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# **The Implementation of the EU-US Political Agreement on Reciprocal, Fair, and Balanced Trade**

*by*

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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 blocks 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 of the Union and the European Parliament reached an agreement on the Commission’s regulation proposals,. On June 16, a majority of MPs confirmed this agreement. The forthcoming regulations on the adjustment of customs duties on the import of US goods originating 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?

### **1. 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 an 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 on 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 trade agreements in which the customs component is essential. Indeed, the Council of the Union did not issue any negotiating directives to the European Commission, in accordance with Article 218 TFEU, which is the standard procedure for the negotiation of trade and investment agreements.

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 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, with a few exceptions, 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 per cent of them) and to granting preferential access to certain

US agricultural and food products (nuts, soya oil, processed foods, including ketchup). In return, the White House has committed to capping tariffs on European products at 15 per cent.

## **2. The Asymmetry in the Implementation of Commitments Relating to the Removal and Reduction of Customs Duties**

On the one hand, US customs duties on certain European products were immediately reduced under Executive Order 14326 of 31 July 2025, 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 per cent (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 per cent to 15 per cent. 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 per cent, have been subject to a rate of 15 per cent. Besides, no customs duties are levied on critical natural resources, including cork, aircraft and their components, and generic medicines (the US MFN rate has applied to these since September 2025).

Finally, the additional customs duties on imports of steel (25 per cent) and aluminium (increased from 10 to 25 per cent) originating in the EU, which came into force in March 2025, have not been reduced on the grounds that they are to be 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. Unlike the broad interpretation of presidential powers in the United States – which prevailed until the Supreme Court ruling of 20 February 2026 – 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.

## **3. 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. To cut a long story short, President Trump asserted his authority to impose the Liberation Day tariffs under the International Emergency Economic Powers Act (IEEPA). The state of emergency was invoked very broadly. Many commentators believed at the time that the president had overstepped the letter of the Constitution by violating the separation of powers. Multiple lawsuits from affected companies and U.S. States were filed shortly after the 2<sup>nd</sup> of April Liberation Day announcement. In brief, the applicants argued that the tariffs were unconstitutional as the word "tariff" does not appear in the IEEPA. Likewise, any other congressional statute giving the president the power to regulate importation confers him the competence to impose taxes.

On February 20, 2026, in *Learning Resources, Inc. v. Trump*, the Supreme Court ruled that the IEEPA does not give the president the power to set tariffs. In the Court's view, customs duties are taxes that do not fall within the President's remit; this remit lies solely with the US Congress, in accordance with Article I of the Constitution.

Despite his setback at the Supreme Court on 20 February, President Trump quickly returned to the fray by invoking legislation other than the IEEPA. On February 20<sup>th</sup>, he announced a 10 percent *ad valorem* duty rate all articles imported into the United States under Section 122 of the Trade Act of 1974.<sup>1</sup> This section 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. The surcharge imposed in this proclamation is in addition to 'most-favoured-nation' duties and any other duties.<sup>2</sup> However, it does not apply to several products, such as certain critical minerals, energy products, fertilizers, certain agricultural products, including beef, tomatoes, and oranges, pharmaceuticals and pharmaceutical ingredients, etc.<sup>3</sup>

That said, section 122 expires after 150 days unless Congress decides to extend them. It does not provide for any formal procedure; a simple proclamation is sufficient. Actions under Section 122 must be applied uniformly and cannot target individual countries.

President Trump is also intent upon invoking Section 301 of the Trade Act of 1974,<sup>4</sup> which authorises him to take action against foreign trade policies that are unjustified, unreasonable, or discriminatory, and that burdens or restricts US commerce. On 12 March 2027, the US Trade Representative (USTR) launched investigations into the allegedly unfair practices of 60 trading partners, including the EU and the United Kingdom. On June 2<sup>nd</sup>, the Office of the USTR issued a comprehensive report, *Acts, Policies, and Practices of Various Economies Related to the Failure to Impose and Effectively Enforce a Prohibition on the Importation of Goods Produced with Forced Labor*, that supports the findings that the 60 countries failed to adequately enforce prohibitions on imports made with forced labor. The planned tariffs – between 10 to 12,5% - cannot be imposed immediately as the envisioned action is subject to public comment.

