

TRUMP'S NEXT TRADE TARGET – WTO.

*The institution's members are confronted by
what many see as an assault on the postwar trading system*



By Shawn Donnan

In the final days of his presidency Barack Obama opened a trade case against China that was meant as a capstone to his administration's economic battles with Beijing. The litigation brought at the World Trade Organization was nominally against illegal subsidies Beijing used to help its aluminium industry, however US officials who had spent more than year working on it saw it as something bigger. They were launching a guided missile at the financial infrastructure of China's state-directed economy.

Announcing the case, Mr Obama pointed to the **low-interest state bank loans, cheap electricity and other government subsidies that China had used to fuel a "global glut" in aluminium and steel.** All were illegal, he argued, and all were causing pain for China's competitors internationally.

"We're taking action to protect the workers — at home and around the world — who are hurt every day by these policies," Mr Obama declared. The move was intended to both make a statement and hand over a systemic case that Mr Obama's successor, Donald Trump, could

take up as he entered the White House promising his own economic war against China. The Obama administration went even further, seeking the help of allies in places like Brussels where officials to this day are still considering bringing a similar case.

Almost a year on, however, the aluminium case brought by the Obama administration lays dormant, just one victim of the dramatic change in US trade policy that Mr Trump has orchestrated. Armed with his instinctual suspicion of multilateral institutions, Mr Trump has turned the WTO from what his predecessors saw as a strategic tool into a strategic target.

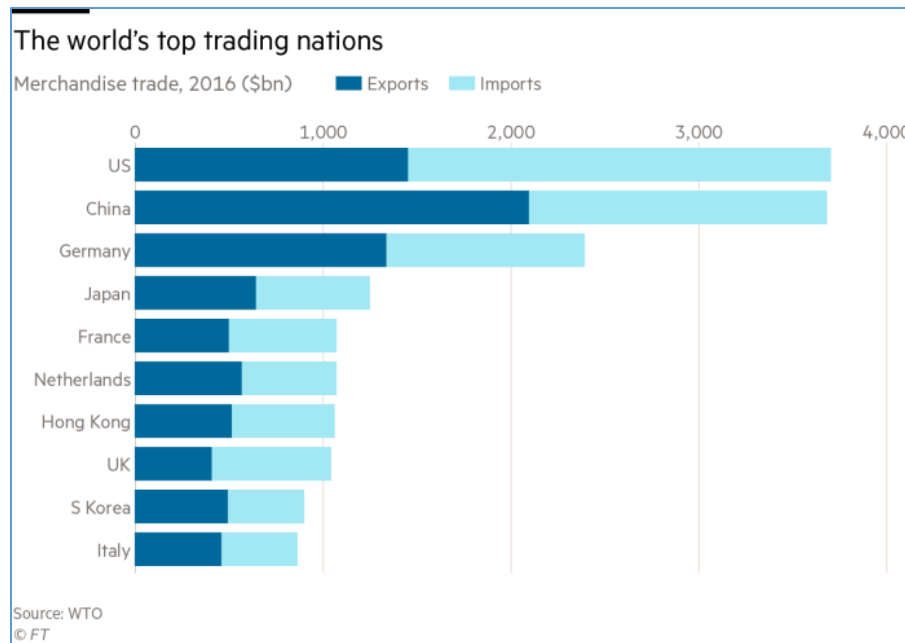
The lack of interest in the aluminium case strikes to the heart of the administration's trade agenda: rather than trying to use the WTO and its processes to pursue US objectives, Mr Trump has expressed a clear preference for unilateral action and going around international institutions.

“Simply put, we have not been treated fairly by the World Trade Organization,” Mr Trump told fellow Pacific Rim leaders in Vietnam last month, pointing to countries like China that for too long had been gaming the WTO system. “We can no longer tolerate these chronic trade abuses, and we will not tolerate them.”

The result is that as trade ministers from the WTO's 164 members gather in Buenos Aires on Sunday for their biennial conclave, they are confronting what many see as an accelerating existential crisis for both the two decades-old body and for the postwar trading system. And the US, the one-time guarantor of that architecture, is now leading the assault.

Mr Trump's charges against the WTO hinge on his belief that the creation of the institution in the 1990s helped cause the economic heartache that hit many American communities as they lost jobs to new competitors in China and elsewhere.

Administration officials argue the WTO has failed in its mandate to negotiate new rules for the global economy and locked the US into mismatched tariffs. Its current procedures were never designed to cope with the brand of state capitalism that China has ridden to success for three decades, they say. Advocates of the WTO may proclaim its dispute settlement process as a barrier to trade wars, but US officials argue the disputes take too long and end up in the hands of an appellate body that they accuse of encroaching on the sovereignty of WTO members.



