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### IS US UNDERMINING WTO?

America's longest-serving secretary of state, Cordell Hull, is best known for winning the Nobel Peace Prize for his role in establishing the United Nations at the end of World War II. Today, 75 years later, another important piece of his legacy looks increasingly at risk as President Donald Trump realigns the US' relationships across the globe.

Hull helped create the modern global trading system that eventually led to the advent of the World Trade Organisation (WTO) in 1995. He viewed tariff battles as a threat to international peace and advocated unconditional trade liberalisation among nations. Indeed, he considered barriers to the exchange of goods and unfair economic competition as synonymous with war.

Hull's vision is running aground on the shores of Lake Geneva at the WTO's headquarters in Switzerland. Under Trump, the US is weaponising tariffs and has effectively neutralised the organisation's dispute-settlement function at the very moment when global trade arbitration is needed most.

Some economic historians fear that the new chapter of rising protectionism has led to an existential moment for the WTO.

"Hull's beliefs helped pave the way for Western nations to sign the General Agreement on Tariffs and Trade, or GATT, in 1947. The accord sought to lower import duties and was an unparalleled success. Setting the rules for world trade, it reduced average tariff levels among its participants to 5%, from more than 20%, over its lifetime.

Just as the UN replaced the League of Nations after it failed to prevent war, the international trading system has been forced to morph into

something else after losing its influence. By the end of the 1980s, GATT was outmoded and slipping into irrelevance.

President Ronald Reagan's administration fomented a crisis by hammering the US' trade partners with unilateral tariffs and stonewalling them when they pursued justice via GATT's dispute-settlement system. In the 1990s the Clinton administration pivoted and agreed to shelve some of the country's unilateral tools in return for new rules to govern trade in services and intellectual property. The 120-plus GATT member nations also agreed to create a more muscular dispute-settlement system to enforce those rules, and the deal was packaged into a comprehensive agreement called the WTO.

"Most businesses want the WTO process to work. A system of rules for international trade with the US both abiding by and benefiting from those rules is a good thing"

Today the Trump administration is pursuing a Reaganesque playbook that's disrupting international trade flows and blunting the WTO's power to arbitrate disputes. The rebirth of American unilateralism has spurred a rise in global trade restrictions, which now cover more than US\$700bil worth of imports. That, in turn, has reduced global trade growth projections to the lowest level since the financial crisis a decade ago.

To prevent a return to the last century's era of power politics, some observers see an opportunity to reform the WTO for the 21st century. Meanwhile, this question remains: Will the US' maximum-pressure approach to trade result in the organisations reinvention or obsolescence?

Over the coming year, governments have a decision to make. Will they try to work with Washington to converge on a new set of trade rules for the 21st century? Or will they, on their own, try to patch together a temporary fix while the US brandishes trade penalties at allies and foes alike rather than pursuing liberalisation through the WTO?

The two most important functions of the WTO are negotiations, which must be adopted by a consensus among all members, and dispute settlement, which forces nations to comply with WTO rules or face retaliation. The WTO is like a bicycle whose two wheels are represented by the organisation's negotiating and dispute-settlement functions. The bicycle is able to operate smoothly with minimal effort as long as the two wheels are working properly. "If we take away one of those wheels, however, and rely solely on the dispute-settlement system, things suddenly get quite wobbly, " Harvard lecturer Craig VanGrasstek wrote in his 2019 book, Trade and American Leadership: The Paradoxes of Power and Wealth From Alexander Hamilton to Donald Trump.

A smoothly functioning WTO provides businesses with the certainty and predictability they need to invest and operate abroad. That, in turn, can foster global economic growth and the political integration of large and small economies. Since the organisation was born, the volume of global trade has almost tripled, while its value has almost quadrupled.

The stability of the WTO was dealt a major blow last year when the US paralysed the dispute-settlement system after blocking new appointments to the seven-member panel that hears appeals. A quasi-supreme court for trade, it was unable to issue any judgment on future cases as of Dec 11 because there weren't enough active members.

Although WTO members can still receive an initial ruling on a dispute, any party can now appeal the decisions into legal limbo. As a result, governments are essentially free to impose unilateral measures on their trade partners without fear of WTO-sanctioned retaliation.

Trump's gripe is that the WTO evolved into a legal tool for nations to exert pressure on the US, or what his top trade official called a "litigation-centred organisation" two years ago.

Indeed, the organisation has a poor record of negotiating deals among its members. Nations have concluded only two multilateral trade agreements since 1995, and the most recent round of trade talks-the Doha development agenda-failed spectacularly. The WTO has fallen behind the massive shifts that have taken place in the global economy, such as the proliferation of digital trade and China's rise.

Ending China's state-led mercantilist approach to trade and investment policy is a key American objective at the WTO. Specifically, the Trump administration has alleged that Beijing steals American intellectual property and deploys massive state subsidies that created a glut of cheap steel and aluminium. The US has also sought to curb China's ability to benefit from WTO preferences intended for the world's poorest nations.

Trump reiterated those complaints in Davos. "Our country hasn't been treated fairly," he said. "China is viewed as a developing nation. India is viewed as a developing nation. We're not viewed as a developing nation. As far as I'm concerned, we're a developing nation, too."

Defending the US's sovereignty over trade has been a decades-long crusade for Lighthizer, who first honed his protectionist tendencies as a deputy trade representative in the Reagan administration. Following his initial stint in public service, Lighthizer jumped to the private sector, where he defended clients including US steel companies in WTO disputes. He even interviewed in 2003 to be a member of the organisation's Appellate Body, but his nomination was rejected. Now, Lighthizer is waging a broad campaign of deploying tariffs on hundreds of billions of US dollars of foreign goods using the sharpest weapons in America's trade arsenal.

His strategy is already producing limited results. On one hand, the US has drawn attention to the WTO and provoked nations to try to reform it. There's broad agreement the institution has problems, and even insiders acknowledge there's validity to the Trump administration's concerns with the appeals process. "Without this sense of crisis, there would probably be an accommodation and members would not be so very inclined to change things and to change the system," says the WTO's Azevêdo.

On the other hand, most WTO member nations disagree with the Trump administration's strategy of shutting down the Appellate Body, fearing the move will lead to the return of a more dangerous era in trade relations, where economic might equals right. "The way to restore the balance is to strengthen the negotiating function and strengthen the executive function," says Hillman, who was previously an Appellate Body member. "Instead, the US has decided to put down the judiciary function. To me that is the absolute wrong way to go."

It's too soon to say whether the US' unilateralism can help forge a new mandate for the global trading system as it did 25 years ago. But it's clear that its support for multilateralism is waning in a way that would vex Cordell Hull. – Bloomberg

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