TRADE UPDATE
Food & Agriculture

December 15, 2020

Provided by CRA

HIGHLIGHTS

- **U.S. – China:** President-elect Joe Biden said addressing China's unfair trade practices will be a top priority. Several lawmakers are urging the incoming Biden administration to leverage a stronger relationship with the EU to counter China's "intensifying" ambitions.
- **Biden Transition:** President-elect Joe Biden has selected Tom Vilsack as the next Agriculture Secretary and Katherine Tai as the next U.S. Trade Representative, further building out his policy team.
- **U.S. – Ecuador:** House Democrats rebuked USTR for rushing the mini-trade agreement with Ecuador, avoiding Congressional consultations. Meanwhile Ecuador's Ambassador to the U.S. expressed optimism of expanding trade ties under a Biden administration.
- **U.S. – U.K.:** The U.K. announced it will not rollover 25% tariffs on U.S. goods under the WTO ruling on civil aircraft after December 31st as a good faith effort to resolve the long-standing trans-Atlantic dispute.
- **USMCA:** USTR filed the first-ever USMCA enforcement action against Canada for failing to implement market-opening provisions under the agreement that took effect July 1st.
- **WTO:** The Ottawa Group of five reformed-minded WTO countries called on the incoming Biden administration to engage more constructively in WTO reform and make resolving the WTO appellate body impasse a priority.

Quote of the week: "No one's missed it at all. It's like there is this mythology out there that its needed." *(USTR Robert Lighthizer commenting on absence of WTO Appellate Body, which dissolved one year ago)*

Event: On Dec. 15th the AgTalks Report release will be accompanied by a virtual press conference, coordinated by Farmers for Free Trade. The AgTalks report provides a roadmap for trade, supply chains and the future of American agriculture for the incoming Congress and Administration with a review of major challenges and a blueprint of policy suggestions gathered from leading ag commodity groups, farmers, rural leaders and related industries.

China Trade

- President-elect Joe Biden indicated addressing the China challenge will be a trade priority. In announcing his selection of Katherine Tai as the next U.S. Trade Representative (USTR), Biden said China's unfair trade practices will be a key priority for his administration and indicated he had chosen Tai for her China experience. "During the Obama-Biden Administration, she was the chief trade enforcer against unfair trade practices by China, which will be a key priority for the Biden-Harris Administration," he said. "She understands that we need to be more strategic in how we trade – in a way that makes us all stronger and leaves no one behind," Biden continued. "Trade will be a critical pillar of our ability to build back better and carry out our foreign policy for the middle class," Biden asserted.
- Chinese Foreign Minister Wang Li laid out a strategy for improved U.S.-China relations under a Biden presidency. However, analysts are concerned that the blueprint fails to account for points of contention, such as economic competition and issues of strategic concern. The five-point plan includes dispensing with a "Cold War" mentality, increasing communication, cooperating in areas of mutual interest, leaving each other's domestic affairs alone, and improving public sentiment about

