



**Congressional  
Research Service**

Informing the legislative debate since 1914

---

# **International Trade and Finance: Key Policy Issues for the 114<sup>th</sup> Congress, 2<sup>nd</sup> Session**

**Mary A. Irace, Coordinator**  
Section Research Manager

**Shayerah Ilias Akhtar, Coordinator**  
Specialist in International Trade and Finance

February 29, 2016

**Congressional Research Service**

7-5700

[www.crs.gov](http://www.crs.gov)

R43841

## Summary

The U.S. Constitution grants authority to Congress to regulate commerce with foreign nations. Congress exercises this authority in numerous ways, including through oversight of trade policy and consideration of legislation to approve trade agreements and authorize trade programs. Policy issues cover such areas as U.S. trade negotiations, U.S. trade and economic relations with specific regions and countries, international institutions focused on trade, tariff and nontariff barriers, worker dislocation due to trade liberalization, trade remedy laws, import and export policies, international investment, economic sanctions, and other trade-related functions of the federal government. Congress also has authority over U.S. financial commitments to international financial institutions and oversight responsibilities for trade- and finance-related agencies of the U.S. government.

To date, the 114<sup>th</sup> Congress has passed legislation that:

- renews Trade Promotion Authority (TPA) to July 1, 2021 (subject to passage of an extension disapproval resolution in 2018), allowing implementing legislation for trade agreements to be considered under expedited legislative procedures, provided that certain statutory requirements are met;
- reauthorizes Trade Adjustment Assistance (TAA) through June 30, 2021, the Export-Import Bank (Ex-Im Bank) through September 30, 2019, and several U.S. trade preference programs on a multi-year basis;
- funds an increase in the U.S. quota at the International Monetary Fund (IMF), and authorizes the executive branch to vote in favor of IMF governance reforms; and
- reauthorizes the U.S. Customs and Border Protection (CBP).

Congress continued its oversight of the Administration's ongoing trade agreements and negotiations, and maintained economic sanctions against Iran, Cuba, Russia, and other countries, among other actions. Members also introduced a range of legislation on international trade and finance issues.

Congress may revisit these issues and address new ones. Among the more potentially prominent issues are:

- possible consideration of legislation to implement the proposed Trans-Pacific Partnership (TPP) free trade agreement (FTA);
- oversight of the Transatlantic Trade and Investment Partnership (T-TIP) FTA negotiations with the European Union (EU);
- possible action on a miscellaneous tariff bill (MTB);
- U.S.-China trade relations, including investment issues, intellectual property rights (IPR) protection, currency issues, and market access liberalization;
- international finance and investment issues, including ongoing implications of the Eurozone and Greek debt crisis, oversight of international financial institutions (IFIs), treatment of "currency manipulation," the creation of development and infrastructure banks by emerging economies, and U.S. negotiations on new bilateral investment treaties (BITs), notably with China and India;
- oversight of World Trade Organization (WTO) and other negotiations, including the completed WTO Trade Facilitation Agreement (TFA) and expansion of the

WTO Information Technology Agreement (ITA), as well as a potential WTO plurilateral Environmental Goods Agreement (EGA) and a separate potential plurilateral Trade in Services Agreement (TiSA);

- review of the President's export control reform initiative and possible renewal of the Export Control Act (EAA); and
- review of sanctions on Iran, Cuba, North Korea, Russia, and other countries.

## Contents

Introduction .....	1
International Economic Context.....	1
Evolving Trade Patterns and Policy Implications .....	2
The Role of Congress in International Trade and Finance .....	4
Policy Issues for Congress.....	5
Trade Promotion Authority (TPA).....	5
Trade Agreements and Negotiations .....	5
Trans-Pacific Partnership (TPP) .....	6
Transatlantic Trade and Investment Partnership (T-TIP).....	7
The World Trade Organization (WTO) and WTO Doha Round .....	8
Trade in International Services Agreement (TiSA).....	11
North American Free Trade Agreement (NAFTA) .....	12
U.S.-China Trade Relations.....	13
Industrial Policies .....	14
Intellectual Property Rights (IPR) Protection and Cybertheft .....	14
Chinese Economic Reforms and Rebalancing .....	15
Dialogues and Negotiations with China.....	15
U.S. Export and Investment Financing and Other Assistance.....	17
Export-Import Bank of the United States (Ex-Im Bank) .....	17
U.S. Overseas Private Investment Corporation (OPIC).....	19
International Trade Administration (ITA) of U.S. Department of Commerce .....	19
U.S. Trade and Development Agency (TDA).....	20
Export Controls and Sanctions.....	20
The President’s Export Control Initiative .....	20
Economic Sanctions.....	21
Import Policies .....	23
Trade Remedies.....	24
Trade Preferences.....	25
U.S. Customs and Border Protection (CBP) Reauthorization.....	28
Miscellaneous Tariff Bill (MTB) .....	29
Trade Adjustment Assistance (TAA).....	29
Intellectual Property Rights (IPR).....	30
IPR in Trade Agreements & Negotiations.....	31
Other IPR Trade Policy Tools .....	31
Digital Trade.....	32
Safe Harbor/EU-U.S. Privacy Shield.....	32
International Investment.....	33
Foreign Investment and National Security.....	33
U.S. International Investment Agreements (IIAs) .....	34
Promoting Investment in the United States.....	35
International Financial Institutions (IFIs), Markets, and Crises.....	36
International Monetary Fund (IMF).....	36
Multilateral Development Banks (MDBs).....	37
The Asian Infrastructure Investment Bank (AIIB) and BRICS Bank .....	38
Group of 20 (G-20) .....	39
Currency Debates.....	39
The Greek Debt Crisis .....	40

Argentina Sovereign Debt Default..... 41  
Looking Forward..... 41

**Figures**

Figure 1. U.S. International Investment Agreements ..... 34

**Tables**

Table 1. Voting Power of the Largest Shareholder ..... 38

**Appendixes**

Appendix A. Select CRS Products ..... 43

**Contacts**

Author Contact Information ..... 49  
Acknowledgments ..... 49

## Introduction<sup>1</sup>

During its first session, the 114<sup>th</sup> Congress faced numerous international trade and finance policy issues. These issues included legislation granting time-limited U.S. Trade Promotion Authority (TPA) to the President. TPA provides expedited congressional procedures for considering legislation to implement U.S. trade agreements that advance U.S. trade negotiating objectives and meet specific notification and consultative requirements. Congress also considered legislation to reauthorize the Export-Import Bank (Ex-Im Bank), Trade Adjustment Assistance (TAA), certain U.S. trade preference programs, and the commercial operations of U.S. Customs and Border Protection (CBP), as well as legislation to approve governance reforms at the International Monetary Fund (IMF). Additionally, Congress continued oversight of ongoing U.S. trade agreements and negotiations, and of U.S. economic sanctions against Iran, Cuba, North Korea, Russia, and other countries.

U.S. trade policy and international economic issues are likely to remain active areas of interest for the second session of the 114<sup>th</sup> Congress. With the recent conclusion of the Trans-Pacific Partnership (TPP) negotiations among the United States and 11 other Asia-Pacific nations, congressional attention may shift to possible consideration of legislation to implement the proposed TPP. Other trade negotiations underway of likely congressional oversight interest include multilateral and plurilateral negotiations at the World Trade Organization (WTO), negotiations on international trade in services (taking place outside of the WTO), and free trade agreement (FTA) negotiations between the United States and the European Union (EU).

International trade and finance issues are important to Congress because they can affect the health of the U.S. economy, the success of U.S. businesses and their workers, and the standard of living of Americans. They also have implications for U.S. geopolitical interests. Conversely, geopolitical tensions, risks, and opportunities can have major impacts on international trade and finance. These issues are complex and at times controversial, and developments in the global economy often make policy deliberation more challenging.

Congress is in a unique position to address these issues, particularly given its constitutional authority for legislating and overseeing international trade and financial policy. This report provides a brief overview of some of the trade and finance issues that may come before the second session of the 114<sup>th</sup> Congress. **Appendix A** provides a list of CRS products covering these issues in greater detail.

## International Economic Context

The global economy is projected to continue to recover slowly and unevenly from the 2008 financial crisis, and global trade growth is significantly slower compared to historical levels. Higher sustained rates of economic growth remain elusive in Japan, Canada, and parts of Europe. Emerging markets (EMs) as a group are facing growing vulnerabilities to their economies due to declining global trade, depreciating currencies, lower commodity prices (particularly oil), volatile equity markets, and, in certain areas, the lack of deeper economic reform. Growth rates have dropped sharply in several emerging markets, including Russia and Brazil. Additionally, China is attempting a managed slowdown as it navigates toward a more consumer-oriented economy. This combination of events is contributing to uncertainties that are jarring global financial markets and

---

<sup>1</sup> Written by Mary A. Irace, Section Research Manager (x7-7769), and James K. Jackson, Specialist in International Trade and Finance (x7-7751).

raising concerns over the pace of business investment that could dampen prospects for longer-term gains in productivity and sustained higher rates of economic growth.

Major decreases in oil and other commodity prices in 2015, while benefitting consumers and commodity-importing nations, reduced export earnings of commodity-producing countries and negatively affected investment, production, and employment in these sectors. Declining commodity prices also raise concerns about spillover effects onto major trading partners of EMs that depend on such exports. Shifts in international capital flows arising from changes in oil and commodity prices could add to uncertainties in global financial markets, raise risks for U.S. banks of non-performing loans made to the energy sector, and complicate the efforts of some major international banks to rebuild their capital bases.

The U.S. economy remains a relatively bright spot in terms of the global economic outlook, which could help sustain its position as a main driver of global economic growth. Although the United States is still recovering from its worst recession in eight decades, overall conditions have improved with unemployment down to below 5% in early 2016 from a high of 10% in 2009, and gross domestic product (GDP) growth projected to be in the range of 2-3% in 2016 and 2017. The substantial drop in the price of oil is impacting not only the global economy, but also the U.S. economy. The drop in energy prices is expected to raise consumer real incomes and improve the competitive position of some industries, but these positive effects are being offset to some degree by a drop in employment and investment in the energy sector.

Exchange rates continue to experience significant volatility, with a number of currencies depreciating against the U.S. dollar, including the Chinese renminbi, the Brazilian real, and the Russian ruble. Volatile currency and equity markets combined with uncertainties over global growth prospects and rates of inflation that remain below the target levels of a number of central banks could further complicate the efforts of the U.S. Federal Reserve to take additional steps to raise U.S. interest rates due to the U.S. economic recovery. In addition, other major economies, such as Europe and Japan, may continue to pursue more expansionary monetary policies and certain EMs may continue to experience downward pressure on their currencies. Uncertainties in global financial markets could put additional pressure on the dollar as investors may seek safe haven currencies and dollar-denominated investments. For some economies, volatile currencies and continued low commodity prices could add to sovereign debt issues, raising the prospect of sovereign defaults.

Since their peak in 2006, current account imbalances, as a share of world GDP, have fallen significantly, particularly the deficit in the United States and the surpluses in China and Japan. In the near term, concerns over a slowdown in global trade and the role the United States may play in supporting global growth as a major importer may overshadow potential concerns over global imbalances.

## **Evolving Trade Patterns and Policy Implications**

International trade and investment flows continue to evolve in significant ways, most notably through the growing integration of markets and production (e.g., the stages of transforming a good from its basic components into a final product for consumers now often occur in multiple countries) brought about by advances in technology, communications, transportation, and lower barriers to trade. These transformative changes in the global economy have decreased transaction costs and spurred growth in trade, particularly of intermediate goods, which now account for over 60% of the world's commercial exchange, as well as digital trade. According to the WTO, over the past 20 years, global trade in goods nearly quadrupled from \$5 trillion in 1995 to \$19 trillion

in 2014. From 1995-2014, the share of trade as a percentage of global GDP grew from 20% to 30%.

Domestically, jobs supported by trade relate to U.S. exports to U.S. foreign affiliates and production abroad, as well as foreign firms operating in the United States. These developments further complicate trade and employment policy debates, and raise other questions such as what constitutes an “American-made” product, who gains and who loses from trade, and how innovation and production strategies may continue to change the economic landscape.

Other transformative changes in the global economy are the growing role of China and other EMs and a more digitally-driven economy. These and other developments present significant opportunities and challenges for the United States as it seeks to achieve more open markets, transparent and rules-based trade, and financial and monetary stability in the global economy. They also have significant policy implications with respect to the role and evolution of international trade and financial institutions and the U.S. role in these institutions. The inability of WTO members to conclude the 2001 Doha Round of multilateral trade negotiations, for example, confronts the WTO with an existential challenge in terms of its ability to continue as a leading force for future trade liberalization. Partly in response, the United States continues to pursue “mega-regional” trade agreements like TPP and the U.S.-EU Transatlantic Trade and Investment Partnership (T-TIP) to break new ground in trade rules-setting and liberalization. Approaches to intellectual property rights (IPR), digital trade, and investment in U.S. trade negotiations, agreements, and programs also are expanding policy issues. The Group of 20 (G-20) process for furthering international economic cooperation among the world’s 20 largest economies and newer institutions like the China-led Asian Infrastructure Investment Bank (AIIB) also raise significant policy issues for the United States.

While global economic integration has increased trade and economic growth, it also has exposed U.S. firms and workers to greater competition from lower-cost and more efficient producers in certain sectors, and increasingly, from state-owned enterprises (SOEs) and other firms that receive government support. Globalization and the larger volume of imports of goods and services, therefore, may force some U.S. firms to make costly adjustments to remain competitive. In some cases this may take the form of worker dislocation and shifts to production abroad, and may raise concerns in Congress over distributional issues of global production and trade, how to respond to unfair foreign trade practices, and the scope and effectiveness of U.S. worker training and trade adjustment assistance programs.

The appreciation of the U.S. dollar relative to other major currencies has implications for U.S. and global trade. For the United States, an appreciating dollar could slow the rate of U.S. export growth and increase U.S. imports. While potentially improving consumer welfare and lowering the costs of imports used as inputs in U.S. production, it also may result in increased competitive pressures on U.S. import sensitive industries and create greater trade tensions.

In sum, the costs and benefits of an increasingly interconnected global economy to the United States are multifaceted. The trade policy debate extends beyond free trade versus protectionism, to also involve domestic and foreign macroeconomic policies, the participation of foreign states in markets, the competitiveness of U.S. firms and workers, the implications of global value chains, and the financial stability of the international economy. For the United States, an overarching goal is to ensure a high standard of living by remaining innovative, productive, and responsive to international competition. At the same time, the United States seeks to safeguard those stakeholders who otherwise may be left behind in a fast-changing global economy or injured by noncompetitive trade practices, which may suggest a supporting role for complementary domestic policies.

## **The Role of Congress in International Trade and Finance**

The U.S. Constitution assigns express authority over foreign trade to Congress. Article I, Section 8, of the Constitution gives Congress the power to “regulate commerce with foreign nations” and to “lay and collect taxes, duties, imposts, and excises.” For roughly the first 150 years of the United States, Congress exercised its power to regulate foreign trade by setting tariff rates on all imported products. Congressional trade debates in the 19<sup>th</sup> century often pitted Members from northern manufacturing regions, who benefitted from high tariffs, against those from largely southern raw material exporting regions, who gained from and advocated for low tariffs.

A major shift in U.S. trade policy occurred after Congress passed the highly protective “Smoot-Hawley” Tariff Act of 1930, which, by raising U.S. tariff rates to an all-time high level, led U.S. trading partners to respond in kind. As a result, world trade declined rapidly, exacerbating the impact of the Great Depression. Since the passage of the Tariff Act of 1930, Congress has delegated certain trade authority to the executive branch. First, Congress enacted the Reciprocal Trade Agreements Act of 1934, which authorized the President to enter into reciprocal agreements to reduce tariffs within congressionally pre-approved levels, and to implement the new tariffs by proclamation without additional legislation. Congress renewed this authority periodically until the 1960s. Second, Congress enacted the Trade Act of 1974, aimed at opening markets and establishing nondiscriminatory international trade for nontariff barriers as well. Because changes in nontariff barriers in reciprocal bilateral, regional, and multilateral trade agreements usually involve amending U.S. law, the agreements require congressional approval and implementing legislation. Congress has renewed and amended the 1974 Act five times, which includes granting “fast-track” trade negotiating authority. Since 2002, “fast track” has been known as trade promotion authority (TPA).

Congress also exercises trade policy authority through the enactment of laws authorizing trade programs and governing trade policy generally, as well as oversight of the implementation of trade policies, programs, and agreements. These include such areas as U.S. trade agreement negotiations, tariffs and nontariff barriers, trade remedy laws, import and export policies, economic sanctions, and the trade policy functions of the federal government.

Additionally, Congress has an important role in international investment and finance policy. It has authority over bilateral investment treaties (BITs) and the level of U.S. financial commitments to the multilateral development banks (MDBs), including the World Bank, and to the International Monetary Fund (IMF). It also authorizes the activities of such agencies as the Export-Import Bank (Ex-Im Bank) and the Overseas Private Investment Corporation (OPIC). Congress has oversight responsibilities over these institutions, as well as the Federal Reserve and the Treasury Department, whose activities affect international capital flows. Congress also closely monitors developments in international financial markets that could affect the U.S. economy.

## Policy Issues for Congress

### Trade Promotion Authority (TPA)<sup>2</sup>

Legislation to renew TPA—the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (P.L. 114-26)—was signed by President Obama on June 29, 2015, after months of debate and passage by both houses of Congress during the spring. TPA allows implementing bills for specific trade agreements to be considered under expedited legislative procedures—limited debate, no amendments, and an up or down vote—provided the President observes certain statutory obligations in negotiating trade agreements. These obligations include adhering to congressionally-defined U.S. trade policy negotiating objectives, as well as congressional notification and consultation requirements before, during, and after the completion of the negotiation process. The primary purpose of TPA is to preserve the constitutional role of Congress with respect to consideration of implementing legislation for trade agreements that require changes in domestic law, while also bolstering the negotiating credibility of the executive branch by ensuring that trade agreements will not be changed once concluded. Since the authority was first enacted in the Trade Act of 1974, Congress has renewed TPA five times (1979, 1984, 1988, 2002, and 2015). The latest grant of authority expires on July 1, 2021, provided that neither chamber introduces and passes an extension disapproval resolution by July 1, 2018.

