



## Trade Update

January 28, 2020

By Michael Anderson

*If you don't get regular trade updates, [sign up here](#) for CRA's weekly Trade Update*

### Highlights

---

- **USMCA:** President Trump will sign USMCA at a White Ceremony on the 29th after receiving the legislation last week from the Senate. Canada's Parliament returned this week and begins consideration of USMCA until at least March, pushing USMCA's effective date to the mid-year.
- **China Tariffs:** With China phase one deal signed and details made public, stakeholders and others are digesting the details and analyzing the potential impact, particularly on China's ability to fulfill its \$200 billion in purchase commitments and non-tariff reforms.
- **EU:** "Brexit Day" is the 31st! Observers expect the U.K. to indicate more details over the next several weeks regarding its trade negotiating priorities. Meanwhile, the EU and U.S. agreed to an interim moratorium on France's digital services taxes and potential U.S. retaliatory tariffs of \$2.4 billion on French wine, cheeses, handbags and other products as the two countries continue talks and engage at the OECD on possible resolutions to the issue.
- **WTO:** EU and other 16 countries form an alliance to resolve WTO appeals in the absence of a functioning appellate body.

# USMCA

---

- Sen. Grassley, the president pro tempore of the Senate, signed the USMCA last Wednesday, sending the trade legislation to President Trump for his signature. Grassley was joined by several republican senators from major agricultural states, lauding President Trump for securing the revisions to the 25-year old NAFTA and setting new standards in many areas for future trade agreements. "After three years, we've seen some success from his trade policies, and USMCA is the best example of this right now," Grassley said. Grassley was joined by Sens. Joni Ernst, Pat Roberts, Rob Portman, Roy Blunt, John Hoeven, Deb Fischer, and Martha McSally.



*Senator Grassley signing USMCA*

- Fellow Iowa Senator Joni Ernst emphasized the importance of the U.S. trading relationship with Canada and Mexico, which are the leading trade partners in her state. "If you add up the next 27 countries that Iowa does trade with — add them all together, they still don't equal the trade that Iowa does with Mexico and Canada," she said.
- President Trump will hold a USMCA signing ceremony at the White House Wednesday, 29th at 11:00 am. Trump may reportedly leave for a road show after the ceremony to celebrate signing the deal into law. Speaking at the Farm Bureau's annual convention last week, Trump said he "may go to some of the farming communities."
- With the USMCA ratified in Mexico and the U.S., attention is focused on Canada. Canadian Prime Minister Justin Trudeau indicated last week his government would submit USMCA to Parliament on Jan. 29. The House of Commons – Canada's lower house – has 21 legislative days to debate the text of the trade agreement. That period elapses on March 10, at which point the Ministry of Foreign Affairs is authorized to sign the agreement.
- However, USMCA ratification also includes the Canadian Parliament passing implementing legislation, and minority parties in Canada have requested USMCA hearings. Deputy Prime Minister Chrystia Freeland, , Canada's former political lead in the NAFTA renegotiation talks, urged Parliament to quickly ratify the deal wrote in a letter to party leaders, "I ask that we work together, as colleagues, to put Canada and Canadians first, and get this important work done without undue delay." The letter continued, "I sincerely hope that you will join me in this essential, national effort."
- USMCA will enter into force on the first day of the third month following the last party's written notification (i.e. Canada) that its internal ratification procedures have been completed according to sources. USTR has not indicated whether it will undertake a "certification" process, consistent with prior trade agreement, to ensure laws and regulations of the trading partners prior to the agreement taking effect.

