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**PRESIDENT-ELECT TRUMP** has threatened to increase United States tariffs to 60 percent on imports from China and 10 percent to 20 percent on imports from other trading partners, including the European Union. In doing so the US would be ignoring its World Trade Organisation commitments and would also rollback the substantial liberalisation that has taken place during the past 80 years, with a potentially major negative impact on the world economy.

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**IN RESPONSE TO THIS THREAT**, the EU should pursue a three-pronged strategy.

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**FIRST, THE EU SHOULD ENGAGE** bilaterally with the US to seek to avoid the imposition of tariffs. This could include an offer to consider measures on facilitation of bilateral trade and on economic security cooperation, while making clear that any trade measures adopted by the EU will be consistent with WTO rules. This offer should be backed up with a credible threat of retaliation that could be implemented if the US decides to impose tariffs on EU exports. Retaliation could take the form of a negative list – the EU would increase its tariffs on all US exports to the same level as the US tariffs, except for products imported from the US identified as crucial for the EU.

**SECOND, THE EU SHOULD ACT**

The return of Donald Trump as United States President raises fundamental challenges for the European Union. On the international level, the main risk is that unilateral US action could fatally weaken three institutions that are critical for EU interests: NATO, the Paris Agreement forged in the United Nations Framework Convention on Climate Change, and the World Trade Organisation. Moreover, by threatening to raise tariffs against imports from the EU and many other economies, Trump's policies could have harmful effects on the EU economy both directly and by weakening US and global economic growth.

These challenges are interconnected and require a strategic response. The EU must act firmly to defend its interests in a coordinated and unified way, and to show a capacity for international leadership. It should not take any action that would contribute further to the erosion of multilateral institutions. It should strengthen its partnerships with like-minded countries and the Global South.

The EU and its members should be ready to increase defence expenditure in order to take on a greater commitment under NATO. The EU should also be ready to assume a leadership role both in the WTO and in the Paris Agreement. This implies staying the course on its net-zero commitment and promoting WTO reform.

This Policy Brief focuses on possible new Trump tariffs, based on statements made by the President-elect. We start by discussing the objectives the US might pursue through tariff policies, the legal instruments to implement those policies and their relationship with WTO rules. We then summarise the literature on the impact of the Trump tariffs, both those adopted during his first mandate and the potential tariffs of 60 percent on imports from China and 10 percent to 20 percent on imports from the rest of the world<sup>1</sup>. In the final section, we discuss what the EU policy reaction should be in terms of both engagement with the US and possible retaliatory action. We also discuss the broader implications for EU trade policy in the WTO, and through bilateral and plurilateral engagement with countries other than the US.

## 2 P

## US

### 2.1 T

There is a risk that the new Trump administration will modify two sets of tariffs: a 10 percent to 20 percent 'most favoured nation' (MFN) tariff on goods imported by the US from all its trading partners, and a separate 60 percent tariff applied on goods originating in China. There is a risk that the Trump administration might want to finance at least part of the promised tax cuts for US citizens through the imposition of tariffs. If this is the case, the administration may link the level of tariffs to the extent of tax reductions. But the tariffs will have an impact on import volumes and revenues will therefore not go up in line with the level of the tariffs. Consequently, it is likely that a general tariff increase will be one of the elements discussed in Congressional tax and tariff legislation, although such a discussion may be preceded by executive action.

On China, rapid executive action is possible based on Section 301 of the US Trade Act. Alternatively, Congress could act. One bill that has been drafted would strip China of its

<sup>1</sup> <https://www.pbs.org/newshour/economy/trump-favors-huge-new-tariffs-how-do-they-work>, PBS, 2022, <https://www.pbs.org/newshour/economy/trump-favors-huge-new-tariffs-how-do-they-work>.

Permanent Normal Trade Relations (PNTR) status, which it has enjoyed since 2001<sup>2</sup>. The US refuses PNTR to Belarus, Cuba, North Korea and Russia. Whereas all PNTR countries export to the US at the WTO MFN bound rate, which is on average 3.4 percent (with an average of 2 percent for industrial tariffs), separate duties are levied for those that do not enjoy that status.

The consequence for China of withdrawal of its PNTR status is that the US could impose a 100 percent duty on a list of specific goods of Chinese origin and could increase all other duties to a (phased in) level of 35 percent<sup>3</sup>. The bill therefore is based on a strategy of almost full decoupling from China and, unlike executive action, would allow the administration little margin to use tariffs as leverage to negotiate market access commitments or structural reforms with China.

