

# ARTICLE

## IMPLEMENTATION OF THE TRADE AGREEMENT BETWEEN THE EUROPEAN UNION AND THE UNITED STATES: PROCEDURAL STEPS, LEGAL ISSUES, AND POLITICAL RISKS

European Law | 02/09/25 | Pierre Sellal



### 1. What is the legal scope of the announcements made on July 27 in Scotland?

The July 27 agreement between the President of the United States and the President of the European Commission is not a traditional bilateral trade agreement that becomes legally binding once each party has completed the approval procedures required under its domestic law. Rather, it consists of a series of unilateral and reciprocal commitments made by both sides.

These commitments are set out in a document finalized after the Turnberry meeting and published on August 21 under the title Framework on an Agreement on Reciprocal, Fair, and Balanced Trade (the “Framework Agreement”). This “framework” does not itself constitute a legally binding agreement. Politically, however, it reflects the EU’s acknowledgment of U.S. concerns about “trade imbalances” and includes pledges of measures or intentions that must still be translated into legal acts by both the EU and the U.S. administration in the area of tariffs.

### 2. How will the U.S. decision to apply a 15% tariff on goods exported to the U.S. from Europe be implemented?

The U.S. administration has indicated that it intends to implement this decision “promptly,” provided that the EU first adopts legislation eliminating tariffs on all industrial goods exported from the United States to Europe and grants preferential treatment to U.S. exports of certain seafood and agricultural products. To this end, on August 28 the European Commission submitted a legislative proposal to the Council and the European Parliament. Adoption of this proposal is therefore a prerequisite for the U.S. commitment, in particular the reduction of tariffs on European car exports from 27.5% to 15%.

The sequential nature of the implementation of these commitments, combined with the lack of symmetry in the applicable duties (0% for exports to the EU versus 15% for U.S. tariffs, except in certain sectors such as aeronautical components and generic pharmaceuticals), has fueled criticism of the imbalance in the July 27 agreement. Such criticism may delay adoption of the preferential measures proposed by the Commission, particularly in the European Parliament, and could in turn postpone U.S. decisions.

### 3. Are the commitments made by the EU to the US compatible with the EU’s legal obligations?

Serious doubts have been raised about the compatibility of the July 27 agreement with WTO rules. While these rules allow the parties to conclude bilateral free trade agreements, the “reciprocal” commitments made at Turnberry do not legally qualify as such an agreement. Although the Commission is seeking to defend them, the WTO’s founding principles—namely the most-favored-nation rule and the principle of non-discrimination—appear to have been breached. In addition, the European Union could face counterclaims from countries with which it has recently concluded free trade or economic partnership agreements, as those countries would now be treated less favorably than the United States, particularly with respect to their exports of industrial goods to the EU.

### 4. What is the legal scope of the EU’s commitment to purchase \$750 billion worth of US energy products by 2028 and make an additional \$600 billion in investments in the US?

The day after the Turnberry meeting, the Commission maintained that these announcements were statements of intent rather than legal commitments. In any case, it is difficult to identify a legal basis that the EU could use to formalize and enforce such commitments, since they relate to investments or purchases made by European companies.

President Trump responded to the Commission’s attempts to downplay the commitments by threatening to reinstate tariffs of more than 15 percent if the EU were to breach what he regards as an integral part of the July 27 agreement.

### 5. Through the Commission, the EU has signed up to a series of additional political commitments that are difficult to implement and could therefore weaken its position vis-à-vis the US administration.

These commitments include:

- ensuring that the CSRD and CSDDD directives do not create “undue restrictions” on transatlantic trade
- introducing additional flexibility for U.S. small and medium-sized enterprises in applying the carbon border adjustment mechanism
- the EU’s commitment not to “maintain or adopt” telecommunications network usage fees
- seeking an exemption for U.S. industries from European deforestation regulations
- opening discussions on non-tariff barriers affecting food and agricultural exports

These are sensitive matters that will require adjustments to existing regulations according to a timetable that is difficult to predict.

6. The application of European legislation and regulations to digital services remains an important political issue.

The day after the July 27 agreement was reached, the Commission stressed that it did not concern digital regulation and that the EU had fully preserved its decision-making autonomy in this area. The framework published on August 21 indeed contains no provisions on this subject. However, on August 25 President Trump threatened to impose “substantial tariffs” on countries that do not roll back their digital market regulations, implicitly targeting the European Digital Markets Act (DMA) and Digital Services Act (DSA).

Given the firm position of the EU institutions and member states on maintaining and effectively implementing these regulations, this issue is likely the main factor contributing to the fragility and unpredictability of the current framework for trade relations between Europe and the United States.

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