

UNCTAD E-COMMERCE WEEK

Ministerial Roundtable: “Trade, Data and Digitalization”

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What role can trade policies and trade negotiations at regional and plurilateral levels play in support of inclusive development in the digital economy?

At the outset it can be said that all those elements of trade policies at domestic level and trade negotiations at multilateral level that tend to contribute towards ‘inclusive development’ in digital economy, are applicable *mutatis mutandis* to trade negotiations at regional and plurilateral levels. However, the degree of contentiousness may be low in trade negotiations – at regional level due to high degree of homogeneity among the regional parties, and at plurilateral level due to like-mindedness of the parties involved.

In my opinion, the ‘inclusiveness’ in digital economy will largely depend upon the rules of the game that are conducive for micro, small and medium enterprises (MSMEs) to enhance cross-border trade opportunities using digital platforms, and that promotes enhanced participation of MSMEs in the global value chain. Here MSMEs include farmers and their associations with respect to agriculture produce and subsequent value addition at farm level. MSMEs also include start-ups and online vendors.

The emphasis is on MSMEs because they are the ones that provide large number of employment, which in turn results in ‘inclusive development’ in an economy and reduces social inequality.

Though in theory it looks possible, but in practice affirmative actions would be required to make it happen. Domestic trade policies must work towards this, and governments must keep in mind their MSMEs’ needs while negotiating international rules on digital trade or on e-commerce.

From MSME perspective, any international rule on e-commerce (be it regional, plurilateral or multilateral) should be able to put an end to the ‘inventory-model’ platforms. Such platforms have been found (or alleged) to be discriminating between their inventories and other suppliers, which can go against the interests of small suppliers. Only a handful of global platforms, acting as gatekeepers, tend to control the

whole ecosystem. E-commerce platforms should mandatorily follow market-place model and maintain 'platform neutrality' towards online vendors.

Further, since 'data' plays significant role in digital economy the regulation of data at domestic and international levels assume much importance. Countries have begun to use data regulation as protectionist measure. For instance, countries are adopting data localisation policy without understanding its effect on their emerging start-up ecosystem. Data localisation can disrupt participation of MSMEs in the global value chain.

What is needed is equitable access to users' data by all market players in digital economy, akin to an infrastructure. This will make start-ups and other MSMEs (going for automation) competitive enough to sustain in the digital economy, which is characterised by winner-take-most phenomenon. Any domestic policy and international negotiation must address 'equitable access to data' in order to achieve the goal of 'inclusive development' in digital world.

Further, addressing issues related to consumers' trust on cross-border e-commerce is very important, particularly for MSME suppliers. In this regard, creation of online consumer protection rules, protection of personal data to maintain right to privacy of consumers, harmonising liability rules etc. are important to be addressed in international negotiations.

It is important to note that in e-commerce negotiations at the regional level, such as Continental Progressive Trans-Pacific Partnership (CPTPP) and Regional Comprehensive Economic Partnership (RCEP), legally binding rules on cross border trade flows, non-discriminatory treatment, prohibition on data localisation and transfer of source code are there. Similarly, media reports suggest that "cross-border data flow" will be a core issue in the newly commenced negotiation on plurilateral agreement related with e-commerce at WTO.

In order to achieve 'inclusive development, we hope that the negotiating parties will keep their focus on enhancing opportunities of cross-border trade for MSMEs, including by taking suitable stand on 'platform model' and 'cross-border data flow'.
