

ISAS Brief

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Trump Tariffs, National Security, Trade and India: Sensing Scenarios

The United States (US) President Donald Trump's decision to increase tariffs on steel and aluminum imports into the US has caused widespread concern over the prospects of a global trade war. This paper argues that the US' decision to raise tariffs on national security grounds might create a disturbing precedent. Focusing on the likely impact of the tariffs on India, it points out that, while the immediate effect might be limited, India needs to watch out for specific actions like 'reciprocal tax' that can follow in future.

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On 8 March 2018, the United States (US) issued two Presidential Proclamations to adjust the imports of steel and aluminum into the US. The Proclamations indicated action on these imports by raising tariffs on steel by 25 per cent and on aluminum by 10 per cent. Both actions were initiated under Section 232 of the US Trade Expansion Act of 1962.² The Section authorises the US President to “adjust the imports of an article and its derivatives that are being

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² “Presidential Proclamation on Adjusting Imports of Steel into the United States” Proclamations, Economy & Jobs, 8 March 2018. <https://www.whitehouse.gov/presidential-actions/presidential-proclamation-adjusting-imports-steel-united-states/> and “Presidential Proclamation on Adjusting Imports of Aluminum into the United States”, Economy & Jobs, 8 March 2018. <https://www.whitehouse.gov/presidential-actions/presidential-proclamation-adjusting-imports-aluminum-united-states/>. Accessed on 13 March 2018.

imported into the United States in such quantities or under such circumstances as to *threaten to impair the national security* (italics added)”.³

The tariffs will come into effect on 23 March 2018 and are expected to affect a large chunk of steel and aluminium exports to the US. In the meantime, however, countries, whose exports would be hurt, have been given the opportunity to negotiate with the US ‘alternative ways’ so that their exports do not impair the US national security and are exempted from the tariffs. Steel and aluminium exports from Canada and Mexico have, as it is been exempted for the time being, given the special circumstances of both countries, including their proximity to the US and a shared commitment to tackle global overcapacity in steel and aluminium, and the ongoing negotiations on the North American Free Trade Agreement .

The tariffs have caused a major global stir and have set in motion the possibility of a full blown global trade war as affected countries threaten to retaliate. The European Union (EU) has led the strong reactions by suggesting retaliation on the US’ exports to Europe if the tariffs are not withdrawn. However, it has not given up hope of being exempted from the tariffs, as it plans to work with the United Kingdom and Japan on negotiating exemptions.⁴ Major Asian economies – China, Japan, Korea, Indonesia and Australia – have been rattled by the tariffs and have either sought exemptions or threatened retaliatory actions, including seeking redress at the World Trade Organization (WTO).⁵

National Security and Trade

Invoking the threat to national security for taking trade-restrictive actions is an unusual course of action. By protecting its steel and aluminium industries from imports, the US has made it clear that high imports could be damaging for its ‘internal economy’ and, therefore, its national security.

³ Ibid.

⁴ “EU could join forces with countries outside Europe to strike back against Trump's tariffs”, Willem Marx and Holly Ellyatt, *CNBC*, 13 March 2018. <https://www.cnbc.com/2018/03/13/trade-eu-may-work-with-allies-outside-europe-against-trump-tariffs.html>. Accessed on 14 March 2018.

⁵ “Asian nations bristle over US steel, aluminium tariffs”, *The Straits Times*, 9 March 2018. <http://www.straitstimes.com/asia/east-asia/asian-nations-bristle-over-us-steel-aluminium-tariffs>. Accessed on 14 March 2018.

The WTO's rules governing multilateral trade does allow countries to take trade-restrictive measures to safeguard national security. Article XXI of the General Agreement on Tariffs and Trade (GATT) allows security exceptions on a variety of grounds, including taking actions that the WTO members consider necessary to protect national security interests (Article XXI (b); Security Exceptions).⁶ It must also be noted that the US had kept the WTO informed about its investigations on steel and aluminium imports on national security grounds.⁷

While the US can certainly refer to the provisions in the WTO laws to justify the tariffs, the problem is in establishing causality – how do high steel and aluminium imports, and the 'damage' they cause to the US economy, can be interpreted as a threat to its national security? Indeed, the circumstances described in Article XXI of GATT to allow trade-restrictive actions are quite specific. These include traffic in arms and ammunition, fissionable materials and actions taken during war and emergency. None of these justify the current tariffs. The scope to arbitrate against these actions at the WTO by other members is, therefore, a distinct possibility.

In the meantime, however, the tariffs create a disturbing precedent in restricting trade on security grounds. If taken to the WTO dispute settlement process, the US is expected to emphasise the salience of its domestic laws – Section 232 of the US Trade Expansion Act in this instance – over the WTO's multilateral trade laws in justifying its actions. However, what if its actions encourage other countries to act similarly?

