

Trade Update

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Highlights

- **U.S. - China Trade:** President Trump signed an Executive Order revoking Hong Kong's preferential treatment, making Hong Kong subject to the same 301 tariffs and other trade restrictions as mainland China. China condemned the action and vowed new sanctions on the U.S.
- **USMCA:** Several business groups contend Mexico has violated USMCA's de minimis provisions raising certain tariffs the day prior to USMCA entered into force.
- **Seasonal Produce:** Seasonal produce field hearings are back on, rescheduled for Aug. 13 and Aug. 20 via virtual format, according to USTR's [fact sheet](#).
- **U.S. - Kenya:** Round one of negotiations continue this week as Kenya seeks to forge a deal with the U.S. that allows other East African Community (EAC) members to join negotiations.
- **WTO:** The eight WTO candidates met with member countries and fielded a battery of questions last week as part of the phase two selection process that will continue through September 17th.

China Trade

President Trump announced signing an [executive order](#) ending U.S. preferential treatment of Hong Kong, effectively treating Hong Kong the same as mainland China, including on trade, tariffs, and export controls. "The U.S. and Hong Kong signed an executive order ending U.S. preferential treatment for Hong Kong," the president said last Tuesday at the White House. "Hong Kong will now be treated the same as mainland China - no special privileges, no special economic treatment and no special support of sensitive technologies. In addition to that as you know we're placing massive tariffs and have placed very large tariffs on China. The order suspends the 'special treatment' under the Hong Kong Policy.

The order instructs the heads of federal agencies to, within 15 days, "commence all appropriate actions to further the U.S. policy of equal treatment of Hong Kong and mainland China where the order did not mention section 301 tariffs, USTR has responsibility for implementing changes to U.S. tariff policy.

The Executive Order follows the State Department's finding that Hong Kong is no longer a "distinctly different political entity." Trump's announcement in May that he would [take steps](#) to reinstate Hong Kong's status as a customs and travel territory separate from the rest of China. When implemented, Hong Kong will be subject to the same tariffs presently imposed on \$70 billion worth of imports from China.

China condemned the U.S. action and vowed to sanction U.S. institutions and individuals. "The Chinese government resolutely opposes it and condemns it," the statement said. "To protect its legitimate interests, China will take necessary action to impose sanctions against related U.S. institutions and individuals" in a statement widely cited in Chinese state media. "We are officially telling the U.S. and the handful of opposition politicians in Hong Kong who follow America's lead to not interfere in our internal affairs, not to undermine Hong Kong's prosperity and stability, don't underestimate our belief to protect the 'one country, two systems' policy and don't underestimate our capabilities and strategies in protecting our country's sovereignty, safety, growth and rights," the statement said.

Separately, the U.S. is reviewing China's claim of compliance with a WTO dispute settlement panel ruling that found China was violating its agricultural domestic support commitments. The U.S. is requesting the WTO authorize retaliatory action against China if China's failure to adhere to the ruling, according to a statement from USTR. USTR's [fact sheet](#) says U.S. officials said, "in the view of the United States, China failed to bring its measures into compliance with its WTO obligations within that period." The communication states, "The parties have not reached agreement on compensation. Therefore, members are authorized to take countermeasures." The compliance deadline expired June 30 to implement the February 2019 dispute settlement panel decision that ruled China was providing excess of domestic support commitments. China notified the WTO last month of its response.

Chinese officials recently reported congestion at certain ports as it aggressively implements food inspections and testing for coronavirus. Li Jingpan, a commerce ministry official told Reuters, China customs reported that approximately 227,934 storage food, have resulted in congestion at some ports. He emphasized that the ministry wants to mitigate any impact on trade. China customs reported that approximately 227,934 samples have been taken from cold-storage food products, six of which tested positive for the virus. Overall, nearly 60,000 food samples have tested negative, China Customs said.

In a [statement](#), Agriculture Committee Chairman Collin Peterson and Rep. Jackie Walorski have introduced legislation to extend tariff exclusions on Chinese goods. The bill would provide another year of "relief" from Section 301 tariffs by extending exclusions on tariffs imposed on Chinese goods, "unless the U.S. Trade Representative (USTR) finds the product is strategically important or related to 'Made in China 2025' or other Chinese industrial programs and extending the exclusion would cause severe harm to the United States."

