The Framework Agreement of 21 August 2025 between the US and the EU: "Legal Doubts" as a Response to the New Global Trade Disorder

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Contents

Abstract

The present paper deals with the US-EU framework agreement of 21 August 2025 on fair, reciprocal, and balanced trade. It is a non-binding mutual agreement designed to reduce transatlantic trade imbalances. It proposed a 15% tariff on most EU exports to the US and increased EU market access for US industrial/agricultural goods, aiming for a final agreement, though facing implementation challenges. While announced as a move toward a more "balanced" relationship, the framework agreement faced immediate hurdles, including renewed disputes over digital taxes and EU-level debate over the legality and impact of the proposed tariff changes. For this reason, the framework agreement requires further analysis, especially regarding its implications on international and EU law. Ultimately, from a multilateral and supranational perspective, it seems like

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a highly “dubious” agreement in legal terms, although it certainly represents a timely solution to address the crisis.

Keywords: European Union Law; framework agreement of 21 August 2025; trade policy; WTO.

I. Introduction

A press release of the European Commission dated 21 August 2025, disclosed a joint statement issued by the European Union (EU) and the United States (US)[1] based on a framework agreement for balanced and fair trade. The framework agreement was the result of a compromise reached between the parties to resolve an ongoing trade dispute. It was the result of an aggressive policy of trade tariffs imposed after the second election of President Trump. The current American administration is taking a new direction in political, military and economic relations, thus ushering in a new era regarding its connections with the EU. The framework agreement was therefore the result of a past clash between American and European trade policy.

One of the goals of the new US presidency was to transform a private diplomatic act into a public performance. The addressee was not only the President of the European Commission, Ursula von Der Leyen, but also the European and global public opinion. The critical attitude toward this policy has raised serious legal doubts, especially at the level of the multilateral order, which is consistent with a perspective that characterises Trump’s second term. Tensions with historic partners and, on the other hand, strategic allies like the EU have created a difficult situation for relations with rival powers such as China, Iran and the Russian Federation, even reaching the point of international conflict. The current American administration reflects, across the board, the destabilisation of an entire balance of political, strategic and economic relations in the global arena.

II. The path to compromise

The clashes and tensions between the US and the EU, in trade policy, date back to Trump’s first tariff announcements, ushering a new era of uncertainty and instability in international trade. Beginning with Trump’s first presidency, the US pursued a hostile trade policy toward Europe, even though some European countries were considered “friends” to the US as evidenced by their imposition of increased tariffs on imports of certain steel and aluminium products originating in the EU. We are referring to increases of 25% and 10% compared to the initial levels which were adopted under “Section 232” of the Trade Expansion

[1] ‘Joint Statement on a United States – European Union Framework on an Agreement on Reciprocal, Fair and Balanced Trade’ (*The White House*, 21 August 2025) <https://www.whitehouse.gov/briefings-statements/2025/08/joint-statement-on-a-united-states-european-union-framework-on-an-agreement-on-reciprocal-fair-and-balanced-trade/> accessed 2 July 2026.

Act of 1962.[2] This basis was legally grounded in the former Article XXI of General Agreement on Tariffs and Trade (GATT) 1994.

Within the WTO, the relevant dispute is United States - Certain Measures on Steel and Aluminium Products, dated 17 January 2022.[3] The dispute concerned, inter alia, the increase in duties on certain products and aluminium originating in the US pursuant to Implementing Regulation of 2018/886.[4] Through balancing forms, this policy has attempted to respond to safeguard measures based on former Art. XIX GATT 1994 and Regulation 654/2014, Article 3, letter c).[5] These American positions are identified, qualified and explained as national security measures and above all as safeguard measures. At the same time, these measures are unjustified under WTO law. After the failure of the attempt at consultations on the relevant procedure between the parties, the EU was entitled to suspend the relevant tariff concessions on products originating in the US, based on paragraph 2 of the former Article 8 of the WTO Agreement on Safeguard Measures,[6] leading to the revocation of the measures.

The trade policy of Trump's and Biden's administration was oriented towards a rapprochement with the EU and towards a shared solution manifested in the joint statement of 17 May 2021. As can be seen in this regard: "[…] They agreed to enter into discussions on the mutual resolution of concerns in this area that addresses steel and aluminium excess capacity and the deployment of effective solutions, including appropriate trade measures, to preserve our critical industries [...] most constructive environment for these joint efforts, they agreed to avoid changes on these issues that negatively affect bilateral trade […] committed to engaging in these discussions expeditiously to find solutions before the end of the year that will demonstrate how the US and EU can address excess capacity, ensure the long-term viability of our steel and aluminium industries,

[2] Kyla H. Kitamura, 'Section 232 of the Trade Expansion Act of 1962' (*Congressional Research Service*, 16 July 2025) <https://www.congress.gov/crs-product/IF13006> accessed 2 July 2026.

[3] 'DS548: United States – Certain measures on Steel and Aluminium Products' (*World Trade Organization*) <https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds548_e.htm> accessed 2 July 2026.

