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U.S. Trade Policy: Background and Current Issues

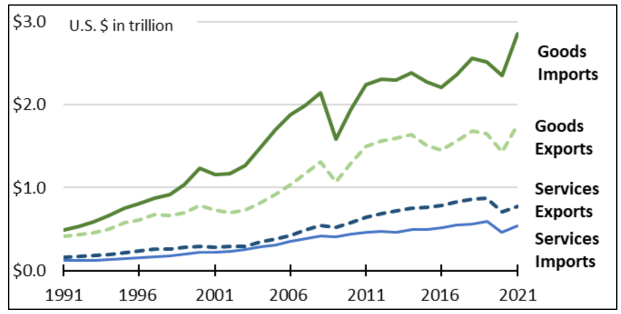
Congress has primary authority over U.S. trade policy through its constitutional power to levy tariffs and regulate foreign commerce (Article 1, §8). It has delegated some trade authorities to the Executive branch, but retains an active role in formulating trade policy and shaping outcomes. Since World War II, U.S. trade policy has generally sought to advance U.S. economic growth and competitiveness by: reducing international trade and investment barriers; fostering an open, transparent, and nondiscriminatory rules-based trading system, including through the World Trade Organization (WTO); enforcing partner countries' trade commitments and U.S. trade laws; and offering relief to U.S. workers and firms adversely affected by "unfair" foreign trade practices and trade liberalization. Legislative efforts in the 117th Congress have aimed to boost U.S. innovation, production and supply chain resiliency in strategic sectors, and restrict certain trade with the People's Republic of China (PRC or China) and Russia (e.g., through sanctions). Congress has also deliberated issues such as its role in trade negotiations, tariffs, and trade preference programs.

Trade Economics and U.S. Trade Trends

Economic theory generally shows that free trade is beneficial at the national level though the benefits and costs of trade liberalization may be unevenly distributed in a country. Under this theory, countries produce and export goods and services in which they have a higher relative comparative advantage, and import those domestically unavailable or less efficiently produced. This assumes that countries take a market-oriented approach, abide by similar rules, and offer reciprocal market access. Benefits of trade can include higher wages and job growth, a wider variety of products available at lower prices, increased productivity such as in export-focused industries, and more efficient resource allocation from competition and economies of scale. Costs of trade liberalization can include some job and firm losses, and wage declines, through import competition and production relocation. These benefits and costs can vary by industry. The economic impact of trade liberalization is difficult to measure and widely debated, in part because of the many factors that influence economic activity. Most economists agree that trade liberalization benefits the U.S. economy overall, but that it has adjustment costs for certain sectors and regions. Workers and firms may require more assistance and dedicated policies to adjust to trade effects.

The United States plays a leading role in global trade and investment. U.S. trade has expanded in recent decades (see **Figure 1**), and the U.S. economy has become more integrated globally. Since 2020, U.S. and global trade trends have reflected ongoing COVID-19 pandemic and economic recovery effects. The top U.S. trading partners (goods and services, exports plus imports) in 2021 were, as a bloc, the European Union (EU, $1,097 billion), and by country, Canada ($763 bn), Mexico ($726 bn), China ($719 bn), Japan ($279 bn), and Germany ($268 bn). The United States has a long-running overall trade deficit (imports exceed exports); the goods trade deficit outweighs the services trade surplus. Most economists hold that macro-economic variables affect the deficit more than trade policy.

Figure 1. U.S. Goods and Services Trade



Source: Bureau of Economic Analysis and Census Bureau.

Key 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 and adjustment.* Regulation of borders; laws to address adverse effects of imports, national security threats, balance of payments, tariff and nontariff trade barriers, imports made with forced labor; assistance for dislocated workers and firms.
- *Trade preferences.* Duty-free access to U.S. market 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 investment for national security implications.

Selected Issues and Developments

In its trade policy, the Biden Administration has sought to strengthen the U.S. economy by aiming to boost U.S. manufacturing, innovation and competitiveness, and advance labor and environmental goals. It also has sought to enforce trade agreements, work with allies and partners to address trade frictions, and counter and constrain actions of concern by China and Russia, among other aims.

U.S. Trade Laws. Authorities to adjust tariffs and other restrictions have been active in U.S. trade policy. Examples include laws to address unfairly traded goods (e.g., antidumping and countervailing duty laws); import injury from fairly traded goods, and foreign trade barriers or trade commitment violations (Sec. 201 and Sec. 301 of the Trade Act of 1974, respectively); and trade-related national security concerns (Sec. 232 of the Trade Expansion Act of 1962). The Trump Administration renewed use of some of these authorities, to counter subsidies by applying tariffs on certain steel and aluminum imports from most trading partners, including China (Sec. 232), and on most imports from China in response to its practices of concern (Sec. 301). U.S. trading partners imposed counter-tariffs and launched WTO cases. The Biden Administration has kept many restrictions but lifted some or reached less restrictive arrangements, e.g., with the EU, Japan, and United Kingdom (UK).

