Trade Update

January 14, 2020

By Michael Anderson

Highlights

- **USMCA:** One step closer: USMCA was approved by the Senate Finance Committee last week and in a procedural twist moves on to consideration by six other Committees, but full Senate vote could be delayed by arrival of Articles of Impeachment from the House.

- **China Tariffs:** Chinese Vice Premier Liu He arrives in D.C. to sign the U.S.-China Phase one deal on Wednesday,15th alongside President Donald Trump. No updates have been made on when negotiations on a Phase two agreement will begin. Release of the text of the phase one deal is expected on the day of signing.

- **WTO:** New EU Trade Commissioner Phil Hogan visits with U.S. officials in efforts to "restart" several contentious bilateral trade issues, including tariffs from WTO Airbus subsidy ruling, U.S. tariffs in connection with France's digital services tax, threat of 232 auto tariffs, and impasse over inclusion of agriculture in free trade negotiations, among other issues.

USMCA

- Uncertain is the word regarding timing of USMCA vote in Senate. In an unexpected USMCA twist last week, the Senate Parliamentarian ruled in favor of a request regarding Committee jurisdiction under a little-known parliamentary procedure in Sec. 151 (e)(2) of the Trade Act of 1974, allowing for multiple committee referrals. Thus, 6 other committees beyond Finance were deemed to have jurisdiction (HELP, Commerce, Appropriations, Budget, EPW and Foreign Relations). The Senate Finance Committee easily approved the USMCA (HR 5430) with a bipartisan 25-to-3 vote last Tuesday. Senators Cassidy, Whitehouse, and Toomey cast no votes.

- The six additional Committees will "mark-up" USMCA prior to full Senate Consideration. All but the Appropriations Committee have announced a schedule for HR 5430 this week as follows:

  - **Tuesday, Jan. 14** | 10 a.m. Senate Environment and Public Works Committee markup of H.R. 5430 (116), the U.S.-Mexico-Canada Agreement Implementation Act. 406 Dirksen.
  - **Tuesday, Jan. 14** | 10:30 a.m. Senate Budget Committee markup of H.R. 5430 (116), the U.S.-Mexico-Canada Agreement Implementation Act. 608 Dirksen.
  - **Wednesday, Jan. 15** | 10 a.m. Senate Commerce, Science and Transportation Committee markup of H.R. 5430 (116), the U.S.-Mexico-Canada Agreement Implementation Act. 216 Hart.
  - **Wednesday, Jan. 15** | 10 a.m. Senate Health, Education, Labor and Pensions Committee markup of H.R. 5430 (116), the U.S.-Mexico-Canada Agreement Implementation Act. 430 Dirksen.
  - **Thursday, Jan. 16** | 10 a.m. Senate Foreign Relations Committee markup of H.R. 5430 (116), the U.S.-Mexico-Canada Agreement Implementation Act, and one pending nomination. S-116, U.S. Capitol.

- While the six other Committees have scheduled or are working to schedule consideration of the USMCA bill (HR 5430), Speaker Pelosi announced Friday the House would deliver the Articles of the Impeachment this week stating, "I have asked Judiciary Committee Chairman Jerry Nadler to be prepared to bring to the Floor next week a resolution to appoint managers and transmit articles of impeachment to the Senate." USMCA would take a back seat to impeachment proceedings in the Senate upon arrival of the Articles of Impeachment.

- Following the Senate Finance Committee's affirmative vote on USMCA last Tuesday, Finance Committee Chairman Grassley said that he hopes to get a floor vote "soon," but much depends on the impeachment situation. Grassley noted the Senate is required to give the articles of impeachment priority once received from the House, but that hasn't happened yet. "If the articles of impeachment don't come over, I believe this can be up," Grassley said. That's not assured, though, and Senate Majority Leader Mitch McConnell has not weighed in on the schedule. Grassley expressed confidence that Senate approval of the USMCA, which is widely supported by both Republicans and Democrats, is virtually assured.

