billion, an increase of 15.2 per cent compared to 2017.

A series of recent moves by China spoke of liberalisation of sale of foreign drugs, especially the cancer curing medicines, but no announcement was made on allowing the sale of Indian drugs in Chinese market.

The expectation of China stepping up efforts to permit market access for Indian pharmaceuticals and IT was high since last year's informal Wuhan summit between Prime Minister Narendra Modi and Chinese President Xi Jinping.

In his talks, Wadhawan pressed for more actions from the Chinese side to support and promote exports of Indian products to China, the press release said.
He also pitched for more market access to Indian IT companies, pharmaceuticals and agriculture products, including major commodities like sugar, rice, milk and milk products. He noted that as a large producer of these commodities, India can emerge as a most reliable source for China, it said.

His talks also focussed on the progress of the Regional Economic Partnership (RCEP) which is a free trade area (FTA) made up of 10 ASEAN members (Brunei, Cambodia, Indonesia, Malaysia, Myanmar, Singapore, Thailand, the Philippines, Laos and Vietnam) and their six FTA partners, India, China, Japan, South Korea, Australia and New Zealand.

Prior to the Vice Ministerial-level talks, Sudhanshu Pandey, Additional Secretary, Department of Commerce and Chief Negotiator of India for RCEP, also held "extensive discussions" on RCEP on Monday with Yang Zhengwei, Deputy Director General, International Trade and Economic Affairs, Ministry of Commerce, China, the press release said.

RCEP aims at liberalising norms for trade in goods and services and boost investment among 16-member countries. The last round of talks were held in in Hyderabad last year.

China is pushing for the RECP after US President Donald Trump pulled Washington out of the Trans-Pacific Partnership (TPP).

Facing threat of cheap imports from China, officials say India is specially seeking to protect its advantages in services and stagger the phase-out of tariffs over a longer period in the case of China, to allow Indian industry more time to adjust.

RCEP is the most important ongoing regional trade agreement which aims at integrating major economics in Asia, which constitutes 30 per cent of world GDP and 45 per cent of world population, the press release said.

Negotiations were conducted across all the three pillars of RCEP, i.e., goods, services and investment. Bilateral negotiations between India and China are crucial for early conclusion of RCEP negotiations, it said.
On Monday, India and China signed a protocol for exports of Indian tobacco leaves to China. Since Wuhan summit, the two countries signed protocols on exports of non-basmati rice and exports of fish meal and fish oil.

GACC also approved 6 Indian mills to export rapeseed meal to China.

This recent period has thus seen significant progress in market access for six agriculture and allied products from India, the press release said.

Wadhawan requested the GACC to expedite market access for other products like okra, soya bean, bovine meat and dairy products, it said.

He also had a brief interaction with the Indian IT and pharma companies present in China.

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India must rethink a full tilt to the US

Ritesh Singh, The Economic Times

January 31, 2018: Frustrated by its limited success in containing China and not really being able to rein in Russia and Iran, the US is pressurising others including India to not buy arms from Russia or oil from Iran and drop the idea of joining any trade pacts that have China; for instance, the 16-member RCEP that accounts for 25% of global GDP, 30% of world trade and 26% of foreign investment (FDI) flows.

Editorials are suggesting that India must tilt towards the US in a new cold war between the world's current super power the US and challenger to the throne China. That may not be a sane advice. India shouldn't close its door on Iran which is crucial for its energy security or Russia which is important for defence security. Not to forget that these are largely untapped but high potential markets for pushing exports.

The cooperation of Iran and Russia is also needed to push India's ambitious logistical project, Chabahar port and the 7,000km international north-south transport corridor that aims to connect Iran, Azerbaijan and Russia along the Caspian Sea and provide a shorter and cheaper route for shipping merchandise to Russia and potentially to western Europe.

