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Swiss Foreign Economic Policy: Key Challenges with a Focus on US Trade Protectionist Measures

Política económica exterior suiza: desafíos claves con un enfoque en las medidas comerciales proteccionistas de Estados Unidos

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ABSTRACT

Switzerland needs to be highly competitive and to have a very good access to foreign markets in order to remain attractive for investors. Over the past decades, Swiss foreign economic policy has put a major emphasis on the multilateral level —GATT, WTO—. With the European Union, a very close integration has been achieved. Besides, a broad network of free trade agreements has been established around the world. Nowadays, strong headwinds threaten the status quo and new liberalization steps face complex issues. In addition, US protectionism under President Trump's America First policy has an increasingly negative impact on the world economy. US actions further deploy growing collateral effects for Swiss firms as the EU and other partner states take precautionary measures and retaliate.

Keywords: Switzerland – US protectionism – steel – free-trade.

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RESUMEN

Suiza debe ser altamente competitivo y tener un muy buen acceso a los mercados extranjeros con el objetivo de seguir siendo atractivo para los inversionistas. En las últimas décadas, la política económica exterior suiza ha puesto gran énfasis en el nivel multilateral —GATT, OMC—. Con la Unión Europea se ha logrado una integración muy estrecha. Además, se ha establecido una amplia red de acuerdos de libre comercio en todo el mundo. Hoy en día, los fuertes vientos en contra amenazan el *statu quo* y los nuevos pasos de liberalización enfrentan problemas complejos. Asimismo, el proteccionismo estadounidense bajo la política de *America First* del Presidente Trump tiene un impacto cada vez más negativo en la economía mundial. Las acciones de los Estados Unidos despliegan más efectos colaterales para las empresas suizas, ya que la Unión Europea y otros estados socios toman medidas de precaución y represalias.

Palabras clave: Suiza – proteccionismo estadounidense – acero – libre comercio.

Introduction

During the past thirty years, Swiss foreign economic policy has been very successful to open up foreign markets. Actions at the multilateral level with other partners have led to the creation of the World Trade Organization (WTO) and its corollary agreements. Highly integrated with the European Union (EU) economy without being an EU Member State, Switzerland was able to negotiate a partial participation in the EU internal market. Additionally, free trade agreements have provided a level-playing field for Swiss exporters on third-country markets relative to their EU competitors and the opportunity to liberalize trade at a quicker pace than at the multilateral level. Bilateral agreements covering investment protection, the avoidance of double taxation and other economic areas have completed the picture. With the United States (US), a Joint Economic Commission, a Trade and Investment Cooperation Forum and an EFTA[1]-US trade dialogue have established a comprehensive framework to strengthen economic relations.

Switzerland should feel comfortable with its access to foreign markets based on reciprocal agreements. Since a decade, however, headwinds have raised significant challenges at the multilateral level with the WTO, at the bilateral level with the EU and more recently with free trade partners. If this was not enough, US protectionism and precautionary measures taken by the EU affect more and more Switzerland and the international climate. This article highlights key challenges of the Swiss foreign economic policy with a focus on US trade protectionist measures.

I. The three pillars of the Swiss Foreign Economic Policy under stress

As a small open economy, Switzerland highly depends on foreign markets. In 2017, exports and imports accounted respectively for as much as 43.4 percent and 38.9 percent of the gross domestic product (GDP). Swiss foreign economic policy relies on three major pillars, namely first the multilateral trading system, second a very close relationship with the EU and third a broad network of free trade and other economic agreements. In each pillar, Switzerland faces major difficulties to move forward.

The World Trade Organization

Member of the General Agreement on Tariffs and Trade (GATT) since 1966 and

1 EFTA: European Free Trade Association. Members: Iceland, Liechtenstein, Norway and Switzerland.

founding member of the WTO, Switzerland has benefited significantly from the progressive trade liberalization since the end of World War II. The GATT has opened a new era in trade by lowering tariffs from an average of almost 40 percent in 1947 to less than 4 percent today for industrialized countries. The WTO has strengthened the multilateral trading regime by enlarging its scope to services and intellectual property protection, integrating textiles and agriculture in the system, setting up rules in several areas such as sanitary and phytosanitary measures and technical barriers to trade as well as defensive trade instruments such as anti-dumping, safeguard and countervailing measures. Government procurement is also part of the WTO at a plurilateral level and an effective dispute settlement regime with an appeal mechanism has been established.

Over the years, Switzerland has clearly favored liberalization and rules setting at the multilateral level because it has brought significant results applied by all WTO members. Furthermore, as the 19th world exporter of goods, Switzerland lacks leverage against bigger economic powers. This came out clearly during the past year as President D. Trump put a significant emphasis on bilateralism with a transactional approach. The US have been exercising pressure on partners to obtain concessions such as voluntary limitations of exports or a better access to their markets. Swiss interests are best defended at the multilateral level and will continue to be so in the future.

However, the WTO faces presently very significant challenges. Ministers have recognized that a conclusion of the Doha Development round launched in 2001 is not feasible. Negotiations focus on specific areas where limited ambitions can be met. As a major result, an agreement on trade facilitation was concluded in 2015 and has come into force. It implies measures to ease administrative procedures at the border and requires adjustments mainly from developing countries, which may benefit from technical cooperation programs.

The 2017 WTO Ministerial Conference in Buenos Aires gave only minor impulsions in some areas, such as fisheries subsidies; electronic commerce (EC); small economies; micro, small and medium-sized enterprises; and investment. For the first time in the history of the WTO, witnessing significant differences between Members, no ministerial declaration was approved at the end of the conference.

Since then, no progress has been achieved to reform the Dispute Settlement Understanding and the vacancies at the WTO Appellate Body have not been filled. Provided that no new nomination takes place by the end of 2019, the appeal regime will become ineffective with only one judge remaining. Starting already under President G.W. Bush, the US has expressed concern on the overreach of the Appellate

Body[2]. The first blocking of the reappointment of a judge occurred under President B. Obama. The US position has been further emphasized under President D. Trump with strong criticism against the functioning of the dispute settlement regime and the implications of its interpretation of WTO law for domestic law. The US has however not tabled any concrete proposals to reform the system and suggestions from other members have not gained sufficient support.

Despite this difficult situation, Switzerland remains committed to the WTO. Its rules represent the bedrock of international trade law. Multilateral provisions are regularly referred to and upgraded in free trade agreements. The present role of the WTO is foremost to offer a unique multilateral negotiation framework; to act as a guardian of the WTO agreements; to settle disputes; to monitor notifications and trade-restrictive policy measures, as well as to provide technical cooperation to developing and least developed countries.

