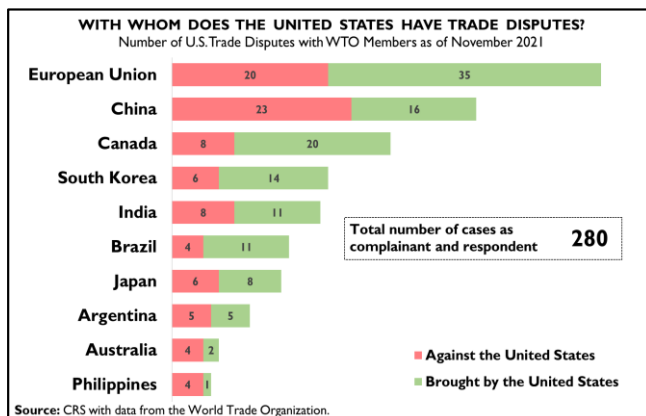


U.S. Trade Debates: Select Disputes and Actions

Introduction

During the Trump Administration, the United States and some of its major trading partners engaged in a contentious “war” of words over trade—one that tipped over into action in 2018, mostly in the form of increased tariffs. The tariffs imposed by the United States, combined with retaliatory measures adopted by other countries (particularly with respect to China), reportedly continue to have noticeable effects on trade flows and U.S. firms. To date, a number of disputes related to these actions have not been fully resolved. While the scale and scope of these unilateral U.S. tariff increases are unprecedented in modern times, tensions and irritants in trade relations are not uncommon.

Over the last 100 years, the United States has been involved in a number of trade disputes. According to the World Trade Organization (WTO), as of November 2021, the United States has been involved in 280 trade disputes (addressed through the WTO dispute settlement system since 1995), either as a complainant or a respondent. Most disputes are settled, or when unresolved, are contained or defused through bilateral and multilateral negotiations. Since the early 20th century, only one dispute has resulted in a worldwide tit-for-tat escalation of tariffs: the trade dispute ignited by the U.S. “Smoot-Hawley” Tariff Act of 1930.



Addressing U.S. Trade Disputes

The United States has used unilateral measures and has engaged with trading partners in bilateral and multilateral fora to address trade-related concerns. U.S. federal statutes provide for trade remedy measures to address potential adverse effects (i.e., material injury or threat thereof) on domestic industry of “unfair” foreign trade practices, such as antidumping (AD) and countervailing duties (CVD), or to reduce the flow of fairly traded imports that threaten to impair U.S. national security or cause serious injury or threat thereof (safeguard measures). In addition, the United States has conducted bilateral discussions with many of its trading partners to manage frictions over discrete issues and achieve expanded market access for U.S. firms. More often, the United States has resorted to the multilateral forum provided by the WTO or its predecessor, the General Agreement on Tariffs and Trade (GATT), to settle trade

disputes. As part of the dispute settlement process, WTO members may seek authorization to retaliate if trading partners maintain measures determined to be inconsistent with WTO rules.

Select Major U.S. Trade Disputes Prior to the Trump Administration

Below is a historic overview of 10 controversial U.S. trade disputes over various trade barriers (see **text box**). These cases demonstrate that since the creation of the GATT in 1947, the United States, for the most part, has entered into negotiations to reduce trade barriers and has imposed unilateral, restrictive trade measures in limited instances.

“Smoot-Hawley” Tariff Act (1930)

The Tariff Act of 1930, commonly known as the “Smoot-Hawley” Tariff Act, is recognized by economists as having triggered a global trade war—one that deepened the Great Depression. Originally meant to help heavily indebted farmers hit by falling commodity and land prices, the act’s scope was eventually expanded to include thousands of products from numerous sectors. While the United States reduced its import dependence, other countries retaliated with increased tariffs on their imports, and by 1933, U.S. exports had declined by at least 60%. GATT negotiations eventually reduced tariffs on a multilateral basis.

U.S.-European Union (EU) “Chicken War” (1962)

The dispute, known as the “Chicken War,” began in 1962, when the European Economic Community (EEC, a predecessor to the EU) sharply raised its common external tariff on poultry. The United States retaliated in 1963 after consultations with the EEC failed to resolve the dispute and a GATT dispute panel of experts had convened. The United States raised tariffs on potato starch, brandy, dextrine, and light trucks. The truck tariff (25%)—still in place today—applies to all U.S. truck imports, unless reduced or phased out by a U.S. free trade agreement (FTA).

U.S.-Japan Trade Conflicts (1980s)

As the Japanese economy, along with its auto industry, took off, trade tensions between Japan and the United States escalated significantly during the early 1980s. In an effort to persuade Congress not to legislate retaliatory measures, both countries held intense bilateral consultations and reached agreements to try to improve market access for U.S. products and limit auto imports. They negotiated several voluntary export restraint (VER) agreements, which required Japan to limit its auto (and steel) exports to the United States. Japan also agreed to increase U.S. imports and eliminate barriers to U.S. firms operating in Japan. (The subsequent 1995 WTO Agreement on Safeguards banned the use of informal measures like VER arrangements.)

U.S.-Canada Softwood Lumber Dispute (1980s)

Since the 1980s, there have been five major disputes or “lumber wars” between the United States and Canada. The U.S. softwood lumber industry has alleged since 1982 that Canadian lumber exporters benefit from unfair subsidies. After intense negotiations, in 1986 the United States and

Canada concluded the first of several agreements on the issue. Subsequent agreements have been reached and since expired, but negotiations on the subject remain ongoing.