India must maintain its independence in foreign policy that has served its commercial and strategic interests for long and has been a key determinant of its soft power even if there's growing pressure to make strategic choices. Benefits of aligning with the US under President Donald Trump are not clear. Moreover, his transactional approach in foreign policy or rubbing even key US allies such as Canada and European Union the wrong way doesn't give much confidence.

Its increasingly protectionist approach to trade and immigration will hurt India's commercial interests. The US has also been too conservative when it comes to supplying cutting edge technologies to India. Besides, the growing unilateralism of the US under Trump and its efforts at undermining global trade rules is not in India's long-term economic interest.

The unilateral imposition of US sanctions against Iran is less likely to work and may encourage the nation to aggressively pursue rather than curtail its nuclear ambition. Trump's one step forward and two steps backward approach on crucial foreign policy issues suggests that he doesn't have a clear strategy to deal with the US-China differences on trade, technology or major geopolitical concerns in Asia or Middle East. Moreover, the US also needs India to counter the rising influence of China in Asia and elsewhere.

Thus, it's not that India doesn't have any leverage. This is, however, not to suggest that New Delhi shouldn't be pragmatic and accommodative of the US. It should provide better market access to US merchandise by removing some of its populist trade barriers (price cap on medical devices or import duties on metal scrap, for instance) or fix its too lax IPR regime, but India must draw a line.

There shouldn't be any doubt that China wants to contain India's rise as an economic and military power. It often troubles India by aiding and abetting Pakistan and has been reluctant to resolve border and trade issues. Yet, New Delhi can't really close its doors on the world's second largest economy, especially when the EU is struggling with Brexit while the US is increasingly turning protectionist. India needs newer markets to help its businesses achieve economies of scale and grow faster. China could be that new export market if India plays ball on RCEP amidst growing clamour from oligopolistic cronies to dump its liberal trade regime.

China remains a price competitive supplier of key industrial inputs and equipment including active pharma ingredients, electronics and telecom hardware, and solar panels. Security threat concerns arising out of Chinese telecom equipment are exaggerated as rightly asserted by the Cellular Operators Association of India. This is, however, not to argue that India should not be cautious about privacy and cyber security threats. Rather it must tighten rules for electronics and telecom equipment imports to deal with these threats effectively.

A far better foreign policy for India will be an open market and double-digit growth on a longer term basis. That's not impossible to achieve as our growth impediments are mostly internal: poor infrastructure, un-prudent regulations, and red tape that increase the cost of doing business and frustrate entrepreneurs.

Similarly, making India more attractive for foreign investors by addressing their major concerns on contract enforcement, tax uncertainties and investment protection treaties will boost FDI inflows and further support India's economic growth. A fast growing India would be more attractive for China and the US whether it tilts or not towards one power or another. New Delhi, therefore, should give more importance to prudent economic management.

To conclude, India must focus on its long-term commercial and strategic interests by maintaining a cordial relationship with Iran or Russia while ensuring that it doesn't unnecessarily offend big powers such as the US. Besides, like Japan, it should continue to engage with China on RCEP and other economic matters including reform of WTO. India's trade negotiators should work harder in getting a better trade deal from China especially when it comes to dismantling of non-tariff barriers that've been constraining India's export of goods and services for long. It still shouldn't be an either/ or choice between the US and China/ Iran/ Russia. India needs to retain its diplomatic fine balancing now more than ever.

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Global trade negotiations: US accuses India and China of eating into poorer nations' relief

The Economic Times

New Delhi, January 21, 2018: he US has accused India, China and other emerging economies of claiming rights and using exemptions from commitments meant for poorer nations in global trade negotiations.

In a proposal to the World Trade Organization (WTO) last week, the US said the self-declared development status risks the institutional relevance of the organisation and collapse of negotiations.

Lashing out at India, it said the country used its status as a developing member to press for continued exemption from its commitments of some $30 billion in input subsidies, a rule intended to address development for some of the poorest farmers in the world.

"Under this massive subsidy scheme, India would continue to receive the same exemption as that of a country like Rwanda," said the US proposal, which is likely to be discussed this week at the WTO meeting on the sidelines of the World Economic Forum in Davos.

