Trade Reorganization: Overview and Issues for Congress

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Summary

On January 13, 2012, President Obama asked Congress for authority to reorganize and consolidate, into one department, the business- and trade-related functions of six federal entities: Department of Commerce; Export-Import Bank (Ex-Im Bank); Overseas Private Investment Corporation (OPIC); Small Business Administration (SBA); Trade and Development Agency (TDA); and Office of the United States Trade Representative (USTR). Bills based on the proposal were introduced in the 112th Congress. The President reiterated the proposal in his FY2014 budget request, and he may resubmit his request for reorganizational authority in the 113th Congress. U.S. policymakers' interest in the organizational structure of U.S. government trade functions has grown in recent years, stimulated by federal efforts to promote U.S. exports and employment, as well as national debates on reducing federal spending and the size of the U.S. government.

Reorganization has been a recurring theme in U.S. trade policy. Over the past several decades, Congress, successive Administrations, and other stakeholders have crafted and debated proposals to reorganize the trade functions and structure of the federal government in order to enhance the effectiveness of U.S. trade policy and promotion efforts; improve U.S. trade policy coordination; avoid duplication of functions and activities; boost the international competitiveness of U.S. industries; and for other reasons. Previous proposals have called for a range of actions, including consolidation of all U.S. export- or trade-related programs under one federal agency (such as a "Department of Trade") to provide a "one-stop-shop" for the trade community; termination or transfer of functions of departments and agencies considered to be duplicative or unnecessary to U.S. trade policy priorities; and strengthening coordination of federal trade-related agencies.

Debates about the U.S. trade policy structure raise the question of whether reorganization would enhance the effectiveness of U.S. trade policy or merely result in bureaucratic reshuffling. On one hand, proponents of reorganization proposals believe that they may eliminate duplication of federal trade functions, provide a more streamlined organizational structure for U.S. trade-related activities and policy based on more clearly defined goals and priorities, and reduce overall government costs. They argue that federal trade policy efforts could be enhanced through a more centralized government body. On the other hand, critics contend that such proposals could result in the creation of a large, costly federal bureaucracy, possibly making certain trade functions and agencies less effective if they are subsumed in a larger bureaucracy. They also assert that the diffusion of trade functions across the federal government helps to advance various aspects of U.S. trade policy, and express concern that a "one-stop" federal source may not be responsive to the unique needs of certain types of exporters. Furthermore, some contend that, while changes to U.S. trade policy—and by extension the policymaking structure—may benefit individual U.S. businesses and workers in the short-run, they have little influence in the long-run on U.S. export and employment levels and trade balances, which relate more closely to macroeconomic factors.

Congress would play a significant role in a trade reorganization debate through its legislative and oversight responsibilities; it could engage in consultations with the Administration, hold hearings, grant reorganizational authority to the President, and/or introduce and enact trade reorganization legislation separate from the President's plan. In addition to considering possible reorganizational authority for the executive branch, Congress could consider policy alternatives such as to maintain the current trade organizational structure, privatize or terminate certain trade functions, strengthen or revise existing coordination of trade functions, or create a trade reorganization commission to examine the issue further.

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Introduction

On January 13, 2012, President Obama asked Congress for authority to reorganize and consolidate into one department the business- and trade-related functions and programs of six federal entities: Department of Commerce; Export-Import Bank (Ex-Im Bank); Overseas Private Investment Corporation (OPIC); Small Business Administration (SBA); Trade and Development Agency (TDA); and Office of the United States Trade Representative (USTR).[1] U.S. policy interest in the organizational structure of U.S. government trade functions has grown in recent years, stimulated by congressional and federal efforts to promote U.S. exports and employment, including through the National Export Initiative (NEI),[2] in response to the global and U.S. economic downturn; concerns about the international competitive position of U.S. industries vis-à-vis emerging markets, such as China, Brazil, and India; efforts to enhance the effectiveness and efficiency of government service by reducing duplication of functions and improving coordination; national debates on reducing federal spending and the size of the U.S. government; and concerns about the size of the U.S. trade balance.

Members of Congress would play a significant role in a trade reorganization debate through their legislative and oversight responsibilities. Congress could conduct oversight, engage in consultations with the Administration, hold hearings, grant reorganizational authority to the President, introduce and enact trade reorganization legislation separate from the President's plan, and/or consider other policy alternatives.

This report discusses: (1) President Obama's trade reorganization proposal; (2) the context of the trade reorganization debate; (3) key issues that Congress may face related to the debate; (4) potential policy options for Congress; and (5) the outlook for trade reorganization. This report focuses on the substantive aspect of the trade reorganization debate. For a discussion of the reorganization authority that the President has requested from Congress, see CRS Report R42852, *Presidential Reorganization Authority: History, Recent Initiatives, and Options for Congress*, by (name redacted). For a detailed discussion of key federal agencies with trade functions, see CRS Report R41495, *U.S. Government Agencies Involved in Export Promotion: Overview and Issues for Congress*, coordinated by (name redacted).

Separately, President Obama also has launched a comprehensive review of the U.S. export control system and has proposed changes to the organizational structure for the export control system. This issue is beyond the scope of this report. See CRS Report R41916, *The U.S. Export Control System and the President's Reform Initiative*, by (name redacted) and (name redacted).

President Obama's Trade Reorganization Proposal

In the 2011 State of the Union Address, President Obama advocated the need to reorganize the federal government to ensure that it is "more competent and more efficient." Along those lines, the President noted that there are multiple federal agencies that have export-related functions. On March 11, 2011, the President issued a memorandum directing the Office of Management and Budget (OMB) to conduct a review of federal agencies and programs "involved in trade and competitiveness, including analyzing their scope and effectiveness, areas of overlap and

[1] The White House, "Government Reorganization Fact Sheet," press release, January 13, 2012, http://www.whitehouse.gov/the-press-office/2012/01/13/government-reorganization-fact-sheet.

[2] Executive Order 13534 of March 11, 2010, "National Export Initiative," 75 *Federal Register* 12433, March 16, 2010.

duplication, unmet needs, and possible cost savings" and to submit recommendations on reorganizing and streamlining federal government functions in these areas.[3] OMB's recommendations to the President have not been publicly released to date.

On January 13, 2012, President Obama asked Congress for authority to reorganize and consolidate the business- and trade-related functions of six federal agencies into one department: the Commerce Department, the Ex-Im Bank, OPIC, SBA, TDA, and USTR (see the textbox for an overview of these agencies).[4] The reorganization authority requested by the President is currently dormant. This authority, which was available to Presidents periodically between 1932 and 1984, would allow the President to present reorganization plans to Congress under an expedited process.[5] On February 16, 2012, President Obama sent draft legislation, entitled the Reforming and Consolidating Government Act of 2012, to Congress that would give him the authority to reorganize and consolidate the federal government. The legislation, introduced as S. 2129 (Lieberman) on February 17, 2012, would reinstate authority granted to past Presidents to reorganize the executive branch.[6] A similar bill was introduced in the House (H.R. 4409, Barrow) on April 19, 2012. President Obama reiterated his trade reorganization proposal in his FY2014 budget request.[7] He may resubmit his request for reorganizational authority in the 113th Congress.

[3] The White House, "Presidential Memorandum—Government Reform for Competitiveness and Innovation," press release, March 11, 2011, http://www.whitehouse.gov/the-press-office/2011/03/11/presidential-memorandum-government-reform-competitiveness-and-innovation.

[4] The White House, "Government Reorganization Fact Sheet," press release, January 13, 2012.

[5] For additional information on the reorganization process, see CRS Report R42852, *Presidential Reorganization Authority: History, Recent Initiatives, and Options for Congress*, by (name redacted).

[6] The White House, "President Obama Calls on Congress to Partner on Government Reform," press release, February 16, 2012, http://www.whitehouse.gov/the-press-office/2012/02/16/president-obama-calls-congress-partner-government-reform.

[7] Office of Management and Budget, *Fiscal Year 2014 Budget of the U.S. Government*, p. 50, http://www.whitehouse.gov/sites/default/files/omb/budget/fy2014/assets/budget.pdf.

Overview of Federal Agencies in President Obama's Trade Reorganization Proposal

The **Department of Commerce** has general operational responsibility for major non-agricultural international trade promotion functions. The **International Trade Administration (ITA)**, a Commerce Department bureau, administers many of the Department's international trade responsibilities. It is organized into four main units: (1) **Manufacturing and Services (MAS)**, which is responsible for certain industry economic and trade policy analysis, promoting the competiveness and expansion of the U.S. manufacturing sector, and other functions; (2) **Market Access and Compliance (MAC)**, which monitors foreign county compliance with trade agreements with the United States, identifies compliance problems and market access obstacles, and informs U.S. firms of foreign business practices and opportunities; (3) **Import Administration (IA)**, which enforces trade remedy laws and agreements, such as anti-dumping and countervailing duty laws, and develops and implements policies and programs to counter unfair foreign trade practices; and (4) **U.S. and Foreign Commercial Service (Commercial Service)**, which has a domestic and international network of trade specialists, along with high-level representation at certain U.S. foreign missions, who work with U.S. companies to help them began or expand export activities. The Advocacy Center of this unit leads interagency efforts for U.S. companies pursuing major overseas projects by assisting them with seeking foreign business opportunities and dealing with foreign governments.

Other sub-agencies of the Commerce Department also handle trade and non-trade issues. For example, the **Bureau of Industry and Security (BIS)** administers certain export control functions (U.S. Department of State administers other aspects of export control functions). The **Bureau of the Census and the Bureau of Economic Analysis (BEA)** collect and analyze trade, industry, economic, and other types of data. The **National Oceanic and Atmospheric Administration (NOAA)** is a scientific agency focused on analyzing changes in climate, weather, oceans, and coasts, as well as on conserving and managing coastal and marine ecosystems and resources.

The **Export-Import Bank (Ex-Im Bank)** maintains finance programs to facilitate U.S. exports to developing countries, especially in circumstances when alternative financing is not available, with the goal of supporting U.S. jobs. Some Ex-Im Bank programs are used to counter officially backed export credit financing, including tied aid and concessional financing extended by other countries. Its main programs are direct loans, export credit guarantees, working capital guarantees, and export credit insurance. Ex-Im Bank activities are backed by the full faith and credit of the U.S. government.

The **Overseas Private Investment Corporation (OPIC)** seeks to promote economic growth in developing economies by providing investment insurance, project financing, and other services to U.S. firms investing in those countries, in support of U.S. foreign policy goals. OPIC's programs are intended to promote U.S. private investment by mitigating risks, such as currency inconvertibility, expropriation, political violence, and terrorism. OPIC's programs are backed by the full faith and credit of the U.S. government.

The **Small Business Administration (SBA)** administers several programs to support small businesses. SBA's Office of International Trade provides export financing and promotion services to small businesses.

