TRADE UPDATE
Food & Agriculture

November 3, 2020

Provided by CRA

HIGHLIGHTS

- **U.S. – China:** The U.S. and the EU stated China has inadequately reported steel and semiconductor sector subsidies to the WTO. The U.S., EU and Japan proposed an amendment to the Agreement on Subsidies and Countervailing Measures that would strengthen its rules to curb state subsidies and enhance transparency.
- **WTO:** The saga of selecting a new WTO leader hit an unexpected roadblock as the U.S. objected to the emerging consensus candidate, Nigeria's Ngozi Okonjo-Iweala, and said South Korea's Yoo Myung-hee is more qualified to lead necessary WTO reform. WTO leaders now face another challenge as local Swiss authorities imposed new lockdown measures amidst surging COVD-19 cases in Switzerland.
- **U.S. – U.K.**: The U.S. and U.K. remain confident that the comprehensive agreement is progressing well after the conclusion of the fifth round of talks.
- **USMCA:** Senator Wyden and Unites Steel Workers President, Thomas Conway were the latest U.S. officials to lodge mounting concerns with the Trump Administration over Mexico's implementation of USMCA labor and enforcement provisions.
- **U.S. – EU:** The EU has announced a Nov. 10 target date to impose $4 billion in retaliatory tariffs on U.S. goods as sanctioned under the WTO's ruling on illegal aid in the Boeing civil aircraft dispute.

Quote of the week: "As I have made clear all along, our preferred outcome is a negotiated settlement with the US." (*EU Trade Commissioner Valdis Dombrovskis on imposing civil aircraft retaliatory tariffs*)

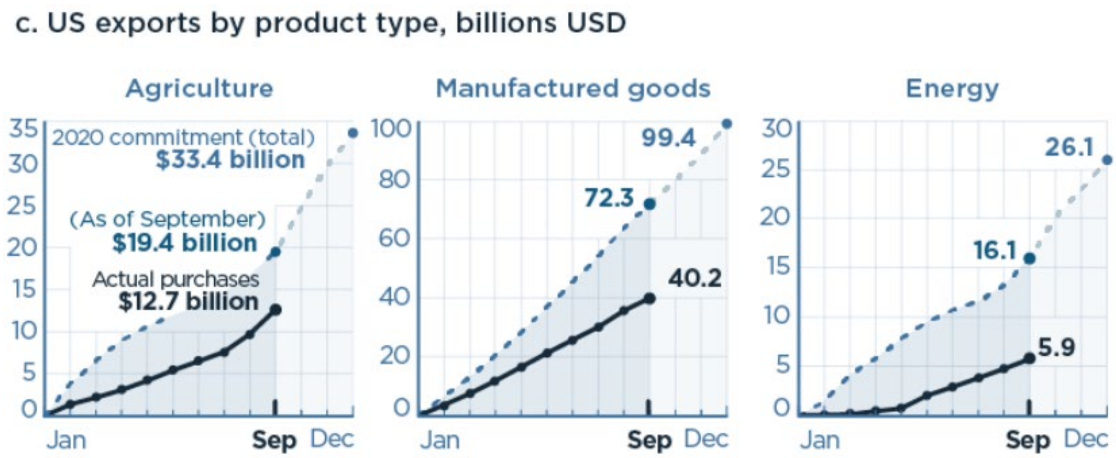
China Trade

- Further escalating the global trade tensions, both China and the U.S. issued complaints at the WTO's Committee on Subsidies and Countervailing Measures. The U.S. and the EU stated China has inadequately reported steel and semiconductor sector subsidies to the WTO. China adamantly defended the allegations by arguing the subsidies are not specific to an industry and that it publishes abundant information online, therefore fully complying with transparency obligations. *Inside U.S. Trade* reported that the U.S., EU, and Japan proposed an amendment to the Agreement on Subsidies and Countervailing Measures (ASCM) that would strengthen its rules to curb state subsidies and enhance transparency. China opposed this proposal, while Canada, Norway, Brazil, the United Kingdom and Australia indicated their support.
- At the same time, China said U.S. actions to investigate currency valuation as a countervailable subsidy abuses the WTO system. Commerce designed the new rule to investigate whether Vietnam's currency is undervalued within a trade remedy case. China argued that the ASCM does not authorize currency investigations and the U.S. rule is "a total abuse of the WTO's countervailing disciplines." The U.S. only responded by stating the Commerce rule was not on the agenda.