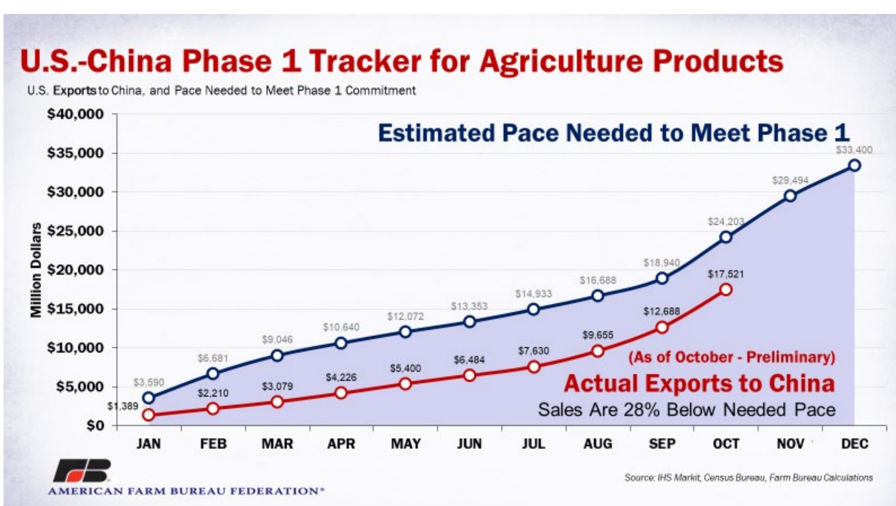
Wang Li, China's Foreign Minister

each other. Vice president of the Asia Society Policy Institute Wendy Cutler stated, “There are certain of those principles that frankly mirror some of what the president-elect is talking about including increased communication and trying maybe to manage some of the disputes. But at the same time, I think that it ignores some of the real tensions and real differences and real issues that we need to kind of work through with China.”

- Representative Richard Neal (D-MA) is urging an incoming Biden administration to “embrace” Europe’s offer to improve and strengthen trade relations with the U.S. to counter China’s “intensifying” ambitions. “The U.S.-Mexico-Canada Agreement -- which House Democrats vastly improved -- provides a new standard for trade deals that our nation can use as the framework on which to build a revitalized partnership with Europe,” Neal said. “For both economic and geopolitical reasons, prioritizing the pursuit of such an agreement is a strategically sound choice at this consequential moment for our country.” Rep. Neal noted that the Trump administration’s response to Beijing’s economic and industrial ambitions “was limited to laying down tariffs on nearly $400 billion in Chinese imports.” He continued, “Unbothered, China has advanced other troubling initiatives.”
- Bilateral trade tension remains high over the U.S. import ban on any cotton or cotton products from Xinjiang Production and Construction Corps (XPCC) over forced labor concerns. The ban applies to all cotton and cotton products produced by XPCC and its affiliates, including any “made in whole or in part with or derived from that cotton, such as apparel, garments, and textiles.” “The human rights abuses taking place at the hands of the Chinese Communist government will not be tolerated by President Trump and the American people,” said Ken Cuccinelli, acting deputy secretary for the Homeland Security Department (DHS).
- China immediately opposed the action and accused the U.S. of interfering in China’s domestic affairs. The Chinese Foreign Ministry said the ban was based on “disinformation” and violates international trade rules. Chinese Foreign Ministry Spokesperson Hua Chunying told reporters the U.S. import ban "destroys the global industrial chains and supply chains, and damages the interests of enterprises and consumers in various countries, including the U.S.” “This is a typical act of hurting others' interests while diminishing one's own interests. We urge some U.S. politicians to respect basic facts and stop interfering in China's internal affairs under the pretext of Xinjiang.”

Phase One Agreement

- The Commerce Department’s most recent report indicates U.S. goods exports to China in October hit a monthly record of $14.7 billion, yet that remains below the level needed to meet phase one commitments. *Politico* reports that the record level likely reflects an increase in U.S. farm goods purchases by China. Final 2020 figures will not be released until February.
- China’s year-to-date U.S. agricultural product purchases continue to increase as the gap on the lagging pace of purchases narrows. Based on October trade data, purchases are 28% under the level needed to meet the Phase One deal commitments. *(For further details on tracking select agriculture sectors and U.S. exports to China under the phase one deal see last page).*