Jackie Walorski, Congressman

President Trump reiterated "Phase 2" trade negotiations with China are dead, saying he does not want to talk to Beijing officials, such as machinery and apparel. Trump replied, "He emphasized the changing landscape clearly." "We made a great trade deal," referring to the Phase 1 agreement signed in January. "But as soon as the deal was done, the ink wasn't even dry, and they hit us with the plague," he said, referring to COVID-19, which was first started in the China. Industry and officials were expecting phase two would address the complex and difficult issues associated with China's technology transfer policies, industrial espionage and government subsidies to state-owned enterprises.

USMCA

U.S. companies and business groups claim that Mexico is imposing an ad valorem fee on certain shipments below the de minimis threshold established in the U.S.-Mexico-Canada Agreement "at a time trade is still in progress." U.S. business groups and companies contend the application of the Tasa Global rate on goods with between \$50 and \$11.7 is a violation of USMCA's de minimis provisions. USMCA Article 7.8 (1)(i) states that "under normal circumstances, no comprehensive trade relations or other measures that impede importation or formal entry procedures required, on express shipments of a Party valued at or below the fixed amount set out under the Party's law," and Article 7.8 (1)(iv) specifies that Mexico's fixed amount is "US\$11.7 for customs duties and US\$50 for other duties."

U.S.-U.K. Trade Agreement

The next round of official bilateral trade negotiations is expected to start at the end of this month. British Trade Secretary Liz Truss characterized the first two rounds as "positive and constructive and to set a way forward." Truss emphasized that the U.K. remains "very clear" it will not sign up for the EU's regulatory standards, which are a longstanding trade concern for the U.S., particularly on food products. Likewise, she noted the U.K. will chart an independent course for its food and safety standards.

Negotiations on agriculture provisions will likely be complex and challenging. U.K. officials, including Truss, have publicly sound a tough stance on food and agriculture safety protocols. "Any deal the Government strikes must be fair, reciprocal and ultimately in the best interests of the British people," she said. "The U.K. remains clear on protecting the NHS and compromising on the UK's high environmental protection, animal welfare and food safety standards," Truss said.

COVID-19 Developments

China's exports and imports both rose in June, perhaps signaling an uptick in economic activity despite the continuing fallout to the global economy as the global pandemic worsens in many countries. Exports increased a modest 0.5% from a year ago, while imports expanded 2.7%. Economists had forecast continuing declines for both trade flows. China's trade surplus shrank from a record-high in May to \$46.4 billion last month.



The House Ways and Means trade subcommittee has scheduled a [hearing](#) for this week, July 28th at 2:00 pm, on trade, manufacturing and critical supply chains: lessons COVID-19. Earlier reports indicate Congress may consider legislation to increase production of medicines and medical equipment in the U.S., stemming from acute recent coronavirus-related supply chain disruptions.

Section 232 Tariff Actions

Canadian Prime Minister Justin Trudeau last week cautioned President Trump against reimposing 232 tariffs on Canadian aluminum, saying it will harm both countries' economies. Mr. Trudeau told President Trump in a telephone call that there are signs of an economic recovery in both nations, including in the North American aluminum industry. The Prime Minister stated that tariffs on aluminum would hurt both countries," according to a statement from Trudeau's office.

President Trump has threatened to reinitiate tariffs on aluminum imports from Canada to address surging imports. Amb. Lighthizer told the Finance Committee last month that USTR was looking at ways to address the surges under the deal struck last year to lift the tariffs. Senator Grassley said reports last week that the issue "ought to be settled peacefully, not by our putting tariffs on, and [with] the good-faith effort of Canada." Sen. Grassley further indicated he did not oppose the tariffs, entirely, despite his previous opposition to the 232 tariffs during USMCA negotiations.

