

U.S. Exports of Whiskey, Juice, and Dairy Products to Europe Targeted for Retaliation against President Trump's Plans to Limit Steel Imports to the U.S.

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U.S. trading partners have begun to signal their plans to consider retaliatory measures in response to President Trump's Section 232 Investigations on steel imports. In particular, European Union (EU) officials recently announced that they have begun assembling a list of U.S. goods, including whiskey, orange juice, and dairy products, to target for retaliation given President Trump's plans to limit steel imports. Since the U.S. exports very little steel to Europe, the EU instead plans to focus on targeting products that are "politically sensitive."

In April 2017, the U.S. Department of Commerce (DOC) [launched an investigation](#) into the effects of steel imports on national security under Section 232 of the Trade Expansion Act of 1962. This investigation—which President Trump asked the DOC to prioritize [in a presidential memorandum](#)—could result in a recommendation by the DOC to impose tariffs on all steel imports to the United States. If imposed, these tariffs could have a significant impact on global steel trade since the restrictions may be broader than those of a typical anti-dumping or countervailing duty case. The DOC also [initiated a similar investigation on aluminum](#) in April 2017.

As part of its expedited investigation, the DOC both [took public comments](#) and [held a public hearing](#) in May 2017. The Trump administration has continued to engage in debates over whether to impose broad tariffs, or alternatively, to use other targeted measures to minimize the impact on its allies. However, for weeks now, President Trump has continued to endorse his intention to crack down on steel imports, invoking national security concerns.

The DOC initially promised to release its report by the end of June but has since signalled that the report will likely come out in early July. The President has also requested an expedited Section 232 investigation of aluminium, for which a report is expected to be released this summer as well.

The DOC conducts such investigations under Section 232 of the Trade Expansion Act, which, among other remedies, allows the U.S. to erect trade barriers against any import deemed to be a national security risk. Under the statute, the DOC issues a recommendation following its investigation. The President subsequently decides whether to take action, and if so, what kind.

Although the WTO has historically allowed its members to invoke a national security exception for trade restrictions relating to national security, the Trump administration's approach is striking since this exception has rarely been invoked in peacetime. U.S. officials maintain that these restrictive measures will help pressure China to stop flooding global markets with cheap steel. However, other major stakeholders in the steel industry appear poised to respond punitively if they are not removed from the crosshairs of such broad measures.

EU officials have expressed a willingness to work with the Trump Administration given shared concerns about Chinese steel. However, if the EU is not excluded from the U.S.' planned sanctions, it views its proposal to target U.S. goods as a viable "contingency plan."

This is not the first time the United States has faced the threat of trade retaliation from the EU. In a 2002 safeguards measure, President Bush imposed steel import duties of nearly 30 percent on most types of steel imported from Europe, Asia, and South America, citing as rationale an attempt to protect the then distressed domestic steel industry. The EU considered retaliating by proposing additional tariffs on U.S. goods—some as high as 100 percent—which it considered to be "an appropriate re-balancing measure" against the tariffs imposed by the Bush Administration. Grouping U.S. goods into a 'short' and 'long' list, the EU planned to target products representing critical exports of key swing states in the 2004 Presidential Election. Some of the most notable targeted goods included orange juice and other fruit juices from Florida, Harley-Davidson motorbikes from Wisconsin, recreational guns and ammunition, and U.S. made textiles and steel products. However, before the EU implemented these tariffs, the WTO issued a formal finding that the U.S. steel tariffs were illegal, concluding that they were an impermissible method for safeguarding the American steel industry. The Bush administration subsequently removed all remaining steel tariffs by December 2003.

The Department's investigation into steel imports is still ongoing, and any EU retaliation will depend on the specific course of action taken by the Trump administration. However, EU Officials have indicated the EU's readiness to respond promptly if faced with unfavorable restrictions. Additionally, just last week, [a coalition of WTO members raised concerns](#) about the Trump administration's invocation of a national security rationale to justify proposed trade barriers. This coalition of members warned that the administration's actions [pose "systemic risks"](#) to global trade.

U.S. exporters, particularly of whiskey orange juice and other fruit juices, and dairy products, should monitor this matter closely and actively participate in discussions and hearings in Washington, DC. For further information and assistance with this matter, please contact any of the authors or the Hogan Lovells Lawyer you work with.

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