While there is a high likelihood that Trump will use executive orders to impose rapidly a 60 percent tariff on most Chinese imports, there is less clarity about whether the US will apply across-the-board or more product-specific tariffs on other countries. The high degree of unpredictability in tariff policy is illustrated by President-elect Trump's threat of 25 percent tariffs on imports from Canada and Mexico for reasons relating to immigration and drug trafficking<sup>4</sup>. And he has even threatened to impose a 100 percent tariff on imports from BRICS countries if they support a currency other than the US dollar in international trade transactions<sup>5</sup>. In any event increased tariffs are likely to be accompanied by a process of firm-specific exemptions, thereby increasing the costs of compliance and the opportunities for rent-seeking. The room for favouritism across countries, products and importers will likely be enlarged under the new Trump administration.

The lack of clarity on the rationale for imposing tariffs does not affect the near certainty that at least some tariffs will be imposed. Furthermore, from a pure legal perspective, the rationale for violating tariff commitments is immaterial, as we will show.

While there is little doubt that President Trump will have the legislative authority to impose the discriminatory tariff on Chinese imports (by virtue of Section 301), doubts have been raised about his authority to act alone when imposing the MFN tariff. The US Constitution assigns this competence to Congress. Trump might invoke the 1977 International Emergency Economic Powers Act (IEEPA) to justify the MFN tariff. When President Truman decided to seize the US steel industry during the Korean War, the US courts stopped him<sup>6</sup>. But President Nixon successfully invoked the Trade with the Enemy Act (the predecessor of IEEPA) when imposing a unilateral across the board tariff surcharge in 1971 (the 'Nixon shock'; Irwin, 2012). US courts are the ultimate arbiters and it is hard to see how the US Supreme Court as currently composed (with a conservative majority including three Trump appointees) would stand in the way of the new Trump administration.

To conclude, it is hard to see US law or US courts constraining the Trump administration in its use of tariffs. The main potential constraint to a broad exercise of tariff authority is the economic impact that such measures might have in terms of inflation and on financial markets. The risk of negative impacts might lead some in the Trump cabinet (Treasury) or in Congress to counsel caution and gradualism.

<sup>2</sup> Moolenaar, 2024, p. 1; <https://selectcommitteeontheccp.house.gov/media/press-releases/moolenaar-introduces-legislation-revoke-chinas-permanent-normal-trade>.

<sup>3</sup> Moolenaar, 2024, p. 2).

<sup>4</sup> Moolenaar, 2024, p. 1; CNN, 2024, <https://edition.cnn.com/2024/11/25/politics/p1-o-04FE3606> November 2024.

## 2.2 A

Articles I and II of the General Agreement on Tariffs and Trade (GATT), which regulates trade in goods among WTO members, provides the benchmark for assessment of the international legality of the new tariffs envisaged by Trump. The tariffs of 10 percent to 20 percent would breach Article II of GATT insofar as the US has 'bound' ('capped') tariffs, that is, to the extent that it has agreed not to increase tariffs above current levels. The US has in fact bound practically all its duties under various Harmonised System (HS)<sup>7</sup> tariff lines.

The proposed tariff on goods originating in China would violate both GATT Article II and Article I (MFN) because of its discriminatory nature.

The rationale for violating WTO tariff commitments – whether Trump wants to address a macro-economic disequilibrium, rebalance the US trade deficit or simply retaliate against China – is not germane to the finding of violation of Articles I or II of GATT. An increase in tariffs leads to a finding of violation of GATT Article II. If the increase is discriminatory, it also leads to a finding of violation of GATT Article I. However, the rationale for violating tariff commitments would become legally relevant (according to consistent WTO case law) when and if the Trump administration attempts to justify the violations.

To justify unilateral tariff increases while respecting WTO rules, the US could attempt to invoke one of the exceptions embedded in the GATT (Article XII: balance of payments; XX: ~~the (and) 1 (o) 2) tariff~~

Second, Trump's wish to increase tariffs quickly would be inconsistent with the WTO process required under Article XXVIII. The US would have to present to the WTO membership the list of tariffs it wants to renegotiate. WTO members with initial negotiating rights (INRs), ie those with which the US negotiated the MFN tariffs it wants to increase, would have a seat at the table, as would WTO members with a principal supplying interest (PSI), ie those

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## Tariffs imposed on China by the first Trump administration reduced US-China trade and increased US and Chinese trade with other geographies

### 3 Tariffs

#### 3.1 Tariffs

To start to grasp the potential economic effects of the new Trump tariffs, it is useful to analyse the consequences of the tariffs put in place during the first Trump administration (and retained by the Biden administration). The first Trump administration tariffs also involved two separate additional tariffs: 25 percent on goods from China, and 25 percent on steel and 10 percent on aluminium products from all trading partners, except Canada and Mexico.

