



Trade Update

February 3, 2020

By Michael Anderson

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

Highlights

- **USMCA:** The Canadian Parliament introduced USMCA for consideration with expected vote in March or April. Assuming ratification in Canada, all three countries will need to certify their ability to comply with requirements of USMCA before entry into force, anticipated by this summer.
- **China Tariffs:** Implementation of China phase one deal on Feb 14th is fast approaching as stakeholders and observers debate the ability of China to meet the \$200 billion purchase commitments for U.S. energy, agriculture, and industrial goods. Meanwhile the impact on China's economy from the spreading coronavirus may supersede the focus on phase one upcoming enforcement date.
- **EU:** EU officials are striking an increasingly optimistic posture on potential for a limited U.S. trade deal that would include some non-tariff concession on agriculture goods. In parallel, Agriculture Secretary Perdue detailed U.S. negotiating points in a recent trip to Brussels.
- **WTO:** BREXIT is official! The United Kingdom formally exited the EU and is forging ahead during the "extension period" to define its new economic and trade relationship with the EU by the end of 2020. U.S. and U.K. officials are both keen to strike a bilateral trade deal, while admitting that agriculture could be contentious.

USMCA

- Deliberations on USMCA are underway in the Canadian Parliament as the legislation was recently submitted shortly after Parliament convened on Jan. 29th. 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 writing 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."
- After ratification by Canada, the three countries must work to check off all the obligations outlined in the deal that must be met before the deal can take effect. Once they have completed all required procedures, the countries will notify each other in an exchange of letters. Then, it will enter into force on the first day of the third month following the last party's written notification (i.e. Canada) or approximately 60 days later.

Section 232 Tariff Actions

- President Trump recently invoked section 232 authority 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 are exempted from 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.
- 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 Department of Commerce continues to resist pressure to 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."
- Both Senators Toomey and Grassley expressed dissatisfaction with the Commerce position. 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."

Section 301 Tariff Actions

Digital Services Tax - France

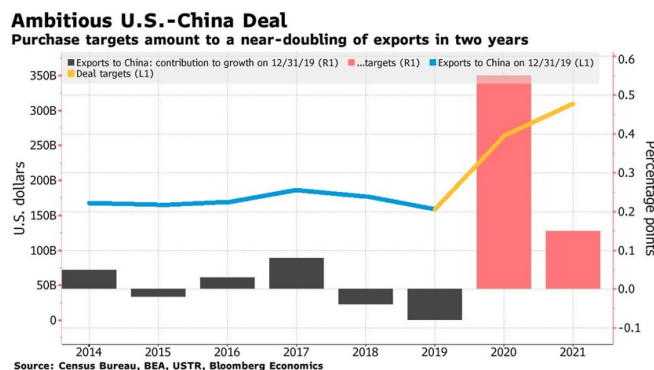
- As noted earlier, President Trump and French President Macron announced a truce in the battle over digital services taxes after discussion at the World Economic Forum (WEF) in Davos, Switzerland. Trump had threatened to impose up to \$2.4 billion worth of tariffs on French goods in retaliation for 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."

- Earlier the Trump Administration has found discriminatory tax treatment for U.S. internet firms under a [section 301 investigation](#) into digital services taxes 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

- In less than two weeks the China phase one trade pact enters into force (Feb. 14th). Observers continue to debate the impact and China's ability to fulfill purchase commitments of U.S. exports. China agreed to purchase \$200 billion of agricultural, energy and other U.S. goods within two years. According to the agreement, China is expected import \$76.7 billion worth of goods and services above what it purchased in 2017.
- 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.
- Analysis on the China phase one deal by Bloomberg indicates that China's purchase commitments would increase U.S. exports to China from roughly \$160 billion in 2019 to \$309 billion in 2021 — a near-doubling in two years, with the bulk of the increase reached in 2020. If these purchase commitments are met, and wholly reflect increases in volumes (not prices) trade expansion would amount to a contribution in excess of 50 basis points to GDP growth in 2020, and 10-20 points in 2021.



- Others expressed optimism that China will meet the purchase commitments, at the expense of other exporting partners. Archer Daniels Midland (ADM) CEO Juan Ricardo Luciano said on an investors' call last week he expects China to comply with its commitments of increasing its U.S. farm product purchases – at the expense of Brazilian exports. "I do believe that China intends to comply with the phase one conditions of the deal, and that has to come at the expense of Brazilian exports," he said. "I think to a certain degree it's going to be a zero-sum game in which Brazil will export less and the U.S. will export more to China," Luciano said.
- Other observers shifted focus recently to the potential impact of the coronavirus on China's ability to implement the phase agreement. According to one observer, "Phase one is much less of a priority now than the safety of U.S. citizens in China and stopping the spread of new infections." Another report indicated initial U.S. and China dialogues on implementation of the phase deal has shifted focus to managing the spread of the coronavirus, placing talks on implementation of increased purchases of U.S. imports on hold at present.
- President Trump however projected optimism that the coronavirus outbreak would not significantly disrupt China's economy, affecting its ability to meet the phase one deal purchase commitments. "Hopefully it won't be as bad as some people think it could be," Trump said.