This is the latest salvo by the US to reform WTO after its transparency submission in November last year when it had proposed punitive action on countries if they introduce or increase subsidies for domestic industry without reporting to the organisation.

"The US has said that all developing countries should not be considered as one lot but there should be differentiation among them," an official aware of the proposal told ET. "It has tried to hit as many emerging economies as possible and break them."

Another negotiator said, "This is targeted at emerging economies. It is all proceeding in a planned way."

The US paper also cited a joint proposal by China and India that called for elimination of the trade distorting subsidies only for developed members, as a prerequisite for self-declared developing members to make any domestic support reforms.

The US claimed there is a paralysis in WTO wherein any country can "self-declare" as a developing member and assert its right to benefit from special and differentiation treatment such as longer implementation timeframes.

"By demanding the same flexibilities as much smaller, poorer members, export powerhouses and other relatively advanced members create asymmetries that ensure that ambition levels in WTO negotiations remain far too weak to sustain viable outcomes," it said. "This is untenable."

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Donald Trump's China tariffs likely to be investigated by the WTO

Live Mint

Geneva, 27 January, 2019: Tensions between the US and China are about to get more complicated, with the World Trade Organization poised to begin an investigation into President Donald Trump's tariffs on $250 billion of Chinese goods.

On Monday, the Geneva-based arbiter of trade disputes will likely launch an inquiry into whether the US duties run afoul of a requirement that all WTO members give each other the same tariff treatment, as China asserts.

The investigation comes at a delicate moment between the world's two largest economies. A new round of trade talks is scheduled to begin on 30 January, and if a deal isn't reached by 1 March, the Trump administration has threatened to raise the tariff rate on $200 billion in Chinese goods to 25% from 10%.

“This WTO case is especially significant because it deals with the central international legal issue in the US conduct of its trade war with China — whether the US can impose trade restrictions on China in response to alleged Chinese WTO violations without first seeking dispute settlement in the WTO," James Bacchus, a former Democratic congressman and onetime head of the WTO's appellate body, said in an email. “I believe these US tariffs are inconsistent with WTO obligations, but it will be left to my successors on the WTO appellate body to decide."

Existential threat

The WTO is already facing an existential threat over a hold the US has placed on new appellate judge nominations. Absent any reforms, the decision-making wing of the organization will have too few judges to rule on cases by the end of the year. This new investigation could further antagonize the US, which sees the WTO as overstepping its authority.

This is China's second request for an inquiry on the matter, the first one last month was vetoed by the US. The investigation is likely to move ahead on Monday because WTO rules prevent members from blocking a dispute inquiry a second time.

But China won't be expecting a resolution to the investigation any time soon due to a backlog in the WTO dispute settlement system. So far, 23 disputes have been brought against the current US administration, including an EU inquiry into tariffs levied against aluminum and steel imports.

“These trade tensions are not only a threat to the system, they are a threat to the entire international community," Roberto Azevedo, the director-general of the WTO, said on a panel in Davos on 24 January. “The risks are very real and there will be economic impacts."

Intellectual property

The case cuts to the heart of the US-China trade conflict because Trump says the tariffs are necessary to counter an alleged Chinese campaign to steal American intellectual property.

China’s dispute alleges the US tariffs violate the WTO’s most favored nation provision because the measures fail to provide the same tariff treatment that the US offers to imports of all other WTO members.

The US counters that the tariffs fall outside the WTO’s remit because they address trade issues that are not specifically covered under WTO rules.

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Nearly 50% WTO members agree to talks on new e-commerce rules

Live Mint

Davos, January 25, 2018: Impatient with the lack of World Trade Organizationrules to cover the explosive growth of e-commerce, 76 countries and regions agreed on Friday to start negotiating this year on a set of open and predictable regulations.

