
The future is here

- *Nepal urgently needs to prepare to strengthen its e-commerce and digital trade sector*

- PRAGATI KOIRALA

Feb 16, 2018-

The World Trade Organisation (WTO) has assigned four of its bodies to explore and examine trade related issues relating to global e-commerce, that is production, distribution, marketing, and sales or delivery of goods and services through electronic means. The very fact that the work programme was given to four different organisations—Council for Trade in Services, Council for Trade in Goods, Council for Trade-Related Aspects of Intellectual Property Rights and Committee for Trade and Development—speaks volumes about the broad scope of e-commerce.

The digital and technological divide that exists between the developed countries and the least-developed countries (LDCs) could lead to unequal distribution of the gains between them. A group of countries that stand to gain from the global rules of e-commerce have pushed for a change in the mandate of the work programme. However, the developing countries and the LDCs want the current mandate to be continued. The second group of countries felt the need to dig deeper into the implications of global e-commerce rules on their own economies and enterprises, both large and small.

Local context is necessary

There is no denying that e-commerce can become a vehicle for development when enabled by access to world markets with just the click of a button. The clichéd expression of ‘just the click of a button’ needs to be examined further, especially from the perspective of micro, small and medium sized enterprises (MSME) in a landlocked, least developed country like Nepal. The important questions to ask are: Do MSMEs possess the resources, technology, technical knowledge, skills and infrastructure to maintain an online presence? Are there proper regulatory frameworks to facilitate their online presence? Are there easily available options to receive payment from an electronic sale? These are among the various back-end intricacies that need to function well to facilitate the so-called ‘click of a button’. Ultimately, the question is: Are we well-prepared to compete in global e-commerce under global rules?

The proponents of global rules on e-commerce have submitted informal documents and proposals to the WTO General Council, the organisation's supreme decision making body, on what kind of global rules there should be. Many of the proposed provisions deserve close scrutiny as the reality of the LDCs, and of some developing countries, is that there exists a huge digital and technological divide, and they lack the capacity to implement the global rules and compete with countries that lie at the other extreme of the e-trade spectrum.

Any provision pertaining to the prohibition of digital customs duties could have great consequences on the revenues of the developing countries and the LDCs. There is also the possibility of trespassing on their existing rules on trade in goods, services and intellectual property rights as the scope and definition of e-commerce and e-trade expands. Peer-to-peer businesses like Uber and Airbnb, cloud computing, increasing sales of digital books and music besides the increasing use of 3D printing have already disrupted existing business models. Obviously, more disruptions are likely. The full implication of this provision on the economy needs to be studied before imposing blanket rules.

Enabling cross-border data flow is another problematic provision. Data is valuable and can provide great leverage to the companies that possess it. The data generated from the monitoring of consumers' use of the internet and purchasing habits has been used extensively for targeted marketing and product and price differentiations. Moreover, large e-commerce businesses could easily outcompete their smaller competitors with the use of purchased data. Policymakers must take a closer look at the issue from the perspectives of national security, privacy, consumer protection and fair competition.

The LDCs and many developing countries lack the necessary infrastructure, human resources and technological capacity. They rely on technology transfer to bridge their digital and technological divides. Artificial intelligence and robotics in e-commerce and digital automation could further deepen the divide. Technology transfer is also hindered if localisation measures are looked at solely as barriers to the liberalisation of e-commerce. Measures to ensure technology transfer might fall short if information and communication technology (ICT) businesses do not maintain a physical presence in the country they operate in. Therefore, the advocacy for provisions on technology transfer to the developing countries and the LDCs should be continuous and consistent.

Underprepared

These issues represent only a few of the many problematic provisions in the proposed negotiation agenda among countries leading to their adoption. There is a need to initiate serious discussions among our own policymakers and negotiators to understand the implications of such provisions on our e-commerce industry. It would not be an overstatement to say that Nepal is ill prepared to exploit the advantages that open and liberal e-commerce can bring. The country is famously marred by low internet and broadband penetration, connection costs, poor ICT infrastructure, human resource gaps in ICT, and poor regulations governing ICT, digital trade and the e-commerce sector.

Given the growth of e-commerce, negotiations on its global rules are bound to happen sooner or later. Nepal as an LDC urgently needs to plan and strategise to strengthen its e-commerce and digital trade sector. The ministerial decision to continue the exploratory mandate on e-commerce, which came at the end of the Eleventh WTO Ministerial Conference (MC11) last December, gives policymakers time to start doing just that. Establishing a common vision for the sector, strengthening our national regulatory capacity by formulating new acts as well as amending and updating older acts pertaining to governance of e-commerce and digital trade (consumer protection and cyber security) could be the first place to start. Strengthening the domestic e-commerce industry and ensuring the inclusion of MSMEs so as to enhance their capacities is essential.

Ensuring legally binding special and differential treatment, provision of technology transfer to the LDCs and the developing countries, protection of personal data and fair competition is absolutely vital. Moreover, localisation measures, or the lack thereof, should not hinder the development needs of the LDCs. Our policymakers must work to develop our domestic strengths and facilitate the integration of our enterprises in the global market with e-commerce as a tool.

Koirala is a research associate at South Asia Watch on Trade, Economics and Environment

Published: 16-02-2018

<http://kathmandupost.ekantipur.com/news/2018-02-16/the-future-is-here-20180216081503.html>