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Trade Update

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Highlights

- **USMCA:** USMCA passes House in veritable landslide last Thursday, by a margin of 385-41. Senate vote expected as earlier as January 7, 2020.
- **China Tariffs:** Signing of U.S. – China phase one trade deal expected soon. Chinese observers counter U.S. reservations that China can meet its agreed to agriculture purchases of $40-50 billion.
- **WTO:** WTO members express concern and scramble to pursue alternative path after the collapse of the Appellate Body. Meanwhile, the U.S. appeals a complaint won by India, affirming work with India to resolve the dispute despite the void of a functioning appeals system.

The next trade update will come in the new year, on January 7th.

USMCA

- **USMCA convincingly passes House 341-70**. Following over a year since the signing of the original agreement, a delayed statutory USITC report, the lifting of 232 tariffs on Canada and Mexico, and months of intense negotiations between House Dems and USTR, the House finally conducted the last vote of 2019, passing USMCA by a historic margin. The historic level of Democratic support is ascribed to the amended text of USMCA that addresses the House working group's concerns, primarily labor and enforcement, and the endorsement by the AFL-CIO, the first endorsement of a trade agreement by the organization in 20 years.

- Democratic Leader Steny Hoyer noted prior to the vote that, "This USMCA agreement before us is a vast improvement over the first version shown to us by President Trump and his team." "It now includes critically important changes offered by Democratic members in order to ensure that its enforcement mechanisms are stronger, that it protects American workers, and that it will help lower prescription drug costs and improve access to medications. This agreement will also remove some of the uncertainty created by the President's erratic tariff policies."
- The composition of the USMCA vote are as follows:

    - Democrats: 193 votes in support (83% of the Democratic caucus); 38 opposed (16%); 2 no vote
    - Republicans: 192 votes in support (97% of the Republican caucus); 2 opposed (1%); 3 no vote
    - Independents: 1 vote opposed

As a frame of reference for the House USMCA vote last week in relation to prior trade agreements:

- The USMCA vote margins far exceeded NAFTA: 102 (40%) of House Democrats and 132 (75%) of Republicans voted to support NAFTA. NAFTA passed by 34 votes total;

- For the 11 roll call votes on U.S. trade agreements since NAFTA, just four exceeded 100 Democrats voting in support, with none approaching USMCA levels: Morocco (120 Democratic votes in support (60% of the caucus)); Australia (116 (58%)); Bahrain (115 (59%)); and Peru (109 (48%)).

- USMCA now moves to the Senate for consideration in 2020. Sen, Grassley announced the Senate Finance Committee will "markup" USMCA on Tuesday, Jan. 7, 2020. Grassley noted, this timing is "based on the expectation that the Senate will have received the legislation beforehand from the House of Representatives," and "further details regarding exact timing and location will be provided at a later date."

- According to Trade Promotion Authority (TPA), Both chambers must be in session for a trade bill to be transmitted from the House to the Senate. The next day both chambers are in session is Monday, Jan. 3, 2020. In accordance with TPA, the Senate has 30 days to consider the bill; Senate Finance Committee must vote within 15 session days, then the full Senate has 15 session days to vote.

- Several 2020 Democratic Party presidential candidates shared their opinions on USMCA during the Democratic debate on Thursday evening after the historic House vote passing by a margin of 385-41. Current U.S. Senator Bernie Sanders, unpersuaded by the moderator's point that union groups such as AFL-CIO endorsed the deal, stated that he will vote "no" on the deal when it comes to a vote in the Senate. "You're talking to somebody who unlike some of my colleagues here voted against NAFTA," he responded. He called USMCA "a modest improvement over what we have right now" in the form of NAFTA.