The WTO's 164 members were unable to consolidate some 25 separate e-commerce proposals at the body's biennial conference at Buenos Aires in December, including a call to set up a central e-commerce negotiating forum.

In a gathering on the sidelines of the World Economic Forum in Davos, ministers from a smaller group of countries including the United States, the European Union and Japan, agreed to work out an agenda for negotiations they hope to kick off this year on setting new e-commerce rules.

"The current WTO rules don't match the needs of the 21st century. You can tell that from the fact there are no solid rules on e-commerce," Japan's trade minister Hiroshige Seko told reporters in Davos.

Asked whether China could join the negotiations, Seko said: "What's very important is to first set high-standard rules. If China could join, we would welcome that."

The WTO failed to reach any new agreements at a ministerial conference in December, which ended in discord in the face of stinging U.S. criticism of the group. The stalemate dashed hopes for new deals on regulating the widening presence of e-commerce.

The emergence of the coalition willing to press ahead with new e-commerce rules, despite others' reservations, reinforces a trend toward the fragmentation of WTO negotiations and away from global "rounds" of talks that have run out of steam.

"We will 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," members of the coalition said in a joint statement issued on Friday.

"We continue to encourage all WTO members to participate in order to further enhance the benefits of electronic commerce for businesses, consumers and the global economy."

E-commerce, which developed largely after the WTO's creation in 1995, was not part of the Doha round of talks that began in 2001 and eventually collapsed more than a decade later.

Many countries insist that Doha-round development issues must be dealt with before new issues can be tackled. But other countries say the WTO needs to move with the times, and note that 70 regional trade agreements already include provisions or chapters on e-commerce, according to a recent study.

US President Donald Trump's administration says the WTO is dysfunctional because it has failed to hold China to account for not opening up its economy as envisaged when Beijing joined in 2001.

To force reform at the WTO, Trump's team has refused to allow new appointments to the Appellate Body, the world's top trade court, a process which requires consensus among member states. As a result, the court is running out of judges, and will be unable to issue binding rulings in disputes.

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E-comm talks: India must stand firm

Abhijit Das, Business Line

January 25, 2018: Despite the freezing weather at Davos, recent developments in this Swiss town have turned the heat on India. In a show of strength, on the last day of the annual World Economic Forum meeting, nearly 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 are the implications of these developments for India, one of the largest economies that chose to stay away from the joint statement on electronic commerce?

At the outset, it is important to understand what the oligarchs of the digital world are seeking through the WTO negotiations on digital economy and e-commerce. First, they want to have access to 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.

On e-commerce, what exactly is happening at the WTO? Over the past three years, there has been an aggressive push by the developed countries to initiate negotiations aimed at finalising binding rules on different dimensions of the digital economy. The digital giants have managed to disguise their deep commercial interests and have succeeded in projecting these negotiations as being beneficial for developing countries.

Swayed by their narrative of "e-commerce for development", many developing countries have joined the chorus for seeking negotiations on this issue.

However, 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.

Plurilateral negotiations

On account of the stiff opposition from some developing countries, the proponents have failed to secure a mandate to negotiate multilateral rules on e-commerce at the WTO. Consequently, they have changed track and are now actively seeking to initiate negotiations among a group of willing countries — commonly referred to as plurilateral negotiations.

However, even for a plurilateral agreement on e-commerce to become a part of the WTO, it would require consensus of the entire membership, including countries not part of the plurilateral group.

Why has India wisely chosen not to align itself with the proponents of e-commerce? 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.

On the other hand, 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 monetise the raw material of the digital economy and would be reduced to becoming merely a consumer of digital products.

Moving ahead from Davos, what challenges would India face in respect of e-commerce negotiations at the WTO?

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.

As part of the preparations for this important meeting, various ministries in India, including the Ministry of Commerce and Industry, Department of Economic Affairs, Ministry of Electronics and Information Technology and the Ministry of External Affairs need to work in tandem. The country must not feel apologetic during the G20 leaders' summit in defending its interest in the digital economy by refusing to sign on to WTO negotiations on this issue.

