



# International Trade and Finance: Key Policy Issues for the 113<sup>th</sup> Congress

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## Summary

The U.S. Constitution grants authority over the regulation of foreign commerce to Congress, which it exercises in a variety of ways. These include the oversight of trade policy generally, and more particularly, the consideration of legislation to approve trade agreements and authorize trade programs. Policy issues cover such areas as: U.S. trade negotiations; tariffs; nontariff barriers; worker dislocation from trade liberalization, trade remedy laws; import and export policies; international investment, economic sanctions; and the trade policy functions of the federal government. Congress also has an important role in international finance. It has the authority over U.S. financial commitments to international financial institutions and oversight responsibilities for trade- and finance-related agencies of the U.S. Government.

The 112<sup>th</sup> Congress approved U.S. bilateral free trade agreements with Colombia, Panama, and South Korea, extended the Trade Adjustment Assistance (TAA) programs through December 31, 2013, and reauthorized the Generalized System of Preferences (GSP) through July 31, 2013. In addition, Congress authorized permanent normal trade relations (PNTR) status for Russia and Moldova, reauthorized the U.S. Export-Import Bank, and approved full U.S. participation in general capital increases for the World Bank and four regional development banks.

The 113<sup>th</sup> Congress may revisit many of these issues and address new ones. Among the more potentially prominent issues are:

1. Negotiations for comprehensive reciprocal trade agreements with major trading partners, including the Trans-Pacific Partnership (TPP) with 11 countries from the Western Hemisphere and Asia, and new negotiations with the European Union for the Transatlantic Trade and Investment Partnership (TTIP) Agreement;
2. Possible renewal of Trade Promotion Authority (TPA), allowing the President to enter into reciprocal trade agreements, and providing trade negotiating objectives and expedited legislative procedures to consider trade agreement implementing bills; and the possible related issue of TAA program reauthorization;
3. U.S.-China trade relations including investment, intellectual property rights protection, currency reform, and market access liberalization;
4. International finance issues including implications of the ongoing Eurozone debt crisis for the U.S. economy, oversight of international financial institutions, and negotiations to conclude new bilateral investment treaties (BITs);
5. Oversight of the stalemated World Trade Organization (WTO) Doha Round negotiations and separate new trade negotiations (e.g. services) that some members of the WTO have undertaken;
6. Review of the President's export control reform initiative and possible renewal of the Export Control Act (EAA), and review of trade sanctions;
7. Oversight of the President's request for new authority to reorganize and consolidate the business- and trade-related functions of six federal entities; the Export-Import Bank, and the Administration's National Export Initiative;
8. Reauthorization of U.S. Customs and Border Protection (CBP) and expiring trade preference programs (e.g., the GSP and the Andean Trade Preference Act).

A list of CRS reports covering these issues is provided at the end of the report.

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## **Policymaking in a Global Economy<sup>1</sup>**

The 113<sup>th</sup> Congress, in exercising both its legislative and oversight responsibilities, faces numerous international trade and finance policy issues. They 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. A list of CRS reports covering in detail each of the issues addressed in this report is provided at the end of the report.

International trade and finance issues are complex, and policy deliberation is often made more challenging by developments in the global economy. First, the world continues to recover unevenly from the 2008 global financial crisis, with many developed countries experiencing weak growth compared to large emerging economies. The sovereign debt crisis in Europe and increased vulnerability of the Eurozone are among the most visible examples. Second, developing country influence and role in the global economy are growing, as witnessed by changing trade and investment patterns, as well as the ascendance of the Group of 20 (G-20) economies as a major forum for international economic cooperation. The rise of Brazil, Russia, India, China, and South Africa (the BRICS), among other emerging economies, presents new challenges in U.S. trade policy and in developing global trade and finance agreements. Third, economic tensions emanating from large international imbalances have not eased.

The U.S. economy is recovering slowly from its worst recession in eight decades. Although the economy is experiencing productivity gains and moderate expansion in output, with many economists forecasting faster growth in 2013, it nonetheless continues to struggle with declining, but still high unemployment and a large federal debt. These domestic imbalances are connected to international ones, including the large U.S. trade deficit, rising holdings of U.S. debt by foreign countries, and downward pressure on the dollar. The United States has long consumed more than it has produced, giving rise to the expanding trade deficit, which is financed by capital inflows. The counterpart is large saving balances, trade surpluses, and capital outflows in other countries, including China, Japan, and Germany.

The call for “global rebalancing” implies a reversal of these trends, which would require national and foreign responses. For the United States, this would involve increased saving (less spending) relative to investment that would produce a rise in net exports (reduction in trade deficit). Implicit in this mix, particularly given steady de-leveraging of U.S. firms and households since 2008, is a reduction of the fiscal deficit, the major source of U.S. dissaving since 2000. For trade surplus countries, it implies the opposite—an increase in domestic demand and decrease in saving relative to investment that would lead to a fall in net exports (reduction in trade surplus). Rebalancing also implies changes in relative exchange rates, including a likely depreciation of the dollar against major U.S. trade partner currencies, and appreciation of China’s currency.<sup>2</sup>

On the trade policy side, the 113<sup>th</sup> Congress will likely exercise its oversight responsibilities and possibly take up legislation that would lead to reciprocal trade agreements. These include the negotiations for the Trans-Pacific Partnership (TPP) agreement, and with the European Union for the proposed Transatlantic Trade and Investment Partnership (TTIP) agreement. President

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<sup>1</sup> Written by J.F. Hornbeck, Specialist in International Trade and Finance, 7-7782.

<sup>2</sup> The fundamentals are covered in Oliver Blanchard and Gian Maria Milesi-Ferretti, *Global Imbalances: In Midstream?*, International Monetary Fund, Staff Position Note 09/29, Washington, D.C., December 22, 2009.

Obama's National Export Initiative (NEI) continues to promote the goal of doubling U.S. exports in five years, which given that 95% of the world's population lives outside U.S. borders, some view as one solution to the challenge of generating faster economic and employment growth. In addition to supporting U.S. companies, the rationale for promoting exports is based on the view that foreign demand is needed to supplement an American consumer still dealing with a residual debt overhang and a federal government facing persistently large fiscal deficits. U.S. exports have recovered briskly since 2009. Meeting the goal of doubling exports, however, will be difficult because trade policy by itself is limited in its ability to affect the trade deficit and aggregate output, which will require vibrant global economic growth, a competitive dollar, and changes in domestic and foreign macroeconomic policies.

Foreign country policies, however, may not align easily with U.S. priorities. The European Union is wrestling with its own financial crisis and possibly another economic downturn, while Japan is mired in persistent slow growth. Rising economic powers, whose strong growth represents expanding markets for U.S. goods, may also be turning to less expansionist macroeconomic policies. Many countries, including many G-20 and emerging economies, have returned to industrial policies, backtracking on trade liberalization.<sup>3</sup> So despite U.S. policies directed at export promotion and encouraging macroeconomic changes abroad, U.S. economic recovery still depends on a balance of increased domestic investment and demand, which could worsen the trade deficit if increased saving is not also part of the mix.<sup>4</sup>

On the finance side, policy-driven currency misalignments and the specter of "currency wars" point to the other side of the global imbalances problem. Some countries are discussing the need for more coordinated and equitable exchange rate policies, if not a broader rethinking of the international monetary system. Attention has also turned to the relevance of the International Monetary Fund (IMF) and other multilateral economic institutions in this process, such as the World Bank, including reevaluating their role, structure, and governance (i.e., increased role of emerging economies). A current concern is the potential threat of competitive devaluations that could increase trade tensions, hinder the rebalancing of the global economy, and undermine international economic stability. China is not alone in this behavior, but receives the most attention because of its closed capital account and large holdings of U.S. Treasury securities.

U.S. international economic policy must also contend with "globalization," or the increasing integration of markets and production, and supply chain networks brought about by advances in technology, communications, transportation, and lower barriers to trade. These transformative changes in the global economy have led to large decreases in transaction costs that have spurred tremendous growth in trade, particularly of intermediate goods, which now account for over 60% of the world's commercial exchange.<sup>5</sup> It has also contributed to rising incomes. In the United States, jobs are supported by U.S. exports to foreign affiliates and U.S. production abroad, as well as foreign firms operating in the United States. These complex production networks further complicate the trade and employment policy debates, and raise other questions such as what

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<sup>3</sup> Simon J. Evenett, ed., *Debate: The 11<sup>th</sup> Global Trade Alert (GTA) Report on Protectionism*, Centre for Economic Policy Research, London, June 2012, p. 1-8.

<sup>4</sup> On the tradeoffs and challenges of dealing with the trade deficit, see: CRS Report RL31032, *The U.S. Trade Deficit: Causes, Consequences, and Policy Options*, by Craig K. Elwell.