### Trade Agreements and Negotiations

The United States has historically led in establishing multilateral agreements under the World Trade Organization (WTO) and its predecessor, the General Agreement on Tariffs and Trade (GATT), to reduce and eliminate barriers to trade and create nondiscriminatory rules and principles to govern trade. The United States also works to further advance these goals in plurilateral and bilateral contexts (see **text box**). It has concluded 14 free trade agreements (FTAs) with 20 countries since 1985, when the first U.S. bilateral FTA was concluded with Israel.

#### U.S. Trade Agreement Basics

U.S. trade agreements generally are negotiated:

- on the basis of **U.S. trade negotiating objectives** established by Congress;
- by the **U.S. Trade Representative (USTR)**, who is the lead U.S. trade negotiator and responsible for developing and coordinating U.S. trade policy;
- with **interagency processes** and **advisory systems** to provide support and take into account **stakeholder input**;
- to seek **market access** in goods, services, and agriculture by reducing and eliminating **tariff and non-tariff barriers** and to establish **trade-related rules and disciplines**;
- on a **reciprocal basis**, with the United States granting concessions in exchange for concessions from trading partner(s);
- with the goal of concluding agreements that are **“comprehensive and high standard,”** covering substantially all trade and setting high standard rules for trade that generally exceed current WTO levels of commitment; and
- in one of four forms: **multilateral** (with all WTO members), **plurilateral** (with a subset of WTO members), **regional** (such as NAFTA and TPP), or **bilateral** (with one country, such as KORUS).

<sup>2</sup> Written by Ian F. Fergusson, Specialist in International Trade and Finance (x7-4997). See CRS Report RL33743, *Trade Promotion Authority (TPA) and the Role of Congress in Trade Policy*, by Ian F. Fergusson; CRS Report R43491, *Trade Promotion Authority (TPA): Frequently Asked Questions*, by Ian F. Fergusson and Richard S. Beth; and CRS In Focus IF10297, *The Trans-Pacific Partnership (TPP)-Trade Promotion Authority (TPA) Timeline*, by Ian F. Fergusson.

Several trade negotiations were recently concluded or are underway with important regions. Among these are negotiations on the Trans-Pacific Partnership (TPP), which the United States and 11 other countries in the Asia-Pacific region concluded in October 2015. Negotiations also are underway between the United States and the European Union (EU) on a potential Transatlantic Trade and Investment Partnership (T-TIP). In addition, the United States is engaged in trade liberalization efforts within and around the WTO. These include negotiations concluded in December 2015 to expand the WTO Information Technology Agreement (ITA), as well as separate ongoing plurilateral negotiations on a potential Trade in Services Agreement (TiSA). Congress may also wish to examine the agreements reached during the December 2013 WTO Ministerial in Bali, Indonesia, including the Trade Facilitation Agreement (TFA).

### Trans-Pacific Partnership (TPP)<sup>3</sup>

The Trans-Pacific Partnership (TPP) is a proposed free trade agreement (FTA) among 12 countries in the Asia-Pacific region (see **text box**). The Obama Administration casts TPP as a comprehensive and high standard agreement with economic and strategic significance for the United States. If ratified, it would be the largest U.S. FTA by trade flows to date, as it includes three of the five largest U.S. trade partners—Canada, Mexico, and Japan. The 12 TPP countries (including the United States) announced the conclusion of the TPP negotiations on October 5, 2015, following several years of talks. President Obama publicly released the text of the agreement and notified Congress of his intent to sign it on November 5, 2015. The 12 TPP ministers officially signed the agreement on February 4, 2016. In its second session, the 114<sup>th</sup> Congress is expected to continue to review the negotiated TPP text and may consider the implementing legislation necessary for the agreement to enter into force in the United States. Such legislation would be eligible to receive expedited consideration under Trade Promotion Authority (TPA) (P.L. 114-26) if Congress determines that the proposed TPP advances U.S. trade negotiating objectives and meets various notification and consultation requirements under TPA. There are various TPA timelines for consideration of TPP implementing legislation.

TPP Facts
• <b>Negotiations concluded:</b> 10/5/2015.
• <b>Agreement text released:</b> 11/5/2015.
• <b>Date signed:</b> 2/4/2016.
• <b>*Earliest possible date for implementing legislation:</b> 3/14/2016.
• <b>12 countries participating:</b> Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States, Vietnam.
• <b>Number of chapters in the TPP text:</b> 30.
• <b>Value of total 2014 U.S. goods and services trade with TPP countries:</b> \$1.9 trillion.
(*)Timeline required to comply with provisions of Trade Promotion Authority legislation.

Through the proposed TPP, the participating countries seek to liberalize trade and investment and establish new rules and disciplines beyond those that already exist in World Trade Organization (WTO) agreements. The FTA is envisioned as a “living agreement” open to future members and new issues, and it may become a vehicle to advance a wider Asia-Pacific free trade area. South Korea, Taiwan, the Philippines, Indonesia, and Colombia, among others, have indicated interest in joining the TPP. The TPP is also a U.S. policy response to the rapidly increasing economic and strategic linkages among Asian-Pacific nations. It has become the economic centerpiece of the Administration’s “rebalance” toward the region. The TPP slowly evolved from a more limited agreement among four countries concluded in 2006 into the current 12-country proposed FTA,

<sup>3</sup> Written by Ian F. Fergusson, Specialist in International Trade and Finance (x7-4997), and Brock R. Williams, Analyst in International Trade and Finance (x7-1157). See CRS Insight IN10443, *CRS Products on TPP*, by Ian F. Fergusson and Brock R. Williams.

with the United States joining the negotiations in 2008. Japan, the most recent country to participate, joined the negotiations in 2013. Japan's participation significantly increased the potential economic significance of the agreement to the United States because Japan is the largest economy and trading partner without an existing U.S. FTA among TPP negotiating partners (thus having greater scope for trade liberalization with the United States). The United States has existing FTAs with six of the countries participating in the TPP (Australia, Canada, Chile, Mexico, Peru, and Singapore).

Views on the likely impact of the proposed agreement vary. Proponents argue that the TPP will boost economic growth and jobs through expanded trade and investment with countries accounting for 37% of total U.S. trade (2014 data), and deepen U.S. trade and investment integration in what many see as the region with the world's greatest economic opportunities. Proponents also argue the agreement allows the United States to "write the rules" of trade and investment in the region, including new disciplines on issues such as digital trade barriers, state-owned enterprises (SOEs), and regulatory coherence, and to show its strategic engagement and economic leadership in the Asia-Pacific region. Opponents voice concerns over possible job losses and competition in import-sensitive industries. They also raise concerns that the proposed TPP will limit the U.S. government's ability to regulate in areas such as health, food safety, and the environment. The U.S. International Trade Commission will assess the potential economic impacts of the agreement in a legislatively-mandated report due in May 2016.

Throughout the TPP negotiations, certain issues have proven controversial. These include select market access issues (such as on dairy and other agricultural products, autos, and textiles and apparel) as well as the level of intellectual property protection, the scope and enforcement of environment and worker rights provisions, the treatment of SOEs, approaches to investor-state dispute settlement, access to government procurement, and the potential inclusion of provisions on currency valuation and exchange rates. Congress, in reviewing the proposed TPP agreement, may wish to consider, among other issues: whether the TPP advances U.S. negotiating objectives established in TPA; the potential economic impact of the agreement on U.S. firms, workers, and consumers; the TPP's potential geopolitical impact on U.S. relations in the region; and its influence on the multilateral trading system.

### **Transatlantic Trade and Investment Partnership (T-TIP)<sup>4</sup>**

T-TIP is a potential FTA between the United States and European Union (EU), through which the two sides seek to enhance trade rules and market access by addressing remaining transatlantic barriers to trade and investment (see **text box**). T-TIP negotiations between the United States and the EU are ongoing. Both sides initially aimed to conclude the negotiations in two years, but have extended that goal a number of times. The timing for concluding T-TIP is now uncertain due to the complexity of unresolved issues and the current U.S. focus on the proposed Trans-Pacific Partnership (TPP), among other factors.

Core components of the T-TIP negotiations include: reducing and eliminating tariffs; enhancing cooperation, convergence, and transparency in regulations and standards-setting processes; further opening government procurement markets; and strengthening and developing new rules in areas such as intellectual property rights, investment, digital trade, trade facilitation, labor and the

---

<sup>4</sup> Written by Shayerah Ilias Akhtar (x7-9253) and Vivian C. Jones (x7-7823), Specialists in International Trade and Finance. See CRS Report R43387, *Transatlantic Trade and Investment Partnership (T-TIP) Negotiations*, by Shayerah Ilias Akhtar, Vivian C. Jones, and Renée Johnson; and CRS In Focus IF10120, *Transatlantic Trade and Investment Partnership (T-TIP)*, by Shayerah Ilias Akhtar and Vivian C. Jones.

environment, localization barriers to trade, and state-owned enterprises. Some potential rules could exceed existing U.S. FTA or World Trade Organization (WTO) commitments. Issues of active debate in T-TIP include regulatory cooperation, which is sensitive in part because of divergent U.S. and EU cultural preferences and values, and approaches to investor-state dispute settlement, complicated by differing views on its role in protecting investors and its impact on the ability of governments to regulate for public welfare. Other areas of debate include treatment of geographical indications (which protect distinctive products from a certain region, e.g., Parmesan cheese from the Parma region of Italy) and facilitation of data across borders.

Not only is T-TIP potentially significant economically and strategically for the United States and the EU, but it also carries global significance. T-TIP involves the world's two largest advanced economies and covers a major share of global trade and investment. However, views on the potential agreement differ. Supporters see T-TIP as an opportunity to boost transatlantic economic growth and jobs, strengthen the U.S.-EU bilateral relationship, support broader and deeper trade liberalization, and develop globally-relevant rules. Opponents voice concern over T-TIP's potential adverse effects on import sensitive sectors, its impact on U.S.-EU relations should negotiations stall, a focus on regional and bilateral FTAs detracting from multilateral trade liberalization, and potential infringement on the ability of governments to regulate in health, environmental, and other areas.

#### T-TIP Basics

- **U.S.-EU High-Level Working Group report:** Called for United States and EU to negotiate FTA, 2/11/13.
- **Date negotiations started:** 7/8/2013.
- **Number of negotiating rounds:** 12 rounds through February 2016.
- **Status of negotiations:** Ongoing.
- **\*Possible chapters:** 24 chapters, grouped in 3 parts (market access, regulatory cooperation, and rules).
- **U.S.-EU goods and services trade in 2014:** \$1.1 trillion (21% of U.S. global trade).
- **U.S.-EU investment in 2014:** \$4.2 trillion (54% of U.S. world investment stock).

(\*)Based on European Commission documents.

Congress has a direct interest in the T-TIP negotiations because it establishes overall U.S. trade negotiating objectives and would approve future implementing legislation for any final T-TIP agreement to enter into force. As it continues oversight of the negotiations, Congress may wish to examine to what extent T-TIP may address U.S. trade negotiating objectives. T-TIP presents other possible issues to Congress, including T-TIP's potential impact on the U.S. economy and particular sectors, its role in U.S.-EU relations and broader strategic implications, and its relationship to the proposed TPP and other trade agreements. Other possible issues include whether the potential agreement should be broadened to include other countries (e.g., Canada, Mexico, and Turkey).

### The World Trade Organization (WTO) and WTO Doha Round<sup>5</sup>

The WTO is an international organization that administers the trade rules and agreements negotiated by 162 participating members. It also serves as a forum for dispute settlement resolution and trade liberalization negotiations. The United States was a major force behind the establishment of the WTO on January 1, 1995, and the new rules and trade liberalization agreements that occurred as a result of the Uruguay Round of multilateral trade negotiations

<sup>5</sup> Written by Ian F. Fergusson, Specialist in International Trade and Finance (x7-4997), and Rachel Fefer, Analyst in International Trade and Finance (x7-1804). See CRS In Focus IF10002, *The World Trade Organization*, by Ian F. Fergusson and Rachel F. Fefer; and CRS Report R43592, *Agriculture in the WTO Bali Ministerial Agreement*, by Randy Schnepf.

(1986-1994). The WTO succeeded the General Agreement on Tariffs and Trade (GATT), which was established in 1947.

The WTO Doha Round of multilateral trade negotiations, begun in November 2001, has remained deadlocked for several years. At the WTO's 9<sup>th</sup> Ministerial Conference, held in Bali, Indonesia, in 2001, WTO members agreed to a package of trade facilitation, agriculture, and development measures. Though considered modest in scope, it represented the first successful conclusion of a negotiation in the WTO's nearly 20-year history. The Bali agreements also directed the WTO Secretariat to develop a clearly defined work program to complete the Doha Round. However, the 10<sup>th</sup> Ministerial Conference, held in Nairobi, Kenya in December 2005, concluded with no clear path forward for the WTO Doha Round. Trade ministers and their senior representatives in Nairobi did reach consensus on a limited set of deliverables (see **text box**). While the Nairobi Ministerial Declaration affirms the WTO as an important consensus-driven multilateral institution, it does not clearly endorse the continuation of the Doha Round and reflects the wide division among WTO members. The WTO's future as an effective multilateral trade negotiating organization remains in question. The deadlock in negotiations is largely due to differences between developing and advanced countries. Most developing countries want to continue to link the broad spectrum of agricultural and non-agricultural issues under the Doha Round. They maintain that unless all issues are addressed in a single package, issues important to developing countries will be ignored. Conversely, the developed economies have pushed for change, arguing that the WTO needs to address new issues, such as digital trade and investment, especially given the growth of major emerging markets, such as China and India.

Looking forward, the Nairobi Declaration underscored the importance of a multilateral rules-based trading system with regional and plurilateral agreements as a complement to, not a substitute for, the multilateral forum. Some WTO members, such as the United States and European Union (EU), support continued efforts to address the outstanding issues from the Doha Round, but advocate for new approaches rather than the single undertaking process in which no issue can move forward without agreement in all other areas. Such approaches could include de-linking the agriculture from the various non-agriculture issues within the WTO context, or pursuing separate sectoral agreements as is being done inside and outside the WTO. To this end, work continues to build on the current WTO agreements outside the scope of the Doha Round, including through plurilateral agreements that involve only a subset of WTO members. These efforts include:

### WTO 10th Ministerial Deliverables

A package for least developed countries sets non-binding preferential rules of origin stating that a “[p]reference-granting Member shall... consider... allowing the use of non-originating materials up to 75% of the final value of the product....” The package also extends the services waiver for granting preferences to these countries. It addressed the four pillars of export competition:

- **Export subsidies** will be phased out immediately in developed countries and in three years for developing countries (with some exceptions). Any remaining subsidies cannot have trade-distorting effects, and require transparency. None of the commitments are legally binding or subject to dispute settlement.
- **Export financing** will have a maximum 18-month repayment period as advocated by the United States.
- **Agricultural exporting state trading enterprises** will not be allowed to circumvent the export competition commitments and should minimize any trade distortions.
- Agreed to **food aid** provisions, similar to a U.S. proposal but weaker than those proposed by several countries, do not place a limit on monetization (counting donated food items sold by non-governmental organizations in a country as aid).

WTO members agreed to continued review of the **special safeguard mechanism** (allowing developing countries to temporarily raise tariffs in cases of import surges) and negotiation of a resolution on **public stockholding programs for food security**, both advocated for by India.

- **WTO Trade Facilitation Agreement (TFA).** The TFA, which aims to streamline the flow of goods across borders, was finalized in Bali in 2013 and was the first formal new agreement reached under the WTO. Originally part of the Doha Round, the agreement contains provisions to expedite and achieve greater transparency in the movement, release, and clearance of goods, including goods in transit. The TFA will be implemented after two-thirds of WTO's currently 162 members have ratified the deal; 69 members (including the United States) have ratified it to date.
- **WTO Information Technology Agreement (ITA).** The ITA, originally concluded in 1996 by a subset of WTO members, provides tariff-free treatment for covered IT products. While a plurilateral agreement, it is applied on a most-favored-nation (MFN) basis so that all WTO members benefit from the tariff cuts. ITA members have been involved in negotiations to expand the agreement. During the 2015 Nairobi Ministerial, the United States and other parties finalized an updated version of the ITA, further cutting tariffs on IT products. The expanded ITA will eliminate tariffs over a seven-year period on 201 additional goods over the 1996 original ITA. According to the WTO, the goods represent \$1.3 trillion in annual global sales (10% of global trade), \$180 billion by U.S. companies. Notably, Turkey, an original ITA member, did not join the revised version, and China maintained lengthy staging timeframes (up to seven years) on tariffs for approximately 40% of the items covered.
- **WTO Government Procurement Agreement (GPA).** The GPA is a plurilateral agreement that provides market access for various non-defense government projects to its signatories. Each member submits lists of government entities and goods and services (with thresholds and limitations) that are open to bidding by firms of the other GPA members. Non-GPA signatories do not enjoy any rights under the GPA. Negotiations to expand the GPA were concluded in March 2012, and a revised GPA entered into force on April 6, 2014. The United States is among the 45 WTO members that are a part of the GPA. Several countries, including China, are in negotiations to accede to the GPA. Armenia, Montenegro, and New Zealand joined the GPA in 2015.
- **WTO Environmental Goods Agreement (EGA).** In July 2014, the United States and 13 other countries launched plurilateral negotiations within the WTO to liberalize trade in environmental goods and services, which are viewed as promoting sustainable development—through tariff elimination. The first stage of the talks builds on a list of 54 environmental goods produced by the members of the Asia Pacific Economic Cooperation (APEC) forum and, like the ITA, is being conducted on an open plurilateral basis, meaning that all benefits achieved through negotiation would be extended on a MFN basis to all members of the WTO. Thus, achieving a “critical mass” of participation by the producers of such goods—suggested to be 90%—is considered necessary to avoid the problem of free-riders. In 2016, negotiators are expected to continue to work on finalizing the scope of products to be covered under the potential tariff-cutting EGA.
- **Trade in Services Agreement (TiSA).** TiSA is a potential agreement outside of the WTO structure but building on WTO agreements. A group now composed of 23 developed and advanced developing members, including the United States and the EU, are negotiating the TiSA plurilaterally (see below).