Comments were filed by several crane producers and by China, Japan, the EU and other stakeholders with the Commerce Department in connection with the 232 investigation regarding imports of mobile cranes, which was [launched in May](#) under Section 232 of the 1962 Trade Expansion Act. In their submissions several groups commented that Manitowoc Companies, the respondent of the investigation, was abusing the statute and misrepresenting the nature of competition and innovation in the industry. The EU, for example, cited a 2015 [assessment](#) completed by the U.S. Homeland Security Department that said showed "the complexity and interdependence of global supply chains within the mobile cranes industry." "Therefore, it emphasized the need to prevent disruption of such supply chains and support their resilience. Potential import restrictive measures on European imports would create precisely the kind of vulnerabilities which the U.S. Department of Homeland Security is aiming to prevent," the EU contended.

The Department of Commerce has 270 days to provide a report to President Trump determining whether mobile crane imports threaten to impair U.S. national economy, and may have a recommendation for action. President Trump will then have 90 days to determine whether or not to impose restrictions on the imports or longer Federal national security.

Since Trump entered office, the Commerce Department has initiated eight section 232 investigations, the latest three on imports of vanadium, transformers and parts, and mobile cranes. The first section 232 investigations resulted in President Trump imposing tariffs of 25% and 10% on imports of steel and aluminum, respectively, based on Commerce Section 232 investigations that found such imports were a threat to national security.

U.S. - Japan Trade Agreement

USTR [released a statement](#) announcing that the U.S. and Japan have expanded an "organic equivalence" arrangement "stuck in 2014 to include livestock." The deal, which went into effect on July 15, "reduces costs and streamlines the process for anyone involved in the organic livestock supply chain by requiring only one organic certification," USTR said. Under the 2014 deal, plant-based products were covered, now, the expansion covers organic livestock products. Chief Agricultural Negotiator Gregg Doud said, "Japan is a key international partner in the organic market sector." "This expanded arrangement protects and increases access for American organic farmers, ranchers, and processors to start prospering in the U.S. organic market," Doud added.

As report earlier, a bipartisan group of fifty House lawmakers last week called on President Trump's administration to "swiftly" pursue a comprehensive phase two deal with Japan. In a July 8 [letter](#) to Amb. Lighthizer and Agriculture Secretary Sonny Perdue, members of Congress said, "while the Phase One agreement with Japan made progress on achieving improved tariff treatment for many American dairy products, our farmers and processors believe that the U.S. is at a disadvantage to our competitors due to the preferential access provided to our competitors by the Japan-European Union (EU) and Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) agreements." "A comprehensive Trade Two deal is necessary to address these remaining gaps and inequalities in market access in order to maximize opportunities for American dairy products," the members added. The U.S. and Japan reached an initial, phase one agreement last September.

In recent Congressional testimony, Amb. Lighthizer acknowledged that the coronavirus has delayed phase two negotiations with Japan. Amb. Lighthizer said he would expect the phase two talks to start "in the next couple of months." Prior to the outbreak of COVID-19, commencement of negotiations on a phase two or a comprehensive trade deal were expected no earlier than May according to sources.

U.S.-EU Trade Developments

As reported earlier, USTR [announced](#) the list of French goods worth \$3.1 billion for potential imposition of 20% tariffs should France fail to resolve its digital services tax on U.S. companies next year. The potential tariffs result from a Section 301 investigation in which USTR concluded and announced it had found France's tax would discriminate against U.S. companies. Section 301 tariffs were delayed until the year when President Trump and French President Macron struck a deal that would delay the imposition of U.S. tariffs while France deferred the collection of the tax. In late negotiations at the OECD on a new international tax structure play out in hopes of a resolution. Those efforts have stalled, and France originally stated digital services taxes would start in January 2021.

The list of goods from France facing 25% tariffs include soap, handbags and cosmetic products (fashion tariffs). Other sensitive products, like French wine and cheese, were not included. The tariffs could be delayed up to 180 days (i.e. Jan. 6, 2021) - as long as France continues to negotiate the tax.

Senate Finance Committee leadership, Senators Grassley and Wyden supported USTR's move. "Retaliatory tariffs aren't ideal but the French government's refusal to back down from its unilateral imposition of unfair and punitive taxes on U.S. companies leaves our government with no choice," Grassley and Wyden said in a joint statement. "We hope the French government views the Administration's deferral of these tariffs as an opportunity to repeal its digital services tax and continue working with OECD member states on a multilateral approach that is fair to all producers. Unilateral action that targets and discriminates against U.S. businesses will not be tolerated."