[4] Commission Implementing Regulation (EU) 2018/886 of 20 June 2018 on certain commercial policy measures concerning certain products originating in the United States of America and amending Implementing Regulation (EU) 2018/724 [2018] OJ L158/5.

[5] Regulation (EU) No 654/2014 of the European Parliament and of the Council of 15 May 2014 concerning the exercise of the Union's rights for the application and enforcement of international trade rules and amending Council Regulation (EC) No 3286/94 laying down Community procedures in the field of the common commercial policy in order to ensure the exercise of the Community's rights under international trade rules, in particular those established under the auspices of the World Trade Organization [2014] OJ L189/50.

[6] 1994 Agreement on Safeguards, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1869 UNTS 154.

and strengthen our democratic alliance […]".[7]

The resolution procedure for the ongoing dispute was suspended in the face of a reduction in US protectionist measures against EU products, suspending rebalancing measures until March 2025, pursuant to the Commission Implementing Regulation 2023/2882.[8] Evidently, a precise agreement with standards and reference points was never reached.[9] The second Trump presidency attempted to increase American protectionist measures against its US trading partners. In response to the US, the EU attempted to increase tariffs on steel and aluminium, which also affected products in the automotive sector. For the EU, the recipients of the reciprocal tariffs, as set out in Executive Order No. 14257 of 2 April 2025,[10] involved an increase in *ad valorem* duties on all relevant imported products, i.e., at a rate of approximately 20% for products originating in the Union and other affected countries, including over 50 states such as Lesotho and China, thereby declaring an imbalance in US trade balance. The relevant provisions were clear but inconsistent with various obligations under WTO law, in particular the prohibition on tariff increases that exceed the thresholds of a multilateral forum under Article II of GATT 1994 and the old but still valid most-favoured-nation principle. The basic principle was that any trade benefit granted to a WTO member was immediately extended to all other members, as set out in Article I of GATT 1994, which actually included and prohibited discrimination based on basic origin treatment for imported products.

In a letter to President Ursula von Der Leyen the new administration proposed a new 30% tariff on all Union goods, counterbalancing the EU's tariff and non-tariff barriers as well as related imports from the US. The EU adopted rebalancing measures that replaced the previous ones, which had been extended to all categories and goods affected by the new US tariffs, pursuant to Commission

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7 'Joint United States-European Union Statement on Addressing Global Steel and Aluminium Excess Capacity' (*Office of the United States Trade Representative*, 17 May 2021) <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/may/joint-united-states-european-union-statement-addressing-global-steel-and-aluminum-excess-capacity> accessed 2 July 2026.

8 Commission Implementing Regulation (EU) 2023/2882 of 18 December 2023 suspending commercial policy measures concerning certain products originating in the United States of America imposed by Implementing Regulations (EU) 2018/886 and (EU) 2020/502 [2023] OJ L2023/2882.

9 'Joint EU-US Statement on a Global Arrangement on Sustainable Steel and Aluminium' (*European Comminssion,* 31 October 2021) <https://ec.europa.eu/commission/presscorner/detail/en/ip_21_5724> accessed 2 July 2026. "(…) the EU will create a technical working group charged with developing a common methodology and share relevant data for assessing the embedded emissions of traded steel and aluminium (…)".

10 Executive Order 14257, 'Regulating Imports With a Receiprocal Tariff To Rectify Trade Practices That Contribute to Large and Persistent Annual United States Goods Trade Deficits' (2 April 2025) 90 Fed. Reg. 15041.

Implementing Regulation No. 2025/1446.[11] Specifically, the EU responded with rebalancing measures. It suspended and introduced new measures under the relevant Commission Implementing Regulation 2025/778[12] on tariffs in the steel and aluminium sectors, i.e. in the automotive sector. However, no immediate reciprocal tariff responses were adopted. The new measures were adopted to pave the way for negotiations with the US,[13] based on Implementing Regulation No. 2025/786.[14] This opening toward the USA replaced the horizontal tariff of 20% with a new one of 10%.

These changes brought about some political and legal milestones in trade policy between the US and the EU. As early as July 2025, the parties were discussing a compromise that resulted in a framework agreement under the terms made public in the joint declaration of 21 August 2025. The related declaration contained a list of the relevant commitments undertaken by the parties. The US had committed to applying a tariff of up to 15% on relevant EU products under the reciprocal tariffs. Instead, a tariff of 20% corresponded to the rate applied to products under the most-favoured-nation principle, thus applying a relative rate certainly less than 15% for certain products, such as natural resources, generic drugs and aircraft products. In case of the US, the 15% reduction in tariffs under Section 232 on automotive products was extended to 25%, while also maintaining a threshold for potential tariffs for pharmaceuticals, timber and semiconductors. Regarding the steel and aluminium sectors, the relevant framework agreement did not specify a base tariff threshold. Thus, the parties intended to explore the possibility of cooperating and protecting domestic industries from the risk of global overproduction.