The relations with the European Union

Since the 1960s, the EU has accounted for more than half of Swiss exports and about three quarters of Swiss imports. Swiss economic growth has therefore, and still, strongly depended on a barrier-free access to the EU. As the EU integration process moved decisively forward with the realization of the four freedoms (free movement of goods, services, persons and capital), Switzerland looked for a closer relationship to maintain the competitive level of its firms on the EU market.

In 1989, the EU offered Switzerland and its EFTA partners[3] a full access to its internal market subject to take over all its economic legislation. A very comprehensive agreement —the European Economic Area Agreement (EEA)— was negotiated, signed and adopted by the Swiss Parliament, but subsequently turned down in a popular vote on December 6, 1992 (Nell, 2012). Major reasons for this refusal were the adoption of an institutional regime recognized as unsatisfactory by the Federal Council with inter alia a limited participation in the decision process regarding new EU rules, the submission to the EU Court of Justice for the interpretation of the law and the taking over of a significant amount of EU legislation; in addition, concerns about job losses through the free movement of persons were expressed. The fear of setting the stage for a future EU accession was also a very sensitive and debated

2 https://www.bloomberg.com/news/articles/2018-10-12/trump-s-threat-to-leave-the-wto-could-be-a-saving-grace, accessed 01/01/2019.

3 In 1989, the European Free Trade Association (EFTA) included Austria, Iceland, Finland, Norway, Sweden, Switzerland and Liechtenstein (Customs union with Switzerland; Liechtenstein became a full member of EFTA in 1991).

issue as Switzerland had applied for membership on May 22, 1992. In the aftermath of the vote, based on key EU elements —free movement of persons, agriculture, road transport— and Swiss interests —air transport, technical barriers to trade, government procurement, research— a package limited to seven agreements was negotiated (1994–98), signed (1999), and adopted by the Swiss population (2000). These agreements came into force in 2002, after ratification by all EU Member State Parliaments.

Ten years of integration had been lost as Switzerland registered one of the lowest GDP growth among OECD countries in the 1990s. Nine agreements were added in 2004 covering inter alia Swiss participation in the Schengen[4] and Dublin[5] regimes, taxation of savings, processed agricultural products and Erasmus[6]. The EU had supported the lengthy and difficult negotiation process because its members were keen to register progress, in particular, on free movement of persons by abolishing a Swiss regime for seasonal workers, on road transport by adapting the minimum weight of lorries in Switzerland to the EU level, and on taxation of savings by closing loopholes on tax fraud by EU citizens keeping undeclared banking accounts in Switzerland.

The Swiss economy supported vigorously these agreements. The advantages were deemed important. For instance, in a permanent lack of skilled labor, firms could finally draw on a very large pool of workers and were no longer limited by quantitative restrictions. Immigration from the EU grew much faster than forecasted and companies could expand their activities. Products could be tested technically according to EU or Swiss standards in Switzerland and then sold in all EU member states without any additional controls. Swiss firms got access to EU cities and utilities for government procurement.

Swiss airlines obtained almost full access to the EU, increasing thereby their competitiveness as well as the attractiveness of Swiss airports as hubs. On agriculture, free trade for cheese was introduced: Switzerland agreed to face EU competition on its home market in order to get free access to the EU. With Schengen, controls for people at Swiss borders were abolished and moved into the country based on police cooperation, security was enhanced and the tourism sector benefited from the Schengen

4 The Schengen Area includes 26 European countries, which have abolished passport and travel controls at their borders and adopted a common visa policy as well as police cooperation.

5 The Dublin regime addresses applications by asylum seekers. Switzerland has joined the EU system, under which a seeker may not submit requests consecutively in various countries and may not move from country to country.

6 Erasmus is an EU program fostering education, training, youth and sport in Europe. Students may for instance study abroad for one semester in order to gain intercultural experience.

visa. For research, Swiss universities and research institutes took a very active part in EU programs, in particular as project leaders. This enhanced the attractiveness of Swiss universities for outstanding scholars from all over the world. For example, the Swiss Federal Polytechnic School of Lausanne, a high-level university for sciences and engineering, was awarded the lead for a project of one billion euro for a study on the human brain to be conducted over ten years. The EU nevertheless reserved its right to denounce all agreements of 2002 provided Switzerland would not meet any more its obligations on either one, except research, where participation was linked to a financial contribution.

With the perspective of Switzerland joining the EU in the near future, a permanent adjustment of Swiss law to EU legal developments was not required except for air transport. As the Swiss government moved EU accession from a policy objective to a long-term option in 2006 (Conseil fédéral, 2006: 6620), EU membership started to drift more and more away. The EU required a significant upgrading in the integration process with a common institutional framework covering the major bilateral agreements and future ones to address a lack of homogeneity and of legal security arising from Swiss participation in the EU internal market. Launched in 2014, negotiations were long and difficult and ended at the end of 2018.

Switzerland should take over existing and future EU legislation in five areas[7] according to its internal procedures, including parliamentary approval and Swiss experts could participate in EU decision-making processes. The EU could take countermeasures —suspension of parts of agreements— if Switzerland failed to adopt new EU rules. In cases of differences when legally interpreting the EU law, the EU Court of Justice could be invoked for a binding opinion. An arbitration mechanism should deal with unsolved disputes and the proportionality of countermeasures. The EU and Switzerland would exercise their own surveillance on the implementation of the agreements. As some aspects of the agreement do not fully meet the objectives of the Swiss government, the latter has submitted it internally for consultations. The EU has expressed strong regret that the Federal Council did not endorse the results of the negotiations and that did not submit the agreement to the Swiss Parliament (EU Council, 2019).

The most sensitive points refer to the free movement of persons with the regime for posted workers, a possible taking over to the EU Citizens' Rights Directive and state subsidies. For the EU, the agreement is based on fair and

7 Free movement of persons, technical barriers to trade, agriculture, air and road transportation.

balanced solutions between both parties; the EU will not reopen it.

The stakes for Switzerland are high: without an institutional agreement, the participation in the next EU research program as a full member may not be renewed; product categories may not be updated for technical conformity tests; and the equivalence of the Swiss stock market and new access to the EU internal market may not be granted.

In turn, the EU risks that the Swiss Parliament will not renew a 1.3 billion Swiss francs grant supporting over a ten-year period, mainly the new EU Central and Eastern European member states for projects aimed at strengthening their economic and social development with a focus on the reinforcement of social and health systems, reducing youth unemployment, protecting the environment and the climate, promoting citizen participation and transparency, and a better management of migration movements. The EU expects an unconditional adoption of this financial contribution by the Swiss Parliament because it is an integral part of the relationship between both partners.

