
SUMMARY

1. This is the 14th Trade Policy Review of the United States. Since the last Review in 2016, the focus of U.S. trade policy has shifted to adopting policies that are intended to support its national security and strengthen its economy. These priorities are reflected in the President's 2018 Trade Policy Agenda, which also calls for negotiating better trade deals, enforcing U.S. trade laws and U.S. rights under existing trade agreements, and reforming the multilateral trading system.

2. The U.S. economy is in its ninth consecutive year of expansion. In 2017, real GDP growth averaged 2.2%, up from 1.6% in 2016. In the first quarter of 2018, real GDP rose at an annual rate of 2.2%, before accelerating in the second quarter to 4.1%.

3. Fiscal policy turned pro-cyclical in 2018, with the enactment of the Tax Cuts and Jobs Act of 2017, the Bipartisan Budget Act of 2018 and the Consolidated Appropriations Act of 2018. Tax rates were lowered for businesses and individuals: the top corporate tax rate was reduced from 35% to 21%, and the tax system was changed from global to territorial. Federal budget deficits are projected to continue increasing, from 4.2% of GDP in 2018 to 5.1% in 2022.

4. The Federal Reserve tightened the monetary stance during the review period. A sustained increase in economic activity, the continued strengthening of the labour market and firming inflation have resulted in moderate rises in the federal funds rate since 2015. In the first half of 2018, the rate was increased twice, bringing it to a range of 1.75-2.0%. Inflation, as measured by the 12-month percentage change in the personal consumption expenditures (PCE) index, has remained at or around the 2% target throughout the review period.

5. The U.S. current account deficit has been increasing since 2013, and reached US\$469.1 billion in 2017 (2.4% of GDP), mirroring a widening of the gap between gross national savings and gross investment. Exports of goods totalled US\$1.55 trillion in 2017, while imports reached US\$2.35 trillion. The merchandise trade deficit reached US\$807.5 billion (4.2% of GDP) in 2017. On the other hand, the services and primary income balances showed important surpluses in 2017.

6. The United States is one of the world's largest exporters and it has a diversified export base. The largest export category is machinery and mechanical appliances, accounting for nearly a quarter of merchandise exports, followed by vehicles and chemicals; their share of total exports did not vary substantially during the review period. The share of mineral products experienced a sharp decline between 2014 and 2016, before rising again in 2017. This behaviour can be ascribed to the fall in oil prices and their subsequent recovery in 2017. The United States is also one of the world's main importers. U.S. imports are diversified: the largest categories are machinery and mechanical appliances, vehicles, mineral products, and chemicals. Reflecting sustained GDP growth, the shares of machinery and mechanical appliances, vehicles, and chemicals in total imports have risen. In contrast, the share of mineral products has declined. The EU-28, China, Japan, Canada and Mexico are the United States' main trading partners. The United States continues to be the world's main recipient of foreign direct investment (FDI). The main FDI sources are: the EU-28 (59% of the FDI stock in the United States in 2017), Japan (12%), Canada (11%), and Switzerland (8%).

7. The U.S. Congress has legislative and oversight authority over trade issues; Congress works together with the Executive Branch, which negotiates and implements trade agreements. The main executive agency responsible for trade policy formulation continues to be the Office of the United States Trade Representative (USTR), which is part of the Executive Office of the President.

8. As mentioned above, the thrust of trade policy changed during the review period. The President's 2018 Trade Policy Agenda is driven to achieve "free, fair, and reciprocal" trade relations, considered critical to the U.S. national security policy. It also focuses on renegotiating and revising trade deals. In terms of reforming the multilateral trading system, the Agenda advocates for "sensible and fair reforms to the WTO". It notes that the United States remains committed to working with all WTO Members who share the United States' goal of fair and reciprocal trade deals.

9. The United States is an original Member of the WTO. It is a party to the Agreement on Government Procurement (GPA), a participant in the expanded Information Technology Agreement (ITA), and a signatory to the Agreement on Trade in Civil Aircraft. The United States deposited its instrument of acceptance of the Trade Facilitation Agreement (TFA) to the WTO in January 2015.

The United States submitted numerous notifications during the period under review, covering areas such as agriculture, anti-dumping, subsidies and countervailing measures, SPS, TBT, and import licensing, among others. During the review period, the United States was involved in 21 dispute settlement cases as a respondent and 13 as a complainant.

