

## OPINION

### As new trading arrangements evolve, India is not in the room

A significant casualty at WTO has been the lack of any meaningful outcome of the negotiations on rules of trade that members set for themselves under the Doha Development Agenda in 2001

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UPDATED ON AUG 05, 2021 03:11 PM IST



In the build-up to WTO's 12th ministerial conference scheduled for November, concrete outcomes are envisaged on the services DR and e-commerce, and in investment facilitation. India has remained outside all these negotiations. (Getty Images)

The form and thrust of negotiations are changing at the World Trade Organization (WTO). And India is watching from the sidelines. WTO came into effect in 1995. While trade has become far more liberalised since the 1990s, it has not resulted in egalitarian benefit-sharing. The 2008 financial crisis resulted in a trust deficit in globalisation. Protectionism grew. And the pandemic reinforced economic nationalism.

A significant casualty at WTO has been the lack of any meaningful outcome of the negotiations on rules of trade that members set for themselves under the Doha Development Agenda in 2001. The fissures were officially recorded in the declaration of the 10th ministerial conference in 2015. Adopted by consensus, the Nairobi Declaration had then noted that while “many” members reaffirm the Doha mandate, others do not, and that while “many Members want to carry out the work on the basis of the Doha structure”, “some want to explore new architectures”, as well as “identify and discuss other issues for negotiation”. India had then expressed its deep disappointment at the Declaration.

But the spark lit by the “some” in Nairobi for “new architectures” and “new issues”, resulted in further fragmentation at the 11th ministerial conference in Buenos Aires in 2017. This saw the birth of joint statement initiatives (JSIs) in four areas: E-commerce, investment facilitation, services domestic regulation (DR) and micro, small and medium enterprises (MSMEs). The JSI participants claimed that the objective was to have focused discussions among interested members to achieve concrete outcomes. India and South Africa rightly pointed out the risks that fragmented JIs pose to the foundations of multilateralism.

JSIs have, however, grown. In the build-up to WTO’s 12th ministerial conference scheduled for November, concrete outcomes are envisaged on the services DR and e-commerce, and in investment facilitation. India has remained outside all these negotiations.

This is sad from the perspective of services DR. Aimed at ensuring that requirements and procedures for recognition of qualification and licensing do not become impediments to foreign service suppliers, this evolved by 2011, with the active participation of India and other members at WTO's Working Party on Domestic Regulation (WPDR). In 2017, India had also proposed an agreement on trade facilitation in services to ease regulatory barriers, but did not get sufficient support.

With DR being hived off from the WPDR, and India not being a part of it, its thrust is on commercial presence — an area of interest for developed economies — as opposed to ease in recognition of qualification and licensing of professionals — an area in which India and other developing countries have a higher advantage. There are now 64 participants for the JSI-DR.

WTO does allow “plurilateral agreements” which creates rights and obligations only for some members. But any new plurilateral agreement can be incorporated only if all WTO members agree, which basically means that JSI non-participants such as India can block the adoption of such new agreements.

However, the services DR will not be a new “plurilateral agreement”; rather, these JSI-DR members will incorporate it as “additional commitments” in their existing schedule of commitments on trade in services. The benefits would then be available to all members on a most-favoured-nation basis. While this may seem fine for JI non-members such as India, it may effectively undermine any meaningful multilateral outcome on DR.

India and South Africa have maintained that the JSI outcome on DR cannot be a fulfilment of the mandate for services DR disciplines under WTO. They need to demonstrate commitment and negotiating heft to revive multilateral discussions on DR at WPDR. But with the momentum of the JSI on DR increasing, the room to manoeuvre this multilateral “homecoming” of DR is diminishing.

The JSI headwinds are a threat to multilateralism. But staying out of the room only deprives India of an opportunity to influence the outcomes. As an original multilateralist, India needs to play a more constructive role.

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*The views expressed are personal*