TRADE UPDATE
Food & Agriculture

October 20, 2020

Provided by CRA

HIGHLIGHTS

- **U.S. – Brazil:** The U.S. and Brazil reached an agreement on a mini trade deal covering trade facilitation, regulatory practices, and anti-corruption measures. Both countries vowed to continue negotiations towards a comprehensive bilateral trade agreement.
- **U.S. – China:** China committed to another round of large corn and soybean import purchases for the 2020/21 marketing year as the latest trade statistics show China's food and agriculture purchases are 37% off the pace needed to fulfill commitments in the phase one deal.
- **U.S. – U.K.**: The fifth round of U.S. – U.K. trade talks should commence next week. The U.K. publicly promised to maintain the ban on chlorine-treated chicken and hormone-treated beef, blocking the majority of U.S. chicken and beef exports.
- **U.S. – EU:** The EU may proceed to announce the list of retaliatory tariffs on nearly $4 billion of U.S. goods after receiving WTO confirmation in the long-standing civil aircraft dispute regarding Boeing subsidies.
- **Seasonal Produce:** The U.S. International Trade Commission issued key dates for the global safeguard investigation on blueberry imports. Separately, Florida strawberry and bell pepper groups asked USTR Robert Lighthizer to initiate import monitoring investigations as part of the seasonal produce action plan.

Quote of the week: "If they strike back, then we'll strike much harder than they'll strike."
(*President Donald Trump commenting on EU potential tariffs on $4 billion on U.S. goods*)

