WTO's Joint Initiatives

What is the issue?

Several countries, including India, have so far stayed out of the JI negotiations that these initiatives lack a multilateral negotiating mandate and are an attack on the fabric of multilateralism underlying WTO.

What is WTO?

- The World Trade Organization (WTO) is the only global international organization dealing with the rules of trade between nations.
- It came into being in 1995 as the successor to the General Agreement on Tariffs and Trade (GATT).
- Virtually all decisions in the WTO are taken by consensus among all member countries and they are ratified by members' parliaments.
- Trade friction is channeled into the WTO's dispute settlement process where the focus is on interpreting agreements and commitments.

What are the major concerns in WTO?

- **Appellate Body** – The legally binding dispute settlement process comprises of a two-tier structure of "panel" and "appellate body".
- It is now two years since the US blocked the appointment of Appellate Body members which has undermined the functioning of the enforcement.
- There are currently 21 appeals pending before the presently defunct Appellate Body.
- **Compromise on WTO's role -** The WTO's role as the arbiter of rules has been compromised and there is increasing pressure for new rules and new agreements.
- The multilateral format for rule-making that the WTO provided is also under threat.
- **Lack of consensus** – WTO has faced severe criticism for its inability to conclude any major negotiations in over two decades.
- There has been lack of consensus among its diverse membership, who differ considerably in terms of their economic, socio-political structures, and interests.

What are the joint initiatives?

- Some like-minded Members proposed an innovative approach called Joint Initiatives (JIs), during the 11th Ministerial Conference held in Buenos Aires in December 2017.
- JSIs can be broadly defined as a plurilateral negotiating tool initiated by a group of WTO Members who start negotiations on certain issues without adhering to the rule of consensus decision-making.
- The initiatives were on
    - E-commerce
    - Investment facilitation for development
    - Services domestic regulation
    - Micro, small, and medium-sized enterprises (MSMEs)
- Of the 164 WTO members, 136 are participating in the JI on investment facilitation, 86 in e-commerce, 65 in services domestic regulation and 70 in MSMEs.

What are the options for inserting JIs into the WTO system?

- Given the divide in how the membership views JSIs, there appear to be two most feasible options on how to include JSIs into the WTO system.
- **Through Regional Trade Agreements (RTAs) –** It is preferred by some developing countries and least developing countries.
- In order to form an RTA, members would have to meet the legal condition of liberalising "substantially all the trade" under GATT Art. XXIV and the "substantial sectoral coverage" condition under GATS Art. V.
- **Through an amendment to the Members' schedules** – It is preferred by developed countries.
- With regards to JIs on trade in services, GATS schedules can be amended under GATS Art. XXI to include conditions of market access and national treatment.

What are the issues in incorporating JIs into the WTO system?

- The negotiated disciplines on "Services domestic regulation" have been incorporated into WTO commitments on a Most favoured nation (MFN) basis.
- But, the JIs on e-commerce and investment facilitation are still exploring the issue of possible legal architecture.
- Other than Services domestic regulation, none of the other JIs have been comprehensively blended into existing WTO commitments.
- They also can't be incorporated into the WTO fold as new plurilateral

agreements that create rights and obligations only among participating members because consensus of all members is necessary for this to happen.
- Several countries, including India, have so far stayed out of the JI negotiations that these initiatives lack a multilateral negotiating mandate and are an attack on the fabric of multilateralism underlying WTO.

How can the issues be addressed?

- JIs are likely to form the basis in any future bilateral or even multilateral negotiations and staying out minimises the ability to influence the shape of new rules.
- The thrust of JI discussions is facilitation for MSMEs by establishing a new **Trade4MSMEs** platform that is expected to provide trade-related information to small businesses.
- There has to be a clarity on this as any multilateral rules for MSMEs would first need to grapple with how size of an economy influences the perception of what is a MSME.
- It has to be ensured that any new rules are based on WTO's core principle of multilateral decision-making and the very principles of multilateralism can be used to insist that JIs need to be negotiated at the multilateral level.

References

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