## Section 232 Tariff Actions

---

- President Trump invoked section 232 authority last Friday imposing increased tariffs on derivative steel products (additional 25 percent) and on derivative aluminum products (additional 10 percent), effective February 8th. Trump stated that following his 232 tariffs on imported steel and aluminum products in 2018, such imports have declined, but imports of derivative products have increased. "Foreign producers of these derivative articles have increased shipments of such articles to the United States to circumvent the duties on aluminum articles and steel articles," the President said. The [Presidential proclamation](#) cited import surges for of steel nails, tacks, drawing pins, corrugated nails, staples, since May 2018 and surges in derivative aluminum products including aluminum stranded wire, cables, and plaited bands.
- A few countries will avoid the 25 percent and 10 percent tariffs – for derivate steel products Argentina, Australia, Brazil, Canada, Mexico and South Korea and for derivative aluminum products Argentina, Australia, Canada and Mexico Import Surge.
- 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*

- The Commerce Dept. reported it would not comply with the statute and release the Section 232 auto report that concluded autos and auto parts imports pose a threat to national security. Commerce released the following, "Consistent with the president's signing statement for the appropriations bill, the Secretary of Commerce is not releasing the 232 autos report because releasing it now would interfere with the president's ability to protect confidential executive branch communications and could interfere with ongoing negotiations," a department spokesperson said in a statement. The decision was in part based on a [Justice Department opinion](#) that said releasing the report would " risk impairing ongoing diplomatic efforts to address a national-security threat."
- Reaction from several lawmakers was swift and pointed. Sen. Toomey characterized the decision as "unacceptable" and said he was "evaluating the potential for corrective action to compel the rightful release of this report." A spokesman for Senator Grassley, who ask repeatedly request Commerce make the report public, said the opinion was being reviewed: "It doesn't seem to have much merit on its face. The law as passed by Congress is clear."

## Foreign Market Trade Remedies

---

### *Corn exports to Peru*

- Last week U.S. associations and industry successfully challenged a CVD case in Peru on U.S. yellow corn exports. The Peruvian National Institute for the Defense of Free Competition and the Protection of Intellectual Property (INDECOPI) sided with U.S. in determining additional duties will not be imposed on U.S. corn exported to Peru. INDECOPI determined the Peruvian corn industry was not injured by U.S. corn, and additional countervailing duties on U.S. corn were therefore not warranted.
- The decision is a welcome outcome for the U.S. corn farmers, exporters, and other stakeholders, maintaining stability in an import South American market. The decision was closely monitored by the U.S. corn and other ag sectors as a potential affirmative subsidy ruling was expected to generate

additional trade remedy filings challenging U.S. agriculture programs on other ag products or new case filings by other countries.

## 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*

- President Trump and French President Macron announced a truce in the battle over digital services taxes after discussion at the World Economic Forum (WEF) in Davos, Switzerland. Trump had threatened to impose up to \$2.4 billion worth of tariffs on French goods in retaliation for the digital services tax France imposed last June. Under the truce, the U.S. has agreed to delay the imposition of tariffs on French goods in exchange for Paris' commitment to suspend the collection of taxes on digital services. Treasury Secretary Mnuchin, who met with his French counterpart in Davos, Finance Minister Bruno Le Maire, indicated their discussions focused on how to proceed with the OECD negotiations on digital services taxation and warned other countries that the U.S. views digital service taxes as discriminatory. Regarding the present de-escalation on the issue, Minister Le Maire said in a tweet that he and Secretary Mnuchin agreed on a framework to move forward with the OECD talks. "We found a common framework with [Mnuchin] to make progress towards a global solution at @OECD on digital taxation and minimum corporate taxation."



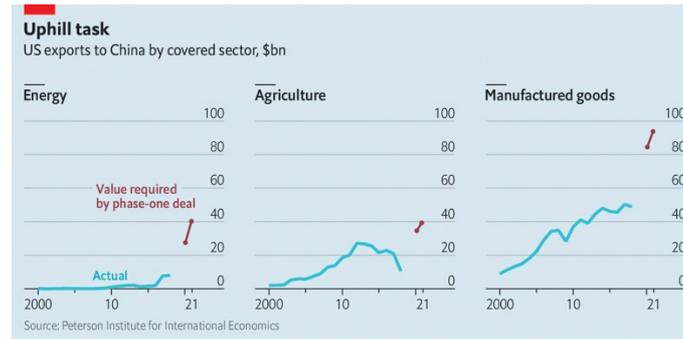
*Bruno Le Maire, French Finance Minister*