Within this framework, the EU has declared its intention to reduce tariffs on American industrial products to zero, as well as to guarantee privileged access to the EU market for non-sensitive agricultural and fishery products. The EU's non-tariff trade commitments have resulted in US purchases of energy products such as gas, oil and nuclear energy reaching a value exceeding $800 billion, as

[11] Commission Implementing Regulation (EU) 2025/1446 of 14 July 2025 suspending commercial rebalancing measures concerning certain products originating in the United States imposed by Implementing Regulation (EU) 2025/778 and amending Implementing Regulation (EU) 2023/2882 [2025] OJ L2025/1446.

[12] Commission Implementing Regulation (EU) 2025/778 of 14 April 2025 on commercial rebalancing measures concerning certain products originating in the United States of America and amending Implementing Regulation (EU) 2018/886 [2025] OJ L2025/778.

[13] 'EU pauses countermeasures against US tariffs to allow space for negotiations' (*European Commission*, 14 April 2025) <https://ec.europa.eu/commission/presscorner/detail/en/ip_25_1058> accessed 2 July 2026.

[14] Commission Implementing Regulation (EU) 2025/786 of 14 April 2025 suspending commercial rebalancing measures concerning certain products originating in the United States imposed by Implementing Regulation (EU) 2025/778 and amending Implementing Regulation (EU) 2023/2882 [2025] OJ L2025/786.

well as chips worth $40 billion in 2026. This has led to a significant increase in US arms purchases. The EU has discussed investment with the US leading to an increase of $600 billion in 2026. The EU's commitment aimed to simplify the application of unilateral instruments for US companies that have a restrictive impact on goods and services in the EU's single market. Within this framework, particular attention should be paid to Regulation 2023/1115 on deforestation,[15] Regulation 2023/956,[16] which established the related carbon adjustment mechanism for borders, Directive 2024/1760[17] on due diligence for companies and Directive 2022/2464[18] on the sustainability of companies.

These are specific points that demonstrate the parties' commitment to cooperate to reduce and eliminate their respective non-tariff barriers. This work continues to establish a common standard for sectors of mutual interest. In the food sector, it is already clear that the parties have followed health certification requirements for pork and, consequently, agricultural products. Similarly, we can speak of mutual recognition for standards in the automotive sector. It seems mutual that the commitments made within the EU are leading to the Union's path to lowering barriers, which is also among the objectives of a current trade policy that extends overseas. For the US and the EU, the commitment to collaborate on issues related to relations with third countries addresses the related export restrictions for critical raw materials, as well as for workers, intellectual property, technology, and digital trade.

The relevant agreement signed in August 2025 left traces that lead back to another similar agreement signed between the US and the United Kingdom on 8 May 2025 entitled: "General terms for the US and the United Kingdom of Great Britain and Northern Ireland economic prosperity deal".[19] It is clear that the purpose of the declaration was to pursue a path of equitable prosperity

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[15] Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 (Text with EEA relevance) [2023] OJ L150/206.

16 Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism (Text with EEA relevance) [2023] OJ L130/52.

[17] Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859 (Text with EEA relevance) [2024] OJ L2024/1760.

[18] Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting (Text with EEA relevance) [2022] OJ L322/15.

[19] 'General Terms for The United States of America and the United Kingdom of Great Britian and Northern Ireland Economic Prosperity Deal' (8 May 2025) <https://assets.publishing.service.gov.uk/media/681d327d43d6699b3c1d2a9d/US_UK_EPD_050825_FINAL_rev_v2.pdf> accessed 2 July 2026.

and balanced trade through an agreement. This declaration does not specify but is oriented towards a new future agreement that simply describes the present framework agreement as a first step in a process of trade liberalisation. The parties have established their commitment to this path. Implementing the framework agreement was the responsibility of the European Commission within the EU, which suspended the duties provided for by the Implementing Regulation 2025/1446 through the Implementing Regulation 2025/1727,[20] which was submitted to the European Parliament and the Council on 28 August 2025.[21] This has eliminated duties on industrial products as well as on agri-food products of American origin. Some agri-food products had a zero rate. This rate was limited to certain quantitative quotas.

III. The legal basis of the framework agreement

Trying to identify the legal basis of the framework agreement is not easy. The joint declaration did not specify whether it is a binding agreement or not. The framework agreement is a political agreement, a temporary solution to address other problems.

In the author's opinion, this is a purely political agreement, given that the European Commission has not taken a declaratory position to characterise it as binding, as noted in the report COM (2025) 471.[22] Furthermore, there is no declaratory position from the US side either. The same conclusion arises if we apply the VCLT Article 2(1)(a) criteria to the framework agreement and then to the US Executive Order of 5 September 2025 (entitled: "Modifying the Scope of Reciprocal Tariffs and Establishing Procedures for Implementing Trade and Security Agreements", having as an object to update the Reciprocal Tariff Policy in order to adjust tariff exemptions on goods like critical minerals as well as to set frameworks for new trade deals with EU and with other partners). In fact, while the framework agreement meets the formal requirements of being in writing between international subjects, it fails the "governed by international law" criterion because it acts as a political framework for future negotiation and implementation, rather than creating immediate, binding obligations under international law. In other words, it is an international agreement concluded between states and subjects of international law in written form embodied in a single or more related instruments

[20] Commission Implementing Regulation (EU) 2025/1727 of 5 August 2025 suspending commercial rebalancing measures concerning certain products originating in the United States of America and certain products exported from the Union to the United States of America imposed by Implementing Regulation (EU) 2025/1564 [2025] OJ L2025/1727.