Phase One Agreement

- USTR and USDA's joint report released last week expressing optimism on China's purchase commitment progress on agricultural goods under the phase one agreement, is now under scrutiny. The joint release reported Chinese agriculture purchase levels stand at 71% of the required level. Chad Bown, a senior fellow at Peterson Institute for International Economics (PIIE), countered the high percentage citing the most recent release by the U.S. Census Bureau which indicated total exports to China are severely lagging commitment levels. Bown said that for 2020, "They're about 37% of the way towards the total target."

Bown elaborated, “U.S. farm exports to China have not yet kept up with the phase one commitments. Though better than manufacturing, it took until September for farm exports to reach pre-trade war levels again. Through September, they stood at only 65% of their seasonally adjusted targets. Put differently, China will need to import 62% of the total farm commitment in October, November, and December if it is to meet the 2020 target.” Bown contented that that the statistics indicate that China's imports this year have been driven less by the phase one agreement purchase targets than by its own market conditions and external shocks like the pandemic. PIIE’s analysis of China’s purchase commitments to date below.



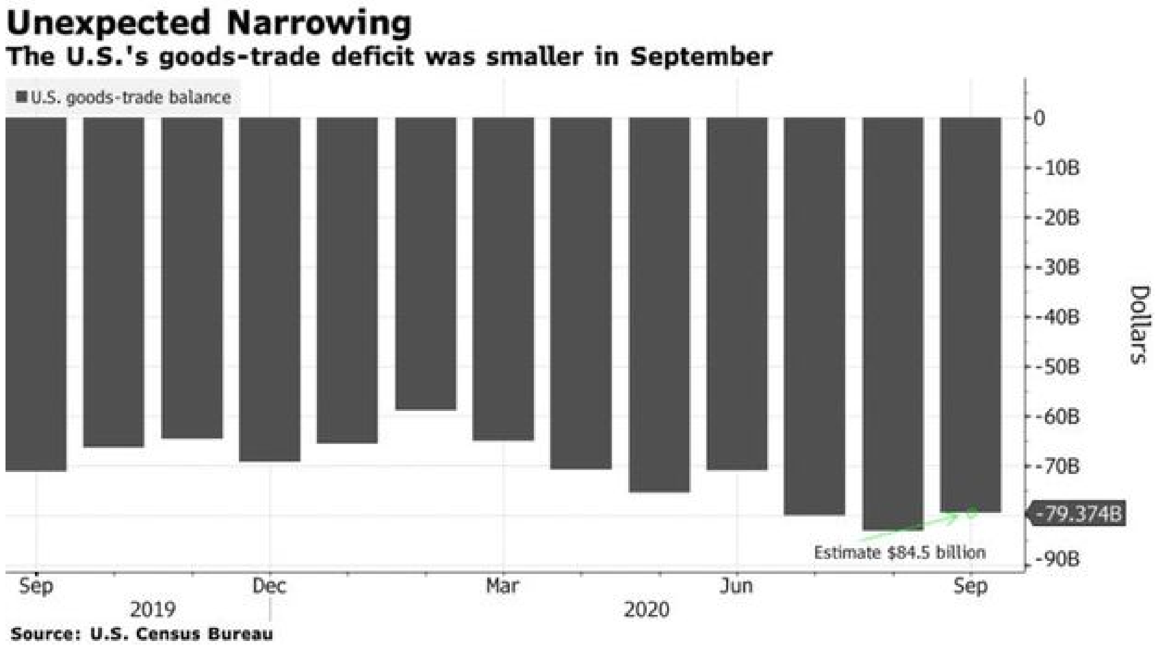
- Earlier, USTR and USDA issued a joint report indicating China had bought about $23 billion in U.S. agriculture goods in 2020 equating to around 71% of the target amount set out in the Phase One Agreement. USTR stated, “Since the Agreement entered into force eight months ago, we have seen remarkable improvements in our agricultural trade relationship with China, which will benefit our farmers and ranchers for years to come.” The joint report further touted that under the deal the U.S. has successfully addressed 50 of the 57 technical commitments regarding structural barriers in China that had been impeding exports of U.S. food and agricultural products.
- The report noted that “it is still to be seen whether they meet their target but particularly given the COVID-19 effects on the global economy they are making substantial progress.” “It is worth noting that the Phase One Agreement did not go into effect until February 14, 2020, and March is the first full month of its effect. That means that we have seen seven months of agreement sales,” the report said.