The **U.S. Trade and Development Agency (TDA)** operates under a dual mission of promoting economic development and U.S. commercial interests in developing and middle-income countries. TDA links U.S. businesses to export opportunities by funding feasibility studies, reverse trade missions, technical assistance, and other activities, while creating sustainable infrastructure and economic growth in partner countries.

The **Office of the U.S. Trade Representative (USTR)**, located in the **Executive Office of the President (EOP)**, leads the development and coordination of U.S trade policy. The USTR serves as the principal adviser to the President on international trade policy; serves as the President's chief negotiator for international trade agreements; conducts U.S. affairs related to the **World Trade Organization (WTO)**; and chairs the **Trade Policy Review Group (TPRG)** and the **Trade Policy Staff Committee (TPSC)**, which are a part of the interagency trade policy mechanism.

Note: President Obama's trade reorganization proposal excludes certain federal agencies with key trade functions, such as the **U.S. Department of Agriculture (USDA)**, which conducts major agricultural international trade promotion and financing functions; the **Department of Homeland Security (DHS)**, which conducts key trade enforcement activities; the **Department of State**, which is involved in a range of trade-related functions, including negotiating U.S. bilateral investment treaties; and the **International Trade Commission (ITC)**, which administers U.S. trade remedy laws and conducts studies on trade and tariff issues.

The Administration's stated intention for the proposed new department is to streamline trade negotiation, financing, promotion, and enforcement functions. The new department reportedly

would be organized into four "pillars": (1) trade and investment functions; (2) small business and economic development; (3) technology and innovation; and (4) economic statistics.[8] Elements of the Commerce Department not associated with these four pillars could be transferred to other agencies. For example, functions of National Oceanic and Atmospheric Administration (NOAA), currently in the Commerce Department, could be transferred to the Department of the Interior.[9] According to press reports, the USTR would maintain Cabinet-level status, but would report to the Secretary of the newly created department.[10] OMB reportedly projects that the new department would save $3 billion over the next 10 years and eliminate between 1,000 to 2,000 full-time equivalent jobs by attrition over a couple of years.[11]The President's FY2014 budget request for the six agencies in the proposed reorganization reflects the current organizational structure of U.S. trade functions. **Table 1** provides the budget information for these six agencies, which may offer a sense of the scope of the proposed reorganization.

Table 1. U.S. Trade-Related Agencies in President's Proposed Trade Reorganization: Appropriations and Full-Time Equivalents (FTEs)

(FY2014 Requested)

Department/Agency	Budget ($ million)	FTE
Department of Commerce	$8,595.6	43,310
International Trade Administration (ITA)	519.8	1,872
Export-Import Bank (Ex-Im Bank)	-831.60	464
Overseas Private Investment Corporation (OPIC)	-198.20	280
Small Business Administration (SBA)	968.8	3,476
Trade and Development Agency (TDA)	62.66	50
U.S. Trade Representative (USTR)	56.2	254

Source: President's FY2014 budget request; congressional budget justifications of individual departments and agencies, CRS Report R43043; *The FY2014 State and Foreign Operations Budget Request*, by (name redacted), Marian Leonardo Lawson, and (name redacted); CRS Report R43060, *Commerce, Justice, Science, and Related Agencies: FY2014 Appropriations*, coordinated by (name redacted), (name redacted), and (name redacted); and CRS Report R40985, *Small Business: Access to Capital and Job Creation*, by (name redacted).

Notes: The Ex-Im Bank and OPIC are self-sustaining agencies that use offsetting collections (generated from fees and interest charged for their services and other source) to fund their activities. The appropriation amounts for the Ex-Im Bank and OPIC are negative because they reflect net revenues from offsetting collections.

[8] The economic statistics pillar of the proposed new department reportedly would include the Department of Commerce's Bureau of the Census and the Bureau of Economic Analysis (BEA), as well as the Department of Labor's Bureau of Labor Statistics (BLS). "Lawmakers Express Bipartisan Concern for USTR Under Proposed Reorganization," *International Trade Daily*, January 17, 2012.

[9] "USTR To Maintain Cabinet Status in Reorganization; Initial Reactions Cool," *World Trade Online*, January 13, 2012.

[10] White House officials have noted a comparable arrangement, under which the U.S. ambassador to the United Nations reports to both the Secretary of State and the President.

[11] "USTR To Maintain Cabinet Status in Reorganization; Initial Reactions Cool," *World Trade Online*, January 13, 2012.

Related Action by the Administration

In addition to requesting reorganizational authority from Congress, President Obama has undertaken certain administrative actions to enhance the effectiveness of federal programs and functions supporting trade and investment. What follows is a summary of certain administrative actions.

- **Export promotion coordination:** On February 17, 2012, the President issued a memorandum announcing his intention to move administratively, while waiting for reorganizational authority from Congress, to ensure the effectiveness of federal programs and functions supporting trade and investment. [12] The memorandum focuses on two interagency bodies, the Trade Promotion Coordinating Committee (TPCC) and the Export Promotion Cabinet (EPC).[13] In the memorandum, the President directed the EPC, in coordination with the TPCC, to: develop strategies and initiatives to support the Administration's strategic trade and investment goals and priorities; present a unified federal trade budget consistent with the Administration's strategic trade and investment goals and priorities; and take steps to ensure the most efficient use of the domestic and foreign offices and distribution networks of member agencies, among other things. The President also directed the EPC to support efforts to create BusinessUSA, an online platform intended to be a central resource for accessing federal business programs and services.[14]
- **Interagency Trade Enforcement Center (ITEC):** On February 28, 2012, President Obama issued Executive Order (E.O.) 13601 to establish an ITEC, for the purpose of strengthening and coordinating enforcement of U.S. rights under trade agreements and U.S. law.[15] E.O. 13601 states that the ITEC will be housed within the USTR with a designated director from the USTR; a designated deputy director from the Department of Commerce; and support from the Departments of State, the Treasury, Justice, Agriculture, Commerce, and Homeland Security, as well as the Office of the Director of National Intelligence. The Administration created the ITEC in order to better combat unfair trade practices by countries such as China. However, some policymakers contend that the ITEC is duplicative and unnecessary, replicating the "core statutory mission" of USTR and other interagency systems.[16] For example, intellectual property rights may be a key trade enforcement issue, and there is the possibility that the newly created ITEC could overlap with the interagency IPR enforcement system.[17]

[12] The White House, "Presidential Memorandum—Maximizing the Effectiveness of Federal Programs and Functions Supporting Trade and Investment," press release, February 17, 2012.

[13] Coordination of export promotion activities is conducted through interagency bodies. In 1992, Congress attempted to enhance coordination of U.S. export promotion policy by creating the Trade Promotion Coordinating Committee (TPCC), an interagency task force chaired by the Department of Commerce. The TPCC releases the *National Export Strategy* (NES), an annual report that serves as an effort to guide federal export promotion policy, goals, and activity. The Export Promotion Cabinet (EPC), a higher level coordinating body established under the National Export Initiative (NEI), is to work with the TPCC to make the NEI operational.

[14] The BusinessUSA platform is accessible at: http://business.usa.gov/.

[15] Executive Order 13601 of February 28, 2012, "Establishment of the Interagency Trade Enforcement Center," 77 *Federal Register* 12981, March 5, 2012.

[16] World Trade Online, "Republican Senators Attack Trade Enforcement Unit, Lack of Consultation," March 8, 2012.

[17] Language drawn from (name redacted), Specialist in International Trade and Finance.

- **Interagency Task Force on Commercial Advocacy:** On December 6, 2012, President Obama issued E.O. 13630 to establish an Interagency Task Force on Commercial Advocacy, chaired by the Secretary of Commerce and consisting of senior-level officials from other specified executive departments and agencies. The task force, building on existing federal programs, is intended to provide enhanced federal support for U.S. businesses competing for international contracts, coordinate the efforts of executive branch leadership in engaging their foreign counterparts on commercial advocacy issues, and increase the availability of information to the U.S. business community about these kinds of export opportunities.[18]
- **Proposed reorganization of International Trade Administration (ITA):** The Administration is reviewing a proposal to reorganize the Department of Commerce's ITA. The FY2014 congressional budget justification for the ITA states, "This proposed consolidation includes the reduction of the number of ITA business units from four to three, reducing management oversight and administrative overhead while still supporting the NEI and other Presidential priorities more efficiently and effectively."[19] The proposed ITA consolidation reportedly could include consolidating the ITA's U.S. and Foreign Commercial Service unit and Market Access and Compliance unit.[20]

Context of Trade Reorganization Debate

Trade-Related Functions of U.S. Government

The role of Congress in international trade is based on powers set out in Article 1, Section 8, of the U.S. Constitution to "lay and collect Taxes, Duties, Imposts and Excises" and "regulate Commerce with foreign Nations, and among the several States," as well as the general provision to "make all Laws which shall be necessary and proper" to carry out these specific authorities. While Congress retains this constitutional authority and maintains a critical role in trade policy, it also has delegated significant authority to the executive branch. For example, since 1934, Congress has delegated some form of trade negotiating authority to the President on a temporary basis (most recently known as "trade promotion authority").[21] The President directs overall trade policy in the executive branch and performs specific trade functions granted to him in statute. In addition, Congress and the President have delegated to a range of federal agencies the administration of many federal trade functions.[22] **Table 2** provides an overview of the primary trade-related functions of the federal government.

[18] Executive Order 13630 of December 6, 2012, "Establishment of an Interagency Task Force on Commercial Advocacy," 77 *Federal Register* 73893, December 11, 2012. Department of Commerce, "Fact Sheet: Interagency Task Force on Commercial Advocacy," December 6, 2012, http://www.commerce.gov/news/fact-sheets/2012/12/06/fact-sheet-interagency-task-force-commercial-advocacy.

[19] ITA, "International Trade Administration: Budget Estimates, Fiscal Year 2014," p. 7, http://www.osec.doc.gov/bmi/budget/FY14CJ/ITA_FY_2014_CJ_Final_508_Compliant.pdf.

[20] For example, see "Commerce to Submit ITA Reshuffle Plan After Gauging Hill Reaction," *Inside U.S. Trade's World Trade Online*, February 8, 2013.

[21] CRS Report RL33743, *Trade Promotion Authority (TPA) and the Role of Congress in Trade Policy*, by (name redacted) and (name redacted) .

[22] U.S. General Accounting Office (now the U.S. Government Accountability Office), *Government Reorganization:* (continued...)

