CRA CORN REFINERS ASSOCIATION

Trade Update

August 25, 2020

By Michael Anderson

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Highlights

- **U.S. - China:** U.S.-China trade relations remain estranged. President Trump said he cancelled a 6-month progress review meeting on the phase one trade deal, citing frustration with China's handling of the coronavirus. The White House confirmed the meeting would not be rescheduled.
- **U.S - EU:** U.S. and EU officials announced a tariff cut package covering U.S. lobsters and EU crystal glassware, lighters, and other products. Both tariff reductions are retroactive to August 1st.
- **Seasonal Produce:** USTR and other government officials held the second virtual hearing on seasonal produce last week. USDA Secretary Perdue urged seasonal growers to "help us figure out how we can help mitigate the issues that you're facing…into something realistic that we can do under United States law and trade policy."
- **U.S. - UK Talks:** Bilateral trade negotiations are progressing into an "advanced" stage according to a U.K. trade official. The fourth round of talks are expected to start in early September.

Quote of the week: "I canceled talks with China." "I don't want to talk to China right now." (*President Trump, speaking in Yuma, Arizona, Aug. 18, 2020*)

China Trade

- President Trump threatened to place tariffs on U.S. companies operating in China unless they brought jobs back to the U.S. Speaking last week at a campaign rally in Pennsylvania, Trump said, "We'll put tariffs on those companies, and they'll have to pay us a lot of money." "So what are they going to do? They're going to bring jobs back." Trump did not cite what authority or how the tariffs would be administered. Trump also defended his decision to withdraw the U.S. from the Trans-Pacific Partnership, calling it a "horror show," and argued that allowing China to join the WTO was a colossal mistake.

- Customs and Border Protection issued a *Federal Register* notice (August 11) indicating that imported goods produced in Hong Kong will now have to be marked to indicate "China" as their origin, giving companies a transition period through September 25. The notification implements provisions in President Trump's executive order issued last month regarding removal of U.S. preferential treatment of Hong Kong as a separate customs territory under the United States-Hong Kong Policy Act of 1992. This change makes Hong Kong-origin goods subject to the same China tariff rates and rules, including any applicable tariffs invoked under USTR's Section 301 investigation.

Phase One Agreement

- President Trump last Tuesday confirmed he canceled the scheduled 6-month check-in consultations for the China phase one trade deal, and again opened the door for the U.S. to exit the deal. "I don't want to deal with them now," Trump said while campaigning in Yuma, AZ. "With what they did to this country and to the world, I don't want to talk to China right now," Trump said referring to the coronavirus.

- Following President Trumps remarks, the White House confirmed the 6-month check-in meeting would not be rescheduled. There's not going to be any talks," White House Chief of Staff Mark Meadows told reporters. "Obviously the trade representatives talk to each other on a pretty regular basis and I think there's a real frustration by the president and by many Americans about the lack of transparency and what happened with this virus and even still, the lack of transparency with what happened, how it happened, and how contagious it was. I have a bigger problem with the lack of transparency with how contagious it was, because we knew of human to human transfer in contagion much earlier."

Mark Meadows, White House Chief of Staff

- Initially, the White House postponed the meeting citing schedule difficulties and some observers suggested the meeting delay was a signal the Administration wanted to provide China more time to fulfill its purchase commitments of U.S. goods and other obligations under the phase one deal.

- Prior to last week's statements, President Trump exhibited a positive posture, characterizing the deal as "incredible". He said that China was making large purchases of U.S. agricultural products – a major piece of the agreement. "They are giving the Midwest, our farmers, among the largest orders they've ever seen," he noted.

- Separately, Amb. Lighthizer said that China has "done a pretty good job under the circumstances" regarding meeting commitments under the phase one trade deal. Amb. Lighthizer acknowledged the challenges China faces, including the economic downturn caused by the COVID-19 pandemic, in meeting the deal's purchase agreement. Amb. Lighthizer further noted that the phase one deal is not just limited to increased purchases of U.S. goods by China, but it also commits China to undertake structural changes in areas such as biotech approvals, financial services, intellectual property protection, forced technology transfer and currency. Those provisions are "pretty much on track," Amb. Lighthizer said.

- China continued to announce additional commodity purchase of U.S. corn and soybeans. Last week USDA announced new export sales of 405,000 metric tons of U.S. corn and 400,000 tons of soybeans to China for delivery in the 2020-21 marketing year, suggesting that Chinese demand remains strong despite tensions in the trade and diplomatic spheres between the U.S. and China.

