



UPSC & STATE PCS CURRENT AFFAIRS · UJIYARI.COM

EDITORIAL ANALYSIS

India's Digital Trade Surrender? Analysing the Zero-Tax Concessions in India-US Negotiations

 **INDIAN EXPRESS**

11 February 2026

SUBJECTS COVERED**ECONOMY****IR****GS PAPERS****GS2****GS3****CURATED & WRITTEN BY****Bharat Choudhary**

UPSC Educator & Content Creator •

[linkedin.com/in/epicbharat](https://www.linkedin.com/in/epicbharat)

Free UPSC & State PCS Resources

ujiyari.com

India's Digital Trade Surrender? Analysing the Zero-Tax Concessions in India-US Negotiations

The Indian Express

11 February 2026

GS2

GS3

IE

The Indian Express

MAINS RELEVANCE:

GS Paper 2

GS Paper 3



INTERVIEW ANGLE

"Should India agree to zero customs duties on digital transmissions and zero tax on digital services as part of the India-US trade deal? What are the implications for India's digital sovereignty and revenue?"

WHY IN NEWS

India's reported commitment to zero customs duties on digital transmissions and zero tax on digital services during India-US bilateral trade negotiations represents a significant reversal of India's position at the WTO, raising questions about trade sovereignty, digital tax revenues, and the domestic tech industry.

THE CONCESSIONS AND THEIR SCOPE

The two specific concessions under negotiation are distinct but related:

1. Zero customs duties on digital transmissions: This aligns with the WTO's moratorium on e-commerce customs duties — in place since 1998 and renewed at each Ministerial Conference. India, alongside South Africa, Indonesia, and some African nations, had been among the most vocal opponents of making this moratorium permanent. A bilateral commitment to the US would functionally lock India into the moratorium with its largest bilateral trading partner.

What are "digital transmissions" in trade law? The scope is broader than it appears: software downloads, streaming services (Netflix, Spotify), e-books, cloud computing services, digital training materials, AI model API access, and online gaming are all potentially covered. The WTO moratorium prevents customs authorities from levying import duties on these — meaning India cannot tax a Netflix subscription or a GitHub Copilot subscription as an "imported good."

2. Zero tax on digital services: This directly targets India's **Equalisation Levy (EL)** — a digital service tax:

EL 2016 (6%): Applied to digital advertising by foreign companies targeting Indian users

EL 2020 (2%): Applied to foreign e-commerce operators on all sales to Indian buyers

The US has consistently objected to these levies, arguing they disproportionately target US tech companies (Google, Facebook, Amazon, Apple) and constitute discriminatory trade practice. USTR (US Trade Representative) formally designated India under Section 301 of the US Trade Act 1974 for these taxes.

WHY INDIA ORIGINALLY RESISTED

India's historical position on digital trade was anchored in three arguments:

Revenue argument: The Equalisation Levy generated approximately **Rs 5,000–7,000 crore annually** for the Indian exchequer. As the digital economy grows, this revenue base was expected to scale. Surrendering it bilaterally eliminates a fiscal resource precisely as India's digital economy matures.

Policy space argument: The WTO moratorium was conceived in 1998 when digital trade was negligible. As digital services now constitute a significant share of global trade, developing nations argue that making the moratorium permanent would permanently forgo a key revenue-generating instrument that developed nations already utilised (VAT/GST on digital services in EU, UK, Australia).

Data sovereignty argument: India's data localisation requirements and digital trade restrictions are part of a broader strategy to build domestic digital capabilities. Agreeing to free digital trade flows could undermine regulatory space to require local data storage, local compliance, or preference for Indian platforms in government procurement.

THE STRATEGIC TRADE-OFF

What India gains:

Accelerated India-US trade deal — with potential gains in goods (textiles, pharmaceuticals, engineering goods), services (IT, GCC expansion), and investment

Removal of US Section 301 threat — which could lead to retaliatory tariffs on Indian goods exported to the US

Access to US technology supply chains (semiconductors, clean energy) under the US CHIPS Act and IRA (Inflation Reduction Act) frameworks

Greater GCC (Global Capability Centre) expansion in India — US companies more likely to deepen India presence under a stable bilateral trade framework

What India risks:

Permanent revenue sacrifice: A bilateral commitment to zero digital services tax sets a precedent for multilateral negotiations — India would struggle to reimpose Equalisation Levy on EU, UK, or other parties after conceding to the US

Level playing field distortion: Indian digital companies (Zomato, Swiggy, Nykaa, Ola) pay GST on their services; US-based competitors (Amazon, Uber) would pay nothing on digital service delivery if EL is removed

Regulatory sovereignty: Zero-tax commitment may limit India's ability to impose data localisation requirements or digital market access conditions that could be challenged as de facto trade barriers

THE EQUALISATION LEVY — A POLICY INSTRUMENT UNDER PRESSURE

The Equalisation Levy was explicitly designed as an **interim measure** pending a global consensus on digital taxation — expected through the **OECD/G20 Inclusive Framework on BEPS (Base Erosion and Profit Shifting)** and specifically the **Two Pillar Solution**:

Pillar One: Reallocation of taxing rights — market jurisdictions (like India) get to tax a portion of profits of the largest multinationals even without physical presence

Pillar Two: Global minimum corporate tax of **15%** — prevents profit shifting to tax havens

India notified the removal of the 2% EL in August 2024, anticipating Pillar One implementation. However, Pillar One's implementation has been delayed (US political opposition, definition disputes) — meaning India removed a revenue instrument before the multilateral replacement is operational. The bilateral US deal would further constrain reimposition.