- Frustration is mounting in the Senate with the fluctuations in the USMCA vote timeline. Senate Finance Chairman Grassley directed some of the blame at House leadership stating, "After House Democrats delayed passing the United States-Mexico-Canada Agreement for nearly a year, the speaker's indecision on impeachment will now keep the trade deal from being ratified for even longer." According to sources, Pelosi was holding the Articles of Impeachment in an effort to secure certain guarantees from Senate Majority Leader McConnell on Trump's impeachment trial. To date, McConnell has not agreed to any conditions. A spokesperson for Pelosi's office countered Grassley's criticism, noting that the Senate has had ample time to pass the deal since the House passed it on Dec. 19. "The GOP Senate will have had almost a full month to get its act together to pass USMCA." "After all their grandstanding, turns out Senate Republicans don't actually care enough to get the job done on time." According to Congressional sources, the House sent the USMCA implementing bill to the Senate on Jan. 3, 2020.

- Senator John Cornyn, who has previously criticized the path that USMCA has taken through Congress, continued to decry this process last Tuesday even after voting to approve the deal in the Senate Finance committee. Sen. Cornyn has taken issue with the lack of mock mark-ups for the implementing bill—although the Senate Finance Committee session last Tuesday was categorized as a markup session, Senators were not allowed to amend the bill, per TPA law. "Unfortunately, I think what happened today sets a bad precedent. The same thing could happen in the future where the House decides to jam the Senate and essentially say 'Take it or leave it,' which is essentially what they've done on USMCA. Trade is a very fragile topic" Sen. Cornyn stated after the Tuesday vote.

Other - USTR is expected to release the President's trade agenda and annual report by Feb. 28

Section 232 Tariff Actions

- President Trump has used the "national security" provision of section 232 to impose steel and aluminum tariffs and has threatened the same on auto and auto parts imports, much to angst of several leading lawmakers. Senator Grassley recently stressed that he remains committed to developing a bipartisan, veto-proof bill to rein in the President's trade authority under section 232. Grassley has previously noted that a key step in the process is a candid conversation with ranking Democrat Senator Wyden to find common political ground on the legislation. "I hope that he'll be anxious to move forward because when I last approached him on it and we were going to have a markup in November, he said, 'I'm going to need a little bit more time because we're mixed up with USMCA.'" Grassley continued, "Since you don't get anything done in our committee that's not bipartisan, I'm going to have to have his cooperation and I would expect to have it."

Auto Tariffs

- As the legal window has closed for President Trump to place tariffs on auto and auto parts in conjunction with the 232 investigation by Commerce, some observers indicate that President Trump may keep the pressure on EU officials through other trade tools, including a section 301 investigation, which would examine EU subsidies and other programs in the auto sector. A former EU official characterize the potential strategy as creating "a situation that, for another year, would give the president leverage over the EU."

Section 301 Tariff Actions

- USTR will hold a hearing on February 26th to help with the agency's preparations for the annual Special 301 review. According to the announcement, the Special 301 review is conducted "to identify countries that deny adequate and effective protection of intellectual property (IP) rights or deny fair and equitable market access to U.S. persons who rely on IP protection." Members of the U.S. public can submit comments, hearing statements, and notices of intent to appear at the hearing through February 6th, while foreign governments can submit the same through February 28th.

Digital Services Tax - France

- USTR concluded public hearings on January 7th and January 8th on the proposed Section 301 actions on French products because of France's digital services tax.

- As noted earlier, the Trump Administration has found discriminatory tax treatment for U.S. internet firms under a section 301 investigation into digital services taxes in Canada. The report published by USTR sets out the findings of the investigation.

- USTR announced possible imposition of 100 percent duties on up to $2.4 billion worth of French products — including cheese, Champagne, handbags, cosmetics and fine dinnerware under section 301 authority, unless France agrees to drop or modify the country's new digital services tax unfairly aimed at American internet giants. The proposed retaliation could also include fees or market restrictions on French services companies operating in the United States.