Table 2. Overview of Trade-Related Functions of the Federal Government

Trade Function	Description
Trade policymaking and coordination	The development and implementation of U.S. trade policy on a range of matters concerning U.S. exports and imports and trade relations with other countries; coordination of the views of other participants in the policymaking process to ensure a cohesive policy on foreign trade.
Trade negotiation	The negotiation of trade and investment agreements and other arrangements to eliminate and reduce barriers to trade and to establish rules and principles to govern trade and investment, i.e., free trade agreements (FTAs) and bilateral investment treaties (BITs); such negotiations are conducted bilaterally and regionally, as well as multilaterally within the World Trade Organization (WTO) or other international bodies.
Trade promotion	The development and implementation of federal programs to assist U.S. companies in marketing their goods and services abroad, such as providing market research, conducting feasibility studies; providing financing and insurance to support U.S. exports and investments; conducting trade missions; and conducting advocacy on behalf of U.S. companies to ensure that they can compete on a level playing field with foreign competitors in export markets.
Trade and investment regulation	The licensing and control of sensitive U.S. exports; examination of foreign direct investments for national security reasons; enforcement of U.S. rights under trade agreements and action on foreign practices considered to be unjustifiable and that restrict U.S. commerce; and administration and implementation of U.S. statutes concerning unfair trade practices related to import trade (including antidumping and countervailing measures, and patent and copyright infringement) and fairly traded imports that may threaten to injure domestic industries.
Data collection and analysis	The collection and analysis of data related to trade, industry, and other international economic activities used by policymakers and other public and private stakeholders.
Other trade-related functions	The administration of trade adjustment assistance for workers and firms dislocated due to trade; collection of import duties; promotion inward direct investment; among other activities.

Source: U.S. statute, agency websites, U.S. General Accounting Office (now the U.S. Government Accountability Office), *Government Reorganization: Issues Relating to International Trade Responsibilities*, GAO/T-GGD-95-218, July 25, 1995.

Previous Legislative Proposals Related to Trade Reorganization[23]

Trade reorganization has been a recurring theme in various Administrations and Congresses. The early 1980s and the mid-1990s were two particularly active periods of debate on trade reorganization, when legislative proposals were considered. For a summary of key bills considered by Congress during these time periods, see **Appendix B**.

During the 98th Congress (1983-1984) and the Reagan Administration, there was renewed interest in trade reorganization. Proposals were introduced based on the rationale that the federal government needed to play a stronger role in U.S. trade to meet competition from Japan, Europe, and the newly industrialized countries of East Asia. These proposals also were motivated by efforts to reduce federal spending and eliminate institutions and functions deemed to be

(...continued)

Issues Relating to International Trade Responsibilities, GAO/T-GGD-95-218, July 25, 1995, http://www.gao.gov/products/T-GGD-95-218.

[23] Language drawn from CRS Report IB95106, *U.S. Trade: Proposals to Reorganize the Trade Policy Structure*, by (name redacted) and Wayne Morrison.

unnecessary or duplicative. Legislation introduced focused largely on creating some form of a "Department of Trade" that included consolidation of the USTR and the trade-related functions of the Department of Commerce and other agencies. Some proposals focused primarily on selected federal agencies whose primary functions relate to trade policy (e.g., USTR) and export promotion (e.g., the Department of Commerce, the Ex-Im Bank, OPIC, and TDA). Other proposals included a wider array of departments whose primary functions generally focus on other aspects of U.S. policy (though some aspects may have related to trade policy), including the Departments of Energy, Labor, State, Transportation, and the Treasury.

The last major set of legislative initiatives to reorganize the U.S. trade policy structure were developed during the 104th Congress (1995-1996) and the Clinton Administration. These proposals were motivated by efforts to reduce federal spending and eliminate institutions and functions deemed to be unnecessary or duplicative or considered to be subsidies for U.S. businesses. The initiatives focused on reorganization, largely through proposals to eliminate the Department of Commerce. The proposals generally would have terminated certain functions of the Commerce Department and transferred others to various federal agencies. Some bills also would have transferred functions of other agencies, such as the Ex-Im Bank, OPIC, and TDA, to a larger "Department of Trade" body.

Past proposals for major trade reorganization generally failed to advance beyond the congressional committee consideration stage. However, in 1995, the House passed a bill (H.R. 2491) and the Senate reported a bill out of committee (S. 929), both of which would have terminated the Department of Commerce and reorganized the functions of other trade-related agencies, albeit in different ways. Enacting major structural reforms to merge trade agencies has proved to be politically difficult on multiple levels, and past proposals were not enacted. Supporters of such proposals found it difficult to reach consensus among various interest groups that trade reorganization was necessary, and failed to address concerns raised among various stakeholders, such as representatives of manufactured goods and agricultural goods producers, of the impact of reorganization on their interests. Efforts to reorganize federal government agencies also spurred turf battles among federal government agencies, making it difficult to reach interagency consensus on how best to restructure trade functions of different agencies.[24] In addition, trade reorganization proposals prompted questions and debate over congressional committee jurisdiction, since jurisdiction of trade-related federal government agencies is spread across multiple committees. In the absence of major reorganization, successive Administrations and Congresses have made revisions to certain aspects of the trade policymaking structure, as described in the next section.

Key Statutes and Administrative Plans Related to Trade Reorganization

Organizational Structure of Trade Functions

The organizational structure of U.S. trade functions has changed over time through action by the Congress and executive branch. While a range of federal agencies administer various U.S. trade functions, the USTR has emerged as the lead in formulating and coordinating U.S. trade policy and negotiating U.S. international trade agreements. Likewise, the Department of Commerce has emerged as the lead in administering several U.S. trade functions such as providing export

[24] "Observers Doubt Success, Necessity of Trade Agencies Reform Proposal," *Inside U.S. Trade*, February 3, 2011.

assistance, administering export controls, administering anti-dumping (AD) and countervailing duty (CVD) measures, and conducting market analysis. See **Appendix C** for further information about the key milestones in administrative and legislative action related to trade reorganization.

Until the early 1960s, the U.S. Department of State was the lead agency responsible for conducting U.S. trade and investment diplomacy and administering the President's trade agreements program. During this time, U.S. trade policy largely consisted of negotiating and implementing international agreements to reduce tariffs, and was considered to be an instrument of U.S. foreign policy. The 1960s ushered in changes to U.S. trade policymaking, as Congress grew concerned that trade policy and commercial issues were being subsumed by foreign policy considerations under the auspices of the State Department.[25] (It is worth noting that the State Department continues to play an active role in U.S. trade policy. For example, the State Department and the USTR jointly lead negotiations of U.S. bilateral investment treaties.)

In order to address concerns that U.S. trade interests were not sufficiently represented in the policymaking process, successive Congresses have statutorily elevated and expanded the position of the USTR. Beginning with the Trade Expansion Act of 1962 (P.L. 87-794), Congress removed most trade policy negotiation functions from the State Department and transferred them to a new position, the Special Representative for Trade Negotiations, which is the predecessor to the current USTR.[26]

The landmark Trade Act of 1974 (P.L. 93-618) codified the establishment of the Office of the Special Trade Representative (STR) in the Executive Office of the President (EOP), to be headed by a STR entitled to receive ambassadorial rank. Under the Act, the STR was responsible to the Administration and Congress for administering the U.S. trade agreements program, chairing the interagency U.S. trade policy process, and other trade functions. The stated purpose of Congress for establishing the STR was to provide a better balance between competing domestic and international interests in the formulation of U.S. trade policy and negotiations, serving as an "executive broker" or "honest broker."[27]

The position of the STR was further elevated by President Carter's Reorganization Plan No. 3 of 1979.[28] President Carter submitted the plan based on a provision in the Trade Agreements Act of 1979 (P.L. 96-39), in which Congress required the President to develop and present a trade reorganization plan. Reorganization Plan No. 3 changed the name of the Office of the STR to the current USTR, and broadened the USTR's mandate, assigning it lead responsibility for developing and coordinating U.S. trade policy; conducting international trade negotiations, "including commodity and direct investment negotiations;" and serving as the principal adviser to the President on trade policy. Subsequently, the Omnibus Trade and Competitiveness Act of 1988 (P.L. 100-418) further strengthened the role of the USTR in U.S. trade policy formulation and negotiation.

[25] It is worth noting that, even in this present period, certain trade policy actions are undertaken with foreign policy considerations in mind. For example, a number of the free trade agreements (FTAs) negotiated by the United States have foreign policy objectives, such as the ones with countries in the Middle East. These FTAs could be considered to have low commercial value compared to gains that could be achieved by negotiating FTAs with more significant trading partners, but they are believed to advance important foreign policy and strategic goals.

[26] The Trade Expansion Act of 1962 (P.L. 87-794) did not contain provisions on the staff or positional location of the Special Representative for Trade Negotiations in the federal government.

[27] I.M. Destler, *American Trade Politics, Fourth Edition* (Washington, DC 2005).

[28] 93 Stat. 1381; 19 U.S.C. 2171 note.

Since the 1970s, the role of the Department of Commerce in administering the day-to-day functions of U.S. trade policy (such as export promotion) has strengthened and expanded. In Reorganization Plan No. 3 of 1979, President Carter established the ITA within the Commerce Department, consolidating the administration of export promotion, export controls[29], trade policy programs, AD and CVD investigations and remedies (formerly in the U.S. Department of the Treasury), and operations of the Foreign Commercial Service (a new service created from commercial officer positions of the U.S. Department of State's Foreign Service). The shift in responsibility from the Treasury Department to the Commerce Department for administering AD and CVD laws emerged from congressional and U.S. business concerns that the Treasury Department was not conducting such investigations adequately, and that the Commerce Department might be more sensitive to industry concerns.[30] The shift in responsibility from the State Department to the Commerce Department for administering the Commercial Service arose from concerns that trade promotion and commercial interests were not considered a top priority for the State Department. Subsequently, the Export Enhancement Act of 1988 (P.L. 100-418), enacted as part of the Omnibus Trade and Competitiveness Act of 1988, codified the establishment the U.S Commercial Service in the ITA.

Additionally, federal agencies with trade functions have been reorganized as part of other initiatives. For example, the Homeland Security Act of 2002 (P.L. 107-296) transferred several border and transportation security agencies to the newly established Department of Homeland Security (DHS), including the U.S. Customs Service, which was formerly in the Department of the Treasury. The Customs Service collects duties and tariffs, administers export laws, and has other trade responsibilities. The Customs Service was transferred to the newly created U.S. Customs and Border Protection (CBP) unit of the DHS.[31]

Interagency Trade Coordinating Structures

Federal trade-related agencies have different missions, represent a range of stakeholder interests, and conduct an array of trade-related programs and activities. They coordinate and implement their trade functions through a network of formal and informal interagency relationships. In trade policy coordination, federal agencies have an interagency process, dating back to and evolving since the 1950s, to formulate and coordinate trade policy and conduct trade negotiations. In export promotion, federal agencies use an interagency process to integrate their export strategies and coordinate their activities.[32] Various pieces of legislation and executive action have established many of the mechanisms intended to coordinate U.S. trade functions.

USTR-Led Trade Policy Coordination

Until the 1950s, the State Department was the major initiator and coordinator of international trade policy. The Secretary of State originally chaired the Trade Agreements Committee.[33]

[29] Within the Department of Commerce, export control functions are now handled outside of the ITA in the Bureau of Industry and Security (BIS).

[30] I.M. Destler, *American Trade Politics, Fourth Edition* (Washington, DC 2005), p. 148.

