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Op-Ed: “Tariffs Without a Treaty: The EU’s Belated Implementation of the Turnberry Agreement”

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In 2024, trade relations between the European Union and the United States accounted for 30% of global trade in goods and services and 43% of global GDP. Far from stagnating, trade and investment between the two trading blocs have doubled over the last decade, reaching €1,600 billion in 2024. On 2 April 2025 – ‘Liberation Day’, as President Trump called it – the President of the United States imposed a series of tariffs on imported goods, notably with a view to reducing the trade deficit. In May 2026, in order to flesh out the [Turnberry agreement](#) of August 2025, the Council and the European Parliament reached an agreement on the Commission’s regulation proposals. On June 16, 2026, a majority of MEPs voted in favour of the [compromise text](#). The forthcoming regulations on the adjustment of customs duties on the import of US goods will remove tariffs on US industrial goods and certain agricultural products. Will these regulations put an end to the tariff war triggered by President Trump?

The Turnberry Agreement: Anything but an Agreement under International Law

In politics, nothing is more admirable than having a short memory. As early as the 1990s, the creation of a transatlantic free trade area had been envisaged. In 2006, in response to the failure of the Doha trade negotiations, the EU and the US began negotiating a Transatlantic Trade and Investment Partnership (TTIP), that is to say, a free-trade agreement covering topics as diverse as technical barriers to trade, public procurement, investment, and the reduction of customs duties.

These negotiations were halted by President Donald Trump during his first term in office. Since April 2025, the 'Liberation Day' tariff offensive against the EU has been punctuated by threats, announcements on Truth Social, U-turns, and temporary exemptions. To put an end to the spiral of US protectionist measures and European retaliatory measures, the European Commission reached a framework agreement with the US administration on 'reciprocal, fair and balanced trade'. Unveiled on 27 July 2025, this agreement was the subject of a joint statement on 21 August 2025 at a golf course owned by President Trump in Turnberry, Scotland.

What was presented on 21 August 2025 as an 'agreement' is anything but an agreement under international law whose terms would be binding upon both parties. It is, at best, a political compromise, intended to bring an end to the tariff war. The outcome of these rushed negotiations is, in any case, a far cry from what had been envisaged under the Obama administration during the negotiations on the now-defunct TTIP, which were intended to lead to the conclusion of a trade treaty running to several hundred pages.

The Member States and the other EU institutions were presented with a *fait accompli*. The Commission has thus deviated from the framework set out for the negotiation of free trade agreements in which the customs component is essential. Indeed, the Council did not issue any negotiating directives to the Commission, as required by Article 218 TFEU.

The Turnberry Joint Declaration, which comprised 19 points spread over four pages, was [hailed by the Commission as a triumph](#), as European undertakings would avoid prohibitive US customs duties. The deal was striking because of the marked asymmetry in the parties' respective tariff concessions. Indeed, the removal of European customs duties on imports of American industrial products did not, subject to a few exceptions (cork, aircraft and their components, and generic medicines), lead to the reciprocal elimination of American customs duties levied on European products. In short, in order to put an end to the tariff row initiated by the Trump administration, the EU has committed to eliminating tariffs on industrial goods (which is already the case for 66% of them) and to granting preferential access to certain US agricultural and food products (nuts, soybean oil, processed foods,

including ketchup). In return, the White House has committed to capping tariffs on European products at 15%.

The Asymmetry in the Implementation of the Parties' Commitments

On the one hand, US customs duties on certain European products were immediately reduced under [Executive Order 14326](#), which came into force on 7 August 2025. This order replaced the additional customs duties in place since Liberation Day with a rate of 15% (where goods originating in the EU are not subject to a duty under the Most Favoured Nation (MFN) clause). As a result, duties on motor vehicles and certain vehicle spare parts fell from 27.5% to 15%. However, this was not necessarily good news for all European exporters. European alcoholic beverages and spirits, which had previously been subject to an average duty of 4.8%, have been subject to a rate of 15%.

Finally, the additional customs duties on imports of steel (25%) and aluminium (increased from 10 to 25%) originating in the EU, which came into force in March 2025, have not been reduced on the grounds that they are subject to negotiation with a view to better protecting both markets from imports from Asia. These US tariffs cover 407 categories of derivative steel and aluminium products, including motorcycles and washing machines.

On the other side of the Atlantic, customs law falls within the scope of the Union's common commercial policy, one of its exclusive competences. Any amendment to customs tariffs requires an amendment to the EU Customs Code, in accordance with the ordinary legislative procedure (Article 207(2) TFEU). Unlike the broad interpretation of presidential powers in the United States – which prevailed until the Supreme Court's ruling of 20 February 2026 in [Learning Resources, Inc. v. Trump](#) – recourse to legislative power has been the norm in Europe from the outset. The fact that customs duties cannot be set by the European Commission inevitably leads to delays, another source of irritation for the Trump administration.

