

A THUMBS DOWN TO UNILATERALISM

Relevant for: International Relations | Topic: World Trade, WTO and issues involved

Economic relations between India and the United States are on a knife-edge after the U.S. took a series of unilateral actions against India's exports, that began in 2018, followed by India's recently announced retaliatory move of increasing tariffs on 28 products imported from its largest trade partner. As a result of these developments, India has become the Trump administration's most significant target after China.

No one could have summed up the essence of the U.S.'s unhappiness over India's policies as well as U.S. Secretary of State Mike Pompeo in his recent statement in New Delhi. He said, "The United States has been clear we seek greater market access and the removal of trade barriers in our economic relationship." Soon after, U.S. President Donald Trump sought withdrawal of tariff increases effected recently by India, saying that for years, India has "put very high tariffs against the United States". What needs to be noted is while similar complaints have been made by successive U.S. administrations over the past few decades, the tone and tenor of the Trump administration has distinctly upped the ante.

Let us recall some of the major instances where the U.S. has questioned India's trade and other related economic policies. In the past, U.S. agencies — in particular, the Office of the United States Trade Representative (USTR) and the United States International Trade Commission (USITC) — have "investigated" India's trade policies, the conclusions of which have been used by the administration to demand changes in policies that would benefit American businesses. The latest demands stem from two extensive USITC investigations which were conducted between 2013 and 2015 on India's trade, investment, and industrial policies.

These investigations were carried out at the request of the U.S. House Committee on Ways and Means and the U.S. Senate Committee on Finance "under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) regarding Indian industrial policies that discriminate against U.S. imports and investment for the sake of supporting Indian domestic industries, and the effect that those barriers have on the U.S. economy and U.S. jobs". The first of these investigations, the report of which was submitted towards the end of 2014, covered only the opening months of the first Narendra Modi government, following which a second request was made by the two Congressional Committees to investigate the performance of the government in its first year in office. This report was submitted in September 2015.

The main message that was conveyed by these investigations was that American businesses strongly disapproved several of India's key policies on trade and investment and that these policies had to be amended. Although in 2014, the USITC seemed to support the direction of the Modi government's economic policies in its first few months, in the second report, which covered the government's first year in office, the familiar tone of disagreement over India's trade and investment policies appeared once again. The investigations conducted by the U.S. agencies raise several issues of propriety, procedures and substance. These three dimensions need to be understood well for this is the only way in which the Government of India can prepare appropriate responses to the persistent questioning by the U.S. administration of its trade and investment policies.

The first is the issue of propriety. It is important to mention here that all of India's trade-related policies (which include intellectual property rights that were investigated and questioned in the two USITC reports) were done under the cover of the U.S.'s domestic laws. This is tantamount to unilateralism, the response to which should be an unequivocal "no" in this age of multilateralism,

where differences on policy issues between sovereign countries must be resolved in the appropriate multilateral forums. The possibilities of a stronger power using unilateral means should be eliminated. It is in this spirit that the General Agreement on Tariffs and Trade (GATT) was established as an integral part of the post-war global economic governance. GATT was replaced by the World Trade Organization (WTO) in 1995.

The areas that were investigated by the USITC during the two investigations were also those that are covered by the WTO. Therefore, propriety and global trade rules demanded that the concerns of American businesses about India's policies had to be addressed within the WTO through consultations among the members. The main purpose of the GATT/WTO is to provide a forum for the resolution of disputes by following multilaterally agreed rules. The global community agrees that this would be the best way of preventing countries from getting into trade wars, which had pushed the global economy into the depression of the 1930s. The only country disagreeing with this position is the U.S.; it seems intent on pushing its trade partners into trade wars.

Now to the procedure of conducting the investigations. This was deeply flawed for it provided a platform for vested interests in the U.S. to make common cause against India's policies. What is more, in these investigations, U.S. government agencies have been not only acting as the judge and the jury but also actively engaged in getting the findings of the investigations implemented.

As mentioned earlier, the substance of the investigations touched trade-related issues that are covered by the WTO agreements. Since the establishment of the WTO, India's policies have mostly been consistent with its commitments; where they have not been, other WTO members, including the U.S., have approached the dispute settlement body of the organisation to make India fall in line.

The fact that the U.S. is not approaching the WTO to challenge India's trade and investment policies that American businesses find detrimental to their interests implies the following: India's largest trade partner is acting in defiance of agreed rules to target India's WTO-consistent policies. Take, for instance, India's high tariffs which have left Mr. Trump greatly perturbed. These tariffs were agreed to in the Uruguay Round negotiations in consultation with all members of the organisation. Moreover, in the period since, India has lowered tariffs on many agricultural and industrial products. Contrast this with the U.S.'s position wherein it continues to defend its high levels of agricultural subsidies which are used for lowering commodity prices to levels at which no other country can have access to its domestic market. Thus, the U.S. does not need tariffs to protect its agriculture; it uses subsidies, instead. The WTO also informs us that the U.S. also uses very high tariffs on tobacco (350%), peanut (164%) and some dairy products (118%).

The India-U.S. discord over trade stems from a deep-seated desire of U.S. businesses to have a bigger footprint in the Indian economy, and to achieve this goal, the administration is stepping beyond legitimate means. This discord defies Mr. Pompeo's simplistic formulation that "great friends are bound to have disagreements". In fact, the basis of the discord lies in the way the U.S. has been targeting India's policies, disregarding the rule of law. Early resolution of this discord seems difficult as the U.S. has decided to undermine the WTO's dispute settlement mechanism and walk down the path of unilateralism instead. Under these circumstances, the Government of India would have focus on two fronts: to remain engaged with its largest trade partner and to also engage actively with the global community to make the U.S. understand the imperatives of a rules-based trading system.

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