<sup>5</sup> CRS Report R41969, *Rising Economic Powers and the Global Economy: Trends and Issues for Congress*, by Raymond J. Ahearn.

constitutes an “American-made” product and how will innovation and production strategies continue to change the economic landscape.

At the same time, while global economic integration has increased trade and economic growth, it has also 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). 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.

In sum, U.S. costs and benefits linked to an increasingly interconnected global economy may run in many directions. The discussion is no longer simply about free trade versus protectionism. The debate involves domestic and foreign macroeconomic policies, the participation of foreign states in markets, the competitiveness of U.S. firms and workers, implications of value-chain and cross-country production, and the financial stability of the international economy. For the United States, an overarching goal is to maintain its high standard of living by remaining innovative, productive, and internationally competitive, while safeguarding those stakeholders who otherwise may be left behind in a fast-changing global economy, suggesting a strong supporting role for complementary domestic policies. These changes have also raised new trade policy issues, some of which are being discussed in current U.S. free trade agreement negotiations.

Congress is in a unique position to address these issues, particularly given its constitutional mandate for legislating and overseeing international trade and financial policy. In addition to broader congressional oversight of the economic and political context of the current U.S. participation in the global economy, this report highlights major international trade and finance issues that the 113<sup>th</sup> Congress may address.

## **The Role of Congress in International Trade and Finance<sup>6</sup>**

The U.S. Constitution assigns express authority over foreign trade to Congress. Article I, Section 8, 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 authority over 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 (P.L. 71-361), which, by raising U.S. tariff rates to an all-time high level, led U.S. trading partners to respond in kind. In response, world trade declined rapidly, exacerbating the impact of the Great Depression. Since passage of this tariff act, Congress has delegated certain trade authority to the executive branch. First, Congress enacted the Reciprocal Trade Agreements Act (RTAA) of 1934 (P.L. 73-316), which authorized the President to enter

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<sup>6</sup> Written by William H. Cooper, Specialist in International Trade and Finance, 7-7749.

into reciprocal agreements to reduce tariffs within congressionally preapproved levels, and to implement the new tariffs by proclamation without additional legislation. Congress has renewed this authority periodically. Second, Congress enacted the Trade Act of 1974 aimed at opening markets and establishing non-discriminatory 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 many times, which includes fast-track trade negotiating authority, now called trade promotion authority (TPA).

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

Congress has an important role in international investment and finance as well. 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). 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, such as the Eurozone sovereign debt crisis.

## **Policy Issues for Congress**

The 112<sup>th</sup> Congress passed several legislative measures on international trade and finance topics, including bills to implement free trade agreements (FTAs) with Colombia, Panama, and South Korea. Each of those FTAs has subsequently entered into force. Legislation was also passed to reauthorize Trade Adjustment Assistance (TAA) and the U.S. Export-Import Bank (Ex-Im), to increase funding for international financial institutions, and to authorize permanent normal trade relations status (PNTR) for Russia and Moldova. In addition, Congress approved extensions to three trade preference programs: the Generalized System of Preferences (GSP); the Andean Trade Preference Act (ATPA); and a “third-country fabric” provision in the African Growth and Opportunity Act (AGOA).

Many of these policy issues, as well as new ones, may come before the 113<sup>th</sup> Congress, ranging from those with overarching implications, to more narrow concerns over customs, tariffs, and appropriations. Some of the more significant issues are discussed below.

### **Renewal of Trade Promotion Authority (TPA)<sup>7</sup>**

The President may request and the 113<sup>th</sup> Congress may consider renewal of TPA. TPA allows implementing bills for trade agreements to be considered under expedited legislative procedures—limited debate, no amendments, and an up or down vote—provided the President

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<sup>7</sup> Written by William H. Cooper, Specialist in International Trade and Finance, 7-7749. See, CRS Report RL33743, *Trade Promotion Authority (TPA) and the Role of Congress in Trade Policy*, by J. F. Hornbeck and William H. Cooper.



observes certain statutory obligations in negotiating trade agreements. These obligations include adhering to congressionally-defined 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 the trade agreements will not be changed once concluded. Since first enacted in the Trade Act of 1974, TPA has been renewed multiple times, with the latest grant of authority expiring on July 1, 2007.

In light of TPA's special provisions governing trade agreement implementing bills, many consider its renewal as necessary to approve and implement new trade agreements. Others question whether TPA is necessary to pass trade implementing bills and note that it is not a prerequisite for initiating or concluding trade agreement negotiations. Some experts argue that TPA would have to be renewed if the United States is to be a credible negotiator in concluding proposed trade agreements such as the Trans-Pacific Partnership (TPP), the Transatlantic Trade and Investment Partnership (TTIP), a Trade in International Services Agreement (TISA), future WTO agreements, and the expansion of the Information Technology Agreement (ITA). It can also be argued that while the Obama Administration has been notifying and consulting Congress on these negotiations per previous TPA requirements, Congress has not formally expressed its views in the form of new legislative negotiating objectives for trade agreements, which have been an important part of previous TPA/fast-track authorities.

## **Trade Agreements and Negotiations**

Historically, the United States has pursued trade agreements to reduce and eliminate barriers to trade and establish non-discriminatory rules and principles to govern trade. Among the trade issues for the 113<sup>th</sup> Congress are U.S. negotiations with the TPP countries—now 11 countries and possibly more—to create a comprehensive and high-standard regional FTA. In addition, President Obama announced his intention to enter into negotiations with the European Union on the proposed Transatlantic Trade and Investment Partnership (TTIP) Agreement. The United States is also engaged in plurilateral negotiations on services. Members may also examine the future of the stalled WTO Doha Round and monitor the Administration's trade liberalizing initiatives with the Middle East and North Africa region.

### **Trans-Pacific Partnership (TPP) FTA<sup>8</sup>**

The TPP is an evolving regional FTA, which may become a vehicle to advance a wider Asia-Pacific free trade area, as well as a U.S. policy response to the rapidly increasing economic and strategic linkages among Asian-Pacific states. The TPP was originally a more limited FTA concluded in 2006 among Singapore, New Zealand, Chile, and Brunei. Subsequently, the United States, Australia, Peru, and Vietnam joined the negotiations in the fall of 2008 (during the Bush Administration). President Obama endorsed the negotiations in November 2009, and Malaysia

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<sup>8</sup> Written by Ian F. Fergusson, Specialist in International Trade and Finance, 7-4997. See, CRS Report R42694, *The Trans-Pacific Partnership Negotiations and Issues for Congress*, coordinated by Ian F. Fergusson, and CRS Report R42344, *Trans-Pacific Partnership (TPP) Countries: Comparative Trade and Economic Analysis*, by Brock R. Williams.

joined as a full participant in October 2010. After intensive consultations with TPP participants during the first half of 2012, Canada and Mexico became full participants at the 15<sup>th</sup> round of negotiations in Auckland, New Zealand, in December 2012. Japan also was welcomed as a full participant on April 12, 2013.

The TPP is potentially an important trade agreement for the United States. In 2012, the TPP negotiating partners made up 40% of total U.S. merchandise trade. TPP negotiations aim to reduce and eliminate tariffs and non-tariff barriers to create a comprehensive and high standard FTA to which other nations can accede. The participants are also discussing new trade issues, such as supply chain management, state-owned enterprises (SOEs), regulatory coherence, new digital trade issues, and the participation of small and medium-sized enterprises to create what the Obama Administration refers to as a “21<sup>st</sup> century trade agreement.” Certain aspects of the negotiations have proven controversial. These include select market access issues, such as agriculture, textiles, and apparel, as well as the level of intellectual property protection, the enforcement of environmental and labor rights, the treatment of state-owned enterprises, and access to government procurement.

President Obama and other TPP leaders have declared their intention to conclude the negotiations by October 2013. Congress has a direct legislative interest in the progress of the negotiations because historically under the TPA statute, it has defined trade agreement negotiating objectives, provided the President with authority to enter into the trade agreement, and defined the legislative procedures under which it will consider a trade agreement implementing bill, should negotiations conclude.

## **The WTO and WTO Doha Round<sup>9</sup>**

The World Trade Organization (WTO) is an international organization that administers the trade rules and agreements negotiated by 157 participating parties—with Montenegro, Russia, Samoa, and Vanuatu becoming members in 2012—and 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 (1986-1994). The WTO succeeded the General Agreement on Tariffs and Trade (GATT), first established in 1947.