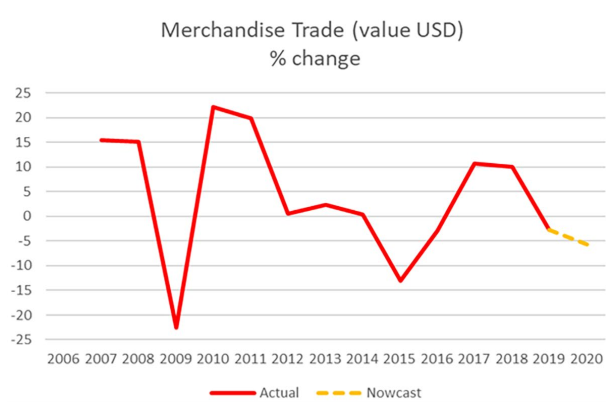


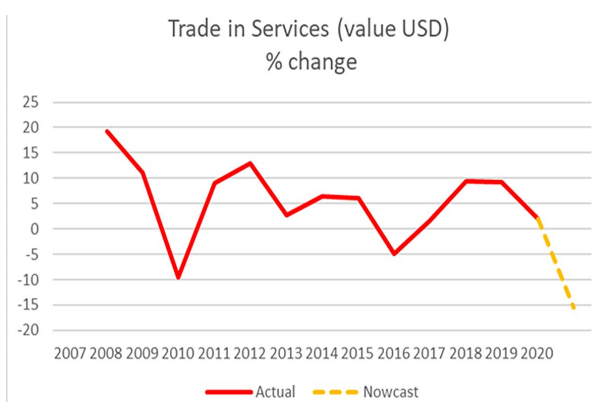
U.S. - U.K. Trade

- The U.K. announced it will suspend retaliatory tariffs against the U.S. as part of the WTO ruling on Boeing's illegal subsidies to demonstrate its "serious" about a negotiated settlement, and desire to "de-escalate" trade conflicts. However, the U.K. will retain existing retaliatory tariffs imposed in response to the Trump administration's Section 232 tariffs on steel and aluminum. In a statement last week, the U.K.'s Department of International Trade (DIT) said, "The UK is today announcing an independent approach to the longstanding trade conflicts between the EU and U.S. around steel and aluminum and aerospace tariffs." Specific to the civil aircraft dispute, the statement noted "the UK government is suspending retaliatory tariffs resulting from the Boeing dispute in an effort to bring the U.S. towards a reasonable settlement and show that the UK is serious about reaching a negotiated outcome. The government reserves the right to impose tariffs at any point if satisfactory progress towards an agreeable settlement is not made."
- U.K. International Trade Secretary Liz Truss emphasized that the UK is rolling over tariffs "To defend the UK steel industry, in response to the unjustified 'Section 232' tariffs imposed by the U.S. on aluminium and steel imports." The announcement further stated, "These tariffs will continue from January 1st when the UK becomes an independent trading nation once again." "The ongoing [U.S.] tariffs are unjustified under WTO rules and unfairly target UK steel and aluminium manufacturers and should be removed." "Any claim that UK steel and aluminium imports harm U.S. national security is false and without foundation."
- U.S. and U.K negotiators completed a fifth round of negotiations last month for a comprehensive bilateral agreement with much work remaining according to sources. While lower-level talks are ongoing, scheduling of another formal round of talks is unlikely until after the January 20th inauguration and the Senate confirmation of a new USTR, which has historically taken several months. A number of other trade tensions with Europe that involve the U.K. may also determine further progress on a bilateral U.S. – U.K. trade deal including, digital services taxes, and U.S. steel and aluminum section 232 tariffs. Perhaps more importantly on the U.S. side is the expiration of Trade Promotion Authority (TPA) in June 2021, historically key to timely Congressional consideration of trade agreements. Under TPA or previously known as "fast track" authority, USTR would need to submit the signed U.S-U.K. trade agreement to Congress by April 2021 to receive consideration under TPA.

COVID-19 Developments

- The UNCTAD's 2020 Handbook of Statistics show the disparate impact of COVID-19 on goods and services. The value of global merchandise trade is predicted to fall by 5.6% in 2020 compared to 2019. This will be the largest fall in merchandise trade since 2009, when trade fell by 22%. The predicted decline in services trade is much greater, with services expected to fall by 15.4% in 2020 compared with 2019. This would be the biggest decline in services trade since 1990.





