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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