Tech and IP Policies - China

- U.S. and China will sign the phase one trade deal at a White House Ceremony this Wednesday, January 15th. Larry Kudlow, White House National Economic Director, reported that the deal is translated, authenticated, and ready for signing. "President Trump will sign. Vice Premier Liu He will sign. There'll be celebratory dinner and lunches surrounding those signatures. Everything is completely in place," he said. Kudlow countered recent criticism that the most difficult trade issues with China are left out and relegated to a phase two deal with no specific timeline. "Some people are saying, 'Well, gosh, we left the tough stuff for something called phase two,'" Kudlow said. "Nobody ever thought we'd get phase one. No one has ever done phase one before. There is nothing like this in trade history. So that the significance importance of phase one is enormous and that's the tough part. And we'll get to the rest of it, but we covered a lot of ground."

Larry Kudlow, National Economic Council Director

- President Trump estimates that the phase-one deal covered roughly half of what the two sides hope to negotiate overall. Trump said, "Well, phase one is a big, big number." "It's a big percentage of the deal. Some would say half, some would say a little less or a little more than half. But it's a tremendous percentage. It's pretty much all for the farmers, also bankers. We also have regulations for ... a lot of things are covered that people are going to be very surprised to see. But it's a big chunk of it," Trump said last Thursday.

- Vice Premier Liu He will be signing for the Chinese side and was the principle Chinese negotiator working with his counterparts Amb. Lighthizer and Treasury Secretary Mnuchin over the last nearly two years since the U.S. first imposed section 301 tariffs on Chinese imports.

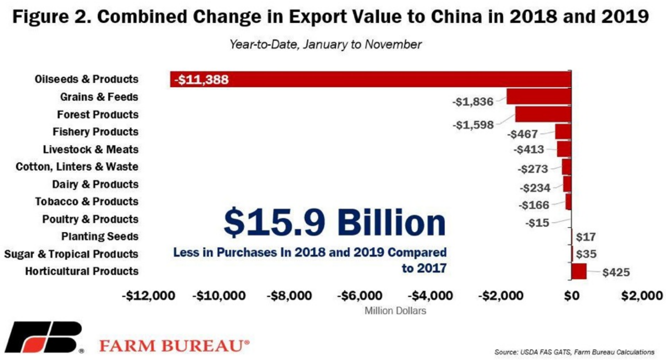
Amb. Lighthizer and Vice Premier Liu He

- The phase one deal reportedly requires China to expand U.S. import purchases by $200 billion, including $40-$50 billion in agriculture products. Regarding ag purchases, Amb. Lighthizer stated, "There's a commitment to increase by $32 billion over the course of two years." "Their objective is to go to $50 [billion]. The commitment is to go to $40 [billion]." The baseline for increased agricultures purchases compares to the 2017 level of U.S. agriculture exports to China ($24 billion).

- The much-anticipated text of the phase one deal will be available at the singing on Jan. 15th, according to Secretary Mnuchin. Industries, policy experts, and the financial markets eagerly anticipate details regarding China's import commitments surrounding the $200 billion purchases of U.S. goods, including $40-$50 billion of agriculture products. The 86-page agreement will reportedly also include details on reforms in China's IP protections, technology transfer, reduced barriers to financial services, and improved dispute resolutions procedures. The deal is expected to go into effect on February 3rd.

- Despite the upbeat tone of reports surrounding the signing of the phase one trade deal, Chinese officials have not indicated a plan of action regarding a Phase two deal. Questions remain regarding the additional agricultural product purchases, both in scope and quantity, that China will undertake per the phase one deal. Observers suggest that specific agriculture product purchase will not be spelled out in the agreement to avoid market disruptions by traders in the exchange markets.

- U.S. agriculture sales to China are $16 billion below pre-trade war levels, according to the most recent trade data and analysis by the Farm Bureau.



