

## **Washington threatens to undermine the WTO**

**The US is wrong to try to manipulate the dispute settlement process**



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*The headquarters of the World Trade Organisation in Geneva*

**The last thing the World Trade Organisation needs is another threat to its authority. Last year it saw the so-called Doha round of multilateral trade talks in effect declared dead after nearly 15 years of suffering.**

**The collapse of the WTO's negotiating role has left as its only real function the dispute settlement process, which adjudicates between governments over existing trade rules and orders miscreants to bring policies into compliance. The fact that the US is now trying to subvert it by removing a judge who happens to disagree with the American viewpoint is seriously disturbing.**

**Washington has taken the unusual step of **blocking the reappointment of Seung Wha** Chang, a respected South Korean lawyer, to the appellate body (AB) of the dispute settlement system. Its stated objection is that he, along with other AB members, has gone beyond**

interpreting the law to creating it. But the US essentially stands alone in this contention. The reality is that Mr Chang has failed to back the US in cases in which Washington has been found in breach of WTO rules. This is not only unsettling for the WTO, but for the US's supposed role as an anchor for the international rule of law.

**In particular, the US has spent years trying to defend its indefensible rules governing the imposition of antidumping and countervailing duties on imports, which the appellate body has repeatedly said are arbitrary and unfair. Now, as though the appellate body were the US Supreme Court, Washington wants to start imposing ideological litmus tests on judges to make sure they adopt the same judicial philosophy as does the US.**

**This is not the first time that the Obama administration has undermined the spirit, if not the law, of the WTO's dispute settlement process. In 2014, a decade after a celebrated ruling against American cotton subsidies in a case brought by Brazil, Washington finally admitted it could not bring itself to cut the handouts to its own farmers and instead in effect bought off the Brazilian cotton growers with a series of payments totalling \$750m.**

While this settled the case, it subverted the public policy benefit of the WTO process, which is for governments to amend their policies to promote free and fair trade across the world rather than simply to pay off a particular set of litigants and carry on distorting trade regardless.

This and the appellate body issue have something in common: the inability of Washington to confront truculent domestic lobbies rather than scuttle from them in abject fear. There are no more than 10,000 actual cotton farmers in the US, and yet they are allowed to carry on undermining the livelihoods of millions of cotton-growers in Africa with their subsidies. The antidumping and countervailing duty issues are important only to declining parts of the US manufacturing sector that cannot compete on world markets, and yet they continue to exert a grip over American trade policy.

The episode also vindicates, at least in this instance, those critics of the US who say Washington favours global co-operation only insofar as it controls the international institutions that run it. This is a serious charge to which the US remains exposed.

**Multilateralism begins at home. If Washington wants to continue being seen as a leader in global governance, it needs to confront those domestic interests that want it to ignore or subvert global rules.** The US may not like what the appellate body decides, but it should not seek to pack it with its supporters. Decisions like this threaten not just the credibility of the WTO but the US's own global standing.