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 comprehensive trade deal are expected no earlier than May according to several sources.

U.S. - EU Trade

- Agriculture Secretary Perdue pronounced U.S. goals for agriculture in potential EU trade talks during his European trip last week. Perdue explained the U.S. is seeking, major changes to the EU's standards for plant and animal health and food safety including combating Europe's geographical protections for foods like feta cheese and restrictions on chemically treated poultry, and other products. Perdue emphasized easing those rules could help alleviate the multibillion-dollar trade deficit with the 27-member bloc. Perdue noted, "We're not suggesting initially that tariffs have to be on the table, but certainly the [food standards] have to be addressed, and the non-tariff barriers, which are a fairly formidable barrier to U.S. exports to the EU."



Sonny Perdue, Secretary of USDA

- In the past few weeks EU leaders have made encouraging statements on the potential for a limited trade negotiation on non-tariff agriculture issues. Phil Hogan, for example, 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."
- Another sensitive non-tariff agriculture issue potentially included in EU trade talks is certain GMO testing according to one observer. An EU official said, "The Americans have been waiting for the approval of sensitive GMO crops literally for decades." The move could face deep resistance from France, Austria and Germany with concerns of a public backlash, if the deal creates the impression that Europe is "lowering" its food standards or letting in dangerous foods to appease the White House.

Additionally, Perdue also called on Brussels to soften limits on pesticide residues — which are sometimes stricter in the EU than recommended by international organizations.

- 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

- After 3-1/2 years of multiple referendums and two prime ministers, the United Kingdom separated from the EU. With the legal separation, the U.K. now has until December to set the terms of exit and negotiate a comprehensive trade deal with the 27-member EU trading block, its largest trading partner. The Boris Johnson government continues to signal interest in securing a U.S.-UK deal by the end of 2020 as well. "I am confident a deal can be done" this year, British Foreign Secretary Dominic Raab said last week. The UK is expected to release its negotiating objectives in the next week or so. USTR published the U.S. negotiation objective early in 2019. Working group discussions and trade officials from both countries have been meeting with their counterparts over the past several months in anticipation of post-Brexit negotiations.
- As the U.K. is officially in a "transition period" in which to iron out trade, regulatory, and other relationships with the EU by the end of 2020, the U.K. is free to 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.



Mike Pompeo, U.S. Secretary of State

- Secretary of State Pompeo acknowledged that trade talks regarding agriculture will be challenging. Speaking during an official visit to London last week Pompeo said there will be "real contentious issues around agriculture" in bilateral U.S. and U.K. trade negotiations. "I am sure the ag [agriculture] issues will be difficult," Pompeo continued. In an apparent reference to the U.K. ban on U.S. chlorinated chicken Pompeo emphasized, "We need to make sure we don't use food safety as a ruse to try and protect a particular industry." "We need to be open and honest about competitiveness."
- Senator Grassley commented that "The United States stands ready to negotiate a trade agreement with the United Kingdom that will further strengthen our alliance and integrate our economies. A

comprehensive trade agreement offers great potential for job creation and economic growth in both of our countries," He continued, "For the past year, I've been meeting with U.K. government officials as well as the U.S. Trade Representative. We're eager to begin negotiations soon."

- Rep. Neal, Chairman of House Ways & Means Committee outlined his expectations for a bilateral trade deal with U.K. that would reflect both "economic aspirations and democratic values." He added that he expected to "work closely" with Amb. Lighthizer for "strong, bipartisan support." Neal highlighted worker rights, environmental protection, enforcement and protecting peace at the Irish border as major priorities.
- As noted earlier, 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

- In speech over the weekend insisting the UK has "no need" to follow EU trade rules, Prime Minister Boris Johnson called for a "Canada-style" free trade deal, saying the UK would return to the Withdrawal Agreement if such a deal was not reached with the EU. Johnson continued, "The choice is emphatically not 'deal or no deal'. The question is whether we agree a trading relationship with the EU comparable to Canada's - or more like Australia's. In either case, I have no doubt that Britain will prosper mightily." The EU's trade pact with Canada or the Comprehensive Economic and Trade Agreement (CETA), eliminates most, but not all, tariffs on goods traded between the EU and Canada, and increases most quotas, yet protects the use of geographical indicators.