When tariffs only cover some products and/or a limited number of trading partners, their economic consequences are mainly micro- rather than macro-economic. They affect the allocation of resources across geographies and/or sectors, but the impact on the overall economy may be quite limited.

The main impact of the tariffs imposed on China by the first Trump administration was to reduce bilateral US-China trade and to increase, respectively, US and Chinese trade with other geographies, including the EU. This reshaping of trade was accompanied by little or no impact on US domestic production of the goods directly impacted by the US additional tariffs on China, as Alfaro and Chor (2023) and Freund *et al* (2024) have shown.

The situation with the tariffs on steel and aluminium was different. Although Canada and Mexico were exempted from the additional tariffs (though Canada and Mexico had to exercise restraint in their exports to the US), producers in these two countries were simply too small to be able to replace producers from all the other countries affected by tariffs, at least in the short to medium term, since the installation of additional production capacity for steel and aluminium takes time. The result was that US producers (who had been operating below capacity for a while) were able to raise production somewhat (+1.9 percent for steel and +3.6 percent for aluminium; USITC, 2023) at the expense of foreign producers. But this positive effect for the US steel and aluminium sectors was accompanied by a negative impact for US downstream producers of goods that use steel and aluminium as inputs, and ultimately for US consumers, because of higher prices for steel and aluminium products in the US market (Durante, 2024). Handley *et al* (2020) also found, unsurprisingly, that the steel and aluminium tariffs reduced US exports of downstream products.

Tariffs on a limited number of countries (the China tariffs) and/or sectors (the steel and aluminium tariffs) may therefore have had a limited impact on the overall economy of the country (the US) that imposed them. However, there are two caveats to this.

First, the additional tariffs were not the only measures adopted during the first Trump administration. There was also a substantial tax cut, which significantly increased the US budget deficit, resulting in a macro-economic stimulus through additional investment and reduced savings. The result was an increase in the US current account deficit. And since the bulk of the US current account is the balance of trade in goods, this meant that the trade deficit also increased. But it would be a mistake to conclude that the increase in the US trade deficit during the first Trump administration resulted from the imposition of tariffs, just as it is wrong to assert that the imposition of tariffs reduced the trade deficit. Instead, the US trade deficit increased because the US budget deficit increased as a result of the tax cut. Equally, therefore, it would be wrong to ascribe the boost to the US economy during the first Trump administration to the imposition of additional tariffs. Again, the macro-economic stimulus came from the tax cut and not from the tariff increase.

The second caveat relates to economic size. The US is a large economy, which means that by imposing import duties it can in principle force foreign suppliers to cut their prices. Given the size of the tariff and the fact that China was the main supplier of goods to the US market, such terms-of-trade gain for the US could have been economically significant. However, a detailed study by Amiti *et al* (2020) found that US tariffs did not result in a drop in prices charged by Chinese or other foreign suppliers, but in an increase in prices paid by US

firms and consumers, although by less than the amount of the tariff. Thus, there was in fact a (small) terms-of-trade gain for the US from the tariff on foreign products. However, since China is also a large economy and it decided to retaliate one-for-one with tariffs against the US, it is likely that this nullified the terms-of-trade gains for the US from the Trump tariffs.

The lack of any positive economic effect from the Trump tariffs is confirmed by another detailed study by Autor *et al* (2024), which found that US import tariffs on foreign goods neither raised nor lowered US employment in newly protected sectors and that retaliatory tariffs (mainly by China) had a clear negative employment impact on the US economy, primarily in agriculture. However, the authors found that Trump's "trade war appears to have been successful in strengthening support for the Republican party. Residents of tariff-protected locations became less likely to identify as Democrats and more likely to vote for President Trump" in the 2020 presidential election.

### 3.2 How would a new Trump tariff affect the US and the world?

New Trump tariffs would differ from those of the first Trump administration in two important respects. First, the tariffs on products from China would increase by 60 percent instead of 25 percent. Second, all other countries (except probably Canada and Mexico) could face an additional tariff of 10 percent to 20 percent on their exports to the US, instead of simply a tariff of 25 percent on steel and 10 percent on aluminium products. While it is not clear whether an across-the-board tariff will be implemented, it is important to analyse the impact of a worst-case scenario.