In a 2010 paper, written when he was a leading trade lawyer in Washington, Robert Lighthizer, Mr Trump’s trade tsar, argued that the **US should thumb its nose at the WTO more often. And for all intents and purposes that is what he the Trump administration appears to be setting out to do.**

“I believe that there is one challenge on the current scene that is substantially more difficult than those faced in the past, and that is China,” Mr Lighthizer told a Washington audience earlier this year, calling its efforts to force technology transfer, and to “distort” markets in China “a threat to the world trading system that is unprecedented”. “Unfortunately, the World Trade Organization is not equipped to deal with this problem,” he added. “We must find new ways to ensure that a market-based economy prevails.”

The Trump administration’s assault on the WTO so far has had a passive-aggressive quality.

Diplomats in Geneva say that since Mr Trump’s election the US has been playing a back-seat role in most WTO negotiations. “**The US has been absent for 12 months now,**” says one senior trade diplomat. “They are not at all in the game.”

Ahead of previous WTO gatherings, the US has played a leading role in driving the negotiating agenda. This time around officials from other countries working on possible deals, on issues like eliminating illegal fishing subsidies around the world, say they just hope the US does not block any action. Yet the US has also taken more direct aim at the WTO’s dispute function and started acting on its complaints about the appeals process.

For months now **it has blocked the filling of vacancies on the WTOs seven-member appellate body** for technical reasons that some officials in Geneva believe mask a more

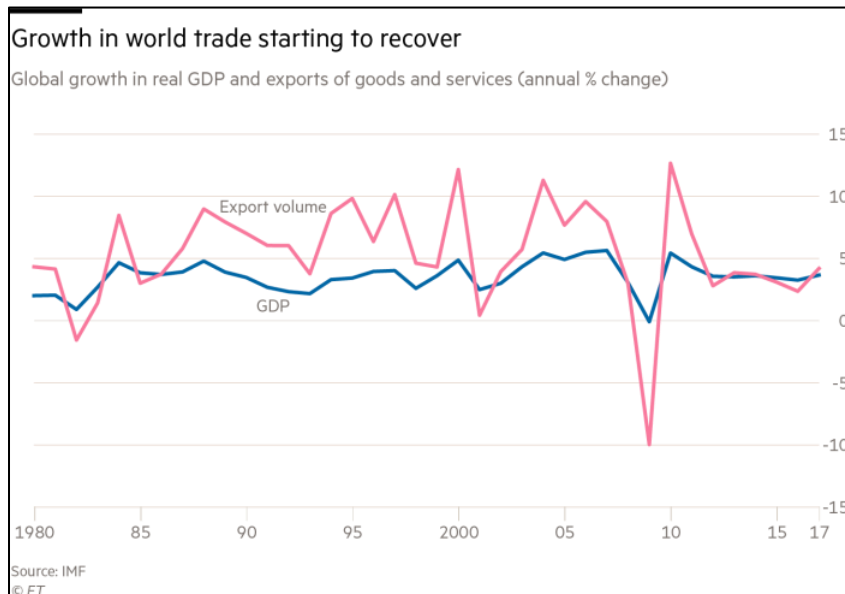
sinister agenda to bring down the WTO’s dispute system altogether and remove it as a restraint on the sort of unilateral trade action — whether in the form of tariffs or other measures — that Mr Trump would like to take.

Cecilia Malmstrom, the European Commissioner for Trade, has expressed frustration that other countries and blocs are keen for reform but need to know what the US is thinking. Trump administration officials argue their fight over the appellate body is built on longstanding US complaints and point to the Obama administration’s own moves to block the appointment of judges.

Michael Froman, Mr Obama’s top trade official, disputes that. “Our beef with the appellate body was that certain members were way too creative in creating law. It wasn’t about blowing up the binding dispute settlement itself,” he says.

Officials from other countries, moreover, express frustration with the new administration in Washington, saying it has yet to make clear what it wants to see happen at the WTO. “Everyone is willing to work on reforming the system. But we need to know what it is going to mean,” says Cecilia Malmström, the EU trade commissioner. “If we didn’t have [the WTO’s dispute system] it would be the total Wild West. And that would not benefit the US.”

One of the ironies of the Trump administration’s approach is that **the US is far from alone in seeing flaws in the WTO.**



Some officials in Geneva have begun referring to the UN-ification of the WTO, pointing to the blocking role small countries and cliques can take because of its consensus-driven decision-making structure. Others now talk about the WTO as a place where only lowest-common-denominator trade deals will ever get done with harder, more ambitious discussions taking place in regional or sectoral trade agreements.

The bigger irony is that many countries are eager to find reasons to co-operate with the US — especially when it comes to the perceived threat from China’s economic model.