## Trade in International Services Agreement (TiSA)<sup>6</sup>

TiSA is a potential agreement that would liberalize trade in services among its signatories (see **text box**). The term “services” refers to an expanding range of economic activities, such as construction, retail and wholesale sales, e-commerce, financial services, professional services (such as accounting and legal services), logistics, transportation, tourism, and telecommunications. The impetus for TiSA comes from the lack of progress in the World Trade Organization (WTO) Doha Round on services trade liberalization. Given the impasse in the WTO, a subset of WTO members, led by the United States and Australia, launched informal discussions in

early 2012 to explore negotiating a separate agreement focused on trade in services. On January 15, 2013, the Office of the United States Trade Representative (USTR) notified Congress of the United States’ intention to engage formally in negotiations to reach a plurilateral TiSA. Negotiations began on April 15, 2013, and, as of February 2016, 16 rounds of TiSA negotiations and intercessional meetings have taken place in an effort to make further progress. The final scope and structure of TiSA are still under negotiation, but participants aim to conclude negotiations in 2016. The United States and the 22 other TiSA participants account for more than 70% of global trade in services. China has expressed interest in joining the TiSA.

Negotiations on services present unique trade policy issues, such as how to construct trade rules that are applicable across a wide range of varied economic activities. The General Agreement on Trade in Services (GATS) under the WTO is the only multilateral set of rules on trade in services. GATS came into effect in 1995, and many policy experts have argued that the GATS must be updated and expanded if it is to govern services trade effectively. This prospect is diminished given that GATS reform is part of the stalled Doha Round of WTO negotiations.

The TiSA negotiations are of congressional interest given the significance of the services sector in the U.S. economy and TiSA’s potential impact on domestic services industries. Services account for almost 78% of U.S. gross domestic product (GDP) and for over 80% of U.S. civilian employment. They not only function as end-user products by themselves, but they also act as the “lifeblood” of the rest of the economy. For example, transportation services ensure that goods reach customers and financial services provide financing for the manufacture of goods, while e-commerce and cross-border data flows allow customers to download products and companies to manage global supply chains. Services have been an important priority in U.S. trade policy and of global trade in general.

The 114<sup>th</sup> Congress may wish to continue oversight of the TiSA negotiations. Opening services markets globally has been a longstanding U.S. trade negotiating objective. In the 2015 Trade

### TiSA Facts

- **Negotiations launched:** April 2013.
- **Number of negotiating rounds:** 16 rounds through February 2016.
- **Type of agreement:** Plurilateral agreement outside WTO.
- **Number of parties:** 23 (Australia, Canada, Chile, Taiwan [Chinese Taipei], Colombia, Costa Rica, the EU [28 members], Hong Kong, Iceland, Israel, Japan, South Korea, Liechtenstein, Mauritius, Mexico, New Zealand, Norway, Pakistan, Panama, Peru, Switzerland, Turkey, and the United States).
- **Potential scope:** Market access, rules and disciplines, and specific service sectors; final scope and structure still under negotiation.
- **Status of negotiations:** Ongoing.

<sup>6</sup> Written by Rachel Fefer, Analyst in International Trade and Finance (x7-1804). See CRS Report R44354, *Trade in Services Agreement (TiSA) Negotiations: Overview and Issues for Congress*, by Rachel F. Fefer; CRS In Focus IF10311, *Trade in Services Agreement (TiSA) Negotiations*, by Rachel F. Fefer; and CRS Report R43291, *U.S. Trade in Services: Trends and Policy Issues*, by Rachel F. Fefer.

Promotion Authority (TPA) legislation, Congress included specific provisions establishing U.S. trade negotiating objectives on services trade to expand competitive market opportunities and obtain fairer and more open conditions of trade. TiSA negotiations are occurring under the context of TPA, and Congress would have to approve implementing legislation for TiSA for it to enter into force in the United States.

### **North American Free Trade Agreement (NAFTA)<sup>7</sup>**

NAFTA, a comprehensive FTA among the United States, Canada, and Mexico, entered into force on January 1, 1994. It continues to be of interest to Congress because of the strong U.S. trade and investment ties with Canada and Mexico, NAFTA's significance for U.S. trade policy, and how the proposed Trans-Pacific Partnership Agreement (TPP) might affect NAFTA. NAFTA initiated a new generation of trade agreements influencing negotiations in areas such as market access, rules of origin, intellectual property rights (IPR), foreign investment, dispute resolution, worker rights, and environmental protection. If the TPP enters into force, it would affect the rules that have governed North American trade since NAFTA. Stronger and more enforceable labor and environmental provisions, for example, could alter some aspects of the U.S. trade relationship with both Mexico and Canada.

The rising number of bilateral and regional trade agreements globally and the growing presence of China in Latin America could have implications for U.S. trade policy with its NAFTA partners. Proponents of a stronger North American trade relationship contend that forming deeper trade and investment ties would have positive implications for economic growth, corporate governance, worker rights, environmental protection, and democratic governance. However, labor groups and some consumer advocacy groups argue that additional trade liberalization would have negative effects. They maintain that trade agreements result in outsourcing, lower wages, and job dislocation.

Both proponents and critics of NAFTA agree that the three countries should consider the strengths and shortcomings of the agreement as they look to the future of North American trade and economic relations. Policies could include:

- strengthening institutions to protect the environment and worker rights;
- considering the establishment of a border infrastructure plan, including more investment in infrastructure to make border crossings more efficient;
- increasing regulatory cooperation;
- promoting research and development to enhance the global competitiveness of North American industries; and/or
- creating more efforts to lessen income differentials within the region.

Some of these considerations may be addressed in the proposed TPP. If the agreement is approved by the United States, Canada, and Mexico, and if it enters into force, the three countries will have modified or expanded commitments in areas such as IPR, state-owned enterprises, global value chains, discriminatory regulatory barriers, labor, and environmental provisions.

---

<sup>7</sup> Written by M. Angeles Villarreal, Specialist in International Trade and Finance (x7-0321). See CRS Report R42965, *The North American Free Trade Agreement (NAFTA)*, by M. Angeles Villarreal and Ian F. Fergusson; and CRS In Focus IF10047, *North American Free Trade Agreement (NAFTA)*, by M. Angeles Villarreal.

## U.S.-China Trade Relations<sup>8</sup>

Since China embarked upon economic and trade liberalization in 1979, U.S.-Chinese economic ties have grown extensively and total bilateral trade rose from about \$2 billion in 1979 to \$604 billion in 2015. China was the United States' second-largest trading partner, largest source of imports (estimated at \$486 billion), and third largest export market (\$118 billion). U.S. foreign affiliates' sales in China totaled \$368 billion (U.S. Bureau of Economic Analysis data). China's economic rise and economic policies are significant for the U.S. and global economy (see **text box**) and, hence, of major interest to Congress.

China has been one of the fastest growing markets for U.S. exports. From 2006 to 2015, U.S. exports to China doubled (from \$55.2 billion to \$115.7 billion). China is important to the global supply chain for many U.S. companies, some of which use China as a final point of assembly for their products. China's large population, vast infrastructure needs, and rising middle class could make it an even more significant market for U.S. businesses. For example Boeing Corporation predicts that over the next 20 years China will need 6,020 new airplanes valued at \$870 billion.

Some analysts voice concern that China faces major economic challenges, noting the sharp declines in China's two main stock exchanges since June 2015, despite the Chinese government's extensive intervention to stem the slide, and the renminbi's depreciation since August 2015. China's economic growth has also slowed, with an estimated 6.9% growth rate in 2015 (compared to its 9.7% average rate over the past few decades) that is forecasted to slow to 6% by 2017 (International Monetary Fund data).

Despite growing U.S.-Chinese commercial ties, the bilateral relationship is complex and at times contentious. From the U.S. perspective, many trade tensions stem from China's incomplete transition to an open-market economy. While China has significantly liberalized its economic and trade regimes over the past three decades—especially since joining the World Trade Organization (WTO) in 2001—it continues to maintain (or has recently imposed) a number of state-directed policies that appear to distort trade and investment flows. Some Members argue that such policies often undermine U.S. economic interests and cause job losses in several U.S. economic sectors. Major areas of congressional concern are discussed below.

### Significance of China's Economic Rise

Listed below are examples of various economic indicators where China is number one.

**Economy.** China's gross domestic product (GDP) on a purchasing power parity (PPP) basis overtook the U.S. economy in 2014. China's PPP GDP in 2015 was \$19.8 trillion (10% higher than the U.S. level).

**Trade.** China surpassed the United States as the world's largest trading economy (exports plus imports) in 2012. China's total trade in 2015 was \$3.9 trillion.

**Manufacturer.** China overtook the United States in 2010 as the world's largest manufacturer on a gross value added basis, and in 2014, China's level (at \$2.9 trillion) was 40% higher than the U.S. level.

**Foreign exchange reserves.** Despite declining by \$760 billion from July 2014, to January 2016, China's reserves remain massive at \$3.23 trillion.

**Foreign holder of U.S. Treasury securities.** China overtook Japan as the largest foreign holder of U.S. Treasury debt in 2008. Its holdings at the end of 2015 were \$1.25 trillion. These large-scale holdings help the U.S. government finance its budget deficits, helping to keep U.S. real interest rates low.

**General Motors (GM) vehicles sold.** GM, which has invested heavily in China, sold more cars in China than any other country (including the United States) each year from 2010-2015. GM's vehicle sales in China in 2015 were 3.6 million vehicles (36.9% of GM's global sales).

**Crude steel production.** At 823 million metric tons in 2014, China's production of crude steel accounted for 49.4% of the global total.

<sup>8</sup> Written by Wayne M. Morrison, Specialist in Asian Trade and Finance (x7-7767). See CRS Report RL33536, *China-U.S. Trade Issues*, by Wayne M. Morrison; CRS Report RL33534, *China's Economic Rise: History, Trends, Challenges, and Implications for the United States*, by Wayne M. Morrison; and CRS In Focus IF10030, *U.S.-China Trade Issues*, by Wayne M. Morrison.

## **Industrial Policies**

China has implemented numerous policies to promote the development of domestic industries deemed critical to its future economic growth. China's primary goals include transitioning from a manufacturing center to a major global source of innovation and reducing the country's dependence on foreign technology by promoting "indigenous innovation." The latter policy may discriminate against foreign firms and has been a recent source of trade tension with the United States. The Chinese government responded that it has not and will not discriminate against foreign firms or violate global trade rules, but many U.S. business leaders remain skeptical even as they have acknowledged China's pledge to delink indigenous innovation from government procurement. Some U.S. firms raise concerns about Chinese pressure to establish production facilities in China, share proprietary technology with Chinese partners, or set up R&D centers as a condition for gaining market access. Over the past year or so, several foreign business groups voiced concern over China's enforcement of its anti-monopoly laws, arguing that such enforcement may unfairly target foreign firms. The Obama Administration initiated WTO dispute settlement cases against a number of Chinese industrial policies, including China's preferential tax policies toward domestically-produced small planes (December 2015) and certain measures providing subsidies contingent upon export performance to enterprises in several industries in China (February 2015).

## **Intellectual Property Rights (IPR) Protection and Cybertheft**

American firms cite the lack of effective and consistent protection and enforcement in China of U.S. IPR as one of the largest challenges they face in doing business in China. Although China has significantly improved its IPR protection regime over the past few years, U.S. industry officials view piracy rates in China as unacceptably high. A 2015 survey by the American Chamber in China found that 78% of respondents felt that China's IPR enforcement regime was ineffective, up from 59% in its 2012 survey. A May 2013 study by the Commission on the Theft of American Intellectual Property, a commission co-chaired by Dennis C. Blair, former U.S. Director of National Intelligence, and former U.S. Ambassador to China, Jon Huntsman, estimated that China accounted for up to 80% (\$240 billion) of the annual cost to the U.S. economy of global IPR theft (\$300 billion).

Cyberattacks by Chinese entities against U.S. firms have raised concerns over the potential theft of U.S. IPR, especially trade secrets, and its implications for the U.S. economy. A February 2013 report by Mandiant, a U.S. information security company, documented extensive economic cyber espionage by a Chinese unit (designated as "APT1") with alleged links to the Chinese People's Liberation Army (PLA) against 141 firms, covering 20 industries, since 2006. On May 19, 2014, the U.S. Department of Justice issued a 31-count indictment against five members of the Chinese People's Liberation Army (PLA) for cyber espionage and other offenses that allegedly targeted five U.S. firms and a labor union for commercial advantage, the first time the federal government initiated such action against state actors.

On April 1, 2015, President Obama issued Executive Order 13964 authorizing certain sanctions against "persons engaging in significant malicious cyber-enabled activities." Shortly before Chinese President Xi's state visit to the United States in September 2015, some press reports indicated that the Obama Administration was considering imposing sanctions against Chinese entities over cyber-theft, even possibly before the arrival of President Xi, which some analysts speculated might have caused the Chinese President to cancel his visit. This appears to have prompted China to send a high-level delegation to Washington, D.C. to hold four days of talks (September 9-12) with U.S. officials over cybersecurity.

On September 25, 2015, President Obama and President Xi announced that they had reached an agreement on cybersecurity. The agreement stated that neither country's government will conduct or knowingly support cyber-enabled theft of intellectual property, including trade secrets or other confidential business information, with the intent of providing competitive advantages to companies or commercial sectors. They also agreed to set up a high-level dialogue mechanism (which would meet twice a year) to address cybercrime and to improve two-way communication when cyber-related concerns arise (including the creation of a hot line). Analysts differ on how the agreement will address bilateral cybertheft issues. Some view it as a good first step to developing rules governing cyber-theft of commercial IPR. Others are more skeptical, noting that the Chinese government denies engaging in cybertheft of trade secrets to gain competitive advantage and instead claims China is the "biggest victim" of such activity. In addition, critics contend it is often extremely difficult to identify hackers, let alone trace cybertheft back to a government entity.

### **Chinese Economic Reforms and Rebalancing**

A major focus of U.S. economic policy towards China has been to encourage China to rebalance its economy by reducing its policy preference for exporting and investing, and to increase an emphasis on consumer demand. This goal could be achieved with a number of policies to boost household incomes (e.g., developing a social safety net and reducing the need to maintain high rates of savings) and implementing reforms to reduce distortive government policies (e.g., maintaining an undervalued currency and using the government-controlled banking system to subsidize state-owned enterprises). Many economists argue that boosting Chinese domestic consumption and eliminating distortive economic policies would greatly increase China's demand for imports, promote greater competition in China, improve Chinese living standards, and help reduce trade tensions with the United States.

From November 9-12, 2013, the Communist Party of China held the 3<sup>rd</sup> Plenum of its 18<sup>th</sup> Party Congress, a meeting that many analysts anticipated would result in the initiation of extensive new economic reforms under China's new leadership. Following the meeting, the Communist Party issued a communique with a number of broad policy statements. One highlighted by the Chinese media was that the market would now play a "decisive" role in allocating resources in the economy. Some business groups note that the Chinese government has implemented some economic reforms since the 3<sup>rd</sup> Plenum was held, such as removing controls on interest rates and allowing market forces to play a larger role in the exchange rate value of its currency (the renminbi). At the same time, some argue that overall these reforms have had only a marginal effect on the ability for foreign firms to do business in China and that the business climate in China has worsened in recent years. Many economists note that China's economy has slowed in recent years and warn that it could face stagnation if comprehensive new economic reforms are not implemented. The Chinese government's 13<sup>th</sup> five-year plan, expected to be released in March 2016, may contain an extensive blueprint to significantly reform the Chinese economy.

### **Dialogues and Negotiations with China**

The United States engages China through a number of fora that aim to resolve trade disputes and expand bilateral trade and investment relations. These include broad-based fora such as the U.S.-China Strategic & Economic Dialogue (S&ED) and the U.S.-China Joint Commission on Commerce and Trade (JCCT), as well as engagement in other settings to discuss specific issues such as cybercrime (see previous section) and new disciplines on export financing (see "Export-Import Bank (Ex-Im Bank)" section). Congress may conduct oversight of bilateral engagement in

these dialogues and negotiations. Highlights of engagement on commercial issues in these fora include the following.

- **S&ED.** First established under the Bush Administration, the S&ED represents the highest-level bilateral forum to discuss a broad range of issues between the United States and China. China committed to number of outcomes at the most recent June 2015 S&ED talks, including to deepen market-oriented exchange rate reforms, rebalance the economy toward greater domestic consumption, further liberalize the financial sector (including interest rate reforms and expanded access for foreign firms), and participate in multilateral discussions on reaching an agreement on disciplines for export financing. China also pledged to improve transparency and expand consultations with the United States on proposed rules on information and communications technology (ICT), which many foreign ICT firms contend are discriminatory or could require them to turn over sensitive technologies and IP to the Chinese government, among other commitments.
- **JCCT.** Established in 1983, the JCCT focuses primarily on bilateral trade and investment issues. At the November 2015 session of the JCCT, China made several commitments to address specific U.S. trade concerns, including that it would boost market access for new biotechnology varieties of U.S. soybeans and corn, increase cooperation in biotechnology innovation, increase cooperation on food safety, expand protection of trade secrets, improve market access for U.S. pharmaceuticals and medical devices, implement reforms to its anti-monopoly laws, discuss overcapacity of its steel and aluminum industries, and allow banks to purchase ICT products of their own choosing.
- **Bilateral Investment Treaty (BIT).** In 2008, the United States and China began negotiations for a BIT with the goal of expanding bilateral investment and trade opportunities. U.S. negotiators aim to improve the business climate for U.S. firms in China by opening up sectors previously closed to foreign investors, enhancing investor protections and dispute resolution procedures, and ensuring U.S. investors are treated no less favorably than Chinese investors. China agreed in 2013 to negotiate a “high standard” BIT with the United States and to use a “negative list” approach in market access commitments, where all industries except those explicitly listed would be open to investment. To many, the conclusion of a high standard BIT would be a “game changer” for U.S. firms doing business in China and would signal to the world that China was serious about liberalizing its economy.
- **Government Procurement Agreement (GPA).** China is not presently a member of the GPA, a plurilateral WTO agreement (see “The World Trade Organization (WTO) and WTO Doha Round” section). A top bilateral priority for the United States is China joining the GPA because China is one of the world’s largest and fastest growing public procurement markets, estimated by the World Bank at \$270 billion in 2013. China indicated that it would join the GPA after it joined the WTO, but did not begin negotiations to join until 2007. Although China’s latest offer in 2014 was considered an improvement over previous submissions, it was not considered to be comprehensive enough to warrant approval, especially in regard to the sub-national governments and state-owned enterprises (SOEs) that would be covered under the GPA.