[31] For additional information on executive branch reorganization initiatives, see CRS Report R41841, *Executive Branch Reorganization Initiatives During the 112th Congress: A Brief Overview*, by (name redacted).

[32] In the arenas of trade regulation (e.g., trade remedies for AD and CVD, and export controls) and trade data collection and dissemination, comparatively fewer agencies are involved. U.S. General Accounting Office (now the U.S. Government Accountability Office), *Government Reorganization: Issues Relating to International Trade Responsibilities*, GAO/T-GGD-95-218, July 25, 1995, http://www.gao.gov/products/T-GGD-95-218.

[33] The Trade Agreements Committee included 8 agencies: the Departments of State, Agriculture, Commerce, and (continued...)

Legislation establishing and expanding the role of the Special Representative for Trade Negotiations (the predecessor to the U.S. Trade Representative) in U.S. trade policy also developed a new mechanism for interagency coordination of trade policymaking, centralizing lead responsibility for interagency coordination in the newly created trade official position.

In 1962, Congress authorized the President to establish a new interagency trade organization to carry out specified trade policy functions under Section 242 of the Trade Expansion Act of 1962 (P.L. 87-794). In 1963, President Kennedy established the Trade Expansion Act Advisory Committee through E.O. 11075, as authorized by Section 242 of the Trade Expansion Act of 1962, as amended. The interagency committee was to be composed of the Special Representative for Trade Negotiations (chairman) and the Secretaries of State, the Treasury, Defense, Interior, Agriculture, Commerce, and Labor.[34] In 1975, through E.O. 11846, President Ford abolished the Trade Expansion Act Advisory Committee and replaced it with a Trade Policy Committee (TPC), as authorized by Section 242 of the Trade Expansion Act of 1962, as amended.[35] Two subordinate coordinating groups—the sub-Cabinet-level Trade Policy Review Group (TPRG) and the staff-level Trade Policy Staff Committee (TPSC)—were subsequently created by the authority of USTR.[36]

The USTR-led interagency trade policy coordinating mechanism has evolved to consist of three tiers:

- **Staff level:** The Trade Policy Staff Committee (TPSC) is the "primary operating group" for developing and reviewing policy papers and negotiating documents related to trade policy. The TPSC is composed of senior civil service members drawn from the USTR (chair); Council of Economic Advisors; Council of Environmental Quality; Departments of Agriculture, Commerce, Defense, Energy, Health and Human Services, Homeland Security, the Interior, Justice, Labor, State, Transportation, and the Treasury; Environmental Protection Agency (EPA); Agency for International Aid and Development; National Economic Council (NEC); National Security Council (NSC); OMB; and International Trade Commission (non-voting member). Over 80 subcommittees and task forces support the work of the TPSC.[37] The TPSC seeks advice from the public on policy decisions and negotiations through *Federal Register* notices and public hearings.[38] "Through the interagency process, USTR requests input and analysis from members of the appropriate TPSC subcommittee or task force. Conclusions and recommendations from the TPSC subcommittee or task force are presented

(...continued)

Treasury; the Tariff Commission; the Agricultural Adjustment Administration; the National Recovery Administration; and the Office of the Special Advisor to the President on Foreign Trade Committee on Ways and Means, U.S. House of Representatives, *Overview and Compilation of U.S. Trade Statutes, Part I of II,* June 2005, pp. 324-325.

[34] Executive Order 11075, "Administration of the Trade Expansion Act of 1962," 28 *Federal Register* 473, January 18, 1963.

[35] Executive Order 11846, "Administration of the Trade Agreements Program," 40 *Federal Register* 14291, March 31, 1975.

[36] 15 C.F.R. §2002.2. 40 *Federal Register* 18419, April 28, 1975.

[37] USTR, *2013 Trade Policy Agenda and 2012 Annual Report*, "Trade Policy Development" section, pp. 210-211, http://www.ustr.gov/about-us/press-office/reports-and-publications/2013/2013-tpa-2012-ar.

[38] For example, in September 2012, the TPSC held public hearings on the participation of Canada and Mexico in the Trans-Pacific Partnership trade agreement negotiations.

to the full TPSC and form the basis for reaching interagency consensus."[39] If agreement is not reached in the TPSC, or if particularly significant policy questions are being considered, issues are to be referred to the Sub-Cabinet/Deputies level.

- **Sub-Cabinet/Deputies level:** Trade policy coordinating functions at the sub-Cabinet/Deputies-level are carried out by the Trade Policy Review Group (TPRG), which is headed by U.S. Trade Representative and is composed of members at the Deputies-level of the same federal agencies and offices that comprise the TPSC membership. The TPRG helps to coordinate U.S. government positions on international trade and trade-related investment issues. Disagreements at this level in the TPRG are referred to the Cabinet/Principals level for review.
- **Cabinet/Principals level:** Historically, the trade policy coordination functions at the Cabinet-level have been carried out by the Trade Policy Committee (TPC), the senior U.S. government interagency trade committee established to provide broad guidance on trade issues to the President and the USTR, including on carrying out functions under trade law, developing and implementing U.S. international trade policy objectives, and the relationship between trade policy objectives and other major policy areas. The TPC is composed of the USTR (chairperson), and the Secretaries of Commerce, State, the Treasury, Agriculture, and Labor.[40] (Cabinet-level trade policy coordination functions currently are carried out by other White House bodies; see next section.)

Other White House-led Trade Policy Coordination

The U.S. interagency trade policy coordinating system has evolved such that, in practice, there can be involvement of the National Economic Council (NEC) and/or the National Security Council (NSC) at the Deputies and Principals levels in certain cases. Both the NEC and NSC are located in the Executive Office of the President. The role of the NEC and NSC in the trade policy coordination can vary depending on the particular Administration, the nature of the trade policy issue, and other factors.

The NEC advises the President on U.S. and international economic policy, including trade policy. Established in 1993 by President Clinton through E.O. 12835, the NEC's responsibilities include the coordination and oversight of economic policy. The Director of the NEC is also the Assistant to the President for Economic Policy.[41] When established, the NSC was composed of the President of the United States (chair); Vice President of the United States; Secretaries of State, the Treasury, Agriculture, Commerce, Labor, Housing and Urban Development, Transportation, and Energy; Administrator of the EPA; Director of the OMB; U.S. Trade Representative; Chairman of the Council of Economic Advisors; National Security Advisor; and Assistants to the President for

[39] USTR, *2013 Trade Policy Agenda and 2012 Annual Report*, "Trade Policy Development" section, pp. 210-211.

[40] Committee on Ways and Means, U.S. House of Representatives, *Overview and Compilation of U.S. Trade Statutes, Part I of II*, June 2005, pp. 324-325.

[41] Executive Order 12835 of January 25, 1993, "Establishment of the National Economic Council," 58 *Federal Register* 6189, January 27, 1993. In addition to the NEC, there are other White House bodies which are involved in economic policy. For example, the Council of Economic Advisers (CEA), located in the EOP, is charged with offering the President objective advice on the formulation of domestic and international economic policy, based on economic research and empirical evidence. The CEA was established by Congress in Employment Act of 1946 (Pub. L. No. 79-304, 15 U.S.C. § 1023).

Economic Policy, Domestic Policy and Science and Technology Policy.[42] Through E.O. 13499, President Obama expanded the NEC membership to include the Secretaries of Health and Human Services and Education; Senior Advisor and Assistant to the President for Intergovernmental Affairs and Public Liaison; Assistant to the President for Energy and Climate Change; Assistant to the President and Chief Technology Officer; and Administrator of the SBA.[43]

The NSC serves as the president's principal form for considering national security and foreign policy matters with senior national security advisors and cabinet officials. Established in statute in 1947, the NSC is composed of the President (chair); Vice President; Secretaries of State, Defense, and (since 2007) Energy; but, at the President's request, other senior officials participate in NSC deliberations.[44] The Chairman of the Joint Chiefs of Staff and the Director of National Intelligence are statutory advisers.[45]

NEC and NSC involvement in trade policy coordination can be as follows:

- Parallel to the TPRG, there is a Deputies Committee of the NSC and/or a Deputies Committee of the NEC, to which issues can also be referred if agreement is not reached in the TPSC, or if particularly significant policy questions are being considered. Thus, presently, if issues merit escalation beyond the TPSC, they may be referred to either the TPRG or the Deputies Committee of the NSC/NEC for review.[46]
- The Principals Committee of the NSC/NEC appears to have largely replaced the Trade Policy Committee as the highest tier for resolving trade policy disputes and building interagency consensus.[47] Thus, disagreements at the sub-Cabinet/Deputies level—either through the TPRG or the Deputies Committee of the NSC/NEC— are generally referred to the Cabinet/Principals level for review. According to USTR, "Issues of greatest importance move to the Principals Committee of the NSC/NEC for resolution by the Cabinet, with or without the President in attendance."[48]

Private Sector Advisory System

The work of these interagency bodies is supported by a private sector advisory system, intended to provide information and advice on U.S. negotiating objectives and bargaining positions before entering into trade agreements, on the operation of existing U.S. trade agreements, and on other U.S. trade policy matters. Congress established the private sector advisory committee system under Section 135 of the Trade Act of 1974 (P.L. 93-618) to ensure that U.S. trade policy and trade negotiation objectives reflect U.S. commercial and economic interests. This body arose

[42] Telephone conversation with USTR official, May 23, 2012.

[43] Executive Order 13499 of February 4, 2009, "Further Amendments to Executive Order 12835, Establishment of the National Economic Council," 74 *Federal Register* 6979, February 11, 2009.

[44] National Security Act of 1947 (P.L. 235-61, Stat. 496, U.S.C. 402), as amended.

[45] For additional information about the NSC, see CRS Report RL30840, *The National Security Council: An Organizational Assessment*, by (name redacted)

[46] USTR, *2013 Trade Policy Agenda and 2012 Annual Report*, Chapter VI – Trade Policy Development, pp. 210-211.

[47] The Trade Policy Committee (TPC) continues to exist statutorily but is no longer active. Telephone conversation with USTR official, May 23, 2012.