U.S.-U.K. Trade Agreement

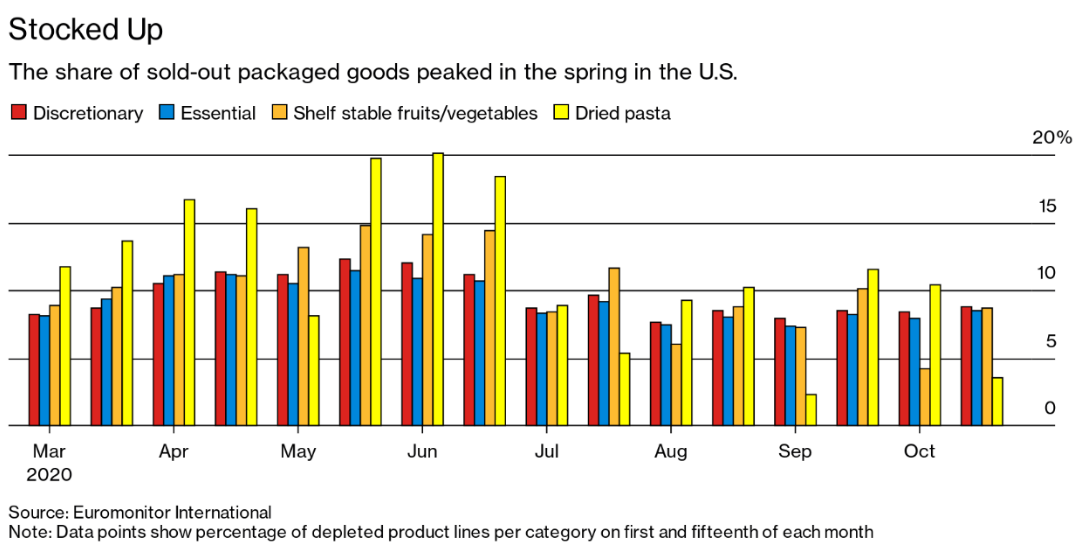
- The U.S. and U.K. remain confident that the comprehensive agreement will come to fruition after the conclusion of the fifth round of talks. A statement from the British trade ministry indicated, “Following the significant progress made in talks to date, both sides are confident that we are on track for a comprehensive agreement which would provide a significant and mutual benefit to our economies.” *Reuters* reported the statement also noted that almost all chapters were at advanced stages and a significant proportion of legal text has been agreed upon.
- Despite Amb. Lighthizer and Secretary Truss’ positive tone, complicated agriculture negotiations are expected. 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.”

COVID-19 Developments

- The U.S. merchandise trade deficit narrowed in September from the prior month's record as imports fell by 0.2% to $201.4 billion and exports increased 2.7% to $122 billion.



- After a panic-driven surge in demand for packaged goods and food during the onset of the COVID-19 in the early spring, U.S. consumers' appetite is rising again for packed goods. This time, food makers appear prepared as the share of sold-out packaged goods remains fairly stable in recent months.



