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# SECTION 232 RELOADED: THE FALSE PROMISE OF THE TRANSATLANTIC 'CLIMATE CLUB' FOR STEEL AND ALUMINIUM

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In using the removal of Section 232 'national security' tariffs on steel and aluminium imports as a bargaining chip, the United States demands that the European Union engage in negotiations on "global steel and aluminium arrangements to restore

is paper concludes that the adoption of the scheme proposed by USTR would result in a step backwards for international climate and trade cooperation, whereas not adopting the EU proposal would make for a missed opportunity. Given the sharply diverging negotiation positions and associated respective domestic constraints on both sides, however, policymakers should start to engage stakeholders now to manage expectations towards a low-ambition negotiation result, if any.

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# 1 Introduction

On 31 October 2021, the European Union and the United States agreed on temporary measures to settle their dispute over US Section 232 'national security' tariffs on EU steel and aluminium products. In addition to opening tariff rate quotas for historical EU export volumes, the joint EU-US statement mandates negotiations on a *"global steel and aluminium arrangements to restore market oriented conditions and address carbon intensity"*[1], with a deadline of 31 October 2023. The relevant paragraphs are an eclectic mix of transatlantic policy objectives in the areas of steel and aluminium decarbonisation, sectoral overcapacity, non-market practices and inbound investment screening:

> *"Compatible with international obligations and the multilateral rules, including potential rules to be jointly developed in the coming years, each participant in the arrangements would undertake the following actions: (i) restrict market access for non-participants that do not meet conditions of market orientation and that contribute to non-market excess capacity, through application of appropriate measures including trade defence instruments; (ii) restrict market access for non-participants that do not meet standards for low-carbon intensity; (iii) ensure that domestic policies support the objectives of the arrangements and support lowering carbon intensity across all modes of production; (iv) refrain from non-market practices that contribute to carbon-intensive, non-market oriented capacity; (v) consult on government investment in decarbonization; and (vi) screen inward investments from non-market-oriented actors in accordance with their respective domestic legal frameworks.*
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> *"To enhance their cooperation and facilitate negotiations on a global sustainable steel and aluminum arrangements, the United States and the EU agree to form a technical working group. Through the working group, the United States and the EU will, among other things, confer on methodologies for calculating steel and aluminum carbon-intensity and share relevant data"*[2].

At the time of writing – 20 months after the formal launch of negotiations and four months prior to the deadline, negotiators have set up two technical working groups – one covering the carbon intensity element and one covering the overcapacity element of the negotiations. They have also exchanged negotiation positions in the form of concept notes in December 2022 and January 2023 respectively.

On 10 March 2023, European Commission President Ursula von der Leyen and US President Joe Biden declared, as part of a further joint statement (The White House, 2023), that they were *"committed to achieving an ambitious outcome in the Global Arrangement on Sustainable Steel and Aluminum negotiations by October 2023. The arrangement will ensure the long-term viability of our industries, encourage low-carbon intensity steel and aluminum production and trade, and restore market-oriented conditions globally and bilaterally. Together, we will incentivize emission reductions in these carbon-*

as the transatlantic talks slowly but surely approach the 31 October 2023, deadline. The October deadline could mark either a breakdown of negotiations and automatic reinstatement of US Section 232 tariffs on imports of steel and aluminium from the EU, or a transatlantic agreement on a 'Global Steel and Aluminium Arrangement'. An agreement could follow either the US or the EU's vision for climate and trade cooperation, with all of the imaginable scenarios having considerable economic and

## 3.1 Core elements and design flaws of the TMP's 'Green Steel Deal'

The TMP's 'Green Steel Deal' foresees the creation of an exclusive transatlantic climate club of the Nordhausian 'deep integration' type. The criteria for membership is the vague obligation to 'green' the domestic steel sector by requiring the sector-wide adoption of 'green production methods' within 10 years. The TMP document includes, however, very little information on the domestic legislative dimension of the plan as regards the decarbonisation of the US steel sector. This is important as a matter of emphasis by the authors who, instead, dedicate considerable attention and detail to tariff-based border protection against steel from countries that do not commit to the 'climate club'. Tariffs, it is suggested, are useful instruments for industrial decarbonisation. It is argued

legislative proposal for Carbon Border Adjustment Mechanism (CBAM)[9]. Both the TMP and the Coons/Peters bill constitute important and similar observations in the evolution of US carbon border adjustment policy proposals.

Citing a Brookings study (Victor *et al*, 2019), the authors of the TMP estimate that a tariff rate of between 25 percent (exactly mirroring the Trump Administration's 232 'national security' tariffs on steel) at the lower end, to 50 percent at the higher end, approximates an accurate border adjustment for costs of greening production methods. But TMP leaves the reader in the dark over which US emission regulations could result in producer adaptation costs equivalent to a 25 percent or 50 percent border tariff adjustment.

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## 4 Transatlantic GSA negotiations: comparing US and EU negotiation proposals

In December 2022, the US Trade Representative formally submitted a 'Concept Paper on the Design of the Global Steel and Aluminium Arrangement' to EU negotiators at the European Commission's