

Trade Update

April 14, 2020

By Mitchell Anderson

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

Highlights

- **USMCA:** The Trump Administration seeks a July 1st USMCA implementation, pending its release of the U.S. certification letter, while U.S. automobile producers and several lawmakers are requesting an extended entry into force deal and the impacts of COVID-19 on the auto sector.
- **U.S. - Kenya:** USTR canceled the in-person hearing on U.S. - Kenya trade talks scheduled for April 28th due to COVID-19 rules and concerns over negotiating objectives. The deadline for comments on negotiating objectives was extended nearly two weeks to April 28th.

- **China Trade:** President Trump expressed optimism that China has taken initial steps to meet some commitments outlined in the phase one trade deal. Last week China raised its proportion of corn purchases by 1 million tons, linking the announcement to the phase one deal.

USMCA

- Both Canada and Mexico have issued their notifications certifying adjustments necessary to implement the USMCA, while the White House is seeking a July 1st entry into force though the U.S. has not formally submitted its notification to date. According to the USMCA protocol of amendment, each country must provide written notification to the others once it has completed internal procedures required for entry into force. The agreement will enter into force on the "first day of the third month following the start of notification."
- The Trump Administration is pushing for a July 1st USMCA entry into force, even though several lawmakers and the auto sector stakeholders in all three countries are exploring the White House for more time to comply with the rules of origin. However, last week President Trump hinted at the possibility of delaying implementation of the USMCA to allow a longer transition period for the automobile sector. During the daily coronavirus press conference, President Trump said the COVID-19 may contribute to a longer transition period. Industry Trump noted that even once the economy begins to turnaround, it will take some time for production and auto Chair Amb. David Walker (New Zealand) will lead the discussions. After the meetings, delegates on preparation for continuing WTO priority work amidst the coronavirus lockdown based on such questions as:

Representative Henry Stevens,
U.S. Congressman

- A bipartisan group of 31 lawmakers are urging the Trump Administration to delay implementation of the USMCA's automotive rules of origin, as automakers are grappling with unprecedented supply chain disruptions caused by the COVID-19 pandemic. In a letter sent to Amb. Lighthizer, the lawmakers, led by Representative Henry Stevens, Jackie Waters, Tim Sewell, Jim Baird, called for a longer USMCA transition period for the auto industry which is currently coping with regional shutdowns or reducing production lines to produce medical equipment. The letter noted that auto companies still need to make costly and time-consuming adjustments to comply with the USMCA. "This targeted extension is necessary to allow the auto industry an appropriate adjustment period and account for delays caused by the COVID-19 pandemic," the letter stated. "Giving the time to do this process right will allow manufacturers and their workforces across the country to maximize the intended benefits of the agreement and will minimize disruption during a particularly challenging time for the industry."

- As Canada and Mexico await the final notification letter from the U.S., a senior Mexican official suggested a longer transition period for implementation of the rules of origin provisions for automobiles in USMCA to alleviate concerns regarding timing of USMCA's entry into force date. Undersecretary for Foreign Trade Luz María de la Mora, speaking at a virtual Wilson Center event, suggested that USMCA could enter into force in either July, August or September, with a longer transition period for the auto sector. She noted that all three countries would need to agree on the timelines and the rapidly developing COVID-19 pandemic is a factor. "Unfortunately, this is not a Mexican decision. This is a trilateral decision," De la Mora said.

Luz María de la Mora, Mexico's Undersecretary for Foreign Trade

- The USTR call for applications to serve on the USMCA's new dispute settlement panels later and business disputes brought under USMCA closes on April 20th. According to the Federal Register notice, USTR is seeking applications from U.S. citizens with expertise in international trade law who are interested in serving as panelists for general state-to-state or labor dispute settlement panels established under the USMCA. Under USMCA, the dispute settlement mechanism to establish a general roster of up to 30 individuals to serve as panelists, with each country designating up to 10.

Section 232 Tariff Actions

- As reported earlier, the EU, and other WTO members have challenged the U.S. steel and aluminum tariffs, arguing the actions are safeguard measures. The U.S. maintains that a WTO dispute panel has no jurisdiction to even rule on the case because the U.S. has invoked GATT Article XXI, the national security exception. The U.S. has counter-challenged Turkey, the EU and others for imposing retaliatory tariffs, maintaining these measures violate WTO rules. The WTO Reports on both the challenge to U.S. 232 tariffs, and a counter-challenge are expected in the second half of 2020, although the impact of the global pandemic on Report timing remains fluid.