The network of free trade agreements

The third pillar of the Swiss foreign economic policy is the opening of markets based on free trade agreements (FTAS)[8]. This policy started with Turkey (1992) and Israel (1993) to match EU FTAS with these countries, avoiding thereby competitive disadvantages relative to EU firms. With the fall of the Berlin Wall and the ensuing establishment of free-trade relations between the EU and Central and Eastern European Countries (CEECS)[9], Switzerland and its EFTA partners followed suit. They strengthened relations with the CEECS and maintained a level-playing field with the EU on these rapidly expanding markets. In 1996, the EU, EFTA and the CEECS linked all their FTAS in a single free trade system (Nell, 1997). This major integration step enabled any semi-finished product originating from any of these countries to be used in a production process and qualify for preferences; any free-trade product could also be re-exported and kept its preferential status. This regime brought significant benefits to the Swiss textiles industry and reestablished its competitiveness on the EU market (Nell, 1998). As the CEECS joined the EU in 2004 and 2007, their FTAS with EFTA countries ceased to apply. Today, FTAS are in force with Macedonia (2002), Albania (2010), Serbia (2010), Montenegro (2012), Ukraine (2012) and Bosnia-Herzegovina (2015).

8 This pillar is completed by more than 100 reciprocal investment agreements for promotion and protection, double taxation and aviation agreements. They are not further developed in this article.

9 Bulgaria, Czech Republic, Hungary, Poland, Romania, Slovak Republic and Slovenia.

The FTA network has also been expanded in the Mediterranean and the Middle East to include Morocco (1999), the Palestinian Authority (1999), Jordan (2002), Tunisia (2006), Lebanon (2007), Egypt (2008) and the Cooperation Council for the Arab States of the Gulf (2014)[10]. A free trade system was also established with the EU, EFTA countries and Mediterranean countries[11]. In the Americas, FTAs include Mexico (2001) and Canada (2009) in the north; Costa Rica (2014) and Panama (2014) in the center; and Chile (2004), Colombia (2011) and Peru (2011) in the south. Agreements with Guatemala and Ecuador are under ratification. In Sub-Saharan Africa, an FTA is also in force with the South African Customs Union (SACU)[12]. In Asia, Switzerland has FTAs in force with Singapore (2003), South Korea (2006), Hong Kong (2011) and the Philippines (2018) under EFTA, and Japan (2009) and China (2014) at a bilateral level. The FTA with Indonesia is under ratification. Finally, negotiations with Algeria, Thailand and the customs union Russia/Belarus/Kazakhstan are currently on hold.

Presently, the Swiss FTA policy focuses on negotiations with Mercosur –Argentina, Brazil, Paraguay, Uruguay–, which started in 2017, as well as with Malaysia and Vietnam. Mercosur has clearly stated that liberalization in agriculture will set the ambition level for the whole FTA. With India, negotiations were launched in 2008 and are not yet concluded; they face major difficulties in the area of intellectual property protection. EFTA also aims at modernizing the agreements with Canada and Mexico. No progress has been achieved lately because these partners take their EU FTA as a reference for liberalization in agriculture, a benchmark thus far out of reach for EFTA countries and that would require major domestic reforms. Negotiations for modernization are however under way with SACU and will be launched with Chile in May 2019.

Following a first unsuccessful attempt in 2005/06, Switzerland has reengaged in exploratory talks with the US for an FTA (Hufbauer and Baldwin, 2006; Nell and Zimmermann, 2007). In September 2018, a parliamentary commission approved a proposal recommending to the Federal Department of Economic Affairs, Education and Research to conduct exploratory talks with the US on a possible FTA, which would exclude general free trade for agriculture drawing special attention to sensitive products. Early 2019, the US was still considering the Swiss proposal based on discussions covering issues in particular on

10 Bahrain, Oman, Kuwait, Qatar, Saudi Arabia and the United Arab Emirates.

11 This system is called “Euro-Mediterranean Free Trade Zone” and is based on the same principles as the former EU/EFTA/CEECs regime.

12 South Africa, Botswana, Lesotho, Namibia and Swaziland.

agriculture, sanitary and phytosanitary measures, as well technical standards.

II. The new orientation of US Trade Policy

Compared to his predecessor, President D. Trump has set three new accents in trade policy with fair trade deals, trade-security nexus and stricter enforcement of trade defense laws.[13] He has significantly modified US trade policy moving from multilateralism to bilateralism under the motto "America First". The shift is best illustrated by the decision to withdraw from the Trans-Pacific Partnership Agreement and to renegotiate the North American Free Trade Agreement to bring additional benefits to the US.

Referring to the Transatlantic Trade and Investment Partnership (TTIP), the negotiations with the EU could not be concluded under President B. Obama and have not been resumed. Negotiations proved to be very complex and faced opposition in several European countries, in particular regarding the potential arbitration regime for investments and concerns over sanitary and phytosanitary measures, as well as agricultural imports. President D. Trump has never taken position on the TTIP and his administration has been waiting for clear signals from the EU to re-engage in the negotiations. On a more limited scale, President D. Trump and the President of the European Commission, J.C. Junker, agreed on July 25, 2018 to reduce barriers to trade in several areas.[14] The Office of the United States Trade Representative (USTR) sent a letter to Congress on October 16, 2018 referring to its intention to negotiate a trade agreement with the EU "to address both tariff and non-tariff barriers and to achieve a fairer and more balanced trade".[15] The road will be particularly difficult because the key issues of the TTIP — agriculture, government procurement, technical standards, and investment— will be even harder to solve under President D. Trump's approach of managed trade and one-sided concessions (Hufbauer, 2019).

The US have also significantly strengthened the enforcement of trade laws. The number of anti-dumping and countervailing duty investigations

13 http://europa.eu/rapid/press-release_STATEMENT-18-4687_en.htm, accessed 27/01/2019.

14 https://www.whitehouse.gov/briefings-statements/remarks-president-trump-president-juncker-european-commission-joint-press-statements/, accessed 27/01/2019.

15 https://ustr.gov/sites/default/files/20181017004903138_2.pdf, accessed 27/01/2019.

(104) increased by 100 percent between January 20, 2017 and April 10, 2018[16].

This new policy is a reaction to the chronically high US trade deficit exceeding $700 billion in 2017 and to the assumption that the US has not obtained the complete benefits from WTO membership and international trade liberalization agreements. It also reflects the willingness to address unfair and discriminatory trade practices.