Common Trade and Market Access Barriers

Tariffs: customs duties on merchandise imports.

Nontariff Barriers: measures in a form other than a tariff.

- **Quotas:** limits on the quantity or value of goods that can be imported (or exported) during a specific time period.
- **Technical Barriers to Trade:** technical regulations, standards, and testing and certification procedures.
- **Sanitary and Phytosanitary Measures:** measures dealing with food safety and animal and plant health.
- **Import Licensing Systems:** administrative procedures for obtaining a permit for importing a product.

Source: World Trade Organization, *A Guide to "WTO Speak,"* 2018.

U.S.-EU Beef Hormone Dispute (1989)

The United States and the EU have engaged in a long-standing dispute over the EU's decision to ban hormone-treated meat. In response to a 1989 EU ban, the United States imposed tariffs on some U.S. imports from the EU. In 1996, both sides took the issue to the WTO, where a dispute settlement panel ruled that the ban was inconsistent with WTO rules. When the EU failed to implement the panel's recommendations, the United States obtained WTO authorization to retaliate against EU products. Since 2009, a number of bilateral agreements have been reached under which the EU creates duty-free quotas for imports of specially produced beef, in exchange for the elimination of increased U.S. tariffs on imports from the EU.

U.S.-China Intellectual Property Rights (IPR) and Market Access Disputes (1990s)

As the volume of U.S.-China trade grew substantially between the late 1980s and early 1990s, the United States increasingly raised concerns about IPR infringement in China. In 1991, the U.S. Trade Representative designated China as a Special 301 "Priority Foreign Country" and threatened it with significant retaliation. Between 1991 and 1994, both sides negotiated agreements committing China to taking steps to strengthen its IPR enforcement regime and adopt more market-opening measures.

U.S.-EU "Battle of the Bananas" (1990s)

During the 1990s, the EU banana import regime was a primary source of U.S.-EU trade tension. The regime, instituted in 1993, granted preferential treatment to bananas from producers in the EU and former European colonies, which adversely affected U.S. banana producers and distributors. Following unsuccessful bilateral consultations, the United States pursued WTO dispute settlement. In 1997, the WTO found that the EU regime was incompatible with the EU's WTO obligations. By 1999, as the EU had not implemented the WTO recommendations, the United States received authorization from the WTO to retaliate against EU imports. In 2001, both sides agreed to reform the EU banana regime and lift the U.S. retaliatory duties.

Steel Tariffs (2002)

Between 1997 and 2001, companies representing about one-third of U.S. steel capacity fell into bankruptcy. The U.S. International Trade Commission (ITC) conducted a safeguard investigation and determined that surging steel imports had caused serious injury. In response, in 2002 the George W. Bush Administration imposed tariffs against

some steel imports. The measures were scheduled to be phased down each year and abolished by 2005. Trading partners protested the measures, pursuing WTO action. The WTO concluded that certain aspects of the U.S. measures were inconsistent with U.S. WTO obligations, and in 2003, the Bush Administration terminated the safeguards.

U.S.-EU Boeing-Airbus Subsidy Dispute (2004)

The United States and the EU have long accused each other of providing direct or indirect subsidies to their respective domestic civil aircraft industries, exemplified by Boeing and Airbus. Following decades of intense negotiations, both sides resorted to the WTO dispute settlement system in 2005. In 2018 and 2019, after multiple phases of proceedings, the WTO Appellate Body (AB) issued final decisions upholding earlier rulings that the EU and the United States had not abided by WTO rules in supporting Airbus and Boeing, respectively. In response, after receiving WTO authorization to retaliate, the United States imposed additional tariffs on \$7.5 billion worth of U.S. imports from the EU, while the EU levied additional tariffs on \$4.0 billion worth of EU imports from the United States. In June 2021, both sides announced an "Understanding on a Cooperative Framework for Large Civil Aircraft" and agreed to suspend their retaliatory tariffs for five years.

U.S.-China Tire Dispute (2009)

Between 2004 and 2008, U.S. imports of Chinese tires more than tripled. In 2009, the ITC conducted a special China-specific safeguard investigation and determined that imports from China were harming U.S. tire producers. In response, the Obama Administration increased tariffs for three years on imports of certain Chinese tires. China challenged the U.S. duties at the WTO; the dispute settlement panel found that the United States had acted consistently with its WTO obligations. China later imposed AD duties and CVDs against certain U.S. autos, a move many believed was in retaliation to the tire dispute.

Issues for Congress

The above cases highlight that past trade disputes have generally been narrowly focused across products and trading partners, settled or diffused through negotiations, and generally transient in nature. Since the establishment of the WTO, the United States has generally pursued bilateral and multilateral negotiations to address trade concerns, as well as WTO dispute settlement. Some Members of Congress supported the unilateral actions of the Trump Administration, which it justified by pointing to alleged weaknesses in WTO dispute settlement procedures and the inadequacy or nonexistence of WTO rules to address certain foreign trade practices. Others, however, viewed the unilateral approach as an undesirable shift in U.S. trade policy. As the 117th Congress engages with the Biden Administration to chart the next phase of U.S. trade policy, it could require greater congressional consultation before new trade restrictions are imposed. Members may also encourage the Administration to continue working closely with allies to address trade concerns, improve the functioning of the WTO, and address emerging issues that existing multilateral trade rules may not cover adequately.

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