[48] USTR, *Office of the United States Trade Representative Open Government Plan*, Version 3.0, July 2011, p. 30, http://www.whitehouse.gov/sites/default/files/ustr_open_government_plan_july_2011_ver3.pdf. USTR, *2013 Trade Policy Agenda and 2012 Annual Report*, Chapter VI – Trade Policy Development, pp. 210-211.

from concerns from members of the U.S. business community that their role in U.S. trade negotiations was limited and "ad hoc."[49] Congress expanded the advisory role of the private sector in subsequent trade acts, including the Trade Act of 2002 (P.L. 107-210).[50] The private sector advisory system consists of 28 advisory committees, with a total of approximately 700 advisors, and is arranged in three tiers: (1) the President's Advisory Committee for Trade Policy and Negotiations (ACTPN); (2) 5 policy advisory committees—Agricultural Policy, Intergovernmental Policy, Labor, Africa, and Trade and Environmental Policy; and (3) 22 sectoral and technical advisory committees—6 on agriculture and 16 on industry. The USTR manages this system, in cooperation with other agencies, including the Departments of Agriculture, Commerce, and Labor, and the EPA.[51]

Export Promotion Coordination

Interagency bodies also exist to coordinate the federal government's trade promotion activities. One body is the Trade Promotion Coordinating Committee (TPCC), whose stated purpose is to develop a government-wide strategic plan for carrying out federal export promotion and financing programs and to propose a unified export promotion budget to the President. The TPCC is composed of 20 member departments and agencies, 9 of which are key in federal export promotion efforts: the Departments of Agriculture, Commerce (chair), State, and the Treasury; the Ex-Im Bank, OPIC, TDA, SBA, and USTR. The TPCC, first established in May 1990 by President Bush during remarks on U.S. trade policies and U.S. companies involved in exporting, was enacted by Title II of the Export Enhancement Act of 1992 (P.L. 100-412). The TPCC emerged from concerns that existing U.S. export promotion programs lacked coordination and an overall strategy. However, there has been debate about the effectiveness of the TPCC. Many of the alleged problems associated with the TPCC stem from lack of enforcement "teeth" given to the body.[52]

More recently, a higher level of coordination of trade and export promotion functions has been introduced through the National Export Initiative (NEI). As part of the NEI, President Obama established an Export Promotion Cabinet (EPC) to enhance and organize federal efforts to promote exports, to ensure that export promotion is a high priority for all relevant agencies, and to development and implement the NEI along with the TPCC.[53] Members of the EPC include the 9 key Secretaries or Directors of the export promotion agencies of the TPCC and senior White House advisors. While some stakeholders have welcomed the creation of the EPC as a way to elevate export promotion as a national priority, others have expressed concern that it may duplicate the TPCC's functions.

In addition, private sector input on export-related issues is provided through the President's Export Council (PEC), which advises the President of "government policies and programs that affect U.S. trade performance; promotes export expansion; and provides a forum for discussing and resolving trade-related problems among the business, industrial, agricultural, labor, and

[49] I.M. Destler, *American Trade Politics, Fourth Edition* (Washington, DC 2005), p. 109.

[50] Committee on Ways and Means, U.S. House of Representatives, *Overview and Compilation of U.S. Trade Statutes, Part II of II*, June 2005, p. 1466.

[51] USTR, "Advisory Committees," http://www.ustr.gov/about-us/intergovernmental-affairs/advisory-committees.

[52] GAO, *International Trade: Effective Export Programs Can Help in Achieving U.S. Economic Goals*, GAO-09-480T, March 17, 2009.

[53] Executive Order 13534 of March 11, 2010, "National Export Initiative," 75 *Federal Register* 12433, March 16, 2010.

government sectors."[54] The PEC is to be composed of up to 28 private sector members; 5 U.S. Senators and 5 members of the House of Representatives; and the heads of the Departments of Agriculture, Commerce, Energy, Homeland Security, Labor, State, Transportation, and the Treasury; the Ex-Im Bank, OPIC, SBA, TDA, USTR, OMB, Council of Economic Advisors, and NEC. The PEC was first established by E.O. 11753 in 1973 by President Nixon.[55] Subsequent executive orders have been used to renew the council.

Issues for Congress

Trade reorganization raises a number of issues for Congress. This section first discusses the general debate about the reorganization, and then analyzes specific issues raised by President Obama's trade reorganization proposal.

Rationales for Trade Reorganization

Rationales for the reorganization of U.S. trade functions tend to be derived from the assumption that the structure of the U.S. trade policy apparatus constrains the effectiveness of U.S. trade policy. One issue for Congress is how to measure the effectiveness of the U.S. trade policy structure. Potential indicators for measuring the effectiveness tend to flow from views of what the goals of U.S. trade policy should be, and how those goals should be prioritized.

- International trade policy objectives for trade policy include opening and accessing foreign markets, "levelling the playing field" for U.S. businesses in the international marketplace, and advancing U.S. trade policy objectives in international negotiations. In this vein, potential indicators for the effectiveness of U.S. trade policy could be examining the number, scope, and content of U.S. trade agreements and the extent to which trade barriers have been eliminated or reduced.
- Macroeconomic goals for U.S. trade policy include supporting U.S. employment and economic growth, boosting U.S. export levels, and improving the U.S. trade balance. To this end, possible indicators for measuring the effectiveness of U.S. trade policy functions could be an evaluation of how the organizational structure of U.S. trade functions contributes to these goals.
- At times, U.S. trade policy has focused on supporting certain firm-specific, sectorial, or regional objectives. As such, possible indicators of the effectiveness of U.S. trade policy could be the extent to which the organizational structure of U.S. trade policy functions supports exports by small- and medium-sized enterprises (SMEs), "green" exports, exports to specific emerging markets and developing economies, and other priority exports.

For advocates of trade reorganization, such indicators generally have led to the view that the U.S. trade policy structure is not suited to respond to the growing demands and competitive challenges of the current global marketplace (such as increasing competition from China, Brazil, and India), and does not adequately support U.S. businesses in accessing foreign markets and reaching foreign consumers. In evaluating the effectiveness of the organizational structure for U.S. trade

[54] Department of Commerce, "President's Export Council History," http://trade.gov/pec/history.asp.

[55] Executive Order 11753 of December 20, 1971, "Establishing the President's Export Council and for other purposes," 38 *Federal Register* 34893, December 21, 1973.

policy functions, some stakeholders point to how trade functions are organized in other countries. Supporters of trade reorganization contend that the comparatively more consolidated structures of trade functions in certain countries help them to pursue more effective trade policies.[56]

Some opponents of trade reorganization contend that, while changes in trade policy—and by extension the policymaking structure—may benefit individual U.S. businesses and workers in the short-run, they have little influence in the long-run on U.S. export and employment levels and trade balances. They assert that macroeconomic factors (such as global economic growth, exchange rates, and the balance between domestic savings and investment) hold greater sway over economic factors such as a nation's level of exports and trade balance. For example, under this argument, any economic gains from changes to the U.S. trade organizational structure could be washed out by impacts resulting from changes to macroeconomic factors. Critics of trade reorganization also note that the nature of a government's trade organizational structure depends on a range of factors that vary by country, and that it may not make sense to make direct comparisons between the organizational structure of the United States and other countries.

In addition to trade policy rationales, other drivers of trade reorganization have been policy goals of reducing the size and costs of government. In terms of these goals, possible considerations are the budgetary impact of a proposed trade reorganization, such as changes in administrative and program costs and personnel levels. The budgetary impact could be examined both in the short-term and the long-term. For example, initial costs of transferring trade functions in a reorganization could be offset by cost savings from greater efficiency in the long-run. At the same time, based on the DHS reorganization experience, some might suggest that consolidation efforts could lead to the creation of larger government bureaucracy that brings unforeseen costs.

Some General Pros and Cons of Trade Reorganization

Public policy debate about trade reorganization generally is rooted in a central question of whether trade reorganization would enhance the effectiveness of the U.S. trade policy and administration structure or merely result in a superficial exercise of bureaucratic reshuffling. On one hand, proponents of trade reorganization maintain that the existence of multiple trade-related federal agencies, often with overlapping missions and services, is difficult and complex for businesses to navigate when securing federal assistance. They argue that U.S. businesses would benefit from a more centralized, "one-stop-shop" resource for accessing federal assistance instead of having multiple entry points for accessing government services. Supporters also maintain that reduction of duplicative programs would lower overall costs of government, such as administrative costs.[57] Consolidation of federal trade functions, supporters further argue, would facilitate a more coherent U.S. trade policy structure, making it "easier to set priorities, enlist

[56] Examples of consolidation in foreign countries include the United Kingdom's Department of Business, Innovation and Skills, which is "responsible for economic development, trade, workforce development, higher education, small business, and science and technology policies;" Germany's Ministry of Economics and Technology, which "handles energy, domestic and international economics, technology, telecommunications and mail, and industrial relations policies;" and India's Ministry of Commerce and Industry, whose portfolio includes "international trade, domestic and foreign business, infrastructure, intellectual property, and industrial policy and promotion." John Podesta, Sarah Rosen Wartells, and Jtinder Kohli, *A Focus on Competitiveness: Restructuring Policymaking for Results*, Center for American Progress, December 2010.

[57] Brian M. Riedl, *How to Cut $343 Billion from the Federal Budget*, The Heritage Foundation, No. 2483, October 28, 2010.

resources of diverse programs in services of a national strategy for competitiveness and align agencies' work to deliver outcomes that matter to the public.[58]

On the other hand, opponents of trade reorganization contend that restructuring merely would result in an exercise of "moving-the-boxes-around." In their view, reorganization would not address fundamental issues underlying U.S. trade policy—such as balancing competing stakeholder interests, coordinating trade functions, and enforcing trade agreements—and could even divert federal resources away from addressing greater trade policy priorities. While acknowledging that terminating certain agencies may result in cost-savings, they point out that there also may be costs associated with transferring their functions, if deemed necessary, to other agencies. In that same vein, the federal government's capacity to provide trade-related services may be limited during a period of time as the federal government restructures trade functions; U.S. businesses could lose out on opportunities for federal support during this transition time. Critics express concern that consolidation proposals may limit the effectiveness of certain trade functions, contending that it is the smaller size of certain agencies, such as the USTR, that allow them to be agile and "non-bureaucratic" and more effective in administering their trade functions.[59] In addition, opponents assert that the diffusion of trade functions across the government helps to advance the diverse range of interest in U.S. trade policy by providing specialized support, such as for small businesses and agricultural exporters.

Analysis of President Obama's Trade Reorganization Proposal

The President's proposal to reorganize the functions of six federal agencies into a broader department raises a number of issues for Congress. While some Members of Congress have been broadly supportive of efforts to improve the U.S. trade policy structure's effectiveness and efficiency, others have expressed concern that such efforts would simply result in a bureaucratic exercise. The issues discussed below could also arise in congressional examination of other administrative or legislative proposals on trade reorganization.

Effectiveness of Trade Functions

Reorganization of trade agencies raises questions about the extent to which certain functions can be effectively implemented in a new structure. Much of the debate on effectiveness has centered on the positioning of the USTR in a new trade structure. For example, there has been significant debate about the implications for a reorganization on USTR's capacity to serve as an "honest broker." Proponents of USTR claim that the agency is unique in its role as an honest broker that intermediates between and among the executive and legislative branches of government, among federal agencies, and between domestic and foreign interests. Some contend that USTR's ability to serve as this honest broker would be compromised if it was subsumed in a larger agency. Critics counter that USTR is far from being an honest broker and that many of its actions and decisions are politicized.

Some also express concern that the federal government's capacity to negotiate trade policy could be constrained under the proposed reorganization. A central issue has been the proposal to remove the USTR from the EOP and place it in the newly created trade department, but allow the USTR

[58] John Podesta, Sarah Rosen Wartell, and Jitinder Kohli, *A Focus on Competitiveness: Restructuring Policymaking for Results*, Center for American Progress, December 2010.