The WTO Doha Round of multilateral trade negotiations, begun in November 2001, has entered its 12<sup>th</sup> year of negotiation. The negotiations have been characterized by persistent differences among the United States, the European Union, and advanced developing countries on major issues, such as agriculture, industrial tariffs and nontariff barriers, services, and trade remedies. Partly as a result of being labeled a “development round” to entice developing countries to participate in the first place, developing countries (including emerging economic powerhouses such as China, Brazil, and India) have sought to reduce agriculture tariffs and subsidies among developed countries, enhance non-reciprocal market access for manufacturing sectors, and increase protection for their services industries. Developed countries have sought to increase access to developing countries’ industrial and services sectors, while attempting to retain some measure of protection for their agricultural sectors. Given these differences, which were not

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<sup>9</sup> Written by Ian F. Fergusson, Specialist in International Trade and Finance, 7-4997. See CRS Report RL32060, *World Trade Organization Negotiations: The Doha Development Agenda*, by Ian F. Fergusson.

meaningfully resolved by the 8<sup>th</sup> Ministerial of the WTO in December 2011, there is frustration over the ability of WTO members to reach a comprehensive Doha Round agreement. Many of the issues concerning the Doha round and the governance of the WTO are being aired in the selection of new director-General to replace retiring Pascal Lamy in September 2013.

Despite the lack of agreement on existing issues at the December 2011 Ministerial, some observers have suggested that for the WTO to remain relevant in a changing policy environment, it should start to address trade-related challenges in areas such as the digital economy, climate change, food security, exchange rates, and energy. While no decision was made to adopt a work program on these issues, a revamped plurilateral government procurement agreement was agreed to at the Ministerial by 42 member states (including the 27 members of the European Union). Also, several countries, including China, are in negotiations to accede to the Government Procurement Agreement (GPA).

In addition, work has started on expanding the reach of the current WTO agreements outside the scope of the Doha Round. A group now composed of 46 developed and advanced developing countries began negotiating a possible framework for a plurilateral agreement that would liberalize and expand disciplines in services trade beyond the WTO's General Agreement on Trade and Services (GATS). Negotiations to expand the scope of the current plurilateral Information Technology Agreement (ITA) have also been proposed and efforts continue to "harvest" some parts of the Doha Round, such as trade facilitation. The 9<sup>th</sup> Ministerial of the WTO is scheduled to take place on December 3-6, 2013.

### **Proposed Transatlantic Trade and Investment Partnership (TTIP) Agreement<sup>10</sup>**

The United States and the European Union (EU) share a large, dynamic, and mutually beneficial trade and economic relationship. However, concerns about slow growth, job creation, and increased competition from emerging markets have prompted calls from stakeholders on both sides of the Atlantic for renewed focus on reducing and eliminating remaining barriers to transatlantic trade and investment. In February 2013, the United States and the EU announced plans to launch the negotiation of a comprehensive Transatlantic Trade and Investment Partnership (TTIP). On March 20, 2013, the Obama Administration formally notified Congress of its intention to negotiate with the EU on a TTIP. The EU is initiating its own internal procedures necessary to launch the TTIP negotiation.

Issues in a TTIP negotiation could include tariff reduction and elimination, regulatory compatibility and standards, improved market access for services, investment protection, enhanced government procurement opportunities, intellectual property rights protection and enforcement, and greater agricultural market access. New "21<sup>st</sup> century" issues also could be addressed including trade facilitation, state-owned enterprises (SOEs), digital trade, and supply chains. Certain issues, notably regulatory compatibility, have been contentious in previous transatlantic dialogues, and some question the likelihood of their early resolution. Others suggest that economic and political factors have aligned to improve chances of political and public support for possible FTA negotiations.

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<sup>10</sup> Written by Shayerah Ilias Akhtar, Specialist in International Trade and Finance, 7-9253. See CRS Report RL30608, *EU-U.S. Economic Ties: Framework, Scope, and Magnitude*, by William H. Cooper.

EU-U.S. trade relations are likely to be among the key policy issues confronting the 113<sup>th</sup> Congress. Congress could examine the impact of greater transatlantic trade liberalization on U.S. economic growth; the future of U.S. trade policy and other FTA negotiations (such as the ongoing TPP trade negotiations); efforts to promote solutions to third countries issues (e.g., SOEs); and trade liberalization through multilateral negotiations. Looking forward, the congressional role in a TTIP negotiation would include consultations with U.S. negotiators on and oversight of the negotiations, and eventual consideration of legislation to implement the final trade agreement.

### **The Proposed Trade in International Services Agreement (TISA)<sup>11</sup>**

Services are a significant sector of the U.S. economy, accounting for almost 70% 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 also act as the “lifeblood” of the rest of the economy with transportation services ensuring the goods reach customers and financial services providing credits for the manufacture of goods. Services have become an important priority in U.S. foreign trade and trade policy and of global trade in general, although their intangibility, the requirement for direct buyer-provider contact, and other characteristics have limited the types and volume of services that can be traded. Advances in information technology and the related growth of transnational production networks have reduced these barriers making an expanding range of services tradable across national borders.

Services present unique trade policy issues and challenges, 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. Many policy experts, however, have argued that the GATS must be expanded if it is to govern services trade effectively, but this prospect is diminished given that GATS reform is stuck in the floundering Doha Round of WTO negotiations.

In order to salvage a services agreement, a group of WTO members, led by the United States and Australia, launched informal discussions in early 2012 to explore negotiating a trade in international services agreement (TISA). On January 15, 2013, the Office of the United States Trade Representative (USTR) notified congressional leaders of the United States’ intention to engage formally in negotiations to reach a plurilateral TISA, in conformity with the now-expired TPA congressional notification requirements. Among U.S. objectives would be to: 1) allow U.S. service providers to compete on the basis of quality and competence rather than nationality; 2) permit comprehensive coverage of all services, including services that have yet to be conceived; 3) seek to secure greater transparency and predictability from U.S. trading partners regarding regulatory policies that present barriers to trade in services and hinder U.S. exports; and, 4) address new issues arising from globalization and new mechanisms for conducting trade.

Members of Congress have long had interest in trade agreements that could affect important sectors, such as services. In addition, Congress would have to approve a TISA for it to enter into force in the United States and, therefore, would likely want to play a role in shaping the content and outcome of a TISA. In addition to the TISA, the United States is negotiating reciprocal trade agreements that will likely contain provisions on trade in services, including the TPP and the TTIP.

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<sup>11</sup>This section was written by William H. Cooper, Specialist in International Trade and Finance, 7-7749.

## **U.S. Trade and Economic Engagement with the Middle East and North Africa<sup>12</sup>**

Political change in the Middle East and North Africa (MENA) has prompted the U.S. government to reevaluate ways to expand U.S. trade and investment with countries in the region, which could help foster economic growth and support democratic transitions. However, ongoing political turmoil and security issues in certain MENA countries may lead to greater scrutiny of U.S. engagement, as policymakers grapple with questions of timing, feasibility, and political support for such efforts.

The MENA Trade and Investment Partnership (MENA-TIP) initiative, announced by President Obama in May 2011, has been a primary U.S. trade policy response to political change in the region. It aims to expand MENA trade and investment intra-regionally and with the United States and other global markets. Initial areas of U.S. engagement include trade facilitation, investment, and support for the information and communications technology sector, with a focus on Egypt, Jordan, Morocco, and Tunisia. MENA-TIP also opens prospects for constructing a regional trade arrangement with countries adopting high standards of reform and trade liberalization.

MENA-TIP builds on previous U.S. trade policy initiatives with the region, including the Middle East Free Trade Area Initiative (MEFTA), and the network of existing U.S. trade and investment agreements, dialogues, and programs. It also accompanies other U.S. efforts, including the Deauville Partnership and a G-8 initiative launched in 2011 to assist transitioning MENA countries (Egypt, Jordan, Libya, Morocco, Tunisia, and Yemen) with finance, governance, trade, and investment.

In addition to conducting oversight of MENA-TIP, the 113<sup>th</sup> Congress could consider a number of policy approaches to bolster trade and investment ties with some transitioning countries. These might include: maintaining the status quo until political outcomes in the region are clearer; creating enhanced U.S. trade preferences for imports from MENA countries; increasing U.S. federal export promotion and financing to the region; and exploring new bilateral trade agreements with countries such as Egypt and Tunisia. Such policy approaches may raise questions about their effectiveness in promoting U.S.-MENA trade and investment and supporting political transitions in the region—as well as about how quickly their benefits would be borne out. In a tight budget environment, trade and investment may be attractive compared to other policy tools, such as foreign aid, while also creating new U.S. economic opportunities.

