TWN ONLINE Third World Network

TWN Info Service on WTO and Trade Issues (Apr19/12)
17 April 2019, Third World Network
Published in SUNS #8889 dated 16 April 2019

South needs data digitalization policies, say CSO experts

Washington DC, 15 Apr (Deborah James*) – Data is emerging as the center of the new economy, and it is imperative that developing countries are able to obtain economic value from the data that their citizens are generating, and formulate and implement digital industrialization policies ensuring equitable local control, policies similar to those that developed countries took during their industrialisation.

This was a key message that emerged at a civil society event on 4 April in Geneva, during the eCommerce Week of the UN Conference on Trade and Development (UNCTAD).

Titled, "Strengthening MSMEs and Creating Jobs Through Digital Industrialization: What Policies Work?", the event was organised by the National Association of Nigerian Traders (NANTS) and the East African Trade Union Confederation (EATUC).

[This message received strong support at an event in Washington DC on 12 April, where Nobel-laureate and Colombia University academic, Professor Joseph Stiglitz, responding to a question, said that he opposed any international agreement on digital issues.

[He said: "It seems to me that there should be no international agreement until there is a greater clarity about how to regulate them. Or, if there is an international agreement, be very clear that it's only temporary until there is clarity about what the rules of the game, the regulatory structure ought to be." He underscored not only issues of privacy, monopolies and abuses, but also those relating to taxation and said such issues need thorough discussion and clarity before any agreement on a regulatory framework is agreed. Details towards end.]

At the civil society event during eCommerce Week at UNCTAD in Geneva, chaired and moderated by Mr Parminder Jeet Singh, Executive Director of India-based IT for Change, civil society experts on digital economy, representatives of labour unions and organisations of micro-, small- and medium enterprises (MSMEs), presented a powerful case for an international digital development framework with policy space for developing countries to ensure that developing countries are able to obtain economic value from the data that their citizens are generating.

This would need an international policy framework to guarantee that developing countries are able to adopt digital industrialization policies akin to those that developed countries successfully used in their industrialization.

While policies of developing countries may vary depending on the circumstances of each, there can be no place in such a strategy for developing countries to merely link their digital economies to the less-than-handful of digital technology giants and their oligopolistic control, speakers at the event stressed.

The organizers noted that the digitalized economy is shaping the landscape for development opportunities around the world. In order to achieve the Africa 2063 Agenda and the worldwide Sustainable Development Goals (SDGs) on expanding employment, decreasing inequality and eradicating poverty, millions of new jobs must be created.

In many economies, MSMEs play a critical role in the economy, providing 50 to 80 percent of employment and at least 40 percent of GDP. Empowering MSMEs in global trade should therefore boost job creation and promote more inclusive economic growth.

In recent years, much attention has been placed on helping MSMEs participate in trade through access to global value chains. But does linking with foreign tech companies hold the answer? Or would a focus on supporting domestic MSMEs create more decent jobs?

The co-sponsors convened the event to put forth "strategies to increase decent work and expand MSMEs in developing countries," arguing that digital industrialization holds a more likely promise for closing the digital divide, expanding manufacturing, increasing competitiveness, and fomenting structural transformation.

The moderator, Mr Parminder Jeet Singh**, argued that data is the center of the new economy, and thus the core need is to ensure that developing countries are able to obtain economic value from the data that their citizens are generating.

He pointed out that digital industrialization is focused on utilizing "the same industrialization policies that developed countries took when they industrialized."

And now with digitalization of the economy, "you have to have digital industrialization policies with local control that is equitable," he said.

[**Mr. Jeet Singh is the author of "Why owning their national data is important for developing countries."]

Michael Usikuu Akuupa, the Director of the Labour Resource and Research Institute (LaRRI) in Namibia, noted that Africa is experiencing premature de-industrialization much earlier than other countries because there is less tariff protection for manufacturing today.

He posited that African countries are not gaining as much from automation because they have less absorptive capacity for technology due to a lower skills base.

He argued that African policymakers should understand that fast-tracking e-commerce alone does not guarantee positive outcomes for employment. Recent research has warned of the risk of a "race to the bottom" through global gig work, a growing sector of e-commerce in Africa.

Therefore, policies that ensure labour safeguards are key to policy discussions on e-commerce.

Policies that safeguard the "i-worker" protecting him or her from child labour or forced labour, ensuring his or her minimum wage and safety standards, and also promoting his or her collective bargaining and freedom of association are essential to ensuring inclusive growth from digitalization, he said.

Mr. Akuupa also warned about the potential of "crowding out" of African MSMEs and the implications for employment creation in Africa under the current policy proposals on e-commerce in the WTO.

