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U.S. Trade Policy Functions: Who Does What?

Overview

At the nexus of foreign and domestic policy, U.S. trade policy comprises a distinct set of issues that shape U.S. participation in the global economy and relations with trading partners. It also affects the U.S. economy as a whole, specific sectors, firms, and workers, and the overall standard of living of Americans. Cross-cutting in nature, U.S. trade policy has many "voices" and is controversial at times. Historically, it has focused on supporting economic growth and jobs through more open and rules-based trade by negotiating and enforcing reciprocal trade agreements and other measures, while offering relief to specific segments of the U.S. economy affected by import competition and "unfair" foreign trade practices. It also aims to promote trade and investment, while regulating these flows for national security, health, safety, and other reasons. Other goals are to support economic development in developing countries and expand U.S. influence abroad.

The Constitution gives Congress primacy over trade policy, specifically the power to levy tariffs and regulate foreign commerce. By contrast, the President lacks specific authority over trade, but has power over foreign affairs. The role of the executive branch in trade stems from the President's power to negotiate treaties with other nations, and legislative grants of authority to adjust tariff rates and implement trade policy. The Office of the U.S. Trade Representative (USTR) and many other agencies conduct U.S. trade and international economic functions under various statutory and administrative authorities. USTR-led systems to coordinate U.S. trade policy among the agencies and obtain input from public and private stakeholders aim to balance diverse interests to reach a unified U.S. government "voice" on trade matters. This architecture has evolved over time to reflect changes in international trade, the U.S. economic position, and other factors. Periodic proposals on trade reorganization, as well as newer debates over the balance of power on trade, have rekindled congressional interest in examining U.S. trade functions.

Key Trade Agencies

Office of the U.S. Trade Representative (USTR)

USTR is the President's principal advisor on trade policy, chief U.S. trade negotiator, and head of the interagency trade policy coordinating process. USTR also administers U.S. law to combat "unfair" foreign trade practices (e.g., "Section 301"), and trade preference programs for developing countries. A Cabinet-level official in the Executive Office of the President, the U.S. Trade Representative is also historically a "creature of Congress." In creating and elevating USTR, Congress sought an "honest broker" to balance competing interests between U.S. domestic and foreign policy, among the range of trade-related agencies, and the many domestic stakeholders. Congress also wanted to address concerns that trade policy interests were being overlooked under the State Department's historical lead.

Table 1. Milestone Trade Statutes: USTR Evolution

Trade Expansion Act of 1962. Created an ambassador-level Special Representative for Trade Negotiations (precursor to USTR) to lead the new interagency system to coordinate trade policy, which the act also created.

Trade Act of 1974. Designated the Special Representative as the chief U.S. trade negotiator, lead of the trade agreements program, and head of the new private sector advisory committee system, which the act also created. Elevated position to cabinet rank and placed in the White House.

Trade Agreements Act of 1979. Required the President to develop and present a trade reorganization plan, including to strengthen the coordination and functional responsibilities of the Special Representative.

Omnibus Trade and Competitiveness Act of 1988. Elevated USTR's role to coordinate trade policy, serve as the President's principal trade advisor and trade "spokesperson," and lead U.S. international trade negotiations. Required USTR to report to both the President and Congress.

Department of Commerce

Commerce conducts many non-agricultural trade functions.

- The International Trade Administration (ITA), supported by U.S. and foreign commercial service officers, provides market research, business connections, and other services to promote U.S. exports and attract foreign investment. It also conducts antidumping and countervailing duty (AD/CVD) investigations to address potential adverse effects on U.S. industry of "unfair" foreign trade practices, and monitors foreign compliance with U.S. trade agreements.
- The Bureau of Industry and Security (BIS) administers licensing and enforcement functions for dual-use exports. It also investigates whether certain imports harm, or threaten to harm, national security ("Section 232").
- The Economic Development Administration (EDA) manages Trade Adjustment Assistance (TAA) for firms, (to adjust to import competition and trade liberalization).
- The Bureau of Economic Analysis (BEA) and Census Bureau collect and analyze trade data.

The U.S. Department of Agriculture

USDA aims to promote and regulate U.S. agricultural trade, weighing in on agriculture issues in U.S. trade negotiations.

- The Animal and Plant Health Inspection Service (APHIS) works to prevent plant and animal pests and diseases from entering U.S. borders.
- The Food Safety and Inspection Service (FSIS) regulates U.S. meat, poultry, and egg products, including imports.
- The Foreign Agricultural Service (FAS) administers U.S. agricultural export financing and assistance, U.S. quotas against agricultural imports, and TAA for farmers.

U.S. Department of State

State oversees U.S. trade and economic relationships through its bureaus and embassies. State and USTR jointly administer the U.S. Bilateral Investment Treaty program.