In resisting China’s bid to be accorded **market economy status in the WTO**, Washington now has allies in the EU and countries such as Japan, Canada and Mexico. The label is important for Beijing both as a symbol and to help it fight off anti-dumping cases brought against its cheap exports. **When the EU and the US refused to grant its wish in 2016, Beijing launched WTO cases against both.** A decision in the EU case is now expected early in 2019, with China’s lawyers having decided to prioritise that. Mr Lighthizer, meanwhile, has warned any **finding in China’s favour would be “cataclysmic” for the WTO.**

Officials from the EU and Japan are also seeking to convince the US that there are other areas where they could find common cause against China in the WTO. Among them is a US investigation into **Chinese intellectual property practices** and rules requiring companies to **transfer key technologies.** EU officials argue European companies have the same complaints and that all would be best served by joint action at the WTO, rather than a US move to take on China unilaterally and potentially provoke a trade war.

Roberto Azevêdo, the former Brazilian diplomat who serves as the WTO’s director-general, argues that if the US or other countries embarked on such a unilateral path they would risk repeating dangerous moments in economic history.“

The multilateral trading system is stronger than it was before and, frankly, more needed than ever. And while we can certainly try to improve it, I have yet to hear any credible alternative to that particular system,” Mr Azevêdo said in a speech earlier this year.

“Without it, I think we would be in a world definitely ruled by unilateral actions, which is basically a euphemism for trade wars. And I think we all would be, without exception, worse off than we are now.”

US seeks to deny China market economy status in WTO. Globalisation marches on without Trump Wilbur Ross and the sugar barons: How a Mexican trade deal got sticky Trump administration officials put a different spin on that. They argue that they are taking the US on a path of more efficient and hard-nosed unilateralism.

Rather than push issues like Mr Obama’s WTO aluminium case — which even if pursued aggressively would take years to litigate — **the Trump administration is employing domestic statutes that are intended to deliver results within months.**

The Commerce Department in the spring launched national security investigations into imports of aluminium and steel that could yield a decision on tariffs in the weeks to come.

Last month it “self-initiated” an anti-dumping case against Chinese aluminium sheeting used in things such as home gutters — the first time it has done this since 1985. Some trade veterans do still see reason for hope. “I’m still optimistic long-term about the WTO. A crisis and a near-death experience could make people look at it in a new way,” says John Weekes, a former Canadian ambassador to the WTO.

Roberto Azevêdo, director-general of the WTO, believes that a multilateral trade process is more necessary than ever.

Others have started to contemplate a WTO without the US. Should the Trump administration pull out altogether, the first move by other trade powers like China and the EU would probably be to push on without Washington.

Even within the WTO there are already signs of change. While neither China nor the EU has fully replaced the US as a dominant power in the WTO’s Geneva negotiating rooms, diplomats say other countries have begun to play a more assertive role. And they argue that, long term, other WTO members would find a way forward.“

If the US leaves that will be a colossal blow. But let us also keep in mind that the US [as a destination] right now accounts for just 14 per cent of global exports. Yes, it will be a terrible loss. But I don’t think it will be the end,” says one senior official in Geneva.

Mr Lighthizer has also provided his own reasons for optimism, other officials say. In private discussions, they say, he has sought to reassure Mr Azevêdo and others about the US’s current intentions.“

If the WTO didn’t exist, we would have to invent it,” he told them.

Signs of fragility in the global trade recovery

In the wake of the 2008 global financial crisis one of the big concerns was that the world might again repeat one of the main mistakes of the 1930s. Facing deep recession, the fear was that major economies would erect trade barriers thereby worsening the economic carnage.

That didn’t happen, of course. And advocates for the World Trade Organization argue that it deserves much of the credit. For all of its faults, they say, the WTO has helped constrain our worst instincts.

But the crisis also exposed plenty of vulnerabilities in global trade. Since 2010 global trade has, by and large, shown only lacklustre growth. Once expected to grow regularly at 1.5-2 times global gross domestic product, trade has been growing at, or even below, the rate of broader economic output in recent years, prompting some to proclaim the end of an era of “hyperglobalisation”. This year is expected to be the best in recent history for global trade. The WTO in September upgraded its forecast for world trade growth, predicting it would expand by 3.6 per cent in 2017. That is largely the result of a better global economy. For the first time since the crisis all of the world’s major economies are in relatively rude health.

But the recovery in global trade remains far from a boom and there are still plenty of signs of fragility. While fears of a return to protectionism that accompanied the election of Donald Trump in the US and the vote for Brexit in the UK have yet to materialise, they still remain live. And whether the WTO or the International Monetary Fund, the guardians of the global economy say “inward-looking policies” remain one of the major threats still looming over it.