

**Position paper: EU responses to US additional custom duties
on imported steel and aluminium products**

French large-scaled companies welcome the outcome of preliminary discussions between the European Commission and the Trump administration leading to the temporary suspension of the additional custom duties on imported steel and aluminium products set forth by the US presidential proclamations of 8 March 2018 to EU-originated goods.

In the context of upcoming bilateral EU-US talks to target a permanent exemption for EU goods and the public consultation and investigations launched by the European Commission (on possible impact of these additional duties, the need for safeguard measures and the list of US-originated products that could be subject to “rebalancing measures”), Afep would like to share the following position:

A. Priority to a meaningful bilateral dialogue on trade irritants

- Given the possibility to enter into a generalised trade war (such as the on-going escalation between the US and China), French large-scaled businesses call for a continued EU-US dialogue before the imposition of EU countermeasures. Therefore, they support the European Commission’s efforts to build a solid bilateral trade agenda in order to find a negotiated solution to the steel and aluminium crisis.
- That being said, such agenda should encompass **trade irritants on both sides and could not consist in dealing only with US requests**. Bilateral talks should also include discussions on how to unblock the WTO framework, at least in its DSM branch.
- Relaunching TTIP **negotiations could be an option but only in case there were a prior understanding that both Parties should obtain mutual satisfaction of their respective trade interests**. As for the bilateral trade agenda to be discussed to solve the steel and aluminium crisis, the US should be ready to make moves on their side: for instance, to open key sectors such as their public procurement markets or give in on their request to obtain regulatory relaxation on the EU side when it comes to sanitary/phytosanitary requirements.
- If TTIP were to be restarted, a compromise should be also found on the linkage to the Paris Agreement, as a key element for taking into account climate issues in bilateral FTAs.

B. A need for WTO compliant, proportionate and economic-tested measures in the event of unilateral responses

- In case bilateral talks are not conclusive and the US decide not to extend the EU-specific waiver on steel and aluminium additional duties, the EU should come up with appropriate unilateral responses, taking into account **all stakeholders’ interests** and **observing a strict WTO compliance**. While the US are deliberately undermining the multilateral trading system, the EU cannot afford to also breach WTO rules, even if its trade interests are at stake.
- Therefore, the EU should favour the **WTO DSM to challenge US measures** and file a complaint in order to trigger a panel, notably on the ground that national security reasons invoked by the Trump administration are not substantiated.

Safeguard measures

- In meantime, the European Commission should carefully analyze **whether safeguard measures are needed to protect its steel and aluminum industry** from import inflows from third parties due to trade diversion (notably China, India or Korea).
- In carrying out such investigations, the European Commission should in particular assess the **effectiveness of trade diversion as well of existing specific injury to the EU industry, according to GATT and the Agreement on Safeguards (SG Agreement) legal requirements**, taking into account the fact that a number of EU steel and aluminium products are already sheltered from injuries caused by third-countries imports on the basis of pending anti-dumping measures.

- Possible safeguard measures should preferably **not apply to items for which there are currently not sufficient industrial capacities on the EU internal market** to meet the demand of EU upstream industries, in order to avoid excessive price rises in the coming months.
- If legally possible with regard to MFN requirements under GATT and SG Agreement, **safeguard measures should not apply to products originated from Turkey, on the basis of the Custom Union, and from EEA countries, on the basis of the internal market maintained by this Agreement.**

Rebalancing measures

- If a consensus surfaces towards adopting **EU interim rebalancing measures** before a possible panel ruling, the **approach should not be based on mere political considerations** such as targeting “symbolic American-made products” or US products originating from President Trump-leaning constituencies, but **rather on an economic-minded assessment with a view to minimizing side-effects for EU companies.**
- French companies therefore insist that, to the extent possible, potential EU “rebalancing measures” should be WTO-compliant and avoid **immediate negative impacts for EU companies** - due to EU additional duties on products produced or sold by EU companies - or **second-tier side-effects through targeted US countermeasures**, such as symmetrical additional duties on similar products as the one hit by the EU in its interim measures. It is utmost important to avoid escalation.

- With a view to put together operational criteria, French businesses suggest that EU “rebalancing measures” should preferably not hit items:
(1) produced by US subsidiaries of EU companies and largely exported on the EU markets or entered substantially in the supply chain of EU-originated products
or
(2) produced equally on both sides of the Atlantic (identical or similar products) and for which the current trade balance is in favour of EU products.