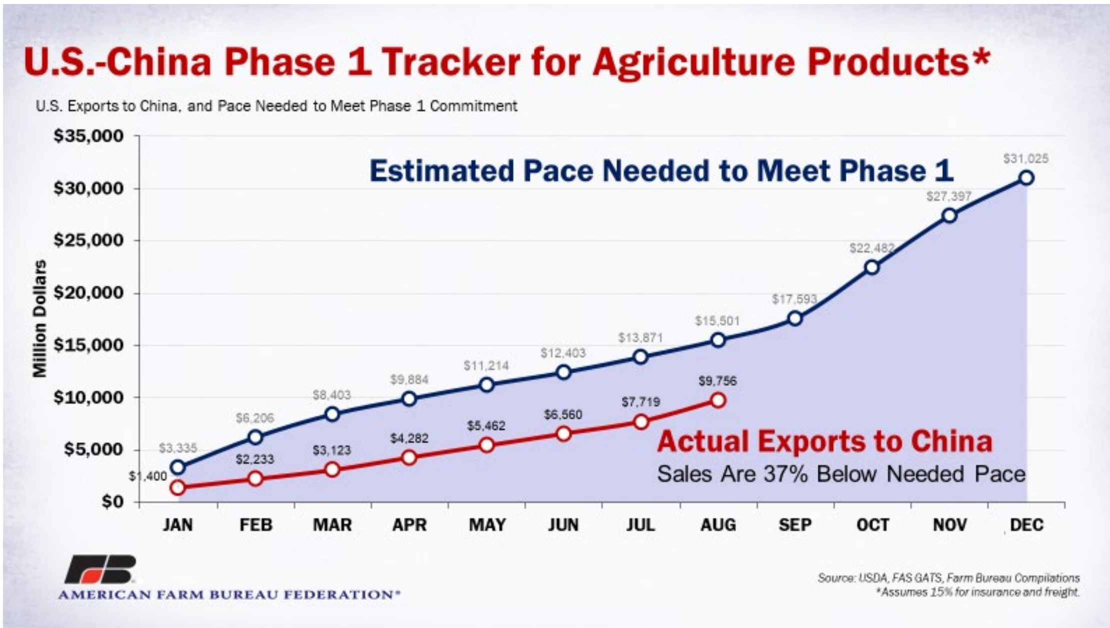
China Trade

- China continues to rebound from the global pandemic and is the only major global economy expanding this quarter, at a 4.9% increase from the third quarter GDP of last year. A surge in imports likely contributed to a GDP growth less than the predicted 5.5%. Presently, China's total market share of the top 20 global exporters is 25%, an increase from 20% between 2017-2019. The future impact of this GDP growth on trade relations hinges on how the remaining global economies handle their recovery period.
- As reported earlier, President Trump, threatened U.S. tariffs against China while issuing an Executive Order increasing domestic mining to lessen U.S. reliance on critical minerals from China. The Order noted 35 minerals that are "essential to the economic and national security of the United States," and serve "an essential function in the manufacturing of a product, the absence of which would have significant consequences for our economy or our national security."
- "China has exploited its position in the rare earth elements market by coercing industries that rely on these elements to locate their facilities, intellectual property, and technology in China," the order stated. The President, declaring a national emergency in the Order, calls for a multi-agency report led by the Secretary of Interior to advise on whether the imposition of tariffs or quotas or other import restrictions against China and other non-market foreign adversaries are required.

Phase One Agreement

- USDA recently announced another significant purchase of corn and soybeans by China. This week, China bought 420,000 metric tons of corn and 264,000 metric tons of soybeans for marketing year 2020/21 in effort to fulfill its commitments in the phase one agreement. Overall, China accounts for more than one-third of the most recent sales of U.S. corn.
- China's year-to-date U.S. agricultural product purchases are 37% off the pace needed to meet the overall purchase level in the phase one deal. The purchase levels are an improvement from the 44% lag in the

prior month. China's 2020 agriculture purchases through August totaled $9.7 billion and are significantly below the $13.8 billion year-to-date level that is needed to meet the phase one commitments based on the target value, the historical pace, and the baseline year set out in the agreement.



USMCA

- The Caxxor Group is considering a USMCA corridor that would facilitate trade between the U.S., Mexico, and Canada. The railway infrastructure would connect Sinola, Mexico and Winnipeg, Canada through Dallas, Tulsa and Chicago, according to Carlos Ortiz, Caxxor's general director. Completion of the corridor would likely take five years, but is currently obtaining investments from companies, comprising of about $3.3 billion to date.
- No significant updates on the expected U.S. filing of a USMCA labor complaint since Mexican officials reported they are preparing for the expected filing. Earlier this month Mexican economic secretary Graciela Márquez Colín indicated the readiness of the government to respond to a U.S. labor compliant under USMCA. The AFL-CIO complaint is likely to be filed under USMCA's facility-specific rapid-response mechanism, a tool which would be utilized for the first time. Márquez Colín stated, "We're ready to respond, we're ready to implement the rapid-response mechanism, but we do not expect [it]." She added, "We need to receive the request, [then] we will act promptly and according to what was regulated." In preparation of a response, Mexico also recently established a rapid-response labor mechanism task force.
- The AFL-CIO intends to file the first USMCA labor complaint against Mexico. Richard Trumka, AFL-CIO President stated, "We will file a case within the next 30 days." The complaint could utilize the USMCA's facility-specific rapid-response mechanism, a mechanism inserted as an annex into the USMCA after intense negotiations between House Democrats and USTR. The other filing mechanism is via the USMCA labor chapter provision. "We think that when we do the rapid-response, and if we're able to block products from coming in, it will get their attention real fast and they will understand that they will have to change and comply with the law."