An across-the-board tariff could raise inflation in the US and elsewhere, especially if it leads to a trade war and further trade fragmentation, but the extent of the effect depends on how the Federal Reserve and other central banks react.

Assuming that China retaliates against new Trump tariffs similarly to what it did with the first Trump administration tariffs, the two-way 60 percent tariff would almost completely shut off bilateral trade between the US and China. The central question then would be: what implications would a decoupling between the US and China have for the US, China and the rest of the world (and in particular the EU), taking into account that exports from the rest of the world to the US could also be subject to a 10 percent to 20 percent additional tariff?

The economic impact of such a US-China decoupling would depend largely on the extent to which the US and China could redirect their bilateral trade to and from (a) other partners and (b) domestic producers and consumers. But even if the US and China succeed in redirecting their bilateral trade flows with relative ease – given that the process started already under the first Trump administration and continued under Biden – it is likely that the prices associated with these new sources of supply will be higher than before. Meanwhile, the prices of exports will decrease. Hence the terms of trade of both the US and China, and therefore the disposable income of both US and Chinese residents, will decrease.

The impact of this shock on output and inflation will depend on how fiscal and monetary policy responds (Blanchard, 2024). Fiscal stimulus – particularly in the form of a tax cut, which is likely in the US – could offset the effect of the depressed terms of trade on disposable income and output, but only at the price of higher inflation (beyond the impact effect of tariffs on the price level). If monetary policy seeks to lean against the stimulus by raising interest





for the two transatlantic partners, once the new Trump administration's preferences have been adequately specified, would be a priority.

On trade policy, the EU response could have three elements: 1) bilateral engagement with the US to seek to avoid the imposition of tariffs; 2) action to maintain a functioning rules-based trading system while continuing to promote WTO reform; 3) reinforcing the EU network of trade agreements and partnerships, including with Global South countries.

#### 4.1 Bilateral trade facilitation with the US

During Trump's first administration, the EU had to respond to the threat and the imposition by the US of WTO-inconsistent tariffs (the 25 percent duties on imports on steel and 10 percent on imports of aluminium). In response, the EU increased tariffs on US imports (Harte, 2018). The US also threatened to apply a tariff on imports of EU passenger cars, but this measure was not implemented following a July 2018 agreement between President Trump and European Commission President Jean-Claude Juncker<sup>12</sup>.

The agreement included an EU commitment to increase purchases of US liquefied natural gas (LNG) and soybeans, and to start talks on further measures to facilitate bilateral trade. Subsequently, both sides reduced MFN tariffs on certain items, including EU imports of lobsters. Alongside bilateral engagement, a trilateral process was started with Japan to discuss improvements in WTO rules on non-market economy practices, and in particular subsidies and forced technology transfers.

The new threat from Trump of an across-the-board tariff is much more serious and systemic than trade policy measures during Trump's first term. The new measures that have been floated imply that the US would violate the most fundamental GATT/WTO commitment, rolling back progress on tariff liberalisation achieved since 1947. Moreover, there is the risk that the US will seek to extract from China or from other countries commitments to give preferential access to the US that would be inconsistent with the WTO MFN rule. The combination of all these elements could result in a collapse of the GATT/WTO system, which has been a bulwark for growth and development in Europe and the rest of the world. It is therefore essential that the EU calibrates its response carefully and acts consistently with its strategic interest in maintaining a rule-based trading system.

Engagement with the US could include three elements: 1) WTO-consistent measures to facilitate bilateral trade between the EU and the US (accommodating Trump's desire for increased US exports to the EU); 2) cooperation on economic security; 3) deterring US tariff increases through a credible and effective retaliation threat.

##### 4.1.1 Bilateral trade facilitation

The EU should avoid discriminatory purchase commitments or preferential tariff concessions (since an EU-US FTA is not a realistic perspective). A number of steps could be taken however that would contribute to increased US exports to the EU and avoid disruption to transatlantic trade.

The EU has already substantially increased imports of US LNG but there is still room to further diversify away from imports of Russian LNG. More generally, there is considerable scope for enhancing trade with the US on energy, including in relation to small-scale nuclear reactors. In the context of enhanced burden sharing in NATO, commitments could be made to increase defence expenditure both at member state and EU level. This would open up new opportunities for increasing US military equipment sales to the EU. Diversifying away from Russian energy imports and increased defence expenditure is consistent with a common transatlantic strategy to maintain support for Ukraine and the US commitment to the defence of Europe, albeit with EU NATO members taking on more of the burden.