- Another candidate and current Senator, Sen. Amy Klobuchar, expressed that she will support the bill when it comes before the Senate. "I would not have voted for the agreement that President Trump put forward, but we have better labor standards better environmental standard and a better deal when it comes to the pharmaceutical provision, which I also oppose." Sen. Klobuchar explained. Vice President Joe Biden on Monday came out in support of the amended USMCA. Labor support for a modified USMCA apparently was the catalyst for Biden's support for the agreement. Biden told reporters, "what I've seen change is that the vast majority of the labor movement supported it." He noted the changes to labor, enforcement, and biologics stemming from months of negotiations between House Democrats and the Trump administration.

- Senator Elizabeth Warren, who opposed the original USMCA, indicating she is still evaluating the changes announced earlier this month stating, "My concern is it has nothing on the environment and that's really important, especially for the competition with our own companies." "And, we have a global climate crisis. But it is better on some provisions for labor. It's much better on investor-state dispute resolution. So I'm taking a close look at the varied details to see how to weigh this."

- Some opposition parties in the Canadian Parliament expressed doubts about the revised version of USMCA this week after a new Parliament was installed this month. Members of the right-leaning Conservative Party and the left-leaning Democratic Party both expressed concern about lack of consultation regarding the newest adjustments to the agreement. "When will the prime minster realize that here at home he doesn't have control of Parliament and he needs the support of opposition before finalizing major agreements?" Leona Alleslev, a Conservative member of Parliament, said last week.

Section 232 Tariff Actions

- Brazilian President Jair Bolsonaro and President Trump held a phone call on Friday afternoon to discuss the renewed tariffs on steel and aluminum from Brazil that President Trump announced by Tweet earlier in December, among other topics. After the call, President Bolsonaro announced on his Facebook page that "Today I talked to President Donald Trump and, after exchange of views, he decided not to carry forward his intention to surcharge our steel/aluminum." President Trump, for his part, announced on Twitter after the Friday call that "The relationship between the United States and Brazil has never been Stronger!" Trump's December 2nd tweet announcing renewed steel and aluminum tariffs on Brazil also announced the same renewed tariffs on steel and aluminum from Argentina; however, since that time, the Trump administration has made no further mention of the planned timeline for the re-introduction of the tariffs on Argentina.

- As reported earlier Sen. Grassley expressed continued ambitions to drive legislation to rein in the president's power under Section 232 — the law Trump has used to impose imposed steel and aluminum tariffs and consider the same on auto and auto parts imports. Grassley stressed a conversation with ranking Democrat, Sen. Ron Wyden is necessary before moving forward. "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, Grassley said. 'I'm going to need a little bit more time because we're mixed up with USMCA.'" He 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." Wyden indicated he remains supportive of "putting some guardrails in this Administration's unpredictable and chaotic trade policy." "We haven't been able to find the solution yet, but I am ready to continue to work with the chairman to find a legislative solution that will garner wide bipartisan support," Wyden said.

Auto Tariffs

- There is still no indication whether Trump will attempt to pull the trigger on auto tariff imports, despite Commerce Secretary Wilbur Ross' recent comment that the door remains open. Sen. Pat Toomey and several legal experts have contended that the window has closed for auto tariffs, statements which are supported by a recent court ruling. Toomey contends that the Commerce Department "…must launch a new investigation" on whether auto and auto part imports constitute a national security threat prior to any tariff action.

- 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 an 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

- 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's sets out the findings of the investigation. A USTR press release stated, "USTR's decision today sends a clear signal that the United States will take action against digital tax regimes that discriminate or otherwise impose undue burdens on U.S. companies," Amb. Robert Lighthizer said. "Indeed, USTR is exploring whether to open Section 301 investigations into the digital services taxes of Austria, Italy, and Turkey. The USTR is focused on countering the growing protectionism of EU member states, which unfairly targets U.S. companies, whether through digital services taxes or other efforts that target leading U.S. digital services companies."

- 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.

- USTR is accepting public comments until January 6, 2020 and holding a public hearing on January 7th on the proposed Section 301 actions on French products because of France's digital services tax.