U.S.-U.K. Trade Agreement

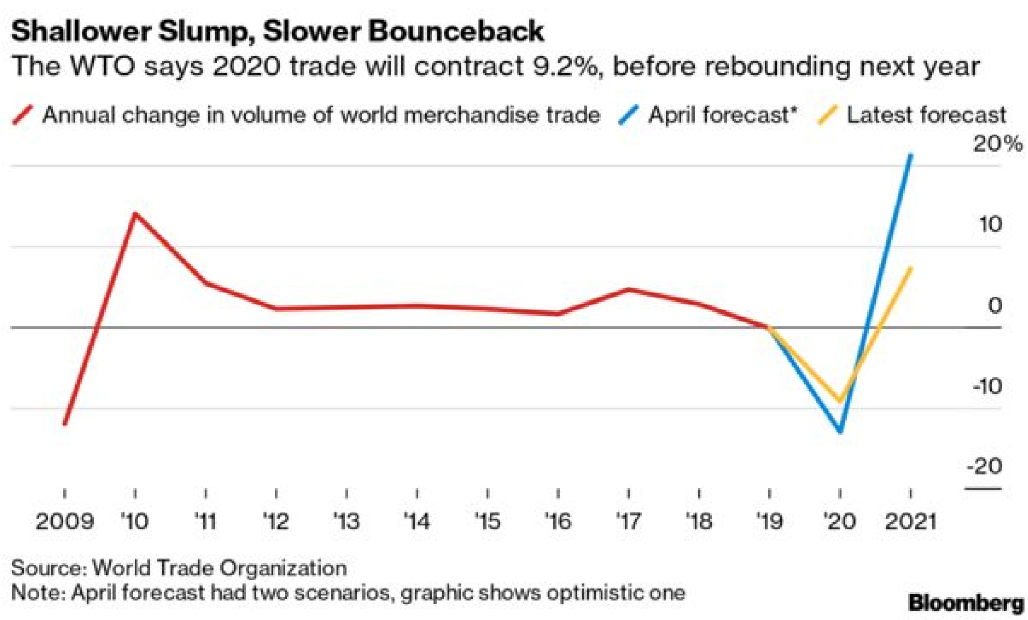
- The U.K. emphatically promised to maintain the ban on chlorine-treated chicken and hormone-treated beef, blocking the majority of U.S. chicken and beef exports. The U.K.'s Department of International

Trade [stated in a tweet](), "We won't compromise on our high food, environmental protection or animal welfare standards." Hinting at the ongoing negotiations of the U.S.-U.K. trade deal, "We're focused on getting trade deals that protect and advance the interests of our farmers & consumers. If a deal isn't the right one, we will walk away."

- The fifth round of U.S.-U.K. talks is scheduled to begin next week, with both side striving to further advance negotiations before the U.S. election, and fully cognizant of the U.S. Trade Promotion Authority expiring in June 2021. A U.S.-U.K. business group, BritishAmerican Business released a report that identified steps for successful negotiations and ultimately a free trade agreement. Primarily, the group recommends reaching a credible stage meaning, "agreeing on the scope of the deal that can be achieved across all chapters; with the hope that a large amount of 'common ground' can be established to which negotiators can return," prior to Nov. 3. The report also advocates the removal of other trade barriers that could impede the FTA, such as the Boeing-Airbus dispute and the British implementation of a digital services tax.

COVID-19 Developments

- The WTO issued a less severe global trade forecast than earlier projected for this year's decline in global trade while noting that downside risks remain if resurging outbreaks of Covid-19 stall the economic recovery.



Section 301 Investigations

- Several trade observers suggested the USTR's Section 301 investigation into Vietnam's currency devaluation is intended to inject further pressure on China and portend similar trade policy tools in a possible second Trump Administration. Trade observers opined that the investigation was designed to pressure China by curtailing Chinese exports via Vietnam, as reported in *Inside U.S. Trade*. "I think [U.S. government officials] are very much seeing Vietnam as the number-one country for displacement from China, so they're tackling the China exports to the U.S.," Joseph Gagnon, a senior fellow at the Peterson Institute for International Economics, said. "It's like squeezing a balloon. You squeeze it in one place, the air goes to another place. Here, it's going to Vietnam." The U.S. has imposed tariffs of approximately $370 billion worth of Chinese goods under Section 301. According to the South China Morning Post, some China companies have moved or shifted export supply chains to Vietnam to avoid the section 301 tariffs.
- The USTR launched the section 301 investigation on Vietnam on Oct. 2 and issued a press release which stated, "USTR will investigate Vietnam's acts, policies, and practices related to the import and use of

timber that is illegally harvested or traded, and will investigate Vietnam's acts, policies, and practices that may contribute to the undervaluation of its currency and the resultant harm caused to U.S. commerce."

- The section 301 investigation follows a determination by the Departments of Commerce and Treasury in August that determined Vietnam had manipulated its currency. In the determination the agencies reported that, "Treasury has determined that Vietnam in 2019 undertook 'government action on the exchange rate' that contributed to the undervaluation of the dong," The report continued, "We conclude that the Vietnamese government – through the State Bank of Vietnam – undertook net purchases of foreign exchange in 2019 totaling about $22 billion."