USMCA

- Republican Senators Mike Crapo, Mike Risch, and Cory Gardner are requesting Amb. Lighthizer and USDA Secretary Sonny Perdue employ "all available mechanisms," including USMCA provisions, to ensure market access for U.S. potatoes in Mexico. Although some U.S. potatoes are exported to Mexico under a 2014 decision, the issue has since been mired in litigation, which is awaiting a ruling by the Mexican Supreme Court. "Although U.S. potato producers can ship processed, dried, and frozen potatoes to Mexico, their access to the fresh potato market has been severely restricted and exports are only permitted within an approximately sixteen-mile zone south of the U.S.-Mexico border," the three Senators wrote in an Aug. 18 letter. "We encourage you to consider the use of all available mechanisms, including the new dispute resolution authority under the USMCA, to ensure Mexico honors its agreement to allow U.S. potatoes to reach Mexican consumers," they said.

Mike Crapo, Senator (Idaho)

- As noted earlier, Mexican President Andres Manual Lopez Obrador recently announced that Mexico plans to gradually phase out the use of glyphosate by the time the current term of the administration ends in 2024. The Agriculture Ministry announced that private food producers will have until 2024 to phase out glyphosate, which has sparked safety concerns in a number of countries. "We couldn't get rid of it in one fell swoop, it can't be done, it would hit food output," President Lopez Obrador told reporters. "We would have to import, and also products and foods that are grown with these agrochemicals," he added. Additionally, Lopez Obrador noted that some countries had already tried to find alternatives to glyphosate, without success.

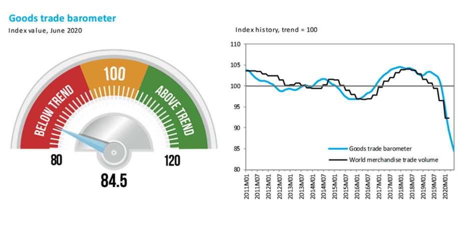
U.S-U.K. Trade Agreement

- The third round of U.S. – U.K. trade talks concluded in the past two weeks, with the fourth round expected in early September. U.K. Trade Secretary, Liz Truss highlighted the "positive progress" in the talks, noting negotiators held 33 sessions covering 21 "workstreams." The talks on intellectual property were "particularly detailed, text-based discussions," and the two sides "held their first text-based discussions" on rules of origin Truss said.

- As reported earlier, U.K. Trade Secretary Liz Truss earlier told The Times she was pushing the U.S. to lift bans on lamb and haggis, which the U.S. has banned since the late 1980s and early 1970s, respectively. However, the U.K. will continue to ban U.S. chicken, according to Tim Smith, the chair of the U.K.'s newly launched Trade and Agriculture Commission. The U.K formally launched the Trade and Agriculture Commission last month.

COVID-19 Developments

- The WTO reported that goods trade fell to the lowest level since 2007 in the second quarter of 2020 and a V-shaped rebound "may prove overly optimistic." In publishing its most recent update to the "Goods Trade Barometer" the WTO noted global trade in goods registered a "historic fall" and touched the levels of the 2008 financial crisis. The goods barometer factors in recent trends in order to draw a real-time trajectory of global trade. The current barometer reading is 84.5 on an index scale where 100 corresponds to a trade growth in line with medium-term trends.



- At the request of the House Ways and Means Committee, the U.S. International Trade Commission (USITC) last Friday announced it would open an investigation into COVID-19 "related industry sectors and particular products." The fact-finding was requested under section 332 of the Trade Act of 1930. In a statement the USITC indicated that it would provide an overview of "key U.S. industry sectors producing COVID-related goods, including, but not limited to, medical devices; personal protective equipment; and medicines (pharmaceuticals)," with case studies on important products -- including vaccines. The commission also will delve into "supply-chain challenges and constraints." The report on the investigation is due to the committee by Dec. 15.

Section 232 Tariff Actions

- The re-imposed tariffs on Canadian aluminum imports went into effect on Monday, August 16. President Trump previously announced 10 percent tariffs on some imported Canadian aluminum products citing a surge of Canadian aluminum into the U.S. USTR said in a statement that Canadian aluminum into the U.S. "has intensified in recent months, despite a contraction in U.S. demand."