THE WTO E-COMMERCE MORATORIUM — A POWER ASYMMETRY

The WTO moratorium debate reveals a structural asymmetry in digital trade. Countries with dominant digital industries (USA, EU to some extent) are large exporters of digital services; countries like India, Indonesia, South Africa are large importers of digital services. The moratorium effectively means:

Digital exporters (US) face no customs barriers on digital exports

Digital importers (India) cannot apply import customs to protect or develop domestic digital industries

This asymmetry is analogous to the tariff asymmetry in goods trade that developing nations fought to correct through the UNCTAD and through GATT/WTO rounds. Conceding permanently — bilaterally with the US before multilateral norms are settled — hands away policy leverage that may take decades to reclaim.

RECOMMENDATIONS

A calibrated India-US digital trade agreement should:

Maintain the WTO moratorium commitment without bilateral permanence: India can commit to the moratorium for the duration of the India-US trade deal while preserving its WTO negotiating position for the permanent moratorium debate

Equalisation Levy sunset contingent on Pillar One implementation: Remove remaining EL only when Pillar One becomes operational — not before

Carve out data localisation: Explicitly exclude India's data localisation and data governance measures from zero-barrier commitments, consistent with GATS Article XIV national security and public policy exceptions

Reciprocal digital access: Condition zero-barrier commitments on US affirmative market access for Indian IT services companies (reciprocal to H-1B and L-1 visa facilitation)

UPSC RELEVANCE

Equalisation Levy (6% on digital advertising 2016; 2% on e-commerce operators 2020), WTO e-commerce moratorium (since 1998), USTR Section 301, OECD/G20 BEPS Two Pillar Solution (Pillar One — reallocation; Pillar Two — 15% global minimum tax), GATS Article XIV, US Trade Act 1974.

India-US trade relations; WTO and digital trade; India's position in international economic organisations.

GS-3: *Digital economy governance; taxation; international trade policy; digital sovereignty.*

★ FACTS CORNER — KNOWLEDGEPEDIA

INDIA'S EQUALISATION LEVY:

EL 2016: **6%** on digital advertising by foreign companies targeting Indian users

EL 2020: **2%** on foreign e-commerce operators on all India sales

Revenue generated: **~Rs 5,000–7,000 crore/year**

EL 2% (e-commerce): Removed **August 2024** in anticipation of OECD Pillar One

US challenge: USTR **Section 301** designation — threatened retaliatory tariffs

WTO E-COMMERCE MORATORIUM:

Established: **1998** (WTO 2nd Ministerial Conference, Geneva)

Prevents customs duties on **digital transmissions**

Renewed at each Ministerial Conference; made permanent opposed by: India, South Africa, Indonesia

OECD/G20 BEPS TWO PILLAR SOLUTION:

Pillar One: Reallocation of taxing rights to market jurisdictions (even without physical presence) — covers companies with turnover >EUR 20 billion

Pillar Two: Global minimum corporate tax of **15%** — prevents profit shifting; operational in many countries

Status: Pillar One delayed (US domestic opposition); Pillar Two largely operational

US TRADE ACT 1974 — SECTION 301:

Authorises USTR to investigate and retaliate against “unreasonable or discriminatory” foreign trade practices

India was designated under Section 301 for Equalisation Levy

DIGITAL TRADE POLICY FRAMEWORKS:

GATS (General Agreement on Trade in Services): WTO framework for services trade; Article XIV = general exceptions (public policy, national security)

UNCTAD: Advocates developing nation interests in digital trade norm-setting

US-UK Digital Trade Agreement (2021): Model for zero-tariff, zero-barrier digital trade; may be template for India-US deal

OTHER RELEVANT FACTS:

India-US bilateral trade (goods + services, 2022-23): **~USD 190 billion** — USA is India's largest trading partner

US tech companies in India (FY24 revenue from India): Google ~\$12 billion, Amazon ~\$16 billion, Meta ~\$2 billion — significant EL exposure

GCCs in India: **1,700+ centres**, employing ~1.9 million professionals — US companies are top GCC employers

CHIPS and Science Act (USA, 2022): USD 52.7 billion for domestic semiconductor manufacturing; India-US collaboration potential

Sources: Indian Express, Next IAS, Drishti IAS

CURATED & WRITTEN BY

Bharat Choudhary

UPSC Educator & Content Creator

 [linkedin.com/in/epicbharat](https://www.linkedin.com/in/epicbharat)

Published on ujjari.com · Free UPSC & State PCS Current Affairs