Section 232 Tariff Actions

Ongoing 232 Investigations

- No significant developments regarding the three ongoing section 232 investigations at the Department of Commerce under "threat to national security" of the Trade Expansion Act of 1962. The investigations involve transformer parts, mobile cranes, and vanadium. 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. The President will then have 90 days to determine whether to impose restrictions so that imports no longer threaten national security.

U.S.-Japan Trade Developments

- Japan defended the U.S.-Japan trade agreement after the EU, Israel, China, Canada and New Zealand raised questions to the WTO on whether the bilateral deal would violate Article XXIV of GATTS which requires "substantially all trade" to be covered in a free trade agreement. Japan noted the subjectivity of "substantially all trade" by stating, there "has been no common understanding among WTO Members on how to define the phrase 'substantially all the trade' in Article XXIV of GATT." Furthermore, Japan argued that the Article 5 provision within the bilateral deal will eliminate tariffs on substantially all trade, thus, the Japan-U.S. trade agreement is consistent with Article XXIV. Article 5 states, "Further to the existing commitments by each Party under the WTO Agreement, unless otherwise provided for in this Agreement, each Party shall improve market access in accordance with Annex I or Annex II."
- No significant developments on potential phase two trade talks with Japan as Japan transitions to a new Prime Minister and both U.S. and Japanese economies grapple with the global pandemic. Notably, USTR remains fairly quiet on timing of phase two talks with Japan. Earlier this year Amb. Lighthizer conceded 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

- Bernd Lange, chair of European Parliament's International Trade Committee, urged the EU to reconsider the lobster deal with the U.S. which cut tariffs on U.S. lobsters. Frustrated with the recent actions by the U.S. to increase aluminum import duties, which included the EU, and the lack of efforts to lower burgeoning transatlantic trade tensions, Lange sees, "no alternative to make clear that we are unwilling to accept these unilateral measures coming from the United States." In August, the EU agreed to remove tariffs on U.S. lobsters if the U.S. removed 50 percent of tariffs on EU goods up to an equal amount. The deal sought to act as a stepping- stone for trade war de-escalation.

Bernd Lange, Chair EU Parliament's Intl. Trade Committee

- As previously reported, U.S. Agriculture Secretary Sonny Perdue indicated the U.S. may bring a complaint to the WTO over the EU's Farm to Fork legislation that restricts the use of pesticides and restricts fertilizers permissible in agricultural goods in favor of organic farming.

Additionally, Ted McKinney, USDA's Undersecretary of Agriculture for Trade and Foreign Agricultural Affairs, criticized the EU's Farm to Fork initiative as "misguided" and stating it will cause a "battle royale" in U.S.- EU trade. McKinney indicated that 35 countries have expressed their concern over the EU policy.

Civil Aircraft Disputes

- The WTO arbitrator gave the green light for the EU to move froward with $4 billion in retaliatory tariffs against U.S. products under the civil aircraft dispute regarding Boeing. The U.S. countered immediately stating the EU has no legal basis to impose aircraft tariffs in in conjunction with recent WTO's arbitrator's announced award level of $4 billion on U.S. products. USTR Robert E. Lighthizer said in a statement that "While we disagree with certain aspects of its valuation, the more important point is that the arbitrator did not authorize any retaliation for subsidies other than the Washington State tax break." "Because Washington State repealed that tax break earlier this year, the EU has no valid basis to retaliate against any U.S. products. Any imposition of tariffs based on a measure that has been eliminated is plainly contrary to WTO principles and will force a U.S. response."
- Ambassador Lighthizer continued, "The United States is determined to find a resolution to this dispute that addresses the massive subsidies European governments have provided to Airbus and the harm to U.S. aerospace workers and businesses. We are waiting for a response from the EU to a recent U.S. proposal and will intensify our ongoing negotiations with the EU to restore fair competition and a level playing field to this sector."
- President Donald Trump later in the week pledged to hit back if the EU imposes tariffs covering $4 billion of U.S. goods as sanctioned in the WTO dispute case involving Boeing subsidies. "If they strike back, then we'll strike much harder than they'll strike," Trump said before departing for a campaign rally.
- According to a Reuters report, USTR has proposed to settle the dispute if Airbus agrees to repay billions of dollars in subsidies it has received from four European governments. USTR has maintained that such repayments of damages were necessary and a condition of any larger settlement over the dueling WTO civil aircraft disputes.
- EU Trade Commissioner Valdis Dombrovskis commented that a settlement can be reached. "This long-awaited decision allows the European Union to impose tariffs on American products entering Europe," Dombrovskis said. "I would much prefer not to do so – additional duties are not in the economic interest of either side, particularly as we strive to recover from the Covid-19 recession." Dombrovskis urged the U.S. to make the first move and remove existing tariffs on EU products saying, "This would generate positive momentum both economically and politically and help us to find common ground in other key areas." He emphasized the European Commission will finalize its list of U.S. products retaliatory tariffs if negotiations fail. The previously published list covers many agriculture products including, nuts, grapes, distilled spirits, and seafood products. Under WTO rules, the EU must receive authorization from the Dispute Settlement Body (DSB) prior to imposing tariff measures. The next DSB meeting is scheduled for October 26th.