- The Canadian government has announced counter tariffs on approximately $2.7 billion of U.S. aluminum and aluminum-containing products. The announced retaliation list includes products such as golf clubs, wheel rims, and refrigerators. After 30 days of consultations, final retaliatory tariffs will be imposed and will be "perfectly reciprocal," according to Chrystia Freeland. She continued, "Our objective here -- exactly as it was the last time -- is to inflict a minimal amount of damage on Canada and to have, frankly, the strongest possible impact in the United States." "Our trade officials have worked on this list very, very carefully. We do hope that when Americans look at this list, they will understand why having a tariff dispute is a really bad idea."

Ongoing 232 Investigations

- The three ongoing investigations are progressing at the Department of Commerce under "threat to national security" provision contained in section 232 of the Trade Expansion Act of 1962. The investigations involve transformer parts, vanadium, and mobile cranes. The initial comment period on Vanadium has closed and rebuttal comments due on August 17th.

- The Department of Commerce has 270 days to provide a report to President Trump determining whether the imports in question threaten to impair U.S. national security, along with a recommendation for action. President Trump will then have 90 days to determine whether or not to impose restrictions so that imports no longer threaten national security.

U.S. - Japan Trade Developments

- No significant updates on timing of phase two bilateral negotiations with Japan. Last month Amb. Lighthizer acknowledged that the coronavirus has delayed phase two negotiations with Japan. During Congressional testimony, 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

- The U.S. and EU last Friday announced a mini-trade package to cut tariffs on U.S. live and frozen lobsters, while reducing tariffs on selected EU products, including prepared meals, crystal glassware, surface preparations, propellant powers, cigarette lighters and lighter parts. Under the "Tariff Agreement," the EU will eliminate its tariffs on U.S. lobsters for a five-year period on a most-favored-nation basis (MFN), after five years the EU will take steps to make the tariff change permanent. U.S. tariffs on the small list of EU products noted above will be reduced by 50 percent on an MFN basis. Both tariff actions are retroactive to August 1st. In a joint statement Amb. Lighthizer and EU Trade Commissioner Phil Hogan said the actions "mark just the beginning of a process that will lead to additional agreements that create more free, fair, and reciprocal transatlantic trade."

- Last June, during a trip to Maine, President Trump threatened to impose tariffs on EU autos because of the EU's duties on lobsters. Later that month, he issued a memorandum aimed at ensuring tariff relief for the U.S. lobster industry, which presently faces retaliatory tariffs on exports to China.

- As reported previously, USTR announced modest adjustments to the product list covering $7.5 million in EU products under the WTO Civil Aircraft case regarding illegal launch aid by Airbus. The USTR statement said:

  > "USTR is removing from the tariff list certain products from Greece and the United Kingdom and adding an equivalent amount of trade from France and Germany. The changes are modest; the amount of products subject to countermeasures will remain unchanged at $7.5 billion and the tariff rates will remain unchanged at 15% for aircraft and 25% for all other products.

- EU reactions to the announcement were mixed. The U.S. left 15% tariffs on aircraft and parts imports while maintaining 25% tariffs on a range of EU goods like wine, cheese and Scotch whisky. There was some relief that the U.S. threats of levies as high as 100% were abandoned and opted against new import taxes on British gin. The next possible "carousel" period would occur in February 2021.

- EU officials are eagerly awaiting announcement of the award amount in the EU civil aircraft counter suit regarding Boeing, expected in October or November. EU officials continue to offer for both side to negotiate a long term settlement to the dueling civil aircraft cases yet remain skeptical that until the counter-tariffs under the Boeing award are initiated, the U.S. is locked in to the current $7.5 billion in tariffs on EU goods under the Airbus case.

- USTR announced the list of French goods worth $1.3 billion for potential imposition of 25% tariffs should France impose digital services taxes 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 earlier in 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 to let 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 defer imposition of the tax.

U.S. - Kenya Trade Developments

- No significant updates since the conclusion of the second round of U.S.-Kenya trade talks after the round was suspended amid concerns with possible coronavirus exposure within the Kenyan delegation. No details from the round are presently available.

- Separately, Amb. Lighthizer earlier met with Representatives Dwight Evans and Earl Blumenauer to discuss U.S.-Africa trade issues, including the Kenya trade negotiations. Lighthizer noted the importance of the present negotiations as a Kenya free trade agreement could serve as the model for expanding U.S. trade on the continent which will account for one-fifth of all consumers by 2030. Rep. Blumenauer commented on expanding trade in Africa stating, "Expanding U.S. trade with Africa is a critical opportunity for global affairs, for the economy, for national security, and for relationship building." He added, "Ambassador Lighthizer has been clear about the needs and opportunities in this area, and today's conversation organized by Congressman Evans will help us continue to move these important opportunities forward."