[21] Commission, 'Proposal for a Regulation of the European Parliament and of the Council on the adjustment of customs duties on the import of certain goods originating in the United States of America and opening of tariff quotas for imports of certain goods originating in the United States of America' COM (2025) 471 final.

[22] 'Questions and answers: Questions and answers on the EU-US Joint Statement on Transatlantic Trade and Investment' (*European* Commission, 21 August 2025) <https://ec.europa.eu/commission/presscorner/detail/en/qanda_25_1974> accessed 2 July 2026.

governed however indirectly by international law, as it acts as a framework for future negotiations rather than a finalised treaty.

The same holds for the US Executive Order of 5 September 2025. It generally does not meet the criteria for a treaty under VCLT Article 2(1)(a) in its own right, but functions as domestic implementation for "executive agreements" that do meet these criteria. In fact, the order is partially an international agreement. The Order is a unilateral domestic directive from the US President to executive branch officials. It sets up a "framework" to implement future or current reciprocal trade agreements with foreign partners (e.g., EU, Japan). These associated bilateral frameworks are international agreements. The order is not a direct agreement between states but a domestic law. It is in written form. Finally, the order in itself is governed by domestic and not by international law.

From a technical, formal point of view, it is confirmed that the procedures envisaged by Articles 207 and 218 TFEU for the conclusion of trade agreements have not been applied. This means that from a legal point of view, the framework agreement has a certain value but is not binding.

Formal elements under international law are not sufficient to qualify the framework agreement as binding. In this spirit, we recall the old ruling of the International Court of Justice (ICJ) in the Qatar v. Bahrain case of 1994,[23] according to which the framework agreement is a commitment agreement.[24] The terms seem to indicate a relative presence of consent between the parties, which give legal force to their listed commitments. The formal elements used in the old ICJ case are clarified through: - the legal value of letters of exchange for the use of signed documents that constitute an official record for political negotiations because they are binding international agreements; - the irrelevance of the intentional subjectivity of not being bound. This position was used by the representatives of Bahrain, who had no intention of signing a legally binding agreement. The ICJ itself focuses on the commitments accepted by their own governments; - the Bahrain formula, which required territorial and maritime disputes to be resolved through negotiation within a certain timeframe; - the freedom of form of international agreements, given that the judgment is not solemn enough to create international obligations; and, above all, that diplomatic meetings are sufficient; - a unilateral referral by only one of the two parties, thus recognising that the agreement, allows and leads to a dispute at the ICJ even without a new joint agreement; - a general privilege for the commitments that are made by the parties, i.e. pacta sunt servanda which respects the procedural formality that also makes all the agreements reached during the

[23] Maritime Delimitation and Territorial Questions between Qatar and Bahrain, Jurisdiction and Admissibility, Judgment, I.C.J. Reports 1994, p. 112. paras. 21-30; Dimitris Liakopoulos, *The role of not party in the trial before the International Court of Justice* (Maklu 2020).

[24] In the declaration, the parties stated that the agreement is used with the expressions "commit and/or intend", referring to commitments that have as their object the relevant framework agreement.

negotiations binding.[25]

The subject of the framework agreement indicates the listed commitments. The key terms used are agreed upon by the parties and, above all, by the cooperation, which reflects the vague programmatic contents that are inadequate to precisely establish legal obligations. Thus, the economic value of purchases and the related implementation investments are clearly and precisely identified. It does not bind the parties, including the EU, with regard to the result to be achieved; rather, it concerns measures directed at the regulation of the behaviour of private entities. In the case of investments, the EU has expressly highlighted the free will of the companies in this regard. Thus, a best-effort obligation is identified for the EU, which establishes the tools for private action within an energy framework that follows the basis of the demand mechanism pursuant to Regulation 2022/2576.[26] It seems difficult to follow a prescriptive basis of obligations under international law that identifies mechanisms that ensure their enforceability. Overall, the commitments follow mutual concessions and do not correspond to specific performances and considerations as obligations for the parties that are mutually binding in a relationship of a bilateral nature.[27]

IV. Connections with international law

A framework agreement that is binding under international law falls under the issue of relative enforceability in connection with commitments that concern the parties' international responsibility in the event of non-performance. An issue arises under a formal and theoretical framework in the face of specific circumstances that lead to a compromise enshrined in the framework agreement. Non-performance by the parties leads to outcomes that are independent of the legal nature of their act. This leads to the question of unilateral measures, the compromise nature of which prevents escalation. The parties are expected to suspend the relevant benefits for their intended counterparts by following the implementing measures, as established in the proposed regulation presented in Article 11. 3 of the European Commission Questions and Answers of 21 August 2025 (COM (2025) 471) which reactivate the unilateral measures that were previously suspended. Thus, one can speak of a *status quo ante* situation. It should be noted that the agreement entails actual legal obligations that correspond to rights for the parties. The resulting material is the same one that is independent of a classifica-

[25] Liakopoulos (n 23).