[59] "News Briefs: Baucus Critical Of Obama On Reorganizing Federal Export Agencies," *World Trade Online*, February 17, 2011. "Hatch on President's Announcement to Reorganize Federal Agencies," press release, January 13, 2012, http://hatch.senate.gov/public/index.cfm/releases?ID=5a75184e-4eaf-4c22-84c6-d23f9536970a.

to maintain Cabinet-level status, reporting to the both the President and the head of the new department. Critics contend that removing the USTR from the EOP and subsuming it into a larger agency could be considered a "downgrade" in its stature. They argue that this could limit the USTR's clout in international trade negotiations, as many other countries are very "status conscious." Others contend that because the President's reorganization plan would allow USTR to maintain Cabinet level status, the trade policy negotiating body's stature or clout would not be compromised.[60] White House officials have noted a comparable arrangement, under which the U.S. ambassador to the United Nations reports to both the Secretary of State and the President.

From the perspective of resources, proponents of the proposal contend that it would allow USTR to take advantage of a wider array of federal resources in a more structured manner, such as analytical support of Commerce's country and industry desk offices to support trade policy and inform U.S. trade negotiations. Others argue that USTR already takes advantage of Commerce support, and that merging the two agencies would only serve to create greater bureaucracy.

In addition, there are concerns that the transfer of the functions of smaller agencies into a larger department may raise bureaucratic issues. Some may wonder if there is a contradiction in efforts to reduce the size of government by creating a larger federal agency. For example, Senate Finance Committee Chairman Max Baucus and House Ways and Means Committee Chairman David Camp said in a joint statement, "Taking USTR, one of the most efficient agencies that is a model of how government can and should work, and making it just another corner of a new bureaucratic behemoth would hurt American exports and hinder American job creation. We certainly need to look for ways to reduce government and cut taxes, but not at the expense of programs that are helping businesses, ranchers and farmers create jobs and expand our economy."[61]

Selection of Federal Agencies

A dual question that Congress could examine is: If trade reorganization is considered, what mix of agencies should be included in the reorganization, and what agencies should not? The President's proposal does not encompass all agencies with trade functions. For example, the proposal excludes the U.S. Department of Agriculture (USDA)—which conducts major agricultural international trade functions, including export financing and commercial representation abroad, through its Foreign Agricultural Service (FAS). The proposal also excludes the State Department, which helps to advance U.S. trade policy objectives, in part, through U.S. representation in foreign diplomatic missions.

Exclusion of such key trade-related agencies may raise questions for the cohesion of trade policy. For instance, excluding USDA and the State Department from the proposal could remove an opportunity to consolidate the international representation functions, i.e., bringing together the foreign agricultural officers of USDA, the foreign service officers of State, and the commercial service officers of the Commerce Department into one unit. At the same time, some may point out the responsibilities of foreign service officers often extend beyond trade functions, as they may work to advance a wide range of U.S. political and economic initiatives. As such, it may not necessarily make sense to consolidate these functions into one body. In addition, exclusion of such agencies may mean that, as stand-alone agencies, they are more appropriately responsive to the needs of certain stakeholder interests (see next section).

[60] "NFTC: Trade Reorganization Proposed by Obama May Marginalize USTR," *Inside U.S. Trade*, January 27, 2012.

[61] Senate Finance Committee, "Baucus, Camp Comment on Trade Agency Reorganization Proposal," press release, January 13, 2012, http://finance.senate.gov/newsroom/chairman/release/?id=e67329f7-f317-4eae-880a-4193606d9bf0.

At the same time, the President's reorganization proposal includes agencies that some may prefer to be excluded from the conversation. Such a debate may arise with SBA. On one hand, much of SBA's functions extend beyond trade. Consequently, some may question the rationale of transferring the SBA to the proposed new department. On the other hand, the proposed new department would include both trade and industry functions. In this vein, transferring SBA functions may be highly relevant for streamlining federal trade-related functions.

There is debate about whether maintaining separation between certain policy functions may enhance U.S. trade policy. For example, if trade negotiating and all trade enforcement functions are brought together, some argue that the United States might find itself in a difficult situation if the department that is negotiating for greater market access with one country (functions currently led by the USTR) is the same one that is levying anti-dumping and countervailing duties on that country (functions currently led by the Commerce Department).[62] At the same time, some may point out that the USTR, in its current form, conducts both trade negotiation and trade enforcement functions. For instance, the USTR both leads FTA negotiations and handles WTO dispute settlement issues, which involve the enforcement of U.S. rights under WTO agreements.

Representing Stakeholder Interests

Another issue that Congress could examine is the impact of a proposed reorganization on the ability of the federal trade structure to promote the interests of certain economic sectors or to advance other U.S. policy objectives. For instance, specific to USTR, certain agricultural and commodity groups express concern that subsuming USTR in a larger trade department that does not have a specific agricultural focus may adversely affect expertise and interests in U.S. trade negotiations that relate to agriculture. Such concerns arise because the USTR conducts negotiations on all trade issues, including those related to agriculture.[63]

The trade reorganization debate also has raised questions about the implications for small business interests. Small business advocates have welcomed the elevation of the Small Business Administrator to Cabinet level status by the Administration, but have expressed concerns about the impact on small business interests if SBA is merged with other entities in the President's proposed reorganization. Some argue that small business concerns may be diluted. Others contend that, in a number of agencies aside from SBA, small business concerns rank as a secondary focus and pulling together small business resources across agencies in a reorganization could strengthen federal support for small business exports.

In addition, trade reorganization could prompt questions about the implications on the dual trade and development functions served by certain agencies, namely OPIC and TDA. Given that the proposed new department would focus on trade, business, industry, and competitiveness, some question the extent to which the trade functions currently undertaken with development and foreign policy objectives would be met. For example, both OPIC and TDA place significant emphasis on support to projects in the Middle East and Sub-Saharan Africa, which are top foreign policy priorities but not necessarily a top priority of U.S. trade policy, because these regional markets are relatively small. On the one hand, a newly created trade-focused department may not offer a similar emphasis on supporting investments and exports in these regions as OPIC and TDA currently do. On the other hand, since OPIC and TDA conduct their development and

[62] U.S. General Accounting Office, *Government Reorganization: Observations About Creating a U.S. Trade Administration*, GAO/T-GGD-95-234, September 6, 1995, http://www.gao.gov/products/T-GGD-95-234.

[63] David Bennett, "Agriculture Industry Wary of Merging Trade Agencies," *Western Farm Press*, January 26, 2012. "Business Critics Of Reorganization Oppose Relocation Of USTR," *Inside U.S. Trade*, January 19, 2012.

foreign policy functions through commercial tools, it is possible that these development-oriented functions would not be diluted in a reorganization.

Alternative Policy Options for Congress

Congress may ultimately examine several different policy options on trade reorganization, as discussed below.

Maintain Status Quo

Congress could consider maintaining the current trade policy structure. Some Members take the position that the current structure is adequate for implementing effective U.S. trade policy, and that addressing challenges of competitiveness and coordination requires other policy tools aside from trade reorganization. Other Members may hold the view that while the current structure is not ideal, restructuring may result in more problems than benefits. Others also may be wary of the short-term costs of restructuring, and value not losing U.S. effectiveness in the short-run in negotiation of trade agreements, promoting exports, and enforcing trade commitments over any long-term gains or future cost-savings.

In the event that Congress does not act on trade reorganization, the Administration might nevertheless move forward with some aspects of the trade reorganization that could be carved out under the President's authority and not require congressional approval. For example, the President has announced his intention to move administratively, while waiting for reorganizational authority from Congress, to ensure the effectiveness of federal programs and functions supporting trade and investment. To this end, as noted earlier, the President issued a memorandum with directives intended to strengthen the coordination of trade policy functions by the TPCC and the EPC.[64] In addition, the President established an Interagency Trade Enforcement Center and an Interagency Task Force on Commercial Advocacy.[65]

Privatize or Terminate Certain Trade Functions

Policy debate about the arrangement of trade functions in the U.S. trade policy apparatus has been related to questions about whether the federal government should even be involved in carrying out certain functions. As such, alternate policy options for Congress related to trade reorganization may be the privatization or termination of certain federal trade functions.

Central premises behind such options may include concerns about the size and scope of the federal government, the economic rationale for government intervention in markets, the view that federal trade-related activities may compete with or crowd out private sector activity, the notion that the private sector is more effective and better suited than the government in conducting trade promotion and financing activities, that state- and local-level government entities are conducting similar trade functions, corporate welfare arguments, and the possible costs and risks transferred to U.S. taxpayers. For example, some have argued that the Ex-Im Bank and OPIC could be considered potential candidates for privatization or termination in a reauthorization.

[64] The White House, "Presidential Memorandum—Maximizing the Effectiveness of Federal Programs and Functions Supporting Trade and Investment," press release, February 17, 2012.

[65] Executive Order 13601 of February 28, 2012, "Establishment of the Interagency Trade Enforcement Center," 77 *Federal Register* 12981, March 5, 2012. Executive Order 13630 of December 6, 2012, "Establishment of an Interagency Task Force on Commercial Advocacy," 77 *Federal Register* 73893, December 11, 2012.

Others may oppose privatization or termination of certain federal trade functions on the grounds that the federal government plays a unique role in its capacity to address market failures that may dampen the most efficient level of U.S. exports and investment. For example, critics of privatization and termination assert that the credit and insurance activities of the Ex-Im Bank and OPIC are backed by the full faith and credit of the U.S. government, making certain transactions, such as those for major infrastructure projects, more commercially attractive or giving the agencies more leverage to guarantee repayment in a way that is not available to the private sector. In addition, they may hold the view that federal trade programs equip U.S. firms with tools to compete for export and investment contracts with foreign firms that have access to similar support offered by their governments.

Strengthen Coordination of Trade Agencies

Congress could consider enhancing the effectiveness of U.S. trade agencies not by consolidating them, but rather, by enhancing coordination among the agencies. One option could be to strengthen existing coordinating bodies for trade functions. For example, in terms of export promotion coordination, Congress could give the TPCC and EPC greater authority to develop a unified trade budget based on clear priorities and objectives. Another approach could be to streamline existing coordinating bodies for trade functions. For instance, there have been concerns that the creation of the EPC is duplicative, as it focuses on largely similar issues as the TPCC. As such, Congress could consider streamlining the TPCC and EPC for enhanced coordination.

Alternatively, Congress could set up new coordination mechanisms. Greater coordination could help to achieve some of the goals of trade reorganization, such as reducing duplication of functions and activities, possibly with less "bureaucratic shuffling." However, the extent to which coordination mechanisms may be effective could depend on the authority assigned to them by Congress to bring about changes to government processes. In addition, increased coordination may not mitigate concerns about fragmentation of trade functions across the federal government.