USMCA

- In a [letter](), the United Steelworkers (USW) urged the Trump administration to address concerns of a potential USCMA violation over the arrest of a Mexican labor leader. USW President Thomas Conway said he is "very concerned about the criminal charges that have been filed against Mexican independent trade union lawyer and attorney Susana Prieto Terrazas by the state governments of Tamaulipas and Chihuahua." Prieto has "been ordered to attend court hearings in Chihuahua on Thursday and Friday where it is likely that she will again be detained and incarcerated," Conway wrote "These actions appear to be calculated to send a message to workers and their

Thomas Conway, USW President

advocates that any attempt to exercise rights guaranteed under the USMCA and Mexico's labor law reforms will be harshly suppressed. I urge you to communicate these concerns to the Mexican authorities." Conway chairs the Labor Advisory Committee for Trade Negotiations and Trade Policy. The letter was addressed to Amb. Lighthizer, Labor Secretary Eugene Scalia and State Secretary Mike Pompeo.

- Senator Ron Wyden (D-OR) argued the Trump administration is falling short of promised USMCA enforced commitments made by Mexico and Canada. Senator Wyden, Senate Finance Committee ranking member, in a letter to President Trump on October 30 listed several enforcement areas, Labor violations by Mexico, lack of clarity on new auto rules, Mexico's failure to implement anti-corruption updates, dairy concerns with both Canada and Mexico, and Mexico's lack of agricultural biotechnology approvals. "It is critical that Mexico and Canada meet their obligations if American workers, farmers, businesses, and consumers are to reap the full benefits you promised they would receive from USMCA," Wyden said in his letter. "Promises were made, but promises have not been delivered." Senator Wyden cited Amb. Robert Lighthizer's pledge that the administration would take "strong actions" to ensure compliance. "Many in Congress, including myself, worked hard to ensure the agreement contained the highest-ever standards and protections for U.S. workers, businesses and farmers," the letter stated. "But, those obligations are meaningless if you do not put them to use."

Ron Wyden, U.S. Senator

- U.S. Congressional members accused Mexico of violating USMCA due to preferential treatment of its state-owned energy company, Pemex. A bipartisan letter led by Rep. Vicente Gonzalez (D-Texas) and signed by Texas senators John Cornyn (R-Texas) and Ted Cruz (R-Texas) urges President Trump to address the issue with Mexico. According to *Politico*, the letter follows a leaked memo showing Mexican President Andrés Manuel López Obrador directed all resources within the regulatory framework to protect Pemex and Comisión Federal de Electricidad. The letter also notes that Mexico delayed or canceled permits for U.S. energy companies.

Section 301 Investigations

- As reported earlier, Vietnam's prime minister is urging the Trump Administration to objectively assess Vietnam's currency before imposing trade restrictive measures. Prime Minister Nguyen Xuan Phuc said Vietnam's exchange rate policy was not aimed at helping its exports and asked that President Trump have "a more objective assessment of the reality in Vietnam." "If the dong is devalued, it will seriously hurt the economy," Prime Minister Phuc told a U.S. International Development Finance Corporation official, at a meeting in Hanoi on Monday. Phuc concluded that, "Vietnam is not using exchange rate policy to create competitive advantage in international trade."
- Several trade observers suggested 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. "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. 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."

Section 232 Investigations

- No significant updates since the Commerce Department completed and delivered its report on transformer parts to the White House last week according to press reports. The section 232 report assesses the national security implications of key electrical transformer input imports, which could allow the President Trump to impose tariffs on such imports over national security concerns. Commerce initiated the investigation on May 11, 2020 stemming from requests from lawmakers from Ohio and Pennsylvania. The products at issue cover laminations for stacked cores for incorporation into transformers, stacked and wound cores for incorporation into transformers, electrical transformers, and transformer regulators.
- Should Commerce's report find that transformer part imports impair national security, the report would outline recommendations for actions to restrain such imports. The next steps then would call for the president to render a decision no later than 90 days after receiving the report to impose Commerce's recommendation on trade restrictions or craft a different set of tariff or trade restrictions. Then the President has 15 days to implement any trade actions and 30 days to submit a report to Congress explaining the President's action or inaction.