Report on significant trade deficits

Despite the fact that Switzerland accounts for a very small share of US trade and the aforementioned significant trade deficit, it has not escaped US trade policy measures. On March 31, 2017, President D. Trump signed an Executive Order requiring the Department of Commerce (DOC) and the Office of the USTR to issue an Omnibus Report covering countries with whom the US had a significant trade deficit. The US administration determined $10 billion as a threshold for the Report. With $12 billion, Switzerland was included with Canada, China, France, Germany, India, Indonesia, Ireland, Italy, Japan, Malaysia, Mexico, South Korea, Taiwan, Thailand and Vietnam. The major aim of the Report was to identify unfair trade practices such as government subsidies, the fostering of state-owned firms, intellectual property theft, forced technology transfer as well as weaknesses in worker rights and labor law. The Swiss authorities decided not to participate in hearings organized by the US administration, but submitted a written contribution. Switzerland emphasized the need to consider not only trade in goods (US deficit: $14.9 billion) but also in services (US surplus: $8 billion), as well as the massive stock of Swiss direct investment in the US (USD 309 billion in 2017). In addition, value chains and trade-investment links had also to be taken into account.

The Swiss Federal Councilor in charge of trade, Johann N. Schneider-Ammann, discussed the inclusion of Switzerland in the list of countries with large trade imbalances with Secretary of Commerce W. Ross in July 2017 in Washington. W. Ross clearly stated that Switzerland was not the target, as the major concern of the US was China. As of today, the Report has not yet been published. It was not intended to lead to any specific measure, but to draw a picture of the trade situation and an assessment of its impact on US manufacturing and defense industries, employment and wage growth.

Tariffs on steel and aluminum for national security purposes

In 2017, the DOC initiated an investigation on some steel and aluminum

16 Department of Commerce, International Trade Administration, Press Release, April 10, 2018. https://www.commerce.gov/news/press-releases/2018/04/us-department-commerce-finds-dumping-imports-cold-drawn-mechanical, accessed 27/01/2019.

products related to national security concerns under the rarely-used section 232 of the Trade Expansion Act of 1962. A report was issued on January 11, 2018 with the findings that the US national security was in danger by imports of said products. Imports of steel products had increased substantially (2016-31.10.17: +30%) and remained at significantly lower prices than like US products. The US imported from more than 85 countries four times more steel than it exported. US steel production had declined from 112 million tons (2000) to 86.5 million tons (2016) and employment declined from 135,000 to 83,600 workers. On March 8, 2018, President D. Trump considered US national security being in danger and raised tariffs by 25% for steel and by 10% for aluminum. The impact was likely to be very substantial for major US suppliers, ranging from Canada (20%), Brazil (12%), Mexico (11%), South Korea (10%), Russia (8%), Japan (5%), Germany (4%), and Turkey (3%) to Vietnam (3%)[17].

The sensitiveness of these countries and the need to settle rapidly the situation with the US was strongly associated with the share of the US in their total steel exports. The most affected countries were Canada (89.9%), Mexico (65%), Brazil (32.8%), Turkey (15%), South Korea (12.1%), Taiwan (9.6%), Japan (4.9%), Germany (4%), Vietnam (3%) and Russia (2.3%)[18]. China was subject to a broad array of US trade remedies so that its share of US steel imports was limited to only 1.1%. Overall, the US steel industry was protected in 2018 by 125 anti-dumping measures, 43 countervailing duties and three suspension of agreements.

The reactions to the tariffs for national security purpose were very harsh. J.C. Juncker, President of the European Commission said "we will not sit idly while our industry is hit with unfair measures. The EU will react firmly and commensurately to defend our interests". The tariffs would put thousands of European jobs at risk. For F.P. Champagne, Canada's Trade Minister, any tariffs would be "unacceptable", his country being the largest supplier of steel and aluminum to the US. Ch. Freeland, Minister of Foreign Affairs, said that Canada would take "responsive measures" if restrictions were imposed. For Australia's Trade Minister S. Ciobo, the imposition of such tariffs would distort trade "and ultimately... lead to a loss of jobs". Brazil, second largest steel exporter to the US, threatened "multilateral or bilateral" action to protect its interests. Germany's steel industry federation declared that the measures violated the rules of the WTO and would have a major impact.

17 International Trade Administration, Steel Imports Report, United States, September 2018, https://www.trade.gov/steel/countries/pdfs/imports-us.pdf, accessed 29/12/2018.

18 Ibid.

US importers could file product exclusion requests with the DOC in case of insufficient quantity or quality produced in the US. Trading partners could ask the USTR for a country exemption. The new tariffs entered into force on March 23, 2018 except for Argentina, Australia, Brazil, Canada, the EU and Mexico accounting for two thirds of US imports of steel. A review period was set until April 30, 2018 for these partners and then extended until the end of May. The DOC made it very clear that it was available to negotiate with any interested country. Not a member of the EU, Switzerland faced immediately the higher tariffs. With its low exports of steel and aluminum to the US (0.1% of US imports, $55 million for steel and $30 million for aluminum in 2017), Switzerland had a weak bargaining position.

Negotiations of permanent exceptions

South Korea obtained a permanent tariff exemption based on a bilateral agreement under which it accepted to decrease steel exports to the US by 30%[19] and inter alia an increase of car imports from the US fulfilling only US standards from 25,000 to 50,000 per year, as well as the upkeep by the US of a 25% tariff on Korean pickup trucks until 2041. Argentina agreed to limit steel exports to 180,000 tons (2017: 211,000 tons) and to maintain aluminum exports at the level of the three preceding years. Brazil was very interested to find an arrangement because the US is a significant market for its steel exports. It turns out that Brazil accepted to diminish by 30 percent finished products exports (496,000 tons) and to maintain the present level for semi-finished products, based on the average of the past three years (2015-17). For aluminum, no arrangement was reached. Australia was exempted from any tariff and quota (OECD, 2018).

Japan exported sophisticated products not manufactured in the US and aimed at product exclusions. The EU and New Zealand refused to discuss export limitations with quotas and required a permanent exemption from tariffs on steel and aluminum. Despite the fact that Swiss exports were highly specialized and negligible in value, the US proposed to Switzerland to discuss export restrictions through quotas, as with most other partners.

Country exemptions

The Office of the USTR provided the opportunity for any partner to seek a country exemption based on five criteria. On April 18, 2018, the Swiss authorities sent a letter to USTR R. Lighthizer requesting such an exemption, highlighting the following points.

1.- National Security: Swiss exports were not to be seen as a threat by the

19 This reduction of 30 percent is calculated over the average of 2015–2017. Import quota: 2.68 million tons.

US as they accounted only for 0.1% of total US imports in the affected product categories and they had decreased in value by 1% for steel and 8% for aluminum during the 2015-17 period. They were high-quality niche products, which did not compete with US products.

2.- Participation in Global Forum on Steel Excess Capacity: Switzerland is an active member that does not subsidize steel production and it files notifications regularly.

3.- Actions against unfair trade practices: Switzerland has no anti-dumping or countervailing duties legislation. The Swiss economy is highly specialized and not affected by dumped products.

