Trump’s tariffs and a U.S.-India trade agreement

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India should stay out of any sub-optimal deal with the United States

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R.V. Anuradha

‘In any trade agreement with the U.S., a careful balancing of India’s interests is paramount’ | Photo Credit: Getty Images/iStockphoto

At the end of the day, it was not the big fight between nations, but a case brought by five small U.S. businesses that presented the biggest challenge yet, to U.S. President Donald Trump’s sweeping tariffs.

Tariffs are the substance of laws and regulations formulated after highly rigorous trade negotiations. The binding of tariffs through schedules of commitments in trade agreements, offers much needed certainty and predictability to businesses trading across borders. Which is why Mr. Trump’s sweeping tariffs — 10% to 135%, over 100 countries worldwide — were a stunning repudiation of the rules of trade. That it also extended to the barren Arctic marine reserves of Heard and McDonald Islands, uninhabited by humans, just highlighted the irony of a bizarre executive order.

This sweeping executive action also upended the fundamental principle of separation of powers between the three branches of government — the legislature, the executive and the judiciary — which lie at the heart of any democratic constitutional framework. That such an exercise of executive authority could happen without any checks and balances in the U.S., widely regarded as among the modern world's oldest democracies with a strong constitutional framework, was another point of reckoning.

Five small and mid-sized U.S. businesses, dealing with wines, plastics, bicycles, musical circuits, and fishing equipment, took on the U.S. administration, and challenged the presidential executive order at the U.S. Court of International Trade (U.S. CIT), stating that the tariffs were unlawfully harming their operations and economic viability.

A closer look at 'trade deficits'

The Trump administration argued that the tariffs were necessary to address the "national emergency" created by U.S.' trade deficits with all countries worldwide. Trade deficit occurs when imports exceed exports. A "deficit" is not necessarily bad for a country's economic health. It only demonstrates the availability of consumer wealth to purchase imported goods. In any event, the U.S. administration, bizarrely, did not account for U.S. export of services in its calculation. For example, the U.S. has cited the $44.4 billion trade deficit with India. This, however, does not consider trade in services (which includes digital services, financial services, education) and arms trade, after considering which, the Global Trade Research Initiative has estimated that the U.S. actually runs a $35 billion-$40 billion overall surplus with India.

The U.S. CIT, in its judgment dated May 28, 2025, ruled that the worldwide and retaliatory tariffs exceeded any authority under law. The court cautioned against the blatant and overarching use of "national emergency" powers by the President. It noted that the mere incantation of "national emergency" cannot sound the "death-knell of the Constitution", and, additionally, cannot enable the President to rewrite tariff commitments in international agreements.

The strong and powerful ruling, so far, has had little practical impact, having been stayed the very next day by a U.S. appeals court. The tariffs and the threat of tariffs, therefore, continue, and so does the pressure to conclude a trade deal with the U.S. The Trump administration had in fact, argued before the U.S. CIT that the enhanced tariffs provided it leverage in trade negotiations — an argument which the CIT ruled does not in any manner mitigate its legal infirmity. More egregious U.S. executive actions are promised as part of the Trump One Big Beautiful Bill (OBBB) — a proposed omnibus law which would reportedly also grant the executive immunity from enforcement of judicial orders.

Where India stands

Where does all this really leave India? The governments of both countries have been indicating an early conclusion of a trade agreement, before the U.S. threat of the July 8 deadline. Despite ongoing negotiations, the U.S. has enhanced its existing punitive tariffs of 25% on steel and 10% on aluminium imports (in force since Mr. Trump's first term), to 50% on both. Pursuant to complaints initiated at the World Trade Organization by Switzerland, Norway, China and Türkiye, WTO panels had ruled (in 2022) that the tariffs imposed during Mr. Trump's first term, do not meet the proposed justification of national security. India too had initiated a WTO dispute, but withdrew this on the basis of a "mutually agreed solution" with the U.S. in 2023. That mutual solution clearly did not prevent Trump administration extending the new 50% tariffs on steel and aluminium to India as well. India's contemplated retaliation at the WTO has been resisted by the U.S. A purported target of the Trump administration's ire is China's rise. The argument that the U.S.-China trade impasse presents a possible strategic advantage for India, however, is made uncertain by two recent developments: the U.S. and China's truce, pausing their retaliatory tariffs against each other and working towards a negotiated solution; and, more importantly, the U.S. administration's threats to impose tariffs on Apple's products, should it manufacture in India. Mr. Trump's transactional approach also indicates that there is no guarantee that the U.S. will intervene in India's favour should there be a military standoff with China.

The path ahead

In any trade agreement with the U.S., therefore, a careful balancing of India's interests is paramount. Any deal would need to ensure the removal of all additional tariffs on India's exports, allay concerns about retaliatory tariffs on U.S. investments, such as that from Apple in India, and ensure that the proposed OBBB Act's 3.5% tax on remittances sent from the U.S. does not apply to remittances by Indian citizens. India should also seek assurance that there would be no retaliation against India's digital services taxes. A long-standing concern for India is also the fears and backlash against H-1B visas, used widely by tech companies for their Indian employees. It is critical for a trade deal to address the issue of visas required for services trade.

It is equally important for both sides to iron out the delivery of cross-border trade in services, which includes aspects relating to data flows and their regulation.

Above all, any trade agreement that India negotiates with the U.S. needs to be fully aligned with India's commitments under the WTO. The U.S. disregard for multilateral institutions, notwithstanding, WTO's multilateral set of rules is the only real safeguard in an uncertain world, and India needs to do much more to preserve its foundations, as committed during its G-20 presidency.

Finally, India should have the ability to stay out of any sub-optimal deal. Mr. Trump's tariffs, while painful, are likely to have a short lifespan with the biggest challenge emerging from within the U.S. itself.

R.V. Anuradha is a Partner at Clarus Law Associates, New Delhi. The views expressed are personal

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