As the Presidential Proclamation on steel tariffs argues, global excess capacity in steel and its high imports into the US have resulted in the closure of several domestic steel production facilities, which might make the US unable to “meet [steel] demands for national defense and critical industries in a national emergency.”⁸ Unless dismissed by the WTO, identical circumstances might encourage more countries to impose tariffs on both agricultural and manufactured products leading to a widespread comeback of tariffs in world trade.

⁶ “XXI: Security Exception – The General Agreement on Tariffs and Trade (GATT 1947)”. https://www.wto.org/english/docs_e/legal_e/gatt47_02_e.htm#articleXXI. Accessed on 13 March 2018.

⁷ “National security cited in two trade concerns at Goods Council”, Council for Trade in Goods, World Trade Organization. https://www.wto.org/english/news_e/news17_e/good_10jul17_e.htm. Accessed on 13 March 2018.

⁸ “Presidential Proclamation on Adjusting Imports of Steel into the United States” Proclamations, Economy & Jobs, 8 March 2018, op. cit.

Who does the Tariffs Affect?

While many might feel that the principal target of the tariffs is China, the damage would be much more for the other trade partners of the US. China does not figure among the top 10 steel exporters to the US, though it is among the top five aluminum exporters.

As far as steel is concerned, Canada, Brazil, Korea, Mexico and Russia are the top five sources of imports for the US – this is where the tariffs acquire a wider political ramification. Several of the top steel exporters to the US are among its security partners. Apart from Canada, Korea and Mexico, these include Japan, Germany and Taiwan from among the top 10 steel exporters. It is hardly surprising that the Presidential Proclamations noted this point and kept the door open for negotiations with these allies, with the possibility of exemptions, similar to that offered to Canada and Mexico right at the outset.

Would the steel tariffs affect India? India was the 10th largest source of steel imports for the US in 2017, though, as a proportion of total imports, its share was less than one per cent.⁹ China, at 11th place, had an even smaller share. However, India's steel exports to the US have been increasing in recent years and the tariffs could damage their long-term prospects. The preferential treatment that several Indian exports used to receive in the US market through the Generalized System of Preferences (GSP) expired on 31 December 2017. A legislation to extend the benefit for another three years has been introduced in the House of Representatives and is awaiting approval. However, it is not clear whether the preferential tariffs under the GSP for Indian exports will also extend to steel and aluminum products.

In the Days to Come

Much of the prospects of outbreak of a trade war depend on whether the tariffs actually come into effect on 23 March 2018. The global outcry to the tariffs, as well as disappointment expressed by several US industries that use steel and aluminum products as parts and components in finished goods, might force a rethink. However, at the same time, the tariffs

⁹ “US steel tariff impact: India may face dumping in the long run”, ET Bureau, *The Economic Times*, 13 March 2018. <https://economictimes.indiatimes.com/industry/indl-goods/svs/steel/us-steel-tariff-impact-india-may-face-dumping-in-the-long-run/articleshow/63278070.cms>. Accessed on 14 March 2018.

fulfill a political promise by President Trump to his constituencies and he is, therefore, unlikely to roll them back.

If the tariffs do come into force, one can expect the different countries to react differently. Some retaliation is probably unavoidable. Most of it is expected from Europe. The EU might also mobilise the WTO members from outside Europe in taking the lead to move the WTO against the tariffs. Some countries, however, are likely to keep talking to the US to seek exemptions. These countries might be more than willing to work out bilateral trade deals with the US if that means their escaping the tariffs and maintaining security partnerships.

While the tariffs might not immediately mean much damage to China and India, both would be wary over Trump's specific mention of them in the context of his reference to 'reciprocal tax'.¹⁰ The latter is the US President's allusion to imposing tariffs on imports from trade partners that are as high as those imposed by these countries on US imports by them. That would indeed be worrying.

As developing countries, both China and India have used flexibilities provided by the WTO to maintain high tariffs on certain products. For India, these include several agricultural products as well as manufactured items like automobiles and textiles. If the tariff peaks on these items are taken as the benchmark to decide reciprocal US tariffs, then India has cause for worry; more so since such prospects are not far-fetched, given that, India, along with China, are among the countries running trade surpluses with the US, thereby becoming targets for potential trade-restrictive action.

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¹⁰ "Donald Trump threatens India, China with reciprocal tax", Asit Ranjan Mishra, *LiveMint*, 13 March 2018. <http://www.livemint.com/Politics/AIwPg2i8zTpgDpgV33rvnO/Donald-Trump-threatens-to-impose-reciprocal-tax-on-India-Ch.html>. Accessed on 14 March 2018.