

## Notes for India regarding the Digital Trade

### What is the issue?

In 2021, Australia, Japan, and Singapore, co-convenors of the plurilateral Joint Statement Initiative (JSI) on e-commerce, welcomed the substantial progress made at the talks over the past three years.

### What is Joint Statement Initiative (JSI)?

- JSIs are a negotiating tool initiated by a group of WTO Members who seek to advance discussions on certain specific issues without adhering to the rule of consensus decision-making involving the whole WTO membership.
- They are open to any WTO Member.
- At the present, there are several active JSIs.
- The first Joint Statement on Electronic Commerce was released at the 11th Ministerial Conference in Buenos Aires in **2017** with 71 signatory members.
- During the **2019** World Economic Forum Annual Meeting in Davos, 76 members announced a Second Joint Statement.
- The co-facilitators of the JSI on e-commerce are **Australia, Japan and Singapore**.

### What are the global rules on digital trade?

- Although the WTO emerged in 1994, it was only at the 2nd Ministerial Conference (1998) that members agreed on core rules for e-commerce regulation.
- A temporary moratorium was imposed on customs duties relating to the electronic transmission of goods and services and has been renewed continuously.
- The members also agreed to set up a work programme on e-commerce across four issue areas at the General Council:
  - Goods
  - Services
  - Intellectual property
  - Development
- In 2017 the JSI was brokered to initiate exploratory work on the trade-related aspects of e-commerce.
- Several countries, including developing countries, signed up in 2019 despite holding contrary views to most JSI members on key issues.
- Surprise entrants, China and Indonesia, argued that they sought to shape the rules from within the initiative rather than sitting on the sidelines.

### What are the challenges?

- **Membership**- Even though JSI members account for over 90% of global trade, over half of WTO members continue to opt out of these negotiations.
- Unlike the General Council Work Programme, which India and South Africa have attempted to revitalise in the past year, the JSI does not include all WTO members.

- **Weakening of domestic policymaking** - They fear of being forced into accepting global rules that could weaken domestic policymaking and economic growth.
- **Concerns of India and South Africa**- India and South Africa have pointed out that the JSI contravenes the WTO's consensus-based framework, where every member has a voice and vote regardless of economic standing.
- **Free flow of data**- Several countries have imposed data localisation mandates that compel corporations to store and process data within territorial borders.
- In India, several payment card companies, including Mastercard and American Express, were prohibited from issuing new cards for failure to comply with a 2018 financial data localisation directive from RBI.
- The Joint Parliamentary Committee (JPC) on data protection has recommended stringent localisation measures for sensitive personal data and critical personal data in India's data protection legislation.
- But, the developed world looking to access new digital markets are of the view that these restrictions impose unnecessary compliance costs, thus hampering innovation and amounting to unfair protectionism.
- **Disagreement regarding domestic laws**- Developed countries believe that the domestic laws on disclosure of source code affects innovation, whereas developing countries believe it is essential for algorithmic transparency and fairness.

## What choices does India have now?

- India's global position is reinforced through narrative building by political and industrial leaders alike.
- Policymaking for India's digital economy is at a critical juncture.
- Hastily signing trade obligations could reduce the space available to frame appropriate policy.
- But, sitting out of trade negotiations will mean that the digital trade issue will continue unchecked, through mega-regional trading agreements such as the **Regional Comprehensive Economic Partnership (RCEP)** and the **Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)**.
- Exceptions to digital trade rules, such as 'legitimate public policy objective' or 'essential security interests', could be negotiated to preserve policymaking where needed.
- Taking a cue from the **Digital Economy Partnership Agreement (DEPA)** between Singapore, Chile, and New Zealand, India can push for a framework where countries can pick and choose modules with which they wish to comply.
- Since, the WTO plays a critical role in global governance and is vital to India's strategic interests, negotiating without surrendering domestic policy-making holds the key to India's digital future.

## References

1. <https://www.thehindu.com/todays-paper/tp-opinion/notes-for-india-as-the-digital-trade-juggernaut-rolls-on/article38394713.ece>
2. <https://dig.watch/processes/wto-ecommerce#:~:text=What%20is%20a%20'Joint%20statement,involving%20the%20whole%20WTO%20membership.>



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