10. The United States has 14 FTAs in force with 20 countries, as was the case at the time of the previous Review. Most of them cover both goods and services, except the FTA with Israel (goods only). The United States has notified all its FTAs to the WTO. At the time of completion of this report, the United States was renegotiating NAFTA, with the aims of modernizing the Agreement, and reducing the U.S. trade deficit with NAFTA partners. In August 2018, the United States and Mexico reached an agreement in principle to amend NAFTA. In October, an agreement with Canada was announced. The United States-Korea Free Trade Agreement (KORUS) has also been renegotiated, and the revised Agreement was signed on 24 September 2018. The United States withdrew from the proposed Trans-Pacific Partnership (TPP) in 2017. Negotiations with the European Union on the proposed Trans-Atlantic Trade and Investment Partnership (T-TIP) agreement were paused at the end of 2016. Currently, the United States has four main unilateral preference programmes: the African Growth and Opportunity Act (AGOA), the GSP, the Caribbean Basin Initiative (CBI)/Caribbean Basin Trade Partnership Act (CBTPA), and the Nepal Trade Preference Program (NTPP).

11. The U.S. foreign investment regime remained unchanged during the review period. The investment regime is generally open, with a few sector-specific limitations, and review procedures on foreign investment in a few industries, including the airline and nuclear energy industries. Additionally, the United States has a national security review process, applicable to foreign investment that might affect national security interests. International investment agreements and investment chapters in FTAs are used by the United States to foster foreign investment.

12. The Committee on Foreign Investment in the United States (CFIUS) continues to oversee the national security implications of foreign investment. CFIUS reviews transactions based on voluntary notifications filed by the parties, or on its own initiative if it believes the transaction is a covered transaction and may raise national security concerns. Each transaction is reviewed on a case-by-case basis, based on individual facts and circumstances. If national security concerns are identified during the review, CFIUS may impose conditions, or CFIUS and the transacting parties may negotiate a mitigation agreement to resolve any national security concerns. If CFIUS determines that the national security concerns cannot be resolved and the parties do not withdraw and abandon the transaction, the Committee will recommend that the President prohibit the transaction.

13. Having formally accepted the WTO TFA in January 2015, the United States provided its notification on transparency, the operation of its single window, measures on the use of customs brokers, and the TFA contact point in June 2017. In February 2018, the U.S. Customs and Border Protection (CBP) announced that its Automated Commercial Environment (ACE) had been completed. Importers and exporters may use the electronic portal to declare goods, obtain permits, and access transaction and trade data. Within CBP, ten Centers of Excellence have been established to specialize in all aspects of customs processing in several areas.

14. The United States operates several programmes to facilitate trade, while also addressing national security concerns as a joint public-private partnership. Among these programmes, the Customs-Trade Partnership Against Terrorism (C-TPAT) encompasses the entire supply chain, involving enhanced security measures and best practices, the Importer Self-Assessment Program (ISA) builds on C-TPAT to achieve an even higher level of compliance, and the Free and Secure Trade (FAST) Program speeds the clearance of low-risk shipments arriving from Canada or Mexico. Maritime cargo destined for the United States is pre-screened at foreign ports under the Container Security Initiative (CSI). CBP has security-based arrangements in force with 11 other customs administrations, and has signed joint work plans towards mutual recognition with six countries.

15. The MFN tariff regime is generally characterized by stable and, for the most part, low or no tariffs. At 4.8% overall, the simple average tariff remains virtually unchanged. Duty-free entry is provided for 37.5% of all tariff lines, and a further 30.4% of the lines' items face import duty of 5% or less. The highest tariffs, sometimes exceeding 100%, are applied on certain agricultural items (e.g., tobacco and peanuts). Outside of agriculture, above-average applied rates are mainly found in textiles, clothing and footwear.

16. The United States continues to be an active user of anti-dumping (AD) duties. Between 2015 and 2017, the number of AD investigation initiations increased, totalling 133. There were 340 AD orders in place as of end-July 2018, compared with 269 on 30 June 2016. The trading partners most affected by the measures were China, Chinese Taipei, the European Union, India, Japan and the Republic of Korea. The investigations initiated during the period were mainly concentrated in the steel industry. Of the 109 countervailing duty (CVD) measures in place as of end-July 2018, some 50.5% were also applied on iron and steel products. There were 123 sunset review initiations of AD orders during the period from 1 January 2016 to end-June 2018. During the same period, there were eight revocations, while 104 orders were continued. There were 52 sunset review initiations of CVD orders during the period from 1 January 2016 to end-April 2018. During the same period, 27 sunset reviews of CVD orders were concluded; there were six revocations, while the remaining orders were continued.

17. Between 2016 and 2018, two new safeguard investigations (on Crystalline Silicon Photovoltaic Cells; and Large Residential Washers) were conducted by the United States under Sections 201-204 of the Trade Act of 1974. Both investigations were notified to the WTO. The USITC made affirmative serious injury determinations in both cases, and the President applied a safeguard measure in each one.