The setbacks of the US President's tariff policy

The EU legislature was unable to negotiate the adoption of the two Commission's proposals in a quiet atmosphere given that the US tariff policy has seen numerous twists and turns over the past few months. In

Learning Resources, Inc. v. Trump, the Supreme Court ruled that the 1997 International Emergency Economic Powers Act (IEEPA) does not give the President the power to set tariffs. In short, customs duties are taxes that do not fall within the President's remit. Despite this setback, President Trump quickly returned to the fray by invoking legislation other than the IEEPA. On February 20th, he [announced](#) a 10% *ad valorem* duty rate all articles imported into the US under Section 122 of the Trade Act of 1974. This provision allows the president to impose tariffs of up to 15% for up to 150 days in response to "large and serious" balance-of-payment deficits. Given that Section 122 expires after 150 days, President Trump is intent upon invoking Section 301 of the Trade Act, which authorises him to take action against foreign trade policies that are unjustified, unreasonable, or discriminatory, and that burdens or restricts US commerce. However, the planned tariffs – of 10 to 12.5% – cannot be imposed immediately as the envisioned action is subject to a public consultation.

The Adoption of the Commission's Proposals

Whilst, on the US side, tariffs on European goods have been raised fairly quickly, the EU was bogged down in time-consuming legislative procedures. In addition, the missteps of the US presidency, notably its attempts to annex Greenland and the Supreme Court judgment in *Learning Resources*, disrupted the course of negotiations in Brussels. Frustrated by the slowness of the EU legislative process, the US President threatened, on 1 May, to raise import duties on cars and lorries from the EU to 25% if the matter was not resolved by 4 July.

The Commission adopted its proposals on 28 August 2025. The first [proposal](#) removes the remaining customs duties on US industrial products (34% in 2024) and grants preferential market access – notably through tariff quotas and reduced customs duties – to certain US seafood and 'non-sensitive' agricultural products. Less controversially, the [second regulation](#) concerns the extension of the suspension of customs duties on imports of lobster, including processed lobster. Following several trilogues, on 20 May 2026, that the European co-legislators reached an agreement on both proposals, bringing an end to months of uncertainty. On the 16th of June 2026, the European Parliament adopted the main regulation.

The European Parliament's Stance: Inclusion of Safeguard and Suspension Clauses

Despite the reluctance of the Commission and several Member States, starting with Germany, the European Parliament rejected the Commission's push for the fast-track adoption of its two proposals and succeeded in securing the inclusion of safeguard and suspension clauses. These clauses are reminiscent of those provided for in the EU-Mercosur interim trade agreement, which provisionally entered into force on 1 May 2026.

Thus, the main regulation provides for a safeguard clause, which may be triggered in the event of significant increases in imports from the US, insofar as these would cause serious harm to domestic producers. At the request of at least three Member States, the EU industry, trade unions, or on its own initiative, the Commission may suspend, in whole or in part, the concessions granted to US products. In any event, it must assess whether the increase in imports has caused or is likely to cause serious harm to EU producers.

Furthermore, the Commission is also empowered to suspend the concessions granted to the US in respect of steel products and aluminium-based products if, by 31 December 2026, the customs duty exceeding 15% on products imported from the EU has not been abolished.

However, several proposals put forward by the European Parliament have not been adopted. In particular, the proposal for a safeguard clause in the event of a threat to the EU's territorial integrity, as well as the suspensive clause making the application of all tariff concessions conditional upon the suspension of US duties on steel and aluminium from the EU, have been shelved.

For the sake of transparency, the Commission will be required to inform the co-legislators of changes in the volumes and values of US exports of goods to the EU.

Will these safeguard clauses be sufficient to reassure European businesses fearing an influx of competitively priced US industrial products? This safety net will only be effective if the EU's executive branch decides to implement it. Indeed, a significant increase in

imports or substantial impacts on European industry do not automatically lead to the suspension of tariff concessions. The European Commission has considerable leeway in this regard.

Finally, a sunset clause stipulates that the regulation will automatically expire on 31 December 2029. The respective concessions will therefore remain in force until the end of the US presidential term and beyond the next European elections, which are due to take place in May 2029.

Last, one has to bear in mind that the EU's wish to defuse the conflict will come at a budgetary cost. Customs duties constitute own resources for the EU budget. Waiving them inevitably has a budgetary impact, which can exacerbate tensions between the EU institutions and the Member States. Whilst the Commission estimates in the preparatory work for the proposed customs regulation that the removal of customs duties on US industrial products will have only a 'limited negative impact on the EU budget', it acknowledges an annual loss of €3.6 billion in revenue.

A More Harmonious Relationship with the Trump Administration?

At times allies, at times rivals, the EU and the US have always oscillated between unity and conflict. The latest twist in their long-standing love-hate relationship, the Turnberry Deal of August 2025, has perplexed experts. The EU legislature has shown itself willing to flesh out the commitments made by the European Commission to its American trading partner.

Be that as it may, this approach will leave legal experts perplexed. Owing to the urgency of the matter, the Commission has not produced any impact assessment, despite being required to do so under the [2015 'Better Regulation' interinstitutional agreement](#). Moreover, the budgetary implications are far from insignificant. The EU legislator has bowed to a political commitment struck between the European executive and the White House on a golf course in Scotland. That said, the concessions made to the US will only apply provided that the US complies with the Turnberry Deal. We find ourselves in a grey area where hard law and soft law blur.

Undoubtedly, the US President's transactional approach has prevailed over the rigour of European decision-making processes. Will the EU's

customs policy suffice to prevent a new tariff war? It is somewhat asking a question to which the answer is already known.

In any case, this whirlpool will remind us of Choderlos de Laclos' 1782 epistolary novel *Dangerous liaisons*. We should leave the final word to Cécile de Volanges, who was seduced by the infamous Vicomte de Valmont: 'Who could fail to shudder at the thought of the misfortunes that a single dangerous liaison might cause?'

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