- After nearly two years of section 301 tariffs on some $500 billion worth of goods, the U.S. and China tentatively agreed on a cease fire and new Chinese commitments involving intellectual property, agricultural purchases, financial services and exchange rates. Observers expect the deal to be signed at the Ministerial level in early January. The 86-page agreement includes reforms in China's IP protections, technology transfer, expanded agriculture purchases, reduced barriers to financial services, expanded U.S. import purchases (i.e. $200 billion), currency manipulation, and improved dispute resolutions procedures. Tech and IP Policies - China

- As reported earlier, the U.S. will roll back existing tariffs on $360 billion of Chinese goods by as much as 50% as well as suspend the new 15% tariffs scheduled to go into effect last Sunday the 15th, as announced last October. In return, China is expected to significantly increase annual agriculture purchases to $40-$50 billion. China also agreed to expand access to its financial services market and include language on currency and intellectual property. 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)

U.S. Trade Representative, Robert Lighthizer

- Amb. Lighthizer said there is no date to begin negotiations on a "phase two" trade deal with China, now that the first phase has been completed. Negotiations on phase two hinge in part on how well phase one is implemented, Lighthizer said Sunday on CBS's Face the Nation. Whether the phase one agreement will work ultimately will depend on who is making the decisions in China – hardliners or reformers, Lighthizer said.

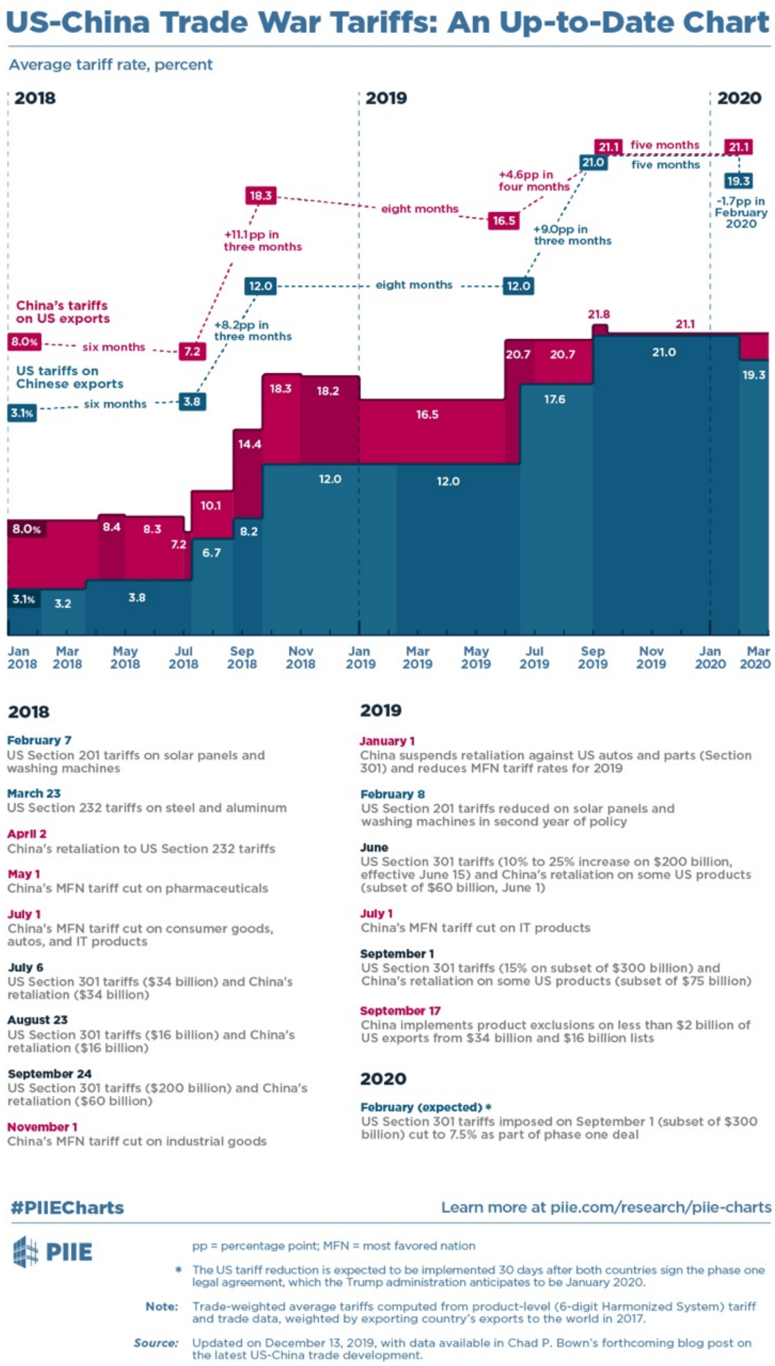
- While some experts question whether China can meet the ag purchase target (e.g. $40-50 billion) targets, especially considering a drop in trade volume this year from U.S. tariffs and a slowing Chinese economy, a Chinese consultancy firm "strongly believes that China has the ability and will fulfill its promise" under the phase one deal. JCI, a Shanghai-based consultancy reported, "Most foreign media don't believe that China can fulfill the commitments." JCI estimates China can buy a total of roughly $41.3 billion worth of U.S. farm products annually, including around $18.7 billion - or 45 million tons - of soybeans. More details of JCI estimates of China's imports of U.S. agriculture products under Phase 1 of the U.S.-China trade are provide here.