- 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.
- In conjunction with the report, 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*

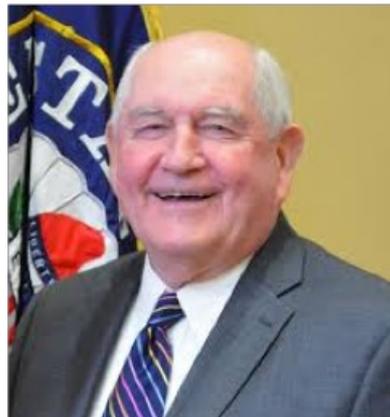
- As highlighted previously, President Trump and Chinese Vice Premier Liu He signed the [Phase One agreement](#) on January 15th at the White House and USTR released the 96-page document along with multiple [fact sheets](#). Many of the purchase commitments for the ag sector are scheduled to take effect within 30 days of signing the agreement, or Feb. 14th.
- Stakeholders, policy makers, industry experts, and academics are digesting the agreement's details, particularly on China's commitment to purchase \$200 billion of U.S. energy, agriculture, and manufactured goods, while others are anxious for greater stability in the nearly 2-year trade war.

- According to an analysis by the Peterson Institute for International Economics, China essentially committed to increase purchases of certain American agricultural products by 60%, and manufactured products by 65%, by the end of this year compared with levels in 2017.



The Economist

- Others have hailed the agreement as a necessary and a highly beneficial outcome for the U.S. food and agriculture sector which has persisted through multiple years of uncertain economic conditions and market uncertainties tied to bilateral trade tensions. USDA Secretary Perdue said, "This agreement is proof President Trump's negotiating strategy is working. While it took China a long time to realize President Trump was serious, this China Phase I Deal is a huge success for the entire economy. This agreement finally levels the playing field for U.S. agriculture and will be a bonanza for America's farmers, ranchers, and producers." He continued, "China has not played by the rules for too long, and I thank President Trump for standing up to their unfair trading practices and for putting America first. We look forward to exporting to Chinese customers hungry for American products."



*Sonny Perdue, Secretary of USDA*

## U.S. - Japan Trade Agreement

- No significant updates on phase one U.S. Japan trade pact. Commencement of negotiations on a phase 2 or a more comprehensive trade deal are expected May st1. According to several sources.
- As reported earlier trade ministers from the U.S., EU, and Japan, along with their advisory teams, are met in Washington, DC to continue efforts to address non-market-oriented practices, industrial subsidies, forced technology transfer policies and WTO, among other issues. The trilateral talks 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

- EU trade chief Phil Hogan said the EU and U.S. could launch talks on a free trade agreement by striking a compromise on how agriculture is handled. Hogan argued there could be a way of dropping certain regulatory barriers to U.S. farm goods as part of a broader industrial goods deal. Hogan noted, "So we are trying to look at ways where through regulatory cooperation we might be able to

look at non-tariff barriers as a way of bringing agriculture issues on the table,” Hogan said at a BusinessEurope event in Brussels.