#### **4. The Adoption of the Two Proposals on the Adjustment of Customs Duties on the Import of Certain Goods Originating in USA**

As US tariffs on goods originating in the EU had been rapidly reduced to 15 per cent since August 2025, it fell to the EU institutions to honour the commitment made by the European Commission at Turnberry.

The missteps of the US presidency, notably its attempts to annex Greenland, disrupted the course of negotiations in Brussels. As the above discussion has evidenced, the US Supreme Court's ruling on 20 February 2026, condemning the President's tariff policy, did little to improve matters.

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 per cent if the matter was

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<sup>1</sup> Proclamation 11012 of February 20, 2026 Imposing a Temporary Import Surcharge To Address Fundamental International Payments Problems (1).

<sup>2</sup> Proclamation 11012 (3).

<sup>3</sup> Proclamation 11012, preamble 14.

<sup>4</sup> 19 U.S.C. 2132.

not resolved by 4 July. Following several trilogues, the two branches of the European legislature reached a provisional agreement on 20 May 2026,<sup>5</sup> regarding the adoption of two regulations aiming to implement the tariff aspects of the Turnberry Deal of August 2025.

The first proposal removes the remaining customs duties on US industrial products (34 per cent 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 controversial, the second regulation concerns the extension of the suspension of customs duties on imports of lobster, including processed lobster.<sup>6</sup> Trump complained that Canadian lobster had better access to the EU market. The matter is settled: this crustacean is not a ‘sensitive’ product, given that in 2024 the EU imported it to the value of 72 million euros.

Whilst, on the US side, tariffs on goods from the Old Continent have been raised fairly quickly, the EU was bogged down in time-consuming legislative procedures. The European Commission adopted its proposals on 28 August 2025. It was not until nine months later, on 20 May 2026, that the European co-legislators reached agreement on the two texts. The May 2026 political agreement brought an end to months of uncertainty. On the 16th of June 2026, the European Parliament adopted by 440 votes to 151 with 50 abstentions the main regulation. The second proposal concerning the prolongation of tariff-free imports of lobster was endorsed by 444 votes to 152 with 54 abstentions. Regulation (EU) 2026/1455 of the European Parliament and of the Council of 25 June 2026 on the adjustment of customs duties on imports of certain goods originating in the United States of America and opening of tariff quotas for imports of certain goods originating in the United States of America was published in the Official Journal on June 30, 2026.

## **5. The European Parliament’s Stance: Inclusion of Safeguard and Suspension Clauses**

Despite the reluctance of the European Commission and several Member States, starting with Germany, the European Parliament could not accept the European Commission push to the fast-track adoption of its two proposals. For this reason, MEPs succeeded in securing the inclusion of safeguard and suspension clauses, which 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

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<sup>5</sup> Provisional agreement resulting from interinstitutional negotiations, 27.5.2026.

<sup>6</sup> Proposal for a regulation of the European Parliament and of the Council on the adjustment of customs duties on the import of certain goods originating in the United States of America and opening of tariff quotas for imports of certain goods originating in the United States of America (COM(2025)0471).

customs duty exceeding 15 per cent on products imported from the EU has not been abolished.

However, several proposals put forward by the European legislative body have not been adopted. 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 desire 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 European 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.

## **6. Do the Forthcoming Custom Duties Regulations Herald 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. By reaching a political agreement on tariff concessions on 20 May 2026, 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 European 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 custom policy prevent a new tariff war, which could quickly erupt all of a sudden? It is somewhat asking a question to which the answer is already known. Writing on his Truth Social platform on June 27, 2026, Donald Trump has vowed to impose a 100% import tariff on any European country that introduces a digital services tax on American technology giants.<sup>7</sup> He warned that the punitive penalties would be applied immediately and would completely "supersede" any existing bilateral trade agreements. The Commission is now calling a "dialogue on a future potential dialogue" with its U.S. counterparts.

In any case, this whirlpool will remind us of the 1782 epistolary novel *Dangerous liaisons* of Choderlos de Laclos. 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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<sup>7</sup> For instance, France imposes a Digital Services Tax (DST) on large technology companies, targeting revenues generated from digital advertising and marketplace platforms rather than corporate profits. Britain's 2% Digital Services Tax (DST) applies to major search engines, social media platforms, and online marketplaces with global revenues from their digital businesses exceeding £500 million, and total UK revenues surpassing £25 million.