- **Trans-Pacific Partnership (TPP).** China is not a part of the proposed TPP, but has expressed interest in joining it in the future. Its potential membership would depend on its ability to meet the TPP's standards. Inclusion of China in the TPP, some argue, could accelerate China's market reforms and improve its business climate for U.S. firms. China has trade agreements with 22 trading partners and is negotiating several others, including a Regional Comprehensive Economic Partnership (RCEP) with the 10 countries that make up the Association of South East Asian Nations (ASEAN), Australia, India, Japan, Korea, and New Zealand. To some, one of the main goals of the TPP is to balance China's growing economic influence in Asia.

## U.S. Export and Investment Financing and Other Assistance<sup>9</sup>

In addition to U.S. trade negotiations, the federal government seeks to expand U.S. exports and investment to support U.S. jobs and economic growth through providing finance and insurance programs, as well as other forms of assistance for U.S. businesses (see **text box**). Such activities may support Administration initiatives and programs on trade. These activities present a number of issues for Congress, including: the economic and policy justifications for such activities, the impact of these activities on the U.S. economy, the intersection of federal government efforts with U.S. policy goals, the adequacy of resources to conduct these activities, and the effectiveness and efficiency of the federal government's organizational structure for such activities.

### Federal Export and Investment Promotion Efforts

U.S. government agencies involved in U.S. trade promotion and finance efforts include:

**Department of Agriculture:** Conducts international agricultural trade promotion and financing.

**Department of Commerce:** Supports U.S. exports and inward investment through trade missions, advocacy, market research, and other activities.

**Export-Import Bank (Ex-Im Bank):** Provides direct loans, guarantees, and insurance to help finance U.S. exports, in support of U.S. employment.

**Overseas Private Investment Corporation (OPIC):** Provides political risk insurance and finance to facilitate U.S. private investment in developing countries, in support of U.S. foreign policy objectives.

**Small Business Administration (SBA):** Administers several programs to support small businesses, including export financing and promotion services.

**Trade and Development Agency (TDA):** Funds pre-export activities such as feasibility studies, pilot projects, and reverse trade missions to support U.S. commercial and international development interests.

## Export-Import Bank of the United States (Ex-Im Bank)

Ex-Im Bank, known as the official U.S. export credit agency (ECA), operates under a renewable general statutory charter (Export-Import Bank Act of 1945, as amended). It provides direct loans, loan guarantees, and export credit insurance to help finance U.S. exports of goods and services to contribute to U.S. employment. Its rationales, providing such support when alternative financing is not available or to counter government-backed export credit financing extended by other

<sup>9</sup> Written by Shayerah Ilias Akhtar, Specialist in International Trade and Finance (x7-9253). See CRS Report R43581, *Export-Import Bank: Overview and Reauthorization Issues*, by Shayerah Ilias Akhtar; CRS In Focus IF10017, *Export-Import Bank of the United States (Ex-Im Bank)*, by Shayerah Ilias Akhtar; CRS Report 98-567, *The Overseas Private Investment Corporation: Background and Legislative Issues*, by Shayerah Ilias Akhtar; and CRS Report R43970, *Commerce, Justice, Science, and Related Agencies Appropriations (CJS): Trade-Related Agencies*, by M. Angeles Villarreal.

countries, are subject to debate. Its activities are backed by the U.S. government's full faith and credit. Ex-Im Bank has statutory and policy requirements, and abides by international rules (see below). As it is demand-driven, its actual level of financing depends on alignment with U.S. commercial interests. It assesses credit and other risks of proposed transactions, monitors current commitments, and reserves against potential losses. It charges interest, premiums, and other fees for its services, which it uses to fund its activities. At the same time, Congress approves an annual appropriation setting an upper limit on Ex-Im Bank's operating expenses, among other things.

In its first session, the 114<sup>th</sup> Congress passed the Export-Import Bank Reform Reauthorization Act (Division E, P.L. 114-94) with bipartisan support, renewing Ex-Im Bank's authority through the end of FY2019, among other things (see **text box**). Previously, Ex-Im Bank's general statutory authority lapsed for about five months (July 1 to December 3, 2015) because Congress did not renew it amid debate over Ex-Im Bank's rationales for its activities and other issues. Proponents contend that Ex-Im Bank supports U.S. exports and jobs by filling gaps in private sector financing and helping U.S. exporters compete against foreign companies backed by their ECAs. Critics contend that Ex-Im Bank crowds out private sector activity, picks winners and losers, provides "corporate welfare," and poses a risk to taxpayers. Such debate may continue in the second session of the 114<sup>th</sup> Congress. Members also may consider other issues, particularly possible nominations of members to Ex-Im Bank's five-member Board of Directors. The Board, whose members are appointed by the President and with the Senate's advice and consent, is responsible for approving Ex-Im Bank transactions for financing and insurance. Due to current vacancies on the Board, the Board does not have a quorum and cannot approve financial commitments above \$10 million. Congress also may wish to conduct oversight of Ex-Im Bank's implementation of reforms required by the 2015 reauthorization act, among other issues.

#### Reauthorization of Ex-Im Bank's Charter

On December 4, 2015, the Export-Import Bank Reform and Reauthorization Act of 2015 (Division E of Fixing America's Surface Transportation Act, P.L. 114-94) was enacted. Among other provisions, this act:

- extends Ex-Im Bank's general statutory charter (Ex-Im Bank Act of 1945, as amended) to September 30, 2019;
- lowers Ex-Im Bank's statutory lending authority ("exposure cap" for outstanding portfolio) to \$135 billion for each of FY2015-2019, subject to certain conditions;
- requires reforms to Ex-Im Bank's policies and operations, including in risk management, fraud controls, and ethics;
- increases Ex-Im Bank's target for supporting U.S. small business exports from 20% to 25% of its total authority; and
- adjusts the U.S. approach to international negotiations to enhance disciplines on government-backed export credit financing.

The international context for ECA activity also presents issues for Congress. Ex-Im Bank abides by the Organization for Economic Cooperation and Development (OECD) Arrangement on Officially Supported Export Credits, which establishes guidelines for ECA activity, such as minimum interest rates and maximum repayment terms. These disciplines are intended to ensure that price and quality, not financing terms, guide purchasing decisions. Foreign ECAs, of both OECD and non-OECD members, increasingly are providing financing that is outside the scope of the OECD Arrangement, posing competitiveness issues for Ex-Im Bank. Such ECA financing by China, a non-OECD member, is of particular concern. According to Ex-Im Bank's *2014 Competitiveness Report* (June 2015), China provided its exporters an estimated \$670 billion in ECA financing over two years compared to Ex-Im Bank, which provided \$590 billion in financing to U.S. exporters over its 80-plus year history. Efforts are underway through an International Working Group that includes the United States and China to develop new multilateral rules on ECA financing. Possible issues for Congress include the effectiveness of

current international ECA rules and the status of negotiations within and outside the OECD to enhance existing ECA rules or develop new arrangements.

### **U.S. Overseas Private Investment Corporation (OPIC)**

OPIC is the official U.S. development finance institution (DFI). Operating under the Foreign Assistance Act of 1961 (FAA), as amended (22 U.S.C. §2191 *et seq.*), it seeks to promote economic growth in developing economies by providing political risk insurance, project and investment funds financing, and other services to U.S. firms investing in those countries. Its programs are intended to mitigate political risks—such as currency inconvertibility, expropriation, and political violence—for U.S. firms making qualified investments overseas. Its activities must meet certain statutory and policy requirements in supporting projects. OPIC is similar to Ex-Im Bank in a number of ways, including that its activities are backed by the full faith and credit of the U.S. government and that it is demand-driven, seeks to manage its risks, and maintains reserves against potential losses. Additionally, like Ex-Im Bank, OPIC charges fees for its services, which it uses to fund its activities, and is subject to the annual appropriations process. Unlike Ex-Im Bank, the investment financing activities of OPIC (and those of other DFIs) generally fall outside of rules under the Organization for Economic Cooperation and Development (OECD) (see above).

Congress last reauthorized OPIC via “stand-alone legislation” in 2003, extending its authority through FY2007 (P.L. 108-158 ). Since then, Congress has extended OPIC’s authority to conduct its programs through the annual appropriations process. The FY2016 appropriations act (Sec. 7061(b) of P.L. 114-113) extends OPIC’s authority through the end of FY2016. Although Congress has made some adjustments to OPIC’s activities through appropriations acts, such as to its environmental policies, consideration of OPIC’s reauthorization could afford Members greater opportunity to consider other OPIC issues, such as the alignment of OPIC’s activities and policies with U.S. foreign policy objectives. Given the parallels between Ex-Im Bank and OPIC, debate over Ex-Im Bank could shape any future debate over OPIC reauthorization debate.

Other issues of possible interest to Congress include the transformative changes in the international development finance landscape, including the growing role of emerging markets and new multilateral institutions being established (see below).

### **International Trade Administration (ITA) of U.S. Department of Commerce**

Part of the Department of Commerce, ITA is charged with “creat[ing] prosperity by strengthening the international competitiveness of U.S. industry, promoting trade and investment, and ensuring fair trade and compliance with trade laws and agreements.” ITA’s current organizational structure reflects a consolidation that ITA underwent in October 2013 to better organize its operations functionally. The Global Markets unit of ITA provides export assistance to U.S. companies seeking foreign business opportunities, including export counseling, market research, business matching services, and advocacy, as well as support for U.S. investment attraction through the SelectUSA program (see “International Investment” section). The Global Markets unit houses ITA’s network of trade promotion and policy professionals (formerly and still commonly known as the U.S. and Foreign Commercial Service) in over 70 countries and over 100 U.S. locations to promote U.S. exports, support U.S. commercial interests overseas, and attract investment to the United States. Possible issues that ITA presents for Congress include the alignment of ITA’s new organizational structure with its mission and operations, the appropriate level of funding for ITA, and its role in U.S. export promotion efforts.

## **U.S. Trade and Development Agency (TDA)**

TDA, an independent agency, operates under a dual mission of advancing economic development and U.S. commercial interests in developing and middle-income countries. TDA seeks to link U.S. businesses to export opportunities overseas, including through infrastructure development, that lead to economic growth in developing and middle-income countries by funding a range of pre-export activities. It is governed by the Foreign Assistance Act of 1961 (FAA), as amended (22 U.S.C. §2421). Congress may wish to examine TDA's role and effectiveness in supporting both U.S. trade and foreign policy goals, among other issues.

## **Export Controls and Sanctions**

Congress has authorized the President to control the export of various items for national security, foreign policy, and economic reasons. Separate programs and statutes for controlling different types of exports exist for nuclear materials and technology, defense articles and services, and dual-use goods and technology. Under each program, licenses of various types are required before an export can be undertaken. The Departments of Commerce, State, and Defense administer these programs. At the same time, Congress also legislates country-specific sanctions that restrict aid, trade, and other transactions to address U.S. policy concerns about proliferation of weapons, regional stability, and human rights. In the 114<sup>th</sup> Congress, these controls and sanctions may raise difficult issues over how to balance U.S. foreign policy and national security objectives against U.S. commercial and economic interests.

## **The President's Export Control Initiative<sup>10</sup>**

In 2009, the Obama Administration launched a comprehensive review of the U.S. export control system. In the current system, responsibility for controlling exports is divided among the Departments of Commerce, State, and the Treasury, based on the nature of the product (munitions or dual-use goods) and basis for control, with enforcement shared among these agencies, as well as the Departments of Justice and Homeland Security. Key elements of the Administration's reform agenda include a four-pronged approach that would: (1) create a single export control licensing agency for both dual-use and munitions exports; (2) adopt a unified control list; (3) create a single integrated information technology system (which would include a single database of sanctioned and denied parties); and (4) establish a single enforcement coordination agency.

The Administration's blueprint envisions that these changes would be implemented in three phases with the final tier requiring legislative action. To date, efforts have been undertaken to harmonize the Commerce Control List (CCL), which focuses on dual-use items (i.e., both commercial and defense uses), with the U.S. Munitions List (USML). This has been done through an ongoing category-by-category review of USML items and a migration of what the Administration deems as less sensitive items to the CCL. Congressional notification is required if items are moved from the munitions list to the dual-use list; the first of these notifications occurred in March 2013. Since the first rulemakings were announced in November 2013, rules to transfer certain items in 15 of 21 USML categories have been issued and taken effect with the most recent on December 30, 2014. The President also made the determination required by the National Defense Authorization Act (NDAA) of 2013 (P.L. 112-239) that the transition of certain satellites and related items from the USML to the CCL was in the national interest. An Export

---

<sup>10</sup> Written by Ian F. Fergusson, Specialist in International Trade and Finance (x7-4997). See CRS Report R41916, *The U.S. Export Control System and the President's Reform Initiative*, by Ian F. Fergusson and Paul K. Kerr.

Enforcement Coordination Center (E2C2), which was created by executive order on November 9, 2010, has been set up within the Department of Homeland Security to synchronize enforcement efforts. The integrated information technology system based on the Defense Department's USXports platform became fully operational among the Departments of Commerce, Defense, Energy, and State on October 5, 2015.

The 114<sup>th</sup> Congress may wish to examine this effort through oversight and may be asked to approve certain changes proposed by the Administration, including the creation and placement of a proposed licensing agency. Congress also may attempt to reauthorize or rewrite the currently expired Export Administration Act (EAA), the statutory basis of dual-use export controls.

### **Economic Sanctions<sup>11</sup>**

Economic sanctions may be defined as coercive economic measures taken against a target to bring about a change in policies. They typically include measures such as: trade embargoes, restrictions on particular exports or imports, denial of foreign assistance, loans, and investments, or control of foreign assets and economic transactions that involve U.S. citizens or businesses. The decision to apply economic trade and aid sanctions can be based, to some extent, on a country's record with respect to human rights, religious freedom, international terrorism, terrorist financing, proliferation of weapons of mass destruction, disruption of regional stability, treaty violations, international narcotics trafficking, trafficking in persons, trafficking in protected natural resources and endangered species, child abduction, interference with democratic processes, war crimes, corruption, cyber espionage, and money laundering. The United States maintains an array of economic sanctions against foreign governments. Specifically, the United States:

- maintains robust sanctions regimes against foreign governments it has identified as supporters of acts of international terrorism (Iran, Sudan, Syria), nuclear arms proliferators (Iran, North Korea, Syria), egregious violators of international human rights standards (Belarus, Burma, Cuba, Iran, North Korea, Russia, Syria), and those threatening regional stability (Iran, North Korea, Russia, South Sudan, Sudan, Syria);
- imposes economic restrictions on individuals and entities found to be active in international terrorism, narcotics trafficking, weapons proliferation, and transnational crime; and
- targets individuals and entities with economic and diplomatic restrictions to meet the requirements of the United Nations Security Council (Burundi, Central African Republic, Cote d'Ivoire, Democratic Republic of Congo, Eritrea, Guinea-Bissau, Iran, Liberia, Libya, North Korea, Somalia, South Sudan, Sudan, Yemen).

---

<sup>11</sup> Written by Dianne E. Rennack, Specialist in Foreign Policy Legislation (x7-7608). See CRS Report R43835, *State Sponsors of Acts of International Terrorism—Legislative Parameters: In Brief*, by Dianne E. Rennack; CRS Report RS20871, *Iran Sanctions*, by Kenneth Katzman; CRS Report RL33948, *State and Local Economic Sanctions: Constitutional Issues*, by Michael John Garcia and Todd Garvey; CRS Report R43311, *Iran: U.S. Economic Sanctions and the Authority to Lift Restrictions*, by Dianne E. Rennack; CRS Report R41438, *North Korea: Legislative Basis for U.S. Economic Sanctions*, by Dianne E. Rennack; CRS Report RL30613, *North Korea: Back on the Terrorism List?*, by Mark E. Manyin; CRS Report R43895, *U.S. Sanctions on Russia: Economic Implications*, by Rebecca M. Nelson; and CRS Report RL33460, *Ukraine: Current Issues and U.S. Policy*, by Vincent L. Morelli.

The 114<sup>th</sup> Congress, in its first session, faced two historic foreign policy events—changing relations with Iran and Cuba—that impacted the use of sanctions as a foreign policy tool. In addition, economic and diplomatic tensions continued with Russia, arising from its annexation of the Crimean region of Ukraine and its increased direct involvement in Syria. The year 2016 began with North Korea announcing it had successfully tested a hydrogen fusion bomb, moving Congress to revisit measures to strengthen sanctions the United States imposes on North Korea. The early agenda of the second session of the 114<sup>th</sup> Congress emphasizes these hotspots. Legislative developments in the 114<sup>th</sup> Congress reflect some of these areas of interest (see **text box**).

### **Sanctions Legislation in the 114<sup>th</sup> Congress**

**Enacted:**

- Iran Nuclear Agreement Act of 2015 (H.R. 1191; P.L. 114-17; 129 Stat. 201).
- Hizballah International Financing Prevention Act of 2015 (H.R. 2297; P.L. 114-102; 129 Stat. 2205).
- North Korea Sanctions Enforcement Act of 2015 (H.R. 757; P.L. 114-122; 130 Stat. 93).

**Adopted in one chamber:**

- Global Magnitsky Human Rights Accountability Act (S. 284, adopted in the Senate December 17, 2015).
- Iran Terror Finance Transparency Act (H.R. 3662, adopted in the House February 2, 2016, by a vote of 246-181).

