Trump’s China tariffs ruled illegal by World Trade Organisation

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The World Trade Organisation ruled on Tuesday that tariffs imposed on $234 billion worth of Chinese goods in 2018 are illegal under international trade regulations.

But the decision is not going to yield any relaxation of the Trump administration’s trade war against China and its assault on the international trading system more broadly. Rather it will see its further intensification.

The decision, made by a three-person panel of the WTO, is the result of action launched by China against the imposition of tariffs by the US in 2018 under Section 301 of the 1974 Trade Act, which empowers the American president to take action against countries deemed to be acting against US commercial interests.

The panel found that “the United States has not met the burden of demonstrating that the measures are provisionally justified.”

China took action on the grounds that the US measures contravened the most-favoured nation principle because they were not applied to all WTO members but singled out China. The panel agreed.

“China has demonstrated that the additional duties apply only to products from China and thus fail to accord to products originating in China an advantage granted to like product in all other WTO members,” it said.

In a statement on the decision, China’s Ministry of Commerce said it “approves of the objective and fair ruling of the expert group” and described the WTO as the “core of the multilateral trading system which forms the cornerstone of multilateral trade.” It said China hoped that “the American side will fully respect the ruling of the expert group.”

There is no chance of that.

Under WTO rules, the US has 60 days to appeal the decision. But that will not take place. This is because the Trump administration has rendered the WTO appeals system inoperable by refusing to back the appointment of new judges to the appellate body when the terms of existing members expired. As a result, the appeals process has been unable to function since December last year.

The attack on the appeals system is part of a broader campaign against the WTO, with key sections of the administration reaching the conclusion that it should be abolished because its decisions have been to the detriment of the US while benefitting China.

These positions, which are supported by the Democratic Party, were on display in the reaction to WTO decision by key figures in the administration and the Republican Party.

US Trade Representative Robert Lighthizer said the panel report confirmed what the Trump administration has been saying over the past four years. “The WTO is completely inadequate to stop China’s harmful technology practices.”

He claimed the panel did not dispute the “extensive evidence” submitted by the US of intellectual property theft by China but “the WTO provides no remedy for such misconduct. The United States must be allowed to defend itself against unfair trade practices, and the Trump administration will not let China use the WTO to take advantage of American workers, businesses, farmers and ranchers.”

Speaking to reporters on the WTO decision, Trump said he would consider the ruling. That consideration is certain to involve further attacks on international trade rules.

“Maybe we’ll have to do something about the WTO because they let China get away with murder. We’ll take a look at that. … Maybe they did us a big favour.”

This last remark indicates where the administration is likely to head as it seizes on the decision to portray the

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US as the victim of biased WTO decisions as it seeks to overturn the organisation and the international trading rules on which is based.

That course of action was certainly indicated in the twitter remarks of Republican Senator Josh Hawley. He wrote that the ruling was “more evidence that the WTO is outdated, sclerotic, and generally bad for America. USA should withdraw and lead the effort to abolish it.”

That such sentiments are being articulated by leaders of the Republican Party, which in the past was an advocate for free trade, is a remarkable indication of the turn by powerful sections of the US ruling class to a policy of overturning the international trade rules established after World War II and returning to the dog-eat-dog relations that proved so disastrous in the 1930s.

This turn is an expression of the extent of the economic decline of the US and the view in growing sections of the ruling class that China’s economic advancement is a direct threat to American economic dominance. These positions have also become entrenched in the Democratic Party, with one of the themes of the Biden campaign being that Trump has been too “soft” on China.

The call for stronger action against the WTO was also voiced by Michael Stumo, the president of the Coalition for a Prosperous America, an anti-China business lobby group.

He told the *Wall Street Journal* that the “WTO ruling shows that Geneva bureaucrats do not want the US to protect its national and economic security interests” and that “the relevance and the usefulness of the WTO has been further called into question as it protects China’s state-directed economy from change.”

The reaction from the administration has implications that go far beyond China. The European Union is facing a tariff threat from the US over the demand that it open its markets to a greater volume of US agricultural exports. Action could also be taken under Section 301 if EU member states go ahead with plans to impose a tax on high-tech US digital companies.

Reporting on the WTO decision, Bloomberg said the 27-member EU “may breathe a sigh of relief over Tuesday’s WTO verdict” because it had been threatened with Section 301. This is a complete misreading of the situation.

The reaction to the decision indicates that the administration will double down on its actions as it sends a wrecking ball through the international trading system and its organisations.

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