- Hogan noted that the EU mandate does not include agriculture, just as U.S. negotiating objectives reject discussion of “buy American” provisions. But Hogan offered an alternative approach to dislodging the impasse on agriculture — slashing regulatory barriers on farm goods — which would help both U.S. as well as EU farmers. Hogan noted, “We have a long list on both sides” of regulatory barriers in agriculture, which could be “resolved” as part of a trade agreement. Hogan’s statements could reflect a shift in the EU’s hardline stance regarding any changes to its food and safety standards, which the U.S. has frequently questioned the scientific basis for such policies, such as bans on genetically modified organisms.
- Hogan, however, was quick to emphasize these non-tariff barriers cut both ways, and that EU farmers would also profit from harmonization. In a separate statement, Hogan said the EU has asked U.S. officials to approve imports of EU fruit. “I am often asked to explain the scientific basis of why certain products are blocked” in Europe, he said. “I’ve questioned the scientific basis for blocking the approval of apples and pears, as well, into the United States.”
- President Trump continues to press hard for a trade deal with the EU and pressuring Brussels to commence talks and agree on a deal before the November Presidential election. President Trump told reporters in Davos that he will “have to do something else” if they EU can’t meet the deadline. Separately, Trump said the EU has “no choice” but to negotiate a trade deal, otherwise he’ll impose “very high tariffs on their cars and other things.” Trump justified the tariff threats on the EU stating, “They haven’t wanted to negotiate with past Presidents, but they’re going to negotiate with me.”
- The response from EU officials was mixed. German Ambassador Emily Haber said U.S. tariffs on European products will trigger an in-kind response. However, French Ambassador Philippe Etienne cautioned that “it is not in our interest to have an escalation of tariffs.” The EU would like to see negotiated resolutions of the long-standing disputes over aircraft subsidies. EU Commission President Ursula von der Leyen took an expressing optimism that a bilateral agreement could be struck “in a few weeks.” Speaking on the sidelines of the World Economic Forum in Davos, Von der Leyen said, “We don’t think it’s a good idea to have trade disputes over months but that we sit down together, we negotiate and find solutions, we exchange some numbers and views on fairness,” She continued, “We’re expecting in a few weeks to have an agreement that we can sign together.” She noted the deal would involve a “new approach” than the one laid out in a July 2018 joint statement issued by President Trump and von der Leyen’s predecessor, Jean-Claude Juncker, which excluded certain political sensitivities like agriculture for the EU and government procurement for the U.S.



*Ursula Von der Leyen, European Commission President*

- Notably Agriculture Secretary Perdue traveled to Brussels this week to discuss the potential for a limited trade deal.
- Talks on a U.S.-EU trade deal are stalled over starkly different views on the scope of potential negotiations. The U.S. seeks a comprehensive trade deal, including agriculture provisions, an extremely sensitive area for the EU. The EU maintains that in 2018 the U.S. and EU agreed on a much narrower scope of negotiations on industrial goods. Prior efforts by the U.S. under the Transatlantic Trade and Investment Partnership (TTIP) encountered similar roadblocks regarding the EU’s resistance to further opening its 28-member country market to U.S. farm goods and lower agriculture and food

import regulatory barriers.

- 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 to 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 illegal subsidies.

## U.S.-U.K Trade Agreement

---

- The U.K.'s post-Brexit trade negotiating priorities may have shifted to the EU over the U.S. The U.K.'s Finance Minister, Sajid Javid, recently stated, "In terms of our next steps on free trade, one of the big ones is with our European friends and partners, getting that new comprehensive free trade agreement where the principles have been agreed upon. That's off to a good start," He noted that securing a trade pact with the U.S. is also "a huge priority for us," and confirmed talks are underway, "we've already started working closely together (toward that goal)." When pressed on prioritizing the two negotiations, Javid said, "Of course our first priority is getting the agreement with the EU." Afterwards Treasury Secretary Mnuchin said the U.S. was a "bit disappointed" and the U.S. would have preferred to be first in line for trade negotiations with the U.K.



*Sajid Javid, U.K Finance Minister*

- As reported earlier, The U.K. is scheduled to leave the EU on Jan. 31, entering a "transition period" in which to iron out trade, regulatory, and other relationships with the EU by the end of 2020. During the "transition period", the U.K. could negotiate other trade deals beyond the EU, including with the U.S. However, the trade pact enforcement would only occur after the transition period with the EU according to sources.