### **Iran**

The United States and other world powers reached agreement with the government of Iran that opened Iran for inspection by the International Atomic Energy Agency (IAEA) and pledged the Iranian government to no near-term pursuit of nuclear weapons development or acquisition. In return, the United States, the European Union (EU), and the United Nations would relieve sanctions and eventually remove multilateral nuclear-related restrictions on trade and finance.<sup>12</sup> The agreement between the P5+1 (permanent members of the U.N. Security Council—the United States, Russia, China, France, and Britain—plus Germany) and Iran is considered by the U.S. government to be an executive agreement and did not require the Senate’s advice and consent. Congress, however, sought a role in assessing the agreement, and enacted the Iran Nuclear Agreement Act of 2015 (P.L. 114-17; H.R. 1191; 129 Stat. 201) to require the President to delay sanctions relief. Despite creating a means to block implementation of the executive agreement, Congress ultimately did not adopt a joint resolution to disapprove the agreement. Interest persists, however, in some congressional quarters, to slow the implementation of the agreement and to strengthen sanctions targeting missile proliferators, human rights violators, and Iranians engaged in international terrorism.

### **Cuba**

The United States and the government of Cuba entered into dialogue to move toward normalizing bilateral relations—including opening embassies in each other’s capital cities, removing the designation of Cuba as a state sponsor of terrorism, and easing economic restrictions on many aspects of travel, licensing transactions for trade, and telecommunications. While Congress fully engaged in the policy debate, it did not seek to enact legislation to block the removal of Cuba’s terrorism designation. Indeed, most legislative proposals introduced in the 114<sup>th</sup> Congress mirror the years-long efforts to ease restrictions on trade and travel.

<sup>12</sup> Most of the U.N. sanctions imposed on Iran have been defined by the Administration and its P5+1 partners as “nuclear-related” because the U.N. sanctions were imposed with the expressed purpose of slowing Iran’s nuclear program and persuading Iran to negotiate limits on its nuclear program. See CRS Report RS20871, *Iran Sanctions*, by Kenneth Katzman.

## ***North Korea***

On January 6, 2016, North Korea announced that it had successfully tested a hydrogen fusion bomb. While most observers question this, most agree some sort of nuclear detonation took place—the country’s fourth such detonation in a decade. North Korea’s continued weapons tests, including the January 6, 2016 test, have moved Congress to revisit measures to strengthen sanctions the United States imposes on North Korea. Presently, the United States prohibits most trade with North Korea because of its pursuit of nuclear weapons and ballistic missiles and the national security threat such developments present, as well its aggression toward Japan and South Korea, and its extra-legal activities in money laundering, counterfeiting of goods and currency, bulk cash smuggling, and narcotics trafficking. At the beginning of 2015, President Obama cited North Korea’s “provocative, destabilizing, and repressive actions and policies,” including “destructive, coercive, cyber-related actions”—North Korea was thought to be complicit in a cyberattack on Sony Pictures—when he imposed additional transaction and travel restrictions on designated North Korean individuals. Congress is seeking to strengthen the sanctions regime, including requiring the Secretary of the Treasury to determine whether North Korea is a “jurisdiction of primary money laundering concern,” which could significantly impact banks in China that engage in financial activities with the rogue nation.

## ***Russia***

The United States, the EU, and other nations blocked assets and travel of designated Russian leaders in an effort to reverse Russia’s annexation of Ukraine’s Crimean region and military incursions that began in early 2014. President Obama issued a series of executive orders over 2014 to increasingly isolate Russian President Putin, and to prohibit investment and trade with some entities in Russia’s financial services, energy, metals and mining, engineering, and defense sectors. The President also prohibited any U.S. person from participating in new investment in Crimea, imports from and exports to the Crimea region, and any financing, facilitation, or guarantee of any related transaction by a U.S. person. Russia retaliated by banning imports of certain agricultural products from selected countries imposing sanctions. There has been little change in the stalemate over the past year. Russia, however, holds a critical seat in the U.N. Security Council, is increasingly involved in conditions in Syria, and holds an important position in negotiating with the North Korean government.

## **Import Policies<sup>13</sup>**

U.S. policies affecting imports are shaped by a mixture of economic objectives, foreign policy interests, and political considerations. The case for supporting freer trade and more open markets rests on the view that they yield substantial economic benefits for all participating countries. However, since the gains from trade may be disproportionately allocated within domestic economies, some industries and workers may be adversely affected by import competition. Thus, international trade rules also allow governments to provide means (called “trade remedies”) by which certain groups may petition for temporary protection from import surges of “fairly” traded imports, or for redress in certain cases of “unfair” imports. The U.S. government also has provided direct relief to workers, firms, and farmers adversely impacted by trade through the Trade Adjustment Assistance (TAA) program. U.S. import policies additionally support more open trade with developing countries in the form of trade preference programs that provide

---

<sup>13</sup> Written by Vivian C. Jones, Specialist in International Trade and Finance (x7-7823), and Brock Williams, Analyst in International Trade and Finance (x7-1157).

nonreciprocal preferential access to the U.S. market in order to form closer economic ties and support economic growth in developing countries. Import policy issues in which Congress has a direct interest include five broad policy areas: (1) trade remedies; (2) trade preferences; (3) border security and trade facilitation; (4) tariffs; and (5) trade adjustment assistance.

### **Trade Remedies<sup>14</sup>**

The United States and its trading partners use laws known as trade remedies to mitigate the injury (or threat thereof) of various trade practices to domestic industries and workers. The three most frequently applied U.S. trade remedies are:

- **antidumping (AD)**, which provides relief from injurious imports sold at less than fair market value;
- **countervailing duty (CVD)**, which provides relief from injurious imports subsidized by a foreign government or public entity; and
- **safeguard**, which provides temporary relief from import surges of fairly traded goods.

These laws are administered primarily through two U.S. government agencies, the Department of Commerce and the United States International Trade Commission (ITC). In AD and CVD cases, the remedy is an AD or CVD “order” that places an additional duty assessed to offset the calculated amount of dumping or subsidy. In safeguard cases that are determined by the President, a temporary import quota or a tariff may be assessed. In addition, the World Trade Organization (WTO) agreements contain specific obligations on these measures to which its member countries, including the United States, adhere.

Congress has enacted and amended these trade remedy laws over time, but individual AD and CVD cases require no direct congressional action. Nonetheless, they are often the subject of congressional interest, especially if constituents are involved as domestic manufacturers or as importers of merchandise subject to trade remedy investigations.

Some U.S. producers of products covered by AD/CVD orders allege that U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE), the sister agencies that enforce these orders, have not adequately investigated allegations of AD/CVD duty evasion. These issues have been the subject of several congressional hearings. The Trade Facilitation and Trade Act of 2015 (H.R. 644), signed by the President on February 24, 2016, requires CBP to investigate AD/CVD evasion allegations using a specific process and within certain deadlines (sec. 421). Among other things relating to AD/CVD duty evasion, it also requires negotiations with other countries’ customs authorities on preventing AD/CVD duty evasion (sec. 414), and establishes obtaining a commitment for cooperation on evasion as a U.S. trade negotiating objective (sec. 415).

---

<sup>14</sup> Written by Vivian C. Jones, Specialist in International Trade and Finance (x7-7823). See CRS Report RL32371, *Trade Remedies: A Primer*, by Vivian C. Jones; and CRS In Focus IF10018, *Trade Remedies: Antidumping and Countervailing Duties*, by Vivian C. Jones.

## Trade Preferences<sup>15</sup>

Since 1974, Congress has created six trade preference programs designed to assist developing countries:

- the Generalized System of Preferences (GSP—expires December 31, 2017), which applies to all eligible developing countries;
- the Andean Trade Preference Act (APTA—expired July 31, 2013);
- the Caribbean Basin Economic Recovery Act (CBERA—permanent);
- the Caribbean Basin Trade Partnership Act (CBTPA—expires September 30, 2020);
- the African Growth and Opportunity Act (AGOA—expires September 30, 2025);
- the Haitian Opportunity through Partnership Encouragement Act (HOPE—expires September 30, 2025); and
- trade preferences for Nepal (expires on December 31, 2025).
- Except for CBERA, which is permanent, these programs give temporary, nonreciprocal, duty-free access to the U.S. market for a select group of exports from eligible countries. In its first session, the 114<sup>th</sup> Congress passed the Trade Preferences Extension Act of 2015 (P.L. 114-27) with broad bipartisan support, to reauthorize and make certain revisions to AGOA, GSP, and HOPE (see **text box**). In its second session, the 114<sup>th</sup> Congress passed customs legislation (H.R. 644, signed by the President on February 24, 2016) including new duty-free treatment on select U.S. imports from Nepal. As the second session continues, Congress will likely maintain its oversight of these programs, and may wish to examine the potential impact of proposed U.S. trade agreements, such as TPP, on preference program beneficiaries, among other issues.

---

<sup>15</sup> Written by Vivian C. Jones, Specialist in International Trade and Finance (x7-7823). See CRS Report R41429, *Trade Preferences: Economic Issues and Policy Options*, coordinated by Vivian C. Jones; and CRS Report RL33663, *Generalized System of Preferences: Overview and Issues for Congress*, by Vivian C. Jones.

### **Trade Preferences Extension Act of 2015, P.L. 114-27**

Signed June 29, 2015, this law extends and modifies, AGOA, GSP, and HOPE. Outcomes include:

#### **GSP**

- Retroactively reauthorizes program through December 31, 2017 (previously lapsed since August 2013).
- Expands potential benefits to certain cotton articles and travel goods.

#### **AGOA**

- Extends program authorization through September 30, 2025.
- Extends textile/apparel provisions (e.g. 3<sup>rd</sup> country fabric).
- Modifies rules of origin requirements.
- Increases flexibility in disciplining eligibility infractions.
- Mandates certain procedures period for eligibility reviews.
- Mandates eligibility review for South Africa.
- Reinstates lapsed reporting requirement.
- Encourages creation of AGOA strategies by beneficiaries.

#### **HOPE**

- Extends program authorization through September 30, 2025.

### ***Generalized System of Preferences (GSP)***

The GSP program provides non-reciprocal, duty-free tariff treatment to approximately 3,500 products imported from designated beneficiary developing countries (BDCs) and about 1,500 additional products from eligible least-developed beneficiary developing countries. Country and product eligibility are based on criteria specified by Congress. In order to remain eligible for GSP, countries must meet certain criteria established by Congress, including taking steps to protect intellectual property rights (IPR) and internationally recognized worker rights. The GSP program also includes certain limits on product eligibility intended to shield U.S. manufacturers and workers from potential adverse impact due to the duty-free treatment. These include specific exclusion of certain “import sensitive” products (e.g., textiles and apparel), and limits on the quantity or value of any one product imported from any one country under the program (least-developed countries excepted). The U.S. program was first authorized in Title V of the Trade Act of 1974, and is subject to periodic renewal by Congress. The GSP program was most recently extended until December 31, 2017, in Title II of P.L. 114-27. The program also was retroactively renewed for all GSP-eligible entries between July 31, 2013 (the latest expiration date), and the effective date of the current GSP renewal (July 29, 2015). P.L. 114-27 also designated new product categories as eligible for GSP status, including some cotton products (for least-developed beneficiaries only) and certain luggage and travel goods.

Countries are eligible to receive the benefits of GSP until they become a “high income” country as determined by the World Bank (currently per capita gross national income, GNI, of \$12,736 or more), at which time they are mandatorily graduated from the program. On September 30, 2015, the President determined that Seychelles, Uruguay, and Venezuela have become “high income” countries, and that their designation as BDCs will end effective January 1, 2017. On October 3, 2014, the President officially terminated Russia’s GSP status, which became effective on the same date. The President’s withdrawal of the preference was based on Section 502(f)(2) of the Trade Act of 1974 (19 U.S.C. 2462 sec. (f)(2)), which states that one of the factors determining a country’s eligibility is its level of economic development.

### ***African Growth and Opportunity Act (AGOA)<sup>16</sup>***

AGOA is a nonreciprocal U.S. trade preference program that provides duty-free treatment to qualifying imports from eligible sub-Saharan African (SSA) countries. AGOA benefits build on and are more extensive than those provided through the Generalized System of Preferences (GSP). In particular, AGOA includes duty-free treatment for certain textile and apparel products, and allows for least-developed AGOA countries to export apparel products to the United States duty-free regardless of the origin of the fabrics used in their production (“third-country fabric provision”). Congress first authorized AGOA in 2000 (P.L. 106-200) to encourage export-led growth and economic development in SSA and improve U.S. economic relations with the region. In its first session, the 114<sup>th</sup> Congress extended AGOA’s authorization for ten years to September 30, 2025, including the program’s textile and apparel provisions as well as the third-country fabric provision.

More than a year of congressional debate on the effectiveness of AGOA and potential reforms preceded the 2015 reauthorization. Key issues raised during the debate included longstanding concerns over underutilization of the preferences by beneficiary countries and questions over whether and how to develop a more reciprocal trading framework with the region, particularly with South Africa. There was little opposition to AGOA’s general renewal, but efforts to expand product coverage to sensitive agricultural goods, such as sugar met considerable resistance and were ultimately unsuccessful. Reforms of the program included:

- changes to the eligibility review process, ensuring broader public participation and providing the Administration flexibility in the timing and scale of removal of benefits;
- changes to the rules of origin, permitting cumulation of additional costs;
- encouraging beneficiaries to develop country-specific AGOA utilization strategies;
- requiring additional U.S. government staff to assist AGOA exporters in meeting U.S. food safety standards;
- reinstating a biennial reporting requirement on overall U.S. trade and investment relations with the region; and
- requiring a review of South Africa’s eligibility for the program due to ongoing concerns with restrictions placed on U.S. exports to the country, particularly U.S. poultry.

To date, South Africa has retained its AGOA eligibility, and reached an agreement with the United States to resolve the issue regarding U.S. exports. As the agreement has not yet been fully implemented, the United States declared certain South African exports ineligible for AGOA, effective March 15, 2016. The Administration is to revoke this measure once South Africa has fully removed the disputed barriers to U.S. agriculture exports.

The length of the ten-year reauthorization of AGOA, together with the apparel program and the third-country fabric provision, are unprecedented in the preference program’s 15-year history. On one hand, this longer-term reauthorization should help address concerns over investor uncertainty about the program and give AGOA beneficiaries a competitive advantage in producing exports

---

<sup>16</sup> Written by Brock Williams, Analyst in International Trade and Finance (x7-1157). See CRS Report R43173, *African Growth and Opportunity Act (AGOA): Background and Reauthorization*, by Brock R. Williams; and CRS In Focus IF10149, *African Growth and Opportunity Act (AGOA)*, by Brock R. Williams.

for the U.S. market. On the other hand, the often limited utilization of AGOA preferences to date suggests that a number of constraints could continue to hinder AGOA countries' export capabilities. Some of these remaining challenges may be addressed in future legislation to enhance U.S. trade and investment relations with sub-Saharan Africa. As it continues its oversight of the preference program, Congress may wish to examine, among other issues, the implementation and effectiveness of AGOA's reforms.

### ***Trade Preferences for Nepal***

A new preference program for Nepal was enacted in section 915 of the Trade Facilitation and Trade Act of 2015 (P.L. 114-125), which was signed by the President on February 24, 2016. The program would authorize duty-free access of certain products imported directly from Nepal provided that the President determines that Nepal meets certain eligibility requirements similar to those in the African Growth and Opportunity Act (AGOA) and Generalized System of Preferences (GSP) programs. The International Trade Commission must also determine that products to be imported into the United States are not import-sensitive. Nepal would be subject to the same rules of origin, mandatory graduation, and other requirements as in the AGOA and GSP programs. The President would also be required to establish a Nepali-specific trade facilitation and capacity building program. The program is set to expire on December 31, 2025.

### **U.S. Customs and Border Protection (CBP) Reauthorization<sup>17</sup>**

U.S. Customs and Border Protection (CBP), a bureau within the Department of Homeland Security (DHS), is the primary agency charged with ensuring the smooth flow of imports through U.S. ports of entry (POEs). In 2013, more than \$2 trillion in goods were imported into the United States. CBP's policies with regard to U.S. imports are designed to: (1) facilitate the smooth flow of imported cargo through U.S. ports of entry; (2) enforce trade and customs laws designed to protect U.S. consumers and business and to collect customs revenue; and (3) enforce import security laws designed to prevent weapons of mass destruction, illegal drugs, and other contraband from entering the United States. Congress has a direct role in organizing, authorizing, and defining CBP's international trade functions, as well as appropriating funding for and conducting oversight of its programs.

The Trade Facilitation and Trade Enforcement Act of 2015 (P.L. 114-125) reauthorizes CBP's trade functions in the above areas (see **text box**). It also provides additional funding for CBP's modernization efforts, such as the continuing development of the Automated Commercial Environment (ACE), an online platform designed to facilitate the import process, and the International Trade Data System (ITDS), a U.S. Treasury Department-led effort to develop an online "single window" for all U.S. agencies involved in import processing to clear goods for entry into the U.S. market, among other provisions.

#### **Trade Facilitation and Trade Enforcement Act of 2015 (P.L. 114-125)**

- Introduced as H.R. 664 in House on February 2, 2015.
- Conference report released and passed in House on December 9, 2015; passed in Senate on February 11, 2016,
- Signed by the President on February 24, 2016 (P.L. 114-125).

<sup>17</sup> Written by Vivian C. Jones, Specialist in International Trade and Finance (x7-7823). See CRS Report R43014, *U.S. Customs and Border Protection: Trade Facilitation, Enforcement, and Security*, by Vivian C. Jones and Lisa Seghetti.

- Reauthorizes CBP's trade functions, provides additional funding for CBP's modernization efforts.
- Includes other measures, for example, focused on U.S. trade negotiating objectives related to trade remedies and "currency manipulation," as well as measures on intellectual property rights (IPR) (see relevant sections in this report).

### **Miscellaneous Tariff Bill (MTB)<sup>18</sup>**

Many Members of Congress have introduced bills that support importer requests for the temporary suspension of tariffs on chemicals, raw materials, or other non-domestically made components generally used as inputs in the manufacturing process. A rationale for these requests is that they help domestic producers of manufactured goods reduce costs, making their products more competitive. Due to the large number of bills typically introduced, they are often packaged together in a broader miscellaneous tariff bill. P.L. 111-227, the most recent MTB, was enacted on August 11, 2010 and expired on December 31, 2012. MTB consideration could be controversial because of past congressional moratoriums on "earmarks," which have included measures to provide "limited tariff benefits." In the first session of the 114<sup>th</sup> Congress, a Senate amendment was inserted in the Trade Facilitation and Trade Enforcement Act of 2015 (P.L. 114-125) that proposed to establish a process in which the U.S. International Trade Commission, in consultation with Congress, would receive duty suspension requests from the public. Sec. 919 of the enacted legislation expressed the sense of Congress that the House Ways and Means and Senate Finance committees establish "a regular and predictable legislative process" for an MTB "that is consistent with the rules of the Senate and the House." Thus, MTB legislation could emerge in the second session of the 114<sup>th</sup> Congress.

