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U.S. Trade Policy: Background and Current Issues

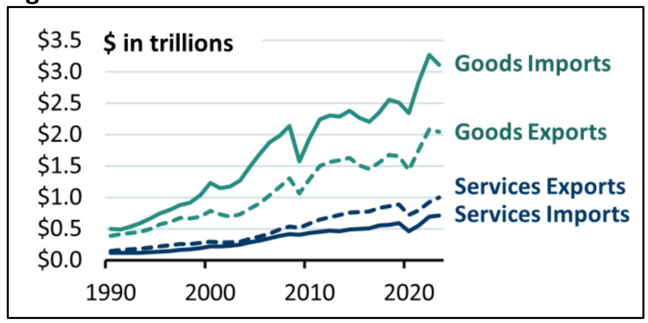
Congress has primary authority over U.S. trade policy through its constitutional power to levy tariffs and regulate foreign commerce. It has delegated some trade authorities to the Executive, but retains an active role in formulating trade policy and shaping outcomes. Since World War II, U.S. trade policy 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 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 118th Congress involve aims to boost U.S. innovation, production and supply chain resiliency in strategic sectors, and restrict certain trade and investment with the People's Republic of China (PRC or China) and Russia (e.g., through sanctions). Congress also could continue to deliberate issues such as its role in U.S. trade negotiations, tariffs, and trade 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 within a country. In 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. Trade liberalization's economic impact is difficult to measure and widely debated, in part due to the many factors that influence economic activity. Most economists agree that trade liberalization benefits the U.S. economy overall but imposes adjustment costs for certain sectors and regions. Workers and firms may need more assistance and dedicated policies to adjust to trade effects.

Over the past several decades, U.S. trade generally has expanded (see **Figure 1**), and the U.S. economy has become more integrated globally. Supply chain disruptions from the COVID-19 pandemic, trade frictions with China, and the Russia-Ukraine war revealed some vulnerabilities posed by this interdependence. After rebounding from the economic fallout of the pandemic, U.S. total trade (goods and services, exports plus imports) declined in 2023 by 1.5%. This mirrored trends in global trade, which is estimated to have contracted in 2023, amid geopolitical tensions, continued supply disruptions, high inflation, and rising debt. The top U.S. partners (total trade) in 2022 were, as a bloc, the European Union (EU, $1,322 billion), and by country, Canada ($919 bn), Mexico ($864 bn), China ($761 bn), Japan ($310 bn), and Germany ($304 bn).

Figure 1. U.S. Goods and Services Trade



Source: Bureau of Economic Analysis and Census Bureau.
Note: Not adjusted for inflation.

The United States has a long-running overall trade deficit (imports exceed exports); and the goods trade deficit outweighs the services trade surplus. Most economists hold that macro-economic variables affect the deficit more than trade policy (see **Text Box**).

Key Components of U.S. Trade Policy

Congress sets U.S. trade negotiating objectives, enacts trade laws, programs, and agreements, and oversees trade functions conducted by federal agencies. By statute, the U.S. Trade Representative (USTR) leads U.S. trade negotiations and coordinates trade policy through an interagency process, with formal public and private advisory input. Key trade functions are

- ***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.*** Border regulations; laws to address adverse effects of imports, national security threats, balance of payments, tariff and non-tariff trade barriers, imports made with forced labor; Trade Adjustment Assistance (TAA) for dislocated workers/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 foreign 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. Some Members and stakeholders support renewed focus on key issues like supply chain resiliency and worker rights; others criticize the lack of focus on market access negotiations.

U.S. Trade Laws. Authorities to adjust tariffs and other restrictions 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 (§201 and §301 of the Trade Act of 1974, respectively); and trade-related national security concerns (§232 of the Trade Expansion Act of 1962). The Trump Administration renewed use of some of these authorities, applying tariffs on steel and aluminum imports from most trading partners, including China (§232), and on most imports from China in response to its practices of concern (§301). U.S. trading partners imposed counter-tariffs and launched WTO dispute cases. President Biden has kept many restrictions, but lifted some or reached less restrictive arrangements (e.g., with the EU, Japan, and UK).

Trade Promotion Authority (TPA). Since the Reciprocal Trade Agreements Act of 1934, Congress has periodically delegated to the President limited authority to reduce U.S. tariffs through proclamation in reciprocal trade agreements. As non-tariff trade barriers grew and became the focus of negotiations, 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 to consider 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, and has pursued trade initiatives as executive agreements that lack a formal role for Congress in approving outcomes. Congressional consideration of potential TPA renewal or other authorities could involve debate over Congress' role, U.S. trade priorities and negotiating objectives, and effects of trade on the U.S. economy, firms and workers, and TAA's role.

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 noncompliance and enforcement of WTO rules, and ability to address challenges posed by PRC statist practices have led WTO members to call for reforms, including of the DS system. Members achieved some key outcomes at their 2022 ministerial, such as a multilateral deal on fisheries subsidies and a trade and IPR response to the pandemic, which some view as boosting the WTO's credibility. Many outstanding issues remain.

Trade Agreements and Other Initiatives. As WTO negotiations have stalled or progressed slowly, bilateral and regional trade agreements have proliferated, with over 360 in force globally. The United States has 14 comprehensive free trade agreements (FTAs) with 20 countries. 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). Replacing the 1994 North American Free Trade Agreement (NAFTA), USMCA has new provisions on digital trade, state-owned enterprises, rules of origin for autos, and other key changes.

The Biden Administration has focused on "a worker-centered trade policy that fosters inclusive prosperity," and has not pursued new comprehensive FTAs. In addition to focusing on trade enforcement (e.g., USMCA worker rights commitments), the Administration has several ongoing trade initiatives with targeted agendas that exclude tariffs and market access provisions. The U.S. and 13 partners in the regional Indo-Pacific Economic Framework for Prosperity (IPEF) reached agreements by November 2023 on supply chains; clean energy and infrastructure; and tax/anti-corruption. IPEF partners continue negotiations on select trade issues. In June 2023, the Administration signed its first agreement in a separate, similar initiative with Taiwan. In March 2023, the Administration signed a critical minerals agreement (CMA) with Japan related to electric vehicle battery production, and is negotiating CMAs with the EU and UK. The U.S.-EU Trade and Technology Council aims to cooperate on supply chains, standards, emerging technologies, digital connectivity, export controls, and nonmarket economy concerns. Other efforts include the Americas Partnership for Economic Prosperity (APEP) and engagement with India on trade frictions and technology. Some in Congress have called for the Administration to pursue new FTAs (e.g., with the UK), negotiate tariff reductions, and be more transparent in its trade talks.

U.S.-China Trade. China is an important market for the United States but poses major challenges. PRC statist economic policies and the market-distorting behaviors they incentivize are of concern for many in Congress. In 2018, 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. In May 2022 USTR began the statutory four-year review of its Section 301 action and has said the review will conclude in spring 2024. 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. trade and investments tied to PRC policies of concern.

Potential Activity in the 118th Congress

Congress may continue to deliberate on issues including

- Congress' role in trade policy vis-à-vis the executive, including on tariffs and trade agreements;
- U.S. trade policy's historic focus on liberalizing markets, renewed emphasis on industrial policy, and effects on the U.S. economy;
- 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; 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.

Shayerah I. Akhtar, Specialist in International Trade and Finance

Cathleen D. Cimino-Isaacs, Specialist in International Trade and Finance

Karen M. Sutter, Specialist in Asian Trade and Finance

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