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International Trade Agreements and U.S. Tariff Laws

The United States is a party to several trade agreements that obligate member countries not to impose or increase certain tariffs and other trade barriers, with some exceptions. Recent U.S. tariff actions may prompt Congress to consider how these agreements relate to U.S. tariff laws. This In Focus provides an overview of key commitments and dispute resolution provisions of selected U.S. trade agreements, the legal effect of these agreements under U.S. law, and the ways in which U.S. tariff laws and actions may conform or conflict with these agreements. It also notes cases in which international dispute resolution bodies have considered other countries' challenges to U.S. tariffs.

Overview of Selected Trade Agreements

The United States is a party to multilateral trade agreements under the 166-member World Trade Organization (WTO), plurilateral agreements among subsets of WTO members, and various bilateral and regional free trade agreements (FTAs). These agreements generally seek to reduce or eliminate tariffs among parties. U.S. FTAs generally build on WTO commitments and include enforcement mechanisms. For disputes over obligations common to both WTO and FTA rules, a party can choose the dispute forum but can only bring the case to one forum.

The General Agreement on Tariffs and Trade

As members of the WTO, the United States and almost all of its trading partners are parties to the General Agreement on Tariffs and Trade (GATT). Article I of the GATT requires members to accord each other most-favored-nation (MFN) status, which essentially prohibits any member from giving more favorable tariff treatment (e.g., lower tariff rates) to some trading partners but not others, except in the case of certain FTAs or unilateral concessions for developing countries. GATT Article II prohibits WTO members from raising tariffs above certain maximum (i.e., "bound") rates, which many members have lowered over the course of several rounds of negotiations. (GATT Article XXVIII allows WTO members, through negotiation, to modify or withdraw these concessions.) GATT Article III prohibits members from favoring domestic products over imported goods. The GATT makes exceptions to these obligations for grounds involving, among others, protection of "essential security interests" or the "conservation of exhaustible natural resources." Some countries, including the United States, have invoked such justifications for trade policies that have been challenged by other WTO members under dispute settlement (see below).

WTO Dispute Settlement Understanding

The Dispute Settlement Understanding (DSU) establishes a process for WTO members to resolve disputes regarding the GATT and other WTO agreements. Under the DSU, one country may request consultations with another and—if those consultations fail to resolve the dispute—request a panel of three individuals from nonparty countries to adjudicate the dispute. Countries may appeal adverse panel decisions to the WTO Appellate Body (AB), a standing body of adjudicators with four-year terms. Once the AB circulates its report, the Dispute Settlement Body (DSB), a plenary committee of the WTO, issues its binding ruling for formal adoption. Such rulings could require a country to lower trade barriers found to violate the GATT. Following compliance proceedings, the DSB could also authorize the complainant country to retaliate (e.g., raise tariffs) if the respondent country does not comply with the ruling. In practice, few cases have resulted in authorization to retaliate.

Since 2017, the U.S. government has blocked all appointments to the AB, arguing the body was exceeding its authority. In 2019, the AB fell below its quorum of three members, preventing it from hearing appeals and preventing the DSB from rendering final reports in appealed cases. Several WTO members, including Canada, Mexico, the European Union, and the People's Republic of China (PRC), but not the United States, have agreed to an interim arbitration arrangement to hear appeals concerning their disputes, or have treated some WTO panel decisions as binding while the AB remains nonfunctional.

Free Trade Agreements

In addition to its WTO obligations, the United States is a party to 14 comprehensive FTAs with 20 countries, including the 2020 U.S.-Mexico-Canada Agreement (USMCA). Under an FTA, parties agree to eliminate tariffs on substantially all of one another's goods. Most U.S. FTAs contain state-to-state dispute resolution mechanisms, but they are less frequently used than the DSU. Some FTAs, such as USMCA, also include additional enforcement mechanisms (e.g., for labor commitments).

Trade Agreements Under U.S. Law

The United States entered into WTO agreements, including the 1994 GATT and the DSU, and comprehensive U.S. FTAs as "congressional-executive agreements" that were negotiated by the President and approved by Congress through the enactment of domestic legislation that implemented the agreements. Congress specified in the implementing legislation for the WTO agreements and FTAs, such as USMCA, that under U.S. law, there is no private cause of action to file a lawsuit challenging U.S. government practices that allegedly violate these agreements. Thus, U.S. courts will not strike down tariffs on the grounds that they purportedly violate the WTO agreements or an FTA. For example, while an adverse DSB report might require the United States to lower certain tariffs as a matter of international law, it would not provide

a basis for U.S. courts to order the government to lower the tariffs as a matter of domestic law.

In short, while certain U.S. tariffs can potentially violate international trade agreements, U.S. law does not create domestic judicial remedies for such violations. Parties may challenge tariffs in U.S. courts on domestic legal grounds, such as claims that the executive branch has exceeded its statutory authority to impose trade barriers.