18. The Enforce and Protect Act of 2015 (EAPA), which entered into force in 2016 and aimed at preventing evasion of contingency measures, created a new framework for CBP to investigate allegations of evasion of AD/CVD orders. Between August 2016 and 1 July 2018, 19 investigations stemming from allegations of evasion of duties were initiated. In all but one of these investigations, interim measures were applied. As of July 2018, a final determination had been made for 12 investigations. Remedies generally involve suspending the liquidation for any entry after a certain date, and requiring that the importer post a cash deposit prior to the entry's release.

19. During the review period, the United States reverted to conducting Section 232 investigations to determine the effects of imports of any article on national security, and to recommend the application of countermeasures, including an increase in tariffs, to the President. The Department of Commerce has conducted 18 Section 232 investigations since 1980, of which 14 were concluded before or in 2001. In 2018, four new investigations were initiated on: steel, aluminium, auto imports, and uranium imports. Up to September 2018, import surcharges were announced on the first two investigations. This announcement was followed by countermeasures by trading partners.

20. In August 2017, an investigation under Section 301 of the Trade Act of 1974 was initiated into China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. On 15 June 2018, USTR issued a list of products covering 1,102 separate tariff lines, valued at approximately US\$50 billion, which would be subject to an additional *ad valorem* tariff of 25%. The measure entered into effect on 6 July for 818 lines, covering approximately US\$34 billion worth of imports from China; public comment was sought on the application of the duty on 284 tariff lines, covering some US\$16 billion worth of imports. China responded to the initial action by imposing increased duties on goods imported from the United States. In response, USTR proposed to take further action in the form of an additional 10% *ad valorem* duty on Chinese products covered in 6,031 tariff subheadings, with an annual trade value of approximately US\$200 billion. Under the new Section 306(c) of the 1974 Trade Act, the USTR may reinstate, upon written request from the industry, a previously terminated Section 301 action in order to exercise a WTO authorization to suspend trade concessions. One such case emerged in December 2016 concerning a 1999 beef dispute with the European Union; as of mid-2018 no action had been taken.

21. The Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury administers nearly 30 programmes involving economic and trade sanctions. In general, the measures are designed to counter terrorism, transnational criminal organizations, cyber-related crimes, drugs trafficking, human rights abuses, corruption, trade in rough diamonds, and the proliferation of weapons of mass destruction. Many of the measures target individuals or entities rather than jurisdictions. Country-specific sanctions have been tightened against the Democratic People's Republic of Korea, Iran and Cuba during the period under review, while programmes related to Myanmar and Côte d'Ivoire were terminated in 2016.

22. The framework for export promotion and export finance has remained broadly unchanged during the period under review. The United States has no overarching legal framework governing assistance to sectors or industries at the federal or sub-federal level. Traditionally, federal assistance

programmes have been in the form of grants, tax concessions, loan guarantees, and direct payments; they are listed in the Catalog of Federal Domestic Assistance (CFDA), and are mostly related to public health and safety, the environment, education, infrastructure, community assistance, and research and development.

23. The basic legal framework for the preparation and adoption of standards and technical regulations has not changed during the review period. Federal law specifically prohibits any government agency from engaging in any standards-related activity that creates unnecessary obstacles to the foreign commerce of the United States, and federal agencies are obliged to ensure that imported goods are treated no less favourably than like domestic products in the application of standards-related activities.

24. In the area of sanitary and phytosanitary measures, work has continued on certain trade-related aspects of the implementation of the 2011 Food Safety Modernization Act, including risk-based supplier identification, the certification of food-producing entities in foreign countries, and the launch of the Voluntary Qualified Imports Program (VQIP), an expedited review and entry programme for food. No applications for admittance into the VQIP were received before this year's deadline, as the process to issue accreditations to third-party auditors was still ongoing.

25. U.S. federal antitrust laws are applied on domestic and foreign conduct that has a substantial and intended effect in the United States. Government institutions, including those engaging in commercial activity, are exempted from federal antitrust legislation unless a statute clearly provides otherwise. Limited immunity also applies to specific aspects of agriculture, fisheries, shipping, and insurance. During the review period, the U.S. authorities have devoted substantial resources to prosecutions and sentencings in criminal antitrust proceedings; as a result, some US\$400 million in criminal fines and penalties were obtained by the U.S. Department of Justice, mainly with respect to auto parts, real estate, and foreign currency exchange. The number of mergers reviewed increased during the review period: in FY2017, 2,052 transactions were reviewed, representing a 12.0% increase from FY2016.