[26] Council Regulation (EU) 2022/2576 of 19 December 2022 enhancing solidarity through better coordination of gas purchases, reliable price benchmarks and exchanges of gas across borders [2022] OJ L335/1.

[27] 'Modifying the Scope of Reciprocal Tariffs and Establishing Prodecures for Implementing Trade and Security Agreements' (*The White House*, 5 September 2025) <https://www.whitehouse.gov/presidential-actions/2025/09/modifying-the-scope-of-reciprocal-tariffs-and-establishing-procedures-for-implementing-trade-and-security-agreements/> accessed 2 July 2026.

tion that goes beyond the countermeasures of the actions undertaken following the failure of the compromise. Countermeasures, including the EU, are acts that are *prima facie* unlawful but rendered lawful when the conditions set out in the ARSIWA/ARIO are satisfied. This distinction is significant because it affects EU's legal position.[28] It is within this spirit that the bilateral relational framework between the EU and the US is concentrated, establishing the framework agreement within the scope of multilateral international law. It is therefore necessary to begin an evaluation analysis.

As noted in previous paragraphs, the US tariff increased. From a European perspective, the benefits are incompatible with WTO rules, given that the agreed-upon rate of 15% *ad valorem* is higher than the maximum thresholds established by the US in its own WTO negotiating rounds and the rates applied by the US under the most-favoured-nation principle, as enshrined in the agreement itself. This means that the framework agreement is widely considered incompatible with WTO Most-Favoured-Nation (MFN) obligations, as it creates a preferential trading arrangement that applies lower tariffs to the EU (and select others) while maintaining higher, punitive tariffs for other WTO members. The deal allows for a 15% tariff cap on many EU goods, whereas the US imposed a 10%-50% tariff range on many other countries via earlier 2025 executive orders.

To be more precise the framework agreement grants preferential treatment for EU goods, violating the fundamental WTO MFN principle which requires that any tariff advantage granted to one country must be extended to all WTO members. Adequately, the framework agreement establishes a "reciprocal" 15% tariff or the MFN rate (whichever is higher), which applies selectively, treating EU-origin goods differently from others. The framework agreement is also a "joint statement" and not a formal, binding WTO treaty, yet it directs changes to the Harmonized Tariff Schedule (HTS) in a way that treats specific countries preferentially. Finally, the related 2025 US actions are viewed as arbitrary changes that disrupt the world trading system and fail to comply with negotiated tariff bindings.

At a multilateral level, the US tariffs appear to sanction a renunciation by the EU, which demonstrates the illegitimacy of the agreed-upon rate under WTO rules. In this spirit, the panel, i.e. the dispute settlement body of the WTO, should be referred to, especially the report of the panel of 24 October 2000 in the dispute

[28] The ARSIWA/ARIO does not permanently transform 'evil into good', as it limits legal defences and, above all, countermeasures that temporarily prevent the permissibility of illegal actions, with the aim of maintaining international legality. Unlawful acts, that is, those that violate international obligations, become lawful only if they are justified by the relevant circumstances that ultimately exclude their wrongfulness and effectively remove their status as illegal acts under international law. Dimitris Liakopoulos, *Complicity in international law* (W.B. Sheridan Law Books 2020).

between: Guatemala - Definitive Anti-Dumping Measures on Grey Portland Cement from Mexico.[29] The Guatemala Cement panel reports (specifically *Guatemala – Cement I* and *Cement II*, DS60/DS156) are relevant to the Most Favoured Nation (MFN) principle by highlighting the systemic risks of discriminatory or procedural non-compliance when treating foreign products. Precisely, the Panel found that Guatemala violated WTO obligations by initiating investigations based on insufficient evidence regarding Mexican cement, failing to treat the foreign importer with the same procedural standards applied to domestic industry. This is a violation of the spirit of fair, equal (MFN) treatment and anti-dumping rules. Guatemala also violated Article 5.5 of the Anti-Dumping Agreement by failing to timely notify Mexico of the investigation, which can act as a hidden barrier to trade, violating the intent of MFN (equal access to trade opportunities). Finally, the panel found that Guatemala improperly used "best information available" to penalise Mexican exporters rather than seeking accurate data, which is crucial for upholding impartial, MFN-compliant market access.

