

INDIA REJECTS RCEP E-COMMERCE CHAPTER

Relevant for: International Relations | Topic: RCEP and India

Union Commerce Minister Piyush Goyal will attend the RCEP Ministerial meeting to be held in Bangkok. PTI Kamal Singh

India's hopes for retaining the right to implement data localisation laws remain alive as Indian negotiators on Thursday declined to agree to the e-commerce chapter of the Regional Comprehensive Economic Partnership (RCEP) agreement.

The e-commerce chapter contains clauses that, if India had agreed to them, would have prevented it from implementing data localisation rules on companies doing business in India. The negotiations on the chapter, taking place in Bangkok, will now have to continue during the Intersessional Ministerial meeting to be held on October 11 and 12. Commerce Minister Piyush Goyal will attend the Ministerial meeting.

People aware of the developments in Bangkok told *The Hindu* that, while India did not agree to the e-commerce chapter clauses, negotiations were now entering a frantic phase because there were still several uncertainties related to the cross-border transfer of electronic information that remained.

Adding to the urgency is the fact the meeting in Bangkok would be the last Ministerial meeting before the agreement is deemed to have been concluded in November.

While the e-commerce chapter has some clauses that affect data localisation, India has been trying to water these down. Clouding the issue further is that the annexe on financial services, already agreed upon by all the RCEP countries, says that the domestic laws of a country regarding keeping financial data within a country supersede the RCEP agreement.

Transfers of information

The section on transfers of information and processing of information says that "a party shall not take measures that prevent transfers of information, including transfers of data by electronic or other means, necessary for the conduct of the ordinary business of a financial service supplier."

However, the same section also says that "nothing in paragraph 2 [the paragraph containing the previous clause] prevents a regulator of a party for regulatory or prudential reasons from requiring a financial service supplier to comply with domestic regulation in relation to data management and storage and system maintenance, as well as to retain within its territory copies of records."

This basically means that India cannot be prevented from asking financial companies to maintain a copy of their data within India, but it is unclear still whether India can mandate that such data must only reside within the country. Discussions on this and the other pending issues will continue till Sunday.

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