Seasonal Produce

- USTR, USDA, and Department of Commerce jointly conducted the second of two virtual hearings on Thursday, August 20 to discuss foreign trade practices that may be harming American growers of seasonal and perishable produce. The virtual hearing followed the August 13 hearing that mostly featured comments from Florida elected officials and growers.

- During his opening remarks, Agriculture Secretary Sonny Perdue called on seasonal growers to "help us figure out how we can help mitigate the issues that you're facing…into something realistic that we can do under United States law and trade policy." Agriculture Under Secretary Ted McKinney implored witnesses to provide the administration with greater detail about their allegations, including what specific subsidies the Mexican government is providing and to whom.

- Georgia lawmakers, growers, and other stakeholders were prominent testifying in the second hearing. Representative Austin Scott (R-GA) said, "one of the biggest issues of American producers currently face is the challenge of combating dumping of foreign subsidized crops in the U.S. markets, below the cost of production." "Stopping unfair trade practices against farmers, specifically producers of seasonal and perishable crops, is vital to U.S. agricultural independence," Scott added.

- The witness list was rounded out by executives of other trade groups (e.g. dairy, farmers, corn refiners, western produce growers) who warned that Mexico is poised to retaliate should U.S. impose unilateral tariffs inconsistent with its trade obligations. Jaime Castaneda, senior vice president for trade policy at the U.S. Dairy Export Council said, "As the administration weighs potential next steps on measures related to the topic of seasonal produce, it is critically important that you fully consider the potential for unintended consequences for other U.S. agricultural sectors, including the U.S. dairy sector," Castaneda said. "In particular we urge you to avoid steps that would once again put dairy producers and processors in the crosshairs of a trade dispute with Mexico." John Bode, president and CEO of the Corn Refiners Association, urged the Administration to avoid unilateral action under a section 301 investigation stating the Administration might be "overplaying its hand" with Mexico and causing "great collateral damage."

- The hearings were scheduled by the USTR after attempts by U.S. groups and growers to include seasonal produce protections in the USMCA failed, but Sec. Sonny Perdue says that the administration is looking for a solution. "This has been one of the more frustrating things that we've dealt with at USDA. Obviously, we are an export focused organization and trying to build markets across the country."

- Representatives from Florida and Georgia are calling on the U.S. Trade Representative to use section 301 provisions. Representative John Rutherford said, "Section 301, as you know, provides USTR with the means to investigate, respond, and resolve trade issues between domestic and foreign entities that negatively impact on U.S. commerce." After hearing from produce groups and lawmakers, Amb. Lighthizer intends to release a response plan by September 1.

- The seasonal produce hearings are part of a multi-step plan outlined in a January 9, 2019 letter from Amb. Lighthizer to the Florida congressional delegation to review and determine options regarding "trade-distorting policies that may be contributing 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.

U.S. – India Trade Developments

- Several members of the Congressional India Caucus and U.S. – India Business Council are optimistic the U.S. can secure a limited bilateral trade deal prior to the presidential election. Rep. George Holding co-chair of the Congressional India Caucus, and Rep. Ami Bera (D-CA), caucus member, said talks to date have sufficiently progressed and a limited deal is attainable in the next few months. "There is a sense of optimism that we can get there," Bera said. Sources report that the U.S. and Indian negotiating teams have continued work on the limited deal throughout the coronavirus pandemic. Rep. Bera added, "The fact that the conversation has continued in the midst of the pandemic I think is a good sign." "Instead of thinking big, let's get that first step out of the way and build off of that first step," the Congressman said.

Ami Bera, U.S. Congressman

- As reported earlier, India's Commerce Minister Piyush Goyal has expressed optimism that a limited U.S.-India trade deal is in reach after two years of negotiations, saying that the U.S. and India are in the homestretch of negotiations for an initial trade pact. "We are almost there," Minister Goyal said at an event hosted by the U.S.-India Business council last month. Goyal emphasized that the U.S. and Indian leaders should also look at a preferential trade pact with 50 to 100 products and move to a comprehensive free trade pact in the long term.

- Amb. Lighthizer told lawmakers in June 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 dogged and insistent on keeping their tariffs and we are dogged in insisting that we are going to get a fair deal. So we are working on it very much. And hopefully we'll get a good outcome," Amb. Lighthizer added.