4.- Cooperation with the US at the WTO: Switzerland has been working closely with the US at the WTO in several committees, as well as in the preparation of WTO ministerial meetings. Switzerland has been organizing for years a ministerial gathering of trade ministers during the World Economic Forum in Davos to bring new impulsions to WTO negotiations. Besides, considering participation in WTO panel's proceedings, Switzerland has a restrictive practice.

5.- Cooperation with the US in security affairs: neutral country, Switzerland has an observer status in the North Atlantic Treaty Organization and it is active under the Partnership for Peace Program and the Euro-Atlantic Partnership Council. Switzerland also participates in the Organization for Security and Co-operation in Europe and in the Global Counterterrorism Forum. Switzerland has represented US interests in Iran for 38 years and until 2015 in Cuba (more than 50 years).

Despite responding to all US criteria with comprehensive answers and clearly demonstrating that Swiss steel and aluminum exports did not endanger US national security, Switzerland did not receive any response from the USTR.

WTO consultations for steel and aluminum

On July 9, 2018, Switzerland submitted a request for consultations with the US under the WTO Dispute settlement proceedings. Switzerland claimed that the steel and aluminum measures appear to be inconsistent with several articles of the GATT 1994, the Agreement on Safeguards, and the WTO Agreement[20]. In a press release, the Swiss authorities stated that "from Switzerland's point of view, the additional duties, which according to the US have been introduced to protect national

20 Articles I:1, II:1(a), II:1(b), X:3(a), XI:1, XIX:1(a) and XIX:2 of the GATT 1994, Article XVI:4 of the WTO Agreement as well as Articles 2.1, 2.2, 3.1, 4.1, 4.2, 5.1, 7, 11.1(a), 12.1, 12.2, 12.3 and 12.5 of the Agreement on Safeguards. WTO, DS556, United States – Certain Measures on Steel and Aluminum, https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds556_e.htm, accessed 29/12/2018.

security, are unjustified".[21] Canada, China, the EU, Mexico, the Russian Federation and Thailand requested to join the consultations. The US rejected their participation. Consultations did not bring any result. As with the other WTO members, the US argued that the tariffs were increased by President D. Trump under national security provisions of section 232 of the 1962 Trade Act and could not to be considered under the WTO safeguard agreement. According to the US "every Member of the WTO retains the authority to determine for itself those matters that it considers necessary to the protection of its essential security interests, as is reflected in the text of Article XXI of the GATT 1994[22]". For the US, such issues are political matters, which cannot be reviewed under the WTO dispute resolution mechanism.

Following a request by Switzerland on November 8, 2018, the Dispute Settlement Body (DSB) established a panel on December 4, 2018. Several WTO members reserved their rights as third parties.[23] The DSB had already set up panels on November 21, 2018 at the request of seven WTO members.[24] According to the claimants, the tariffs violate the WTO most-favored nation principle because the US provide exemptions for some members or apply alternative means (GATT art. I.1); the US exceed their bound rates under their schedule of concessions (GATT art. II a, b); the US does not have the right to arrange quotas (GATT art. XI.1); the US have taken emergency actions without proving the imports threaten to cause or cause injury to the domestic industry (GATT art. XIX 1 a); and the US measures are disguised safeguards under WTO rules. The US disagreed stating that steel and aluminum industries are essential for national defense.

The claimants argued also that the DSB had full rights to look into exceptions under Art. XXI of GATT 1994 referring to national security, despite the fact that it was a sensitive matter. The US disagreed stating that security

21 Press release. Import Duties on Steel and Aluminum, Switzerland initiates WTO Dispute Settlement Proceedings, Federal Department of Economic Affairs, Education and Research, 10/7/2018 https://www.newsd.admin.ch/newsd/message/attachments/53038.pdf, accessed 29/12/2018.

22 United States – Certain Measures on Steel and Aluminum. Communication from the United States, October 11, 2018, WTO. https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=249118,248829,248830,248832,248835,248834,248833,247812,247814,247816&CurrentCatalogueIdIndex=3&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True; accessed 29/12/2018.

23 Bahrain, Brazil, Canada, China, Colombia, Egypt, EU, Hong Kong, China, Iceland, India, Indonesia, Japan, Kazakhstan, Malaysia, Mexico, New Zealand, Norway, Qatar, the Russian Federation, Saudi Arabia, Singapore, South Africa, Chinese Taipei, Thailand, Turkey, Ukraine, the United Arab Emirates and Venezuela. A third party is any member having a substantial interest in a matter before a panel; it has the possibility to be heard and to submit written contributions.

24 EU, Canada, China, Mexico, Norway, Russia and Turkey.

measures were justified under Art. XXI and therefore not subject to review by a panel. In addition, the US noted that they supported the EU in 1982 that "an Article XXI defense required neither notification, justification, nor approval".[25] Highlighting the very sensitive issue at stake, several Members emphasized that resort to Art. XXI "would frustrate the purpose of WTO dispute settlement and could render all WTO obligations effectively unenforceable[26]".

For Switzerland, its exports to the US account for 4% of Swiss world exports of steel. Products covered include special tubes (car industry, satellites, aerospace supplies, and medical equipment), flat stainless steel products (construction and medical sectors) and stainless steel wire (energy, car, aerospace and textiles industries). Referring to aluminum, Swiss exports to the US account for 2% of Swiss world exports of aluminum and cover products such as alloyed aluminum sheets (car and aerospace industries). The impact of steel tariffs on some Swiss firms has been very serious. It has also been significant in the US with a nearly 9% increase of the price of steel. Protection has led to the creation of 8,700 jobs in the US steel industry, with an additional cost for steel users of $650,000 for each new job and earnings of $220,000 on additional pre-tax profit per new job. The profitability of the steel sector has been increased at the expense of the other sectors of the economy (Hufbauer, 2018).

Anti-dumping duties and safeguards on Swiss products

In addition, some Swiss steel products are also subject to antidumping duties. On April 19, 2017, a coalition of US firms filed a petition claiming dumping under section 733 b of the Tariff Act of 1930 against producers of cold-drawn mechanical tubing from China, Germany, India, Italy, Korea and Switzerland. On June 2, 2017, the US International Trade Commission (ITC) determined that there was sufficient indication that US industry suffered material injury due to said dumping. On November 19, 2017, the DOC announced an affirmative preliminary determination of dumping and instructed customs to require cash deposits based on preliminary rates.[27] The Swiss Federal Councilor in charge of trade sent a letter to the

25 United States – Certain Measures on Steel and Aluminum. Communication from the United States, October 11, 2018, op.cit.

26 DS564: United States — Certain Measures on Steel and Aluminum Products, https://www.wto.org/english/news_e/news18_e/dsb_19nov18_e.htm, accessed 29/12/2018.

