Congressional Research Service
Informing the legislative debate since 1914

IN FOCUS

Updated March 16, 2022

U.S. Trade Policy: Background and Current Issues

Congress plays a major role in shaping, overseeing and legislating U.S. trade policy through its constitutional authority over tariffs and foreign commerce (Article 1, §8). Since World War II, U.S. trade policy has generally sought to advance U.S. economic growth and competitiveness by: (1) reducing international trade and investment barriers; (2) fostering an open, transparent, and nondiscriminatory rules-based trading system, including through the World Trade Organization (WTO); (3) enforcing partner countries' trade commitments and U.S. trade laws; and (4) offering relief to U.S. workers and firms adversely affected by "unfair" foreign trade practices and trade liberalization.

The Biden Administration came into office with a stated focus on domestic economic issues and many trade policy initiatives remain under development. In contrast to President Trump's emphasis on unilateral trade actions, the Biden Administration has promoted an approach of working with partners and allies to address trade challenges, including at the WTO. Yet, many Trump-era unilateral trade restrictions remain in effect, and the Biden Administration has maintained a focus on addressing China's unfair trade practices and enforcing existing trade agreements, including as part of its "worker-centered" trade policy. Congress has deliberated on trade issues including supply chain resiliency, U.S.-China trade challenges, unilateral tariffs and exemptions, preference programs, trade agreements, and, most recently, potential trade responses to Russia's invasion of Ukraine.

Trade Economics and U.S. Trade Trends

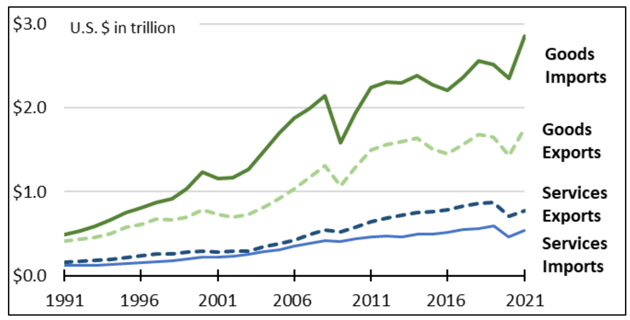
Economic theory generally holds that international trade is beneficial at the national level, but that the benefits and costs may be unevenly distributed or concentrated. Countries increase production and export goods and services in which they have a higher relative comparative advantage in skills or resources, and import goods and services unavailable domestically or less efficiently produced. Trade benefits can include more efficient resource allocation and productivity through competition, economies of scale, higher wages and job growth in exporting industries, and greater choice and lower prices for consumers and firms using imports as inputs. Costs can include job, wage, and firm losses through import competition and production relocation.

The economic impact of trade liberalization is difficult to measure and widely debated, in part because other factors influence economic activity, potentially with greater effect (such as technology), and expanded trade may lead to shifts in the composition of economic activity, with growth in some sectors and decline in others. Most economists argue that expanded trade benefits the U.S. economy overall (as described above), but has contributed to job losses in some sectors and regions, including through offshoring, and that workers may require retraining or relocation to adjust to the resulting shifts in job opportunities and technologies.

The United States is the world's largest economy and trader, and source and destination of foreign direct investment (FDI, stock basis). U.S. trade has expanded in recent decades (**Figure 1**) and U.S. markets and production are more integrated globally, especially with emerging economies. Recent U.S. and global trade trends reflect ongoing pandemic and economic recovery effects.

The 2021 top U.S. trading partners (goods and services, exports plus imports) were, as a bloc, the European Union (EU, $1,091 billion), and by country, Canada ($758 bn), Mexico ($725 bn), China ($716 bn), Japan ($280 bn), and Germany ($267 bn). The United States has a long-running overall trade deficit (imports exceed exports), with the goods trade deficit outweighing the services trade surplus. Most economists argue that macroeconomic variables (e.g., aggregate savings and investment; the dollar's valuation and role in global markets) exert a larger role on the U.S. trade deficit than trade policies or agreements.

Figure 1. U.S. Goods and Services Trade



Source: Bureau of Economic Analysis and Census Bureau.

Components of U.S. Trade Policy

Congress sets U.S. trade negotiating objectives, enacts trade laws, programs, and agreements, and oversees executive trade functions conducted by a range of federal agencies. By statute, the U.S. Trade Representative (USTR) is the lead U.S. trade negotiator and coordinates trade policy through an interagency process, with formal public and private advisory input. Key policy components include:

- **Trade rules-setting, liberalization, and enforcement.** Negotiation of trade agreements to open markets and set rules on trade and investment; enforcement of commitments via dispute settlement and U.S. trade laws.
- **Export promotion and controls.** U.S. support for export financing, market research, advocacy, and trade missions; licensing and control of strategic exports.
- **Customs, trade remedies, trade adjustment.** Regulation of borders; laws to address adverse effects of imports, national security threats, balance of payments, and "unfair" tariff and non-tariff barriers to U.S. trade; assistance for dislocated workers and firms.
- **Trade preferences.** Duty-free access to U.S. markets for eligible developing countries and products, intended to encourage trade and spur their economic growth.
- **Investment.** Protection and promotion (through investment treaties and trade agreements); examination of inbound FDI for national security implications.

U.S. Trade Laws and Policy Tools. Congress has delegated authorities to address trade-related concerns, such as unfairly traded goods (e.g., antidumping and countervailing duty laws). The Trump Administration renewed the use of three authorities: Sec. 201 and Sec. 301 of the Trade Act of 1974 (to address import injury from fairly traded goods, and foreign trade barriers or trade commitment violations, respectively) and Sec. 232 of the Trade Expansion Act of 1962 (to address trade-related national security concerns). The use of these tools declined after the 1995 creation of the WTO and its dispute settlement system, but President Trump used them to apply tariffs and other restrictions on, for example, steel and aluminum imports (Sec. 232) and imports of certain goods from China (Sec. 301). U.S. trading partners responded by imposing retaliatory tariffs, negotiating exceptions (e.g., quotas), and launching WTO dispute settlement. President Biden has maintained many of the restrictions, but has lifted some or reached less restrictive arrangements, such as with the EU and Japan on steel and aluminum.