USMCA

- USTR filed the first-ever USMAC enforcement action against Canada for failing to implement dairy tariff-rate quotas (TRQs) and other market-opening provisions that Canada established for its dairy industry that took effect on July 1. USTR says the provisions unfairly shield Canadian firms in violation of the USMCA, which was supposed to open the protected market to American producers. "By setting aside and reserving a percentage of each dairy TRQ exclusively for processors, Canada has undermined the ability of American dairy farmers to utilize the agreed-upon TRQs and sell a wide range of dairy products to Canadian consumers," the USTR press release stated. "President Trump successfully renegotiated the USMCA to replace the failed NAFTA, and a key improvement was to give U.S. dairy producers fairer access to Canada's highly protected dairy market," U.S. Trade Representative Robert Lighthizer said. "Canada's measures violate its commitments and harm U.S dairy farmers and producers. We are disappointed that Canada's policies have made this first-ever enforcement action under the USMCA necessary to ensure compliance with the agreement."
- USTR's [press release] stated that it had "provided official notice to Canada that it was exercising its rights to enforce the USMCA" in a letter to Canada's Minister of Small Business, Export Promotion and International Trade Mary Ng. The two countries will now begin consultations under dispute rules laid out in the USMCA, the first step before a possible official dispute panel. Canada has 15 days to respond to the request. If consultations cannot resolve the issue, USTR "may request the establishment of a USMCA dispute settlement panel to examine the matter."
- Several diary groups lauded USTR's action, but cautioned more work remains to address Canada's "Class 7" pricing program for milk protein concentrates, which Canada agreed to eliminate as part of USMCA. Tom Vilsack, President and CEO of U.S. Dairy Export Council said, "I applaud USTR for hearing our concerns and relying on our guidance to take this critical enforcement step to ensure that the agreement is executed in both letter and spirit." He continued, "This is the critical first step, but more work may be needed to ensure Canada complies with its Class 7 related USMCA commitments as well."
- As reported earlier, Senator John Cornyn (R-TX) is leading a bipartisan group urging USTR Lighthizer to drop the proposal that would raise taxes for companies that make goods in Foreign Trade Zones in the U.S. Under the NAFTA, finished goods within U.S. Foreign Trade Zones did not qualify for duty-free treatment, even if manufacturers adhered to the rules-of-origin clause. While USMCA repealed this provision, Lighthizer is seeking to reinstate the old NAFTA rule through a USMCA technical correction bill. The Congressional Budget Office estimates that reinstating the provision would raise taxes on FTZ operators by $2 billion over 10 years. The letter stated, "Supporting such a tax increase during a global pandemic and economic recession would harm American manufacturers across a wide range of industries, including the energy, electronics, automobile, and pharmaceutical sectors, among others."

U.S.-Taiwan

- The U.S.-China Commission is advocating for deeper economic relations with Taiwan to guard against Chinese aggression. The Commission stated in its recently published report that Beijing's implementation of Hong Kong's national security law as well as its "intensifying military operations around Taiwan" suggest China has little concern for the international consequences. The report adds, "As Taipei moves to address these and other concerns of U.S. stakeholders, the United States is presented with opportunities to develop new export markets and forge a tighter trade relationship with one of the Indo-Pacific region's most dynamic economies."
- Taiwan Deputy Economic Minister Chern-Chyi Chen said he expects U.S. and Taiwan to continue to strengthen trade relations under a Biden Administration according to a report by *Inside U.S. Trade*. "Trade relations are inevitable," Chen said. "We think that at the end of the day the Biden administration will pursue some trade relations via whatever form but there will be the need to intensify U.S. trade relations toward the world."
- As reported earlier, Senator Tammy Duckworth (D-IL) has voiced her support for further engagement with Indo-Pacific countries, specifically advocating further commitment with Taiwan. As *Inside U.S. Trade*

reports, Duckworth pointed to the U.S.-Taiwan Economic Prosperity Partnership Dialogue held last month stating, "I think we can push that more." Duckworth also stated she said she was "pleasantly surprised" by the administration's economic engagement with Taiwan.

