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U.S. Tariff Policy: Overview

Introduction

A tariff is a customs duty levied on imported and exported goods and services. Historically, countries used tariffs as a primary means of collecting revenue. Today, other taxes account for most government revenue in developed countries. Tariffs are now typically used to protect domestic industries or as leverage in trade negotiations and disputes.

The U.S. Constitution empowers Congress to set tariffs, a power that Congress has partially delegated to the President. The United States is also a member of the World Trade Organization (WTO) and a party to a number of trade agreements, which include specific tariff-related commitments. Congress and the President thus create U.S. tariff policy within the context of a rules-based global trading system.

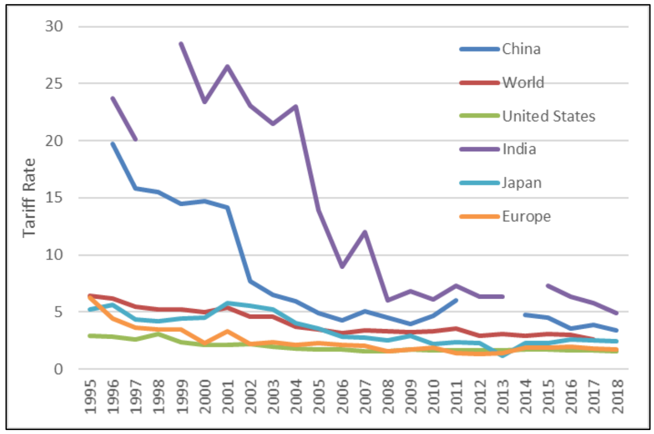
Rules-Based Global Trading System

The rules-based global trading system was established following World War II. It began as the General Agreement on Tariffs and Trade (GATT), which was later integrated into a larger set of agreements establishing the WTO. This system has aimed to reduce trade barriers and prevent trade wars by establishing rules for the use of tariff and nontariff barriers to trade. Among this system's core rules with regard to tariffs are:

- **Nondiscrimination.** Under the most-favored nation (MFN) rule, a country must extend any trade concession, such as a reduced tariff rate, granted to one country member to all other WTO members. There are exceptions, such as preferential rates for FTAs, special treatment for developing countries, and WTO-allowed responses to unfair trading practices.
- **Binding Commitments.** Through multilateral negotiations, countries bind themselves to ceilings on tariff rates for specific imports. That ceiling is called the bound rate, which can be higher than actual applied rates. Lowering bound rates has been a general goal of each of the multilateral negotiations.
- **Transparency.** The WTO requires members to publish and report their tariff rates and other trade regulations.
- **Safety Valves.** The WTO agreements permit members to raise tariffs to address unfair trade practices and to allow domestic industries to adjust to sudden surges in imports in some circumstances.

Following the establishment of the GATT in 1947 and the WTO in 1995, global tariff rates declined significantly, spurring trade and opening markets for U.S. exports. Since the establishment of the WTO, the value of exports of U.S. goods have increased more than 160% adjusted for inflation.

Figure 1. Weighted Average Applied Tariff Rates



Source: World Bank.

Note: Weighted average of applied tariff rates globally and among the five largest economies by GDP. Gaps indicate missing data.

U.S. Tariff Policy

Who Makes U.S. Tariff Policy?

The Constitution grants the power to lay and collect duties and to regulate commerce with foreign nations to Congress. The Constitution grants the authority to negotiate international agreements to the President. Since tariffs are no longer a primary source of revenue, they have increasingly become an instrument of U.S. international trade and foreign policy. As such, Congress now works with the President to set tariff policy by granting authority to negotiate trade agreements and to adjust tariffs in certain other circumstances.

Presidential Trade Promotion Authority (TPA). Prior to the 1930s, Congress usually set tariff rates itself. As U.S. and global tariff rates increased during the Great Depression, U.S. exports decreased. Congress responded by authorizing the President to negotiate reciprocal trade agreements that reduced tariffs through proclamation authority up to a pre-set boundary. Hence, such an agreement could enter into force without further implementing legislation. However, nontariff barriers to trade (such as discriminatory technical standards) became a greater focus of trade negotiations in the late 1960s. As a result, it became difficult to predict the substance of the negotiations and authorize changes to existing U.S. laws by proclamation before the negotiations took place. Congress addressed this challenge in 1974 by establishing expedited procedures to implement more complicated future trade agreements. Under these procedures, currently known as Trade Promotion Authority (TPA), Congress establishes U.S. trade negotiating objectives as well as consultation and notification requirements. If the President satisfies these objectives and requirements, implementing legislation for an agreement may receive expedited treatment including an "up or down vote" without amendment. The Bipartisan Comprehensive Trade Priorities and Accountability Act of 2015, the current TPA, is in effect through June 2021.