## **China<sup>13</sup>**

Since China embarked upon a policy of economic and trade liberalization in 1979, U.S.-Chinese economic ties have grown extensively. Total U.S.-China trade rose from \$2 billion in 1979 to \$536 billion in 2012. China is currently the United States' second-largest trading partner, its largest source of imports, and its third largest export market. China's large population and rapidly growing economy make it a potentially huge market for U.S. exports, and lower-cost imports

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<sup>12</sup> Written by Shayerah Ilias Akhtar, Specialist in International Trade and Finance, 7-9253. For details see, CRS Report R42153, *U.S. Trade and Investment in the Middle East and North Africa: Overview and Issues for Congress*, coordinated by Shayerah Ilias Akhtar.

<sup>13</sup> Written by Wayne M. Morrison, Specialist in Asian Trade and Finance, 7-7767. See CRS Report RL33536, *China-U.S. Trade Issues*, by Wayne M. Morrison, and CRS Report RL33534, *China's Economic Rise: History, Trends, Challenges, and Implications for the United States*, by Wayne M. Morrison.

from China benefit U.S. consumers. China is also an important part of the global supply chain for many U.S. companies, many of which use China as a final point of assembly for their products. In addition, China's large-scale holdings of U.S. Treasury securities (\$1.26 trillion as of January 2013) have helped the federal government finance its budget deficits, thereby helping to keep U.S. real interest rates relatively low.

Despite growing commercial ties, the bilateral economic relationship has become increasingly complex and often fraught with tension. From the U.S. perspective, many trade tensions stem from China's incomplete transition to a free market economy. While China has significantly liberalized its economic and trade regimes over the past three decades, it continues to maintain, (or has recently imposed) a number of state-directed policies that appear to distort trade and investment flows, which many argue, undermine U.S. economic interests. As a result, U.S.-China commercial relations will likely be a major focus of the 113<sup>th</sup> Congress. Important areas of congressional concern are discussed below.

### **Industrial Policies**

Numerous policies have been implemented by China 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 can amount to discrimination against foreign firms and has become a major source of trade tension with the United States. The Chinese government has responded that they have 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.

Many U.S. firms have also complained about Chinese pressure to establish production facilities in China, share technology with Chinese partners, or set up R&D centers as a condition for gaining market access. A 2012 survey by the American Chamber of Commerce (AmCham) in China reported that 33% of its respondents stated that technology transfer requirements were negatively affecting their businesses. The Obama Administration has initiated WTO dispute settlement cases against a number of Chinese industrial policies, including China's export subsidies to auto and auto parts (September 2012), export restrictions on rare earth elements (March 2012), preferential subsidies given to Chinese wind power equipment manufacturers (December 2010); and export restrictions on certain raw materials manufacturers in China (June 2009).

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

Lack of effective and consistent protection and enforcement in China of U.S. intellectual property rights (IPR) have been cited by U.S. firms as one of the most significant problems 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 complain that piracy rates in China remain unacceptably high. A 2012 AmCham China survey found that 79% of respondents felt that China's IPR enforcement regime was ineffective. A study by the U.S. International Trade Commission estimated that U.S. intellectual property-intensive firms that conducted business in China lost \$48.2 billion in sales, royalties, and license fees in 2009 because of IPR violations.

U.S. business and government representatives have also voiced growing concern over losses suffered by U.S. firms as a result of cyber attacks, many of which are believed to originate in China. The U.S. Office of the Director of National Intelligence (DNI) has noted that Chinese actors are the world's most active and persistent perpetrators of economic espionage. U.S. private sector firms and cyber security specialists have reported an onslaught of computer network intrusions that have originated in China, although the intelligence community cannot confirm these allegations. The Obama Administration has suggested that the United States and China engage in a constructive dialogue to establish acceptable norms of behavior in cyberspace and that China take serious steps to investigate and stop cyber espionage.

## **Currency Issues**

Unlike most major economies, China does not have a floating currency. Instead, the government pegs its currency (the renminbi—RMB) largely to the U.S. dollar, and intervenes in currency markets to limit its appreciation. Critics charge that China manipulates its currency in order to give its exporters an unfair competitive advantage by making Chinese exports to the United States relatively less expensive and U.S. exports to China relatively more expensive than would occur under free market conditions. They argue that if China's currency is undervalued, it acts as a subsidy conveyed to Chinese exporters while constituting an additional trade barrier to U.S. exports to China. Some U.S. policymakers contend that China's currency policy has been a major contributor to large annual U.S. bilateral trade deficits with China (\$315 billion in 2012) and the extensive loss of U.S. manufacturing jobs. In addition, some economists claim that China's currency policy induces other countries to intervene similarly in currency markets.

Beginning in 2005, China began to liberalize its currency policy, due in part to international pressure, and allowed the RMB to appreciate gradually.<sup>14</sup> From July 2005 to July 2009, the RMB was allowed to appreciate by 21%. However, once the effects of the global financial crisis became apparent, the Chinese government halted its appreciation of the RMB and kept it relatively constant through June 2010, when it was allowed to appreciate again. From June 2010 through the end of February 2013, the RMB has appreciated by 8.6% against dollar (15.4% on a real, or inflation-adjusted, basis). However, the RMB appreciated very little in 2012 and during the first two months of 2013.

Several bills have been introduced over the past few years to address China's currency policy, some of which would have increased U.S. tariffs on Chinese products or sought to apply U.S. trade remedy measures against countries (such as China) deemed to have a currency that was fundamentally misaligned. Supporters contend that the RMB remains significantly undervalued against the dollar and that pressure needs to be applied to China to induce it to adopt a more market-based currency regime. Opponents argue that such legislation, if enacted, would likely have little impact on the U.S. economy, would worsen trade relations with China, and could later be found to be inconsistent with U.S. WTO commitments. Other Members contend that, while China's undervalued currency remains an area of concern, it has been superseded by other more significant challenges to U.S. economic interests, discussed above.

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<sup>14</sup> Prior to 2005, China had pegged the RMB solely to the dollar at a constant exchange rate of about 8.28. Thereafter, China has pegged the RMB to a basket of major currencies (including the dollar) and allowed it to appreciate gradually.

## **Chinese Economic Rebalancing**

A major focus of U.S. economic policy towards China has been to persuade it to rebalance its economy by reducing the country's policy preference for exporting and investing, and 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.

## **Challenges for the 113<sup>th</sup> Congress**

China's continued economic rise and U.S.-China trade relations will likely be closely monitored by the 113<sup>th</sup> Congress. Opinions differ, however, as to the most effective way of dealing with China on numerous issues. Some support a policy of engagement using various cabinet-level forums, such as the U.S.-China Strategic and Economic Dialogue (S&ED) and the U.S.-China Joint Commission on Commerce and Trade (JCCT). Others support a somewhat mixed policy of using engagement when possible, coupled with a more aggressive use of WTO dispute settlement procedures to address China's unfair trade policies. Still others, who see China as a growing threat to the U.S. economy and the global trading system, advocate a policy of trying to contain China's economic power and resorting to punitive measures when needed. Some Members may press the Administration to boost efforts to induce China to abide more fully by its WTO commitments, including bringing more trade dispute settlement cases in the WTO. They may also introduce new bills that seek to address China's currency, industrial, and IRP protection policies.

## **Reorganization of Federal Trade-Related Agencies<sup>15</sup>**

U.S. policymakers' interest in the organizational structure of U.S. government trade agencies has grown in recent years, stimulated by federal efforts to promote U.S. exports and employment, as well as national debates on reducing federal spending and the size of the U.S. government. In 2012, President Obama submitted a proposal seeking authority to reorganize and consolidate, into one department, the business- and trade-related functions of six federal agencies: Department of Commerce; Export-Import Bank (Ex-Im Bank); Overseas Private Investment Corporation (OPIC); Small Business Administration (SBA); Trade and Development Agency (TDA); and Office of the United States Trade Representative (USTR). Bills based on the proposal were introduced in the 112<sup>th</sup> Congress. The President's FY2014 budget request reiterated the Administration's trade reorganization proposal and he may resubmit his request for reorganizational authority in the 113<sup>th</sup> Congress.

The trade reorganization proposal has rekindled long-standing policy debates. Proponents of consolidation proposals believe that they may eliminate duplication of federal trade functions,

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<sup>15</sup> Written by Shayerah Ilias Akhtar, Specialist in International Trade and Finance, 7-9253. See CRS Report R42555, *Trade Reorganization: Overview and Issues for Congress*, by Shayerah Ilias Akhtar, and CRS Report R41841, *Executive Branch Reorganization Initiatives During the 112th Congress: A Brief Overview*, by Henry B. Hogue.



provide a more streamlined rationale for U.S. export promotion, and reduce costs of U.S. trade policy programs. Critics contend, however, that such proposals could result in the creation of a larger, more costly federal bureaucracy and undermine the effectiveness of key agencies, such as the USTR. They also assert that the diffusion of trade functions across federal agencies helps to advance various aspects of U.S. trade policy, such as supporting exports by small- and medium-sized businesses.

