

Position paper:

US trade-restrictive measures on EU goods and EU responses

A. Reaction to the imposition of additional custom duties on EU-originated steel and aluminium products

- Large French companies **deeply regret the unilateral decision by the United States to impose additional custom duties on steel and aluminium products originated in the EU member States as from the 1st of June 2018**, based on presidential proclamations of 8 March 2018.
- Large companies consider that, by adopting such a most likely GATT-infringing measure, **the US are sending a very negative signal to their main trading partners, the multilateral trade system and the Transatlantic business community.**
- They advocate that the United States promptly reassess the situation and **prioritize again a constructive bilateral dialogue with the EU Commission, having regard to the mutually beneficial trade and investment flows taking place between the two jurisdictions.** Large companies are still adamant that a **sharp escalation in trade-restricting measures should be avoided**, in order to prevent a so-called “trade war” outlook.

B. Industry’s high concerns with regard to on-going “section 232” investigations on automotive imports

- In the light of additional duties imposed on steel and aluminium products, large companies are **extremely concerned by the on-going investigations** carried out by the Department of Commerce on the basis of section 232 of the Trade Expansion Act on the alleged ground that **imports of automotive and parts thereof would pose a threat to the US national security.**
- **Such a determination would be clearly inconsistent with GATT rules**, the possibility of a risk for national security being very difficult to substantiate. Relying on this basis for justifying additional trade-restrictive measures would therefore make up for a new attack to the disciplines underpinning the multilateral system.
- Moreover, additional duties on these goods would have **a much bigger disturbing impact on bilateral trade flows** that levies on steel and aluminium products, **with an increased risk of escalation toward a protectionist spiral.**
- **The renewed bilateral US-EU dialogue** that large French companies are calling for should aim **at finding mutually beneficial solutions on automotive-related trade issues and, as a matter of priority, discarding this time the imposition of unilateral measures.**

C. A need for WTO compliant, proportionate and economic-tested measures in response to US additional duties and their effects on EU markets

- In reaction to US unilateral measures, large French companies **support the EU move toward unilateral responses to the imposition of these duties on steel and aluminium**. They deem it important to make sure that **EU businesses' rights under the WTO are duly preserved and that the United States are further incentivised to reconsider their restrictive measures**. Large French companies keep insisting that all **these responses are consistent with the EU's commitments under the WTO, with a view to comforting the rule-based multilateral system**.
- Therefore, they welcome **the EU's request for consultations under the WTO dispute settlement mechanism** notified on the 1st of June 2018 in order to challenge the compliance of US additional duties with the GATT core principles.

1) Rebalancing measures

- Consequently, large companies support as well as the EU principle decision to resort to **interim rebalancing measures** announced by the European Commission on the 29th of May 2018 that aim at asserting EU's rights for compensation prior to a panel award.
- Even if such option has not been retained for the rebalancing measures adopted on the 20th of June 2018, large French companies insist that the **approach should be preferably based on an economic-minded assessment with a view to minimizing side-effects for EU companies**.
- Therefore, items triggering **direct 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** on same categories of products should be excluded from the scope of rebalancing measures.

With a view to put together operational criteria, large 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.**

2) Safeguard measures

- the European Commission should take advantage of the on-going investigation to carefully analyze **whether safeguard measures are effectively required to protect its steel and aluminum industry** from import inflows from third parties due to trade diversion.
- Prior to adopt interim measures, 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**.

- 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 from EEA countries and Switzerland, on the basis of existing free trade agreements, neither from Turkey on the basis of the Custom Union.**

About AFEP

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Afep is involved in drafting cross-sectoral legislation, at French and European level, in the following areas: economy, taxation, company law and corporate governance, corporate finance and financial markets, competition, intellectual property and consumer affairs, labour law and social protection, environment and energy, corporate social responsibility and trade.

www.afep.com

Contact

Marc Poulain, international trade negotiations director | m.poulain@afep.com | +33 (0)1 43 59 85 34 / +32 (0)23275726