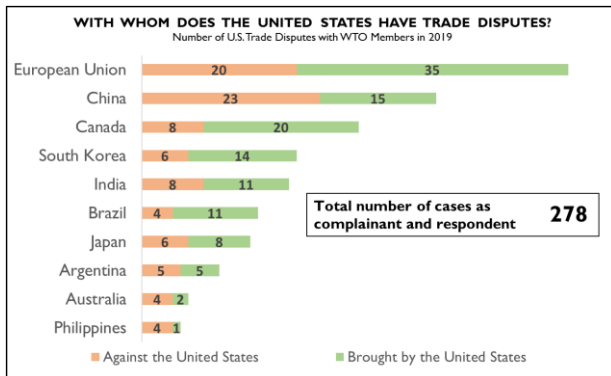




# U.S. Trade Debates: Select Disputes and Actions

## Introduction

Since 2017, the United States and some of its major trading partners have engaged in a contentious “war” of words over trade—one that tipped over into action in February 2018, mostly in the form of increased tariffs. The tariffs imposed by the Trump Administration, combined with retaliatory measures adopted by other countries, are reportedly having noticeable effects on trade flows and U.S. firms. Although the scale and scope of these recent unilateral U.S. tariff increases are unprecedented in modern times, tensions and irritants in international trade relations are not uncommon. Over the last 100 years, the United States has been involved in a number of trade disputes. According to the World Trade Organization (WTO), as of July 2019, the United States is currently involved in 278 active trade disputes being addressed in the WTO dispute settlement system—either as complainant or as a respondent. Most disputes are settled, or when unresolved, are contained or defused through bilateral and multilateral negotiations. From the early 20<sup>th</sup> century until this year, only one resulted in a worldwide tit-for-tat escalation of tariffs: the trade dispute ignited by the U.S. “Smoot-Hawley” Tariff Act of 1930.



Source: CRS with data from the World Trade Organization (July 10, 2019).

## Addressing U.S. Trade Disputes

The United States has used unilateral measures and has engaged with trading partners in bilateral and multilateral fora to address trade-related concerns. U.S. federal statutes provide for trade remedy measures to address potential adverse effects (i.e., material injury or threat thereof) on domestic industry of “unfair” foreign trade practices, such as antidumping (AD) and countervailing duties (CVD), or to reduce the flow of fairly traded imports that threaten to impair U.S. national security or cause serious injury or threat thereof (safeguard measures). In addition, the United States has conducted bilateral discussions with many of its trading partners to manage frictions over discrete issues and achieve expanded market access for U.S. firms. More often, however, the United States has resorted to the multilateral forum provided by the WTO or its predecessor, the General Agreement on Tariffs and Trade (GATT), to settle trade disputes. As part of the dispute settlement process, WTO members may seek authorization to retaliate if trading

partners maintain measures determined to be inconsistent with WTO rules.

## Select Major U.S. Trade Disputes Prior to the Trump Administration

Below is a historic overview of 10 “controversial” U.S. trade disputes. These cases demonstrate that since the creation of the GATT in 1947, the United States has, for the most part, entered into negotiations to reduce trade barriers and has imposed unilateral, restrictive trade measures in limited instances.

### “Smoot-Hawley” Tariff Act (1930)

The Tariff Act of 1930, commonly known as the “Smoot-Hawley” Tariff Act, is recognized by economists as having triggered a global “trade war”—one that deepened the Great Depression. Originally meant to help heavily indebted farmers hit by falling commodity and land prices, the Act’s scope was eventually expanded to include thousands of products from numerous sectors. While the United States reduced its import dependence, other countries retaliated with increased tariffs on their imports, and by 1933, U.S. exports had declined by at least 60%. GATT negotiations eventually reduced tariffs on a multilateral basis.

### U.S.-EU “Chicken War” (1962)

The dispute, known as the “Chicken War,” began in 1962, when the European Economic Community (EEC, a predecessor to the European Union, EU) sharply raised its common external tariff on poultry. The United States retaliated in 1963 after consultations with the EEC failed to resolve the dispute and a GATT dispute panel of experts had convened. The United States raised tariffs on potato starch, brandy, dextrine, and light trucks. The truck tariff (25%)—still in place today—applies to all U.S. truck imports, unless reduced or phased out by a U.S. free trade agreement (FTA).

### U.S.-Japan Trade Conflicts of the 1980s

As the Japanese economy, along with its auto industry, took off, trade tensions between Japan and the United States escalated significantly during the early 1980s. In an effort to persuade Congress not to legislate retaliatory measures, both countries held intense bilateral consultations and reached agreements to try to improve market access for U.S. products and limit auto imports. They negotiated several voluntary export restraint (VER) agreements, which required Japan to limit its auto (and steel) exports to the United States. Japan also agreed to increase U.S. imports and eliminate barriers to U.S. firms operating in Japan. (Note that the 1995 WTO Agreement on Safeguards banned the use of informal measures like VER arrangements.)

### U.S.-Canada Softwood Lumber Dispute (1980s)

Since the 1980s, there have been five major disputes or “lumber wars” between the United States and Canada. The U.S. softwood lumber industry has alleged since 1982 that the Canadian lumber exporters benefit from unfair subsidies. After intense negotiations, in 1986 the United States and Canada concluded the first of several agreements

addressing the dispute. Subsequent agreements have been reached and since expired, but negotiations on the subject remain ongoing at WTO and North America Free Trade Agreement (NAFTA) tribunals.