He argued for policy space to ensure: priority to African-owned-and-run SMEs; produced or "Made in Africa" products and services; and local content requirements, among other policies.

Importantly, he argued that "labour organizations in Africa must never be excluded from any interventions and deliberations about aspects that may affect working people."

Martin Luther Munu, a research analyst in the Trade & Regional Integration program of the Economic Policy Research Centre (EPRC), based in Uganda, highlighted that African MSMEs have to compete with big transnational corporations (TNCs) and also with SMEs based in developed countries.

In Uganda, an enterprise is classified as "micro" if it has up to US$2,700 equivalent in Ugandan assets; "small" if it has up to US$27,000 equivalent in assets; and "medium" if it has up to US$97,000 equivalent in assets.

But competitors like Google, Apple, Facebook, and Amazon have between US$340 billion and US$1 trillion in assets – a very uneven playing field. At the same time, even after more than 20 years of experience with the WTO, Africa's share of global trade is minimal (less than three percent).

He pointed out that e-commerce is trade, and the gains from trade can only be realized if a country produces.

"A low production base, coupled with constraints to e-commerce readiness, and the massive size of foreign competitors means that African countries are greatly exposed to dominance from established firms if they liberalize e-commerce before increasing domestic capacity," he stated, arguing that these issues need to be addressed before developing countries can benefit from e-commerce.

He agreed with the position of the Africa Group in the WTO, which, in recognition of the structural challenges in the continent, are opposed to negotiating binding rules on e-commerce at the WTO.

He highlighted the issues of revenue losses, cross-border transfer of data, MSME's capacity constraints and the infant industry argument as being some of the key concerns for African countries.

He acknowledged that Nigeria and Kenya have joined the friends of e-commerce initiative but noted that productive capacity is higher in these two than in most African countries.

In setting forth a policy framework, Mr. Munu argued that countries must first protect the policy space for digital industrialization, and then within that space they must address domestic challenges such as the infrastructure gap, the digital divide, and inadequate regulatory and institutional frameworks.

This requires maintaining consistency with trade negotiating positions, investment policy, and domestic laws governing digitalization.

Finally, he said, the key is to push for a developmental state. If the government puts in place proper regulation and digital industrialization, then developing countries can take advantage of the opportunities while addressing the challenges of digitalization.

Mr Abhijit Das, the head of the Centre for WTO Studies in India, pointed out that SMEs will get into online business only if the benefits of using e-commerce outweighs cost.

He noted some challenges regarding digital infrastructure to MSMEs in developing countries, such as the lack of high speed internet, particularly outside main cities; the high cost of internet connectivity, even when it is available; the fact that MSMEs are still less digitally connected than large firms; and the higher costs of online business with regards to its proportion of total revenue for an MSME compared with big business.

But he noted a less well-known phenomenon as well. According to a study by the Institute of Local Self-Reliance in the United States, when small vendors sell through Amazon or similar platforms, as soon as the platform owner realizes the profit potential of a certain product, the platform begins selling their own version of that product, which results in more competition for the vendor because of information asymmetry between the small vendor and the large platform.

Mr. Das argued for policies on the national level that support MSMEs, including: “national assessments of specific challenges and needs; improvement of digital infrastructure; location of customs clearing facilities adjacent to MSME clusters; customer service policies; and policies to address problems of capitalization, such as national MSME innovation funds.”

He further cautioned that “access to physical infrastructure will help improve MSME competitivity but that without data, digital products are not competitive.”

As an example, he noted that Google is highly valued because it has the billions of searches before and its search product is based on access to all that data.

He argued for policies for data localization combined with a framework for data sharing. He noted that localization of data in developing countries won’t create benefits until developing countries share data among countries, especially among start-ups.

He introduced India’s draft policy on data for development, which envisages the need for a policy on data sharing.

Ms Rashmi Banga, Senior Economic Affairs Officer in UNCTAD’s Unit on Economic Cooperation and Integration among Developing Countries, defined digital industrialization as the rise in digital content in all levels of industrialization.

She explained that to remain competitive in the digital world, countries need to increase digital content in all stages of production, such as: the higher use of digital services such as computer programming, consultancy and related activities, and information service activities and telecommunications; a higher use of digital technologies like robotics and 3D printing; a higher use of data analytics (Big Data); and a higher use of e-commerce in distribution services.

She illustrated the pathways to the apex of a pyramid of digital infrastructure. The most basic level is access to information and communications technologies (ICT) infrastructure, broadband, internet access, connectivity, and affordability.

The next is ICT education, leading to digital skills such as building mass market internet software and internet applications.

After this step, countries will be able to build cloud computing infrastructure which will then lead to real data infrastructure and the ability to work with Big Data. The goal of working with Big Data sets is to then be able to process that data into intelligence, which is the input necessary to operate artificial intelligence.