U.S.-Vietnam

- U.S. pork producers are turning to Vietnam and Philippines as they expect exports to China to begin to decline as China rebuilds their swine herd after the devastation of African swine fever according to reporting by *Agripulse*. Norman Bessac, vice president of international marketing for the National Pork Board said, "the annual Pork Checkoff producer survey identified diversification of U.S. pork exports as a top priority." The U.S. Meat Export Federation notes that the Philippines and Vietnam have become attractive markets after recent surges in demand from helped expand U.S. pork exports to Southeast Asia this year by 32%.
- Reports suggest USTR could make an affirmative determination in the Section 301 investigation of Vietnam's currency practices and potentially impose tariffs on Vietnamese imports before the Trump Administration leaves office on January 20, 2021. Such action could lead Vietnam to impose reciprocal tariffs on U.S. imports, including agricultural products, similar to retaliatory actions undertaken by other trade partners responding to U.S. Section 301 and 232 tariffs. Some U.S. officials reportedly are concerned that such tariffs would damage relations with a country that has supported the Administration's efforts to confront China's aggressions in the region.
- As next steps, the U.S. and Vietnam will hold consultations on December 17, followed by USTR's public hearing on December 29th, as reported earlier. Under the 301 statute, the hearing can be held after the issuance of the report if the Administration determines that "expeditious action is required" so release of the investigative report may not necessarily occur after the hearing. Section 301 authorizes USTR to determine whether a foreign practice is actionable under the statute and if so what action to take.
- As reported earlier, the federal Labor Advisory Committee expressed its support for USTR's decision to launch a Section 301 investigation into Vietnam's currency practices. The Committee also urged USTR to impose an 8.4% tariff on Vietnamese goods, estimated to equal to the amount of currency undervaluation found by the International Monetary Fund in 2018. Committee Chair, and USW President Thomas Conway said on behalf of the Committee, "Vietnam's currency manipulation is the result of deliberate government policies that have been in place for many years and are designed to gain a competitive advantage for its exports." "The harm to U.S. producers from these policies has grown substantially because of the shifting of supply chains from China to Vietnam in response to the imposition of tariffs by the U.S," Conway continued.
- If the Commerce Department's investigation finds Vietnam undervalues its currency, it could lead to U.S. duties on a wide range of Vietnam exports to the U.S. A final duty determination will be announced around March 16, 2021.

Section 232 Investigations

- The Section 232 working group regarding titanium sponge imports is seeking public comments on ways the U.S. could help ensure access to titanium sponge, a key input for some weapon systems, according to the Commerce Department's Bureau of Industry and Security (BIS). In a ***Federal Register*** notice, BIS stated, "The work of the Titanium Sponge Working Group has proceeded in exploring measures to ensure access to titanium sponge in the United States for use for national defense and in critical industries during an emergency, and at this time the Bureau of Industry and Security (BIS) is seeking public comments to better inform the deliberations of the working group." The working group stems from the Trump Administration's decision to further explore policy options, other than imposing trade restrictions under Section 232 of the Trade Expansion Act of 1962, based on the Commerce Department's findings that titanium sponge imports threatened to impair national security. The deadline for interested parties to submit comments is January 11, 2021.
- As reported earlier, the Commerce Department terminated the investigation into the national security implications of mobile crane imports at the petitioner's request. Wisconsin-based crane producer, The

Manitowoc Company, Inc., in a Sept. 8 termination request firm cited "a changing economic environment due to the effects of the COVID-19 pandemic" in asking for termination of the investigation.

- The remaining two section 232 investigations involve transformer parts and vanadium. USTR has already indicated in the transformer parts case that Mexico will avoid any Section 232 tariffs. Amb. Lighthizer reported that Mexico agreed to create a "strict monitoring regime" for those exports composed of GOES to avoid Section 232 tariffs. In a statement, USTR reported that the U.S. and Mexico concluded consultations via a mechanism established in a May 2019 agreement to "address the transshipment" of GOES "from outside the North American region into the United States through GOES-containing downstream products." Under the agreement, Mexico will promptly create a monitoring regime and starting in fourth quarter, that regime will "closely monitor shipments of these products to the United States," according to the statement.
- Under Section 232, the President must render a decision no later than 90 days after receiving the Commerce 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. - Ecuador

- House Democrats rebuked USTR for the speed and timing of the limited trade agreement with Ecuador. 22 Ways & Means Democrats wrote in a Dec. 9 letter to USTR Robert Lighthizer stating "We support active engagement with Ecuador, but the manner, speed, and timing of this approach is deeply troubling," and flagged Ecuador's "over-dependence on China, including $5 billion in debt owed to the nation," as well as its "treatment of basic human rights, including the use of excessive force against demonstrators." The letter was led by Ways & Means Chairman Richard Neal (D-MA) and trade subcommittee Chairman Earl Blumenauer (D-OR) who were concerned with the lack of consultation with Congress which raises "additional concerns about the process and motivations behind this negotiation."

