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Standing tall as the winds howl

Not the right of the strong, but the strength of the law must prevail in the political arena – this applies particularly to trade policy

Winds are also changing in trade policy. As they get rougher and more unpredictable, the much-criticised multilateral trade regime of the World Trade Organization (WTO) has so far proved surprisingly resilient. Paradoxically, Donald Trump's tariff policy could actually strengthen the WTO. The new US administration is lashing out at dizzying speed, including in trade policy. The US President has already imposed 20 per cent tariffs on Chinese goods, while tariffs on certain goods from Mexico and Canada have been delayed until April. The EU has been hit with tariffs on aluminium and steel products. According to calculations, these measures would bring US tariffs to their highest level since 1969. The affected trading partners have already announced countermeasures and want to impose tariffs on US imports reciprocally.

The US government uses tariffs as a catch-all tool to quickly solve economic problems or pursue geo-economic goals. At the same time, tariffs are a legitimate means of trade defence for WTO members. Therefore, the US-led argument of national security would also be covered by the WTO in principle. Nevertheless, in this specific case, the WTO dispute settlement body ruled that tariffs of this kind, imposed under Trump 1.0, are in fact illegal. Nothing would change if he tried it again. The US has appealed these rulings – a contradictory behaviour, given that at the same time it has been blocking the regular reappointment of the responsible WTO Appellate Body for years.

Let's be clear: the US is undermining the WTO by paralysing its court of appeal, but justifying its non-compliant action with a legitimate WTO argument – that of national security.

Beggar thy neighbour

This behaviour is contradictory: on the one hand, the US is not accepting current WTO law and is dissatisfied with parts of the trade system. But

also still adhering to the WTO system. On the other hand, its announcement that it will impose so-called reciprocal tariffs from April suggests that the US has little interest in the multilateral trade order – and may even be deliberately seeking to destroy it. These reciprocal tariffs would be raised wherever the US currently demands lower levies than its trading partners. This would undermine the most-favoured-nation clause, which declares that a state must grant each trading partner the same advantages as those already granted to another state. This would be a clear violation of fundamental WTO rules – and a return to the *beggar thy neighbour* policy, in which a country tries to strengthen its own economy at the expense of others.

Washington's tariff threats have not gone unanswered. While smaller countries like Colombia have quickly given in, waiting is not an option for larger economic powers – especially not for the G20 countries, which do not want to appear incapable of action. As a result, affected trading partners have announced countermeasures and are imposing tariffs on US imports. China, for example, has been levying tariffs of 15 per cent on coal and liquefied gas and 10 per cent on oil since 10 February. Further levies on certain agricultural products are to follow.

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The EU will impose swift countermeasures. However, it is difficult to say how far these will go, given the rekindled love between Trump and Putin. Trade Commissioner Šefčovič has already travelled to Washington to sound out possible deals. Even before Trump took office, the EU Commission had emphasised the importance of transatlantic economic relations and that it would remain open to negotiations.

The EU is doing everything it can to prevent a further escalation of the trade conflict. Diplomatic solutions have proven their worth and are the preferred means of WTO members in the event of disputes. Nevertheless, the EU is making clear that it will react with counter-tariffs if necessary. For the first time, its so-called Anti-Coercion instrument - a protective instrument against economic coercion by third countries could also be used. However, the EU's primary objective remains to avoid escalation and to act within the framework of WTO rules. The reaction of the EU's trading partners to the Trump administration's latest measures is in line with the words of WTO Secretary-General Okonjo-Iweala: 'The WTO was created precisely for times like these – to provide a space for dialogue, contain conflict and support an open, predictable trading environment.'

The WTO's multilateral rules remain a central point of reference, especially for the US' trading partners. This is a good sign for anyone who believes in rules-based international cooperation.

The future of the WTO

But what if the US does withdraw from the WTO? Trump has not yet announced this step, but his unpredictability remains a risk. Such a withdrawal would set an unprecedented instance and would have significant consequences for the global trading system. No country has ever left the WTO – and the US plays a central role as a trading partner for many countries. If it does happen, the US would have to negotiate bilateral trade agreements with over 165 countries – and that with a shrunken government apparatus. This would be an enormous administrative task that would create considerable uncertainty for the global economy.

Trump's tariff bat could therefore have the opposite effect and lead many countries back to multilateralism. The WTO still offers an attractive set of rules that significantly facilitates international trade through transparency, reliability and competition rules. These advantages are often overlooked, despite justified criticism of the organisation. It is therefore unlikely that the WTO will immediately erode, especially since there are no institutional alternatives. Moreover, almost all existing trade agreements are based on WTO law. Although there are other notorious obstructionists besides the US, such as India, the WTO remains an indispensable framework despite its weaknesses. Ultimately, the WTO's customs system alone, as the smallest common denominator, continues to offer great advantages for its members. For many states, it may be more attractive to push for reforms within the system than to expose themselves to the chaos of unregulated trade relations.

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And what about the rest of the world? Though they form a rather heterogenous group, every state is closely monitoring current developments. It is to be expected that regional trade alliances such as the African Continental Free Trade Area (AfCFTA), the Asian trade regime ASEAN or supra-regional agreements such as the EU-Mercosur partnership will gain in geopolitical importance. And let's not forget: the European single market remains the most successful regional trade regime in the world – a model that could serve as an example for other

regions.

Regardless of how the EU responds to the US tariffs, it should use its strategic, economic and political resources in a targeted manner. The aim should be to bring together like-minded partners worldwide and to jointly advocate for a reformed multilateral trading system. The WTO already offers concrete opportunities for this. For example, the EU could gain influence if it took a clear position on the future of agricultural policy. Determined support in this area would send a strong signal of partnership to African countries – those that have put this issue on the WTO agenda.

As the Director-General of the *UN Trade and Development* (UNCTAD), Rebecca Grynspan, emphasised at a recent G20 meeting: 'We believe in a world with better rules, not a world without rules.' If the EU and the vast majority of the 166 WTO member states remain true to this principle, they will send a clear signal to those who, in their *'me first'* thinking, have lost sight of the bigger picture. Not the right of the strong, but the strength of the law must prevail in the political arena – this applies particularly to trade policy. It is now up to the majority of WTO member states to ensure that this principle is upheld.



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