U.S. - Kenya Trade Developments

The U.S. - Kenya first round of trade talks is nearing conclusion according to the two-week timeline reported by USTR. Based on its negotiating objectives, Kenya says it wants to "create a framework through which any EAC Partner State that did not participate in these negotiations at the outset is allowed to join the negotiations, subject to terms and conditions that would be agreed between the USA and Kenya." The countries would be subject to terms already agreed to "or accede to the concluded FTAs," the objectives state.

According to the WTO, Kenya's average applied MFN tariff rate for all partners was 13.9% in 2018. Several top U.S. exports, such as machinery and aircraft, however, face zero or zero tariffs. Kenya's agriculture sector presents the highest barriers to U.S. exports, with an average tariff of 20.3%, and relatively high tariffs on dairy (51.7%), animal products (23.1%), and cereals (22.2%).

Prior to the launch of talks, the U.S. and Kenya agreed on a "Strategic Cooperation Framework" to provide technical assistance and trade capacity building in Kenya with the aim of maximizing Kenya's utilization of the African Growth and Opportunity Act trade benefits for the remaining years of the preference program, which is scheduled to expire in 2025. USTR and Kenya said in a July 9 [statement](#).

U.S. - India Trade Developments

According to India's Commerce and industry Ministry, Piyush Goyal, India and the U.S. are actively discussing the "possibility" of a free trade pact. In a statement Goyal said he and Commerce Secretary Wilbur Ross exchanged views "on the ongoing India-U.S. trade discussions and appreciated the constructive progress made by both sides on most of the outstanding issues."

Previously, U.S. Ambassador to India, Kenneth Juster, encouraged U.S. and Indian officials to work towards a more comprehensive trade relationship. "I do worry at times that we don't have big enough vision for a trade relationship," Juster said. "We would love to do a bilateral free trade agreement. We still get hung up even on this small interim agreement. We need to have reciprocity, but think coming out of COVID-19 - where economic growth is needed - having a trade agreement will really add impetus to the possibility of growth," he said.

Amb. Lighthizer told lawmakers last month that the U.S. is currently in trade negotiations with India. Ambassador Lighthizer previously said negotiations with India are taking longer than he expected. "They are doggedly resisting our keeping their tariffs and we are working in insisting that we are going to get a fair deal. So we are dogged on every much, and hopefully we'll get a good outcome," Amb. Lighthizer added.

Seasonal Produce

The USTR field hearings on the issue of seasonal produce are back on, rescheduled for Aug. 13 and Aug. 20 via virtual format, according to a Federal Register notice published last Friday. USDA and Dept. of Commerce will join USTR at the virtual hearings to discuss foreign trade policies that may be harming American growers of seasonal and perishable produce," the notice indicates. "In the hearings, officials from the federal agencies will hear from interested persons on how the Trump Administration can support these producers and address any unfair harm." Hearing details and comment deadlines are:

- **Virtual hearing dates:** August 13, 2020 at 9:00 am EST and August 20, 2020 at 9:00 am EST. Submission deadlines.
- **July 27, 2020 at 11:59 pm EST:** Deadline for submission of requests to provide virtual testimony during either hearing.
- **August 3, 2020 at 11:59 pm EST:** Deadline for submission of hearing statements and written comments.

The seasonal produce hearings are part of a multi-step plan outlined in a January 9, 2018 letter from Amb. Lighthizer to the Florida congressional delegation to review and determine options regarding "trade-distorting policies that are being applied to unfair pricing 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 any trade-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."