Pressure from domestic lobbies

Domestically, we are 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 finalised. 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.

Some lobby groups in India, with one foot in the developed world, are seeking to create a narrative that prospects of exports of IT and IT-enabled services would improve on account of e-commerce negotiation at the WTO. Without any detailed examination, some in the government appear to have accepted this narrative. If the text of e-commerce provisions in some of the existing free trade agreements are an indicator, then there is unlikely to be any gain for India's IT and ITES exports from e-commerce rules at the WTO.

In conclusion, let us bear in mind that 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 national interest. Failure to do so would compromise our digital future.

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India must join WTO members in e-commerce talks

Hindustan Times

January 31, 2018: In opposing discussions on e-commerce rules at the World Trade Organisation (WTO), India continues a quixotic trade policy that further marginalises it in the international political economy. New Delhi’s opposition has accomplished little. As many as 76 WTO members have decided to separately begin a process that will frame rules governing cross-border e-commerce. Since this group includes the four largest trading nations — the United States, China, the European Union and Japan — as well as nearly half the WTO’s membership, the breakaway faction is well on its way to becoming the mainstream.

India wants a 1998 agenda to be the basis of any conversation about e-commerce. The agenda is from an age when the name Amazon was still associated with a South American river. New Delhi’s stance is no surprise. It continues to have relatively restrictive policies on foreign multibrand retail. It has now added a convoluted and protectionist rulebook for its domestic e-commerce market. It would be par for the course for India to try and obstruct any attempted moves towards an international free market for e-commerce. India’s posture will, in time, prove to be the worst of both worlds. India will not be able to stop the main trading nations from moving forward with an e-commerce agenda at the WTO. Even if one supported New Delhi’s position, it would be better placed to obstruct if it was sitting at the table rather than sulking on the pavement. Once the other countries set the agenda, India would find itself in the onerous position of having to decide on a set of parameters that it will have no means to modify or dilute.

There is a larger concern here. The WTO is under unprecedented pressure. China has been undermining it for years through chronic rule-breaking. The United States has now joined in, arguing the body is out of touch with economic reality and sabotaging its dispute settlement system. The WTO’s “one nation, one vote” system gives India far more clout than its one per cent share of global trade would merit. But by declining to be part of the WTO reform process, New Delhi only helps hasten the body’s irrelevance. The various panels currently constituted to review India’s trade policy should take this larger issue on board. They should also make the case for India to use WTO norms to hasten liberalisation at home. The official mindset is that India cannot compete globally. That this malaise now afflicts New Delhi’s thinking about e-commerce, a mix of information technology and services, will guarantee India becoming marginal even in sectors it believed it was globally competitive.

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India stay off 76-member WTO push for global e-commerce rules

Financial Express

January 26, 2018: Impatient with a lack of World Trade Organization (WTO) rules on the explosive growth of e-commerce, 76 members – including the United States, China, the European Union and Japan – agreed on Friday to start negotiating a new framework.

India did not join the initiative. It has previously said the WTO should finish off the stalled but development-oriented “Doha Round” of talks before moving into new areas.

“It would always be better if we had every WTO member in it,” said WTO Director-General Roberto Azevedo. “But what is important also is that this group is open. It’s an open-ended group, so any member that wants to participate in this conversation can join any time.”

China, which is locked in a trade war with the United States, signaled conditional support for the initiative but said it should also take into account the needs of developing countries, in comments likely to rile Washington.

E-commerce, or online trade in goods and services, has become a huge component of the global economy. A WTO report put the total value of e-commerce in 2016 at $27.7 trillion, of which nearly $24 trillion was business-to-business transactions.

On the sidelines of the World Economic Forum in Davos, negotiators from the 76 countries and regions agreed on Friday to hammer out an agenda for negotiations they hope to kick off this year on setting new e-commerce rules.

