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South nations take firm stand on geo-economics of data

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New Delhi, 16 Apr (Parminder Singh*) – The three-day meeting of the Intergovernmental Group of Experts (IGE) on E-commerce and the Digital Economy, during the recent eCommerce Week at the UN Conference on Trade and Development (UNCTAD), marked a very significant political shift in international discussions on geo-economics of data.

For the first time, developing country after developing country consistently argued, in one voice, a political economy language of data as an economic resource, the perils of free global data flows, data ownership, data localisation, community data and digital industrialisation.

Economics issues around data took the centre-stage at the IGE.

In the data-related presentations to the IGE by invited experts, there was considerable focus on issues of the economic value of data, data regulation, data ownership, community data, data localisation and digital industrialisation.

These topics were then picked up and raised with even greater force, and in terms of their contextual relevance, by nearly all the developing country delegates, other than two developing countries who are OECD members.

If there indeed should be free global flows of data, a developing country delegate asked, why does the US not “give all their health data to us so that we can analyse it” and develop health-related digital solutions?

Another delegate, from a country that was an early leader of the “friends of e-commerce” group at the WTO, wondered how their local digital economy could develop if their data flowed out unhindered?

A developing country participant in the plurilateral initiative on e-commerce negotiations, taking place on the sidelines of the WTO, stressed at the IGE the issue of data ownership.

Another delegate wanted to know how data flow restrictions by the EU under its General Data Protection Regulation (GDPR) do not constitute data localisation?

Taking forward the concept of community data proposed by a delegate, a developing country delegate argued for different ownership regimes for different kinds of data, and the need for making data for development policies.

Numerous such statements were made by developing countries at the IGE.

Northern countries, in their interventions, either entirely ignored global discussions on data, or took it up only in terms of privacy (and not data's economic value), and individual (not also collective) rights around data.

These countries have also been successful till now in dividing developing countries by misguiding them through false digital economy related allurements.

In the circumstances, the firm, unequivocal and common stand on geo-economics of data taken by almost all developing countries during the IGE's deliberations may represent a point of no return.

This new awakening among developing countries may make free data flow agreements increasingly difficult.

This could be the beginning of the end of the road for the hopes of the United States and its allies for any kind of comprehensive agreement on global free flow of data, under the guise of e-commerce trade rules at the World Trade Organisation.

Any future data-related global discussion involving developing countries would prominently bring up serious political economy questions around data. And there is simply no easy resolution of them, without a relatively radical re-work of the dominant digital economy model.

Such a dominant digital economy model is indeed getting flak from many sides now, including in the developed countries.

Rapidly evolving demands and moves for closer regulation of the digital economy as well as some emerging data-sharing principles and frameworks in the North appear incompatible with global free flow of data regimes, especially as posited currently.

This is so even if such regimes incorporate EU-style privacy frameworks, which also remains unclear as to how it will be achieved.

Developed countries pushing for e-commerce rules, centred on global free flow of data, have been hoping that they could settle these rules before developing countries became wise to the economic value of data and its national/community/local ownership.

Judging from what transpired at the IGE, however, one would think that even those developing countries that signed on to free global data flow rules as a part of the Trans-Pacific Partnership agreement – with their minds focussed on industrial economy trade benefits – may not do the same if such an agreement was proposed today.

It was little surprise that, at the end, the IGE failed to negotiate the customary set of policy recommendations.

The positions in the room on data between the South and the North were simply too far apart.

The developed countries opposed even any non-binding recommendations on key proposals from developing countries, including any references to “economic value of data” or “data ownership”, or “data and digital industrial policies.” As a result, no recommendations whatsoever were agreed by the IGE.

ROLE OF UNCTAD

This proved that countries are nowhere close to any agreement or consensus on global trade-related aspects of data. Trying to force free flow of data rules down the throats of developing countries through various trade treaties would therefore be grossly inappropriate.

Such coercive efforts need to be resisted collectively. Building upon the great commonality as well as the nuanced nature of data-related views expressed at the IGE, developing countries should develop alliances and common positions to push back against “digital and data colonisation” that the US and its allies are attempting through trade agreements.

UNCTAD is the appropriate venue for shaping new frameworks on data that are developing country friendly. Current activities of UNCTAD are mostly related to development of basic capabilities and infrastructures for e-commerce in developing countries.

While carrying on this important work, UNCTAD must also open a second track to take the lead on structural, geo-economic aspects of the digital economy, focussing on the political economy of data in a global context.

Developing countries are in a dire and urgent need for such assistance from UNCTAD.

[* Parminder Singh, Executive Director of India-based IT for Change, contributed this article.]