WTO

Last week the eight Director-General (DG) candidates articulated their qualifications and priorities for the WTO top leadership position as part of the second stage of the DG selection process. Appearing before the general council in a mix of in-person and virtual discussions, the candidates responded to a wide range of WTO member questions, from structural issues such as discussing the defunct Appellate Body (AB) to specific country or product issues, such as cotton issues in Africa. Several key priorities mentioned by the DG candidates include:

- Resolve Dispute Settlement crisis, solve impasse over non-appealing AB
- Reinvigorate 12th Ministerial
- Conclude fisheries subsidies negotiations
- Reform WTO's dispute resolution functions, dispute settlement and WTO Secretariat
- Ensuring inclusive trade and sustainable development

Full video recordings of the meetings and candidates statements are available at: https://www.wto.org/english/press_room/selection2020_02.htm

The Second stage of DG the selection process will continue until September 7. The final stage entails WTO members expressing their candidate preferences to the final selection committees comprised of General Council Chair Ambassador David Walker, Dispute Settlement Body Chair Ambassador Dapo Gualillo of Honduras and Trade Policy Review Body Chair Ambassador Harald Asselund from Iceland. However, the voting out process has informally concluded and several observers suggest that multiple candidates will not proceed to the next stage. The final list of candidates and their professional backgrounds are listed below:

Candidate	Country	Experience
Jesús Seade	Mexico	Undersecretary of Foreign Relations for North America, Chief negotiator for the Free Trade Agreement with the Economic World Bank Biography
Ngolo Okoro	Nigeria	World Bank executive, Minister of Finance, economy, and foreign affairs for Nigeria Biography
Abdel-Hamid Merouani	Egypt	Egyptian Trade negotiator, trade minister for Egypt and Socialist (Governing) Director WTO Trade in Services Biography
Taty Ulanovych	Moldova	Former Moldavia Minister of Foreign Affairs and Ambassador to the WTO Biography
Yoo Myung-hee	South Korea	Trade Minister for the Republic of Korea Biography
Amna C. Mwaniki	Kenya	Former Foreign Affairs and International Trade Minister for Kenya Biography
Muhammad Tawajji	Kingdom of Saudi Arabia	Minister advising royal court on trade issues, former Minister of Economic matters, former Minister of Foreign Affairs and Ambassador for Saudi Arabia Biography
Liam Fox	United Kingdom	Former United Kingdom Trade Secretary Biography

Three former USTR's, Michael Froman, Susan Schwab, and Carla Hills, opined on the WTO's future and challenges for the next DG, during a Washington International Trade Association (WITA) [webinar](#). According to the former USTR's, the WTO's next director-general will have to take risks to get the organization to start properly functioning again. Former Amb. Schwab noted that the new DG will have to tackle how the WTO could deal with non-market circumstances, the Appellate Body's process of appointing new judges, and determining which constitutes development. "The biggest problem we have is that the WTO is not doing what it was created for. There is no global consensus around trade and around some of these major issues, and that's the lack of political will to get things done," Froman added. Former Amb. Hills agreed that political is lacking at the WTO and needs to be enhanced through more ministerial meetings. She also added that the new DG has to push members to think about possible tradeoffs in order to facilitate negotiations. "I don't never going to let LD report of what you want... the other side of the table has to get something too," she said.

Two candidates for the DG position at the WTO laid out plans for Appellate Body (AB) reform ideas. The organizations' dispute settlement body, which adjudicates trade disputes among member countries, ceased functioning last December amid disagreements regarding the appointment of new judges. Mexico's nominee, Jesús Seade endorsed an EU plan to temporarily circumvent the WTO's crippled AB. Egypt's nominee, Abdel-Hamid Merouani called for negotiations on the WTO's underlying treaty to revive the AB and return "balance" to the organization.

As reported earlier, Sens. Rob Portman and Ben Cardin recently introduced a resolution calling for the U.S. to take leadership role reforming the WTO and warning of "non-market economies" that are hostile to the U.S. "could fill the leadership void at the WTO." The Senators' amendment several U.S. complaints about the WTO, including the Appellate Body. Despite the failings of the WTO, the resolution by Cardin and Portman underscores that absent U.S. leadership, non-market economies hostile to the U.S. could fill the leadership vacuum and dictate WTO structural outcomes. "[T]he United States has achieved its trade policy objectives through active leadership at the WTO, and that an absence of the leadership would be filled by nonmarket economies that are hostile to a host of United States interests," the resolution says.

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