“I’ve said for quite some time it was unacceptable that by 2018 … the WTO won’t have a deeper, more effective conversation about a phenomenon that is driving the global economy today,” said Azevedo.

Japan’s trade minister Hiroshige Seko said his country hopes to use its presidency of this year’s Group of 20 meetings of major economies to help accelerate negotiations.

“The current WTO rules don’t match the needs of the 21st century. You can tell that from the fact there are no solid rules on e-commerce,” Seko told a separate briefing.

China’s WTO Ambassador Zhang Xiangchen said the e-commerce declaration “could have been better drafted” but Beijing was still willing to co-sponsor it.

Trade experts say the global trade rulebook is rapidly becoming outdated and needs to keep up or become obsolete. A recent study found that 70 regional trade agreements already include provisions or chapters on e-commerce.

The WTO’s 164 members failed to consolidate some 25 separate e-commerce proposals at a conference at Buenos Aires in December, including a call to set up a central e-commerce negotiating forum.

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India, South Africa, others skip WTO negotiations on e-commerce at Davos meet

D. Ravi Kant, Live Mint

25 January, 2018: The US and China, embroiled in a worsening trade war, on Friday joined hands with more than 70 countries to launch World Trade Organization (WTO) negotiations on trade-related aspects of e-commerce on the margins of the World Economic Forum meeting in Davos.

Significantly, the US, which is a signatory to the joint call issued by 75 countries, was absent at the meeting because of the shutdown of the federal government. However, the US is in the forefront of crafting the initiative that wants to frame rules for conducting e-commerce at the WTO.

Despite serious concerns on data flows and growing opposition to localization of servers for holding data within national borders, the US wants rules for cloud computing to ensure its leading companies—Amazon, Microsoft, and Apple among others—control the global cloud computing businesses.

India, South Africa and a large majority of countries at the WTO chose to stay away from the meeting on the grounds that they would like to adhere to the WTO’s 1998 work programme on e-commerce.

India has all along said the best way to achieve a balanced multilateral outcome in e-commerce is to complete the exploratory work in the e-commerce under the 1998 work programme.

South Africa’s trade minister Rob Davies characterised the call to launch the e-commerce negotiations as a political statement without substance. South Africa said it does not want to be bulldozed into a process without knowing the implications. “It a first draft and we want to see what it contains," Davies said.

In a political statement issued after a brief breakfast meeting, the three chairs overseeing the plurilateral process, Australia, Japan and Singapore, confirmed the intention of more than 75 countries “to commence WTO negotiations trade-related aspects of e-commerce".

“We will 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," the signatories said.

“We recognise the unique opportunities and challenges members face, including developing countries and LDCs, as well as micro, small and medium sized enterprises, in relation to e-commerce," the signatories said in a bid to woo other developing countries who stayed out of the plurilateral initiative.

The signatories appealed to other countries who are not part of the initiative to “participate" in order to further enhance the benefits of e-commerce for businesses, consumers and the global economy.

China’s trade envoy to the WTO, Zhang Xiangchen, said that “China want to be part of the negotiations" for achieving a balanced outcome. He said it would be important to arrive at balanced rules for e-commerce.

“The multilateral trading system is in a deep crisis and against this, the launching of e-commerce negotiation will be in a significant way help reinvigorate the negotiating function of the WTO, and shore up confidence in the multilateral trading system and economic globalisation," he said.

China’s envoy said he wants to support “making rules on trade-related aspects of e-commerce at WTO" that will revitalise “WTO negotiating function and the necessary reform of the WTO, and will help the WTO better respond to calls from the industry and boost the confidence of all in the multilateral trading system and economic globalisation at large."

Nevertheless, there are differences among sponsors over several issues concerning “free flow" of data across borders and regulatory barriers imposed on retaining data locally in the servers, said people familiar with the development.

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Global business leaders raise concerns over e-commerce policy changes in India

Live Mint

Davos, January 24, 2018: Several global business leaders have raised concerns over the evolving regulatory challenges concerning the e-commerce sector in India and said they want a stable policy regime to help this space achieve its robust growth and investment potential.