Trade Promotion Authority. Congress and the President generally work together to negotiate and implement U.S. trade agreements. Beginning with the Reciprocal Trade Agreements Act of 1934, Congress has periodically delegated to the President limited authority to reduce tariffs through proclamation in reciprocal trade agreements. As nontariff trade barriers grew, Congress adopted "fast track" authority in the Trade Act of 1974 to provide U.S. trade negotiating objectives and expedited legislative consideration for implementing bills on future trade agreements, while preserving its constitutional prerogatives. Called Trade Promotion Authority (TPA) since 2002, it was last renewed in 2015 (P.L. 114-26), and expired on July 1, 2021. Debate over TPA renewal and potential changes, including to U.S. trade negotiating objectives, may be a focus of Congress, as it considers the need for new trade agreements, and their potential impact on the U.S. economy, workers and firms, and the related role of Trade Adjustment Assistance (TAA).

World Trade Organization (WTO). The current rules-based, multilateral trading system is rooted in the WTO, established in 1995 to succeed the General Agreement on Tariffs and Trade (GATT). Formed in 1947, the GATT was part of the post-WWII effort led by the United States and Europe to build a stable, open, and prosperous global economy. WTO core principles include nondiscrimination and transparency, and agreements cover goods, services, and agriculture trade; remove tariff and nontariff barriers; and establish rules and disciplines (e.g., on intellectual property rights, IPR) and dispute settlement (DS). Stalled trade liberalization efforts and issues such as consensus decisionmaking, developing country exceptions, concerns over inadequate compliance with and enforcement of WTO rules, and the WTO's perceived inability to cope with the challenges posed by China's non-market economy, have led the United States and other members to call for reforms. The DS system is also a subject of reform debate. Since 2019, the Appellate Body (AB) has lacked a quorum and has been unable to hear new cases, due to successive U.S. Administrations' refusal to name new jurists based on certain concerns of alleged AB overreach. WTO discussions continue such as on e-commerce, fisheries subsidies, and trade responses to the pandemic. Some WTO members, including the United States, have taken or are considering WTO-related trade actions against Russia.

Trade Agreement Negotiations. As WTO negotiations on potential new agreements have stalled, bilateral and regional trade agreements have proliferated; over 300 are in force globally. The United States has 14 free trade agreements (FTAs) with 20 countries in force, with market access and rules usually exceeding WTO commitments.

U.S. trade agreement policy was a focus of the Trump Administration, which withdrew the U.S. signature from the proposed Trans-Pacific Partnership (TPP), made limited modifications to the U.S.-South Korea FTA, enacted a partial-scope agreement with Japan covering some tariffs and digital trade, and negotiated the new U.S.-Mexico-Canada Agreement (USMCA) to revise and replace NAFTA. USMCA entered into force through implementing legislation on July 1, 2020. USMCA addresses new issues, such as digital trade and state-owned enterprises, drawing on U.S. negotiating positions in TPP; increases North American content requirements for vehicles; expands agricultural market access; and reduces U.S. obligations in areas such as investment and government procurement. The Trump Administration also launched FTA talks with the EU, the UK, and Kenya, but did not reach final agreement.

The Biden Administration has not restarted pending trade talks or pursued new FTAs. In 2021, it launched a bilateral Trade and Technology Council (TTC) with the EU to cooperate on bilateral and global issues. It also announced plans for an Indo-Pacific Economic Framework, to be co-led by USTR and the Commerce Department, through which it intends to pursue commitments on issues such as digital trade, labor, and environment, but not market access.

U.S.-China Trade Relations

China represents one of the most significant but challenging U.S. trade and economic relationships. U.S. concerns include China's state-directed economic policies, cyber and other theft of U.S. intellectual property, technology transfer and other coercive practices, industrial subsidies, and market access restrictions on key sectors of China's economy. To address some of these concerns, the Trump Administration imposed Sec. 301 tariffs (prompting counter tariffs by China), and negotiated a limited "Phase I" trade agreement in January 2020 that addressed some intellectual property rights issues and new market access in agriculture and financial services, but left many concerns to future talks that have yet to materialize. It also leveraged national security review authorities of FDI to prevent certain acquisitions of U.S. firms, and tightened export controls for dual use technology to specific entities (e.g., Huawei). The Biden Administration has continued to rely mainly on the Phase I agreement and Sec. 301 tariffs to counter China's "unfair economic practices," and engage with allies toward multilateral solutions. Other efforts include to limit dependency on inputs from China in critical U.S. and global supply chains. Major bills to address China-related trade and economic concerns are pending.

Potential Issues for the 117th Congress

Congressional oversight and legislative issues may include:

- the future direction of U.S. trade policy, including assessments of its historic focus on trade liberalization;
- U.S. leadership in the rules-based global trading system, engagement on WTO reform, and cooperation with allies on trade issues of shared concern;
- the economic effects of U.S. and retaliatory tariffs, whether to amend delegated authorities to the executive;
- U.S. trade policy with major economies, including how to address China's state-directed trade, and other specific issues, such as forced labor in supply chains;
- enforcement of USMCA and other existing FTAs; prospects and the need for future FTAs; and
- the effectiveness of national security and trade tools to review FDI and control technology exports.

Shayerah Ilias Akhtar, Specialist in International Trade and Finance

Brock R. Williams, Specialist in International Trade and Finance

IF10156

Disclaimer