27 The rates were respectively 34.15 and 68.59 percent for two firms and 36.17 percent for all other Swiss exporters of cold-drawn mechanical tubing to the US. Source: Global Trade Alert, https://www.globaltradealert.org/intervention/56813/anti-dumping/united-states-of-america-ad-cvd-investigation-of-cold-drawn-mechanical-tubing-from-china-germany-india-italy-korea-and-switzerland, accessed 29/12/2018.

US Secretary of Commerce asking for a fair treatment. The US answer reiterated the procedure. On May 17, 2018, the ITC determined that imports cause material injury to the domestic industry and the DOC issued anti-dumping duty orders on imports from all the countries covered by the investigation, including Switzerland.[28] As the cold-drawn mechanical tubing are also subject to Section 232 measures, customs duties apply cumulatively.

The collateral effects of EU safeguard measures on steel

While the US market only bears a minor importance for Switzerland, countermeasures taken by Switzerland's major trade partner, the EU, could have very high collateral effects on the Swiss industry. On March 26, 2018, the EU launched a safeguard investigation on some steel products.[29] The EU noted that imports had increased from 17.8 million tons in 2013 to 29.5 million tons in 2017. Imports grew by 65% between 2013 and 2016 (28.6 million tons) and subsequently remained at a high level. In relative terms, the share of imports in domestic production grew from 7.3 to 11.6 percent as well as in domestic consumption from 12.2 to 17.6 percent. The EU attributed the increase of imports to unforeseen developments such as global overcapacity in steel production and trade measures taken by some third countries. Import prices were lower than domestic prices and exercised pressure on sales prices and profits. The EU recognized that for some firms the financial situation had improved in 2017. However, it remained fragile and could be affected by a reorientation of trade flows toward the EU associated with the US tariff measures. The objective of the investigation was to determine if increased imports may cause or threaten to cause serious injury to EU industry of like or directly competing products. On April 23, 2018, eight WTO members criticized the EU as it did not present clear evidence that imports had increased significantly in the preceding year and were causing injury to domestic industry. Furthermore, these countries affirmed that the EU could reinforce growing protectionism around the world[30].

Facing an increasing threat of steel trade diversion from the US, the EU

28 Global Trade Alert, op.cit., accessed 29/12/2018. Final tariffs for Switzerland ranged from 7.66 to 30.48 percent.

29 WTO, Committee on Safeguards, EU notification, March 27, 2018. https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=@Symbol=%20(g/sg/n/6/eu/1)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true#, accessed 29/12/2018.

30 These eight members were: Argentina, Chile, China, Egypt, India, Korea, Turkey and Vietnam. Source: US, EU safeguard actions at discussion at WTO committee meeting, WTO, April 23, 2018. https://www.wto.org/english/news_e/news18_e/safe_23apr18_e.htm, accessed 29/12/2018.

Commission imposed provisional safeguard measures on July 18, 2018. Commissioner for Trade Cecilia Malmström said: "The US tariffs on steel products are causing trade diversion, which may result in serious harm to EU steelmakers and workers in this industry. We are left with no other choice than to introduce provisional safeguard measures to protect our domestic industry against a surge of imports. These measures nevertheless ensure that the EU market remains open, and will maintain traditional trade flows. I am convinced that they strike the right balance between the interest of EU producers and users of steel, like the automotive industry and the construction sector, who rely on imports. We will continue to monitor steel imports in order to take a final decision by early next year, at the latest".[31]

The provisional safeguard measures covered 23 product categories and could remain in place for a maximum of 200 days. Under tariff-rate quotas (TRQ) imports could take place at the most-favored nation or preferential tariff rate until the average level of 2015–17 would be reached. Additional imports would incur a 25% tariff. The objective of this out-of-quota tariff was to deter imports above the level of recent years.

For the Swiss steel industry, access to the EU is essential with 87.4% of Swiss exports (2017: $1.1 billion) falling under EU safeguards. Since 2016, the EU has a surveillance system requiring import licenses for access to its market. The provisional safeguard regime of the EU did not favor Swiss exporters because their high-value products were included in a global quota with lower technology items. Large volumes were imported in a fairly short time and products put into inventory to avoid higher tariffs. The quotas were therefore quickly filled and likely so with low-priced products.[32] The EU provisional safeguard quota were already filled by the end of 2018. Swiss firms stopped to export to the EU and produced for inventories. Under a specific quota for Switzerland, the Swiss export volume could at least have been maintained.

The Swiss authorities have discussed the matter with the EU in order to seek an exception from TRQS. Based on the Swiss-EC FTA, safeguard measures may be taken in case of serious problems in a sector following consultations with the other party in view of finding a mutually acceptable solution. The EU has indicated that is

31 Commission imposes provisional safeguard measures on imports of steel products. European Commission, News Archive, July 18, 2018. http://europa.eu/rapid/press-release_IP-18-4563_en.htm, accessed 30/12/2018.

32 Some years ago, Switzerland introduced a quota for imports of wine with a fairly low customs duty. Additional imports would pay a much higher duty. By early January, the yearly quota was already full with a very large volume of cheap wine. Higher quality wines could not benefit and the system was subsequently changed.

not willing to exclude any free trade partner from possible future measures.[33] On December 19, 2018, the EU Commission informed that it needed more time to finalize its investigation and that if measures were adopted, an implementing Regulation would be published by February 1, 2019[34]. On January 4, 2019, the EU notified the WTO that the safeguard measures would come into force at the beginning of February 2019 until July 2021[35]. Country-specific TRQs would be established for major suppliers of specific products in order not to disrupt traditional trade flows. Imports from other suppliers would be possible under general TRQs divided on a quarterly basis to prevent significant imports to be stockpiled to avoid paying tariffs. This implies that major Swiss exporters for the automobile industry (stainless steel bars, machine wires) should be able to maintain their sales to the EU during the next few years under country-specific TRQs representing 105% of average imports of the past three years. Swiss exporters of hot-rolled steel plates, on the other hand, should face global TRQs.

In addition to the EU, Turkey also launched a safeguard investigation on iron and steel products on May 2, 2018. It is a precautionary step to address future trade diversion of cheap steel products to Turkey due to US protectionist measures. In a similar vein, the government of Canada introduced provisional safeguard measures on seven steel products on October 25, 2018, to avoid diversion of foreign steel destined for the US and EU markets; a 25% tariff would apply provided imports would exceed historical norms.[36]

Retaliation against US steel and aluminum measures

The EU notified on May 18, 2018 the WTO Committee on Safeguards of the suspension of substantially equivalent concessions under GATT 1994 under the form of additional duties of 10, 25, 35 and 50 percent on selected products originating in the US. This measure covered $ 7.2 billion of trade with a theoretical additional duty collected of $ 1.6 billion. In a first step, duties ranging from 10 to 25 percent came into force on June 20, 2018 on $ 3.2 billion imports inter alia for steel, iron and aluminum products (34 percent of

33 Iceland, Liechtenstein and Norway are excluded from the measures because they fully participate in the EU internal market with the European Area Agreement in force since 1994.