U.S. - Japan Trade Agreement

- According to reports, negotiations with Japan on a secondary trade deal are set to begin by May 1.

- The U.S.-Japan stage 1 deal took effect January 1, 2020, reducing tariffs and raising quotas on many U.S. agriculture exports. Commencement of negotiations on a phase 2 or a more comprehensive trade deal are expected no sooner than 4 months or even longer. Junichi Sugawara, senior research officer at the Mizuho Research Institute, expressed muted expectations of phase 2 negotiations beginning any time soon. "The second round of talks with Japan will be a low priority for the Trump administration," he said. He noted that Trump officials are deeply engaged in securing trade agreements with China and want to focus on EU trade tensions heading into the November U.S. presidential election. He further stated the U.S. is likely to demand a clause on currency manipulation, a difficult and complex issues for both trade partners. Sugawara observed the U.S. side is also showing interest in opening Japan's finance, services and investment markets and may press for more agricultural access. Even the threat of a 25 percent tariff on autos hasn't necessarily disappeared, he said.

Kajiyama Hiroshi, Japanese Minister of Economy, Trade & Industry

- Separately, trade ministers from the U.S., EU, and Japan, along with their advisory teams, are expected to meet in Washington, DC this week to continue efforts to address non-market-oriented practices, industrial subsidies, forced technology transfer policies and WTO, among other issues. The trilateral talks this week will be the first for new EU Trade Commissioner Phil Hogan, who replaced Cecilia Malmstrom, and his Japanese counterpart, Kajiyama Hiroshi, who was appointed to replace Hiroshige Seko as Japanese minister of economy, trade and industry last October

U.S. - EU Trade

- The EU's new trade commissioner, Phil Hogan from Ireland, will visit Amb. Lighthizer this week (January 14-16) to discuss a plethora of bilateral trade issues. Hogan said he would seek a reset of EU/US trade relations on several contentious issues in his first meeting with USTR Lighthizer, though the two have previously spoken by phone since Hogan stepped into the new role. Among the most contentious trade issues include the Trump administration imposing tariffs on European steel and aluminum in mid-2018, the $7.5 billion in tariffs on EU products in the WTO Airbus case, potential 232 tariffs on EU autos, U.S. demands to include agriculture in bilateral trade negotiations on reducing industrial goods tariffs, and threat of retaliatory tariffs regarding France’s digital services tax. Both countries are also at odds regarding the dissolution of the WTO appellate body and other WTO reform measures sought by the U.S. Hogan noted the two trade officials had earlier “agreed to meet in Washington in mid-January to discuss the long list of issues causing strain in the relationship between the EU and the US. There is no point in getting into the details of resolving trade irritants unless we agree a line on a common trade agenda."

Phil Hogan, EU Trade Commissioner

- Some analysts are predicting that the escalation of tension between the U.S. and Iran following the U.S. military assassination of Iranian military commander Qasem Soleimani in Iraq may negatively impact the development of trade negotiations between the U.S. and the EU, even potentially spilling over into U.S.-UK trade negotiations. European leaders have received the news of the assassination with criticism, with French President Emmanuel Macron, German Chancellor Angela Merkel, and British Prime Minister Boris Johnson releasing a statement last Monday condemning the renewed tensions between the U.S. and Iran.

- Amb. Lighthizer signaled that the Trump Administration will increasingly turn its attention and resources to the EU and U.K. in 2020. With USMCA before Congress and a China phase one deal receiving the final touches, USTR intends to focus on several thorny EU trade issues, including the bilateral trade deficit. Speaking on Fox Business, Amb. Lighthizer said, "It's funny, the president tells me what my priorities are...So, for sure, the U.K. is a priority. As soon as they get their objectives agreed to, we will start talking. It'll take a while before it all comes into effect because of their circumstance." Lighthizer also said the objective with Brussels would be to reduce the U.S. trade deficit with the 27-nation bloc. "You can't get the global trade deficit down without getting the trade deficit down with Europe, at least significantly," he said.