JCI estimate of China's annual purchase volume of U.S. farm products under Phase 1 of the U.S.-China trade deal

Products	Projected import volume (Tonnes)	Projected import value (USD)	Record high import volume (Tonnes)	Year of record import volume	Projected volume change vs record
Soybean	45,000,000	18,675,000,000	33,660,000	2016	34%
Corn	8,000,000	1,760,000,000	5,110,000	2012	57%
Wheat	5,000,000	1,425,000,000	3,820,000	2013	31%
Sorghum	8,000,000	1,832,000,000	8,970,000	2015	-11%
DDGS	8,000,000	1,840,000,000	6,820,000	2015	17%
Frozen pork & offals	1,000,000	2,073,000,000	300,000	2011	233%
Poultry meat	450,000	1,203,000,000	350,000	2013	29%
Cotton	800,000	1,567,000,000	530,000	2018	51%
Chicken feet	500,000	1,071,000,000	140,000	2017	257%
Nuts	-	2,500,000,000			
Aquatic products	460,000	1,478,000,000			
Others		5,900,000,000			
Total		41,324,000,000			

Notes:
1.The estimate JCI made regarding the purchase volume in the table is under the ideal situation that the weather, the quality and the prices are all favorable for China's purchase.
2. The volume here does not include the purchase volume that may be recruited for Chinese state reserves
3. The volume here does not include transit trade from Hong Kong to mainland China and the volume smuggled to China.
4. The volume here does not include the import volume of agricultural machinery and forestry products. *Source: JCI*

- Since the initial round of U.S. tariffs on China under section 301 authority, the average weighted tariff on imports from China has increased from 3.1% in 2018 to 19.3% with the recent recession of planned tariffs on Dec. 15th, according to analysis by the Peterson Institute. China's retaliatory tariffs have increased from 8.0% in 2018 to 21.1% in December 2019. An updated chart chronicling the tariff volleys in the nearly two-year trade war is provided below.



U.S. - Japan Trade Agreement

- As previously reported, the upper house of the Japanese parliamentary body, the Diet, approved the U.S.-Japan stage 1 deal on December 4th, 2019, following on the heels of the lower house's passing of the deal on November 19th and clearing the way to meet the goal of implementation of the deal on January 1st, 2020. The deal was approved by the Diet in record time. "I commend Japan's quick action to approve these important trade agreements between our two nations…Now, U.S. farmers and ranchers will have significantly improved access to Japan's market, and America's leadership in the growing digital economy will continue to flourish to the benefit of all our workers" Amb. Lighthizer said in a statement released by USTR.