The Administration also has engaged in other efforts, within its existing authority, that aim to improve the effectiveness and efficiency of federal trade functions. For example, the Administration has created new coordinating bodies, such as the Interagency Trade Enforcement Center and the Interagency Task Force on Commercial Advocacy. In addition, the Administration is reviewing a proposal to reorganize the Department of Commerce's International Trade Administration (ITA).

Members of Congress will likely play a significant role in any trade reorganization debate. Congress could conduct oversight, engage in consultations with the Administration, hold hearings, grant reorganizational authority to the President, and/or introduce and enact trade reorganization legislation separate from the President's plan. Trade reorganization could be controversial from the standpoint of congressional committee jurisdiction, given cross-cutting jurisdiction of trade-related agencies.

## **U.S. Export and Investment Promotion**

The U.S. government promotes exports and investment by providing credit, finance, and insurance programs that are administered by the U.S. Export-Import Bank (Ex-Im Bank), the Department of Agriculture, and the Overseas Private Investment Corporation (OPIC), among other agencies. In addition, the Department of Commerce promotes U.S. exports of goods and services, particularly by small and medium-sized companies, and inward investment into the United States. The National Export Initiative has elevated federal export promotion as a policy priority.

### **National Export Initiative (NEI)<sup>16</sup>**

Launched by the Obama Administration in 2010, the NEI is a strategy for doubling U.S. exports by the end of 2014 to support U.S. jobs through: improved coordination and funding of federal export promotion activities; greater U.S. export financing; enhanced government advocacy on behalf of U.S. exporters; negotiation of new trade agreements; and more robust enforcement of existing trade agreements. The NEI established an Export Promotion Cabinet (EPC), which includes Secretaries or Directors of key federal agencies involved in export promotion, to coordinate with the existing Trade Promotion Coordinating Committee (TPCC) in implementing the NEI.

Under the NEI, federal agencies have reportedly increased their export assistance activities, including government-to-government commercial advocacy, trade missions, and export financing.

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<sup>16</sup> Written by Shayerah Ilias, Specialist in International Trade and Finance, 7-9253. See CRS Report R41495, *U.S. Government Agencies Involved in Export Promotion: Overview and Issues for Congress*, coordinated by Shayerah Ilias Akhtar.

Despite the rise in U.S. exports since 2010, policymakers debate the NEI's effectiveness. Some policymakers welcome its high-level focus on export promotion. Others contend that the NEI amounts to bureaucratic reorganization and that it fails to address shortcomings in federal export promotion efforts. Others also assert that a focus on broader trade and macroeconomic policy efforts may be more effective in boosting exports such as: negotiating and enforcing U.S. FTAs; reducing foreign trade barriers; addressing foreign currency intervention; and working to rebalance the global economy.

The 113<sup>th</sup> Congress could conduct oversight and legislate on a number of export promotion issues related to the NEI, including: the effectiveness of the NEI and federal agencies involved in boosting U.S. exports; the authorities of appropriations for federal agencies with export promotion functions; federal efforts to coordinate export promotion efforts; and, proposals to reorganize federal trade functions.

### **Reauthorization of the U.S. Export-Import (Ex-Im) Bank and Overseas Private Investment Corporation (OPIC)<sup>17</sup>**

Ex-Im Bank and OPIC are two federal agencies involved in trade promotion. Ex-Im Bank, the official export credit agency of the U.S. government, provides direct loans, guarantees, and insurance to help finance U.S. exports when the private sector is unable or unwilling to do so. OPIC supports U.S. economic and foreign policy objectives by providing political risk insurance and finance in support of U.S. investment in developing countries. Both agencies are self-sustaining; they use offsetting collections, generated from fees charged for their services and other sources, to fund their activities. Congress approves an annual appropriation that sets an upper limit on each of the agencies' administrative and program expenses.

Congress has responsibility for reauthorizing Ex-Im Bank and OPIC. The 112<sup>th</sup> Congress passed the Export-Import Bank Reauthorization Act of 2012 (P.L. 112-122), which extended Ex-Im Bank's authority to September 30, 2014. Among other provisions, it also allowed for incremental increases in Ex-Im Bank's lending authority from the previous \$100 billion limit to \$140 billion in FY2014, contingent on certain requirements, and mandated increased Ex-Im Bank reviews of its lending operations. The 113<sup>th</sup> Congress could conduct oversight of Ex-Im Bank's implementation of reauthorization requirements. As Ex-Im Bank's new expiration date nears, the 113<sup>th</sup> Congress will likely debate whether to renew Ex-Im Bank's authority and, if so, for how long and under what terms.

Congress last reauthorized OPIC through the Overseas Private Investment Corporation Amendments Act of 2003 (P.L. 108-158), which extended its authority until September 30, 2007. Since then, Congress has continued to extend OPIC's authority to conduct its credit and insurance programs through the appropriations process. Although Congress has used the appropriations process to make adjustments to OPIC's activities, some argue that the 113<sup>th</sup> Congress should consider OPIC reauthorization, which could afford Members greater opportunity to weigh in on broader OPIC policy issues. From an operational standpoint, some observers assert that a multi-

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<sup>17</sup> Written by Shayerah Ilias Akhtar, Specialist in International Trade and Finance, 7-9253. For additional information, see CRS Report R42472, *Export-Import Bank: Background and Legislative Issues*, by Shayerah Ilias Akhtar; CRS Report R41829, *Reauthorization of the Export-Import Bank: Issues and Policy Options for Congress*, by Shayerah Ilias Akhtar; and CRS Report 98-567, *The Overseas Private Investment Corporation: Background and Legislative Issues*, by Shayerah Ilias Akhtar.

year or permanent authorization would enhance OPIC's long-term planning capacity and ability to provide assurances to investors about its programs. From an oversight perspective, others argue that more frequent reauthorizations would allow for enhanced congressional oversight of OPIC's activities.

## **Ex-Im Bank and International Export Credit Financing**

Many countries, including the United States through Ex-Im Bank, conduct government-backed export financing through entities known as export credit agencies (ECAs), especially when it is perceived that the market has failed to offer adequate financing. The Organization for Economic Cooperation and Development (OECD) is the primary international organization guiding and monitoring officially backed export credit activity. The OECD Arrangement on Officially Supported Export Credits ("the OECD Arrangement"), created in 1978, established limitations on the terms and conditions for official export credit activity of OECD member countries.

In recent decades, export credit financing has grown that is not regulated by the OECD Arrangement. Unregulated financing generally takes two forms: (1) certain OECD member countries conduct export credit financing that falls outside the purview of the OECD Arrangement, such as through "market windows" and untied lending support; and (2) countries such as China, Brazil, and India conduct export credit financing that is not subject to OECD export credit disciplines, because the countries are not OECD members. Although most of the non-OECD ECAs' core programs may comply with, or follow closely, the OECD export credit disciplines, some of these programs—especially in China—appear to "consistently operate with a financial edge over standard OECD financing."<sup>18</sup> However, unregulated financing, by its nature, can be difficult to confirm with any certainty. The changing international export credit financing landscape could raise questions about U.S. exporters' competitiveness in foreign markets. In some cases, U.S. firms that otherwise are fully competitive producers may face competition over financing terms that are subsidized.

For decades, the United States has engaged in negotiations through the OECD on export credit financing issues. More recently, the United States has launched efforts to negotiate export credit guidelines with China. The 2012 Ex-Im Bank reauthorization act (P.L. 112-122) requires the United States to conduct international negotiations with major exporting countries, including OECD members, to substantially reduce—with the ultimate goal of eliminating—subsidized export financing and other forms of export subsidies. The 113<sup>th</sup> Congress could examine progress in such negotiations, both within the OECD and separately, such as the U.S. engagement with China.

## **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

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<sup>18</sup> Export-Import Bank of the United States, *Report to the U.S. Congress on Export Credit Competition and the Export-Import Bank of the United States*, for the period January 1, 2011 through December 31, 2011, June 2012, p. 107.

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, regional stability, and human rights. In the 113<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>19</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 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 create a single export control licensing agency for both dual-use and munitions exports; adopt a unified control list; create a single integrated information technology system, which would include a single database of sanctioned and denied parties; and 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, 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. An Export Enforcement Coordination Center, which was created by executive order on November 9, 2010, has been set up within the Department of Homeland Security to synchronize enforcement efforts. An integrated information technology system based on the Defense Department's USXports platform is being adopted by the Departments of State and Commerce.

The 112<sup>th</sup> Congress did not pass related legislation and the 113<sup>th</sup> Congress may scrutinize this effort through oversight and may be asked to approve certain changes proposed by the Administration, including the creation and placement of the proposed licensing agency. Congress may also attempt to reauthorize or rewrite the currently expired Export Administration Act, the statutory basis of dual-use export controls.