34 Notice extending the duration of the safeguard investigation concerning imports of certain steel products (2018/C 457/07) http://haber.evrim.com/files/9023.pdf Access, December 29, 2018.

35 https://ec.europa.eu/info/news/commission-publishes-its-findings-steel-safeguard-investigation-2019-jan-04_en, accessed 11/01/2019.

36 The seven products are: heavy plate, concrete reinforcing bar, energy tubular products, hot-rolled sheet, pre-painted steel, stainless steel wire, and wire rod. https://www.fin.gc.ca/n18/18-090-eng.asp, Access, January 25, 2019, accessed 1/02/2019.

the total), sweetcorn, rice, orange juice, peanut butter, cigarettes, cigars, tobacco, bourbon whiskey, clothing (blue jeans), footwear, motorcycles (Harley Davidson) and yachts (WTO, 2018). In a second step, additional tariffs ranging from 10 to 50 percent should be imposed as of June 1, 2021 on 4.2 billion of US imports (USTR, 2018).

Several other WTO members have also adopted countermeasures against the US. On April 2, China imposed retaliatory tariffs on aluminum waste and scrap, pork, fruits, nuts and other US products on a volume of $2.4 billion exports rebalancing thereby the US tariff on $2.8 billion of Chinese exports of steel and aluminum (2017) (Brown and Kolb, 2018). On June 21, 2018, Turkey imposed duties of 4 to 70 percent on $1.8 billion of US imports and India increased tariffs between 5 and 100 percent on $10.6 billion of agricultural products and between 5 and 40 percent on $1.78 billion covering steel, aluminum and other products.

On July 1, 2018, Canada raised tariffs on US imports for a total value of $12.8 billion. Steel and aluminum make up half of the goods, US agricultural and food products respectively 19 and 34 percent. Steel products faced a 25% tariff and other products a 10% tariff. In addition, Canada decided to make available CAN$2 billion to support the manufacturing industry. Measures include a 38-week extension of an insurance program to help employers retain their work force and avoid lay-offs, additional funding for training programs, liquidity support for affected businesses, stimulation of innovation and competitiveness with a CAN$250 million fund, diversification of exports to foster benefits from new trade agreements such as the Canada-EU Trade Agreement and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CAN$ 50 million). C. Freeland, Canadian Minister of Foreign Affairs, declared that the US tariffs on steel and aluminum are "protectionist and illegal under WTO and NAFTA rules".[37] According to F.P. Champagne "Canada's aluminum (10,500 workers) and steel (23,000 workers) industries are vital for our economic prosperity and support well-paying middle-class jobs". For Canada, this situation is all the more difficult to accept because it has a $2 billion trade deficit with the US on iron and steel products. Canada buys 50% of US exports of steel. Canadian steel is used in US tanks and Canada's aluminum in US planes. More than 80% of Canada's aluminum are exported to the US to be further processed for the domestic market and exports. The links are so close between both countries that Canada is part of the US National Technology and

37 Canada stands for our steel and aluminum workers and industry, Global Affairs Canada, News Release, June 29, 2018. https://www.canada.ca/en/global-affairs/news/2018/06/canada-stands-up-for-our-steel-and-aluminum-workers-and-industry.html, accessed 30/12/2018.

Industrial Base related to National Defense.[38]

On July 5, 2018, Mexico also retaliated against the US with tariffs of 7, 10, 15, 20 and 25 percent on $3.6 billion of US products including steel, aluminum, agriculture and other sectors. On August 6, 2018, Russia raised duties from 25 to 30 percent to respond to US measures on steel.

In general, retaliation measures have been taken based on the assumption that US tariffs are safeguards. The US has contested this argumentation and required consultations at the WTO on July 16, 2018 to be followed by panels under the DSB with Canada, China, the EU, Mexico and Turkey. US Trade Representative Robert Lighthizer said that "the actions taken by the President are wholly legitimate and fully justified as a matter of US law and international trade rules. Instead of working with us to address a common problem, some of our trading partners have elected to respond with retaliatory tariffs designed to punish American workers, farmers and companies. These tariffs appear to breach each WTO Member's commitments under the WTO Agreement. The United States will take all necessary actions to protect our interests, and we urge our trading partners to work constructively with us on the problems created by massive and persistent excess capacity in the steel and aluminum sectors (USTR, 2018)".

These views were not shared by several members of the US Congress, who prepared a bipartisan bill to curtail the use of national security by President D. Trump to justify additional tariffs becoming taxes paid by US consumers. According to Senator Pat Toomey "the imposition of these taxes under the false pretense of national security is weakening our economy, threatening American jobs and eroding our credibility with other nations." (Washington Trade Daily, 2019). For G.C. Hufbauer (2019), by invoking national security, the US acted on the basis of a dubious premise that US steel producers must be protected to avoid any lack of steel in case of a future war.

Broader trade conflict with China

The trade conflicts initiated by President D. Trump also include large-scale tit-for-tat actions with China. On July 6 and August 23, 2018, the US imposed 25 % tariffs on respectively $34 and $16 billion of imports of mainly intermediate inputs and capital goods from China to address unfair trade practices. China retaliated on the same days imposing the same additional tariffs on the same value of imports from the US, targeting cars and agricultural products. The US countered by imposing an additional 10 % tariff on a trade volume of $200 billion of imports from China (6000 tariff

38 Ibid.

lines) from September 24, 2018 until the end the year to be increased to 25% as of January 1, 2019. China reacted by imposing the same day additional tariffs of 5, 10, 20 and 25 percent on $60 billion of imports from the US (5207 tariff lines). China's substantial reduction of imports of US farm products had a significant impact in the US with warehouses full of excess meat, significant surpluses of dairy products and a sharp fall of soybean prices. President D. Trump required from the US Congress a $12 billion fund to compensate US farmers.

At the margin of the G-20 Summit in Buenos Aires in December 2018, the US and China decided to negotiate an arrangement during the following months. In that perspective, the US delayed to March 1, 2019, the possible 25% tariff increase on $200 billion of imports from China. In turn, China inter alia resumed buying US agricultural products including soybeans, easing thereby the negative effects of the trade conflicts on farmers of the US mid-west, a region supporting President D. Trump. From January to April 2019, intense negotiations at the highest level covered a broad range of areas including intellectual property protection, forced technology transfer, Chinese non-tariff barriers, cyber theft, agriculture and services.