U.S. - EU Trade

- Amb. Lighthizer signaled that the Trump Administration's 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 continued 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.The EU is considering imposing tariffs on goods from countries like the United States that have failed to match their climate change policies. The European Commission last week said that as part of its Green Deal plan, it would prepare a proposal for a border levy in 2021 for "selected sectors" to combat carbon leakage. The threat of new carbon-linked tariffs coincides with the deadlock at the U.N. climate conference on formulation of rules to govern international carbon trading. Proponents linking national markets (e.g. Europe) with other national or regional systems will soften trade tensions by encouraging countries to align their climate policies. Presently the EU levies fee of 25 euros (nearly $28) per metric ton of carbon dioxide emitted by industries like oil refineries, steelmakers and paper producers.

U.S.-U.K Trade Agreement

- The new U.K. Parliament passed Prime Minister Boris Johnson's Brexit deal on Friday, December 20th, setting the U.K. on course to withdraw from the EU by the January 31st, 2020 deadline. Once the UK withdraws from the EU, it will have until December 2020 to negotiate a comprehensive free trade agreement defining their future relationship, a deadline that has left many experts skeptical. Until that time, the UK will largely continue trading under the rules that were defined for it while it was part of the EU. The U.S. hopes to negotiate a free trade agreement with the UK after it establishes its new free trade relationship with the EU.

- With advancement of USMCA to a vote in Congress and China phase one trade deal solidified, The Trump Administration is eager commence trade negotiations immediately after the U.K. completes exiting the EU. National Economic Council Director Larry Kudlow said. "We'll probably get started on that very soon," adding that he and Deputy National Security Advisor Matt Pottinger will be in Britain next month to discuss several issues, including trade.

- U.K. Prime Minister Johnson, fresh off a strong election victory declared intentions to exist the EU by end of 2020. Johnson claimed a "mandate" to accomplish Brexit following his election victory. Last week he spoke with EC president, Ursula von der Leyen. A British government spokesman said the two "agreed to work together with great energy to agree [on] a future partnership by December 2020." Ms. von der Leyen tweeted that the two sides would launch negotiations as soon as possible. What remains unclear how the exit look and the terms with the EU.

Suspension Agreements

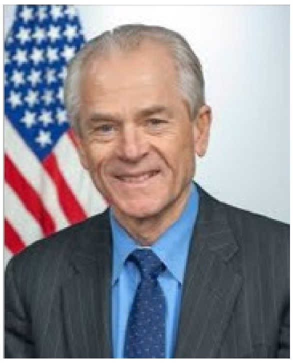
Sugar Suspension Agreement

- The stay granted by the Court of International Trade (CIT) for "vacating" the Sugar Suspension Agreement with Mexico expired on December 6th, reverting the trade terms back to the 2014 agreement.

- As noted earlier, the Court of International Trade (CIT) extended the enforcement date to December 6th, 2019 for "vacating" the existing Sugar Suspension Agreement with Mexico. The Justice Department had requested a 90-day stay of a CIT's ruling ordering the U.S. to vacate the 2017 amendments to sugar suspension agreements with Mexico. The request was supported by domestic producers, the Mexican industry, and Mexican government as being necessary to ensure that all parties had ample time to file comments with the Department of Commerce on the suspension agreements, and to give the Department of Commerce time to follow proper procedure during the process, according to an American Sugar Alliance spokesperson.

U.S. - India Trade Developments

- 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.



White House Trade Director, Peter Navarro

- Preliminary U.S. and Indian negotiations have focused on goods which reduced tariffs will benefit the U.S. over China, according to some sources. Because a partial trade deal would create tariff reductions on a most-favored nation (MFN) basis, other third-party countries such as China would have access to the same tariff rates as the U.S., pushing negotiators to be mindful of not introducing tariff reductions on products that would benefit Chinese exporters and result in a flood of Chinese imports to India.