### **Economic Sanctions<sup>20</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 trade and aid sanctions is based, to some extent, on a country's record with respect to human rights, international terrorism, religious freedom, proliferation of weapons of

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<sup>19</sup> Written by Ian F. Fergusson, Specialist in International Trade and Finance, 7-4997. See CRS Report R41916, *The U.S. Export Control System and the President's Reform Initiative*, by Ian F. Fergusson and Paul K. Kerr.

<sup>20</sup> Written by Dianne E. Rennack, Specialist in Foreign Policy Legislation, 7-7608.

mass destruction, international narcotics trafficking, trafficking in persons, high seas piracy, corruption, money laundering, child abduction, and child soldiers. The United States currently maintains robust sanctions regimes against foreign governments it has identified as supporters of acts of international terrorism (Cuba, Iran, Sudan, and Syria), nuclear arms proliferators (Iran, North Korea, Syria), and egregious violators of international human rights standards (Burma, Cuba, Iran, North Korea).

The 113<sup>th</sup> Congress will likely examine the President's implementation of economic sanctions requirements enacted in the 112<sup>th</sup> Congress pertaining to weapons proliferation programs in Iran, North Korea, and Syria, and rule of law matters in Russia. Legislation might be required to move toward normalizing trade relations with Burma, supporting progress in the contentious Sudan-South Sudan border, considering economic agreements as a way to leverage U.S. influence throughout North Africa and the Middle East, and to sustain or modify the decades-long sanctions regime the United States has maintained on Cuba.

## **Import Policies**

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 open markets rests on the view that they yield substantial economic benefits. Decisions to deviate from that rationale can be sanctioned by international trade rules that provide specific groups recourse to petition the government for temporary protection if they can show that they have been injured by certain kinds of "fair" and "unfair" competition. Additionally, efforts to forge closer economic and political ties with developing regions and countries may also lead to more open policies through the extension of preferential access to the U.S. market. Congress has responsibility for five basic import policy areas: (1) trade remedies; (2) trade preferences; (3) border security and trade facilitation; (4) miscellaneous tariff bills; and, (5) trade adjustment assistance.

## **Trade Remedies<sup>21</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: 1) *antidumping* (AD), which provides relief from injurious imports sold at less than fair market value; 2) *countervailing duty* (CVD), which provides relief from injurious imports subsidized by a foreign government or public entity; and 3) *safeguards*, which provide temporary relief from import surges of fairly-traded goods. These laws are enforced primarily through the administrative procedures of two U.S. government agencies, the Department of Commerce and the United States International Trade Commission. In AD and CVD cases, the remedy is an additional duty assessed to offset the calculated amount of dumping or subsidy. In safeguard cases that are determined by the President, an import quota or a tariff may be assessed. In addition, the WTO has specific agreements and rules on these measures to which its member countries, including the United States, adhere.

One issue that may emerge in the 113<sup>th</sup> Congress relates to the alleged under-collection of AD and CVD duties. U.S. Customs and Border Protection (CBP) has responsibility for collecting duties,

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<sup>21</sup> Written by Vivian C. Jones, Specialist in International Trade and Finance, 7-7823. See CRS Report RL32371, *Trade Remedies: A Primer*, by Vivian C. Jones.

including proposals that would require CBP and its sister agency U.S. Immigration and Customs Enforcement (ICE) to investigate allegations of AD/CVD duty circumvention under specific deadlines. A second concern involves China's currency intervention policy (see above) that may limit the appreciation its currency against the U.S. dollar in an effort to make its exports relatively less expensive and U.S. exports relatively more expensive than would otherwise be the case under market conditions.

## **Trade Preferences<sup>22</sup>**

Since 1974, Congress has created six trade preference programs designed to assist "lesser developed" countries: 1) the Generalized System of Preferences (GSP—expires July 31, 2013)), which applies to all eligible developing countries; 2) the Andean Trade Preference Act (ATPA—expires July 31, 2013); 3) the Caribbean Basin Economic Recovery Act (CBERA—permanent); 4) the Caribbean Basin Trade Partnership Act (CBTPA—expires September 30, 2020); 5) the African Growth and Opportunity Act (AGOA—expires September 30, 2015); and 6) the Haitian Opportunity through Partnership Encouragement (HOPE—expires September 30, 2020) Act. Except for CBERA, which is permanent, these programs give temporary, non-reciprocal, duty-free access to the U.S. market for a select group of exports from eligible countries.

Congress authorizes, revises, and conducts regular oversight of these programs. Since the GSP and ATPA programs expire in 2013, legislation extending and/or revising these preference programs could be considered in the 113<sup>th</sup> Congress. Colombia's status as a beneficiary country under ATPA expired upon entry into force of the U.S.-Colombia FTA and Bolivia has been dropped from the program. Because Ecuador is the only remaining designated beneficiary country, there is some question as to whether the 113<sup>th</sup> Congress will extend ATPA or allow it to expire. Congress could also consider legislation seeking to expand and extend trade benefits for AGOA beneficiaries and/or examine the participation of the more advanced developing countries in these programs.

## **U.S. Customs and Border Protection (CBP) Reauthorization<sup>23</sup>**

Trade facilitation aims to improve the efficiency of international trade by harmonizing and streamlining customs procedures, such as duplicative documentation requirements, customs processing delays, and non-transparent or unequally enforced importation rules and requirements. Congress may consider legislation to reauthorize U.S. Customs and Border Protection (CBP)—providing CBP with additional authority and responsibility to expedite the processing of legitimate trade and transportation at U.S. ports of entry, among other provisions. The Trade Facilitation and Trade Enforcement Act of 2013 (S. 662) would reauthorize CBP's import policy functions.

Efforts to streamline trade facilitation procedures as part of the WTO Doha Round were supported by many WTO members. Although the Doha Round is currently at an impasse, some WTO members have continued negotiations on individual parts of the negotiating mandate,

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<sup>22</sup> Written by Vivian C. Jones, Specialist in International Trade and Finance, 7-7823. See CRS Report R41429, *Trade Preferences: Economic Issues and Policy Options*, coordinated by Vivian C. Jones.

<sup>23</sup> Written by Vivian C. Jones, Specialist in International Trade and Finance, 7-7823. See CRS Report R43014, *U.S. Customs and Border Protection: Trade Facilitation, Enforcement, and Security*, by Vivian C. Jones and Marc R. Rosenblum.

including trade facilitation. Some WTO members have favored the possibility of finalizing trade facilitation negotiations so that an agreement could be presented as part of a package of “deliverables” at the 9<sup>th</sup> WTO Ministerial Conference in December 2013. If WTO members reach consensus on a trade facilitation agreement, the 113<sup>th</sup> Congress could consider its approval.

Oversight into CBP efforts to enhance cargo security may also receive congressional attention as part of or separate from consideration of a possible CBP reauthorization bill. For example, the SAFE Port Act (P.L. 109-347), as amended, included a statutory mandate to scan all U.S. maritime cargo with non-intrusive inspection equipment at overseas ports of loading by July 2012. On May 2, 2012, Homeland Security Secretary Napolitano notified Congress that she would exercise her authority to extend the 100% scanning deadline. Thus, cargo screening could become the focus of additional legislation in the 113<sup>th</sup> Congress, among other issues.

### **Miscellaneous Tariff Bill (MTB)<sup>24</sup>**

Many Members of Congress introduce bills that support importer requests for the temporary suspension of tariffs on chemicals, raw materials, or other non-domestically-made components 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, they are often packaged together in a broader miscellaneous tariff bill. The United States Manufacturing Enhancement Act of 2010 (P.L. 111-227) enacted on August 11, 2010, is the most recent MTB. It expired on December 31, 2012.

Legislation could emerge in the 113<sup>th</sup> Congress proposing to renew these duty suspensions, enact new ones, or make procedural changes to the MTB process. It is also possible that consideration of an MTB bill could be controversial because of past congressional moratoriums on “earmarks,” which include measures to provide “limited tariff benefits,” including duty suspensions.

### **Trade Adjustment Assistance<sup>25</sup>**

Congress created Trade Adjustment Assistance (TAA) in the Trade Expansion Act of 1962 to help workers and firms adjust to dislocation that may be caused by increased trade liberalization. It is justified now, as it was then, 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 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. Democratic leaders and the Obama Administration, however, considered TAA renewal essential for passage of three implementing bills for free trade agreements (FTAs) with Colombia, Panama, and South Korea. With this understanding, Congress reauthorized TAA with bipartisan support (P.L. 112-40).