Create a Commission

Congress could establish a commission, composed of public and/or private sector stakeholders, to examine trade reorganization. For example, the commission could examine the effectiveness of the current organizational structure for federal trade functions, identify opportunities for improvement, develop recommendations or plans for reorganizing trade functions. The establishment of such a commission would be in line with previous commissions established by the government during previous times of trade reorganization debate.[66]

Outlook

Although President Obama has reiterated his proposal for trade reorganization in the FY2014 budget request, the outlook for trade reorganization is unclear. Whether or not, and to what degree, trade reorganization action is taken in the 113th Congress may depend on a range of factors. Catalysts for trade reorganization include the continued U.S. policy focus on export

[66] For example, President Reagan established the Private Sector Survey on Cost Control (PSCC). Commonly referred to as the "Grace Commission" the PSSCC was headed by Peter Grace, a U.S. businessman and was charged with identifying inefficiencies in the U.S. government. The Grace Commission report provided recommendations that were presented to Congress in January 1984.

promotion and emphasis on smaller government and cost-savings measures. It is worth noting that reorganizations of other parts of the executive branch have happened in response to major crises or events, such as the post-9/11 creation of the Department of Homeland Security. In the case of trade reorganization, it is difficult to tell to what extent the dynamics of the U.S. economy or other factors could make a compelling argument for trade reorganization.

At the same time, there may be a number of potential impediments to trade reorganization. Jurisdiction of federal government agencies involved in export promotion, for example, is spread across multiple congressional committees. Some observers predict that congressional committees "will be reluctant to agree to such changes due to concerns about an impact on their jurisdiction."[67] In cases where the Administration cannot act alone to reorganize elements of federal trade functions, merging new agencies may require legislation. Efforts to reorganize federal government agencies also may spur turf battles among federal agencies and complicate the ability to reach interagency consensus.[68] In addition, certain stakeholders, such as small business or agricultural producers, may express concern about the impact of reorganization on their special interests. Furthermore, the feasibility of trade reorganization, particularly through any proposal that includes USTR, may be questioned in light of the major U.S. trade agreement negotiations currently underway, such as the Trans-Pacific Partnership (TPP) FTA, or that are proposed, such as the Transatlantic Trade and Investment Partnership (TTIP) FTA.

Potential trade reorganization raises questions about the interagency process for trade policymaking, trade promotion, and other trade functions. In the event that some form of trade reorganization advances, a need for interagency coordination likely would remain, given the range of federal government agencies that conduct trade functions and that are not included in the current proposal.

[67] "Observers Doubt Success, Necessity Of Trade Agencies Reform Proposal," *Inside U.S. Trade*, February 3, 2011.

[68] Ibid.

Appendix A. Acronyms

Acronym	Term
AD	Anti-dumping
BEA	Bureau of Economic Analysis
BIS	Bureau of Industry and Security
BIT	Bilateral investment treaty
BXA	Bureau of Export Administration
CVD	Countervailing duty
CS	U.S. and Foreign Commercial Service
EDA	Economic Development Administration
EPC	Export Promotion Cabinet
Ex-Im Bank	Export-Import Bank of the United States
FTA	Free trade agreement
IA	Import Administration unit
ITA	International Trade Administration
MAC	Market Access and Compliance unit
MAS	Manufacturing and Services unit
MBDA	Minority Business Development Administration
NEC	National Economic Council
NEI	National Export Initiative
NOAA	National Oceanic and Atmospheric Administration
NSC	National Security Council
NTIA	National Telecommunication and Information Administration
NTIS	National Technical Information Service
OMB	Office of Management and Budget
OPIC	Overseas Private Investment Corporation
SBA	Small Business Administration
TDA	U.S. Trade and Development Agency
TDP	Trade and Development Program
TPC	Trade Policy Committee
TPCC	Trade Policy Coordinating Committee
TPRG	Trade Policy Review Group
TPSC	Trade Policy Staff Committee
USDA	U.S. Department of Agriculture
USTR	Office of the United States Trade Representative
USTTA	U.S. Trade and Tourism Administration

Appendix B. Summary of Legislative Proposals on Trade Reorganization, Select Congresses

The early 1980s, during the Reagan Administration, and the mid-1990s, during the Clinton Administration, were two particularly active periods of debate on trade reorganization. During these time periods, Congress considered several legislative proposals to reorganize the federal government's trade functions. What follows is a discussion of the some of the legislative proposals introduced during these periods

96th Congress

The International Trade and Investment Reorganization Act (S. 377), introduced on February 7, 1979, and referred to the Senate Committee on Governmental Affairs, would have established a Department of International Trade and Investment by absorbing the Office of the Special Trade Representative (now the USTR); placing the trade and foreign investment functions of the Departments of Commerce, State, and the Treasury in the new department; and transferring the functions of the Export-Import Bank (Ex-Im Bank) and Overseas Private Investment Corporation (OPIC) to the new department.

98th Congress[69]

In 1983, the Reagan Administration proposed the consolidation of the USTR and the trade-related functions of the Department of Commerce and other agencies. The primary legislative vehicle for the Administration's proposal was the Department of International Trade and Industry Act of 1983 (S. 121) and its companion bill (H.R. 2288). This legislative initiative would have created the United States Trade Administration (USTA), headed by a U.S. Trade Representative. The bill would have transferred the functions of the USTR to the USTA. It also would have transferred the trade-related functions of the Department of Commerce to the new department, including the International Trade Administration (ITA), the U.S. and Foreign Commercial Service, International Economic Policy, Trade Development, the Export Administration, the Import Administration, and the National Telecommunication and Information Administration. In addition, the bill would have transferred the functions of the Ex-Im Bank, OPIC, and TDA to the newly created USTA.

Some reorganization proposals considered in Congress include agencies whose primary functions extended beyond trade. For example, the Department of Trade and Commerce Act of 1983 (S. 21) and its companion bill (H.R. 1202), which would have renamed the Department of Commerce as the Department of Trade and Commerce, would have consolidated trade functions from an expansive range of federal agencies in the proposed new department: USTR; Departments of Defense (export of strategic materials), Energy (trade in energy and energy-producing materials), Labor (Trade Adjustment Assistance), State (international trade and investment functions), the Treasury (international trade and investment functions), Transportation (transportation systems and equipment), and Agriculture (export of agricultural products); and SBA (export financing for small businesses). The bill also would have transferred to the new department all functions of the Ex-Im Bank, OPIC, Trade and Development Program of the International Development

[69] Drawn from American Enterprise Institute, *Proposals to Establish a Department of Trade*, Legislative Analysis No. 43, 98th Congress, May 1984; and I.M. Destler, *American Trade Politics, 4th Edition* (2005).

Cooperation Agency, U.S. Customs Service of the Treasury Department, and international trade functions of the U.S. International Trade Commission.[70]

The Trade Reorganization Act of 1983 (H.R. 4432) was introduced on November 16, 1983 in the House. The bill would have created a Department of Commerce and Trade that would have resembled S. 121, with some differences, notably the creation of an Office of Industrial Policy and an Industrial Competitiveness Council.

104th Congress

H.R. 1756, the Department of Commerce Dismantling Act, would have eliminated the Department of Commerce by terminating certain functions and transferring others to existing agencies. The bill would have eliminated the ITA and transferred the Import Administration and the foreign component of the U.S. and Foreign Commercial Service to the USTR. The domestic component of the Commercial Service would have been eliminated, as would the other international economic policy and trade development functions of the ITA. The bill also would have eliminated the Bureau of Export Administration (BXA), transferred BXA's export licensing functions to the State Department, and transferred the BXA's export enforcement functions to Customs.[71]

In addition, H.R. 1756 would have terminated certain other functions of the Commerce Department and transferred others to existing agencies. The bill would have terminated Commerce's administrative functions, the Economic Development Administration, the Minority Business Development Agency (MBDA), the United States Travel and Tourism Administration (USTTA), and industrial technology programs.[72] It would have transferred the weight and measure functions of the National Institute for Standards and Technology (NIST) to the National Science Foundation (NSF). It would have terminated the National Telecommunications and Information Administration (NTIA) and transferred its functions to the Federal Trade Commission (FTC). It would have transferred the Patent and Trademark Office (PTO) to the Department of Justice. It would have eliminated the Economic and Statistics Administration (ESA), transferred the Bureau of the Census to the Treasury Department, and transferred the Bureau of Economic Analysis (BEA) to the Federal Reserve System. It would have transferred many of the functions of the National Oceanic and Atmospheric Administration (NOAA) to several different federal agencies.

Another trade reorganization bill (S. 929) was introduced in the Senate on June 15, 1995, and referred to the Senate Committee on Governmental Affairs. On September 7, 1995, the Senate Committee on Governmental Affairs reported out Senator Roth's substitute amendment to S. 929, the Commerce Department Termination and Government Reorganization Act of 1995. On October 20, 1995, the bill was placed on Senate Legislative Calendar under General Order. S. 929 would have abolished the Department of Commerce and replaced it with an independent agency, the United States Trade Administration (USTA). S. 929 would have transferred the functions of

[70] The Jobs Through Exports Act of 1992 (P.L. 102-549) renamed the Trade and Development Program (TDP) as the Trade and Development (TDA), and made the TDA into an independent agency. The Homeland Security Act of 2002 (P.L. 107-296) transferred the functions of the U.S. Customs Service to the U.S. Customs and Border Protection (CBP) of the Department of Homeland Security (DHS).

[71] In 2002, in the Department of Commerce, the Bureau of Export Administration (BXA) was replaced by the Bureau of Industry and Security (BIS).

[72] In 1996, the functions of the U.S. Travel and Tourism Administration were transferred to the Department of Commerce's International Trade Administration (ITA).

the Department of Commerce (specifically the functions of the ITA), along with the Ex-Im Bank, OPIC, TDA, and USTR, to the newly created USTA. Under the bill, the USTA would have been headed by the USTR, who would have retained cabinet status and ambassadorial rank. The USTR would have continued to be responsible for trade policy and negotiations, but under the bill, the USTR's responsibility also would have extended to export promotion, trade policy analysis, trade law administration, and other functions of the ITA and the BXA. S. 929 also would have terminated several of Commerce's sub-agencies: USTTA, EDA, NTIA, MBDA; National Technical Information Service (NTIS); Office of the Chief Economist; Technology Administration; Advanced Technology Program; and the Manufacturing Extension Program (MEP). S. 929 would have transferred the functions of the Bureau of the Census and the Bureau of Economic Analysis to the Department of Labor. In addition, it would have established a bipartisan Government 2000 Commission to develop a comprehensive reorganization plan for the government.