- USTR continues to pursue potential tariffs on $7.5 billion of EU goods of up to 100% in the long-running WTO dispute over Airbus launch aid. USTR imposed initial retaliatory duties of 10 percent on large civil aircraft and 25 percent on a wide variety of EU food and alcoholic products two months ago. USTR issued a list of European products under consideration for up 100% tariffs. USTR is seeking comments by Jan. 13, 2020 on removal or tariff increases for products on the list.

- The EU anticipates countering with its own tariffs in early 2020 when a WTO arbitrator is expected to approve retaliatory tariffs in the countersuit on Boeing for illegals subsidies.

U.S.-U.K Trade Agreement

- Prime Minister Boris Johnson’s Brexit bill got final approval from the British Parliament on Thursday, January 9th, clearing the way for the U.K to leave the European Union by the January 31st deadline. Once the U.K. withdraws from the EU, it will have until December 2020 to negotiate a comprehensive free trade agreement defining its future relationship with the bloc, a deadline that has left many experts skeptical. Until that time, the U.K. will largely continue trading under the rules that were defined for it while it was part of the EU.

- President Donald Trump is anxious to move on a “massive” trade deal with the U.K., and Prime Minister Boris Johnson is ready to do something “ambitious” as soon as Brexit is done at the end of January, according to several reports. The Trump Administration has maintained that the U.S. is first in line for a bilateral trade deal once the U.K. leaves the European Union. Despite the cordial and optimistic statements by President Trump and Prime Minister Johnson regarding a trade pact, the U.K. government must still first establish new trade standards and regulations that may or may not be different than the present EU standards. “This isn’t necessarily about just getting the U.K. to sign an agreement,” said Sam Lowe, a London-based senior research fellow at the Center for European Reform and a member of the British government’s strategic trade advisory group. “It’s about the U.S. setting a precedent in the European context in which a European country takes on U.S. [regulatory] approaches.”

- Last month, White House economic adviser Larry Kudlow indicated he’ll be part of a U.S. delegation of White House officials visiting London this month to talk trade and other subjects. President Trump is expected to push for the start of formal trade negotiations shortly after London departs the massive economic bloc on Jan. 31. More than 130 businesses and organizations submitted comments early in 2019 to the Trump administration as it was formulating its objectives for a U.S.-U.K. trade deal. As noted earlier, U.S.-EU trade talks are stalled over the EU’s refusal to include agriculture and other topics in the scope of negotiations. Several observers suggest that progress on opening the U.K. agriculture market could put pressure on the EU and the highly sensitive agriculture sector.

Suspension Agreements

Sugar Suspension Agreement

- The U.S. and Mexico have conducted their semi-annual review of the sugar agreement, with the U.S. increasing the import quota for Mexican sugar eight six percent, from 670,000 tons to 1,251,000 tons.

U.S. - India Trade Developments

- India's outgoing ambassador to the U.S., Harsh Vardhan Shringla, said at a farewell reception last week that the U.S. and India had made progress toward a bilateral trade package and urged continued progress towards a bilateral trade deal. "On the trade front, we have seen a number of rounds of talks and we're very happy that we're making significant progress in that front," Shringla said.

- The U.S. and India have been working toward a trade agreement that could include restoration of India's GSP benefits in exchange for greater market access for U.S. medical devices, agricultural goods, and addressing non-tariff barriers. The U.S. has called for India's GSP benefits, valued at approximately $6.4 billion, to be matched by reciprocal market access in India. Sources indicate that while a resolution is likely this year, it could take weeks or months of additional work.The Trump Administration is keen to lower India's high tariffs. Peter Navarro, White House Director of Trade and Manufacturing said, "India is the maharaja of tariffs," having the largest tariffs of any other country. Navarro asserted that 90% of US exports to India face higher tariffs India's export into the United States. "We got to get India to belly up to that bar and lower tariffs," Navarro stated. Navarro repeated his frequent mantra that President Trump's authority to unilaterally raise tariffs on imports to the same levels as US exporters pay with its trade partner would be an effective tool to lower tariffs, such as those in India.