U.S.-Japan Trade Developments

- A joint statement from the 57th U.S.-Japan Business Conference highlights the redefining of U.S-Japan business priorities during the pandemic. The statement said the conference brought business leaders from both the U.S. and Japan together who viewed the COVID crisis as an, "opportunity to enhance bilateral collaboration and business resiliency, promote a more open global economic environment, build more diverse and inclusive cultures and facilitate sustainable economic growth." The recommendations included, "Advocate for policies that promote a free, fair, and rules-based trading system and economic order, and strengthen bilateral as well as multilateral economic relationships toward those ends" by eliminating tariffs based on overly broad application of national security policies, such as U.S. import restrictions based on Section 232 of the U.S. Trade Expansion Act.
- Potential phase two trade talks with Japan appear beholden to the outcome of U.S. elections and both countries efforts to restraint the global pandemic's economic impact. 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

- The European Parliament, Commission and Council have agreed to bolster EU retaliation powers, allowing the EU to impose retaliatory duties without WTO approval. In a report by *Inside U.S. Trade*, the agreement expands the scope of the proposed enforcement updates to include services and certain intellectual property rights alongside the already included areas of customs duties, public procurement and restrictions to exports. The move aims to counter actions by the U.S. to stall the WTO dispute settlement body. In a statement, EU Trade Commissioner Valdis Dombrovskis stated, "This agreement sends a strong political signal that the European Union will take action to defend and protect our companies, workers and consumers whenever our partners do not play by the rules." "Our overarching priority to tackle these issues remains a reformed and well-functioning multilateral rulebook with a two stage Dispute Settlement System at its core, but we cannot afford being defenceless in the meantime."

Valdis Dombrovskis, EU Trade Commissioner

- Specifically, on intellectual property, *Politico* reported the Commission will now be able to retaliate by imposing restrictions or increasing fees on European trademarks, geographical indications and EU protected designs, but not on national trademarks and patents. Marie-Pierre Vedrenne, who lead negotiations, stated, "We have managed to include services at 100 percent. On intellectual property rights, we have an inclusion at the EU level and a revision clause of one-year revision to include them at the global level.

- EU frustrations with U.S. trade policy have continued to mount over lobsters, civil aircraft disputes and a potential U.S. complaint at the WTO regarding the EU's farm to fork policy. Bernd Lange, chair of European Parliament's International Trade Committee, recently 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.

Civil Aircraft Disputes

- The EU has announced a target date of Nov. 10 for imposing the $4 billion retaliatory tariffs on U.S. goods. The European Commission, according to a *Bloomberg,* has given the bloc's national governments until Nov. 3 to weigh in on a draft list of American products to be targeted. The EU trade commissioner Valdis Dombrovskis indicated the EU's preference for a negotiated settlement but, "In the absence of a negotiated outcome, the EU will be ready to take action in line with the WTO ruling. As I have made clear all along, our preferred outcome is a negotiated settlement with the US."
- Mr. Valdis Dombrovskis said there is "no basis" for the U.S. demands that to resolve the trade war, Airbus should repay government loans. "What the U.S. seems to be suggesting is that there should be compliance obligations also for the past, and this is not in line with the principles which are followed by the WTO subsidy law which follows the principle of prospective compliance, so therefore we see no basis of this request," stated Dombrovskis.
- Earlier this month, the WTO granted the EU a green light 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."
- 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.