French Digital Services Tax

Pascal Saint-Amans, OECD Director

- Pascal Saint-Amans, Head of the Tax Policy Center at the OECD, who oversees the digital services tax negotiations, told reporters the new rules would now likely be decided by June 2021. The OECD published updated proposals for the two areas of its digital tax which will be provided to ministers at the G-20 meeting in October before being released to the public, sometime before January. In total, the two pillars are expected to generate $100 billion in tax revenues. OECD officials believe that the COVID-19 pandemic and the upcoming U.S. Presidential election have severely hampered efforts in reaching an agreement by the end of this year, as originally planned.
- The OECD talks, known as an "Inclusive Framework" for an international digital tax agreement involve more than 130 countries. France suspended imposing the digital tax 180 days to promote a solution through OECD talks on a broader digital tax accord but is urging the European

Commission to make a formal proposal for a digital tax in the first quarter of 2021 anticipating unsuccessful OECD talks.

- Earlier in the year, USTR threatened section 301 tariffs on French goods before both sides agreed to pursue OECD talks aimed at securing an international agreement. The pending USTR tariff list covers $1.3 billion worth of French goods including 25% tariffs on soap, handbags and cosmetic products (fashion tariffs). Other sensitive products, like French wine and cheese, were not included. The tariffs are delayed up to 180 days (i.e. Jan. 6, 2021) – as long as France continues to defer imposition of the tax. 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.

U.S.-Brazil

- The U.S. and Brazil have reached an agreement on a mini trade deal. The agreement includes trade facilitation, regulatory practices, and anti-corruption measures. Brazilian President Bolsonaro announced on Monday, "This triple package will be able to slash red tape and bring about even more growth to our bilateral trade with beneficial effects to the flow of investments as well." Observers cautioned that in spite of both countries committing to continue negotiations on a comprehensive bilateral trade agreement, U.S. House Democrats will likely oppose such a deal over concerns of Bolsonaro's record of abusing civil, human, environment, and labor rights.

Jair Bolsonaro, President, Brazil

- Digital trade and eliminating barriers to trade were not included in the mini-deal and remain areas for further talks. "We need to talk more in depth about that and just building this economic partnership that can include a free trade agreement, that can include an investment agreement, a double taxation agreement," stated Brazilian Foreign Minister Ernesto Araújo.
- The mini-deal announcement occurred at the U.S. Chamber of Commerce on Oct. 19, at a high-level event that included Brazilian President Jair Bolsonaro, U.S. Secretary of State Mike Pompeo, U.S. Trade Representative Robert Lighthizer, White House National Economic Council Director Larry Kudlow, Brazilian Foreign Affairs Minister Ernesto Araújo, Brazilian Economy Minister Paulo Guedes and ambassadors from both countries. The virtual event also included U.S. lawmakers and private-sector representatives.

U.S. – Kenya Trade Developments

- The U.S and Kenya are expected to begin the next round of trade negotiations on Oct. 21, concluding in early November. In the upcoming round, both the U.S. and Kenya expect to exchange text on several chapters. Observers suggested a Trump victory in November would likely generate a subsequent round in December. Biden has not stated whether he would move forward with the U.S.-Kenya FTA.

