

**T**HE GENERALIZED SYSTEM of Preferences (GSP), accorded by the US to imports from India since 1976, stood terminated as on June 5, 2019. The government of India has indicated that the fiscal impact of this withdrawal, which would impact approximately \$5.6 billion of India's exports, is not significant. Perhaps it is indeed not when seen against the overall exports to the US, valued at \$230 billion. But the issue is not one of mere numbers, but one of legal principles as the systemic impact of US's brazen unilateral actions. It is also of the impact that the move would have on exporters of several goods such as jewellery, building materials, solar cells and processed foods, which will face increases of upto 10% in the US tariffs, not all of which exporters can absorb by increasing prices of products in their struggle to remain competitive. Spillover effects in terms of downsizing in export firms, diversification, exploring newer markets, and all the accompanying uncertainties therefore seems inevitable.

To begin with, there is no right or entitlement that India, or any other developing country, has to GSP benefits from any developed country. GSP is a voluntary exercise of preferential market access that developed countries have the discretion to provide. However, the laws of the World Trade Organization (WTO) provide very

# India must take the US to the WTO

India is on a strong legal footing, and it must raise a dispute

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clear legal that a country that chooses to administer GSP needs to adhere to. This includes the legal requirement that GSP shall be available for all developing countries on a non-discriminatory basis, and they need to be accorded on a non-reciprocal basis, i.e., such preferences cannot be given or restricted on the ground of equivalence of some benefit from a developing country.

The US has unabashedly also confirmed that the GSP benefits to India has been terminated solely on account of its unilateral assessment that India does not provide "equitable and reasonable mar-

ket access" to it. This is an admitted violation of the mandate that GSP needs be based on the principle of non-reciprocity. The object of US's trade concerns against India include requirements under Indian law for certification of dairy products, norms on pricing for medical devices, and India's laws on patenting which apply, in the view of the US, strict criteria for grant of patents for products and also allow for compulsory licensing. Each of these is a legitimate exercise of sovereign legislative and policy choices by India. The US has also expressed concerns on imposition of high tariffs by India in various sec-



tors, including automobile, textiles, pharmaceuticals and distilled spirits, which, again, are all within the realm of India's WTO's commitments.

In other words, India's actions are all WTO-consistent domestic policy actions. The US, however, perceives these as limiting market access, and instead of playing by the multilateral rules, which would require trade negotiations on a reciprocal basis, it is resorting to leveraging the one tool that it is mandated to provide on non-reciprocal basis, i.e., GSP benefits.

The US action is an extension of its recent approach of unilateral action and

strong-arm tactics to extract concessions. In a measured response, the government of India has indicated that, like the US, it too believes in maintaining its national interest and addressing development imperatives. It has also indicated the hope of arriving at a mutual resolution of the issues.

While amicable solutions are always the desirable objective in international relations, the approach with the US cannot be pegged on this expectation alone. In fact, there is no better example than the US itself that has used a combined strategy of bilateral dialogue, coupled

with unilateral action, and most interestingly, recourse to the beleaguered WTO's dispute settlement system.

This is the second time that the US has hit India with its unilateral measures. The first time was a year back when, on June 1, 2018, the US imposed tariffs of 25% on steel and 10% on aluminium imported into the US. India has initiated a WTO dispute against this, as have several other WTO members. Some of these countries such as EU and China also imposed retaliatory tariffs on certain imports from the US, against which the US has initiated WTO disputes. While India announced retaliatory tariffs against the US several months back, it has been deferring the imposition of such tariffs.

It is strategically important for India to raise a challenge against US's GSP termination before the WTO. There are three reasons for this: (a) India is on a strong legal footing with regard to such a challenge; (b) the GSP issue is one of systemic significance within the framework of multilateral trade rules, and one country cannot be allowed derail the fundamental planks on which it stands; and (c) contesting a country's action through dispute settlement, and simultaneously holding bilateral negotiations, are not antithetical to each other, and can often help a country leverage its advantages better.