Multiple business leaders attending the World Economic Forum Annual Meeting here said there are confusions in their mind in the backdrop of recent policy changes for e-commerce players having FDI in India.

They did not want to be named, given the sensitivity of the subject and the evolving nature of the proposed rules, but said they have directly, or through their representatives, raised their concerns with the government.

They wanted to raise the issue directly with Commerce and Industry Minister Suresh Prabhu in Davos, but his plan to come here got changed at the last moment.

At a session here at the WEF meeting, WTO chief Roberto Azevedo also said there was a need for a global multilateral framework on e-commerce business.

India's FDI policy allows 100% foreign direct investment in marketplace model, but investors also want a stable policy and regulatory regime, a senior official of a leading online retailer said.

An industry lobby group official said there is a fear that certain new rules proposed by the government could lead to discrimination against investors as this policy is only for foreign players and not for domestic ones in the e-commerce sector.

Another executive claimed it is being seen as a non-consultative approach even with investors who bring in huge foreign direct investment.

However, government officials rejected these allegations and said the new changes seek to safeguard competition and the interest of domestic players. The rules have been made after due consideration and consultations with concerned stakeholders, they added.

The Commerce and Industry Ministry brought certain changes to Press Note 2 on December 26, 2018 which prohibited e-commerce companies from entering into an agreement for exclusive sale of products along with tightening norms for firms having foreign investment.

The government has also barred online marketplaces like Flipkart and Amazon from selling products of companies where they hold stakes and banned exclusive marketing arrangements that could influence product prices.

The revised policy on foreign direct investment in online retail also requires these firms to offer equal services and facilities to all its vendors without discrimination. The policy would be effective from February 2019.

In India, the policy as such does not permit FDI in inventory-based model of e-commerce.

Companies have been seeking more time to implement the changes even as some of them have warned that these substantial modifications in the way they do business pose risks of derailing the e-commerce sector that has been a big job creator.

Executives from another global retail major said the impact could also be felt by several connected sectors such as advertising, logistics, warehousing and manufacturing.

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Law ministry flags concerns over India's trade interests post-Brexit

Rajeev Jayaswal, Hindustan Times

January 27, 2018: The law ministry has cautioned the commerce ministry that the UK's imminent exit from the European Union (EU) is a matter of serious concern for India's trade and industry and the government must take legal recourse to protect Indian interests during the Brexit.

"The Law Ministry wants the administrative ministry (Commerce Ministry) to take up the matter in the WTO (the World Trade Organisation), a government official with direct knowledge of the matter said requesting anonymity.

The government's legal experts have said that Brexit could restrict Indian companies' access to the EU through the UK. Several commercial agreements will also need to be renegotiated on account of this, the official said. The government has been discussing this matter with trade experts, legal specialists and the industry bodies, including Ficci and CII.

Some sectors that are likely to face the heat due to Brexit include automobiles, auto components, pharmaceuticals, gems and jewellery, education and IT enabled services. "Most of these sectors will be vulnerable to changes in demand and currency values," Ficci said in an email reply. There are more than 800 Indian companies in UK, it added. For many of these companies, London also serves as the European HQ.

Queries sent to ministries and law and commerce did not elicit any response. CII offered no comments on this matter.

Experts expect operational costs of Indian companies to soar. “Many Indian establishments which were operating across EU through the UK may have to set up new offices in the EU. This may increase infrastructure and manpower cost for Indian companies,” Abhishek A Rastogi, partner, Khaitan & Co, said. With the UK moving out of the EU, the latter might not remain as attractive to Indian Investors as it used to be pre-Brexit, he said.

According to Ficci, this may also give an opportunity for the Indian firms to renegotiate better deals and tax concessions in the UK. “India is the major foreign direct investment source for the UK because many Indian firms have used it as a gateway to Europe. With UK moving out of EU, it might not be as attractive to Indian firms as before. However, the UK government would not like to miss out Indian investments and will thus try to attract Indian firm by offering more incentives such as tax breaks, easy regulations and opening up market,” it said.

