# United States

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| **United States’ Bogor Goals Progress Report (as at 3 September 2018)[[1]](#footnote-1)\*** |
|   | **Highlights of Achievements and Areas for Improvement** |

* Average MFN tariffs are low, but tariffs are relatively high for some agricultural and clothing products. Recent tariff increases affecting steel and aluminium products.
* Tariff rate quotas apply to some products.
* Import prohibitions and restrictions are implemented when necessary due to safety, security, public health, environmental and moral grounds.
* No application of export taxes and duties.
* Largest services provider and trader. Services usually provided by private sector suppliers.
* Recent measures to facilitate provision of legal services by foreign attorneys in New York.
* Investment regime remains free and open, although some foreign investment restrictions are in place due to prudential or national interest.
* The elaboration of technical regulations have to rely on “voluntary consensus standards”.
* The Trade Facilitation and Trade Enforcement Act is strengthening enforcement capabilities. *De minimis* value per shipment has been raised.
* Reforms in intellectual property are allowing civil enforcement of trade secrets protection at the federal level.
* Priority to reduce regulatory burdens. Changes in internet regulation.
* The U.S. Government has been authorized to issue permanently APEC Business Travel Cards to U.S. citizens.
* Renegotiation of NAFTA is underway, as well as the discussions to amend the KORUS FTA.

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|   | **Summary of Topics** |

Tariffs

The simple MFN applied average tariff was 3.5% in 2016, with 45.9% of the products entering as duty-free. The trade weighted applied tariff was equal to 2.4%. MFN tariff peaks remain in certain sectors such as beverages and tobacco, fruits, vegetable and plants, clothing, dairy products and sugar. Many agricultural products, as well as fish, fuels, textiles and footwear products are also subjected to non-ad valorem tariffs.

The United States has been implementing tariff reductions to products from 20 FTA partners, including 6 FTAs with seven APEC economies.

In March 2018, import tariffs were increased for steel and aluminium products, due to current import quantities of these products threatening to impair national security concerns. Imports originating from certain economies have been excluded from this measure.

Non-Tariff Measures

Tariff rate quotas apply to some products in the dairy industry, as well as beef, sugar, tobacco and cotton, among others. Import prohibitions and restrictions are in place for certain products due to safety, security, public health, environmental and moral grounds. Import licenses (automatic and non-automatic) are required for 15 product categories (e.g. animals and animal products, dairy products, firearms, natural gas, steel and distilled spirits, among others).

The United States does not apply export taxes and duties. Export restrictions and prohibitions are imposed for national security and foreign policy reasons.

Services

The United States is the world’s largest services provider and largest exporter and importer of services, based on latest data available (year 2016). Services are usually provided by private sector suppliers. Foreigners can provide professional services, as long as they pass a competence exam and meet practice requirements. Among the measures facilitating foreigners to provide services, foreign attorneys can obtain temporary authorization to practice law in New York since 2016.

Restrictions to foreign participation remain in some services sectors. For instance, domestic maritime transportation is closed to foreign firms. In air transport services, foreign participation cannot exceed 25% of voting shares and 49% of non-voting shares. In the banking sector, foreigners can enter the market by establishing or buying a nationally chartered bank subsidiary is allowed, but this is not allowed by establishing or buying a state-chartered commercial bank.

Investment

The United States maintains an open investment regime with few formal barriers. However, restrictions on foreign investment apply to certain sectors because of prudential or national security reasons. Foreign investment transactions could be reviewed in specific cases by the Committee on Foreign Investment in the United States (CFIUS) for national security purposes. Notifications of transactions to CFIUS are voluntary.

According to the UNCTAD Investment Policy Hub, the United States currently has 40 bilateral investment treaties and 50 other treaties with investment provisions in force.

Standards & Conformance

In 2016, the Office of Management and Budget revised Circular A-119 “Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities”. The review takes into account regulatory developments since the circular was last revised in 1998. This Circular establishes that the elaboration of technical regulations has to rely on “voluntary consensus standards”, unless this is inconsistent with the law or impractical.

During the period 2016-2017, four specific trade concerns were raised against the United States at the WTO SPS Committee without any reported resolution. They are related to the high cost of certification of mango exports, non-acceptance of OIE categorization for bovine spongiform encephalopathy (BSE), the U.S. Sea Food Monitoring Program and a proposed rule to withdraw food pesticide residue tolerances for chlorpyrifos. In 2017, two specific trade concerns were raised against the United States at the WTO TBT Committee regarding standards of identity for cheese and Wisconsin butter laws.