### **Trade Adjustment Assistance (TAA)<sup>19</sup>**

TAA provides federal assistance to domestic workers, firms, and farmers who have been adversely affected by increased trade liberalization. It is justified presently, as it has been historically, on grounds that the government has an obligation to help those hurt by policy-driven trade opening. TAA is also presented as an alternative to policies that would restrict imports, and so provides assistance for adversely affected parties while bolstering freer trade and diminishing prospects for potentially costly tension (retaliation) among trade partners. As in the past, critics debate the merits of TAA on equity, efficiency, and budgetary grounds. TAA is authorized by Title II of the Trade Act of 1974, as amended. In 2015, the TAA program was reauthorized by the Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA; Title IV of P.L. 114-27) (see **text box**).

#### **Trade Adjustment Assistance Reauthorization Act of 2015**

TAARA was enacted as Title IV of P.L. 114-27. The reauthorization and extension of TAA was aligned with the renewal of Trade Promotion Authority. Under

<sup>18</sup> Written by Vivian C. Jones, Specialist in International Trade and Finance (x7-7823). See CRS Report RL33867, *Miscellaneous Tariff Bills: Overview and Issues for Congress*, by Vivian C. Jones.

<sup>19</sup> Written by Benjamin Collins, Analyst in Labor Policy (x7-7382). See CRS Report R44153, *Trade Adjustment Assistance for Workers and the TAA Reauthorization Act of 2015*, by Benjamin Collins; CRS Report RS20210, *Trade Adjustment Assistance for Firms: Economic, Program, and Policy Issues*, by Mary Jane Bolle; and CRS Report R40206, *Trade Adjustment Assistance for Farmers*, by Mark A. McMinimy.

The TAA for Workers is the largest TAA program. It supports qualified workers who have lost their jobs because of increased imports or because their jobs shifted to a foreign country. The primary benefits under the TAA for Workers program are: (1) training subsidies and employment services to prepare workers for new occupations; and (2) income support for workers who are enrolled in training and have exhausted their unemployment insurance. Under current law, workers in both production and service industries are eligible to apply for TAA benefits. In addition to the TAA for Workers program, TAA programs are available to firms and farmers that have been adversely affected by international competition. TAA for Firms supports trade-impacted businesses by providing technical assistance in developing business recovery plans and by providing matching funds to implement those plans. TAA for Farmers provides technical support and cash benefits to producers of agricultural commodities and fisherman who are adversely affected by increased imports.

TAARA, the TAA for Workers program is scheduled to operate under the provisions enacted by TAARA through June 30, 2021.

TAARA extended funding for training and income support under the TAA for Workers program. Funding for training and other employment services is capped at \$450 million per year. The income support component of TAA for Workers is an entitlement and not capped at the federal level, though individual beneficiaries are subject to benefit limits.

TAARA also extended authorization for the TAA for Firms and TAA for Farmers programs. Appropriations for the TAA for Firms program were authorized at \$16 million per year. Appropriations for the Farmers program were authorized at \$90 million per year. Program activity under these authorizations will be contingent on appropriated funds.

## Intellectual Property Rights (IPR)<sup>20</sup>

Intellectual property (IP) is a creation of the mind embodied in physical and digital objects. IPR are legal, private, enforceable rights that governments grant to inventors and artists that generally provide time-limited monopolies to right holders to use, commercialize, and market their creations and to prevent others from doing the same without their permission (see **text box**).

IP is a source of comparative advantage of the United States, and IPR infringement has adverse consequences for U.S. commercial, health, safety, and security interests. Protection and enforcement of IPR in the digital environment is of increasing concern, including in terms of cybertheft. At the same time, lawful limitations to IPR, such as exceptions in copyright law for media, research, and teaching (known as “fair use”), also may have benefits.

### Examples of IPR

**Patents** protect new innovations and inventions, such as pharmaceutical products, chemical processes, new business technologies, and computer software.

**Copyrights** protect artistic and literary works, such as books, music, and movies.

**Trademarks** protect distinctive commercial names, marks, and symbols.

**Trade secrets** protect confidential business information that is commercially valuable because it is secret, including formulas, manufacturing techniques, and customer lists.

**Geographical indications (GIs)** protect distinctive products from a certain region, applying primarily to agricultural products.

<sup>20</sup> Written by Shayerah Ilias Akhtar, Specialist in International Trade and Finance (x7-9253), and Ian F. Fergusson, Specialist in International Trade and Finance (x7-4997). See CRS Report RL34292, *Intellectual Property Rights and International Trade*, by Shayerah Ilias Akhtar and Ian F. Fergusson; and CRS In Focus IF10033, *Intellectual Property Rights (IPR) and International Trade*, by Shayerah Ilias Akhtar and Ian F. Fergusson.

## **IPR in Trade Agreements & Negotiations**

IPR protection and enforcement have been a key negotiating objective in U.S. trade agreement negotiations. The United States generally seeks IP commitments that exceed the minimum standards of the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), known as “TRIPS-plus.” The 2015 Trade Promotion Authority (TPA) incorporates past trade negotiating objectives to ensure that U.S. free trade agreements (FTAs) “reflect a standard of protection similar to that found in U.S. law” (“TRIPS-plus”) and to apply existing IPR protection to digital media through adhering to the World Intellectual Property Organization (WIPO) “Internet Treaties.” The TPA also includes new objectives on addressing cybertheft and protecting trade secrets and proprietary information.

Treatment of IPR was a key issue in the Trans-Pacific Partnership (TPP) negotiations. The proposed TPP includes IPR provisions (with transitional periods for developing countries to implement obligations) such as:

- pharmaceutical patent protections, with measures to protect public health consistent with TRIPS;
- data exclusivity periods for biologics—either eight years or, alternatively, at least five years with additional periods to achieve a “comparable market outcome;”
- copyright protections, penalties for circumventing technological protection measures, safe harbor measures for Internet Service Providers (ISPs), and goals to achieve an appropriate balance between the interests of copyright holders and users (known as “fair use” in the U.S. context);
- enhanced trademark protection and disciplines for GIs, with measures to ensure that widely used geographic terms are available for generic use; and
- enhanced enforcement measures, including new criminal penalties for trade secret theft, clarification that criminal penalties apply to infringement in the digital environment, and *ex officio* authority for customs agents to seize counterfeit and pirated goods.

As Congress considers possible next steps on TPP, the negotiated outcomes on IPR in the proposed agreement are subject to debate. Congress may wish to examine specific provisions, such as the length of data exclusivity protection for biologics. Other issues include how IPR standards in TPP compare to those in existing U.S. FTAs and whether TPP addresses U.S. trade negotiating objectives on IPR. Broader issues include the balance between protecting right holders and securing broader benefits through IPR in U.S. trade policy.

IPR issues in other U.S. trade agreements and negotiations also present possible areas of congressional oversight. These include the treatment of IPR in the ongoing Transatlantic Trade and Investment Partnership (T-TIP) negotiations. Areas of interest include differing U.S. and EU approaches on issues such as GIs. T-TIP also presents possible opportunities for cooperation, such as addressing trade secret theft. Oversight also may focus on the enforcement of IPR commitments in existing U.S. FTAs, among other issues.

## **Other IPR Trade Policy Tools**

The United States maintains other trade policy tools to advance IPR goals. These tools may be particularly relevant in addressing U.S. issues with respect to emerging economies, such as China, India, and Brazil, which are not a part of existing U.S. trade agreements or negotiations and present significant IPR challenges. One tool is the “Special 301” report, which the United

States Trade Representative (USTR) publishes annually, pursuant to the Trade Act of 1974, as amended. This report identifies countries that do not offer “adequate and effective” IPR protection, for example for patents and copyrights, and designates them on various “watch lists.” The Trade Facilitation and Trade Enforcement Act of 2015 (P.L. 114-125 ), modifies “Special 301,” including by requiring USTR to also identify countries that deny adequate and effective protection to trade secrets. Another tool is the Section 337 process, under which the U.S. International Trade Commission (ITC), pursuant to the Tariff Act of 1930, as amended, conducts investigations into allegations that U.S. imports infringe U.S. IP. Based on the investigations, ITC can issue orders prohibiting counterfeit and pirated products from entering the United States, among other things. The 114<sup>th</sup> Congress could examine the effectiveness of Special 301 and Section 337, as well as other issues.

## **Digital Trade<sup>21</sup>**

As digital trade flows make up an important and growing segment of the economy, addressing digital trade barriers has emerged as a key negotiating objective in U.S. trade agreements. The United States generally seeks to preserve a free and open internet. In the second session of the 114<sup>th</sup> Congress, issues include possible oversight of implementation of the EU-U.S. Privacy Shield (see next section), and treatment of digital trade issues in the proposed Trans-Pacific Partnership (TPP), a potential Transatlantic Trade and Investment Partnership (T-TIP), and a potential plurilateral Trade in Services Agreement (TiSA).

Prominent digital trade issues have surfaced in the proposed TPP and the T-TIP negotiations, including:

- cross-border data flows and localization barriers;
- cybersecurity and government-to-government cooperation;
- forced source-code disclosure; and
- consumer protection and data privacy.

According to the U.S. International Trade Commission, decreasing barriers to cross-border data flows would increase the U.S. gross domestic product (GDP) by 0.1% to 0.3% (2014 data).

## **Safe Harbor/EU-U.S. Privacy Shield**

According to one 2014 Brookings Institution study, cross-border data flows between the United States and Europe are the highest in the world. On October 6, 2015, the Court of Justice of the European Union (CJEU) invalidated the Safe Harbor Agreement between the United States and the 28-member European Union (EU), under which personal data could legally be transferred between EU member countries and the United States. The decision was driven by European concerns that the U.S. approach to data privacy did not guarantee a sufficient level of protection for European citizens’ personal data. Approximately 4,500 U.S. companies (including U.S. subsidiaries of European firms) participated in the Safe Harbor Agreement.

On February 2, 2016, the United States and the EU announced that they reached a new framework agreement called on the EU-U.S. Privacy Shield to update and revise the Safe Harbor Agreement. The United States and the EU released a draft text of the framework agreement on February 29, 2016, which many expect to be approved by the EU later this year. According to the

---

<sup>21</sup> Written by Rachel Fefer, Analyst in International Trade and Finance (x7-1804). See CRS Report R44257, *U.S.-EU Data Privacy: From Safe Harbor to Privacy Shield*, by Martin A. Weiss and Kristin Archick.

framework, the final agreement will include additional obligations on the U.S. government, including a new ombudsman in the U.S. State Department and additional safeguards and limitations on surveillance, and on companies, such as robust data processing obligations. The Privacy Shield also involves proactive monitoring and enforcement by U.S. agencies, and will be subject to an annual joint review by the United States and the EU.

## **International Investment**

The United States is a major source and recipient of foreign direct investment (FDI). This dual position points to one aspect of globalization, the spread of economic activity by firms across national borders, which has become a prominent feature of the U.S. economy. Globalization also means that the United States has important economic, political, and social interests at stake in the development of international policies regarding direct investment. Congress influences all aspects of these international investment issues.

### **Foreign Investment and National Security<sup>22</sup>**

The United States has established domestic policies that treat foreign investors no less favorably than U.S. firms, with some exceptions for national security. Under current U.S. law, the President exercises broad discretionary authority over developing and implementing U.S. direct investment policy, including the authority to suspend or block investments that “threaten to impair the national security.” At the same time, Congress also is directly involved in formulating the scope and direction of U.S. foreign investment policy. For instance, following the terrorist attacks on the United States on September 11, 2001, some Members questioned the traditional U.S. open-door policy and argued for greater consideration of the long-term impact of foreign direct investment on the structure and industrial capacity of the economy, and on the ability of the economy to meet the needs of U.S. defense and security interests.

In July 2007, Congress asserted its own role in making and conducting foreign investment policy when it adopted and the President signed the Foreign Investment and National Security Act of 2007 (P.L. 110-49) that formally established the Committee on Foreign Investment in the United States (CFIUS). This law broadens Congress’s oversight role, and explicitly includes homeland security and critical infrastructure as separately identifiable components of national security that the President must consider when evaluating the national security implications of foreign investment transactions. The law also grants the President the authority to suspend or block foreign investments that are judged to threaten U.S. national security, although the law does not define what constitutes national security relative to a foreign investment. To date, the law has been used twice to block a foreign acquisition of a U.S. firm. At times, the law has drawn Congress into a greater dialogue over the role of foreign investment in the economy and the relationship between foreign investment and the general concept of national economic security.

---

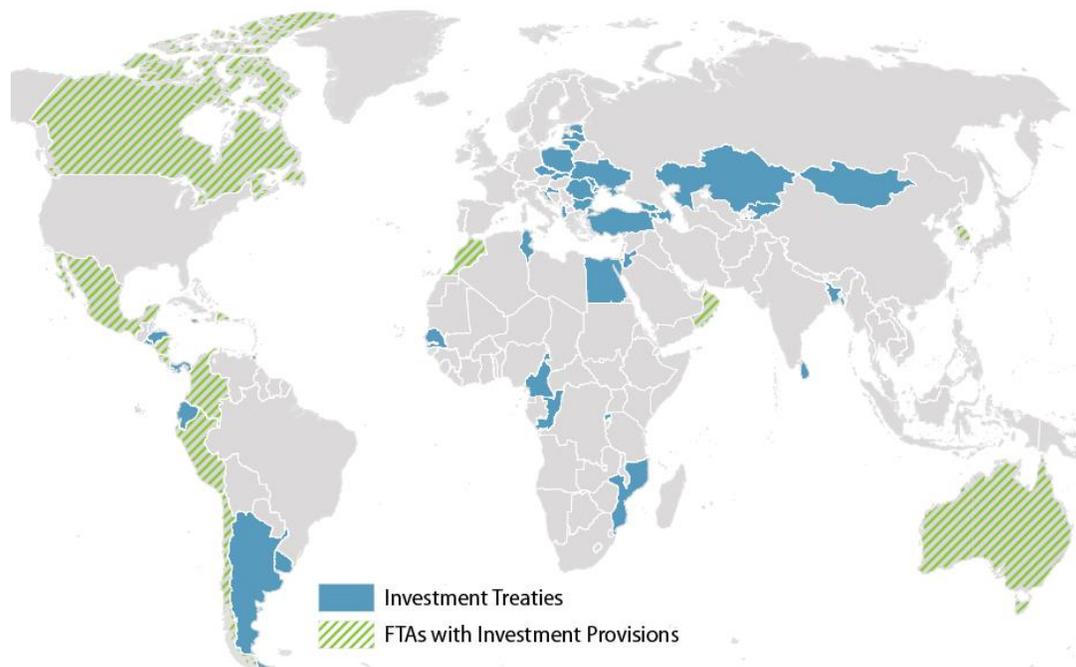
<sup>22</sup> Written by James K. Jackson, Specialist in International Trade and Finance (x7-7751). See CRS Report RL34561, *Foreign Investment and National Security: Economic Considerations*, by James K. Jackson; CRS Report RS22863, *Foreign Investment, CFIUS, and Homeland Security: An Overview*, by James K. Jackson; and CRS In Focus IF10177, *The Committee on Foreign Investment in the United States*, by James K. Jackson.

## U.S. International Investment Agreements (IIAs)<sup>23</sup>

The United States negotiates IIAs, based on a “model” Bilateral Investment Treaty (BIT), to reduce restrictions on foreign investment, ensure nondiscriminatory treatment of investors and investment, and advance other U.S. interests. U.S. IIAs typically take two forms: (1) BITs, which require a two-thirds vote of approval in the Senate for ratification; or (2) BIT-like chapters in free trade agreements (FTAs), which require simple majority approval of the trade agreement implementing legislation by both Houses of Congress (see **Figure 1**). While U.S. IIAs are a small fraction of the global total, they are often viewed as more comprehensive and of a higher standard than those of other countries.

U.S. trade negotiating objectives, renewed in 2015 through Trade Promotion Authority (TPA), continue to include a principal negotiating objective to reduce or eliminate barriers to foreign investment while ensuring that foreign investors in the United States are not accorded “greater substantive rights” for investment protections than domestic investors.

**Figure 1. U.S. International Investment Agreements**



**Source:** CRS, based on information USTR and the Department of State.

**Substantive Protections Common to  
U.S. Investment Agreements**

<sup>23</sup> Written by Shayerah Ilias Akhtar (x7-9253), and Martin A. Weiss (x7-5407, Specialists in International Trade and Finance. See CRS Report R43052, *U.S. International Investment Agreements: Issues for Congress*, by Shayerah Ilias Akhtar and Martin A. Weiss; and CRS Report R44015, *International Investment Agreements (IIAs): Frequently Asked Questions*, coordinated by Martin A. Weiss; and CRS In Focus IF10052, *U.S. International Investment Agreements (IIAs)*, by Martin A. Weiss and Shayerah Ilias Akhtar.

The proposed Trans-Pacific Partnership (TPP) represents the most recent set of investment rules negotiated by the United States. It contains core investor protections traditionally included in most U.S. FTAs (see **text box**), as well as new provisions, including:

- clarification of the minimum standard of treatment for investors;
- an exception allowing governments to decline to accept ISDS challenges against tobacco control measures;
- clarification that countries have a right to regulate in the public interest, including to promote prudential or financial stability and protect public health, safety, and the environment (building on language in prior U.S. IIAs recognizing, for example, that only in rare circumstances is non-discriminatory regulatory action indirect expropriation); and
- ISDS procedures for transparency, public participation, and dismissal of frivolous claims.

**Market access** for investments.

**Non-discriminatory treatment** of foreign investors and investments compared to domestic investors (national treatment) and to those of another country (most-favored-nation treatment).