French Digital Services Tax

- No significant updates since reports indicated negotiations at the OECD on a digital services tax agreement will likely carry into 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

- As reported earlier, Amb. Lighthizer squashed any hopes of a Brazil FTA in the near future. Lighthizer stated, "The reality is there is no support for an FTA in the Democratic Party. I would say an FTA right now is probably not in the cards." Lighthizer also stated there are negotiations with Brazil over ethanol and sugar market access, among other agricultural concerns. This week, House Ways and Means Chair Richard Neal (D-Mass.) delineated Democrats' concerns saying the Trump administration rewarded "a Brazilian administration that lacks respect for basic human rights, the environment, and its own workers."
- As previously reported, the U.S. and Brazil have reached an agreement on a mini trade deal. The agreement or U.S.-Brazil trade protocols 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 sides 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.
- 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.

U.S. – Kenya Trade Developments

- The second round of U.S and Kenya trade negotiations should conclude this week, around Nov. 7. During this round, 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

- As reported earlier, the section 201 blueberry investigation key milestone dates include the deadline for an injury decision on Feb. 11, 2021 and USITC injury report due to the President by March 29, 2021. The investigation was deemed "extraordinarily complicated" according to a *Federal Register* notice, extending the statutory deadlines by 15 days. Key dates in the section 201 investigative process are noted in a 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).

- No public updates on the request by Florida growers to USTR for monitoring investigations. On Oct. 6th, 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

- As reported earlier, the Court of International Trade (CIT) judge Gary Katzmann issued an injunction blocking President Trump's recent attempt to include bifacial (i.e. two-sided) panels into the current section 201 tariff order. The ruling effectively prevents the tariff exemption from being removed for two weeks, unless the court takes other action during that time.
- 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, a 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

- The U.S. appealed the WTO ruling against its tariffs on Chinese goods. According to a report by *Politico*, a U.S. representative argued the ruling was incorrect because the U.S. and China had already resolved the issue bilaterally and "second, the panel incorrectly rejected the U.S. defense that the measures were necessary to protect public morals." However, the appeal pushes the dispute into legal limbo, as the U.S.

has blocked any appointments of Appellate Body judges. There will not be a decision in the dispute until members agree to a WTO reform that is suitable to the U.S.

- According to a recent report, the U.S. agricultural domestic support for 2019 and 2020 is likely to surpass WTO limits by $10 billion. The USDA claims the farm support was WTO compliant. A USDA spokesperson stated, “USDA was mindful of WTO obligations when designing these programs and USDA remains confident that we will meet our commitments.” Within the WTO commitments, the U.S. is allowed to spend $19.1 billion on agricultural support annually. If the support exceeds WTO commitments, other members can bring a challenge to the WTO. “If the United States were to exceed its WTO annual spending limit, then offending farm programs (whether ad hoc or traditional) could be vulnerable to challenge by another WTO member under the WTO’s dispute settlement rules,” the report states.
- USDA defended the farm aid provided under the Trump Administration saying it was “confident” the programs were WTO-compliant but noted that the agency had not yet crunched the numbers because the U.S. won’t be notifying its 2019 and 2020 support “for another year or two.”
- A recent analysis by Congressional Research Service (CRS) concluded the U.S. may exceed WTO allowable agriculture subsidy limits depending on how the U.S. allocates outlays. The CRS report states: “If USDA follows historical precedent in how it has categorized and notified U.S. domestic support outlays in recent years, then CRS analysis suggests that the United States will be in compliance with WTO spending limits during 2018, but could exceed the annual U.S. spending limit of $19.1 billion in both 2019 and 2020.”