WTO

WTO Leadership

- Only two weeks remain in the "campaign" phase of the DG selection process. On September 7th, the next major DG selection will enter the third stage or "consultation" stage, which entails narrowing down the pool of candidates to one name. The candidate pool will go from eight candidates to five, then from five to two, and lastly, from two to one candidate, according to sources in Geneva. Additionally, sources in Geneva note that the strongest bets for the candidates most likely to move onto the next round include all three women—Ngozi Okonjo-Iweala, Amina Mohamed, and Yoo Myung-hee—along with Mexico's Jesus Seade, while the fifth slot remains a toss-up. According to several sources, the three women running are strong contenders and top-tier candidates, with the two African women widely considered the frontrunners. While the candidate pool includes strong diversity of candidates, the WTO may be poised for its first-ever woman director-general.

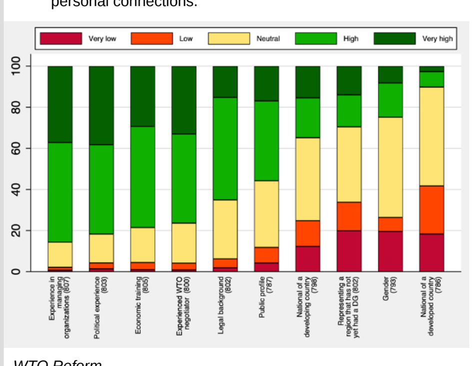
- The final list of candidates and their professional backgrounds are provided below.

WTO DG Candidates

Candidate	Country	Experience
Jesús Seade	Mexico	Undersecretary of Foreign Relations for North America, Chief negotiator for the Uruguay Round, Chief Economist at World Bank | Biography
Ngozi Okonjo-Iweala	Nigeria	World Bank executive, Minister of finance, economy, and foreign affairs for Nigeria | Biography
Abdel-Hamid Mamdouh	Egypt	Egyptian Trade negotiator, trade lawyer at King & Spalding (Geneva), Director WTO Trade in Services Division | Biography
Tudor Ulianovschi	Moldova	Former Moldovan Minister of Foreign Affairs and Ambassador to the WTO | Biography
Yoo Myung-hee	South Korea	Trade Minister for the Republic of Korea | Biography
Amina C. Mohamed	Kenya	Former Foreign Affairs and International Trade Minister for Kenya | Biography
Mohammad Maziad Al-Tuwaijri	Kingdom of Saudi Arabia	Minister advising royal court on international and local economic strategic matter, former Minister of Economy and Planning for Saudi Arabia | Biography
Liam Fox	United Kingdom	Former United Kingdom Trade Secretary | Biography

- The Center for Economic Policy Research (CEPR) published survey results of preferred characteristics of next DG. The survey of over 1,000 WTO member delegations, other government officials, trade practitioners, and academics quired participants on the professional experience, training, leadership traits, and other characteristics desired in the next leader of the WTO. The highest ranked desirable professional attributes include: 1) management experience; (2) political experience; (3) economics training; and (4) experience as a WTO negotiator (ranked in order). Overall, 70% of all respondents either agree (30%) or strongly agree (40%) that the selection of the next DG should be solely based on expertise and competence. Slightly more than 60% agree (43%) or strongly agree (20%) that the selection should ensure regional variation over time.

- Another key takeaway was the desire for a leader with strong connections to international organizations, major national capitals, and business groups. Over 60% responses were high and very high priority connections in three categories of personal connections.



WTO Reform

- In Wall Street Journal op-ed, "How to Set World Trade Straight," Amb. Lighthizer called for a "reset" of the WTO and outlined five principle reform areas:
  - Tariffs - WTO members need to agree on baseline tariff rates that apply to all, with minimal exceptions.
  - Most-favored Nation - WTO members should be required to extend genuine, unconditional most-favored-nation treatment to one another.
  - Special and Differential Treatment - countries with large or advanced economies prohibited from special and differential treatment (e.g. China, India, Brazil, and others).
  - Non-market rules - WTO needs new rules to stop the economic distortions that flow from China's state capitalism.
  - Restructure Dispute Settlement System - The current two-tier system should be replaced with a single-stage process akin to commercial arbitration

Robert Lighthizer, U.S. Trade Representative

- Separately, Amb. Lighthizer blasted the WTO in recent comments saying the organization is "seriously flawed," and that he is "skeptical" about the global trade body. Speaking to the C-PAC, Amb. Lighthizer outlined the three major WTO concerns of the Administration - tariffs levels vary widely between countries, the rules are not applied equally to all members because wealthy developing countries are allowed to take special treatment, and the Appellate Body creates jurisprudence, exceeding its mandate. Amb. Lighthizer more details on the Administration's WTO concerns in an upcoming opinion piece.

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