Customs Procedures

The Trade Facilitation and Trade Enforcement Act (TFTEA) was enacted in February 2016. The TFTEA is strengthening enforcement capabilities, for example, by giving more tools to investigate alleged evasion of antidumping and countervailing duties and keep counterfeit goods out of the United States. Furthermore, the TFTEA prohibits imports made by forced labor, including child labor.

In terms of trade facilitation, with the TFTEA, the *de minimis* value was raised from USD 200 to USD 800 per shipment. Moreover, it extends the funding for the Automated Commercial Environment, system that has implemented the U.S. Single Window.

Intellectual Property Rights

One of the objectives in FTA negotiations, including the renegotiation and modernization of NAFTA, is to seek robust standards for intellectual property rights protection and enforcement.

In 2016, the Economic Espionage Act was amended by the Defend Trade Secrets Act (DTSA), which allows civil enforcement of trade secrets protection at the federal level. Before the DTSA was enacted, it was only possible to tackle issues concerning trade secrets through state laws.

Competition Policy

No major changes have occurred in this area. In terms of state-owned enterprises, the United States notified at WTO a list of state-owned enterprises in 2016: Commodity Credit Corporation (CCC); the Isotope Production and Distribution Program Fund (IP & D); Power Administrations; and the Strategic Petroleum Reserve (SPR) as state trading enterprises (STEs). However, these companies do not hold any exclusive rights to export, import or market their products, as other private firms can participate in the market under the same terms that these state-owned firms do.

Government Procurement

The Buy American Act, which requires the Federal Government to purchase domestic goods, and the Trade Agreements Act, which allows some exceptions, such as purchases from counterparts above the thresholds set in FTAs and the WTO Government Procurement Agreement, remain the main legislation in this area. The thresholds are adjusted every two years. The current thresholds are valid from 1 January 2018 to 31 December 2019.

Deregulation/Regulatory Review

A priority is the reduction of regulatory burdens. In 2017, the Office of Management and Budget Issues released the “Unified Agenda of Regulatory and Deregulatory Actions”, which includes next steps in regulatory reforms and a reorientation to reduce unnecessary regulation, such as those that are ineffective, duplicative and obsolete.

In December 2017, the Federal Communications Commission (FCC) adopted the Restoring Internet Freedom decision, which mainly reverses the Open Internet rules that came into effect in June 2015. The FCC mentions that this decision is restoring a favorable climate for network investment and will spur competition and innovation to benefit consumers.

Mobility of Business People

The U.S. Congress authorized the U.S. Government to permanently issue APEC Business Travel Cards to U.S. citizens. While the United States remains a transitional member of this scheme, its holders cannot use the card in lieu of a visa to enter other APEC economies.

Travelers of 38 economies (including 8 APEC economies) are currently eligible to travel to the United States under the Visa Waiver Program. However, this scheme is not available if the person has travelled to or been present in Iran, Iraq, Libya, Somalia, Sudan, Syria or Yemen on or after 1 March 2011; and if the person is also a national of Iran, Iraq, Sudan, or Syria.

RTA/FTAs

The United States currently has 14 RTA/FTAs in force[[2]](#footnote-2). Currently, the United States is renegotiating NAFTA with the purpose of updating it with modern provisions and seek a rebalance to incentivize production in the United States and North America. Likewise, the United States and Korea reached an agreement in principle on general terms of amendments and modifications to the Korea-United States (KORUS) FTA.

1. \* This brief report was prepared with information from the United States’ submission of the 2018 APEC Individual Action Plan (IAP) template; the 2017 WTO Trade Policy Review – Report by the Secretariat – United States; WTO World Tariff Profiles 2017; the WTO SPS and TBT Information Systems; the OECD Services Trade Restrictiveness Index Country Notes; UNCTAD Investment Policy Hub; and information from the White House; the Federal Register; the Office of the United States Trade Representative; the U.S. Customs and Border Protection; the Federal Communications Commission; and the U.S. State Department websites. [↑](#footnote-ref-1)
2. United States’ RTA/FTAs in force are the following ones: United States-Israel (1985); NAFTA (1994); United States-Jordan (2001); United States-Singapore (2004); United States-Chile (2004); United States-Australia (2005); United States-Morocco (2006); United States-Dominican Republic-Central America (2009); United States-Bahrain (2006); United States-Oman (2009); United States-Peru (2009); United States-Colombia (2012); United States-Panama (2012); and United States-Korea (2012). [↑](#footnote-ref-2)