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 House Ways and Means Committee passed a resolution recently affirming the U.S.' position on the paralyzed Appellate Body (AB), with the hopes that the resolution will serve as a mark of U.S. commitment to effective WTO reform and U.S. leadership in this endeavor. In the resolution, the Committee confirmed support for the WTO as an organization at large, but maintained specific U.S. critiques of the institution, including the AB. "We felt it was important for the Congress to weigh in with this resolution in order to give our current ambassador further tools in order to take the argument in the WTO about why this is important to get done, especially in a timely manner." Rep. Ron Kind said. The resolution covered such topics as dispute settlement, special and differential treatment, transparency, and updated rules for the 21st century.

- In the void of a functioning Appellate Body (AB), which collapsed on December 10th, the U.S. appealed a WTO panel ruling initiated by India against U.S. countervailing duties (CVD) on certain hot-rolled carbon steel products from India. The U.S. action represents the first test of the WTO settlement systems since the collapse of the AB and represents an outcome characterized by some observers as "appealing into the void", ostensibly blocking the panel ruling.

- In the absence of the AB, U.S. officials said it will discuss a way forward with India on the appeal. The two sides should be able to determine a way to resolve the issue – either bilaterally or through an alternative to the appellate process. As it has repeatedly done, the U.S. again blocked a proposal from 119 WTO members calling for the start of the selection process to fill the vacancies on the AB. Some 20 WTO members took the floor at a recent WTO meeting to underline the importance of resolving the impasse over the appointment of new members as soon as possible and reestablishing a functioning AB.

- WTO Director-General Roberto Azevêdo last week said he will launch more intensive, high-level consultations on how to resolve the longstanding impasse. India described itself as deeply disappointed with the dysfunctional state of the AB, calling the WTO dispute system as one of the most effective international courts in history. China charged that the United States is not engaging constructively in discussions on unblocking the impasse and that the "devastating consequence" of the AB's paralysis has become reality. At least 10 pending appeals are suspended until the resumption of a functioning AB, and another 33 pending panel disputes are facing a potential legal limbo if disputing parties cannot agree on any interim arrangement, Beijing said. Mexico noted this was the 30th time that the joint proposal to launch the selection process has been blocked by the United States. The next regular meeting of the Dispute Settlement Body (DSB) will take place on January 27, 2020.WTO Director-General Roberto Azevêdo's will consult with members to focus on finding the "missing pieces of the puzzle" left out of the so-called "Walker process" to address the dissolution of the Appellate Body last week, according to a recent report. Azevêdo said the Walker process addressed a "subset of issues" relating to U.S. concerns with the Appellate Body -- largely overreach and systemic problems -- noting that he would first decide whether "this understanding of mine that there are some things that are not on the table that need to be on the table" is accurate. The next phase would entail defining the concepts and framework for members to make decisions regarding a reformed or renewed AB. He expressed optimism that WTO members could make progress on resolving the crisis over the next six months, setting the stage for a decision at the June 2020 Ministerial in Kazakhstan. In the interim, Azevêdo implored members to withhold the unilateral application of trade-restrictive measures during this uncertain period. Azevêdo's fears are not hypothetical--the EU, for example, is considering a regulation that would give the Commission the power to retaliate on trade issues without first securing WTO authorization.

(WTO Director General, Roberto Azevedo)

- As reported earlier, the U.S. objects to the self-designated developing countries status provision

- As reported earlier, the U.S. objects to the self-designated developing countries status provision, arguing that several large economies are avoiding the stronger commitments that would more properly reflect their economic status in the global economy. China, India, and several Latin American countries are frequently mentioned. Both Brazil and South Korea recently offered to relinquish their special and differential treatment provisions in future negotiations to appease the U.S. concerns.