**Minimum standard of treatment (MST)** in accordance with customary international law, including fair and equitable treatment and full protection and security.

Prompt, adequate, and effective **compensation for expropriation**, both direct and indirect, recognizing that, except in rare circumstances, non-discriminatory regulation is not an indirect expropriation.

Timely **transfer of funds** into and out of the host country without delay using a market rate of exchange.

Limits on **performance requirements** that, for example, condition approval of an investment on using local content.

**Investor-State Dispute Settlement (ISDS)** for binding international arbitration of private investors' claims against host country governments for violation of investment obligations, along with requirements for transparency of ISDS proceedings.

**Exceptions** for national security and prudential interests, among others.

Should Congress consider potential implementing legislation for TPP, it may revisit these investor protections. Particular issues of interest may include: the level of protection TPP affords to investors and how it balances against other interests (such as protecting governments' regulatory ability), whether investment rules treat U.S. and foreign investors in the United States equally, how the investment commitments in TPP compare to those in past U.S. agreements, and the implications of TPP investment commitments (such as the "tobacco carve-out") on future IIAs and trade agreements. Similar issues also may arise in the ongoing T-TIP negotiations, where treatment of ISDS has been controversial.

Additionally, the United States is engaged in BIT discussions with emerging and developing economies that are not a part of current U.S. FTA negotiations, notably China and India. While such potential BITs present opportunities for enhanced commercial relations, debate exists over whether high standard investment commitments can be achieved. The United States also continues to explore the possibility of investment treaties with other trading partners, including the East African Community (EAC). These negotiations are likely to be of oversight interest during the second session of the 114<sup>th</sup> Congress.

### Promoting Investment in the United States<sup>24</sup>

U.S. investment policy includes a focus on attracting investment to the United States. The Department of Commerce's SelectUSA program, established by Executive Order 13577 (June 2011), aims to coordinate federal efforts to attract and retain business investment in the United

<sup>24</sup> Ibid.

States, complementing states' investment promotion activities. Its role includes serving as an information resource on investment, helping to resolve investment issues involving federal programs and activities, and advocating at a national level to attract inward investment. SelectUSA seeks to be geographically neutral regarding investment locations in the United States. It has operated with a budget of less than \$1 million each year. In March 2015, the Administration announced efforts to enhance the program, including through the establishment of a federal advisory committee to solicit input on retaining FDI. In the 114<sup>th</sup> Congress, H.R. 1007 was introduced authorizing appropriations for SelectUSA at \$20 million annually over the period 2016-2020 and reporting requirements related to the programs' activities, impact, and findings regarding efforts to promote the United States as a manufacturing destination. The second session of the 114<sup>th</sup> Congress could consider SelectUSA's authorization status, funding levels, and effectiveness in supporting U.S. investment goals.

## **International Financial Institutions (IFIs), Markets, and Crises**

The global nature of financial markets and the role of IFIs in the global economy are of congressional interest. Congress appropriates funds to the IFIs and oversees U.S. participation in them. The IFIs include the International Monetary Fund (IMF), whose main task is ensuring international monetary and financial stability, and several multilateral development banks (MDBs), including the World Bank and four regional development banks—the African Development Bank (AfDB), the Asian Development Bank (AsDB), the European Bank for Reconstruction and Development (EBRD), and the Inter-American Development Bank (IDB). The United States is a member and major contributor to all these institutions.

The IFIs and the Group of Twenty (G-20) major economies were at the forefront of the global response to the financial crisis in 2008 and ensuing crisis in the Eurozone, dramatically increasing their lending to help countries absorb the impact of reduced economic growth and its effects on trade and financial flows. To cover increased lending, the IMF and the MDBs sought new donor resources.

The exchange rate policies of other countries, and their impact on the U.S. economy and U.S. jobs, have also been a key issue for some Members of Congress. Concerns about “currency manipulation” by other countries led to legislative action in the 114<sup>th</sup> Congress, including in Trade Promotion Authority (TPA) and customs legislation.

The rise of emerging markets in the global economy and their role in the international financial architecture, including in newer institutions such as the China-led Asia Infrastructure Investment Bank (AIIB), are also major policy issues.

## **International Monetary Fund (IMF)<sup>25</sup>**

Recent congressional attention has centered on the use of IMF resources since the 2008 global economic crisis, proposed IMF governance changes, and the IMF's role in the Eurozone debt crisis. In December 2010, the Board of Governors of the IMF agreed to a set of institutional reforms that would increase the institution's core source of funding and expand the representation of major emerging markets, such as Brazil, China, India, and Mexico. The reform package will

---

<sup>25</sup> Written by Martin A. Weiss, Specialist in International Trade and Finance (x7-5407). See CRS Report R42019, *International Monetary Fund: Background and Issues for Congress*, by Martin A. Weiss; CRS Report R42844, *IMF Reforms: Issues for Congress*, by Rebecca M. Nelson and Martin A. Weiss; and CRS In Focus IF10134, *IMF Quota and Governance Reforms*, by Martin A. Weiss and Rebecca M. Nelson .

not take effect unless three-fifths of IMF members (113) representing 85% of the total voting power approve the reforms. Under this formula, approval by the United States is essential because it controls 16.75% of the voting power. By U.S. law, congressional authorization is required for the United States to consent to change the U.S. quota in the IMF, which determines the U.S. share of total voting power. Furthermore, depending on how the newly authorized U.S. contributions to the IMF are treated under the budget, appropriations may be required.

The FY2016 Consolidated Appropriations Act (P.L. 114-47) authorizes U.S. participation in the IMF reform package once certain conditions have been met. Implementing the 2010 reform package would effectively transfer about \$56.7 billion in U.S. financial commitments from the New Arrangements to Borrow (NAB) to quota. The U.S. quota commitment nearly doubled to about \$115.2 billion, and U.S. commitments to the NAB falls to about \$39.1 billion. Debate in the United States has focused on several areas; foremost is whether the IMF quota should be increased at all. Other issues that Members of Congress and analysts have considered are whether the United States would retain greater control over the use of its financial resources in the NAB relative to quota, due to procedural differences in how the two funds operate, and the budgetary treatment of U.S. participation in the IMF, among other issues. The United States retains veto power over major IMF policy decisions and keeps a representative on the IMF Executive Board.

Members may be interested in following the implementation of several policies and reporting requirements. The FY2016 appropriations act restricts the transfer from the NAB to quota until the U.S. Treasury certifies it has taken “all necessary steps” to seek eliminating the IMF’s “systemic exemption” policy. This policy was introduced in 2010 to allow the IMF to approve large-scale lending programs to a country, despite concerns about the country’s debt sustainability, if there is a high risk that not providing financial assistance would have spillover effects to other countries and potentially destabilize the global economy. Recent IMF loans to Greece, Portugal, and Ireland would likely not have been justified in the absence of the “systemic exemption.” In recent years, IMF staff has supported eliminating the “systemic exemption,” and proposed other reforms to increase the IMF’s ability to provide support to highly-indebted, systemically important countries.

The FY2016 appropriations act also requires the U.S. Executive Director at the IMF to consult with Congress in advance of approving large IMF loans. It further requires the U.S. Treasury to submit a report to Congress providing a debt sustainability analysis and documentation justifying the loan. Additional reporting requirements relate, for example, to the cost estimates and budgetary treatment of U.S. contributions to the IMF, the practices of the IMF, and U.S. participation in the IMF.

## **Multilateral Development Banks (MDBs)<sup>26</sup>**

Many policymakers view U.S. participation in the MDBs as important because the United States is the largest overall shareholder at the MDBs (see **Table 1**). This position also defines the United States’ power to veto, which it can exercise under certain circumstances. The Obama Administration has strongly supported capital increases and concessional replenishments at the MDBs, but cautioned that the increases must be tied to policy reforms to: improve transparency, accountability, and governance; better align management performance and incentives with

---

<sup>26</sup> Written by Martin A. Weiss, Specialist in International Trade and Finance (x7-5407). See CRS Report R41170, *Multilateral Development Banks: Overview and Issues for Congress*, by Rebecca M. Nelson; and CRS Report R41537, *Multilateral Development Banks: How the United States Makes and Implements Policy*, by Rebecca M. Nelson and Martin A. Weiss.

improved development outcomes; and delineate more clearly the division of labor between the World Bank and the regional development banks. Congress may wish to evaluate the effectiveness of the MBDs, as well as consider future appropriations for MDBs.

**Table I. Voting Power of the Largest Shareholder**

Percentage of Total Voting Power

IBRD	Voting Power	AfDB	Voting Power	AsDB	Voting Power	EBRD	Voting Power	IDB	Voting Power
U.S.	16.12	Nigeria	9.30	Japan	12.84	U.S.	10.13	U.S.	30.00
Japan	7.47	U.S.	6.61	U.S.	12.75	France	8.63	Argentina	10.75
China	4.82	Japan	5.50	China	5.48	Germany	8.63	Brazil	10.75
Germany	4.37	Egypt	5.39	India	5.39	Italy	8.63	Mexico	6.91
U.K.	3.92	South Africa	4.90	Australia	4.95	Japan	8.63	Venezuela	5.76

**Source:** Websites of the various MBDs.

**Notes:** IBRD – International Bank for Reconstruction and Development; AfDB – African Development Bank; AsDB – Asian Development Bank; EBRD – European Bank for Reconstruction and Development; and IDB – Inter-American Development Bank.

### **The Asian Infrastructure Investment Bank (AIIB) and BRICS Bank<sup>27</sup>**

On October 24, 2014, China and 20 other countries signed an agreement to establish a new development bank, the Asian Infrastructure Investment Bank (AIIB). Formally established in late 2015, the AIIB has 57 founding members including four G-7 economies (France, Germany, Italy and the United Kingdom) as of January 2016. The AIIB is expected to make its first loans in mid-2016. As its name suggests, the new entity is expected to focus on financing infrastructure projects throughout the region. China sees the AIIB and other financing mechanisms, including a \$40 billion Silk Road Fund, the \$100 billion New Development Bank (formerly known as the BRICS Development Bank), and the Shanghai Cooperation Organization Development Bank, as a means to finance what it calls a “Silk Road Economic Belt” and a “21st Century Maritime Silk Road.” The “Silk Road Economic Belt” would be a network of highways, railways and other critical infrastructure linking China to Central and South Asia, the Middle East and Europe. The Silk Road Maritime Route entails building or expanding ports throughout Asia, the Middle East, Africa and Europe.

The AIIB announcement followed closely an agreement in July 2014 on a separate development institution, the New Development Bank (NDB), by the leaders of the BRICS countries (Brazil, Russia, India, China, and South Africa). Some observers are concerned that these new development banks may be duplicative of existing multilateral and regional institutions, and might provide financing with minimal, if any, policy conditionality and without adhering to established environmental and social safeguards, which many developing countries believe are too burdensome. By contrast, the United States and other major donors consider policy conditionality, safeguards, and other governance best practices, including measures such as rules on procurement, as being central to the effectiveness of development assistance, and have used their leadership in the MDBs to advance these priorities.

<sup>27</sup> Written by Martin A. Weiss, Specialist in International Trade and Finance (x7-5407). See CRS In Focus IF10154, *Asian Infrastructure Investment Bank*, by Martin A. Weiss; and CRS In Focus IF10273, *China’s “One Belt, One Road”*, by Susan V. Lawrence and Gabriel M. Nelson.

While the United States has not opposed the creation of the AIIB and the BRICS Bank, U.S. officials reportedly initially pressured governments not to join. U.S. Administration officials recognize the need to support infrastructure investment globally, but express concerns about whether AIIB will incorporate the high standards of the World Bank and regional development banks particularly with respect to governance, and environmental and social safeguards. A broader concern is the emergence of Chinese-led regional economic institutions in which the United States has little influence and which offer alternatives to U.S.-led economic efforts in the region. During the second session of the 114<sup>th</sup> Congress, Members may choose to monitor the development of these institutions and explore options for the Administration to meaningfully engage with them.

### **Group of 20 (G-20)<sup>28</sup>**

The G-20 is the premier forum for international economic cooperation and coordination, and includes 20 major advanced and emerging-market economies that, together, account for about 85% of global economic output. The members of the G-20 are Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Mexico, Russia, Saudi Arabia, South Africa, South Korea, Turkey, United Kingdom, United States, and the European Union (EU). The leaders of the G-20 countries hold annual meetings (“summits”), as well as more frequent gatherings of finance ministers, central bankers, and other officials. Discussions and agreements primarily focus on international economic and financial issues, although related topics, such as development, food security, and the environment, may also be discussed. Congress exercises oversight over the Administration’s participation in the G-20, including the policy commitments that the Administration is making in the G-20 and the policies it is encouraging other G-20 countries to pursue. Additionally, legislative action may be required to implement certain commitments made by the Administration in the G-20 process.

The G-20 has a rotating presidency, which was held by Turkey in 2015. Turkey focused the 2015 agenda on “inclusive and robust growth through collective action.” Three pillars of particular focus were: 1) strengthening the global recovery and lifting potential economic growth; 2) enhancing resilience of the global economy; and 3) enhancing sustainability in the global economy. At the November 2015 summit, leaders also discussed counterterrorism efforts, cyberspace norms, the refugee crisis, international taxation, efforts to fight corruption, and climate change, among other issues. In 2016, China holds the rotating G-20 presidency for the first time. Analysts are debating what kind of G-20 leader China will be and what issues it will prioritize for the G-20 agenda.

### **Currency Debates<sup>29</sup>**

Some Members of Congress and policy experts argue that U.S. companies and jobs have been adversely affected by the exchange rate policies adopted by China, Japan, and a number of other countries. They allege that these countries use policies to “manipulate” the value of their currency in order to gain an unfair trade advantage against other countries, including the United States. Although concerns have long focused on China, recently attention also has focused on Japan.

---

<sup>28</sup> Written by Rebecca M. Nelson, Specialist in International Trade and Finance (x7-6819). See CRS Report R40977, *The G-20 and International Economic Cooperation: Background and Implications for Congress*, by Rebecca M. Nelson.

<sup>29</sup> Written by Rebecca Nelson, Specialist in International Trade and Finance (x7-6819). See CRS Report R43242, *Current Debates over Exchange Rates: Overview and Issues for Congress*, by Rebecca M. Nelson; and CRS In Focus IF10149, *African Growth and Opportunity Act (AGOA)*, by Brock R. Williams .

Japan's currency, the yen, has depreciated against the U.S. dollar by about 50% between mid-2012 and the end of 2015 following a new set of expansionary monetary policies, similar to the Federal Reserve's quantitative easing programs. Some economists are skeptical about "currency manipulation" and whether it is a significant problem. They raise questions about whether government policies have long-term effects on exchange rates, whether it is possible to differentiate between "manipulation" and legitimate central bank activities, and the net effect of alleged currency manipulation on the U.S. economy.

The 114th Congress responded to concerns about currency manipulation through Trade Promotion Authority (TPA) and customs legislation. TPA legislation signed into law in June 2015 (P.L. 114-26) includes, for the first time, principal negotiating objectives addressing currency manipulation. Largely in response to the TPA legislation, monetary authorities from the 12 TPP countries negotiated and released in November 2015 a joint declaration to address unfair currency practices. The declaration reaffirms commitments to avoid currency manipulation, requires greater transparency and reporting on currency interventions and other key indicators, and establishes regular dialogue among TPP members on exchange rates. It would take effect should TPP enter into force.

Currency manipulation was also addressed in the Trade Facilitation and Trade Enforcement Act of 2015 (P.L. 114-125). The law outlines provisions to enhance Treasury reporting and bilateral engagement on exchange rate issues. It does not include language from an earlier Senate version of the bill, which would have applied countervailing duties on imports from countries that manipulate their currency (similar to the proposals in H.R. 820 and S. 433). Neither the side agreement to TPP nor the customs legislation includes enforceable provisions on currency, for which some Members had advocated.

### **The Greek Debt Crisis<sup>30</sup>**

The United States and Europe have the world's largest bilateral economic relationship, and many Members of Congress stress that a robust European economy is important to U.S. interests. Members have closely monitored the economic crisis in Greece and broader Eurozone. Beginning in late 2009, Greece began facing an economic crisis that has posed serious threats to economic stability in Europe and the broader international economy. Greece's crisis has been rooted in concerns about the sustainability of its public finances and high debt levels, but it has had broader effects on Greece's economy, including a collapse in economic growth, high unemployment, and instability in the country's banking system. Although the Greek economy is small, accounting for less than 2% of Eurozone gross domestic product (GDP), many policymakers and analysts have been concerned about the potential contagion of the crisis in Greece to the rest of the Eurozone and the global economy. More fundamentally, the crisis has exposed problems with the institutional architecture of the Eurozone, whose member states share a common currency and monetary policy, but retain national control over fiscal and banking policies.

Agreement on a third financial assistance package for Greece in the summer of 2015 has stabilized the economic situation in Greece, although some analysts still argue that the crisis could resurface. More broadly, Eurozone members face a challenging set of issues: (1) there are double-digit unemployment rates across the Eurozone as a whole and interest rates are close to zero; (2) persistently low rates of inflation raise the risk of economic stagnation; (3) business investment, a key factor in future economic growth, registers few signs of life; and (4)

---

<sup>30</sup> Written by Rebecca M. Nelson, Specialist in International Trade and Finance (x7-6819). See CRS Report R44155, *The Greek Debt Crisis: Overview and Implications for the United States*, coordinated by Rebecca M. Nelson.

productivity and competitiveness gains have nearly disappeared. A prolonged economic slowdown could have implications for the U.S. economy, and particularly could depress demand for U.S. exports. The launch of the Transatlantic Trade and Investment Partnership (T-TIP) negotiations was in part an effort to stimulate economic growth and expand export opportunities in the region.

### **Argentina Sovereign Debt Default<sup>31</sup>**

In December 2001, a severe financial crisis led Argentina to default on nearly \$100 billion in foreign debt owed to private creditors, the International Monetary Fund (IMF), and foreign governments. At the time, it was the largest sovereign default in history. Argentina repaid the IMF in full in 2006 but only reached an agreement to repay the Paris Club creditor governments (including the United States) in May 2014. In terms of debt owed to private creditors, Argentina restructured more than 90% of the debt owed to private bondholders. A small group of private investors, the holdouts, did not participate in the exchanges and have not received any payment from Argentina since the 2001 default. The holdouts, mostly hedge funds that bought the bonds in secondary markets at steep discounts, have pursued litigation to seek full repayment from Argentina, primarily in the United States, since a large proportion of Argentine bonds were issued under New York law.

