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WTO's Potential Game-Changer: Global e-Commerce Rules?

By Eunice Huang

SYNOPSIS

The recently launched WTO negotiations on e-commerce seeks to establish a new rulebook for e-commerce trade, and could be a potential game-changer for the global economy.

COMMENTARY

AMIDST THE glitz and glamour of the annual Davos shindig last month, a potential game-changer for the global economy was launched to less fanfare than it deserved. Some 76 Members of the World Trade Organisation (WTO) announced their intention to commence WTO negotiations on trade-related aspects of electronic commerce.

The launch of the negotiations marked a major milestone in a process that started almost 2.5 years ago, when it became abundantly clear that the WTO could no longer ignore the realities of the digital economy. Global e-commerce trade totalled almost US\$28 trillion in 2016, an increasing proportion of which were cross-border e-commerce transactions. It was clear that digital trade was the future of international trade. The establishment of a global rulebook on e-commerce was therefore not only critical to the functioning and health of the global economy, but also to the very relevance of the WTO.

Major Leap Forward

But as multilateral consensus to move ahead on e-commerce rules proved elusive despite best efforts in Geneva, the next best alternative was to work through a joint initiative on e-commerce, open to all interested WTO Members. This initiative, shepherded by Singapore, Japan and Australia, was launched at the Eleventh WTO Ministerial Conference in Buenos Aires in December 2017.

2018 was spent locked in intensive discussions on what an e-commerce rulebook could look like, and how it could take into account the interests of all Members, especially those of the developing and least-developed economies, as well as the challenges faced by micro, small and medium enterprises (MSMEs).

The 25 January 2019 launch was therefore a concrete and bold pushback in the face of concerns, including at Davos, over mounting trade tensions as well as the erosion of the international order and multilateral cooperation. Its significance should not be underestimated.

Four Major Developments

There are four noteworthy developments in particular:

One, the composition of WTO Members confirming their participation in the negotiations represents over 90 per cent of global trade. Most notably, major economies such as the United States, China, Japan, the European Union, Nigeria and Russia are participants. China was a last-minute entrant to the group.

What this means is that the eventual outcome of these negotiations, if successful, will set the new baseline of rules and norms for global e-commerce trade. The opportunity to be at the table to shape and influence the contours of this new rulebook is a powerful proposition for participation.

Two, the US and China's participation in this initiative creates additional space for strategic engagement. US-China strategic rivalry is underpinned by competition for technological supremacy. Trade is but one manifestation of this rivalry. Digital trade, which lies at the intersection of the two spheres, will no doubt be where the competition will be most intense and contested.

Finding an eventual landing zone will be tough. But the fact that both the US and China have agreed to participate in this negotiation process is a positive sign that both sides will continue to engage and create multiple channels for dialogue and mutual understanding.

Three, a wide range of developing countries and LDCs have agreed to participate in the negotiations. China is the most notable example, but others such as Thailand, Mongolia, Honduras, Georgia, El Salvador, the United Arab Emirates and Nicaragua have come aboard since Buenos Aires. The negotiating group also includes LDCs such as Myanmar and Laos, which recognise the potential of e-commerce as key growth drivers for their economies by allowing them to leapfrog and be plugged into global supply and value chains.

The strong participation of developing economies in the negotiations necessitates an eventual outcome that reflects a fine balance of interests, rights and obligations. This has also been set as a negotiating objective from the very beginning, where the participants pledged "to recognise and take into account the unique opportunities and challenges faced by Members, including developing countries and LDCs, as well as by MSMEs, in relation to e-commerce".

Looking Ahead

Finally, the launch of the e-commerce negotiations is a demonstration of an underlying resilience in the WTO's rules-based system and more importantly, its community of Members. The WTO has come under fire in recent years for being ineffective, outdated and irrelevant. Some of the criticism is warranted, especially the failure of the Doha Round.

But what many pundits fail to recognise is that the WTO's agenda is ultimately defined and constrained by the interests of its constituent Members. The launch of the plurilateral negotiations is not a breakdown in multilateralism, but a resounding "no" against paralysis. It is a decided and bold move by WTO Members who recognise the relevance and importance of the WTO system to shape the future of international trade.

The path ahead will be arduous and fraught with complexities. Deep schisms exist amongst the current crop of participants on key issues such as cross-border data flows and privacy. Negotiators will have to carefully navigate the "tri-lemma" of ambition, coverage and time. Support and continued engagement from the international business community will be crucial in ensuring that new rules match up with commercial realities.

The architecture of the eventual agreement will also be a major determinant of its success, especially in gaining buy-in from more developing countries and LDCs. It will not be easy to find that happy balance, but there is no alternative to not trying.

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