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Proposed U.S.-EU Trade Negotiations: Hitting Pause on a Trade War?

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On July 25, 2018, the United States and European Union (EU) announced a "new phase" in their relationship for "freer, fairer, and more reciprocal trade." They agreed to launch negotiations to eliminate tariffs, nontariff barriers, and subsidies on "non-auto industrial goods," as well as to boost trade specifically in services, chemicals, pharmaceuticals, medical products, and U.S. soybeans. Amid a potential tit-for-tat escalation of tariffs, the two sides agreed not to impose further tariffs on each other's traded products while negotiations are active and to examine current U.S. steel and aluminum tariffs. They also committed to the following:

- enhancing their strategic cooperation on energy to boost the EU's purchase of U.S. liquefied natural gas (LNG) to diversify its energy supply;
- launching a dialogue on standards and regulations to reduce exporting barriers and costs; and
- working with "like-minded partners" to address unfair trade practices and World Trade Organization (WTO) reform.

The announcement comes at a challenging time for transatlantic trade relations. U.S.-EU trade and investment ties generally have been viewed as mutually beneficial and are of major congressional interest. Yet, tensions are currently heightened due to aspects of the Trump Administration's trade policy, which has given priority to reducing U.S. bilateral trade deficits, utilizing unilateral tariff measures under U.S. trade laws, and applying a critical view of the U.S. role in international economic cooperation. President Trump called the EU a "foe" for "what they do to us in trade." He blames EU trade policies for the U.S. trade deficit with the EU and its member states, particularly Germany. He also has criticized the U.S.-EU imbalance on auto trade, flagging the EU 10% tariff and U.S. 2.5% tariff on cars—though the U.S. tariff rate for trucks is higher (25% versus EU 22%). Overall, average tariff rates are low on both sides of the Atlantic.

Trade War Truce

The announcement arguably could de-escalate the transatlantic trade conflict, at least temporarily, and potentially lead to a negotiated outcome that resolves current bilateral trade frictions. Prior to the announcement, President Trump threatened to impose a 20% tariff on EU auto imports after the EU retaliated against U.S. steel and aluminum tariffs by applying tariffs on U.S. products. The dispute is playing out in the WTO, where the EU is challenging the U.S. tariffs and the United States is challenging the EU's retaliatory action. An ongoing Section 232 investigation into whether auto imports threaten to impair national security is causing further tension.

Continued Uncertainty

Some stakeholders welcomed the U.S.-EU announcement as defusing a transatlantic "trade war." Some Members of Congress—concerned about President Trump's trade policy—consider the developments to be positive but only a "first step." Global stock markets rallied in the days following the announcement. U.S. and EU automakers welcomed the announcement, but many businesses remain nervous about what they perceive as a fragile truce. Some trade watchers note that President Trump agreed to a framework for trade negotiations to resolve a U.S.-China trade dispute, only to proceed with plans to raise tariffs on Chinese imports shortly thereafter.

Some observers consider the announcement a "symbolic victory" lacking in specifics and substance. A focal point is the EU commitment to purchase more U.S. soybean exports—which have slowed overall because of a 25% retaliatory tariff by China, the world's largest soybeans importer. However, EU member states are market economies, where businesses and consumers largely determine purchasing decisions. Similar issues arise with EU imports of U.S. LNG, which the EU emphasizes require appropriate market conditions and competitive prices.

The U.S.-EU commitment to cooperate internationally on trade issues could represent a shift for the Administration, which has repeatedly criticized the WTO and withheld agreement on the recent G-7 communiqué due to trade frictions. Europeans are anxious about future U.S. leadership and U.S.-EU cooperation in the rules-based international trading system that underpins the post-World War II global economic order, which was largely forged by the United States in cooperation with Europe.

Reviving T-TIP?

The relationship of the proposed trade negotiations to the Transatlantic Trade and Investment Partnership (T-TIP) FTA negotiations is unclear. Pursued under President Obama, the T-TIP negotiations looked to address tariff and nontariff barriers for goods, services, and agricultural products, and develop globally relevant rules and disciplines. Unlike the proposed Trans-Pacific Partnership (TPP) FTA, in which President Trump ceased U.S. participation, the President did not terminate T-TIP negotiations.

Agriculture has emerged as an early flashpoint. The EU, so far, has rejected the U.S. assertion on including all agriculture in the negotiations, noting their joint announcement addressed only soybeans. Among other things, the United States is concerned about market access barriers raised by EU trade negotiations with other countries to expand geographical indications (GIs) protections.

Several Members of Congress are weighing in on the negotiations' scope, with some calling for including the EU's new data protection regulations. While potentially limited in scope, the proposed negotiations could be complex and the challenges that have impeded the T-TIP negotiations could resurface. These include divergent approaches to regulations, standards, and digital trade—issues that also have been subject to bilateral dialogues.

Lack of clarity over the post-Brexit future trade and economic relationship between the EU and United Kingdom adds uncertainty about potential EU concessions in a U.S.-EU trade deal. In addition, given that U.S. steel and aluminum tariffs remain in place, it is unclear if the trade negotiations represent a reversal of the EU's position to "not negotiate under threat."

To the extent that the trade negotiations do not cover substantially all trade, they may raise questions about compliance with WTO non-discrimination rules.

Outlook

In addition to determining the scope of the proposed U.S.-EU trade negotiations, the role of Trade Promotion Authority (TPA) is a key issue for Congress. TPA provides expedited congressional consideration of implementing legislation for reciprocal trade agreements negotiated by the executive branch, provided that the executive branch meets TPA requirements. These include congressional notification and consultation requirements, including to notify Congress 90 days before initiating trade negotiations. TPA also lays out congressional negotiating objectives that the executive branch is expected to advance through trade agreement negotiations. It is unclear whether the Administration, which has been granted an extension of TPA through July 1, 2021, will provide formal notification to Congress under TPA of its intent to enter the proposed U.S.-EU trade negotiations, as well as whether the existing T-TIP notification would be sufficient. On the EU side, similar issues may arise in terms of the existing T-TIP negotiating mandate for the EU and whether a new mandate by member states may be necessary.