Presidential Discretionary Authority over Tariff Rates. In dozens of statutes, Congress has empowered the President to adjust tariff rates in response to specific trade-related concerns that touch on issues of executive interest, such as foreign policy and national security, or require an administrative finding by a U.S. agency. For example, Section 232 of the Trade Expansion Act of 1962 empowers the President to adjust tariffs on imports that threaten to impair U.S. national security. Section 5(b) of the Trading with the Enemy Act and Section 203 of the International Emergency Economic Powers Act empower the President in a time of war or emergency to impose tariffs on all imports. Section 201 of the Trade Act of 1974 empowers the President to raise tariff rates temporarily when the U.S. International Trade Commission (ITC) determines that a sudden import surge has caused or threatened serious injury to a U.S. industry. Congress has also empowered U.S. agencies to impose duties to offset injurious unfair trade practices, based on industry petitions or through initiation by the Commerce Department.

How Is U.S. Tariff Policy Administered?

U.S. Customs and Border Protection (CBP) administers the collection of tariffs at U.S. ports of entry according to rules and regulations prescribed by the Secretary of the Treasury.

When a good enters a U.S. port of entry, merchandise is classified and tariffs are assessed using the U.S. Harmonized Tariff Schedule (USHTS), a compendium of tariff rates based on a globally standardized nomenclature. Today, importers self-classify and declare the value or quantity of their goods. CBP reviews the paperwork, performs occasional audits, and then collects any applicable tariffs or penalties as well as any administrative fees. Finally, CBP deposits any revenue from tariffs or other penalties into the General Fund of the United States.

What Has U.S. Tariff Policy Been?

Over the past 70 years, tariffs never accounted for much more than 2% of total federal revenue. In fiscal year 2019, for example, CBP collected $71.9 billion in tariffs, accounting for 2.07% of total federal revenue. Instead, the United States has used its tariff policy to encourage global trade liberalization and pursue broader foreign policy goals.

Since 1934, the United States has reduced or eliminated many tariffs as part of bilateral and multilateral trade agreements. By supporting the creation of the GATT and the WTO, the United States sought to reduce tariff rates globally within a rules-based trading system. In 2018, the simple mean of U.S. tariffs applied across all products was 3.3%, the second lowest among the top five global economies by GDP. Roughly 70% of all products enter the United States duty free.

U.S. reductions in tariff rates have not always inspired others to follow. During the most recent (Doha) round of WTO trade negotiations, the United States unsuccessfully attempted to convince advanced emerging economies, such as China, India, and Brazil, to commit to lower their bound tariff rates, which they declined to do. This dispute was arguably one of the reasons that the Doha round of negotiations was unable to produce an agreement.

Low U.S. tariff rates have also served as an instrument to achieve other foreign policy goals. For example, to encourage global economic development, Congress created the Generalized System of Preferences (GSP), which authorizes the President to give unilateral duty-free treatment to some products from some developing countries. The United States has also pursued FTAs as part of broader foreign policy and security goals.

Key Dates in U.S. Tariff History

1913: Underwood Tariff Act reimposes federal income tax and lowers tariff rates from roughly 40% to 25%. Revenue now comes primarily from income taxes.

1930: Tariff Act of 1930, known as the Smoot-Hawley Tariff, raises U.S. tariffs to their highest levels since 1828. This was the last tariff act in which Congress set rates.

1934: Reciprocal Tariff Act delegates to the President the power to negotiate bilateral, reciprocal trade agreements. Renewed several times.

1947: The United States and 23 other countries enter the GATT to lower tariffs and other trade barriers.

1962: Trade Expansion Act delegates to the President the power to cut tariffs generally up to 50% and to cut up to 80% or eliminate tariffs on certain categories of products.

1976: The United States institutes its Generalized System of Preferences (GSP), establishing preferential tariff rates for developing countries.

1995: The United States enters the WTO. This is the last time GATT/WTO members multilaterally agree to major reductions in tariff rates.

Issues for Congress

For more than 80 years, Congress has delegated extensive tariff-setting authority to the President. This delegation insulated Congress from domestic pressures and led to an overall decline in global tariff rates. However, it has meant that the U.S. pursuit of a low-tariff, rules-based global trading system has been the product of executive discretion. While Congress has set negotiating goals, it has relied on Presidential leadership to achieve those goals.

The Trump Administration was openly critical of low-tariff policies and made extensive use of the authorities delegated to the President to increase tariffs on certain goods imported from key U.S. trading partners with little congressional input. Congress may want to consider whether the current restrictions on such delegated authorities adequately protect congressional interests. Other issues of potential interest include whether to examine more closely the costs or benefits of changing U.S. tariff rates.

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