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U.S. Trade Policy: Background and Current Issues

U.S. Trade Policy in Context

Congress plays a major role in U.S. trade policy through its legislative and oversight authority. Since World War II, U.S. trade policy has focused on liberalizing markets by reducing trade and investment barriers, creating a rules-based trading system, enforcing commitments under trade agreements, and supporting economic growth. Trade policy, spanning a range of stakeholder interests, involves U.S. economic, foreign policy, and national security issues.

Economics of Trade

Economic theory maintains that trade is mutually beneficial, but its benefits may not be distributed evenly and costs may be concentrated. Countries specialize by increasing production and exporting goods and services in which they have a higher comparative advantage through skills or resources (e.g., U.S. exports using high-skilled labor), and importing those domestically unavailable or less efficiently produced (e.g., U.S. imports using lower-skilled labor). Trade benefits can include more efficient resource allocation, increased competition, economies of scale, and lower prices and more choice for consumers. Costs can include reallocation of resources or job losses in import sensitive industries. The economic impact of trade liberalization is difficult to measure and widely debated.

Components of U.S. Trade Policy

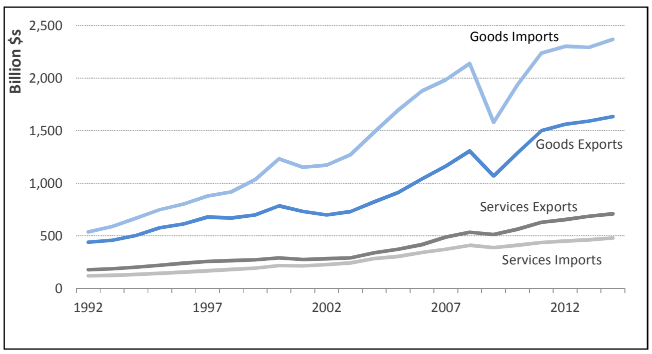
The U.S. Trade Representative (USTR), which is responsible for developing and coordinating U.S. trade policy, is the lead U.S. trade negotiator. Other federal government agencies also are involved in U.S. trade policy, with interagency processes and advisory systems providing support. Key components of U.S. trade policy include

- **Trade liberalization—**Negotiation of reciprocal trade and investment agreements to open markets and establish rules governing trade and investment; enforcement of trade agreement commitments.
- **Export promotion and controls—**U.S. export promotion (e.g., export financing, market research, advocacy, trade missions); licensing and control of certain strategic exports.
- **Trade remedies and adjustment—**U.S. statutes on certain trade practices (e.g., antidumping and countervailing duties); trade adjustment assistance (TAA) for dislocated workers and firms.
- **Trade preferences**—Unilateral preference programs that provide duty-free access to U.S. markets for eligible developing countries and products.
- **Investment—**Investment protection and promotion; examination of foreign investment with national security implications.

U.S. Trade Trends

The United States is the world's largest economy for total trade in goods and services, as well as a major source of and destination for foreign direct investment (FDI). U.S. trade has expanded and evolved over the past two decades with greater integration of markets and production, as well as the rise of supply chain networks (see **Figure 1**). U.S. trade composition and patterns also have changed, with emerging and developing economies playing a greater role. The top five U.S. merchandise trading partners are Canada, China, Mexico, Japan, and Germany. The EU represents the largest U.S. trading partner. The United States has a long-running overall trade deficit, meaning the value of its imports of goods and services exceed its exports of such. Specifically, its goods trade deficit outweighs its service trade surplus. The imbalance's impact on the U.S. economy is debated. Trade is viewed as supporting U.S. recovery after the 2008-2009 global economic downturn.

Figure 1. U.S. Goods and Services Trade



Source: Bureau of Economic and Analysis and Census Bureau.

U.S. Trade Agreements and Negotiations

Congress is active in shaping and examining U.S. trade policy. Several U.S. trade negotiations are ongoing.

Role of Congress

Under the U.S. Constitution, Congress has the authority to regulate foreign commerce, while the President has the authority to conduct foreign relations. For the first 150 years of U.S. history, Congress set tariff rates on all imported products. This policy shifted with the Reciprocal Trade Agreements Act of 1934, in which Congress delegated authority to the President to enter into reciprocal trade agreements that reduced tariffs within pre-approved levels and to implement them through delegated proclamation authority. With the growing prominence of nontariff trade barriers, Congress adopted "fast track" authority in the Trade Act of 1974 to provide expedited legislative consideration for implementing bills on future trade agreements while preserving congressional prerogatives on trade policy. Now called Trade Promotion Authority (TPA), it has been reauthorized four times. The latest TPA, provided in 2002, expired in 2007. Bicameral legislation, the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, has been introduced in the 114th Congress to reauthorize TPA (H.R. 1890/S. 995).

