

STEEL & ALUMINUM

U.S.-EU Joint Statement

October 31, 2021

Given the joint desire of the United States and the European Union (“EU”) to address non-market excess capacity so as to preserve their critical steel and aluminum industries, the United States and the EU agree to the following:

1. Ongoing cooperation

- a. Trade Remedy/Customs Cooperation: To advance their efforts to address excess capacity, both sides agree to expand U.S./EU coordination involving both trade remedies and customs matters. The United States will also share public information and best practices with EU officials and/or member state officials, as appropriate, on topics including how detection of fraud/evasion and circumvention of duties is approached and possible self-initiation. Officials could also coordinate industry engagement with relevant sectors to hear their views and share observations/concerns. Insofar as customs cooperation is concerned, it may take the form of mutual administrative assistance in accordance with the U.S.-EU Agreement on customs cooperation and mutual assistance in customs matters.
- b. Monitoring: The United States and the EU will monitor steel and aluminum trade between them.
- c. Cooperation on Non-Market Excess Capacity: The United States and the EU agree to regularly meet to consult with a view to developing additional actions in order to contribute to adjustments and solutions and address non-market excess capacity in the global steel and aluminum sectors.
- d. Review: The United States and the EU agree to review the operation of this arrangement, and ongoing cooperation, on an annual basis, including in light of changes in the global steel and aluminum markets, U.S. demand, and imports.

2. Global steel and aluminum arrangements to restore market-oriented conditions and address carbon intensity

Steel and aluminum manufacturing is one of the highest carbon emission sources globally. Excess capacity generates unnecessary greenhouse gas emissions, deflates prices of high emissions products and hinders the development and scaling up of competitive solutions for lower emissions production. For steel and aluminum trade to be sustainable, producers and consumers must address both global non-market excess capacity as well as the carbon intensity of the industries. Against this backdrop, the United States and the EU are resolved to negotiate, in accordance with their respective institutional frameworks, future arrangements for trade in these sectors that take account of both issues. The United States and the EU will invite like-minded economies to participate in the arrangements and contribute to achieving the goals of restoring market-oriented conditions and supporting the reduction of carbon intensity of steel and aluminum across modes of production. The United States and the EU will seek to conclude the negotiations on the arrangements within two years. In order to encourage similar efforts by other steel producing economies, the United States and the EU will consult with respect to bringing these matters into relevant international fora for discussion, as appropriate.

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.

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.

3. WTO Disputes

The United States and the EU agree to suspend by November 5, 2021, pursuant to DSU Article 12.12, the WTO disputes they have initiated against each other regarding the U.S. Section 232 measures (DS548) and the EU's additional duties (DS559). Regarding the matters that are before these panels, the United States and the EU mutually agree to resort to arbitrations pursuant to DSU Article 25, as set out below and so as to fully preserve the work of the parties and the panels and procedural steps in these disputes. The United States and the EU will agree by 17 December 2021 on the procedures to be followed in an arbitration of those matters, in accordance with the present arrangement. Upon agreement on these procedures, the EU and the United States will terminate their respective disputes before the panels, and the arbitrations will be suspended, without temporal limit. The United States and the EU intend for DSU rules and practices on panel proceedings to govern the arbitration and to be reflected as appropriate in the agreement on arbitration procedures.

The arbitration procedures will permit the complaining party in each dispute to bring the matter forward from the panel into the arbitration, so as to preserve the work in each dispute and allow the arbitrators to continue the panel process on the basis of the procedural steps and work already performed and make findings on that matter. The three panellists in each dispute will serve as arbitrators, if available, and otherwise will be replaced by agreement of the parties or by the Director-General of the WTO, within one week from the complaining party's request.

Before resuming an arbitration, a complaining party will first seek to consult at the ministerial level with the other party with a view to reaching an alternative solution. A complaining party may request to resume the arbitration at any time after the lapse of a 30-day consultation period and no sooner than 12 months after the issuance of the present statement.

An arbitration may be resumed only if a complaining party considers that this arrangement is not providing the benefits envisioned. The United States and the EU also intend not to initiate any new WTO dispute relating to these matters for so long as each party considers this arrangement to be operating satisfactorily.