26. The United States is a party to the WTO GPA. The Protocol amending the GPA entered into force for the United States in April 2014. No major institutional or legal changes with respect to government procurement have taken place since the last Review in 2016. Procurement at the federal level is decentralized, and is carried out through the procurement systems of the various executive agencies. Procurement at the state level is also decentralized. U.S. government procurement policy encourages the participation of small businesses, including veteran-owned, women-owned, and disadvantaged small businesses. To this end, it carries out a policy of fixing set-asides when market research concludes that small businesses are available and able to perform the work or provide the products being procured by the Government. The Buy American Act (BAA) and the Trade Agreements Act (TAA) remain the main laws regarding government procurement. The BAA requires the Federal Government to purchase domestic goods, while the TAA provides authority for the President to waive purchasing requirements, such as those contained in the BAA. These requirements are waived for GPA participants, trading partners with which the United States has an FTA that covers procurement, and beneficiaries of preferences.

27. The United States remains one of the main producers and exporters of goods and services that embody intellectual property (IP). IP is present in some 60% of U.S. goods exports, and IP-intensive industries account for over one third of U.S. GDP. No major changes with respect to IP legislation have taken place since the last Review in 2016. The protection and enforcement of IP rights (IPRs) has remained a top trade policy priority for the U.S. Administration, as IP is considered critical for economic growth. The objectives are to reduce counterfeit and infringing goods in domestic and international supply chains and identify unjustified impediments to effective enforcement action against the financing, production, trafficking, or sale of counterfeit or infringing goods.

28. Among IPR enforcement tools, USTR conducts annual reviews of the state of IPR protection and enforcement in U.S. trading partners around the world under "Special 301" provisions. As a result of these reviews, USTR identifies trading partners found to deny adequate and effective IPR protection, or deny fair and equitable market access to U.S. persons that rely upon IPR protection. In its 2018 Special 301 report, released on 30 April 2018, 36 trading partners were identified as failing to provide adequate and effective IPR protection. Under Section 337 of the Tariff Act of 1930, investigations into allegations of infringement of certain statutory IPRs and other forms of unfair competition in import trade are conducted. Between early January 2016 and late May 2018, 137

Section 337 investigations were initiated. Most of them dealt with patent infringement; the remainder dealt with copyright, trade secrets and trademarks or with several IPRs combined. Investigations covered products from 37 trading partners and from the United States.

29. Support to agriculture is primarily authorized by "farm bills", i.e. multi-year omnibus legislation covering a wide array of agricultural and food programmes. While some of the programmes have permanent authorization (e.g. crop insurance), others are authorized only for the life of the farm bill. Authorization for most programmes under the Agricultural Act of 2014 was to expire on 30 September 2018. Based on expected and actual outlays, the 2014 Farm Bill has been dominated by the Supplemental Nutrition Assistance Program (SNAP), providing food assistance to low-income households, which has accounted for nearly 80% of the projected expenditure. The 2014 Farm Bill was amended in early 2018, through the passage of the Bipartisan Budget Act of 2018, to provide support for seed cotton, to make the Margin Protection Programme more attractive for small and medium-sized dairy farms, and to make additional disaster relief available. A programme to support the cost of cotton ginning was re-introduced as a temporary measure in March 2018. The legislative process for the 2018 Farm Bill is ongoing.

30. The United States is a major producer and consumer of primary energy resources, and technological breakthroughs in the domestic production of shale oil and gas have had a profound effect on global energy markets over the last ten years. U.S. production of crude oil reached 11 million barrels per day in July 2018, for the first time in history, and the United States is now a net exporter of petroleum products and natural gas. On the demand side, U.S. primary energy consumption has levelled off, as the economy has become ever more energy efficient. Natural gas has replaced coal as the principal resource in electricity generation, but coal-fired power plants still deliver 30% of the electricity produced. About 17% of the electricity generated in the United States in 2017 was made from renewable energy resources. The United States does not have a national target for renewable energy or an explicit federal support mechanism. However, 29 states and the District of Columbia have adopted "renewable portfolio standards" or similar binding targets, and a further 8 states (and one territory) have set non-binding targets. States apply numerous measures to promote the development and use of renewable energy resources.

