

India ducks Digital Trade Rules at G20

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Summary

India stayed away from the Osaka Declaration on Digital Economy adopted by most of the members at the G20 summit on 28 and 29 June 2019. By distancing itself from efforts on global rule-making on digital trade, India is losing the opportunity of contributing to these rules in a manner that would benefit it.

Efforts to move towards a global framework on digital trade rules gathered momentum with the announcement of the [‘Osaka Declaration on Digital Economy’](#) at the G20 Summit in Osaka on 28 and 29 June 2019. Twenty-four countries came together to launch the ‘Osaka Track’ for building dialogue and discussions to adopt common rules on international trade-related aspects of e-commerce. Not all G20 members, however, have endorsed the Declaration. These include India, Indonesia and South Africa. These three G20 members are also not among the nearly 80-odd World Trade Organisation (WTO)-member countries that are part of the informal talks on global e-commerce rules.

Notwithstanding the majority of G20 members signing the Osaka Declaration, the split among the world’s leading economies on e-commerce and data governance rules is conspicuous. While China and Russia have endorsed the Osaka Declaration for working with the other consenting G20 members on achieving a high-standard global agreement on digital trade and e-commerce, their domestic policies reflect contrarian positions. China particularly, is displaying a clear tendency to differentiate between its commitment to a global rules template for e-commerce and its reservations on the free flow of cross-border data. In spite of its willingness to [‘...develop rules on trade-related aspects of electronic commerce with other Members’](#), it insists on more discussions before including data flows, storage and management as part of ecommerce talks. This is certainly not the way many other G20 members, particularly Europe, Japan and the United States, would like the talks on digital rules to proceed.

China’s position on cross-border data flows resonates with those of India, Indonesia and South Africa. However, these three have taken a far harder stance on global e-commerce talks by first not joining them, and by then backing away from the Osaka Declaration. This is where even Japanese Prime Minister Shinzo Abe’s strong emphasis on the G20 working for a global data management framework allowing cross-border flow of data premised on mutual ‘trust’ – articulated as Data Free Flow with Trust – failed to convince the non-signatories.

There were, of course, little expectations of India signing the Osaka Declaration. Certainly not after the joint submission by India and South Africa at the WTO in early June 2019, where they advocated strongly in favour of discontinuation of the [moratorium on imposition of customs duties on ecommerce transitions](#). India and South Africa would like the moratorium to be lifted by the WTO so that countries willing to impose customs duties

on electronic transmissions, such as software and digital products, can do so. India and South Africa alluded to Indonesia's policies for doing so in support of their argument, thereby making it clear as to why the three countries have come together as a minority bloc among the G20 on digital trade issues.

The gap evidenced at the G20 on the Osaka Declaration is much more complex than a simple 'North-South' divide that has traditionally divided the world of trade. The South is no more an entirely homogeneous bloc on digital trade. The fact that large emerging market developing countries like Argentina, Brazil and Turkey on one hand, and lower middle economies from Africa and Asia like Nigeria, Senegal and Vietnam, have locked on to the Osaka Declaration, shows the lack of unanimity among the South on the matter. Indeed, India's and South Africa's plea of discontinuing the moratorium on e-commerce in the interest of developing countries and [least developed countries](#) (LDCs) is contradicted by decisions of Asian LDCs like Lao and Myanmar to join these talks.

India has decided to walk the lonely path on digital trade rules by staying away from efforts by several major countries to carve out common cross-border trade rules. India's position is exceptional, in the sense, while most countries are developing national regulations on digital trade, they are not distancing themselves from global rule-making efforts, like India. India's position on the subject appears to be driven largely by the conviction that safety of personal digital data requires its confinement locally and therefore its cross-border commercial transaction must be discouraged. What India is probably overlooking is the fact that safety of personal data is as much a concern for other countries as it is for India. An initiative like the Osaka Track is expected to have security as its topmost concern, while exploring ways of its cross-border utilisation. Joining the Osaka Track does not mean agreeing with its outcomes. Given its economic prominence and the size of its digital economy, India's views on developing data management frameworks embracing security and effective commercial transaction at the same time, would be widely welcomed. By not joining the G20 track, India is losing an opportunity to influence the global digital trade architecture.

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