At the top of the digitalization pyramid are advanced technological applications such as Internet of Things (IoT), 3D printing, and robotics.

Given this panorama, what is the way forward for developing countries? Ms Banga posited that the primary issue is, who owns the data?

Right now, she said, data is privately owned, mostly by foreign firms. Thus, developing countries urgently need national level data policies which will allow them to combine the infrastructure with capturing and processing data.

She said “the key elements of national data policies would start with building ICT and broadband infrastructures; building digital skills and competencies; harnessing digital start-ups through Digital Innovation Hubs; and building national e-commerce platforms as well as regulating super digital platforms without which national platforms will not be able to compete.”

But for these efforts to bear fruit, she argued, countries must then also combine the data infrastructure with five key national data regulatory policies.

The key to success will be the development of policies regarding the ownership of data at the national level which allow the countries to decide with whom to share their data.

She noted that Rwanda’s Data Revolution Policy is a good example: Foreign firms are still permitted to store data in clouds outside the country, but the data is still governed by Rwandan law.

She also highlighted India’s Draft National E-Commerce Policy, which classifies data into different types (health, traffic, personal, non-personal, etc) and then has rules for data ownership and sharing, depending on the type of data.

Second, she argued for localization of data and building data centers. She advocated a regional support agenda for small countries that may not have the capacity for local data centers.

She noted that UNCTAD has a 10-point plan for South-South regional support mechanisms, such the potential creation of an African cloud or a Latin American cloud.

The third step would be to encourage digital technology transfers from foreign firms that would mandate technology sharing.

She questioned why developing countries would countenance developed countries’ proposals (in the name of “e-commerce for development”) to ban source code sharing and technology transfer. She argued that policies such as joint ownership are essential because the issue of technology transfer is vital to developing countries’ industrialization potential.

Fourth, she argued for regulating trade in electronic transmissions.

[In Ms. Banga's recent paper on the potential tariff losses from the moratorium on electronic transmissions in the WTO, she concluded that countries will forego US$10 billion in tariff revenues, 97% of which would be lost by developing countries. This includes tariff losses of US$1.5 billion by WTO member LDCs; almost US$2 billion each by Mexico and Thailand, and about a half billion each by China, India, and Nigeria. Even for small LDCs with small nominal losses, this is a big issue, as tariffs represent more than 12 percent of national fiscal revenues.]

In her remarks as a panellist at the event, Ms Banga focused on the dangers of unregulated imports of software in the context of the rapid rise of 3D printing, arguing that if data is the heart of digital transmissions, then software is the brain.

"If there are no controls over imports of electronic transmissions, there is no control over software. If a company wants to print digital shoes and displace your domestic shoe industry, you have to be able to regulate those software imports or all of your manufacturing could be wiped out."

Fifth, she urged countries to promote digital start-ups. A key point, however, is that to accomplish any of these digital industrialization policies, countries require policy space.

But "the proposals at the WTO on e-commerce would drastically limit policy space that is absolutely needed for digital industrialization," she said.

These proposed provisions include, among others, mandating the "free flow of cross-border data"; bans on data localization requirements; bans on requirements to disclose source code; and extending permanently the moratorium on customs duties on Electronic Transmissions.

She also warned that the flexibilities in other agreements which include these types of provisions require national policies to be based on "legitimate public policy objectives" that do not represent "arbitrary or unjustified discrimination".

She noted that these conditions are subjective, and it is highly difficult to justify that a certain country's policy is "legitimate" and not discriminatory.

Ms Banga concluded by acknowledging the need for regional support for small island countries, LDCs, and many others, for whom the challenges in building digital capacities cannot be overcome alone.

UNCTAD's Globalization and Development Strategies division has a regional cooperation agenda, which can also be combined with a regional pro-competition strategy against super-platforms.

(This agenda is elaborated in the document "South-South Digital Cooperation for Industrialization: A Regional Integration Agenda".)

She summarized the South-South 10-point Progressive Digital Cooperation Agenda for Regional Integration as: (1) Building a Regional Data Economy; (2) Building Regional Cloud Computing Infrastructure; (3) Strengthening Regional Broadband Infrastructure; (4) Promoting E-Commerce in the Region; (5) Promoting Regional Digital Payments; (6) Progressing on Single Digital Market in the Region; (7) Sharing Experiences on E-Government; (8) Forging partnerships for building Smart Cities; (9) Promoting Digital Innovations and Technologies; and (10) Building Statistics for measuring Digitization.

In his remarks as moderator, Mr. Jeet Singh noted that "a lot of discussion" by member states at the UNCTAD Intergovernmental Group of Experts (IGE) meeting (which also took place during eCommerce Week) was "on data sharing."