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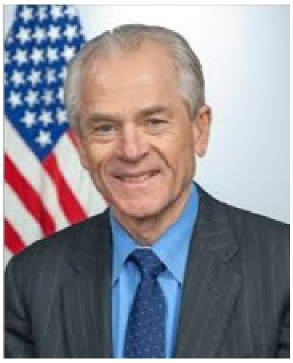


White House Trade Director, Peter Navarro

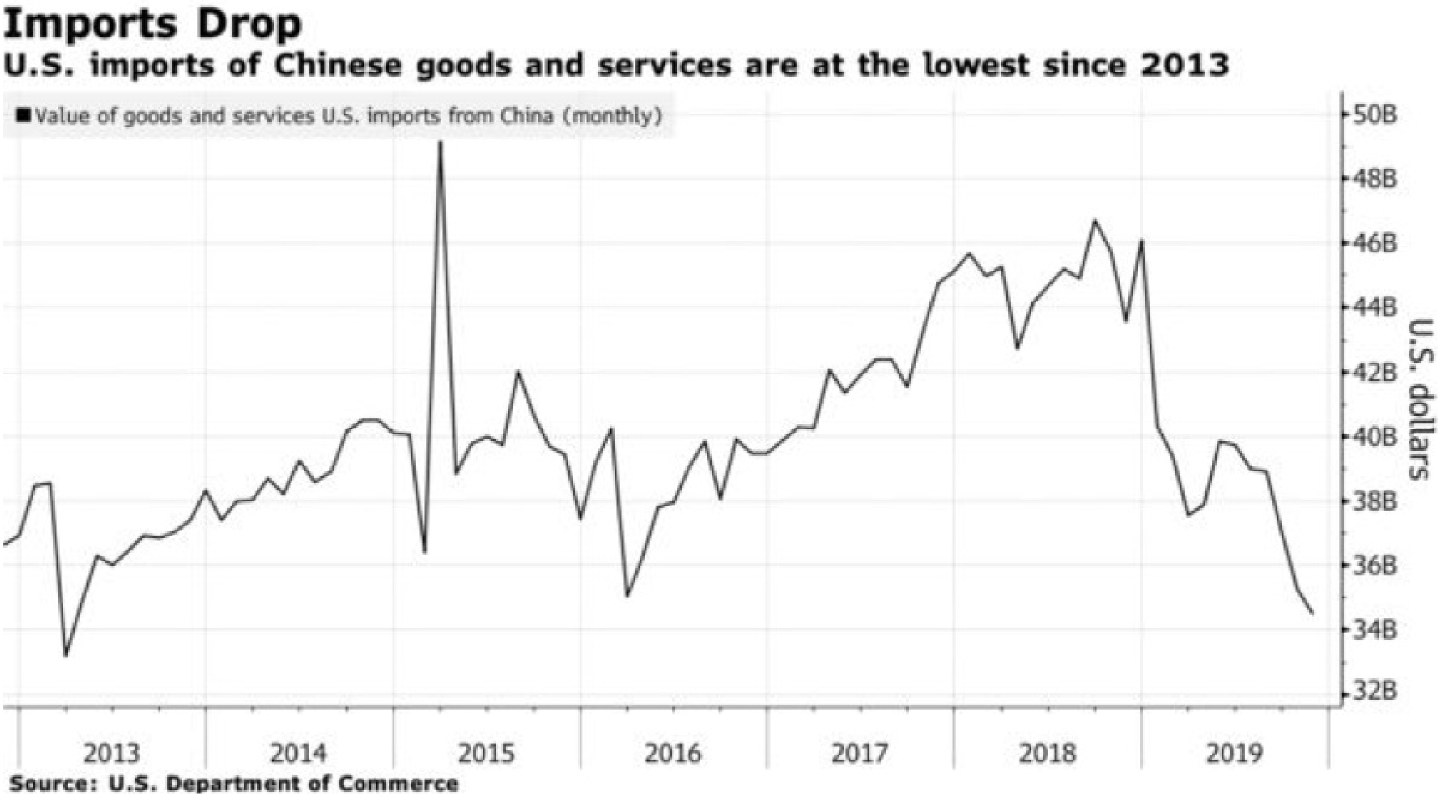
U.S. - Brazil Trade Developments

- No significant updates since initial reports last month of a potential for U.S. – Brazil trade talks. As noted earlier, according to a joint statement released at the end of the annual U.S.-Brazil CEO Forum, additional "higher-level" meetings under a bilateral forum led by USTR and the Brazilian foreign affairs and trade ministries could occur. According to reports, initial discussions between the two sides also discussed several aerospace, infrastructure and transportation initiatives.

General Trade Cooperation/WTO Reform

- The U.S. experienced a sharp decrease in its trade deficit in November, the largest decline in a year, owing largely to the drop in the price of crude oil imports to their lowest level since February 1992. The deficit fell by more than 8 percent.