With the framework agreement, the EU accepted the American approach. It is noteworthy that the US agreed to the pretext of unfairness in current trade relations. This pretext is legally unfounded, given that WTO law does not provide for economic equilibrium. On the other hand, the alleged imbalance contested by the US does not take into account the existence of an imbalance in the services sector. Only the EU opted for what it considered the lesser evil: the credibility of a global trading system based on compliance with rules established multilaterally. The parties thus resolved their dispute outside the WTO framework, given that the EU did not challenge the illegitimacy of US tariffs within the WTO dispute settlement system.[30]

From a practical standpoint, this mechanism leads to a paralysis of the Appellate Body crisis caused by the US.[31] It asserts the circular basis of multilateral rules as a threat from the US side.[32] At the same time it demonstrates a compromise of the consultation and

[29] *Guatemala – Definitive Anti-Dumping Measures on Grey Portland Cement from Mexico* (Panel Report, WT/DS156/R, 24 October 2000).

[30] Without following: Brazil 'DS640: United States – Tariff measures on goods from Brazil' (*World Trade Organization*) <https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds640_e.htm> accessed 2 July 2026; China 'DS638: United States – Universal and Country-specific Additional Duties on Imports from China' (*World Trade Organization*) <https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds638_e.htm> accessed 2 July 2026; and Canada 'DS637: United States – Additional Duties on Imports of Automobiles and Automobile Parts from Canada' (*World Trade Organization*) <https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds637_e.htm> accessed 2 July 2026.

[31] Cosette Creamer, 'Can International Trade Law Recover? From the WTO's Crown Jewel To Its Crown of Thorns' (2019) 113 American Journal of International Law 52.

[32] Yong-Shik Lee, 'Unmaking' of International Trade Law?: A Crisis of the Rule-Based International Trading System' 2024 59 Journal of World Trade 2; Geraldo Vidigal, 'The GATTification of the WTO-Regime Change and Thinning Legality in International Trade Relations' (2024) 51 Legal Issues of Economic Integration 306.

conciliation procedures that are provided for within the WTO law.[33]

In this spirit, we must consider the tariffs agreed by the US and the commitments adopted by the EU, which appear to be incompatible with WTO obligations under the general principle of international economic law of the most-favoured-nation.[34] It calls on the EU to extend its benefits, which are granted by the US, to all WTO members. On the contrary, the Framework Agreement presents itself as a preferential trade agreement pursuant to Article XXIV of the GATT 1994.[35] It represents an exception to the most-favoured-nation principle, which allows WTO members to conclude bilateral and multilateral agreements within trade liberalisations that respect those granted to members through the creation of customs unions and free trade areas.[36]

For the EU, this agreement brings qualitative and quantitative benefits to American goods, namely the elimination of duties on certain categories of goods. The US has reduced the increase in tariffs while maintaining the rates above the thresholds permitted under WTO law. The framework agreement does not lay out the foundations for a customs union between the EU and the US. However, it appears to be an agreement that is being developed on a future basis, based on former Article (5) XXIV, of the GATT 1994. This is a varied agreement with foreseen commitments that lay the foundations for new negotiations. The objective was to facilitate trade between the contracting parties, as required by Article XXIV of the GATT 1994 regarding trade flows.[37] The framework agreement between the US and the EU is formally and precisely positioned outside the scope of the WTO. In practice, the two parties have created a parallel relationship that is independent of multilateral trade law, based on an instrument that adheres to the categories of general treaty law.

[33] 1994 Understanding on Rules and Procedures Governing the Settlement of Disputes, Marrakesh Agreement Establishing the World Trade Organization, Annex 2, 1869 UNTS 401.

[34] Joost Pauwelyn, 'How the US Reciprocal Tariff Plan May Save the Global Trading System' (2025) 24 Journal of World Trade 4.

[35] Andrew D. Mitchell and Nicolas J. S. Lockhart, 'Legal requirements for PTAs under the WTO' in Simon Lester and others (eds), *Bilateral and Regional Trade Agreements* (Cambridge University Press 2016).

[36] *ECC – Import Egime for Bananas* (Panel Report, DS38/R, 11 February 1994) para. 159.

[37] See 'Fact Sheet: The United States and European Union Reach Massive Trade Deal' (*The White House*, 28 July 2025) <https://www.whitehouse.gov/fact-sheets/2025/07/fact-sheet-the-united-states-and-european-union-reach-massive-trade-deal/> accessed 2 July 2026, which is used the terms of: "(…) rebalancing the economic relationship (…)". And from the EU: Questions and answers: Questions and answers on the EU-US Joint Statement on Transatlantic Trade and Investment of 21 August 2025, op. cit., (…) stability and predictability in transatlantic trade (…)".