U.S. Department of the Treasury

The Secretary of the Treasury is the President's chief international economic policy advisor. For U.S. trade agreements, Treasury leads negotiations on currency provisions, and on financial services with USTR. It leads U.S. participation in the G-20 and G-7 forums, manages the Committee on Foreign Investment in the United States (CFIUS) to examine potential inbound investment for national security implications, and administers U.S. sanctions via the Office of Foreign Assets Control (OFAC).

U.S. Department of Health and Human Services

HHS weighs in on trade policy issues that can affect public health, such as food products (not regulated by USDA), cosmetics, drugs, and medical devices. HHS's Food and Drug Administration (FDA) regulates products produced domestically and abroad for safety, security, and efficacy.

U.S. Department of Homeland Security

DHS seeks to secure U.S. borders while enabling legitimate trade. Customs and Border Protection (CBP) of DHS regulates the flow of goods through U.S. ports of entry. It collects tariffs and trade laws at the border. It works with DHS's Immigration and Customs Enforcement (ICE).

U.S. Department of Labor

DOL provides U.S. representation in international negotiations before the International Labor Organization (ILO), monitors compliance with the labor chapters of U.S. trade agreements, tracks eligibility for certain trade preferences, and administers the TAA program for workers.

Export-Import Bank

Ex-Im Bank finances and insures U.S. exports of goods and services to support U.S. jobs, aiming to do so when the private sector is unwilling or unable to do so; and/or to counter financing offered by foreign countries.

Overseas Private Investment Corporation

OPIC aims to promote economic growth in developing and emerging economies by facilitating U.S. private investment through project financing, political risk insurance, and other support. Legislation was enacted to consolidate OPIC and some USAID functions into a new U.S. International Development Finance Corporation (P.L. 115-254).

U.S. Agency for International Development

A foreign assistance agency, USAID focuses on economic matters affecting U.S. relations with developing countries. It manages trade capacity building programs to promote economic growth in developing countries.

U.S. Trade and Development Agency

TDA aims to support U.S. jobs by linking U.S. firms to export opportunities for projects in emerging economies. It funds feasibility studies, other project preparation activities, and partnership-building activities such as reverse trade missions to bring foreign buyers to the United States.

Small Business Administration

SBA conducts certain trade and export promotion financing for U.S. small business (terms vary from Ex-Im Bank). SBA's State Trade Expansion Program (STEP) administers grants for states to conduct trade show exhibits, training workshops, and other activities to help small businesses.

International Trade Commission

ITC, an independent agency, investigates AD/CVD cases (with ITA), "Section 201" safeguard cases on temporary relief from import surges of "fairly" traded goods, and alleged infringement of U.S. intellectual property rights (IPR) ("Section 337"). It provides trade analysis to Congress, the President, and USTR (e.g., on economic effects of U.S. trade agreements) and maintains the U.S. Harmonized Tariff Schedule (HTS).

Interagency Trade Policy Mechanism

U.S. trade policy is coordinated through a USTR-led system first established by Congress in 1962, with membership drawn from key trade agencies and White House bodies.

- By statute, Cabinet-level review on trade issues is through the Trade Policy Committee (TPC), but in practice, the National Economic Council (NEC) is the primary forum for high-level trade action. The National Security Council also may coordinate at this level.
- At the Deputies level, the Trade Policy Review Group (TPRG) carries out coordinating functions.
- The Trade Policy Staff Committee (TPSC), composed of senior civil service members, develops and reviews policy and negotiating documents on trade policy.

Issues percolate up the ranks if consensus fails or major issues are raised. Other interagency bodies coordinate on specific areas (e.g., export promotion, export controls, IPR).

Advisory Committee System

U.S. trade policy incorporates public and private input, such as on negotiating objectives, through an advisory committee system established by Congress in 1974. USTR manages the system, in collaboration with USDA, Commerce, and Labor. There are 26 committees with up to 700 advisors.

- The high-level President's Advisory Committee for Trade Policy and Negotiations (ACTPN) examines U.S. trade policy and agreements for the overall national interest. Members represent key sectors.
- Five policy advisory committees (agricultural, inter-governmental, labor, Africa, and environment) examine issues from their specific policy lens.
- Sectoral and technical input comes from 6 Agricultural Technical Advisory Committees (ATACs) and 14 Industry Trade Advisory Committees (ITACs).

Issues for Congress

The trade debate raises a number of issues, including: how much authority should Congress grant to the executive branch over trade policy; if current functions and agency roles advance U.S. trade policy and are well-coordinated; and if the current architecture reflects and balances the diverse views in trade policy into one U.S. "voice."

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