- Imports of Chinese goods fell from $40.1 billion in October to below $36.5 billion in November, the sixth straight month of decline as the trade war between the world's two largest economies continued prior to the phase one deal announcement in December. Total imports (i.e. goods and services) from China declined sharply in 2019 amidst escalating trade and economic tensions.



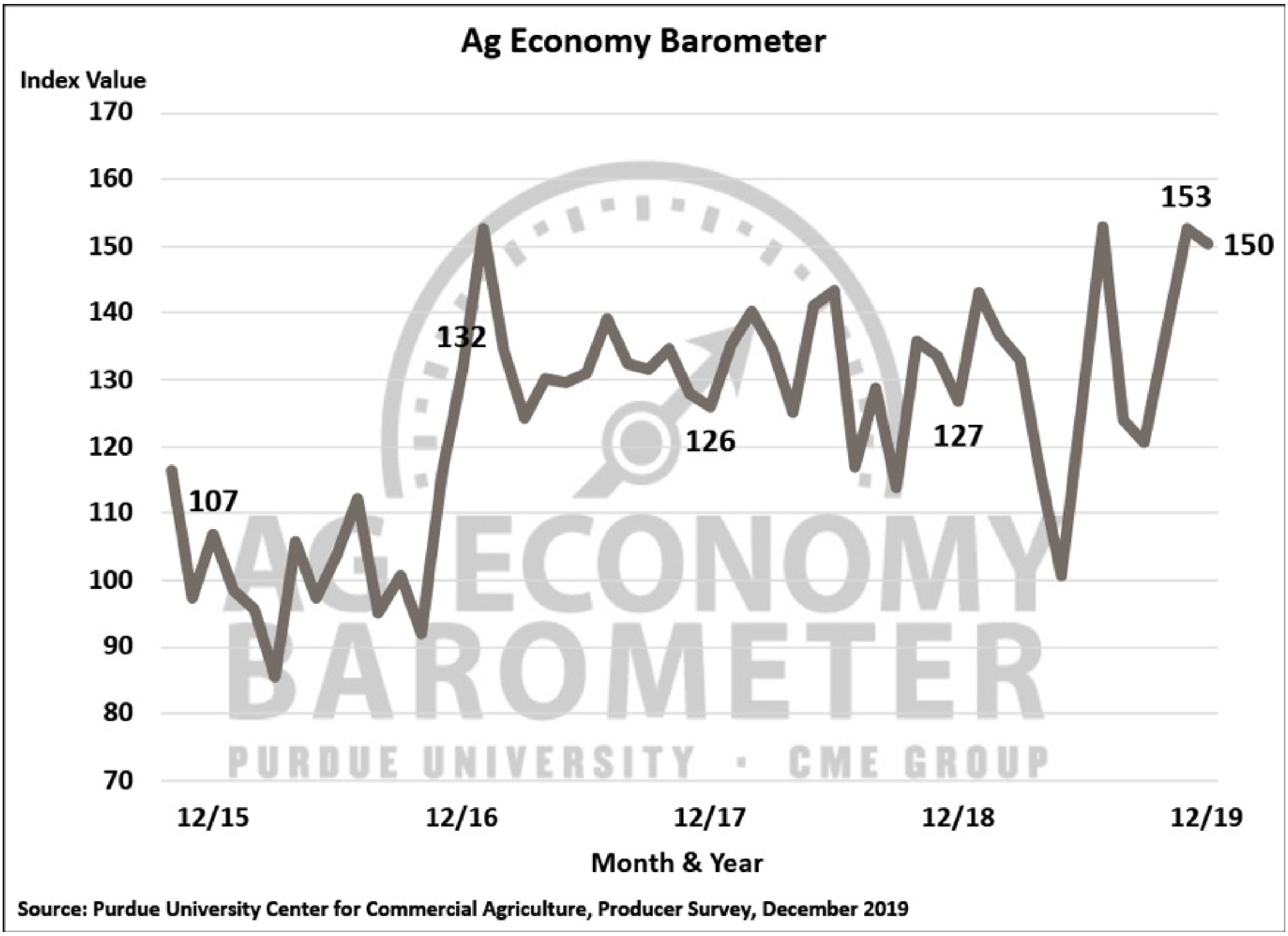
- China celebrated what it sees as its increased leadership at the WTO during 2019 in a report published the week of December 30th. Among the contributions that were noted in the report included China's commitment to the multilateral trading system in the wake of risks to the system throughout 2019, including the paralysis of the Appellate Body (AB); its support of an EU proposal to overhaul the AB; and proposals that it submitted on issues such as fishery subsidies. China is "committed to maintaining and improving the WTO-based multilateral trading system, promoting positive progress of the 12th WTO Ministerial Conference and actively participating in the WTO Reform work," the statement said.

