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## **Global Trade: Bad News, Good News**

*By Evan Rogerson*

### **Synopsis**

*8 March saw two important events pulling the global trading system in opposite directions. On one side President Trump announced restrictive tariffs on steel and aluminium imports. On the other, 11 governments signed the CPTPP – the TPP agreement without the US. What will be the outcome?*

### **Commentary**

THE PUNITIVE tariffs imposed by President Trump on steel and aluminium imports on 8 March 2018 are unlikely to reverse the long-term decline of those industries in the United States. They are, instead, likely to have a negative impact on all the industries that use those imports and their related jobs.

Internationally, the effects of these measures are very worrying. The market tremors on the news were a foretaste of what a retaliatory cycle could bring. The current global economic growth is, as the IMF has warned, not the “new normal”. Bad policy decisions could derail it.

### **The Bad News: US Tariffs**

While the response of other governments has so far been measured, the risk of escalation remains real. The European Union has already indicated possible targets for retaliation. The discriminatory application of the US measures on dubious grounds raises the stakes further. China's attitude will be key. It could harden if, as seems likely, the US imposes further trade sanctions specifically on China, related to intellectual property and technology transfer.

Mr Trump's statement that “trade wars are good and easy to win” could not be more

wrong. There would be no winners: as the Director-General of the World Trade Organisation (WTO) has pointed out, “an eye for an eye leaves us all blind”.

This is exactly the sort of risk that the rules-based multilateral trading system embodied in the WTO was intended to guard against. Unfortunately, the basis on which the US has chosen to justify its actions threatens to weaken that system when we need it most – and it has already been put under unprecedented pressure by the US blockage of appointments to the Appellate Body.

### **Dangers of National Security Argument**

The Section 232 national security justification for the new tariffs widens the risks from economic to systemic. If the US had invoked WTO safeguard provisions, as President Bush did on steel in 2002, the consequences would still have been serious but within the scope of the multilateral rules and remedies.

So far the US has not commented on the WTO status of its actions and the President appears to see the WTO as part of the problem. If, as seems likely, it is challenged in the WTO’s Dispute Settlement system, a defence based on the security exception in Article 21 of the GATT would be a very slippery slope.

The Article 21 exception has never been fully tested (though it is a factor in two ongoing dispute panels) because governments have generally treated it with restraint. And for good reason: the Article allows a government to override the rules and take “any action it considers necessary for the protection of its essential security interests” in loosely described circumstances.

The security exception is the nuclear option of trade policy. Any significant recourse to it would make the rules meaningless. Yet challenging it could threaten the dispute settlement system. A government invoking it would no doubt argue that it alone has the right to judge what action is necessary. Others would take a narrower view of the Art.21 exception.

The result would be deadlock, at best. It is noteworthy that so far the EU is preferring to depict the US tariffs as safeguard actions, which can justify retaliation under the WTO rules and may also help to contain the systemic damage.

### **The Good News: CPTPP**

8 March was a better day in Chile. The signing of the CPTPP – Comprehensive and Progressive Trans-Pacific Partnership – was a significant success for co-operation in the Asia-Pacific region and a strong riposte to the unilateralist worldview. Besides its economic benefits, it brought forward new sources of leadership that can help to fill the gap left by the withdrawal of the US.

Japan’s emergence in a lead role was significant both for the success of the agreement and also for its longer-term implications. Singapore was one of the originators of the project and it played a key part in keeping it alive. It is on track to be implemented by the end of this year, with six of the 11 members already prepared to do so.

The possibility of an expanding membership is strong, with Korea, Thailand and Colombia at the head of the queue, and even the United Kingdom showing interest. The success of the CPTPP should also give a boost to negotiations for the Regional Comprehensive Economic Partnership (RCEP) and to ASEAN's economic agenda. It underlines the new reality that the Asia- Pacific region is the centre of efforts to maintain and extend a stable and forward-looking trading system.

### **Model for Broader Progress**

The CPTPP model offers the best path forward to rescue the multilateral system. Open plurilateral negotiations can help break the WTO's negotiating deadlock and keep trade rules relevant to technological and economic change. Electronic commerce and investment facilitation are priority areas. The latter is a particular interest of China, whose co-operation is more likely to be obtained in the consensual regional environment than through great-power confrontation.

RCEP may not be as ambitious an agreement in a strict trade sense as CPTPP, but its political significance is great. If, for example, through RCEP India can shift from its traditionally defensive trade policy posture this would be a major achievement. It should also have knock-on effects amongst those developing countries who take their lead from India in the WTO.

Recently there have been informal discussions about plurilateral approaches to dispute settlement, given the threat of paralysis in the WTO system (the Appellate Body will be down to three out of seven members by October if the current impasse persists). WTO rules provide for independent arbitration by agreement among parties to a dispute, but this has been little used.

It could offer those governments who agree to use it a way around the looming crisis, though it would lack the universality and enforceability of the multilateral system. Perhaps the main importance of this initiative is that it shows many governments are not prepared passively to accept a reversion to unilateralism, and that the pragmatic creativity that secured CPTPP is also the best hope for the WTO.

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