Suspension Agreements

Sugar Suspension Agreement

- Last month 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

- 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.

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.

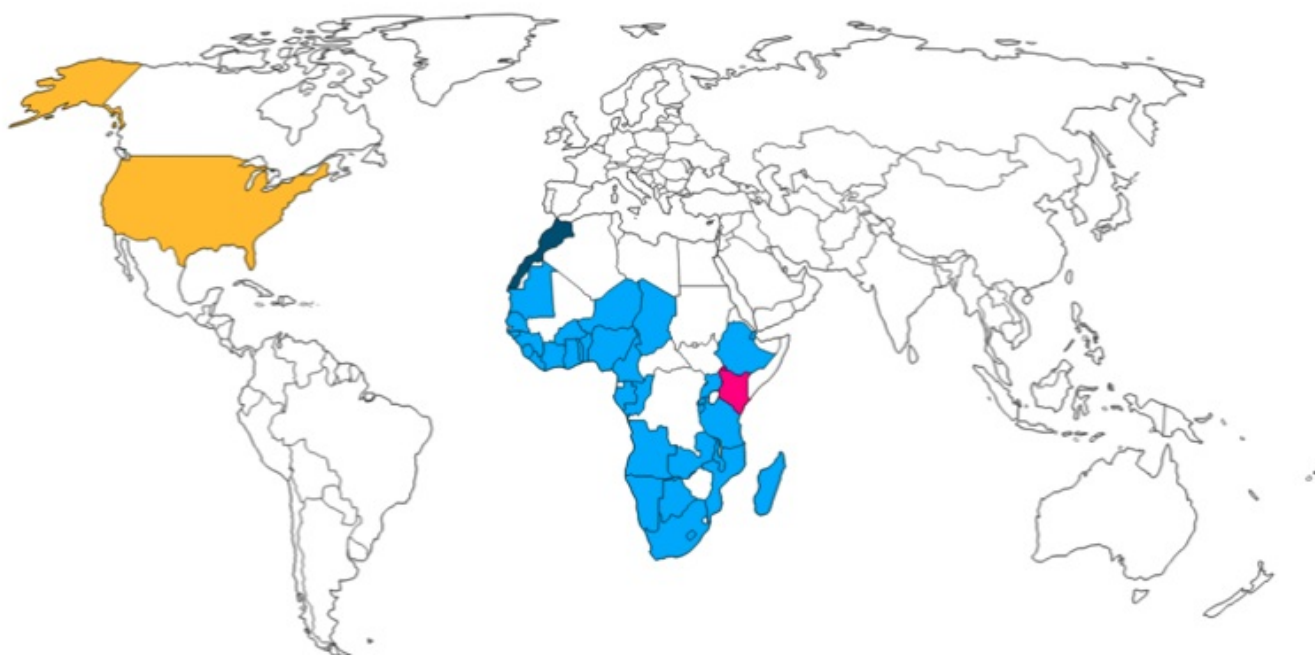
U.S.-Kenya Trade Developments

- The U.S. and Kenya may announce negotiations on a bilateral trade agreement next week, the first free-trade agreement (FTA) with a sub-Saharan country, and only the second FTA in Africa - Morocco. The Trump administration wants the accord to be a model for future pacts with other nations in the region, though Kenya said that any potential arrangement won't replace the African Growth and Opportunity Act (AGOA), which affords 39 sub-Saharan African countries duty-free access to the U.S. for about 6,500 products ranging from textiles to manufactured items. A high-level Kenyan delegation is slated to visit Washington, DC, this month.
- Representatives Kevin Brady and Earl Blumenauer expressed support for the Trump administration's efforts to commence trade talks with Kenya under the auspices of Trade Promotion Authority (TPA) law. Brady said he "assumes" Amb. Lighthizer will proceed with Kenya negotiations under TPA guidelines, including extensive congressional consultations and, ultimately, Congress's approval unlike recent "phase one" agreements concluded with China and Japan. Brady noted that, there was "great interest" in striking a deal with Kenya, contending the country is "ready and is very interested in stronger [bilateral] ties." Blumenauer indicated he planned to talk with Amb. Lighthizer on the Administration's path forward, adding he hoped the administration and Congress could focus on "implementing the spirit and letter" of TPA this year. "Because I think it's going to work better if we are working cooperatively." He continued, "there is an understanding that [Kenya] is a vast emerging market and opportunities to use trade to advance interests that we have on that continent, not the least of which is political and economic stability."
- During the lead up to signing of the Japan phase one deal, several democrats were frustrated the Administration's approach which skirted TPA guidelines calling for significant consultations and involvement with Congress before and during trade negotiations.

