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The rise and fall of the WTO

As the U.S. loses interest in multilateralism in trade, India should actively try to arrest the organisation's slide

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Less than 25 years after the World Trade Organisation (WTO) was created, its future as a body overseeing multilateral trade rules is in doubt. The failure of the recent ministerial meeting at Buenos Aires is only symptomatic of a decline in its importance.

Too ambitious?

When the WTO was born in 1995, replacing the General Agreement on Tariffs and Trade (GATT), it was given a large remit overseeing the rules for world trade. It was also given powers to punish countries which violated these rules. Yet, in what must be an unusual development in the history of international institutions, the WTO has been felled by the weight of the extraordinary ambitions placed on it. As a consequence, since the late 2000s, the organisation has been unable to carry out its basic task of overseeing a successful conduct of multilateral trade negotiations. The rise and decline has happened quickly.

In the early 1990s, global corporations pushed the major trading powers of the time – the U.S., the European Union (EU), Japan and Canada – for a GATT agreement that would vastly increase access for their products in foreign markets. They succeeded with the 1994 Marrakesh agreement which was supposed to be a grand bargain. The "farm subsidisers" of the U.S. and EU agreed to bring agriculture under GATT rules. In exchange, the developing countries had to pay up front by reducing import duties on manufacture, opening their markets to services, and agreeing to strict protection of intellectual property rights. The Marrakesh agreement also created the new Dispute Settlement Body (DSB) to adjudicate on trade disputes. All this would be overseen by the new WTO.

Under the DSB, the decision of a WTO panel could be rejected only by "a negative consensus" (i.e. all member-countries present had to turn down the ruling). A final verdict in favour of a complainant country entitled it to impose penalties on the other country. And under the principle of cross-retaliation, these penalties,

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when authorised, could be imposed on exports from a sector different from where the dispute was located. This hurt the smaller countries and was to the advantage of the bigger ones.

The new ability of the DSB to enforce decisions seemed too good to not take advantage of. For a brief while in the mid/late 1990s, the WTO seemed to be just the kind of "super" international organisation that the major powers wanted. If all trade and non-trade issues could be brought under one body which had the powers necessary for enforcement, there would be no place to hide for any country. There was pressure to bring many more "new" non-trade issues under the WTO. If the U.S. wanted labour and environment standards included, the EU wanted foreign investment, competition and government procurement.

Over-reach, however, sometimes can have the opposite of the intended outcomes.

The developing countries, which had realised that they had been in the Marrakesh agreement, were far more active in the WTO from the late 1990s. Through a combination of the formation of strategic alliances and simply refusing to say "yes", they began to win some battles.

The China factor

The entry of China into the WTO in 2001 also changed the picture. China used its newly acquired 'most favoured nation' status to the hilt. It expanded exports manifold to the EU and the U.S. Indeed, an influential body of opinion holds China's export success as responsible for the hollowing out of U.S. manufacturing.

On its part, the U.S. soon realised that it was not the master of all it surveyed. Conflicts with the EU, a DSB that did not always oblige, and the more assertive developing country bloc (for a while led by Brazil and India) saw the hopes for a "super" WTO gradually evaporate.

Still, in 2001, Brussels allied with Washington to successfully push for fresh trade negotiations even before the 1994 agreement had been digested. A new round with the Doha Development Agenda (DDA), covering old and new issues, was launched in the Qatar capital in 2001. However, by refusing to make any honest concessions over the years, the U.S., aided by a willing WTO secretariat, more or less killed the DDA in the late 2000s. This intransigence showed that the WTO and its major member-countries remained as insensitive as before to the concerns of the majority of the membership. The U.S. and EU have since even sought to formally scrap the DDA.

The major powers now cherry-pick trade issues. Thus, in 2014, trade facilitation (covering customs rules and procedures) was taken out of the DDA and a stand-alone agreement was signed, because the U.S. and the EU were interested in it. This virtually destroyed the principle of reciprocity under which each country wanting to obtain gains in specific areas makes concessions in others.

On the whole, the U.S. and the EU have been losing interest in multilateralism in trade. The U.S. has even begun to undermine the very elements of the WTO that it had pushed through in the early 1990s. It now refuses to implement some DSB decisions. Most recently, it has taken decisions on DSB appointments which will in effect bring adjudication to a halt.

This does not mean major powers have no use for the WTO. They may no longer see any value in it as a forum for multilateral trade agreements, but they now use it to push for stand-alone deals as well as plurilateral deals (agreements involving a few and not all members of the WTO). At Buenos Aires, proposals were made for the WTO to take up "new issues" such as e-commerce, investment facilitation and trade and gender. These are all outside the DDA and of interest only to a select membership.

Need for multilateralism

No one should be happy about the turn of events. All countries need mutually agreed discipline on market access, customs duties, etc. Regionalism cannot be an alternative. Regional trade groups have succeeded in some places and they have not elsewhere. India's own experience with bilateral trade agreements has not always been good. Bilateral and regional treaties also open the door to the stricter "WTO plus" conditions in select areas like patents.

The world therefore benefits from a multilateral trade body - though a fairer one than the WTO of the 1990s. To give just one example, India is on a better wicket with its food procurement and public stock holding policies protected within the WTO than with having to negotiate separate deals with major farm exporters like the U.S., Canada, Australia and Brazil. Still, one cannot take multilateralism in trade for granted. At the extreme, one cannot rule out a collapse of the WTO engineered by the Trump administration. The consequences are unimaginable even if they do not lead to trade wars as happened in the 1930s.

India should be more actively engaged in how to arrest the slide and then make the WTO a more equitable organisation. Commerce Minister Suresh Prabhu has said that India will soon convene a mini ministerial to discuss "new issues" for the WTO. Such fancy talk will not get us anywhere. India needs to work on persuading all members of the WTO to return to the table and negotiate on bread-and-butter issues like agriculture, industrial tariffs, and services. At this point, India and most of the world have everything to lose and nothing to gain from first a hollowing out and then a selective use of the WTO.

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