



# U.S. Trade Policy: Background and Current Issues

## U.S. Trade Policy in Context

Congress plays a major role in U.S. trade policy through constitutional authority over tariffs and foreign commerce (Article I, §8). Since World War II, U.S. trade policy has generally sought to:

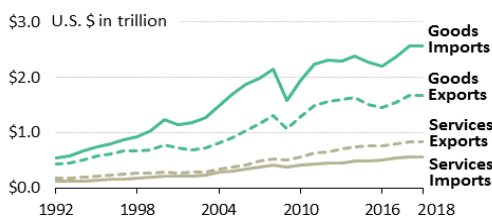
- liberalize markets by reducing trade and investment barriers through agreements and negotiations;
- foster an open and nondiscriminatory rules-based trading system, including through the World Trade Organization (WTO);
- enforce trade commitments and laws;
- support economic growth; and
- offer relief to U.S. firms and workers from import competition and “unfair” foreign trade practices.

The Trump Administration’s trade policy actions continue to present legislative and oversight issues for the 116<sup>th</sup> Congress, including on: significant unilateral tariff actions, a renegotiated North American Free Trade Agreement (NAFTA), and economic engagement and confrontation with China and other trading partners.

## Economics of Trade

Economic theory holds that international trade is mutually beneficial overall, but potentially with unevenly distributed benefits and concentrated costs. Countries specialize by increasing production and exporting goods and services in which they have a higher relative comparative advantage through skills or resources, and importing those unavailable domestically or less efficiently produced. Benefits of trade can include more efficient resource allocation, competition, economies of scale, jobs, and consumer choice, as well as lower prices. Costs can include job and firm losses through greater competition from imports. The economic impact of trade liberalization is difficult to measure and widely debated, in part because many other factors influence economic activity, often with greater effect. For example, U.S. manufacturing employment is likely more affected by productivity through technological advancements than by expanded trade, which may result from trade liberalization.

**Figure 1. U.S. Goods and Services Trade**



Source: Bureau of Economic Analysis and Census Bureau.

## U.S. Trade Trends

The United States is the world’s largest economy, trading nation, and foreign direct investment (FDI) source and destination (stock basis). U.S. trade has expanded (Figure 1) and its markets and production have become more integrated especially with emerging economies. The 2018 top U.S. trading partners were China, Canada, Mexico, Japan, and the United Kingdom (UK), and, as a bloc, the European Union (EU-28). The United States has a long-

running overall trade deficit (imports exceed exports); the trade deficit for goods outweighs the services trade surplus. The causes and consequences of the trade deficit are debated. Most economists argue it is more closely linked with macroeconomic variables (e.g., savings and investment patterns) than trade policies or agreements.

## 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 on U.S. industries, national security threats, balance of payments, and “unfair” barriers to U.S. exports; 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 economic growth.

**Investment.** Protection (through investment treaties and trade agreements) and promotion; examination of inbound FDI for national security implications.

## U.S. Trade Laws and Policy Tools

The Trump Administration has placed increased emphasis on the trade deficit, which it views as an indicator of foreign “unfair” trade practices with potential implications for U.S. industry and jobs, and is more assertively enforcing U.S. trade laws. The Administration is proposing or imposing tariffs or restrictions based on investigations under previously infrequently used U.S. trade laws such as:

- Section 301 (Trade Act of 1974) on barriers to U.S exports caused by China’s intellectual property rights (IPR) and industry policy practices (the Administration applied tariffs) and France’s recently-passed digital services tax (launched investigation);
- Section 232 (1962 Trade Act) on the national security threat posed by imports of aluminum and steel (applied tariffs and quotas), autos and auto parts (possible import restrictions pending the outcome of USTR negotiations with the EU and Japan), uranium (no restrictions placed but formed working group to review domestic nuclear fuel supply chain), and titanium sponges (investigation ongoing); and
- Section 201 (1974 Trade Act) to address potential injury from surges in solar panels and washing machine imports (applied tariffs and quotas).

The Administration also has conducted antidumping and countervailing duty investigations to address unfairly traded imports. U.S. trading partners have responded to these

actions by negotiating exceptions to U.S. tariffs, offering other concessions, imposing retaliatory tariffs, and launching WTO complaints against the United States.

### 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 delegated limited tariff authority to the President to enter into reciprocal trade agreements to reduce tariffs within pre-approved levels through proclamation authority. 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 renewed in 2015 (P.L. 114-26) through July 1, 2021.