The TAA statute reauthorized the workers, firms, and farmers programs through December 31, 2013, but discontinued TAA for communities because it was considered duplicative of other

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<sup>24</sup> Written by Vivian C. Jones, Specialist in International Trade and Finance, 7-7823. See CRS Report RL33867, *Miscellaneous Tariff Bills: Overview and Issues for Congress*, by Vivian C. Jones.

<sup>25</sup> Written by J. F. Hornbeck, Specialist in International Trade and Finance, 7-7782. See CRS Report R41922, *Trade Adjustment Assistance (TAA) and Its Role in U.S. Trade Policy*, by J. F. Hornbeck.

federal programs. Many, but not all, of the enhanced programs passed in an earlier (2009) reauthorization were continued, retaining eligibility for services workers and firms, increasing income support for workers undergoing job training, raising the Health Coverage Tax Credit, expanding funding for training benefits, and reinstating more detailed program evaluation and reporting requirements. Funding was reduced for job search, relocation assistance, and wage insurance for older workers, and eligibility for public sector workers was discontinued. TAA renewal legislation may be considered by the 113<sup>th</sup> Congress given the programs are set to expire at the end of 2013.

## **Intellectual Property Rights (IPR) in U.S. Trade Policy<sup>26</sup>**

The international protection and enforcement of IPR, such as patents, copyrights, and trademarks, is a major component of U.S. trade policy, due to the role of IPR in the U.S. economy and the potentially negative commercial, health and safety, and security consequences associated with counterfeiting and piracy. The United States pursues IPR objectives using a range of trade policy mechanisms, including multilaterally through the WTO, which administers the Agreement on Trade-Related Aspects of Intellectual Property Rights (“TRIPS Agreement”); regionally and bilaterally through the negotiation of FTAs; and domestically through U.S. trade laws, such as “Section 337” and “Special 301.”

### **IPR and U.S. Trade Negotiations**

IPR protection and enforcement has been a key negotiating objective in TPA and in U.S. trade agreement negotiations. The 113<sup>th</sup> Congress could conduct oversight over implementation of the IPR commitments in the U.S. FTAs with Colombia, South Korea, and Panama, which entered into force in 2012. Congress also may wish to conduct oversight of the negotiation of IPR issues in current and upcoming U.S. trade negotiations. IPR issues feature prominently in the TPP negotiations, where the United States is seeking IPR protection and enforcement that exceeds the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement. IPR issues may also be debated in the TTIP negotiations. Possible contentious IPR issues in both negotiations include the treatment of pharmaceuticals, the protection of geographical indications (GIs), and new concerns in the digital realm. For both negotiations, commitments to enhance protections for trade secrets may be an emerging area of debate.

Additionally, the 113<sup>th</sup> Congress could continue to monitor the resolution of the Anti-Counterfeiting Trade Agreement (ACTA), an agreement negotiated outside of the WTO by the United States and nearly 40 other primarily developed countries. ACTA is intended to build on the minimum standards for IPR protection and enforcement set forth in the TRIPS Agreement, including new IPR issues in the digital environment. ACTA negotiations concluded in 2010, but in July 2012 the European Parliament rejected it amid widespread protests by advocates of Internet free speech. The United States and most of the other negotiating parties have since signed the agreement, and it currently awaits entry-into-force. The ACTA needs signatories to deposit six instruments of ratification, acceptance, or approval for it to enter into force. However, the EU’s

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<sup>26</sup> Written by Shayerah Ilias Akhtar, Specialist in International Trade and Finance, 7-9253. See, CRS Report RL34292, *Intellectual Property Rights and International Trade*, by Shayerah Ilias Akhtar and Ian F. Fergusson, and CRS Report R41107, *The Proposed Anti-Counterfeiting Trade Agreement: Background and Key Issues*, by Shayerah Ilias Akhtar.



experience has raised questions about future prospects for the ACTA, and to date Japan is the only party that has submitted a formal instrument of approval.

The Administration, which negotiated the ACTA as an executive agreement, maintained that the ACTA is consistent with existing U.S. law and would not require the enactment of implementing legislation. However, some Member of Congress and other groups have debated whether implementation of the ACTA without congressional approval would raise constitutionality issues. Should the ACTA's prospects change, this issue could re-emerge in the 113<sup>th</sup> Congress.

### **Section 337 Process and Online Copyright Infringement and Piracy**

Among the domestic tools that the United States has to pursue IPR-related trade policy is Section 337 of the Tariff Act of 1930 (19 U.S.C. §1337), as amended, which authorizes the U.S. International Trade Commission (ITC) to prohibit imports of products into the United States that infringe on U.S. intellectual property. Under Section 337, the ITC is authorized to order the U.S. Customs and Border Protection (CBP) to stop imports from entering the U.S. border. In the 112<sup>th</sup> Congress, Section 337 was a focus of legislative efforts to address jurisdictional problems associated with holding foreign websites accountable for piracy and counterfeiting. Multiple bills were introduced that renewed congressional and public debate about the balance between protecting U.S. intellectual property and promoting innovation. The 113<sup>th</sup> Congress could choose to take these issues up again.

## **International Investment**

The United States is the largest source and recipient of foreign direct investment (FDI) in the world. 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 the United States has important economic, political, and social interests at stake in the development of international policies regarding direct investment. Congress weighs in on all aspects of these international investment issues.

### **Foreign Investment and National Security<sup>27</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.” Despite the leading role of the President, 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.

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<sup>27</sup> Written by James K. Jackson, Specialist in International Trade and Finance, 7-7751. See CRS Report RL34561, *Foreign Investment and National Security: Economic Considerations*, by James K. Jackson, and CRS Report RS22863, *Foreign Investment, CFIUS, and Homeland Security: An Overview*, by James K. Jackson.

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). This law broadens Congress's oversight role, and explicitly includes the areas of 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. At times, the act has drawn Congress into a greater dialogue over the role of foreign investment in the economy.

### **U.S. International Investment Agreements<sup>28</sup>**

The United States promotes international investment agreements to reduce restrictions on foreign investment, ensure non-discriminatory treatment on foreign investment, protect investor rights, and balance other U.S. policy interests. International investment agreements typically take two forms: bilateral investment treaties (BITs) and BIT-like chapters in free trade agreements. In April 2012, the Obama Administration announced the conclusion of its review of the U.S. Model BIT, the template which the United States uses to negotiate with foreign countries on BITs and investment chapters in FTAs.

The 2012 Model BIT maintains the “core” or substantive investor protections affirmed in the 2004 Model BIT review. In addition, it clarifies that BIT obligations apply to state-owned enterprises (SOEs); includes language further limiting performance requirements; clarifies labor and environmental provisions; clarifies which financial services provisions may fall under a prudential exception (such as to address balance of payments problems); expands transparency obligations; and increases requirements for stakeholder input in the standards-setting process. The conclusion of the Model BIT review may generate momentum to conclude previously-launched negotiations with countries such as China and India, or to launch investment negotiations with other U.S. trading partners. Investment policy issues also feature prominently in U.S. trade negotiations, including the current proposed TPP, where investor-state dispute settlement issues have been particularly controversial, and may be addressed in the TTIP negotiations as well.

BITs are submitted to Congress as treaties, which require a two-third's vote of approval for ratification. BIT-like chapters in FTAs, by contrast, require simple majority approval of the trade agreement implementing legislation by both Houses of Congress. The 113<sup>th</sup> Congress may be asked to consider new BITs, as well as the possible trans-Pacific and trans-Atlantic trade agreements that may include investment chapters.

### **Promoting Investment in the United States<sup>29</sup>**

U.S. investment policy also focuses on attracting foreign investment to the United States. The SelectUSA Initiative, established by President Obama on June 15, 2011, is the federal initiative to encourage inward investment. It is administered by the Department of Commerce's U.S. and Foreign Commercial Service. SelectUSA facilitates investment by: (1) partnering with firms, state and local governments, and other stakeholders; (2) assisting state and local governments with

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<sup>28</sup> Written by Shayerah Ilias Akhtar (7-9253) and Martin A. Weiss (7-5407), Specialists in International Trade and Finance. See, CRS Report RL33978, *The U.S. Bilateral Investment Treaty Program: An Overview*, by Martin A. Weiss and Shayerah Ilias Akhtar.

<sup>29</sup> Written by Shayerah Ilias Akhtar (7-9253) and Martin A. Weiss (7-5407), Specialists in International Trade and Finance.

regulatory barriers; (3) coordinating across federal agencies to provide services that complement state and local efforts; and (4) managing the SelectUSA website, a resource for potential investors. Congress could consider funding levels and conduct oversight of the effectiveness of the SelectUSA initiative in promoting inward investment.

