

E-commerce

6.127 The growth in e-commerce has added a new dimension to trade policy which countries have to take account of by formulating rules to keep abreast of the fast growing technological developments. The WTO General Council agreed on the comprehensive working definition of electronic commerce as “the production, distribution, marketing, sale or delivery of goods and services by electronic means”. Electronic transactions involve three stages namely searching, ordering/making payment, and delivery of products. Electronic delivery of goods is by far the most challenging aspect from a policy perspective as such trade is compounding rapidly without any global regulatory framework and hardly any national or international legislation.

6.128 In recognition of the growing importance of electronic commerce in international trade, the Second Ministerial Declaration of the WTO at Geneva adopted a declaration on global electronic commerce on May 20, 1998, which directed the WTO General Council to establish a comprehensive work programme to examine all trade related issues arising from electronic commerce. The work programme includes issues like characterization of electronic transmission as goods or services or something else; market access involving the method of application of customs duties to electronic transmission; classification of digitized products under the existing Harmonized System (HS) of trade classification; rules of origin; standardization; development dimensions involving the effect on revenue and fiscal positions of developing countries in future; etc. The 1998 declaration also included a so-called moratorium stating that “members will continue their current practice of not imposing customs tariffs on electronic transmission”. The work programme was adopted by the WTO General Council on September 25, 1998.

6.129 The quiet but quick growth in e-commerce has implications for tax and trade policy (Box 6.10). There is also an urgent need to make a quantitative assessment of the hitherto non-e-trade which has become e-trade and the likely non-e-trade which may become e-trade in the near future. This needs to be done both for B2B and B2C e-commerce as greater FDI and inter-corporate transfers could increase the scope of B2B form of e-commerce also for developing countries. There may also be a need for review of national commitments of GATS in the light of growing importance of e-commerce.

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Box 6.10

E-commerce: Tax and trade policy implications

E-commerce comprises of business among enterprises (B2B) and enterprises to consumers (B2C), and the former accounts for large proportion of such trade globally. The penetration of B2C trade is more important for developing countries. Ban on customs duty is applicable to digitized products (DP) which mostly fall in the category B2C and correspond to specific HS codes. While DPs defined as goods were transported through carrier media in the form of CDs, diskettes, tapes, etc., and subjected to customs duty in the importing country in the past, these products are now sent through the electronic network without being subject to customs duty. DPs are generally traded in five broad categories as: (i) printed matter, (ii) software, (iii) music and other media, (iv) film, and (v) video games. With trade in this segment growing rapidly, most of the developing countries are becoming net importers of digitized products.

Developed and developing countries are equally concerned on the revenue implications of e-commerce, though they differ in terms of the type of tax which can be addressed to stop erosion of revenue. For developed countries, consumption tax is an important source of tax revenue, and therefore the OECD countries decided to impose VAT on e-commerce in Ottawa (1998), while developing countries are more dependent on customs duty, and moratorium on customs duty has caused revenue losses to them. Since e-commerce differs from normal trade in goods, there is a need for developing a specific trade policy for e-commerce as trade policy requirement differs for transactions involving digital transmission. The matter is more complex because e-commerce is linked with several other WTO agreements, and compatibility is required between these agreements and other new legislations concerning e-commerce.

India's position on non-imposition of customs duty on electronic transmission has been that given the inherent advantage India has in e-commerce, it can maintain a liberal regime on electronic transmissions at present. However, this must not preclude its options for possible methods of taxation since the future course of growth in e-commerce is impossible to visualize. As and when viable methods of levying duties and taxes can be found, there should be freedom to impose customs duties, excise duties, sales tax, etc., on electronic transmissions.

Source : Based on a study.