Section 201 Investigations

Seasonal Produce

- The section 201 blueberry investigation has been deemed extraordinarily complicated by the U.S. International Trade Commission (USITC), triggering a 15-day extension. The extra days push the deadline for an injury decision to Feb. 11, 2021 and the report will be sent to the president by March 29, 2021. The *Federal Register* notice stated, "The Commission's decision to designate this investigation 'extraordinarily complicated' is based on the complexity of the investigation, including the need to collect data and other information from a large number of firms involved in the domestic production, processing, and/or marketing of blueberries." Key dates in the section 201 investigative process are noted USITC fact sheet:
  - **September 29, 2020:** USITC initiated Section 201 blueberry investigation.
  - **January 12, 2021:** Hearing on injury

- **February 11, 2021:** Vote on injury (Statute requires vote by 180 days (Feb. 26, 2020), but USITC invoked 15-day extension under "extraordinarily complicated" provision).
- **February 25, 2021:** Hearing on remedy (if affirmative injury vote)
- **March 19, 2021:** Vote on remedy recommendation (if affirmative injury vote)
- **March 29, 2021:** USITC report and recommendation to the President (if affirmative injury vote).
- **May 28, 2021:** Presidential announcement on action – (e.g. adopt USITC remedy recommendation, develop different remedy, decline to take any remedy action).

- Florida strawberry and bell pepper groups sent separate letters to Amb. Robert Lighthizer requesting USTR to initiate import monitoring investigations as part of the seasonal produce action plan. The Florida Fruit and Vegetable Association (FFVA), Florida Strawberry Growers Association (FSGA), and Florida Farm Bureau requested USTR to formally request the USITC "monitor and investigate imports of strawberries, which could enable an expedited Section 201 global safeguard investigation later this year." The FFVA, Florida Farm Bureau sent a similar letter regarding bell peppers requesting a similar investigation. To date public confirmation that USTR has requested the monitoring investigations is not available.

Solar Cells

- On Oct. 10, President Donald Trump issued a Presidential Proclamation announcing further action to safeguard domestic production of crystalline silicon photovoltaic (CSPV) cells (*i.e.*, solar cells). In June 2018, the president implemented tariffs on imports of certain solar cells (see Update of January 23, 2018) under Section 201 of the Trade Act of 1974 for a four-year period. The tariffs started at 30 percent the first year but were set to decrease 5 percent annually. The remedy implemented in 2018 excluded certain types of solar cells, such as 2.5 gigawatts (GW) CSPV cells.
- The White House announced that while the domestic industry "has begun to make positive adjustment to import competition," modifications to the safeguards are necessary for imports of CSPV cells and other CSPV products (e.g. modules). The proclamation revokes the exemption from the tariffs for bifacial modules and adjusts the duty rate of the safeguard tariff for the fourth year of the safeguard measure to 18 percent instead of the previously scheduled rate of 15 percent.

U.S. – India Trade Developments

- No significant updates on a potential U.S. – India limited trade deal. As reported earlier, former USTR official, said the White House should move swiftly to "seize the opportunity" to conclude a limited deal with India, contending the U.S. should do so before India gets "cold feet." Mark Linscott, a former USTR negotiator said, "It's just hard to fathom why it's not getting done." Linscott expanded on the mini-deal stating, "It definitely would solve some immediate problems on the U.S. side, from medical devices to getting some new access on agriculture to some tariff cuts. On the Indian side, it would be essentially the restoration of GSP benefits, which shouldn't be a big lift on the U.S. side." USTR has not publicly responded to conclude the trade deal.
- Similarly, India's Commerce Minister Piyush Goyal said, "India is open to signing on what we have agreed on." "I've left it to [Lighthizer] to make the final call," he added. Goyal had previously noted that after two years of negotiations a deal is in reach. "We are almost there," Minister Goyal said at an event hosted by the U.S.-India Business council in July. 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.