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

The International Financial Institutions (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, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank. 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, dramatically increasing their lending to help developing 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. At several G-20 summits, world leaders committed to ensure sufficient resources for the IFIs to support their macroeconomic stability and development mandates. Many of these efforts, which were directed at stabilizing the world economy in the midst of the 2008-2009 global economic crisis, are now focused on resolving the Eurozone sovereign debt crisis to ensure that it does not undermine the stability and growth of the world economy.

### **International Monetary Fund<sup>30</sup>**

During the 112<sup>th</sup> Congress, attention centered on the how IMF resources have been used since the 2008 global economic crisis, on proposed IMF governance changes, and on the IMF's role in the Eurozone debt crisis. Three Eurozone countries—Ireland, Greece, and Portugal—are currently receiving IMF-budget support and Congress will likely continue to conduct oversight of events in Europe. In December 2010, the Board of Governors of the IMF agreed to a wide-ranging set of institutional reforms. If enacted, they would increase the institution's core source of funding and expand the representation of major emerging market countries, such as Brazil, India, China, and Mexico. In order for key elements of the reform package to take effect, IMF rules dictate that the reforms must be approved by three-fifths of IMF members (113) representing 85% of the total voting power. Under this formula, approval by the United States is essential because it controls 16.75% of the voting power.

To date, a majority of IMF member countries have approved these reforms, but the United States has not. U.S. inaction reportedly created tensions at the IMF-World Bank Annual Meetings in October 2012, with some IMF members frustrated because the United States was instrumental in initially advancing some of the reforms. Congress plays a pivotal role in determining the U.S. position on the current IMF reform agenda. Under U.S. law, congressional authorization is

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<sup>30</sup> Written by Martin A. Weiss, Specialist in International Trade and Finance, 7-5407. 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 Report RL33626, *International Monetary Fund: Reforming Country Representation*, by Martin A. Weiss.

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 the budgetary treatment of any newly-authorized U.S. contributions to the IMF, appropriations may be required.

### **Multilateral Development Banks<sup>31</sup>**

Following several years of elevated lending, the Obama Administration and other governments agreed to over \$338 billion in general capital increases (GCIs) for the MDBs.<sup>32</sup> During the first session of the 112<sup>th</sup> Congress, Congress provided full authorization for U.S. participation, with contributions expected to be spread out over a five- to eight-year period, depending on the institution. In FY2012, Congress also appropriated funds for several MDB concessional lending facilities and more targeted MDB funds.

Many policymakers view U.S. participation in MDB capital increases as important because the United States is the largest shareholder in the MDBs, a position which also defines its power to veto, which it can exercise under certain circumstances. The Obama Administration has strongly supported capital increases 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 improved development outcomes; and delineate more clearly the division of labor between the World Bank and the regional development banks. Congress may evaluate the effectiveness of and possibly consider future appropriations for MDBs.

### **G-20<sup>33</sup>**

The Group of 20, or 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 two-thirds of the world's population and 90% of world GDP. The leaders of the G-20 countries hold annual "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 featured.

During the height of the 2008-2009 global financial crisis, the G-20 reached a number of substantial agreements, including coordinating fiscal policies and financial regulatory reforms. As the immediate urgency of that crisis has waned, however, concerns arose over that the G-20 has failed to deliver on these agreements or provide adequate leadership for managing the global economy, particularly in the context of the Eurozone crisis. Others argue that notwithstanding

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<sup>31</sup> Written by Martin A. Weiss, Specialist in International Trade and Finance, 7-5407. 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.

<sup>32</sup> Shareholders contribute two types of capital to the MDBs: "paid-in-capital," which generally requires the payment of cash to the MDB; and "callable capital," which or funds that shareholders agree to provide, but only when necessary to avoid a default on a loan or payment under a guarantee. Only a small portion (typically less than 5%) of the value of these capital shares is actually paid to the MDB. The vast bulk is callable capital, which serves as the backing for MDBs borrowing in capital markets.

<sup>33</sup> Written by Rebecca M. Nelson, Analyst in International Trade and Finance, 7-6819. See CRS Report R40977, *The G-20 and International Economic Cooperation: Background and Implications for Congress*, by Rebecca M. Nelson.

these concerns, the G-20 remains a critical forum for discussing policy initiatives and encouraging greater cooperation among major countries.

The 113<sup>th</sup> Congress may want to exercise oversight over the Administration's participation in the G-20 process, including the policy commitments that the Administration is making in the context of the G-20 and the policies it is encouraging other G-20 countries to pursue. The next G-20 summit is scheduled for September 5-6, 2013 in St. Petersburg, Russia, and the Russian government has indicated that it will use its presidency to focus on macroeconomic and financial sector issues.

### **Eurozone Sovereign Debt Crisis<sup>34</sup>**

Since late 2009, the Eurozone has grappled with a sovereign debt crisis that threatens economic stability in Europe and beyond. Concerns have focused on the sustainability of public finances in Greece, Ireland, Italy, Portugal, Spain, and most recently, Cyprus. Compounding concerns about public finances are weaknesses in the Eurozone banking system, slow or negative growth, high unemployment, and persistent trade imbalances within the Eurozone. The financial crisis has also become a political crisis, provoking large scale protests and directly or indirectly leading to the fall of several governments in Europe.

European leaders and institutions have pursued a range of policies in response to the crisis and to stem contagion, particularly to Italy and Spain, the third and fourth largest Eurozone economies. These include providing financial assistance to the governments in exchange for implementation of ambitious austerity measures: debt restructuring; the creation of new European rescue funds; unprecedented steps by the European Central Bank to increase liquidity in the Eurozone banking system; bank recapitalization in Spain; and the creation of a single supervisor for European banks, among others. The policy response has been complicated by the number of economic challenges facing the Eurozone, disagreements between Germany, France, and the ECB, as well as others, and the slow pace of EU decision making. After cycling through periods of intense market pressure and relative calm over the past two years, in March 2013, the Eurozone crisis came to the forefront yet again, sparked by concerns over Cyprus's banking sector. More generally, the Eurozone still faces serious economic challenges and questions about its future.

The United States and Europe have the largest bilateral economic relationship in the world, and many Members of Congress have expressed concern about the impacts of the Eurozone crisis on the U.S. economy. The crisis could continue to affect the U.S. economy through a number of channels, including the exposure of U.S. financial institutions and depressed demand for U.S. exports to Europe, among others. Some Members have also expressed concerns about the role of the IMF in the crisis. The IMF is providing loans to Greece, Ireland, and Portugal, and is likely to provide support to Cyprus as well. The 113<sup>th</sup> Congress is likely to continue monitoring the situation closely.

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<sup>34</sup> Written by Rebecca M. Nelson, Analyst in International Trade and Finance, 7-6819. See CRS Report R42377, *The Eurozone Crisis: Overview and Issues for Congress*, coordinated by Rebecca M. Nelson.

## **Argentina Sovereign Debt Default and Related Economic Policies<sup>35</sup>**

In December 2001, Argentina suffered a severe financial crisis, leading to the largest default on sovereign debt in history. After unsuccessful attempts to find a mutually acceptable solution to restructuring the debt, Argentina abandoned the negotiation process and made two bond exchange offers in 2005 and 2010 that were accepted by 92% of private creditors. This outcome left debt held by hedge funds and members of the Paris Club of countries, including the United States, in default. The offers flaunted normal restructuring procedures, and, as a result, Argentina faces prolonged litigation by holdout creditors that have resulted in judgments and attachment orders. In addition, Argentina has adopted policies that have caused increased tension with foreign states and companies. These include failure to pay judgments against Argentina in the World Bank's International Centre for Settlement of Investment Disputes (ICSID), nationalization of a largely Spanish-owned oil company, increasingly protectionist trade measures, capital and exchange rate controls, import taxes, and failure to submit to an IMF Article IV economic review required of all Fund members.

Some U.S. policymakers remain frustrated at Argentina's reluctance to settle with U.S. stakeholders and alter other policies. The United States has taken a number of financial actions against Argentina, including suspension of GSP benefits, voting against loans to Argentina in the World Bank and Inter-American Development Bank, and denying bilateral aid. Previous congresses have introduced resolutions calling for Argentina's membership in the G-20 to be conditioned on adherence to international norms of economic behavior and various versions of the Judgment Evading Foreign States Accountability Act, which would have attempted to pressure Argentina in a number of ways. Despite congressional support for U.S. interests in this matter, there is disagreement as to whether this legislation is the best way to proceed given questions over committee jurisdiction and action pending before federal courts.

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<sup>35</sup> Written by J. F. Hornbeck, Specialist in International Trade and Finance, 7-7782. CRS Report R41029, *Argentina's Defaulted Sovereign Debt: Dealing with the "Holdouts"*, by J. F. Hornbeck, and CRS Report R43022, *Argentina's Post-Crisis Economic Reform: Challenges for U.S. Policy*, by J. F. Hornbeck.

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