U.S. Tariff Laws and Trade Agreements

Congress has enacted several laws giving the executive branch authority to impose tariffs in various scenarios. Whether tariffs imposed under these laws are consistent with U.S. trade agreement obligations is a matter of debate.

Section 301 of Trade Act of 1974

Section 301 of the Trade Act of 1974 (19 U.S.C. § 2411) authorizes the U.S. Trade Representative (USTR) to respond to foreign trade practices that violate U.S. rights under a trade agreement or are "unreasonable or discriminatory" and burden or restrict U.S. commerce. USTR may respond by means that include imposing tariffs or fees, withdrawing concessions made under a trade agreement, and entering into new agreements. Section 301 generally requires USTR to consult with the foreign country. If the matter involves a trade agreement, and a mutually acceptable resolution is not reached within a specified time frame, USTR must request dispute settlement proceedings under that agreement. Section 301 allows USTR to refrain from taking action if the DSB rules that another country's conduct does not violate U.S. rights, including under a trade agreement.

Following the WTO's creation in 1995, the United States largely refrained from using Section 301 and instead pursued WTO dispute resolution. In 2018, USTR invoked Section 301 to impose tariffs on $300 billion of imports from the PRC. In 2020, a WTO panel found that the tariffs violated GATT Articles I and II. The United States appealed this decision to the defunct AB, thus preventing the DSB from issuing a final report. USTR has two ongoing Section 301 investigations, involving the PRC and Nicaragua, and has announced action in an investigation related to the PRC shipping industry.

Section 201 of Trade Act of 1974

Section 201 of the Trade Act of 1974 (19 U.S.C. § 2251) authorizes the President to impose temporary "safeguard" tariffs or take other actions if the U.S. International Trade Commission finds that a surge in imports is causing or threatening serious injury to a U.S. domestic industry. The statutory criteria for relief under Section 201 correspond to provisions under the GATT and WTO Agreement on Safeguards. Recent U.S. administrations have used Section 201 to impose tariffs on solar cell products and residential washing machines. Both the PRC and Canada challenged U.S. solar tariffs. In 2021, a WTO panel ruled against the PRC, which appealed the ruling to the defunct AB. In 2022, a USMCA panel ruled in favor of Canada, which then reached a mutually agreed settlement with the United States. South Korea challenged U.S. washing machine tariffs under the DSU. In 2022, a WTO panel largely ruled in favor of South Korea, which reached a settlement under which the United States did not appeal the ruling.

Section 232 of Trade Expansion Act of 1962

Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. § 1862) authorizes the President to "adjust imports" of articles that the Secretary of Commerce finds are being imported "in such quantities or under such circumstances as to threaten to impair the national security." The first Trump Administration invoked Section 232 to impose tariffs on steel and aluminum in 2018. Several countries challenged these tariffs under the DSU. In 2022, WTO panels ruled that the U.S. steel and aluminum tariffs violated GATT Articles I and II and did not satisfy the essential security exception, finding that the measures were not taken "in time of war or other emergency in international relations" within the meaning of GATT article XXI(b)(iii). The United States appealed the panel decisions to the AB, thus preventing the DSB from issuing final reports. U.S. trade officials have maintained that a country's essential security interests are "self-judging" and not justiciable by the WTO. In 2025, the second Trump Administration used Section 232 to expand steel and aluminum tariffs, impose tariffs on automobiles and auto parts, and initiate several new investigations. In response, Canada initiated proceedings under the DSU. Canada and Mexico may also argue that the auto tariffs violate USMCA side letters limiting U.S. use of Section 232 against auto imports from those countries.

International Emergency Economic Powers Act

The International Emergency Economic Powers Act of 1977 (IEEPA, 50 U.S.C. §§ 1701 *et seq.*) may give the President authority to impose tariffs in certain national emergencies. In February 2025, President Trump declared three national emergencies related to drug trafficking and invoked IEEPA to impose tariffs on Canada, Mexico, and the PRC. In April 2025, the President also declared a national emergency related to international trade conditions to impose a global tariff of at least 10%, with higher, country-specific tariffs on more than 50 countries, including some FTA partners. The Trump Administration has subsequently modified the foregoing tariffs, including suspending duties on goods compliant with USMCA and pausing country-specific tariffs on countries other than the PRC. To date, Canada and the PRC have requested DSU consultations regarding IEEPA tariffs. As with Section 232, U.S. government officials argue that these tariffs are permitted as "essential security" measures.

Considerations for Congress

Congress may consider whether U.S. tariff actions are consistent with U.S. commitments under the GATT, other WTO agreements, and FTAs. Some Members have introduced legislation that would require a joint resolution of approval for the President to impose tariffs in general or against FTA partners, which could give Congress an opportunity to assess proposed actions, including whether they comply with international commitments. Alternatively, Congress could consider taking steps to support amendment of—or U.S. withdrawal from—certain trade agreements.

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