As a result of recent court rulings, U.S. financial institutions legally cannot transfer interest payments from Argentina to holders of the restructured bonds, if Argentina does not also pay the holdouts. Argentina has not paid the holdouts, and in July 2014, funds transferred from Argentina to an intermediary bank could not be disbursed to the holders of the restructured bonds. On July 30, 2014, the credit rating agency Standard and Poor's declared Argentina to be in default, for the eighth time in Argentina's history. Argentina's president, Mauricio Macri, elected in November 2015, has indicated that Argentina could reach an agreement with the holdout creditors in 2016. In the past, some policymakers have been frustrated by Argentina's reluctance to settle with U.S. bondholders and members of the Paris Club.

## **Looking Forward**

Members of Congress can exert significant influence over the course of U.S. trade policy and its implementation through their legislative, appropriations, and oversight roles. U.S. trade policy and international economic issues are likely to remain active areas of interest for the second session of the 114<sup>th</sup> Congress. In engaging on these issues, Congress may wish to:

- consider potential implementing legislation for the Trans-Pacific Partnership (TPP), which could prompt a vigorous debate on a number of trade issues encompassed in the proposed agreement;
- conduct oversight of ongoing U.S. trade negotiations, including on a potential Transatlantic Trade and Investment Partnership (T-TIP) with the European Union (EU), a potential international plurilateral Trade in Services Agreement (TiSA), and World Trade Organization (WTO) negotiations;

---

<sup>31</sup> Written by Rebecca Nelson (x7-6819) and Martin Weiss (x7-5047), Specialists in International Trade and Finance. See CRS Report R43816, *Argentina: Background and U.S. Relations*, by Mark P. Sullivan and Rebecca M. Nelson.

- conduct oversight and take possible legislative action concerning a range of other trade issues, including U.S. trade relations with China and other major economies as well as U.S. export and import policies and programs; and
- monitor the remaining implications of the Eurozone and Greek debt crisis, the financial markets, international financial institutions and U.S. funding levels, and other countries' exchange rate policies, among other international finance issues.

U.S. trade and economic policy affects the interest of all Members of Congress and their constituents. Congressional actions on these issues can impact the health of the U.S. economy, the success of U.S. businesses and their workers, the standard of living of Americans, and U.S. geopolitical interests. Some of these issues may be highly contested, as Members of Congress and affected stakeholders have differing views on the benefits, costs, and role of U.S. trade policy. The dynamic nature of the global economy—including the increasingly interconnected nature of the global market, the growing influence of emerging markets, and the growing role of digital trade, among other factors—provide the backdrop for a robust and complex debate in the second session of the 114th Congress over a range of trade and finance issues.

## **Appendix A. Select CRS Products**

Select CRS products follow on key trade and finance issues for the 114<sup>th</sup> Congress that are discussed in this report. The products take the form of reports or In Focus products, which are two-page executive briefs.

### **Renewal of Trade Promotion Authority**

#### ***Reports***

CRS Report RL33743, *Trade Promotion Authority (TPA) and the Role of Congress in Trade Policy*, by Ian F. Fergusson.

CRS Report R43491, *Trade Promotion Authority (TPA): Frequently Asked Questions*, by Ian F. Fergusson and Richard S. Beth.

CRS Report 97-896, *Why Certain Trade Agreements Are Approved as Congressional-Executive Agreements Rather Than Treaties*, by Jane M. Smith, Daniel T. Shedd, and Brandon J. Murrill.

CRS Report RL33944, *U.S. Trade Concepts, Performance, and Policy: Frequently Asked Questions*, by Wayne M. Morrison et al..

#### ***In Focus***

CRS In Focus IF10297, *The Trans-Pacific Partnership (TPP)-Trade Promotion Authority (TPA) Timeline*, by Ian F. Fergusson.

### **Trade Agreements and Negotiations**

#### ***Reports***

CRS Report R42694, *The Trans-Pacific Partnership (TPP) Negotiations and Issues for Congress*, coordinated by Ian F. Fergusson.

CRS Report R44278, *The Trans-Pacific Partnership (TPP): In Brief*, by Ian F. Fergusson, Mark A. McMinimy, and Brock R. Williams.

CRS Report R44337, *American Agriculture and the Trans-Pacific Partnership (TPP) Agreement*, by Mark A. McMinimy.

CRS Report R42344, *Trans-Pacific Partnership (TPP) Countries: Comparative Trade and Economic Analysis*, by Brock R. Williams.

CRS Report R43387, *Transatlantic Trade and Investment Partnership (T-TIP) Negotiations*, by Shayerah Ilias Akhtar, Vivian C. Jones, and Renée Johnson

CRS Report R42965, *The North American Free Trade Agreement (NAFTA)*, by M. Angeles Villarreal and Ian F. Fergusson.

CRS Report RL34330, *The U.S.-South Korea Free Trade Agreement (KORUS FTA): Provisions and Implementation*, coordinated by Brock R. Williams.

CRS Report RL34470, *The U.S.-Colombia Free Trade Agreement: Background and Issues*, by M. Angeles Villarreal.

CRS Report RL31356, *Free Trade Agreements: Impact on U.S. Trade and Implications for U.S. Trade Policy*, by William H. Cooper.

CRS Report R44044, *U.S. Trade with Free Trade Agreement (FTA) Partners*, by James K. Jackson.

CRS Report RS22154, *World Trade Organization (WTO) Decisions and Their Effect in U.S. Law*, by Jane M. Smith, Brandon J. Murrill, and Daniel T. Shedd.

CRS Report RS20088, *Dispute Settlement in the World Trade Organization (WTO): An Overview*, by Daniel T. Shedd, Brandon J. Murrill, and Jane M. Smith.

CRS Report R44354, *Trade in Services Agreement (TiSA) Negotiations: Overview and Issues for Congress*, by Rachel F. Fefer.

### ***In Focus***

CRS In Focus IF10156, *U.S. Trade Policy: Background and Current Issues*, by Shayerah Ilias Akhtar, Ian F. Fergusson, and Brock R. Williams.

CRS In Focus IF10000, *The Trans-Pacific Partnership (TPP): An Overview*, by Brock R. Williams and Ian F. Fergusson.

CRS In Focus IF10297, *The Trans-Pacific Partnership (TPP)-Trade Promotion Authority (TPA) Timeline*, by Ian F. Fergusson.

CRS In Focus IF10326, *TPP: Selected Impacts for U.S. Agriculture and Food Industries*, by Mark A. McMinimy.

CRS In Focus IF10120, *Transatlantic Trade and Investment Partnership (T-TIP)*, by Shayerah Ilias Akhtar and Vivian C. Jones.

CRS In Focus IF10002, *The World Trade Organization*, by Ian F. Fergusson and Rachel F. Fefer.

CRS In Focus IF10311, *Trade in Services Agreement (TiSA) Negotiations*, by Rachel F. Fefer.

CRS In Focus IF10161, *International Trade Agreements and Job Estimates*, by James K. Jackson.

## **U.S.-China Trade and Economic Relations**

### ***Reports***

CRS Report RL33536, *China-U.S. Trade Issues*, by Wayne M. Morrison.

CRS Report RL33534, *China's Economic Rise: History, Trends, Challenges, and Implications for the United States*, by Wayne M. Morrison.

CRS Report RS21625, *China's Currency Policy: An Analysis of the Economic Issues*, by Wayne M. Morrison and Marc Labonte.

CRS Report RL34314, *China's Holdings of U.S. Securities: Implications for the U.S. Economy*, by Wayne M. Morrison and Marc Labonte.

CRS Report R41748, *China and the United States—A Comparison of Green Energy Programs and Policies*, by Richard J. Campbell.

### ***In Focus***

CRS In Focus IF10030, *U.S.-China Trade Issues*, by Wayne M. Morrison.

CRS In Focus IF10307, *A U.S.-China Bilateral Investment Treaty (BIT): Issues and Implications*, by Wayne M. Morrison.

CRS In Focus IF10139, *China's Currency Policy*, by Wayne M. Morrison.

CRS In Focus IF10313, *Is the Chinese "Economic Miracle" Over?*, by Wayne M. Morrison .

CRS In Focus IF10273, *China's "One Belt, One Road"*, by Susan V. Lawrence and Gabriel M. Nelson.

CRS In Focus IF10154, *Asian Infrastructure Investment Bank*, by Martin A. Weiss.

## **U.S. Export and Investment Financing and Assistance**

### ***Reports***

CRS Report R41929, *Boosting U.S. Exports: Selected Issues for Congress*, by Shayerah Ilias Akhtar et al.

CRS Report R41495, *U.S. Government Agencies Involved in Export Promotion: Overview and Issues for Congress*, coordinated by Shayerah Ilias Akhtar.

CRS Report R43581, *Export-Import Bank: Overview and Reauthorization Issues*, by Shayerah Ilias Akhtar.

CRS Report R43671, *Export-Import Bank Reauthorization: Frequently Asked Questions*, coordinated by Shayerah Ilias Akhtar.

CRS Report 98-567, *The Overseas Private Investment Corporation: Background and Legislative Issues*, by Shayerah Ilias Akhtar.

### ***In Focus***

CRS In Focus IF10017, *Export-Import Bank of the United States (Ex-Im Bank)*, by Shayerah Ilias Akhtar.

CRS In Focus IF00039, *Export-Import (Ex-Im) Bank and the Federal Budget (In Focus)*, by Mindy R. Levit

## **Export Controls and Sanctions**

### ***Reports***

CRS Report R41916, *The U.S. Export Control System and the President's Reform Initiative*, by Ian F. Fergusson and Paul K. Kerr.

CRS Report R43835, *State Sponsors of Acts of International Terrorism—Legislative Parameters: In Brief*, by Dianne E. Rennack.

CRS Report RS20871, *Iran Sanctions*, by Kenneth Katzman.

CRS Report R43311, *Iran: U.S. Economic Sanctions and the Authority to Lift Restrictions*, by Dianne E. Rennack.

CRS Report R43492, *Achievements of and Outlook for Sanctions on Iran*, by Kenneth Katzman.

CRS Report RL33948, *State and Local Economic Sanctions: Constitutional Issues*, by Michael John Garcia and Todd Garvey.

CRS Report R41438, *North Korea: Legislative Basis for U.S. Economic Sanctions*, by Dianne E. Rennack.

CRS Report R43865, *North Korea: Back on the State Sponsors of Terrorism List?*, by Mark E. Manyin et al.

CRS Report R43888, *Cuba Sanctions: Legislative Restrictions Limiting the Normalization of Relations*, by Dianne E. Rennack and Mark P. Sullivan.

CRS Report R43895, *U.S. Sanctions on Russia: Economic Implications*, by Rebecca M. Nelson.

CRS Report RL31502, *Nuclear, Biological, Chemical, and Missile Proliferation Sanctions: Selected Current Law*, by Dianne E. Rennack.

### ***In Focus***

CRS In Focus IF10045, *Cuba: President Obama's New Policy Approach*, by Mark P. Sullivan.

## **Import Policies**

### ***Reports***

CRS Report RL34524, *International Trade: Rules of Origin*, by Vivian C. Jones.

CRS Report RL33867, *Miscellaneous Tariff Bills: Overview and Issues for Congress*, by Vivian C. Jones.

CRS Report RL32371, *Trade Remedies: A Primer*, by Vivian C. Jones.

CRS Report R41429, *Trade Preferences: Economic Issues and Policy Options*, coordinated by Vivian C. Jones.

CRS Report RL33663, *Generalized System of Preferences: Overview and Issues for Congress*, by Vivian C. Jones.

CRS Report RS22541, *Generalized System of Preferences: Agricultural Imports*, by Renée Johnson.

CRS Report R43173, *African Growth and Opportunity Act (AGOA): Background and Reauthorization*, by Brock R. Williams.

CRS Report RS22548, *ATPA Renewal: Background and Issues*, by M. Angeles Villarreal.

CRS Report R43014, *U.S. Customs and Border Protection: Trade Facilitation, Enforcement, and Security*, by Vivian C. Jones and Lisa Seghetti.

CRS Report R44153, *Trade Adjustment Assistance for Workers and the TAA Reauthorization Act of 2015*, by Benjamin Collins.

CRS Report RS20210, *Trade Adjustment Assistance for Firms: Economic, Program, and Policy Issues*, by Mary Jane Bolle.

CRS Report R40206, *Trade Adjustment Assistance for Farmers*, by Mark A. McMinimy.

### ***In Focus***

CRS In Focus IF10018, *Trade Remedies: Antidumping and Countervailing Duties*, by Vivian C. Jones.

CRS In Focus IF10149, *African Growth and Opportunity Act (AGOA)*, by Brock R. Williams.

## **Intellectual Property Rights in U.S. Trade Policy**

### ***Reports***

CRS Report RL34292, *Intellectual Property Rights and International Trade*, by Shayerah Ilias Akhtar and Ian F. Fergusson.

CRS Report RS22880, *Intellectual Property Rights Protection and Enforcement: Section 337 of the Tariff Act of 1930*, by Shayerah Ilias Akhtar.

### ***In Focus***

CRS In Focus IF10033, *Intellectual Property Rights (IPR) and International Trade*, by Shayerah Ilias Akhtar and Ian F. Fergusson.

## **International Investment**

### ***Reports***

CRS Report R43052, *U.S. International Investment Agreements: Issues for Congress*, by Shayerah Ilias Akhtar and Martin A. Weiss.

CRS Report R44015, *International Investment Agreements (IIAs): Frequently Asked Questions*, coordinated by Martin A. Weiss.

CRS Report R43988, *Issues in International Trade: A Legal Overview of Investor-State Dispute Settlement*, by Brandon J. Murrill and Daniel T. Shedd.

CRS Report RL32462, *Foreign Investment in U.S. Securities*, by James K. Jackson.

CRS Report RL33388, *The Committee on Foreign Investment in the United States (CFIUS)*, by James K. Jackson.

CRS Report RL32461, *Outsourcing and Insourcing Jobs in the U.S. Economy: Evidence Based on Foreign Investment Data*, by James K. Jackson.

### ***In Focus***

CRS In Focus IF10177, *The Committee on Foreign Investment in the United States*, by James K. Jackson.

CRS In Focus IF10052, *U.S. International Investment Agreements (IIAs)*, by Martin A. Weiss and Shayerah Ilias Akhtar.

## **International Finance, Institutions, and Crises**

### ***Reports***

CRS Report R41170, *Multilateral Development Banks: Overview and Issues for Congress*, by Rebecca M. Nelson.

CRS Report RS20792, *Multilateral Development Banks: U.S. Contributions FY2000-FY2015*, by Rebecca M. Nelson.

CRS Report R42019, *International Monetary Fund: Background and Issues for Congress*, by Martin A. Weiss.

CRS Report R42844, *IMF Reforms: Issues for Congress*, by Rebecca M. Nelson and Martin A. Weiss.

CRS Report R42377, *The Eurozone Crisis: Overview and Issues for Congress*, coordinated by Rebecca M. Nelson.

CRS Report R40977, *The G-20 and International Economic Cooperation: Background and Implications for Congress*, by Rebecca M. Nelson.

CRS Report R43242, *Current Debates over Exchange Rates: Overview and Issues for Congress*, by Rebecca M. Nelson.

CRS Report R44155, *The Greek Debt Crisis: Overview and Implications for the United States*, coordinated by Rebecca M. Nelson.

CRS Report R43816, *Argentina: Background and U.S. Relations*, by Mark P. Sullivan and Rebecca M. Nelson.

### ***In Focus***

CRS In Focus IF10112, *Introduction to Financial Services: The International Foreign Exchange Market*, by James K. Jackson.

CRS In Focus IF10129, *Introduction to Financial Services: International Supervision*, by Martin A. Weiss.

CRS In Focus IF10049, *Debates over “Currency Manipulation”*, by Rebecca M. Nelson.

CRS In Focus IF10327, *The IMF’s Special Drawing Right and China’s Renminbi*, by Martin A. Weiss.

CRS In Focus IF10134, *IMF Quota and Governance Reforms*, by Martin A. Weiss and Rebecca M. Nelson.

CRS In Focus IF10154, *Asian Infrastructure Investment Bank*, by Martin A. Weiss.

## **Author Contact Information**

Mary A. Irace, Coordinator  
Section Research Manager  
mirace@crs.loc.gov, 7-7679

Shayerah Ilias Akhtar, Coordinator  
Specialist in International Trade and Finance  
siliasakhtar@crs.loc.gov, 7-9253

Benjamin Collins  
Analyst in Labor Policy  
bcollins@crs.loc.gov, 7-7382

Rachel F. Fefer  
Analyst in International Trade and Finance  
rfefer@crs.loc.gov, 7-1804

Ian F. Fergusson  
Specialist in International Trade and Finance  
ifergusson@crs.loc.gov, 7-4997

James K. Jackson  
Specialist in International Trade and Finance  
jjackson@crs.loc.gov, 7-7751

Vivian C. Jones  
Specialist in International Trade and Finance  
vcjones@crs.loc.gov, 7-7823

Wayne M. Morrison  
Specialist in Asian Trade and Finance  
wmorrison@crs.loc.gov, 7-7767

Rebecca M. Nelson  
Specialist in International Trade and Finance  
rnelson@crs.loc.gov, 7-6819

Dianne E. Rennack  
Specialist in Foreign Policy Legislation  
drennack@crs.loc.gov, 7-7608

M. Angeles Villarreal  
Specialist in International Trade and Finance  
avillarreal@crs.loc.gov, 7-0321

Martin A. Weiss  
Specialist in International Trade and Finance  
mweiss@crs.loc.gov, 7-5407

Brock R. Williams  
Analyst in International Trade and Finance  
bwilliams@crs.loc.gov, 7-1157

## **Acknowledgments**

Previous versions of this report were coordinated by Brock Williams, Analyst in International Trade and Finance, as well as Jeff Hornbeck and William Cooper, former CRS Specialists in International Trade and Finance.