Daksha Baxi, Head – International Taxation, Cyril Amarchand Mangaldas, foresees some taxation issues for Indian firms operating in the UK. “Upon Brexit, Indian companies having holding or an operating company in the UK or EU may lose the benefit of tax concession on income from the other EU jurisdiction under the EU directives, unless the UK continues to give such concession to UK companies investing in EU and vice versa,” she said.

In a quick survey of 45 Indian firms conducted by Ficci in 2016 immediately after the Brexit referendum, companies saw both, an “adverse situation” emerging due to the UK’s exit decision, and opportunities for more Indian companies doing business with their UK counterparts.

Bilateral trade between India and the UK was worth about £18 billion in 2017 while India’s bilateral trade with EU, as a block of 28 countries, including the UK, in 2017 (January to October) was to the tune of €70.7 billion.

Ficci enumerated some practical difficulties that Indian firms could face. “While Indian businesses in general don’t intend to set up operations in any other EU country because of Brexit, they are concerned about the impact on intra company transfers/movement of professionals and Indian migration over the medium term,” it said.

“Furthermore, it is anticipated that the companies that have operations in the UK and the EU will have to face significant translation losses with the probability of volatility in currencies remaining high,” it said.

Post Brexit some companies could face investigation from competition authorities both in the UK and the EU, it said. “Until now, a majority of the competition law in the UK was derived from the EU,” it said.

The biggest costs of doing business across borders tend to come from non-tariff barriers, rules of origin checks, custom controls, compliance with different products standards between the countries, it said.

India may also use Brexit as an opportunity, Rastogi said. “Brexit may nudge UK to develop better trade relations with India after losing access to the EU single market”.

For instance, India may have an opportunity to increase its agro-products to the UK, Ficci said. “Post Brexit, EU subsidies may no longer be available for the UK and the extent to which the UK will be able to support its farmers on subsidies is debatable. The UK may find it necessary to reduce tariffs in order to import cheaper food products,” it said.

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Centre firm on FDI rules deadline

The Hindu

New Delhi, January 31, 2018: The government on Thursday said it would not be extending the deadline for implementation of the new rules governing FDI in e-commerce. The new rules will come into effect on Friday as per plan.

“The department had received some representations to extend the deadline of February 1, 2019 to comply with the conditions contained in the Press Note 2 of 2018 series on FDI Policy in e-commerce issued by the Department,” the Commerce Ministry’s Department for Promotion of Industry and Internal Trade said in a notification.

“After due consideration, it has been decided with the approval of the competent authority not to extend the above deadline.” Large e-commerce firms such as Amazon and Flipkart have repeatedly approached the Centre seeking either dilution of the rules or extension of the deadline. “While we remain committed to complying with all laws and regulations, we will continue to look to engage with the government to seek clarifications that help us decide our future course of action as well as minimise the impact on our customers and sellers,” an Amazon spokesperson said. The new rules ban any firm that has any stake owned by an e-commerce company from selling on the platform run by that e-commerce company. Further, no company that has 25% or more of its purchases from an e-commerce group firm may sell on that firm’s platform.

The decision not to extend the deadline has been welcomed by traders’ bodies and home grown platforms such as Snapdeal and ShopClues, which have been campaigning vigorously for this outcome.

CAIT sought setting up of a regulatory authority to oversee strict implementation the policy.

‘Win for MSMEs’

Sanjay Sethi, CEO & co-founder, ShopClues, said the move was a win for small enterprises, moving them a step closer to a level-playing field. “It also sends strong message to violators that legal jugglery, exploiting loopholes and in general disregard for the law will have to stop now.” A Snapdeal spokesperson said adherence to rule of law would allow India to create a robust e-commerce sector, which will ensure lasting gains for both buyers and sellers.

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