WTO Leadership

- In series of events last week, the WTO Director-General (DG) selection appeared poised to select Ngozi Okonjo-Iweala of Nigeria. Then the U.S. objected, throwing its support behind South Korean Trade Minister Yoo Myun-hee. In the latest development yesterday, spiking COVDI-19 cases may further derail efforts on the DG selection. Swiss authorities in Geneva, Switzerland, announced strict new lockdown measures amid a surge in infections and hospitalizations in the Swiss city. From Nov. 2 until Nov. 29, the area will prohibit public and private events of more than five people. WTO interim leadership may be forced to delay DG selection for at least another month because of the rapid spread of Covid-19 in Switzerland. The announcement added to the roller coaster series of events last week with Nigeria’s Ngozi Okonjo-Iweala appearing to emerge as the consensus candidate until the U.S. forcefully objected, throwing its support behind the South Korean candidate.
- On October 28th, the WTO’s General Council Chair, David Walker announced to the members that based on their consultations with all delegations the candidate best poised to attain consensus and become the 7th Director-General was Ngozi Okonjo-Iweala of Nigeria. Walker said, “She clearly carried the largest support by Members in the final round and she clearly enjoyed broad support from Members from all levels of development and all geographic regions and has done so throughout the process. I am therefore submitting the name of Ngozi Okonjo-Iweala as the candidate most likely to attract consensus and recommending her appointment by the General Council as the next Director-General of the WTO until 31 August 2024.” Walker stressed the assessment was based on the “troika’s” consultations with members and that a formal decision had to be taken by the members at a General Council meeting, which he has scheduled for November 9.

David Walker, WTO Ambassador, General Council Chair

- The U.S. immediately objected to the WTO announcement, stating it supported the other finalist, Korean Trade Minister Yoo Myung-hee. USTR supported its position in the following statement:

> “The United States supports the selection of Korean Trade Minister Yoo Myung-hee as the next WTO Director-General. Minister Yoo is a bona fide trade expert who has distinguished herself during a 25-year career as a successful trade negotiator and trade policy maker. She has all the skills necessary to be an effective leader of the organization.

"This is a very difficult time for the WTO and international trade. There have been no multilateral tariff negotiations in 25 years, the dispute settlement system has gotten out of control, and too few members fulfill basic transparency obligations. The WTO is badly in need of major reform. It must be led by someone with real, hands-on experience in the field."

- The U.S. objection appeared to catch WTO officials off-guard and surprised some trade experts. Bill Reinsch, a senior trade adviser at the Center for Strategic and International Studies said, "I have to say I'm surprised and disappointed in the U.S. reaction." "I had hoped [U.S. Trade Representative Robert] Lighthizer would have more respect for the institution than that." Wendy Cutler, a former senior U.S. trade official lamented the development saying, "Regrettably, every decision before the WTO membership these days is not easy." "There were two well-qualified, impressive women for consideration and the WTO could not have gone wrong with either one," Cutler said. In contrast, Senator Chuck Grassley expressed full support for the U.S. decision to back the South Korean finalist, Yoo Myung-hee, as the most qualified candidate to lead WTO reform. "It's because of her background and experience compared to the Nigerian candidate," Grassley said.
- Despite the U.S. opposition, Ms. Okonjo-Iweala struck a positive tone, tweeting last week that she is "Happy for the success & continued progress of our @wto DG bid." "It is important to highlight that Dr. Okonjo-Iweala has secured cross-regional backing with only the United States opposing the consensus," said Nigeria's Ministry of Foreign Affairs said in a statement.

- WTO members states are assessing the situation in the wake of the move by the U.S. to block the appointment of Nigeria's Ngozi Okonjo-Iweala as the organization's next Director-General. Dr. Okonjo-Iweala was presented to WTO members as the top candidate after a consultation process that indicated overwhelming support for her candidacy. More than two dozen delegations -- including the EU, China and Japan, declared their support for the DG selection process and Ms. Ngozi Okonjo-Iweala. The next inflection point may occur on Nov. 9 at the next General Council meeting, depending on this week's increased COVID restrictions announced by cantonal official in Switzerland. Should the WTO hold the meeting in-person or virtually, Nov. 9 is several days after the U.S. election and 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", will attempt to reconcile the impasse and present the recommendation to the membership for a formal decision. Several observers expect the U.S. to ardently maintain its support for the Ms. Yoo Myung-hee continuing the impasse and uncertainty in WTO leadership transition.

WTO Reform

- With the stalled WTO DG selection, several reform initiatives likely remain on hold including the U.S. proposal for WTO reform addressing special and differential treatment. 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.”