- WTO reform and the current appellate body impasse are among the trade topics President Trump intends to discuss at the World Economic Forum later this month (Jan. 20-24). Commerce Secretary Ross, a member of the U.S. delegation, said that Trump intends to send a message to other world leaders that U.S. trade policy has been successful. Other members of U.S. delegation include Amb. Lighthizer, Treasury Secretary Mnuchin, Transportation Secretary Elaine Chao, and White House advisors Ivanka Trump and Jared Kushner.

- The next WTO ministerial conference will be held Nur-Sultan, Kazakhstan from June 8-11, a mere six months away, raising questions about what the U.S.' role ahead of and at the conference will be. While the U.S. has historically played a leadership role in such ministerial conferences, some sources in Geneva have expressed concern that the U.S. is not demonstrating any initiative to play any such role this time around, which may affect the successful resolution of any effective outcomes at the June conference. Sources point out that no other member country is willing to step into the role that the U.S. typically plays. The ongoing issue of fishery subsidies is an example of one such issue that will be difficult to resolve without U.S. leadership, sources say.

General Trade Cooperation/WTO Reform

- The *Ag Economy Barometer* remained stable in December with a slight decline to 150 compared to 153 in November. Although the barometer changed little in December, there was a shift in producers' perspective regarding the economic health of both their farms and the production ag sector. Producers expressed less confidence this month regarding economic conditions. In contrast, producers' expectations for the future remained strong, rising slightly over November's responses. The 2019 index represented one of the most volatile years since 2015 when the Barometer began collecting farmer and producer sentiment, fluctuating from a low of 150 to high of 153.


Ag Economy Barometer
Index Value
170
160
150
140
130
120
110
100
90
80
70
107
132
126
127
153
150
AG ECONOMY
BAROMETER
PURDUE UNIVERSITY · CME GROUP
12/15
12/16
12/17
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12/19
Month & Year
Source: Purdue University Center for Commercial Agriculture, Producer Survey, December 2019