In total, retaliatory tariffs represent 6.1% of US goods and services exports to the world (2017) and affect 294,000 direct export jobs and 354,000 indirect jobs in the US (Parilla, Bouchet, 2018). Regional economies with the highest share of exports in tariff-affected industries include for agriculture California's Central Valley; rural areas in Illinois, Iowa and Nebraska; and for metals, Birmingham (Alabama), Toledo (Ohio) and Nashville (Tennesse). Key major regional economies —Chicago, Houston, Dallas, Detroit, Los Angeles, and Seattle— are affected with a total of $2 billion exports. Overall, export dependence is higher in rural areas and small towns due to small size and lower value-added exports. In terms of US exports, retaliatory measures focus mainly on agriculture (15%), motor vehicles (11%), iron and steel (5%), waste and scrap (5%), precision instruments (4%), basic chemicals (4%), and meat and poultry products (3%).

Intellectual Property: broad-based WTO complaint against China

In August 2017, the US launched an examination of Chinese laws, policies and practices, which may be harming US intellectual property, innovation and technology development under section 301 of the 1974 Trade Act[39]. The review showed that China uses joint venture requirements, foreign

39 USTR announces initiation of section 301 investigation of China, August 18, 2018 https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/august/ustr-announces-initiation-section, accessed 02/01/2019.

investment restrictions, and administrative review and licensing processes to force or pressure technology transfers from American to Chinese companies.

For example, according to the US, Art. 24 of the "Regulations of the People's Republic of China on the Administration of the Import and Export of Technologies" is inconsistent with Art. 3 of the TRIPS Agreement (national treatment) "as it requires that licensors to imported technology contracts indemnify licensees for all liabilities for infringement resulting from the use of the transferred technology" or Art. 27 of *the Regulations* requiring that any improvement to a foreign technology becomes property of the party making the improvement or Article 29(3) prohibiting "an imported technology license contract from restricting a Chinese party from improving the technology or from using the improved technology."

The US also raised serious concern referring to the "Regulations for the Implementation of the Law of the People's Republic of China on Chinese Foreign Equity Joint Ventures", which violates in art. 43 (4) the national treatment provision of TRIPS (art. 3) providing that a Chinese joint venture party may continue to use the transferred technology after the expiration of the joint venture agreement.

China facilitates investments and acquisitions, which generate large-scale technology transfer. In addition, China conducts and supports cyber intrusions into US computer networks to gain access to valuable business information. According to the US authorities, intellectual property is a tool for China to seize economic leadership in advanced technology particularly under its industrial plans laid out in the strategy "Made in China 2025". The USTR has worked with other agencies to identify products that unfairly benefit from China's industrial policies. Extensive interagency analysis was undertaken to ensure that additional tariffs raised on $50 billion of US imports from China maximize pressure on China to change its behavior, while minimizing the impact on the US economy.

On March 26, 2018, the US initiated a complaint procedure at the WTO against China for violation of intellectual property obligations[40]. Following consultations on July 18, 2018, which did not resolve the issues raised by the US, a panel was established at the WTO on November 21, 2018. The Swiss authorities have also concerns regarding China's intellectual property practices. Switzerland has decided to join the US complaint as a third party together with Brazil, Canada, Chinese Taipei, Egypt, the EU, India, New Zealand, Norway, Russia, Singapore, South Korea and Turkey.

40 Dispute settlement. China – Certain measures concerning the protection of intellectual property, DS 542, WTO; https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds542_e.htm ; accessed 02/01/2019.

The worst still to come?

The US has launched a wave of protectionism, which will lead to higher prices, slower structural adjustment, lower US competitiveness and inefficiency around the world. Exporters of the most advanced products are likely to endure the highest burden. Retaliation measures by trade partners further reinforce protectionism. Switzerland has not retaliated because it would increase costs for consumers and diminish Swiss competitiveness in value chains.

The worst may still yet come with the launch on May 23, 2018 of a national security investigation into imported cars, trucks and automotive parts. Switzerland took part at the consultations, organized by the DOC, expressing significant concern as a supplier of parts to the European and US car industry. President D. Trump is considering imposing a 25% duty on imported cars as a bargaining chip in upcoming trade negotiations with the EU and Japan. The tariffs would affect $208 billion in imports, excluding car parts and are strongly opposed by US car industry, because they would undermine economic and employment contributions to the US economy.

According to a study, the effect would not be a strengthening of US industry but a loss of 195,000 jobs over a one to three-year period, and an increase of prices for US-made cars: 12.2 % for compact cars, 13.6 % for compact SUVs/crossovers and 19.9 % for luxury compact SUVs/crossover, the latter having a much higher foreign content (Lovely M.E., Cohen-Setton J. and Jung E, 2018). Job losses could triple if US trade partners retaliate, with China being the largest export market for the US industry ($10 billion) (Brown and Kolb, 2018).

Conclusion

The Swiss economy is internationally oriented and has built strong trade and investment positions around the world. Companies have been successful with highly-specialized innovative products featuring Swiss brands and excellent quality and reliability for service maintenance. Swiss authorities have worked diligently to create the best framework possible conditions with foreign partners. The achievements are significant with a very active and constructive participation at the WTO, a substantial access to the EU internal market and a large network of FTAS.

International relations are however not static. New expectations, policy orientations and objectives may challenge at any time hard-fought achievements. For a small player on the world scene, negotiations and adaptation are key. The Swiss international position is presently under serious threat to erode due to the weakening of the WTO, the difficulty to meet EU demands for an institutional framework and to modernize FTAs with key partners to reach a level-playing field with EU competitors.

The stakes are high and there is no easy solution. On the WTO, a reform of the dispute settlement mechanism is not in sight, neither any major trade liberalization. With the EU, the support of Swiss stakeholders and of the population are essential as the future framework will be eventually submitted to a popular vote. Regarding FTAs, any additional agricultural liberalization must take place within the present policy framework, thus limiting significantly the room for maneuver and affecting negotiations with Mercosur, possible future ones with the US, as well as the modernization of the FTAs with Canada and Mexico.

In addition, the America First policy of President Trump creates significant uncertainties. Switzerland has not been able to obtain a country exemption for steel and aluminum tariffs despite the small volume of Swiss exports and several contacts with the DOC and the USTR. Some product exclusions have nevertheless been granted to US importers of Swiss products, but the process has been very slow, the DOC currently facing over 20,000 pending product-specific exclusion requests. At least the collateral effects of EU safeguard measures will be limited, as major Swiss export products will benefit from a country-specific tariff-rate quota, maintaining the level of traditional trade flows.

Finally, if the WTO panel on the interpretation of national security in the US steel and aluminum accepts the US argumentation, Pandora's box will be opened. Agricultural and industry lobbies across the world will not hesitate to ask for protection on the basis of national security against growing foreign competition and erosion of market positions. The world trade system and economic growth would be seriously affected. A worsening of the US-China trade conflict and tariffs on cars should be avoided by all means because these actions would affect not only the countries directly involved, but the world economy.

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