

New US tariffs: Potential impact on the WTO

On 8 March 2018, US President Donald Trump signed orders imposing tariffs of 25 % on steel imports and 10 % on aluminium imports. These tariffs will apply to all countries, except Canada and Mexico (and possibly also Australia). President Trump has expressed a willingness to discuss the measures with individual countries and make additional exceptions if US (security) concerns are addressed. The European Commission and other US trading partners have expressed their concern at the measures, fearing that they could lead to a wider trade dispute. The Trump administration's justification of the tariffs on national security grounds is also viewed as a threat to the multilateral trading system.

Background

In April 2017, US Secretary of Commerce Wilbur Ross initiated Section 232 investigations into US imports of [steel](#) and [aluminium](#) (Box 1). In his January 2018 reports on both investigations, Secretary Ross concluded that current US imports of [steel](#) and [aluminium](#) threatened to impair US national security (Box 2 provides figures on US imports in 2017). He therefore recommended action to reduce US imports of both materials, through the introduction of trade restrictions, and [proposed](#) several alternative remedies to President Trump (including tariffs, quotas, and a combination of the two, aimed at different groups of countries).

Box 1: Section 232 investigations

Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. §1862), authorises the US Secretary of Commerce to conduct [investigations](#) that seek to determine the effects of particular imports on US national security. If such an investigation finds that those imports threaten to impair national security, the US President can take action to adjust imports. Since 1963, 26 investigations have been initiated, of which eight found potential security threats and five resulted in presidential action. The most [recent](#) investigation dates from 2001 and concerned imports of iron ore and semi-finished steel. It did not find a threat to US national security.

President Trump's tariffs orders

On 8 March, President Trump ordered the imposition of a 25 % *ad valorem* tariff on imports of [steel](#) and a 10 % *ad valorem* tariff on imports of [aluminium](#). The tariffs will take effect after 15 days, namely on 23 March. President Trump decided to exclude Canada and Mexico for now, choosing instead to continue discussing US concerns with them in the framework of the ongoing renegotiation of the North American Free Trade Agreement. The orders indicate that President Trump might also remove or modify the tariffs on imports from other countries, provided that they find alternative ways of addressing US national security concerns. One country that [reportedly](#) will be granted an exemption is Australia. Parties located in the USA that are directly affected by the tariffs will, in certain cases, be able to request exclusions (e.g. limited domestic supply of an article). President Trump's controversial decision led to the [resignation](#) of his top economic advisor, Gary Cohn.

Box 2: Selected figures on US imports of steel and aluminium

According to the Section 232 investigations, the US imported around [30 %](#) of its steel in 2017, and [64 %](#) of its aluminium in 2016 (this figure rises to [89 %](#) for primary aluminium, i.e. not recycled).

The Peterson Institute for International Economics (PIIE) has [calculated](#) the size and origin of US imports of steel and aluminium for 2017 (in terms of value). In the case of steel, total US imports amounted to US\$29 billion, and the top 5 foreign sources were the EU (US\$6.2 billion), Canada (US\$5.1 billion), South Korea (US\$2.8 billion), Mexico (US\$2.5 billion) and Brazil (US\$2.4 billion). For aluminium, total US imports amounted to US\$17 billion, and the top 5 sources foreign sources were Canada (US\$6.9 billion), China (US\$1.8 billion), Russia (US\$1.6 billion), the United Arab Emirates (UAE) (US\$1.3 billion) and the EU (US\$1.1 billion).



Initial responses from US trading partners

Since President Trump first announced his intention to impose tariffs, on 1 March, the European Commission and key US trading partners have expressed their concern over and, in some cases, readiness to respond to the measures. The Commission [stated](#) that it would 'react firmly and commensurately to defend [EU] interests' (see Box 3). It also [expressed](#) doubt about the pretext of national security, arguing that the EU is a traditional US ally. China responded to President Trump's initial announcement by [saying](#) that it 'would have to make a justified and necessary response' should the US decide to proceed. Japan has [stated](#) that the US measure would have a 'big impact' on bilateral ties, and South Korea indicated that it might file a complaint at the World Trade Organization (WTO).

Box 3: Commission plan for the EU's response

The Commission is [seeking](#) an exemption for the EU from the US tariffs. The Trump administration will [reportedly](#) use five guiding principles to decide on exemptions for US allies. The Commission has, at the same time, [prepared](#) a proposal on how to respond to the US tariffs, if necessary. That plan consists of a three-track approach:

- (1) File a complaint against the USA at the [WTO](#), possibly in coordination with other WTO members.
- (2) Protect EU markets against potential surges in steel and aluminium imports (through [safeguard measures](#)).
- (3) Impose tariffs on imports of particular US products that would match the economic loss suffered by the EU (a first estimate by the PIIE put that loss at US\$2.6 billion). The Commission has discussed a provisional list of US goods.

A major [concern](#) across the globe is that the US tariffs could result in [tit-for-tat](#) trade measures from US trading partners, which in turn could trigger a new response from the Trump administration resulting in further escalation. The ensuing downward spiral could give rise to a broad trade dispute that would harm economic growth. On 3 March, President Trump showed how such a scenario could unfold, by [suggesting](#) that he would respond to any new EU tariffs by putting a tax on imports of European cars. At the same time, some commentators have [pointed out](#) that Trump's final decision signals a willingness to discuss the tariffs and apply additional exceptions if certain US conditions are met. That might reduce the risk of immediate escalation.

Security exceptions and the multilateral trading system

The Trump administration bases its decision to impose tariffs on steel and aluminium imports on national security concerns. Under WTO law, countries can indeed invoke national security to justify trade restrictions: the General Agreement on Tariffs and Trade (GATT) contains security exceptions in [Article XXI](#) that permit WTO members to deviate from the agreement's rules in specific cases. So far, countries have [rarely](#) invoked these exceptions and the WTO has [never](#) had to make a ruling on it (though recently there have been a few instances in which Article XXI GATT was [brought up](#), including a [dispute](#) between Qatar and the UAE).

If the US tariffs are challenged in Geneva (as has happened before, see Box 4), WTO judges will likely have to rule on the question of whether these measures constitute a violation of WTO rules. Given the fact that the Trump administration is widely expected to invoke Article XXI GATT in its defence, such a case would probably involve an assessment of the applicability of security exceptions. That would make it an extremely sensitive matter to adjudicate, since it would touch directly on US national sovereignty. Article XXI GATT is also [often](#) read as saying that it is up to the member invoking it to [judge](#) if a measure is in its national security interests. Some [experts](#) therefore [consider](#) it unlikely that the WTO would rule against the Trump administration on this issue.

Irrespective of the outcome, however, a WTO ruling on these tariffs could have a profound impact on the multilateral trading system. If, on the one hand, the Trump administration were to win a dispute, its successful invocation of a security exception at the WTO would create a precedent for other countries to follow. That could ultimately lead to the hollowing out of existing multilateral trade rules. A ruling against the Trump administration, on the other hand, could severely reduce US commitment to the WTO. Given the political and economic importance of the USA, that would also seriously undermine the multilateral trading system.

Box 4: US steel tariffs under the Bush administration (2002-2003)

In 2002, the Bush administration [introduced tariffs](#) of 8-30 % on a range of imported steel products for a period of three years. Various parties, including the then European Communities, successfully [challenged](#) this measure at the WTO, and the US dismantled the tariffs in 2003. The Bush administration's measure differed from the present steel tariffs in that it was [defined](#) as a safeguard measure, was [based](#) on [Sections 201-203](#) of the US Trade Act of 1974, and largely exempted preferential trading partners (Canada, Israel, Jordan, Mexico) as well as developing countries.