Both sides could also discuss ways of facilitating trade in some particularly important

12. <https://www.ec.europa.eu/commission/press-room/detail/2018/07/18-juncker-trump-agreement>

sectors. To avoid any increase in tariffs on imports of EU cars into the US, the EU could offer to reduce its 10 percent MFN tariff on cars to the US MFN level (2.5 percent), since in any event most sources of imports are covered by FTAs and the EU is applying countervailing duties on imports of electric vehicles from China. *Quid pro quo* could be the US maintaining a balance of tariff commitments, implying MFN reductions on both sides, as was the case in the agreement reached during the first Trump administration. The EU could also discuss with the US and other countries a low-emission steel standard, which could be progressively increased until zero emissions is reached. This standard could be taken into account in the implementation of the EU carbon border adjustment mechanism (CBAM). It could be part of efforts to resolve finally the currently frozen steel and aluminium dispute.

Industries could also be asked to put forward joint proposals to further reduce regulatory obstacles to trade in areas such as conformity assessment or cooperation on standards. More generally the EU and the US could develop an effective 'early-warning' mechanism, including regulatory dialogues with a view to prevent unnecessary obstacles to trade, while fully maintaining the rights of each party to achieve its desired level of protection. There should also continue to be a dialogue on digital regulation and artificial intelligence, which are potential areas of trade friction. Such dialogues should not be linked to any trade negotiation, and should be held instead under the auspices of a streamlined EU-US Trade and Technology Council<sup>13</sup>.

#### 4.1.2 Economic security

The EU could offer the US reinforced cooperation on economic security, both bilaterally and within the G7 framework, which could be expanded to include other allies such as Australia and Korea. The EU shares US concerns about non-market economy practices that generate overcapacity and distort global markets. While the EU should not follow the US in increasing tariffs on China in a WTO-incompatible manner, it can continue to apply robust trade-defence instruments and other recently introduced legislation on subsidies.

In certain cases, the EU could also make use of the safeguard legislation (Regulation (EU) 2015/478), which allows for temporary protection in case imports cause or threaten serious harm to domestic producers. Even if safeguards apply to all imports, the remedies adopted can have a greater impact on suppliers responsible for an import surge (eg by applying a quota based on traditional trade). Moreover, short-term safeguards constitute a fully legitimate WTO instrument that does not give affected trading partners a right to take retaliatory action. The non-discriminatory nature of short-term safeguards may also make them more politically acceptable for China.

Beyond defensive action, the EU could explore the US interest in resuming trilateral discussions with Japan and expanding them to other like-minded economies. This could provide a common platform to develop ideas on how to reinforce WTO rules on non-market practices while in the meantime coordinating trade policy responses in relation to such practices.

The Commission should also discuss with EU governments how to enhance cooperation on export controls, since this could potentially become an area of transatlantic tension. More broadly it is important to distinguish areas for which the objective is to seek transatlantic alignment (such as preventing technology leakage) from others on which both parties should cooperate in responding to common challenges (eg responding to overcapacity), while each side continues to take measures consistent with its legal and institutional setting.

The EU should maintain close contact with allies, notably the United Kingdom and Japan, to ensure that any offer made to the US does not harm other countries or undermine support for the WTO system.

13 . <https://ustr.gov/useuttc>.

#### 4.1.3 Potential retaliation

In view of Trump's threat to increase tariffs, the EU should act rapidly to establish an effective and credible retaliatory threat. The Commission has extensive experience in developing retaliation lists and, in all likelihood, has such a list ready. As in previous instances when the EU retaliated against unilateral foreign tariff hikes, such as the increase in US steel and aluminium tariffs, this is probably a positive list with a limited number of products targeted for retaliation.

We recommend, instead, that the Commission should prepare a negative list, implying that all EU imports from the US should be subject to the same 10 percent or 20 percent tariff imposed by the US on EU exports, except for those US imports on which the EU is highly



2029 (von der Leyen, 2024) have the potential to support increased value added domestically while facilitating European investment and diversifying EU sources of supply in the green value chain<sup>16</sup>.

The EU response to Trump's tariffs calls for an adaptation of the EU trade policy strategy, along with development of a new economic security doctrine<sup>17</sup>. The European Commission should in particular offer a vision of how the EU can take a leading role in modernising the rules-based trading system in a manner that responds to new challenges, while retaining the commitment to openness.

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