Trade Promotion Authority (TPA). Congress and the President generally work together to negotiate and implement U.S. trade agreements. Since 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 (now called TPA) in the Trade Act of 1974 to establish U.S. trade negotiating objectives and expedited legislative procedures for consideration of implementing bills on trade agreements, while preserving its constitutional prerogatives. The most recent TPA, which Congress renewed in 2015 (P.L. 114-26), expired in 2021. The Biden Administration has not requested TPA renewal, and has pursued trade initiatives as potential executive agreements. Potential TPA renewal could involve debates about U.S. trade priorities, negotiating objectives, and the effects of trade policy on the domestic economy, firms and workers, including the role of Trade Adjustment Assistance (TAA).

World Trade Organization (WTO). The rules-based, multilateral trading system is rooted in the WTO, formed in 1995, and its institutional predecessor, the 1947 General Agreement on Tariffs and Trade (GATT). The GATT was a key element of the U.S.- and Europe-led post-WWII effort to build a stable, open, and prosperous global economy. WTO core principles include nondiscrimination and transparency. WTO 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 developing country exceptions, concerns about non-compliance and adequate enforcement of WTO rules, and ability to address challenges posed by China's statist practices have led WTO members to call for reforms, including of the DS system. Since 2019, the Appellate Body (AB) has been unable to hear cases, due to U.S. Administrations' refusal to agree to new jurists over concerns of alleged AB overreach. WTO members achieved key outcomes at their 2022 ministerial, such as on fisheries subsidies and a trade and IPR response to the pandemic, which some view as boosting the WTO's credibility, but many outstanding issues remain. The United States and some WTO members have taken WTO-related trade actions against Russia over its war in Ukraine.

Trade Agreement Negotiations. As WTO negotiations have stalled or progressed slowly, bilateral and regional trade agreements have proliferated, with over 350 in force globally. The United States has 14 free trade agreements (FTAs) with 20 countries in force, with market access provisions and rules usually exceeding WTO commitments.

The Trump Administration made limited changes to the U.S.-South Korea FTA, enacted a partial-scope agreement with Japan covering some tariffs and digital trade, and negotiated the U.S.-Mexico-Canada Agreement (USMCA), which entered into force through implementing legislation. USMCA replaced the 1994 North American Free Trade Agreement (NAFTA), with new provisions on digital trade and state-owned enterprises, and other key changes, such as increasing regional content requirements for autos. It took steps to enhance trade relations within the Western Hemisphere through "mini" bilateral trade deals with Brazil and Ecuador on trade facilitation, regulatory cooperation, and anti-corruption. It also launched FTA talks with the EU, UK, and Kenya, but did not reach agreements.

The Biden Administration has focused on "a worker-centered trade policy that fosters inclusive prosperity," and not on restarting pending talks or new FTAs. It launched a bilateral Trade and Technology Council (TTC) with the EU to cooperate on bilateral and global issues (e.g., standards, digital trade, export controls, and non-market economy concerns); the TTC has been key in joint trade responses on Russia. The Administration also launched the regional Indo-Pacific Economic Framework for Prosperity (IPEF), covering selected trade issues; supply chains; clean energy, de-carbonization, infrastructure; and tax/anti-corruption. Other new efforts include a regional Americas Partnership for Economic Prosperity (APEP), a trade initiative with Taiwan, and dialogue with the UK. The talks currently exclude tariffs and some market access provisions.

U.S.-China Trade. China is an important market for the United States but poses major challenges. China's statist economic policies are of concern for Congress, as are the market-distorting behaviors they incentivize. In 2018, the USTR, under Section 301 authority, determined that China engages in forced technology transfer, cyber-enabled theft of U.S. IP and trade secrets, discriminatory and nonmarket licensing practices, and state-funded strategic acquisitions of U.S. assets. USTR imposed tariffs on about $370 billion of U.S. imports from China. China countered with tariffs on $110 billion of U.S. products. Most tariffs remain in effect, with the status pending a statutorily required review by the Biden Administration. A January 2020 bilateral agreement addressed some of China's IP and technology practices but left most issues to future talks. In response to China and other concerns, Congress has sought to boost U.S. innovation, production, and supply chain resiliency in strategic sectors; strengthen national security review of foreign investment and export controls; and restrict U.S. imports and investment tied to PRC policies of concern.

Potential Activity in the 118th Congress

In the new Congress, Members may deliberate on:

- Congress' role in trade policy vis-à-vis the executive, including on issues such as tariffs and trade agreements;
- U.S. trade policy's historic focus on liberalizing markets to promote economic prosperity, and how best to shape trade policy to realize congressional priorities;
- U.S. leadership in global trade, including in the WTO, and in cooperation with others;
- U.S. trade relations with major economies, and options to address concerns such as statist and unfair practices;
- trade issues with regard to technology and innovation, labor, energy, the environment, supply chain resiliency and diversification, and economic development;
- enforcement of FTAs (e.g., USMCA); prospects for new agreements; alignment of executive trade initiatives with congressional aims; and
- the effectiveness of the current U.S. trade and investment policy toolkit in protecting the U.S. economy from unfair practices and preserving national security.

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