

Financial Times (May 8, 2017)

US anti-dumping cases fuelled by Trump trade threats

Companies' efforts to block imports stoke fears of politicising process



by: Shawn Donnan in Washington

Donald Trump's campaign to shake up global trade has prompted claims that his protectionist promises are turning out to have more bark than bite. But that ignores one particular effect. Encouraged by the US president's "America First" pronouncements and his vow to crack down on cheating by other countries, US-based companies as big as Boeing are filing anti-dumping and other trade cases aimed at blocking imports with a new gusto. They are also digging out dormant statutes to bring new cases as the administration does the same.

One of the results, some fear, is that what in many cases has been a technocratic US process is becoming overtly politicised as an administration eager to look tough on trade seeks to score political points. "Most US presidents have been unwilling to have these little trade actions bubble up to their level and to achieve political significance that they have to weigh in on," says Chad Bown, a senior fellow at the Peterson Institute of International Economics. "That is out the door." Commerce secretary Wilbur Ross last month surprised

some when he announced the imposition of tariffs on imports of Canadian softwood lumber as efforts to resolve a long-running dispute crumbled, and has threatened to do the same with Mexican sugar imports. But he has also weighed in on more obscure matters, promising to move “swiftly” with investigations into imports of products such as plywood and “carton closing staples” from China.

While Mr Trump has yet to deliver the trade war with China that many fear, the new openness to anti-dumping cases and others the US administration is lining up have trade experts worried.

Daniel Ikenson of the libertarian Cato Institute likens the focus on anti-dumping cases to a “great teething ring” for Mr Trump while his real trade fangs develop.

Mr Ikenson is more worried about investigations the administration has launched into whether imports of steel and aluminium pose a threat to “*national security*”. Were either of those to lead to the US imposing broad duties on imports it “would be a humongous blunder”. “That would be Sarajevo, 1914,” he says.

Beyond the retaliation it would provoke from China, the EU and beyond, **the legal battles at the World Trade Organisation — whose rules contain a never-tested national security exemption** — would leave the system damaged, he says. Judges there would be unlikely to rule against the US. That would open the door to countries like China invoking the national security exemption for its semiconductor industry or others and India doing the same, Mr Ikenson argues. “It just opens the floodgate for countries to justify anything as a national security measure,” he says.

The national security example has also served notice to companies and industry groups who have begun discussing the creation of new trade enforcement tools in visits to the White House and Congress. Suniva, a bankrupt solar cell and panel maker based near Atlanta, last month filed a petition under a statute — section 201 of the trade act of 1974 — seeking broad duties on cheap imports from China and other countries that will, if it succeeds, eventually land on Mr Trump’s desk.

The president’s intervention, Suniva’s lawyers wrote, “is the only remedy available to prevent the final and permanent elimination of this American industry before the end of 2017”. But the petition has set up an awkward decision for the president. Suniva since 2015 has been majority-owned by Shunfeng International Clean Energy, a Chinese company that

has bought up distressed solar factories with a view to becoming the world's largest solar company. Essentially, a Chinese-owned company is asking Mr Trump to erect trade barriers to China. The new political environment is also seeing other global industry battles move into US trade courts. The biggest so far was launched late last month when Boeing filed an anti-dumping case against Canada's Bombardier, accusing it of selling mid-sized passenger jets to US airlines below cost in order to pre-empt sales of Boeing's new 737.

But it is not the only one. Globe Specialty Metals last week won a preliminary nod for its attempt to have duties levied against imports of silicon metal from Australia, Brazil, Kazakhstan and Norway. Such duties, the company argues, would help it reopen a plant in Alabama it closed last year and re-hire 100-200 employees. However, Globe Specialty Metals is a subsidiary of FerroGlobe, a UK-based company — its fight is as much with US rivals like Dow Corning (which imports silicon from Brazil and opposes the duties) and Mississippi Silicon, a young competitor backed by a Brazilian producer that in 2015 opened the first new silicon metal plant in the US in decades. “We are very pleased that [the Trump administration] have taken such an active stance,” says Joe Ragan, Globe's chief financial officer. “Hopefully that will turn out to be something that would protect us.”