Trade Promotion Authority: A "Political Compact"

Negotiating Objectives: Congress sets trade policy objectives for President to negotiate in trade agreements.

Notification, Consultation, and Reporting Requirements: President engages in and keeps Congress abreast of negotiations.

Expedited Procedures: Congress considers implementing legislation on an expedited basis, e.g., guaranteed consideration, up-or-down vote, no amendments, limited time period.

Trade Architecture

The current rules-based, multilateral trading system is rooted in the World Trade Organization (WTO), established in 1995 as the successor to the General Agreement on Tariffs and Trade (GATT). Formed in 1947, the GATT was part of the post-WWII effort to build a stable, open, more prosperous international economy. WTO agreements cover goods, services, and agricultural trade; remove tariff and nontariff barriers; and establish rules and disciplines on intellectual property rights (IPR) and other trade-related issues. They are based on principles of nondiscrimination, national treatment, most-favored nation, and transparency. The WTO Doha Round of negotiations, launched in 2001, has been impeded by differences among developed and developing countries on key trade issues in agriculture, goods, and services. Some outstanding issues were resolved in the December 2013 Bali Ministerial, during which a WTO Trade Facilitation Agreement was concluded.

With the Doha Round impasse, bilateral and regional FTA negotiations have become more prominent. According to the WTO, about 400 reciprocal trade agreements are in force worldwide. The United States has sought comprehensive and "high standard" FTAs covering market access and rules, often going beyond WTO standards or commitments. The United States has 14 FTAs with 20 countries. The most economically significant U.S. FTA remains the 1994 North American Free Trade Agreement (NAFTA) with Canada and Mexico. Since NAFTA, the evolving trade landscape has brought new issues into focus. The U.S.-South Korea FTA, which entered into force in 2012, is characterized as the highest standard U.S. FTA. The United States does not have FTAs with major emerging economies such as China, Brazil, and India, but is negotiating bilateral investment treaties with some of them.

Current Negotiations

The United States is negotiating two "mega-regional" FTAs: the Trans-Pacific Partnership (TPP) with 11 countries in the Asia-Pacific and the Transatlantic Trade and Investment Partnership (T-TIP) with the EU. Combined, the proposed FTAs would cover most of world trade and investment. They would offer opportunities to develop new and expanded rules in areas such as regulatory compatibility, state-owned enterprises (SOEs), and digital trade. Both serve strategic interests, with TPP the economic component of the Administration's "rebalance to Asia" and T-TIP a way to reaffirm the transatlantic alliance. The United States also is negotiating plurilaterally on services, information technology tariffs, and environmental goods, and multilaterally on unresolved Doha Round issues.

Framing the Current Debate

Congressional debate on trade policy comprises many policy issues that elicit a range of stakeholder views.

Market Access. Enhanced market access involves reducing and eliminating tariff and nontariff barriers. Average U.S. tariff rates are around 3%, but higher in certain sensitive sectors. Developing countries' average tariff rates are higher. All economies have offensive and defensive interests, with sector-specific issues in goods, services, agriculture, and government procurement.

Intellectual Property Rights. IPR, a source of U.S. competitiveness, are legal, private, enforceable rights to inventors and artists to exclude others from using or marketing their creations without permission for a certain period of time. Current trade issues involve the level of protection and enforcement of patents, copyrights, trademarks, and trade secrets.

Worker Rights and the Environment. The treatment of worker rights and environmental issues in trade agreements has evolved to include international norms and stronger enforcement mechanisms. Developed and developing country interests vary in addressing these issues.

Investment. Investor protections and enforcement of rights are a focus in the current debate. Among the key issues is treatment of investor-state dispute settlement (ISDS), which allows investors to submit an investment dispute with a host country to binding, impartial, international arbitration.

New Trade Issues and Barriers. The increased role of emerging economies, digital trade, and supply chains raise new challenges either modestly addressed, or not at all, in existing trade agreements. Current negotiations offer an opportunity to develop new trade "rules for the road," such as on SOEs; cross-border data flows; localization barriers; trade secret theft, including through cybercrime; and "currency manipulation." Congressional views differ on how to address these issues.

Looking Forward

Questions in U.S. trade policy include: What are issues in potential TPA renewal? What are prospects for concluding TPP and T-TIP as comprehensive and high standard FTAs? Do current approaches adequately address new trade issues and barriers? What should be U.S. trade priorities, such as on negotiating new and enforcing existing agreements?

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