

# Trump's trade shake-up: why has the US taken aim at the WTO

*Global trading system at risk as White House seeks ways to bypass rules*

Donald Trump promised to shake up US trade policy and just weeks into his presidency, even traditional allies are nervous.

He has pulled the US from the Trans-Pacific Partnership, which predecessor Barack Obama agreed with Japan and 10 other Asia-Pacific economies. Talks are under way to renegotiate the North American Free Trade Agreement with Canada and Mexico. The EU has also conceded its own trade talks with the US have been put on ice thanks to a new president who says he would rather negotiate a deal with a departing member, the UK.

**But the Trump administration's latest target, the World Trade Organisation, potentially dwarfs all those.** If things go wrong it could bring down an institution that, although only two decades old, is a pillar of the economic order the US helped establish after the second world war. What is the Trump administration up to?

Incoming officials have begun looking for ways around the WTO's dispute settlement system, which since being established in 1995 has been the primary means of resolving trade disputes between members — and, advocates say, a significant force in preventing all-out trade wars.

In a draft paper circulated this week, **administration officials even raised the idea of ignoring WTO rulings they did not like, arguing that "American citizens are subject only to laws and regulations made by the US government — not rulings made by foreign governments or international bodies".**

**That sentence was dropped from the final version of a report laying out the Trump administration's trade agenda that was sent to Congress on Wednesday.** But the overall message was still that Donald Trump's America stands ready to do what it pleases, whether judges at the WTO like it or not.

The US was one of the leading forces behind the creation of the WTO and, before that, the General Agreement on Tariffs and Trade that began codifying global trade rules after the second world war.

The idea of creating such a global trade court was part of the discussions at the 1944 Bretton Woods conference that led to the formation of the International Monetary Fund and the World Bank. But it was not until the 1990s “Uruguay Round” that the WTO — and the dispute settlement system — were created. Since the WTO began work in 1995, US presidents have remained advocates and sought to bring other countries in — most notably China in 2001. They have also abided by its decisions. For a US president to thumb his nose at the WTO is unprecedented. It would be a hammer blow to the institution if arguably its most important member decided to circumvent it.

Were the US to begin imposing punitive tariffs on goods from countries such as China — as Mr Trump threatened during his campaign — it would probably contravene WTO rules and be challenged. If WTO judges found against the US, and Washington then ignored a ruling, it could bring an end to the system, as other countries would probably feel free to do the same.

### What does the new administration want to do instead?

US law contains numerous tools that allow a president to retaliate against other countries for unfair trade practices. The most commonly used are allowed by the WTO and involve anti-dumping and anti-subsidy cases that are usually brought by industries. They can result in hefty tariffs being levelled on specific products from specific countries.

But the Trump administration is proposing using blunter instruments that have been used only rarely, if at all, since the WTO was created. Why?

The first reason has to do with two of the Trump administration’s goals, as laid out by Steve Bannon, one of the president’s closest advisers. They are the pursuit of “economic nationalism” and the dismantling of what he calls the “administrative state” that he sees as extending to international institutions.

Mr Trump’s incoming trade team is heavy on economic nationalists and avowed protectionists, including Peter Navarro, head of a new National Trade Council, and Robert Lighthizer, a former Reagan administration official who as US trade representative will be the administration’s top trade lawyer and has in the past called for a more aggressive approach to the WTO.

The second is a growing feeling in the US — and particularly among industries such as steel that have been hit hard by competition from China — that the WTO has not worked to its advantage.

Of particular concern to some are past WTO rulings rejecting some of the most aggressive US anti-dumping mechanisms.

“The WTO has only selectively enforced its own rules and it has allowed rampant trade violations by our competitors to go unchecked,” said Democratic Senator Sherrod Brown, a longtime critic of US trade policy from the rust belt state of Ohio. **“Instead of enforcing a level playing field the WTO has cracked down on US laws** meant to crack down on illegal competition . . . It’s American workers that pay the price.” What comes next? And when?

Roberto Azevêdo, WTO director-general, on Wednesday acknowledged “that the US has a variety of trade concerns, including about the WTO dispute settlement”, saying he was “ready to sit down and discuss these concerns and any others with the trade team in the US whenever they are ready to do so”.

**However, a number of key trade players in the Trump administration are not yet in place.** Wilbur Ross, commerce secretary, only began work on Tuesday after waiting for weeks for Senate confirmation. Mr Lighthizer has yet to have a confirmation hearing and Senate delays mean it could be April or later before he takes office. **A likely trigger to a battle** between Washington and the WTO would be a finding in Geneva against the US. A number of important cases involving the US and China are working their way through the system. The most important is a Chinese challenge to the refusal by the EU and US to allow it to be treated as a **“market economy”** under WTO rules, which Beijing filed in December. WTO cases take time and a final decision in many of those cases could be years away.

**But the Trump administration is unlikely to wait that long. It could also take unilateral actions before then.** This week, that is what it has promised to do