- According to sources, the European Commission will impose retaliatory tariffs on certain U.S. lighters, plastic fittings for furniture and coachwork and playing cards in response to the Trump Administration's recent expansion of 232 tariffs on steel and aluminum imports to include certain derivative products. Sources indicate the retaliatory duties would be effective May 8th, leaving only a few weeks for the two trade partners to negotiate a solution to the escalating tariff tensions.

Auto Tariffs

- No significant updates since eight Senators filed an amicus brief in the ongoing lawsuit calling for Commerce to release the 232 auto reports. Secretary Tomney charged that Commerce is "violating federal law" by refusing to comply with a provision in the recent Congressional spending bill that requires public release of the report. Tomney added that "Commerce has left Congress few options but to support legal action compelling the release of this report."
- Previously, the Department of Commerce announced it would not release the Section 232 auto report that concluded autos and auto parts imports pose a threat to national security. Commerce released the following statement, "Consistent with the president's signing statement for the appropriations bill, the Secretary of Commerce is not releasing the 232 auto 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.

China Trade

Phase One Agreement

- President Trump recently projected a positive posture on China's actions since implementation of the China phase one trade pact on February 14th. In the context of the current crisis stemming from the global coronavirus pandemic, Trump said that American farmers could see some economic relief from agricultural purchases China would make as part of the trade agreement. He stated, "As of April 1... it seems like [China is] buying." "So we let you know how that's going, but they're buying anywhere from US\$60 billion to US\$80 billion worth of our agricultural product that would have a huge impact on our farmers." Trump did not provide any further details.

- Following on recent tariff exemptions on corn and sorghum, China raised corn import estimates for 2019/20, from 3 million to 4 million tons, being potentially increased buying under the phase one trade deal. Chinese buyers have booked more than 1 million tons of U.S. corn in the past month for delivery in both the 2019/20 and 2020/21 marketing years, the USDA reported.

Section 301 Tariffs

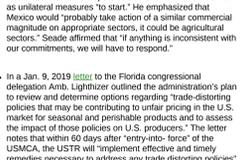
- President Trump remains steadfast against removing tariffs, firmly rejecting the notion of tariff relief multiple times as a retaliation tool for sinking U.S. economic activity and trade flows. Speaking at a daily White House briefing on COVID-19 this month President said tariff relief was not an option, contending the tariffs on China, along with 232 tariffs on steel and aluminum have been good for the U.S. economy. He emphasized the tariffs on China provide critical negotiating leverage as the U.S. and China took towards phase two negotiations, though he commented that China may be holding out until after November in hopes of a different U.S. President.

- President Trump granted a one-year extension to covering tariff exclusions to some Chinese products to expire \$37 billion worth of Chinese imports under Section 301. The one-year extension will end on April 28, 2021, according to USTR a Federal Register notice. The exclusions cover products such as roller, eching or embossing paper, foil or fabric, forklift parts, steel and forging tools, and electrical measuring devices, among other products.

- As reported earlier USTR on March 20 also announced a public comment process for potential modifications for products facing Section 301 tariffs and needed for the medical response to the COVID-19 pandemic. In a follow-up notice, USTR stressed that public comments would be open until June 25.

U.S. Trade Balance

- The U.S. trade deficit fell to the lowest level since September 2016, decreasing from \$45.4 billion in January to \$39.93 billion in February. The decline over the past two months in the trade deficit resulted largely from a continual decline in goods imports, which have fallen from \$207.44 billion in December, to \$203.27 billion in January, to \$189.42 billion in February, the lowest level since October 2016.



U.S. Bureau of Economic Analysis U.S. International Trade in Goods and Services
U.S. Census Bureau April 2, 2020

Seasonal Produce

- New dates for USTR's seasonal produce field hearings, postponed due to COVID-19 issues, are still pending. Prior to the hearing suspension Mexican government officials warned the country may be forced to react should the U.S. impose restrictions on seasonal produce trade. Mexican Undersecretary for North America Jesús Seade said Mexico would use USMCA's dispute settlement mechanism as well as unilateral measures "to start." He emphasized that Mexico would "probably take action of a similar commercial magnitude on appropriate sectors, it could be agricultural sectors." Seade affirmed that "if anything is inconsistent with our commitments, we will have to respond."

- In a Jan. 9, 2019 letter to the Florida congressional delegation Amb. Lighthizer outlined the administration's plan to review and determine options regarding "trade-distorting policies that may be contributing to unfair prices in the U.S. market for seasonal and perishable products and to assess the impact of those policies on U.S. producers." The letter notes that within 60 days after "entry-into-force" of the USMCA, the USTR will "implement effective and timely remedies necessary to address and remove distorting policies" affecting U.S. growers. Additionally within 90 days, the Department of Commerce, U.S. Department of Agriculture and USTR will have hearings in Florida and Georgia to hear testimony from growers. According to USTR, "At the hearings, officials from the federal agencies will hear from interested persons on how the Trump Administration can support these producers and redress any unfair harm."