On October 26, 1995, the House passed H.R. 2491, the budget reconciliation bill. Title XVII, the "Abolishment of Department of Commerce," would have required the dismantling of the Department of Commerce. The bill incorporated provisions from H.R. 1756. The bill would have transferred to the USTR the functions of the ITA and the BXA; eliminated the TDA and transferred its functions to the USTR; and reestablished the Office of the USTR as an independent office outside of the EOP. On October 28, 1995, the Senate passed a different version of H.R. 2491, which did not include the provision to dismantle the Department of Commerce. The House-Senate conference report on H.R. 2491, which was agreed to on November 16, 1995, did not contain the Commerce Department dismantling provision. The bill was vetoed by President Clinton on December 6, 1995.

H.R. 2124, the Trade Reorganization Act of 1995, was introduced on July 27, 1995. It was similar to the Roth substitute for S. 929 in its provisions to consolidate the functions of the ITA and the BXA with the USTR, along with the TDA, into a newly created United States Trade Administration. In addition, the bill called for the appointment of a Deputy Administrator to be responsible for the trade functions transferred from the Commerce Department and the appointment of two Deputy U.S. Trade Representatives, one for overall trade negotiations and one for negotiations at the WTO. In contrast to the Roth amendment, H.R. 2124 would not have changed the status of the Ex-Im Bank and OPIC.

Appendix C. Key Milestones in Administrative and Legislative Action Related to Trade Functions

Table C-1. Key Milestones in Administrative and Legislative Action Related to Trade Reorganization

Year	Description
1903	The U.S. Department of Commerce and Labor was created **(P.L. 57-87, 15 U.S.C. 1501)**.
1913	The Department of Commerce and Labor was split into two separate departments: the Department of Commerce and the Department of Labor **(37 Stat. 7365, 15 U.S.C. 1501)**.
1934	President Roosevelt issued **E.O. 6581**, creating the Export-Import Bank (Ex-Im Bank) of Washington to finance U.S. trade with the Soviet Union, and issued **E.O. 6638**, creating a Second Ex-Im Bank of Washington to finance U.S. trade with Cuba.
1936	**E.O. 7386** abolished the Second Ex-Im Bank and transferred its functions to the Ex-Im Bank of Washington.
1945	Congress made the Ex-Im Bank an independent agency in the executive branch through the **Export-Import Bank of 1945, as amended (12 U.S.C. §635 et seq.)**.
1953	Congress authorized the creation of the Small Business Administration (SBA) in **the Small Business Act (15 U.SC. §631 et seq.)**.
1962	The **Trade Expansion Act of 1962 (P.L. 87-794, 19 U.S.C. 1801 et seq.)** authorized the appointment of a Special Representative for Trade Negotiations to conduct U.S. trade negotiations. Congress authorized the President to establish a new interagency trade organization to carry out specified trade functions under Section 242 of the Act. The Special Representative for Trade Negotiations was authorized to serve as the chair of a new interagency trade organization established to enhance policy coordination.
1963	President Kennedy issued **E.O. 11075** to create a new Office of the STR in the Executive Office of the President (EOP), as well as to establish an interagency Trade Expansion Act Advisory Committee, chaired by the STR.
1969	The **Foreign Assistance Act of 1969 (P.L. 91-175)**, which amended the Foreign Assistance Act of 1961 (P.L. 87-195, 22 U.S.C. 2151 et seq.), established the Overseas Private Investment Corporation (OPIC), spun out of the U.S. Agency for International Aid and Development (AID).
1973	President Nixon issued **E.O. 11753** to establish the President's Export Council (PEC). Subsequent executive orders have been used to renew the council.
1974	The **Trade Act of 1974 (P.L. 93-618, 19 U.S.C. 201 et seq.)** codified the establishment of the Office of the Special Trade Representative (STR) in the EOP as a Cabinet-level position of ambassadorial rank. It made the STR responsible for the U.S. trade agreements program and other trade responsibilities and elevated the STR to cabinet level. The Act directed the President to establish an Advisory Committee for Trade Policy and Negotiations (ACTPN) to provide overall policy advice on trade policy formulation and negotiation. It also directed the President to establish a private sector advisory committee system to ensure that U.S. trade policy and trade negotiation objectives reflect U.S. commercial and economic interests. It required that advisory committee membership broadly represent key economic sectors affected by trade. The Tariff Commission, renamed the International Trade Commission (ITC), was made an independent agency and its findings on import injury were afforded greater weight. The Act required Presidential action in cases where the ITC found import injury, unless providing import relief was deemed contrary to national interest.
1975	**E.O. 11846** established the interagency Trade Policy Committee (TPC), as authorized by Section 242(a) of the Trade Expansion Act (P.L. 87-794), as amended. The TPC was led by the predecessor to the U.S. Trade Representative (USTR).

Year	Description
1979	**Reorganization Plan No. 3 of 1979** was submitted by President Carter to Congress on September 25, 1979, based on a provision in the Trade Agreements Act of 1979, in which Congress required the President to develop and present a trade reorganization plan. President Carter's reorganization plan went into effect on January 3, 1980. It changed the name of the Office of the STR to the Office of the United States Trade Representative (USTR) and broadened its mandate, assigning lead responsibility to the USTR for developing and coordinating U.S. trade policy and for conducting international trade and investment negotiations and designating the USTR as the principal adviser to the President on trade policy. Reorganization Plan No. 3 also reorganized the Department of Commerce, granting it general responsibility for the administration of U.S. trade policy. It established the International Trade Administration (ITA) within the Commerce Department, consolidating the administration of export promotion, export controls, trade policy programs, anti-dumping and countervailing duty remedies (formerly in the U.S. Department of the Treasury), and operations of the Foreign Commercial Service (new service created from commercial officer positions of the U.S. Department of State's Foreign Service).
1988	The **Omnibus Trade and Competitiveness Act of 1988 (OCTA, P.L. 100-418)** codified the role of the USTR as the "principal adviser to the President on international trade policy." The **Export Enhancement Act of 1988 (P.L. 100-418, 15 U.S.C. 4701 et seq.)** enacted in Title XXIII of the OCTA, established in statute the United States and Foreign Commercial Service (CS) in the ITA. Section 2303 (15 U.S.C. 4723) authorized the Secretary of Commerce to establish a market development cooperator program in the ITA to develop, maintain, and expand foreign markets for U.S. non-agricultural goods and services. Section 2304 (15 U.S.C. 4724) required the Secretary of Commerce to provide assistance for trade shows in the United States that bring together representatives of U.S. business and foreign companies. Section 2306 (15 U.S.C. 4725) required the CS to make a special effort to encourage U.S. exports of goods and services to Japan, South Korea, and Taiwan. Section 2204 established the Trade and Development Program (TDP) as a separate component agency of the International Development Cooperation Agency (IDCA), a newly created umbrella agency, tasked with coordinating U.S. development assistance programs. It also established a Director of the TDP to be appointed by the President with Senate consent, and designated the TDP as the primary federal agency to provide information to the private sector concerning trade development and export promotion related to bilateral development projects.
1992	Title II of the **Export Enhancement Act of 1992 (P.L. 102-429)**, which added Sections 2312 to the Omnibus Trade and Competitiveness Act of 1988, was enacted by Congress in an attempt to rectify perceived shortfalls in the U.S. export promotion regime. Section 2312 (15 U.S.C. 4727) codified the Trade Promotion Coordinating Committee (TPCC). It authorized the President to establish the TPCC, which was to be headed by the Department of Commerce, to coordinate the export promotion and export financing activities among federal government agencies; directed the TPCC to develop a government-wide strategic plan for implementing federal export promotion and financing programs; and directed the TPCC to propose to the President an annual unified federal budget proposal on trade promotion activities based on the strategic plan.
1992	The **Jobs Through Exports Act of 1992 (P.L. 102-549)** renamed the TDP as the Trade and Development Agency (TDA), and made the TDA an independent agency within the executive branch.
2000	The **Trade and Development Act of 2000 (P.L. 106-200)** established two new posts in the Office of the USTR, the Chief Agricultural Negotiator and the Assistant U.S. Trade Representative (AUSTR) for African Affairs. The Chief Agricultural Negotiator is to conduct trade negotiations and enforce trade agreements relating to U.S. agricultural interests and products, and the AUSTR for African Affairs is to serve as the chief advisor to the U.S. Trade Representative on issues of trade and development with Africa and to serve as coordinator and point of contact within the Administration on such issues.
2002	The **Trade Act of 2002 (P.L. 107-210)** required each advisory committee to write a report on proposed free trade agreements.

Year	Description
2010	In **E.O. 13534**, President Obama formalized the National Export Initiative (NEI) and, among other provisions, instructed the U.S. government to enhance and organize federal efforts to promote exports through high-level coordination. E.O. 13534 created a President's Export Promotion Cabinet (EPC) to ensure that export promotion is a high priority for all relevant agencies.[3] Members of the EPC include the nine key Secretaries or Directors of the export promotion agencies of the TPCC and senior White House advisors. The Export Promotion Cabinet is to coordinate with the TPCC on the export promotion initiative.
2011	On February 17, 2012, President Obama issue a **memorandum** announcing his intention to move administratively to ensure the effectiveness of federal programs and functions supporting trade and investment, while waiting for reorganizational authority from Congress. The President directed the Export Promotion Cabinet (EPC), in coordination with the Trade Promotion Coordinating Committee (TPCC), to develop strategies and initiatives in support of the Administration's strategic trade and investment goals and priorities. The President directed the EPC to support efforts to create BusinessUSA, an online platform intended to be a central resource for accessing federal business programs and services.[73] In addition, the President directed the EPC, in consultation with the TPCC, to present a unified federal trade budget consistent with the Administration's strategic trade and investment goals and priorities, as well as to take steps to ensure the most efficient use of its members' domestic and foreign offices and distribution networks.
2012	On February 28, 2012, President Obama issued **E.O. 13601** for the Establishment of the Interagency Trade Enforcement Center (ITEC), for the purpose of strengthening and coordinating enforcement of U.S. rights under trade agreements and U.S. law. E.O. 13601 states that the ITEC will be housed within the USTR with a designated director from the USTR; a designated deputy director from the Department of Commerce; and support from the Departments of State, the Treasury, Justice, Agriculture, Commerce, Homeland Security, as well as the Office of the Director of National Intelligence. The Administration has emphasized the need for creating the ITEC in order to better combat unfair trade practices by countries such as China. On December 6, 2012, President Obama issued **E.O. 13630** to establish an Interagency Task Force on Commercial Advocacy, chaired by the Secretary of Commerce and consisting of senior-level officials from other specified executive departments and agencies. The task force, building on existing federal programs, is intended to provide enhanced federal support for U.S. businesses competing for international contracts, coordinate the efforts of executive branch leadership in engaging their foreign counterparts on commercial advocacy issues, and increase the availability of information to the U.S. business community about these kinds of export opportunities.

Source: U.S. Code, Office of the U.S. Trade Representative, "History of the United States Trade Representative," http://www.ustr.gov/about-us/history.

Notes: The legislative and executive activities listed in this table do not form a comprehensive account of the evolution of the U.S. trade policy structure. Rather, they are intended to highlight key milestones.

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[73] The beta version of BusinessUSA is accessible at http://business.usa.gov/.

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