Potential First

U.S. and Kenya may start talks for first America-sub-Saharan trade deal

■ U.S. ■ Kenya ■ Other AGOA eligible countries ■ Morocco



Source: Bloomberg

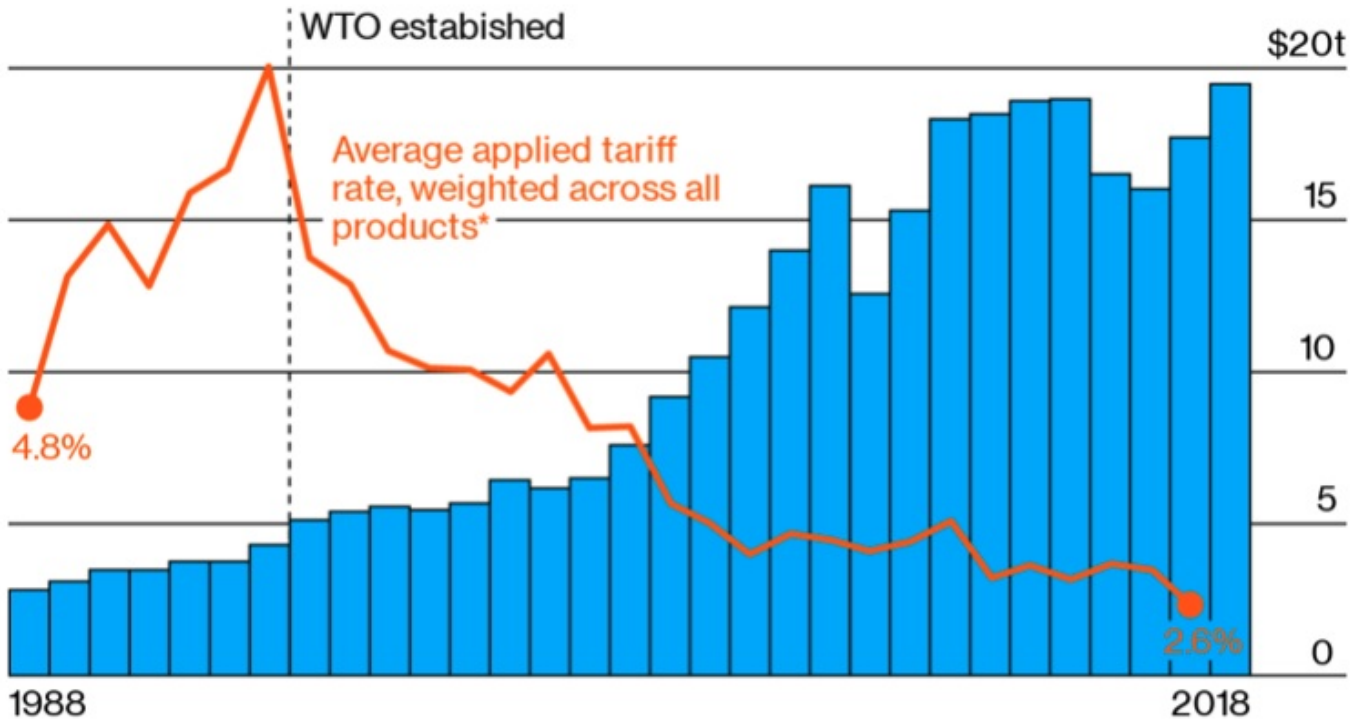
Bloomberg

General Trade Cooperation/WTO Reform

- With the rise of populism in many countries, increasing use of tariff measures by some of the world's largest trading nations, and call for reform of the World Trade Organization, trade experts, academics, and the press are increasingly turning attention to analysis of the 25-year old WTO and its impact on global trade. Despite the recent rising tide of protectionism in several countries, supporters of a rules-based trading system argue world trade has expanded by 20 times, and world GDP has grown by 15 times, lifting millions of people out of poverty owing to a rules-based trading system. A recent analysis by the WTO and Bloomberg provides a snapshot of global trade and tariffs the past 30 years.

Trade Catalyst

Value of global merchandise trade



*The weighted mean applied tariff is the average of applied rates weighted by the product import shares for each partner country, as measured by the World Bank

Sources: World Trade Organization, World Bank

Bloomberg

- As reported earlier, 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.
- 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, five 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. 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](#)