U.S. - Japan Trade Agreement

- Former Assistant USTR for Japan, Korea and Asia-Pacific Economic Cooperation, Bruce Hirst, opined that phase two talks with Japan are presently less about when, and more about how "intense" they might be amid a global health crisis. He highlighted the transatlantic divide by both governments on combating COVID-19 and the political will on both sides ahead of the upcoming election, as pivotal factors that could impact declining levels of consistency with phase two talks. Hirst emphasized, "With each government focusing on coronavirus management, the odds of getting off to a fast start are no way around that." Hirst stated that the phase two talks possibly commencing in 2020 remains uncertain, despite the earlier announcement by Amb. Lighthizer that "the index of negotiations could start as early as May." "I would distinguish between phase-two talks beginning and phase-two talks proceeding with any level of intensity," Hirst said. "Neither side was prioritizing phase two before. It's likely to be even less of a priority now." Prior to the outbreak of COVID-19, comments by USTR indicated that negotiations on a phase two or a comprehensive trade deal were expected no earlier than May according to several sources.

U.S. - EU Trade

- Bilateral communications between the U.S. and EU have shifted to working to address the global health crisis. The U.S. Chamber of Commerce and the American Chamber of Commerce to the EU have called on both governments to resist temptation to impose new trade restrictions amid the coronavirus outbreak, arguing that the crisis is an opportunity to reinvigorate the trans-Atlantic relationship. However, Trump expressed deep frustration with the present trading relationship, particularly with medical goods in the context of COVID-19. He said, "We make the best medical equipment in the world and you have some people like the European Union, they don't take it because they have specifications that don't allow our equipment in because it is designed in a different way even with a better way it is designed." "They have been playing games against us for years and no president has ever done anything about it." Trump continued his often-stated mantra of unfair treatment stating, "But we have been treated very, very unfairly by the European Union."

- Since the U.S. increased tariffs on EU aircrafts to 15% in mid-March according to a previous deadline [announced](#) by President Trump, no significant developments in conjunction with the WTO Airline Dispute regarding subsidies for EU European imports. EU officials continue to emphasize the importance of reaching a larger understanding to end the months-long since the measure was established in 2016 amount in the EU counter-challenge on U.S. subsidies for Boeing was anticipated for June 2020, but it remains unclear how the global health crisis will impact that timeline.

U.S. - UK Trade Agreement

- USTR indicated U.S.-U.K. trade talks could start in the "near future." "Both the United States and the United Kingdom are committed to resolving the negotiations as soon as possible," a USTR official said. "At the present time, both our governments are rightfully focused on stemming the spread of the coronavirus, protecting the health and safety of our citizens, and finding innovative solutions to combat this outbreak. Therefore, we will begin active trade negotiations at an appropriate time in the near future." According to USTR, both countries "remain in regular contact on when to proceed with the negotiations."

U.S.-Kenya Trade Developments

- USTR canceled the in-person hearing on U.S. - Kenya trade talks scheduled for April 28th due to COVID-19 rules and complications with appropriate meeting facilities. The deadline for comments on negotiating objectives was extended nearly two weeks to April 28th. USTR indicated it seeks feedback on general and product-specific negotiating objectives, barriers to trade in goods and services; ways to address export priorities and import sensitivities; and transparency issues and other areas.
- USTR formally [initiated](#) Commerce's efforts to undertake trade talks with Kenya, starting the 90-day clock prior to commencement of official negotiations. The USTR letter(s) said that the U.S. will begin negotiations "as soon as practicable," but not later than 90 days from now, or June 15." The letter also affirmed that USTR will publish its formal negotiating objectives at least 30 days before talks begin, a requirement under Trade Promotion Authority (TPA), and USTR committed to working "closely and transparently" with Congress throughout the process.

- According to a USTR [last month](#), Kenya is the United States' 98th largest trading partner in goods, with \$1 billion in two-way trade in 2018. Major U.S. imports include apparel, tires, nuts, essential oils, and coffee, while Kenya's major imports include aircraft, machinery and agricultural goods.