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### Select Barriers to Market Access

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**Tariffs:** customs duties on merchandise imports.

**Nontariff Barriers:** measures in a form other than a tariff.

- **Quotas:** limits on the quantity or value of goods that can be imported (or exported) during a specific time period.
  - **Technical Barriers to Trade:** technical regulations, standards, and testing and certification procedures.
  - **Sanitary and Phytosanitary Measures:** measures dealing with food safety and animal and plant health.
  - **Import Licensing Systems:** administrative procedures for obtaining a permit for importing a product.
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Source: World Trade Organization, *A Guide to "WTO Speak,"* 2018.

### U.S.-EU Beef Hormone Dispute (1989)

The United States and the EU have engaged in a long-standing dispute over the EU's decision to ban hormone-treated meat. In response to a 1989 EU ban, the United States imposed tariffs on some EU imports. In 1996, both sides took the issue to the WTO, where a dispute settlement panel ruled that the ban was inconsistent with WTO rules. When the EU failed to implement the panel's recommendations, the United States obtained WTO authorization to retaliate against EU imports. Since 2009, a number of bilateral agreements have been reached under which the EU creates duty-free quotas for imports of specially produced beef, in exchange for the elimination of increased U.S. tariffs on EU imports.

### U.S.-China Intellectual Property Rights (IPR) and Market Access Disputes of the 1990s

As the volume of U.S.-China trade grew substantially between the late 1980s and early 1990s, the United States increasingly raised concerns about IPR infringement in China. In 1991, the U.S. Trade Representative designated China as a Special 301 "Priority Foreign Country" and threatened it with significant retaliation. Between 1991 and 1994, the both sides negotiated agreements committing China to taking steps to strengthen its IPR enforcement regime and adopt more market-opening measures.

### "Battle of the Bananas" (1990s)

During the 1990s, the EU banana import regime was a primary source of U.S.-EU trade tension. The regime, instituted in 1993, granted preferential treatment to bananas from producers in the EU and former European colonies, which adversely affected U.S. banana firms. Following unsuccessful bilateral consultations, the United States pursued the WTO dispute settlement process. In 1997, the WTO found that the EU regime was incompatible with the EU's WTO obligations. By 1999, as the EU had not implemented the WTO recommendations, the United States received authorization from the WTO to retaliate against EU imports. In 2001, both sides agreed to reform the EU banana regime and lift the U.S. retaliatory duties.

### Steel Tariffs (2002)

Between 1997 and 2001, companies representing about one-third of all U.S. steel capacity fell into bankruptcy. The U.S. International Trade Commission (ITC) conducted a safeguard investigation and determined that surging steel imports had caused serious injury. In response, in 2002 the Bush Administration imposed tariffs against some steel

imports. The measures were scheduled to be phased down each year and to be abolished by 2005. Trading partners protested the measures and pursued WTO action. The WTO concluded that certain aspects of the U.S. measures were inconsistent with U.S. WTO obligations, and in December 2003, the Bush Administration terminated the safeguards.

### Boeing-Airbus Subsidy Dispute (2004)

The United States and the EU have long claimed that the other either directly or indirectly subsidizes their domestic civil aircraft industries, embodied in Boeing and Airbus, respectively. Following intense negotiations, in 1992 both sides concluded a deal placing limits on government subsidies affecting the aircraft industry. Citing dissatisfaction with EU compliance, in 2004 the United States resorted to the WTO dispute settlement system and withdrew from the agreement. In 2018, the WTO Appellate Body (AB) issued a final decision in favor of the United States, which upheld a 2016 ruling that the EU had not eliminated illegal state aid to Airbus. Earlier this year, the AB determined that the United States also had not complied with a previous WTO ruling to address U.S. subsidies through tax breaks. The WTO has yet to estimate the harm caused by both sides' illegal subsidies and authorize any countermeasures that they can impose, but a decision is expected in the U.S. case against the EU later in 2019. The United States has indicated that it might retaliate against up to \$25 billion worth of EU imports.

### Chinese Tire Dispute (2009)

Between 2004 and 2008, U.S. imports of Chinese tires more than tripled. In 2009, the ITC conducted a special China-specific safeguard investigation and determined that imports of certain tires from China were harming U.S. tire producers. In response, the Obama Administration increased tariffs for three years on imports of certain Chinese tires. China challenged the U.S. duties at the WTO, but the dispute settlement panel found that the United States had acted consistently with its WTO obligations. China later imposed ADs and CVDs against certain U.S. autos, a move many believe was in retaliation to the tire dispute.

### Issues for Congress

The above cases highlight that past trade disputes were more narrowly focused across products and trading partners, settled or diffused through negotiations, and generally transient in nature. Since the establishment of the WTO, the United States has generally pursued bilateral and multilateral negotiations to address trade concerns, as well as WTO dispute settlement. While some Members of Congress may welcome the unilateral actions by the Trump Administration or call for an even more active use of trade restrictive measures, others may see it as an undesirable shift in U.S. trade policy. In either case, Congress could consider amending delegated authorities to the President under U.S. trade laws. It could also require congressional consultation or approval before new trade barriers are imposed, or request an economic impact study of how major trade actions may affect the U.S. economy, disrupt global supply chains, and weaken global trade rules.

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**Andres B. Schwarzenberg**, Analyst in International Trade and Finance

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