What is required for this to happen? The law says now that the data is owned by who collects it. So, if both experts and member states are saying "it's beneficial to share it, then that will require a policy to share the data."

He pointed out the importance of a legal framework, noting that "sharing has to have a political framework that mandates that certain kinds of data is a common property and must be shared for the common benefit. And then businesses that extract data would be subject to licensing conditions for the common use of the data. This is similar to how oil companies are subject to licensing fees and requirements when they extract resources. So, in order to have data sharing, it is essential to have legal policies implemented that mandate that data is a common good and delineate how the data that is collected must be shared."

Mr. Das said that "at the heart of the debate on data flows is that the first movers have the advantage that is based on a huge mass of data. The additional data will make those products more superior, in contrast to a small amount of data going to a fledgling MSME. Even if it's the same amount of data, the digital giant is enhanced further. So, I'm not buying the argument that free flow of data will help MSMEs."

In answer to a question about whether UNCTAD can help countries build digital industrialization policies, Ms Banga noted that "in our unit on South-South cooperation, we conduct workshops on a regional or national basis in Southern countries on digital industrialization. We also share experiences from developing countries. And the most successful at the point is China, so we have a project to look at what policies allowed China to become a global leader. And we are also going to look at the growth of the big platforms and how these were developed, and what were the policies that allowed them to develop."

During the discussion it became apparent that there was confusion among some audience members regarding localization policies, technology and data.

Mr. Jeet Singh highlighted that no one is proposing halting technology flows, but rather discussion is on the application of traditional performance requirements – widely used in the extractive sector – to data and technology.

"We are not talking about restricting the use of technology, but the use of the flow of the biggest resource, data, for development. Digital infrastructures are needed for the common good. The need for privacy regulations is something that many developed countries here seem somewhat willing to recognize, but no developed country so far seems willing to recognize the importance of regulating data flows in the public interest."

It was further clarified that no one is suggesting total restrictions, but neither should there be a total ban on any restrictions on data flows.

And right now, there is a big asymmetry. So, the idea is that developing countries should have the policy space to strike agreements; for example, they might offer access to national data, but with technology transfer for them to access and utilize it, to ensure local benefits.

Meanwhile, at an event in Washington DC on 12 April, Prof. Joseph Stiglitz, recipient of the Nobel Memorial Prize in Economic Sciences in 2001, responded to a question from the writer about the digital trade agenda in the WTO, whether he was familiar with it and what he thought about it.

In her question, the writer noted that civil society groups "are particularly concerned about the efforts of developed countries to launch a new round of negotiations (at the WTO) focused on digital trade, leaving behind the development agenda forever. We're particularly concerned about the idea that it seems to be an effort by the biggest corporations in the world, Big Tech, based in the US, to grab ownership over the most valuable resource in the world, data. And we should be thinking about the issue of countries having the sovereignty to use that valuable resource for their national development and digital industrialization; and instead [the corporations want] to keep it private and use it for the most powerful. And I'm wondering if you're seeing this in your work and if you have any comment?"

Prof. Stiglitz, in response, said: "Well I'm very concerned. On digital, I think these are really important issues. People talk about data as being the new natural resource. And I think within our own countries, we are gradually beginning to realize the wide set of problems, that these digital behemoths represent for our society, in terms of privacy, market power, manipulation, fake news, a whole set of issues. And there are real efforts going on, particularly in Europe, but also in California, and a few other states, to devise a regulatory framework that addresses all four of these issues. Some countries like the UK have come up with a competition focus that Jason Furman is chairing; Germany has addressed the issue of market power and Facebook. So there are a number of efforts but what is very clear is that none of these go far enough. And what I see is exactly what you see; that big corporations want to embed in international agreements, a framework that would stop domestic legislation.

"It seems to me that there should be no international agreement until there is a greater clarity about how to regulate them. Or, if there is an international agreement, be very clear that it's only temporary until there is clarity about what the rules of the game, the regulatory structure ought to be.

"There are another set of issues going on in another forum, that have to do with digital taxation. And there is a lot of concern that the principles of digital taxation, which tend to be focused on destination, where the activity occurs – where sales occur – will be used to shift the right to tax multinational corporations away from where the production occurs to where the consumption occurs. If that happens that would have very adverse effects on developing countries. So digitalization, the issue of digital, has helped contribute to a revisiting of the multinational tax regime but we have to be very careful about where that revisiting goes and there are some elements of that that give me concern."

[* Deborah James, Director of International Programs at the Washington DC-based Center for Economic and Policy Research, and coordinator of the Our World Is Not For Sale (OWINFS) CSO network, contributed the above article.]