## Suspension Agreements

---

### *Sugar Suspension Agreement*

- Last week the Department of Commerce announced signing of the [amended Sugar Suspension Agreement](#). In the notice Commerce reported, "...sugar producers/exporters accounting for substantially all imports of sugar from Mexico have signed an amendment to the Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico (AD Agreement). The amendment to the AD Agreement modifies the definitions for sugar from Mexico, revises the reference prices for the applicable sugar from Mexico, and provides for enhanced monitoring and enforcement mechanisms."
- Shortly after the Commerce announcement, CSC Sugar filed two complaints with the Court of International Trade (CIT), each contesting the newly revised agreement that would suspend the antidumping and antisubsidy duties on raw sugar imports from Mexico. CSC noted in the filing, "The failure of Commerce to provide a reasoned explanation for the inclusion of both the bulk shipment provisions and the changes in the polarity standards in adopting the amendment renders the amendment unsupported by substantial evidence and contrary to law."
- CSC Sugar's successful petition to the CIT last year against Commerce for not keeping proper records

during the 2017 negotiations led to the most recent changes in the agreements. CSC continues to object to Commerce's decision and remains dissatisfied with the department's proceedings.

## U.S. - India Trade Developments

---

- USTR negotiators traveled to India to lay groundwork for higher level discussion ahead of President Trump's potential visit to India next month. The U.S. and India have been working toward a limited 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.

## 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

---

- During WEF meetings in Davos, President Trump and WTO Director General Roberto Azevedo indicated the two leaders were anticipating cooperation to tackle WTO reform and addressing U.S. longstanding concerns. During a press conference, Trump stated, "Roberto and I have a tremendous relationship and we are going to do something that I think will be very dramatic. He'll be coming with a lot of his representatives to Washington sometime – maybe next week or the week after – and we'll start working on it." Responding to Trump's invitation to comment, Azevedo said, "I think it is fair to say, and we have been saying for quite some time that if the multilateral system, the WTO, is to deliver, it is in its performance role of today's global economy, it has to be updated, it has to be changed, it has to be reformed." He continued, "This is an agenda that is squarely before members and I don't think anybody in Geneva misses the point. I think they understand that the system has not been functioning properly in many areas, that is something we are trying to address." The WTO chief emphasized he will consult with other WTO members to ensure everyone understands the seriousness of the endeavor.
- A group of 17 WTO members, including the EU, announced efforts to form an interim appellate body arrangement according to press release by the European Commission. Invoking Article 25 of the WTO Dispute Settlement Understanding, the group seeks to pursue an "interim solution" to the AB impasse.

### Statement by Ministers, Davos, Switzerland, 24 January 2020

- "We, the Ministers of Australia, Brazil, Canada, China, Chile, Colombia, Costa Rica, European Union, Guatemala, Republic of Korea, Mexico, New Zealand, Norway, Panama, Singapore, Switzerland, Uruguay, remain committed to work with the whole WTO membership to find a lasting improvement to the situation relating to the WTO Appellate Body. We believe that a functioning dispute settlement system of the WTO is of the utmost importance for a rules-based trading system, and that an independent and impartial appeal stage must continue to be one of its essential features. "
- "Meanwhile, we will work towards putting in place contingency measures that would allow for appeals of WTO panel reports in disputes among ourselves, in the form of a multi-party interim appeal arrangement based on Article 25 of the WTO Dispute Settlement Understanding, and which would be in place only and until a reformed WTO Appellate Body becomes fully operational. This arrangement will be open to any WTO Member willing to join it. We have instructed our officials to expeditiously finalize work on such an arrangement. We have also taken proper note of the recent engagement of President Trump on WTO reform."

- Commenting on the announcement, EU Trade Commissioner Phil Hogan emphasized the move is only “a contingency measure needed because of the paralysis of the WTO Appellate Body. We will continue our efforts to seek a lasting solution to the Appellate Body impasse, including through necessary reforms and improvements.”

## WTO Workaround

The EU and 16 nations are joining forces to settle trade disputes

■ Signing up to new alliance



Source: Bloomberg

**Bloomberg**

- 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.

*Sign up for the Corn Refiners Association's weekly Trade Update*

**SUBSCRIBE**



[Corn Refiners Association](#) | 1701 Pennsylvania Avenue, NW, Suite 400, Washington, DC 20006

[Unsubscribe](#)