V. Implications under EU law

The implications and legal consequences of the framework agreement often arise beyond the definition of the agreement's nature. For the EU, this is reflected in secondary law through Article 216 (2) TFEU.[38] The implementation of the framework agreement's commitments conflicts with law and the most-favoured-nation principle. The EU includes all principles and rules of the WTO, to obtain the benefits granted by the US. This position has been established by case law.[39] The framework agreement was not concluded in accordance with the procedures established by primary law. This would lead to potential negative consequences under the principle of conferral and institutional balance.[40]

Within this framework, Article 17 (1) TFEU should be noted. The European Commission has the relevant power of external representation to conduct negotiations, but it does not have the power to ratify an agreement that decides and expresses the Union's authority at the international level. A binding agreement is necessary and authorises the Council to open negotiations, sign and conclude an agreement after approval by the European Parliament, pursuant to former Article 218, paragraphs 2 and 6, letter a) of the TFEU. The informal nature of the operation did not allow for the possibility of requesting an opinion from the CJEU, providing a definitive text required by Article 218 (11) of the TFEU before its conclusion. Such considerations govern and address an agreement of a political nature. According to the CJEU, the procedure for adopting non-binding international agreements does not undermine the division of competences, the institutional balance and loyal cooperation between the institutions of the Union, in accordance with the prerogatives they respect.[41] The pronouncement of the role of the Council and the jurisprudential principle also extends the protection of the prerogatives of the European Parliament.[42] The political nature and informality of the agreement are *per se* adequate and justify the exclusion of the Council and European Parliament from the related agreement-reaching process. The Council did not protest and brought to the European Commission: "[...] duly involved throughout the

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[38] Case C-66/18 *European Commission v Hungary* [2020] ECLI:EU:C:2020:792, paras. 69-70; Vasiliki Kosta and Darinka Piqani, 'Where trade and academic freedom meet: Commission v. Hungary (LEX CEU)' (2022) 59 Common Market Law Review 814-852.

[39] Case C-149/96 *Portugal v. Council* [1999] ECLI:EU:C:1999:574, para. 47.

[40] Panos Koutrakos, 'Institutional Balance and Sincere Cooperation in Treaty-making under EU Law' (2019) 68 International & Comparative Law Quarterly 2; Chistophe Hillion, 'Conferral, Cooperation and Balance in the Institutional Framework of EU External Action' in Marise Cremona (ed), *Structural Principles in EU External Relations Law* (Hart Publishing 2020).

[41] Case C-233/02 *France v. Commission* [2004] ECLI:EU:C:2004:173 para. 40; Case C-660/13 *Council v. Commission* [2016] ECLI:EU:C:2016:616 paras. 36-43.

[42] Paula Garcìa Andrade, 'The role of the European Parliament in the adoption of non-legally binding agreements with third countries' in Juan Santos Vara and Soledad Rordrìguez Sànchez-Tabernero (eds), *The Democratisation of EU International Relations Through EU Law* (Routledge 2019).

process and endorse the outcome [...]".[43] From a material point of view, the member states, with their own consensus, even informal, have attempted to compensate the Council's lack of participation. The exclusion of the European Parliament has affected the democratic legitimacy of its compromise. Thus, criticisms have been raised in this regard, especially complaints regarding Regulation 2025/1106,[44] which has initiated an action for annulment.

Certain political objections have been raised by opposition groups of the opposing side. Two unsuccessful motions of censure against the European Commission[45] challenged the content of the framework agreement, as noted in the related motions.[46] These motions formulated complaints regarding the violation of an institutional balance, citing the exclusion of the Council. The acquiescence of the European Parliament and its own lack of involvement were also emphasised. This situation calls for the opinion of the CJEU. Questions may also arise from the Member States and the institutions.

A clear procedural violation impacting the institutional balance is limited. The European Commission has attempted to clarify the relevant questions and answers in August 2025. The internal acts implemented the agreed commitments, which are adopted in line with the relevant procedures. The Council and the European Parliament have had the opportunity to exercise the prerogatives of the CJEU. These go beyond the violation of procedural rules that occur in the specific case and concern the framework agreement as an isolated incident. The related systemic impact arises from an analysis that appears to have been overlooked. This is not an exceptional case, but it does have precedents. The framework agreement is linked to the informal practice of EU international relations, creating a friction with the constitutional structure of the EU.[47]

This trend is criticised and further developed in the EU's migration policy.[48] In this

[43] European Commission (n 22).

[44] Council Regulation (EU) 2025/1106 of 27 May 2025 establishing the Security Action for Europe (SAFE) through the Reinforcement of the European Defence Industry Instrument (Text with EEA relevance) [2025] OJ L2025/1106.

[45] 'MEPs reject motions of censure against the European Commission' (*European Parliament*, 09 October 2025) <https://www.europarl.europa.eu/news/en/press-room/20251003IPR30667/meps-reject-motions-of-censure-against-the-european-commission> accessed 2 July 2026.

[46] 'Motion for a resolution – B10-0402/2025' 2025/2173INS, (*European Parliament*, 16 September 2025) <https://www.europarl.europa.eu/doceo/document/B-10-2025-0402_EN.html> accessed 2 July 2026; 'Motion for a resolution – B10-0400/2025' 2025/2174INS, (*European Parliament*, 16 September 2025) <https://www.europarl.europa.eu/doceo/document/B-10-2025-0400_EN.html> accessed 2 July 2026.

[47] Ramses A. Wessel, 'Normative transformations in EU external relations: the phenomenon of 'soft' international agreements' (2021) 44 West European Politics 72; Andrea Ott, 'Informalization of EU Bilateral Instruments: Categorization, Contestation, and Challenges' (2020) 39 Yearbook of European Law 569.

