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# The decline of the WTO

The US' reluctance to cooperate with the WTO has accelerated under Donald Trump and is undermining the body

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< Trade ministers from around the world attended the once-in-two-years World Trade Organization (WTO) ministerial in Argentina earlier this month. They deliberated on several crucial issues that will impact the multilateral system of global trade. >

Two things have changed from the last ministerial. Britain is entirely free of the European Union (EU) agenda and has a huge interest in building a robust multilateral trading system. The US, on the other hand, has stated repeatedly that the WTO multilateral system, to the extent that it does not put US interests paramount, is not something that will have its support.

Previous rounds of ministerial meetings have resulted in very little progress. The last 'low-hanging fruit' the WTO was able to garner for its members was the Trade Facilitation Agreement at the Bali ministerial in 2013. While this came as a lifesaver for the WTO in 2013, it had been on the cards since the Doha Development Agenda in the 2001 ministerial. The 2015 ministerial in Nairobi did nothing much to enhance the WTO's stature.

The WTO has made limited progress over the past two decades for numerous reasons—be it the one-sided nature of the original agreements, the North-South divide, or the aggression of the Brics (Brazil, Russia, India, China and South Africa) lobby on subsidies, agriculture and food security at successive ministerial meetings.

Even the protocol of negotiations has gone through a metamorphosis. From secret anteroom negotiations and the subtle ways of global diplomacy, today, countries are quick to state their extreme negotiation positions publicly—seemingly more for the benefit of their constituencies at home. This makes negotiations more cumbersome. In all this noisy rhetoric, what is being missed is the very real threat to the entire WTO system and its 'jewel in the crown', the dispute resolution mechanism.

The dispute resolution mechanism, which has been in place since the WTO's inception in 1995, has served its purpose well. It has been a great leveller and has enabled smaller countries like Barbados and Antigua to take the US to the Dispute Settlement Body (DSB) and prevail. It has been widely hailed as the biggest success of the WTO.

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< The WTO dispute settlement mechanism involves consultations, panel proceedings, appellate body proceedings, and implementation and enforcement. >

The panel report, or, in the case of an appeal, the appellate body report and the panel report, is adopted by the DSB. After the adoption of the reports, the respondent, if found to be in breach of WTO law, has to implement the recommendations and rulings adopted by the DSB, which comprises all WTO members. This makes enforcement all the more easy.

The US has always been a reluctant participant in the WTO dispute resolution process. Its record also reflects patchy compliance with WTO decisions by the US. For example:

—In a dispute where US online gambling sites were noted to be GATS (General Agreement on Trade and Services) non-compliant, the US offered a \$200 million settlement package to Antigua and Barbuda. However, it has only paid \$2 million till now.

—South Korea has stated that the US has not implemented the WTO ruling on South Korean washing machines despite the conclusion of a “reasonable period of time” of 15 months.

—In third-party disputes, the US has taken a position that undermines the dispute settlement system. For instance, where Qatar has instituted a dispute against the trade embargo imposed upon it by Saudi Arabia, United Arab Emirates and Bahrain, the US has categorically stated that it will not support WTO panels and the appellate body making a decision on issues of national security.

Now, in what could prove to be a body blow to the entire system, the US has refused to participate in the appointment of new judges to the appellate body. Members are usually appointed by consensus, and the US is a major participant. As it is, with selective and partial cooperation from the US, the system was under threat. This new approach of systematically diminishing the appellate body will put an end to the DSB. The chairman of the appellate body, Ujal Singh Bhatia, has stated that “delays compel WTO members to look for other solutions, potentially elsewhere”. Outside the WTO system, weaker countries will be

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< operate in large part because there is a redress system as backstop. In the absence of judicial recourse, these will also erode. >

Trump's position of 'America First', scrapping the Trans-Pacific Partnership agreement, undermining the North Atlantic Free Trade Agreement and now slowly dismantling the working parts of the WTO system, will have long-term effects on global trade. Add to this mix a weakened EU and a Britain with a dire need to either be part of a robust multilateral system or have its own trade agreements. Global trade is no longer going to have the leadership from the Western world that it did. Can China, India, Brazil and Russia fill the void? The pendulum of global trade is swinging from the richest nations to the most populous ones. Will it bring a shift in prosperity too?

Dreamers speak of the original Silk Route that ran from Japan to the Mediterranean Sea. History may repeat itself, thanks in no small measure to the new world order being driven by Trump. Ironically, it may just restore the old world order!

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*Comments are welcome at theirview@livemint.com*

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