WTO

- Canada recently raised concerns to the WTO that the U.S. is unfairly delaying the lumber duty dispute. The U.S. recently appealed the WTO decision against the 2017 U.S. duties imposed on lumber. By blocking any appointments of new judges to the appellate body and refusing separate arbitration appeals, the U.S. has effectively pushed the case into legal limbo. Canadian trade minister Mary Ng stated in a statement, “These duties have caused unjustified harm to Canadian industry and U.S. consumers alike and are impeding economic recovery on both sides of the border."

- As noted earlier, Canada and several other WTO members have lodged complaints or expressed concerns with rising levels of U.S. agriculture subsidies. In a recent WTO’s Committee on Agriculture, Canada said it was concerned with President Donald Trump’s plans to send another $14 billion to the farm industry, which comes on top of about $20 billion in coronavirus relief since May. The financial aid level could run afoul of a U.S. commitment made in 1994 to limit its “trade-distorting” farm subsidies to $19.1 billion each year. Australia, Brazil, Colombia, India, Paraguay, Uruguay and New Zealand have also expressed concerns over the high level of U.S. payments to the agriculture sector.
- In an update on the WTO fisheries talks, Colombian Ambassador Santiago Wills highlighted the recent progress on negotiations to curb harmful fisheries subsidies but warns that more effort is needed by WTO members in order to meet the December deadline. The failure of a deal would negatively impact the reputation of the WTO, which has been under recent scrutiny over its ability to negotiate new rules. Hindering the negotiations is the reluctance of developing countries who claim difficulty in keeping up with the pace, advocating for reaching an agreement after 2020. The next round of meetings is set to be held on Nov. 2-6 and the subsequent round is set for Nov. 30-Dec.4.

Santiago Willis, Colombian WTO Ambassador

WTO Leadership

- The final two candidates in vying for the WTO Director-General (Dg) position are preparing to navigate the third phase of the selection process, scheduled for October 19-27. Amb. Walker, Chair of the WTO General Council stated the third phase of consultations will allow WTO members sufficient time further to prepare their positions and support for one of the two finalists. During this period, WTO members will be asked in confidential consultations to indicate their preferred candidate to Amb. Walker of New Zealand, Amb. Castillo, chair of the Dispute Settlement Body, and Amb. Aspelund, chair of the Trade Policy Review Body, known as the “troika” leading the DG selection process. Amb. Walker would then call a formal General Council meeting and present the recommendation to the membership for a formal decision, with a decision by November 7th.
- The DG pool was narrowed to two candidates earlier this month: Nigeria’s Ngozi Okonjo-Iweala and South Korea’s Yoo Myung-hee. With two female finalist the stage is set for the first female leader and first African or second Asian to the lead the global trade institution.

WTO DG Candidates – Round 3

Candidate	Country	Experience
Ngozi Okonjo-Iweala	Nigeria	World Bank executive, Minister of finance, economy, and foreign affairs for Nigeria | Biography
Yoo Myung-hee	South Korea	Trade Minister for the Republic of Korea | Biography

WTO Reform

- The U.S. proposal for WTO reform addressing special and differential treatment is gaining traction. The proposal would identify four categories of developed members which would include China, India and several Latin American who are currently defined as developing. However, the proposal is quite divisive, and consensus remains unlikely. While European Union, Australia, Japan and Brazil support the reform of special and differential treatment in the WTO; India, South Africa, China and the LDC group all vehemently oppose it. This week, U.S. Ambassador to the WTO Dennis Shea addressed WTO reform stating, “The institutional paralysis of the negotiating function should be at the center of our reform efforts. It is clear to us that piecemeal reforms will not suffice to pull the WTO from its current rut. Consequential reform of the negotiating function needs to begin with a shared commitment to the foundational principles of the WTO."

Ag Economy Barometer

- The Ag Economy Barometer continued to improve in September, climbing to an index value of 156, 12 points higher than the previous month. The improvement in sentiment was in part propelled by anticipation of a second set of Coronavirus Food Assistance Program (CFAP 2) payments, diminishing concerns, and strengthening fall harvested crop prices since the prior months survey. In particular, cash corn prices rose nearly $0.20 per bushel, while cash soybean prices rose nearly $1 per bushel. The Ag Economy Barometer index has rebounded 60 points since the low of 96 points during the early months of COVID-19's grip on the U.S. economy.