[48] Eva Kassoti and Narin Idriz (eds), *The Informalisation of the EU's External Action in the Field of*

spirit, our interest is concentrated on the 2016 EU-Türkiye Statement. The statement is an informal act that includes specific commitments of uncertain legal nature.[49] The EU-Türkiye Statement is compared to the framework agreement. The EU-Türkiye Statement similarly to the framework agreement was a political arrangement rather than an international act attributable to the European Council, Council of the EU, or Commission. The statement in contrast to the framework agreement was released as a press release via the Council webpage, not as an adopted legal act. The CJEU ruled in 2016 that EU-Turkey Statement does not have formal authorship by an EU institution. Adequately, the General Court concluded that it was an agreement between Member States and Turkey, not an official EU-Turkey agreement, thus lacking legal accountability. While the Statement aimed to stop irregular migration through rapid returns, its practical implementation—specifically the classification of Turkey as a "safe third country"—has faced intense scrutiny and legal challenges before the CJEU regarding its alignment with European asylum law. In other words, its authorship faced negative consequences regarding the respect of the principle of conferral and the autonomy of the Union legal order.[50]

The framework agreement on the other hand appears to be moving in the opposite direction. It follows a direction that demonstrates the convergence of member states toward the EU. This united path respects the exclusive competence in trade policy, as well as the valorisation of the European Commission as a supranational institution and as a single voice and interlocutor of a grassroots, integrative and positive counterpart. The EU's response to the trade crisis initiated by the US administration's aggressive tariff policy demanded an efficient and prompt reaction at the Union level. This evidence remains as a response to the strain of the legal system that tolerates institutions and member states. As we have seen, the EU-Türkiye Declaration[51] has demonstrated a dynamic focusing on the power of both the European Commission and the European Parliament. Over time, such an approach persists with regulations that end up undermining the rule of law within the Union, especially if it frequently requires addressing aggressive practices by third countries that disregard international law. This excludes the

Migration and Asylum (Springer 2022); Federico Casolari, 'The unbearable 'lightness' of soft law: on the European Union's recourse to informal instruments in the fight against irregular immigration' in Francesca Ippolito and others (eds), *Bilateral Relations in the Mediterranean* (Edward Elgar 2020); Juan Santos Vara, 'Soft international agreements, on migration cooperation with third countries: a challenge to democratic and judicial controls in the EU' in Sergio Carrrera and others (eds), *Constitutionalising the External Dimensions of EU Migration Policies in Times of Crisis* (Edward Elgar 2019).

[49] Steve Peers, 'The Draft EU/Turkey Deal on Migration and Refugees: is it Legal?' (*EU Law Analysis*, 16 March 2021) <https://eulawanalysis.blogspot.com/2016/03/the-draft-euturkey-deal-on-migration.html> accessed 2 July 2026.

[50] Case T-192/16 *NF v. European Council* [2017] ECLI:EU:T:2017:128.

[51] Georgios Anastasopoulos, 'Legal analysis of the EU-Turkey statement of 18 March 2016: past and future' (2023) 2 INTEULM 148-205.

de facto delegation of the European Commission, which was used as a tool by the member states and as a measure of a broad agreement criticised by national public opinion, voicing criticisms. Ultimately, the European Commission and the Union emerge diminished and certainly not strengthened on this topic.

VI. Conclusions

From the previous paragraphs, it can be concluded that the European Commission considered the relevant agreement of August 2025 to be superior and more beneficial for Europe.[52] The EU's primary objective was to limit the related damage caused by the US and to safeguard the cooperative and collaborative relationship between the two sides of the Atlantic. The political and economic opportunity for compromise operates outside the violation of supranational and international norms. The perennial risk of "destruction of the Union", especially of the EU, through international law forces the framework agreement to impose a relative reflection on the disintegration of the WTO law. Attempting to align the relevant modalities in international relations, especially now after the new American administration, forces the Union to counteract its own legal system by adopting an international order based on coercion of political, rather than legal means. Over time, the consequences may be worse and more difficult to cope with, but hopefully, a trade war will always be avoided and eliminated, as reflected by this framework agreement.

The ongoing challenge arising from new transatlantic dynamics calls for a political revitalisation of the European project, in the knowledge that the EU's vocation is precisely to provide the necessary tools to promote trade liberalisation and effective counter protectionist tendencies. Within the EU, the dissemination and firmness of its economic interests, including trade policy, coexist. It offers a guarantee of compliance with multilateral rules that promote a commercial order based on cooperation and equal treatment. The EU's structure for international economic cooperation is part of its genetic heritage, developed through multilateral commitments that represent a crucial resource. The EU has not adopted a flexible approach in an unstable geopolitical context. Dialogue remains a constantly evolving path that often consciously finds a solution *a priori*. Other times, however, it continues to be suspended, pursuing other paths without clear objectives.

[52] 'Speech of the president of the European Commission U. Von Der Leyen' (*European Commisison*, 10 September 2025) <https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_25_2053> accessed 2 July 2026.