U.S. - India Trade Developments

- Substantive movement on India trade talks are on hold as India instituted a 21-day national lockdown to stem the spread and repercussions of the spreading coronavirus. Separately, the U.S. - India Business Council recently expressed optimistic that prior trade discussions provided a good foundation for future trade talks. U.S.-India Business Council Vice President Amy Hariari said last week that Trump's visit to India in February revitalized the potential for bilateral trade talks. She noted a promising "level of energy" on both sides suggesting a limit trade deal remains possible this year, which might provide the impetus for a larger deal in the future. "I think both governments are eager to get this done in the next few months; it just depends on how COVID-19 will affect everything," she continued. Hariari acknowledged both countries are entirely focused on managing COVID-19 and should boost coordination on trade issues in the context of the global pandemic.

- President Trump and Prime Minister Modi announced in February they had "agreed to initiate negotiations for a bigger deal," as earlier ambitions for a quick limited deal evaporated. Trump stated the two sides "have made tremendous progress in reaching a comprehensive trade agreement." Trump said that a deal could be achieved toward the end of the year but offered that if there's no trade agreement "we will do something else that will be very satisfactory."

- A primary motivation for India in the trade deal is restoration of India's GDP benefits, valued at approximately \$6.4 billion. The U.S. earlier revoked India's GSP benefits and is calling for reciprocal market access in India for agriculture products, industrial goods, and services in order to restore GDP.

Suspension Agreements

Sugar Suspension Agreement

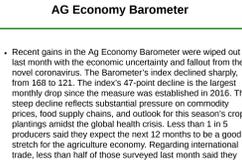
- As expected, the U.S. International Trade Commission (ITC) is countering the existing suspended antidumping and countervailing duty orders on sugar imports in effect against Mexico. The five-year (sunset) review is required by the Uruguay Round Agreements Act and does not impact the current sugar suspension agreement. The next Sunset investigation occurs in 2025.
- No significant updates on the pending CSC Sugar complaints with the Court of International Trade (CIT). CSC is contesting the newly revised agreement announced by Commerce in January 2019 citing "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 rendering the amendment unsupported by substantial evidence and contrary to law."

- In January 2019 the Department of Commerce announced signing the [Sunset Agreements](#) with Mexico, according to the notice Commerce reported, "...sugar producers/exporters accounting for substantially all imports of sugar from Mexico have signed an agreement to suspend 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."

General Trade/WTO Reform

- WTO Director General Roberto Azevêdo will hold virtual meetings this week with members to discuss the plan to move forward on WTO activities in the absence of formal meetings. Director General Azevêdo and General Council Chair Amb. David Walker (New Zealand) will lead the discussions. After the meetings, delegates will be expected to provide their views on options for continuing WTO priority work amidst the coronavirus lockdown based on such questions as:

- Is your Delegation comfortable with the conduct of informal meetings and exchange of views (i.e. without formal decision-making) through virtual meetings?
- What are your views on meetings where decisions are required?
- Are you open to the use of virtual platforms to take decisions, or alternatively, virtual procedures for the adoption of decisions?
- WTO economists estimate that global trade could drop by 13-32 percent over the next 18 months depending on the duration and damage of the to comply with the global economy. The WTO trade forecast calls for significant trade and declining growth rates in 2020 and 2021. The economic sectors. Referencing the trade forecasts, WTO Director General Azevêdo said, "These numbers are ugly – there is no way around that." Azevêdo noted that "Comparisons with the financial crisis of 2008 and even the Great Depression of the 1930s are inevitable." Mr. Azevêdo warned that "a turn towards protectionism would introduce new shocks on top of those we are currently enduring. Keeping markets open to international trade and investment would help economies recover more quickly."



- Rescheduling of the 12th Ministerial Conference (MC12) remains in limbo. WTO officials recently discussed options of June 2021 or even December 2021 as the first 4th key candidates depending on the availability of a venue. Azevêdo and Amb. David Walker, the General Council chair, conducted conference-call consultations with nearly 200 delegations, including those that coordinate groups of members. Specifically, Azevêdo and Walker sought input on three potential options for a rescheduled ministerial. The end of 2020, mid-2021 or the end of 2021.

AG Economy Barometer

- Recent gains in the AG Economy Barometer were wiped out last month with the economic uncertainty and fallout from the novel coronavirus. The Barometer's index declined sharply, from 136 to 121. The index's 47-point decline is the largest monthly drop since the measure was established in 2010. The steep decline reflects substantial pressure on commodity prices, food supply chains, and outlook for the season's crop plantings amidst the global health crisis. Less than 1 in 5 producers said they expect the next 12 months to be a good stretch for the agriculture economy. Regarding international trade, less than half of those surveyed last month said they expect a quick trade recovery, down from nearly 70 percent in January, when the China phase one trade deal was signed.



Source: Food Industry Center for Corn Refiners Association, Producers Survey, March 2020
Sign up for the Corn Refiners Association's weekly Trade Update

SUBSCRIBE