31. The Economic Growth, Regulatory Relief and Consumer Protection Act, enacted in May 2018, introduced several amendments to the regulation of financial services, including with respect to regulatory relief, consumer access to mortgage credit, and regulations for bank holding companies. The most noteworthy changes include: allowing banks with between US\$50 billion and US\$250 billion in assets to be run with less regulatory oversight; exempting banks with less than US\$10 billion from the Volcker Rule (banning banks from engaging in proprietary trading); requiring the Federal Reserve to tailor regulations with respect to bank size rather than "one size fits all"; and enabling large foreign banks to avoid regulations by allowing them to tally their U.S. assets in certain ways that keeps them below the US\$250 billion threshold.

32. A new regulatory order on telecommunications was issued in December 2017, which removed the prior requirements that providers of broadband Internet access services be subject to some of the same rules that apply to common carriers, including a prohibition on unjust or unreasonable practices or unreasonable discrimination. The 2017 Restoring Internet Freedom Order reversed the policy applied in the sector, and returned to the lighter-touch framework that had been in place before. The Order, among other things, ended utility-style regulation of the Internet in favour of market-based policies, restored broadband Internet access service to the information service classification, eliminated certain reporting requirements, and restored the authority of the Federal Trade Commission (FTC) to police the privacy practices of Internet service providers (ISPs).

33. Postal and courier services are open to competition, with the exception of services reserved for the United States Postal Service (USPS), the designated operator for universal service. Private carriers may accept and deliver any item which does not fall within the reserved category, including items not considered as letters, such as merchandise, newspapers, and periodicals. However, under "the mailbox rule", delivery must be made by means that do not involve access to mailboxes or post office boxes in USPS retail units, unless postage is affixed to the privately carried matter. USPS rates and fees are established by its Board of Governors, and are subject to a review process by the Postal Regulatory Commission, which regulates the USPS but not the postal services activities of the private sector.

34. With the exception of some sub-federal and local non-discriminatory limitations on the sales of alcohol and firearms, the applied regime for distribution services does not contain any market access or national treatment limitations. There is no federal law governing franchising; however, there are both federal regulations and state laws regulating it. State laws vary from state to state. Franchising is regulated by the FTC and by various state agencies.

35. Construction is not regulated at the federal level, but safety issues are. Safety regulations concerning the construction industry are enforced by the Occupational Safety and Health Administration at the federal level, or by equivalent state agencies. All states require contractors to have workers' compensation insurance. There are also a number of environment-related laws, including those related to asbestos, lead, and industrial waste. The construction industry has few economic barriers to entry, and there are no restrictions on the repatriation of capital or profits. Market access conditions vary somewhat, depending on whether the project is public or private. Private construction activities are open to foreigners with few limitations, while public construction activities are subject to Buy American provisions and to the provisions of the GPA and FTAs.

36. The regulatory framework of maritime transport and air transport services has not changed during the period under review and restrictions to cabotage remain. Regarding maritime transport, preferences are accorded to U.S.-flag vessels to encourage a privately-owned and operated U.S.-flag merchant marine. The United States maintains two maritime transport programmes related to national defense: the Maritime Security Program (MSP) and the Voluntary Intermodal Sealift Agreement (VISA) Program. No domestic preferential treatment is granted with respect to the use of port and harbour facilities. An MFN exemption is maintained, covering restrictions on performance of longshore work by crews of foreign vessels owned and flagged in countries that similarly restrict U.S. crews on U.S.-flag vessels from longshore work.

37. Only U.S.-built ships qualify for domestic service; the United States was granted an exemption from GATT rules for measures prohibiting the use, sale, or lease of foreign-built or foreign-reconstructed vessels in commercial applications between points in national waters or the waters of an exclusive economic zone. There are no restrictions on foreign investment in U.S. shipyards or ship-repair facilities, but floating dry-docks are eligible for loan guarantees under the Federal Ship Financing Program only if owned by U.S. citizens.

38. The tourism services regime is open; the United States undertook full market access GATS commitments for modes 1, 2 and 3, and full national treatment commitments for all four modes for all four sectors. The National Travel and Tourism Office (NTTO), part of the U.S. Department of Commerce, coordinates travel and tourism policies and programmes across federal agencies through the Tourism Policy Council, and works to enhance the international competitiveness of the travel and tourism industry and increase its exports.

39. The United States does not have a general e-commerce law; however, e-commerce is subject to a number of federal and state measures that address various aspects of it. Two federal agencies oversee different aspects of e-commerce: the Federal Trade Commission (FTC) and the Federal Communications Commission (FCC). The FTC has authority over unfair and deceptive practices in commerce on various aspects of e-commerce, and it may bring enforcement actions for such practices. The FCC regulates the communications aspect of e-commerce. Electronic contracts are governed by the Electronic Signatures in Global and National Commerce Act of 2000 (ESIGN Act), as well as by state laws that meet the requirements in the ESIGN Act.