### The World Trade Organization

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 agreements cover trade in goods, services, and agriculture; remove tariff and nontariff barriers; and establish rules and disciplines on IPR, dispute settlement (DS), and other trade-related issues. Core principles include nondiscrimination and transparency. Issues such as consensus decision-making, developing country exceptions, and noncompliance with notification requirements frustrate some members, leading some to call for or propose reforms. Vexed by perceived overreach in the DS system, the Trump Administration has continued the Obama Administration’s practice of refusing to agree to the naming of Appellate Body (AB) jurists, a gap that could halt the DS system in December 2019 when the AB will fall below a quorum to hear new cases.

### Trade Agreement Negotiations

In light of constraints on the WTO, bilateral and regional trade agreements are more prominent today with 291 notified to the WTO. The United States has 14 free trade agreements (FTAs) with 20 countries in force, covering market access and rules, usually exceeding WTO commitments. The 1994 NAFTA initiated a new generation of FTAs and shaped multilateral negotiations. The 2012 U.S.-South Korea FTA (KORUS) has the most extensive commitments among existing U.S. FTAs.

President Trump has expressed disappointment with U.S. FTAs, arguing they contribute to U.S. trade deficits. He has taken specific steps on U.S. FTA policy, including:

- withdrawing from the proposed Trans-Pacific Partnership (TPP) in January 2017;
- negotiating select modifications to KORUS; and
- negotiating significant revisions to NAFTA.

The renegotiated NAFTA, signed on November 30, 2018, and renamed the U.S.-Mexico-Canada Trade Agreement (USMCA), would require implementing legislation to take effect. USMCA addresses new issues, such as digital trade and state-owned enterprises, increases North American content requirements for vehicles, expands market access in agriculture, and reduces U.S. obligations in areas such as investment and government procurement. Some Members of Congress seek changes to the labor, environment, enforcement, and pharmaceutical IPR provisions, while others favor implementing the USMCA in its current form.

The Administration also notified Congress of its intent to begin negotiations under TPA with Japan, the EU, and the UK. U.S. motivations for the new talks include concerns over disadvantages to U.S. exporters from non-U.S. trade agreements, including among the remaining 11 TPP countries and between the EU and Japan. The scope of the new negotiations is unclear, but the Administration appears to be using the threat of new tariffs to spur talks.

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*USMCA is the largest, most significant, modern, and balanced trade agreement in history... In the United States, the new trade pact will support high-paying manufacturing jobs and promote greater access for American exports. – President Trump, November 30, 2018.*

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## U.S.-China Trade Relations

China, the largest U.S. trade partner and contributor to the U.S. trade deficit, arguably constitutes the most complex U.S. trading relationship. China’s unprecedented economic rise has created significant U.S. commercial opportunities, but the state’s continued role in economic activity raises major concerns over unfair competition and challenges to existing global trade architecture. U.S. concerns include China’s cyber and other theft of U.S. IP, technology transfer practices, industrial subsidies, and inadequate market access. The Administration imposed increased tariffs on \$250 billion of Chinese imports to pressure China to alter its policies. China retaliated with tariffs on \$110 billion of U.S. exports. Negotiations are ongoing.

### Potential Issues for Congress

**Tariff Actions.** How do U.S. and retaliatory tariff increases affect U.S. import-sensitive industries, other domestic producers and exporters, consumers, and U.S. trade relations more broadly? Are such actions WTO compatible? Is further escalation likely? What are implications of linking tariffs to broader trade negotiations?

**U.S.-China Trade Relations.** Depending on its outcome, the U.S.-China tariff standoff, in particular, has major potential implications for global supply chains and economic growth. What are potential paths forward?

**Trade Agreements.** How does Congress view potential shifts in U.S. FTA policy stemming from USMCA? Do these shifts align with TPA? What are priorities for future U.S. trade negotiations, and does the current TPA reflect them? How do non-U.S. FTAs affect the U.S. economy?

**Trade and Jobs.** Trade liberalization generally supports economic growth; it has both costs and benefits. Are U.S. Trade Adjustment Assistance programs adequately funded and effective to help those hurt from trade liberalization?

**Trading System.** U.S. leadership helped establish the current rules-based global trading system and propel consideration of rules on new issues, such as digital trade. Does this system still benefit the United States?

**Trade and Security.** Concerns exist about foreign efforts to obtain U.S. technology. New 2018 laws, the Foreign Investment Risk Review Modernization Act (FIRRMA) and the Export Controls Act (ECA), respectively, provide more scrutiny of inward FDI and renew dual-use export controls. Are these tools sufficient? Is restricting FDI problematic?

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