Senator Earl Blumenauer

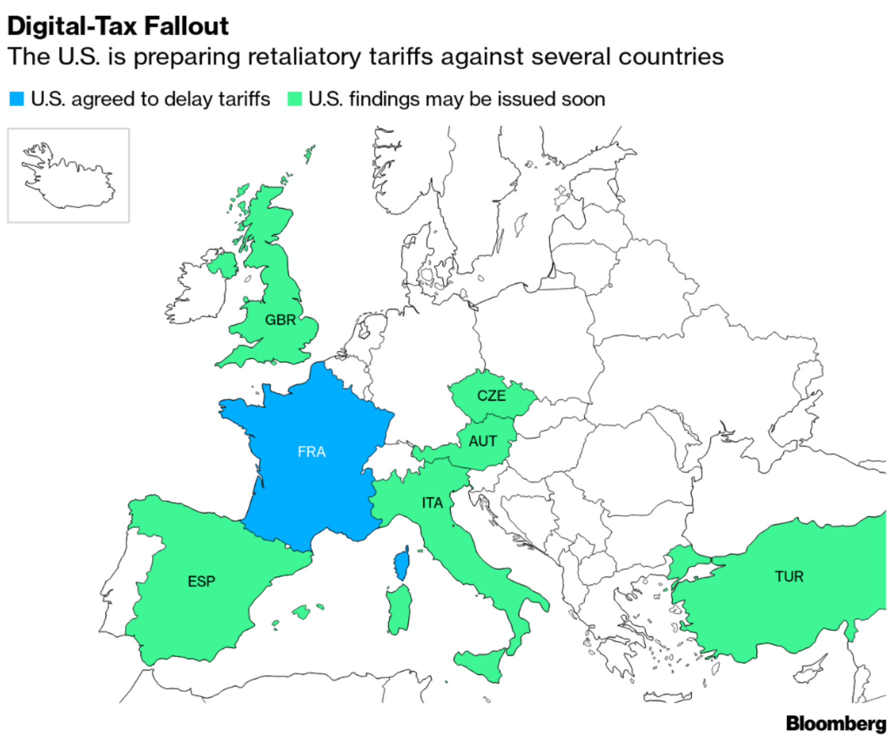
- The U.S. and Ecuador signed a mini trade deal last week. USTR Robert Lighthizer said at a signing ceremony in Quito attended by Ecuadorian President Lenín Moreno, "Ecuador has demonstrated that it plays an important role in the region in promoting democracy, good governance and market-based economic growth." Similar to the mini deal with Brazil, the deal with Ecuador contains three chapters on trade facilitation, good regulatory practices and anti-corruption and a fourth chapter on small- and medium-size enterprises, which comprises a large portion of Ecuador's business community. "Today we have a new Ecuador," Ecuador President Moreno said. Ecuadorean officials praised the deal as a milestone in U.S.-Ecuador economic relations after years of inactivity.
- The Ecuadoran Ambassador to the U.S. expressed optimism under a Biden administration to build on the recent limited trade deal, officially termed the Protocol on Trade Rules and Transparency. Ambassador Ivvone Baki, referring to Ecuador's 2016 trade deal with the European Union and 2019 trade deal with the United Kingdom said, "We are more competitive now so it's not going to be that difficult." She further highlighted that President-elect Biden was the ranking member on the Senate Foreign Relations Committee and "was a very good friend of Ecuador's during prior bilateral trade talks during the Bush administration." "Maybe it will be better with them than with President Trump," she added.
- Ecuador is currently United States' 41st largest goods trading partner with $12.5 billion in total (two way) goods trade during 2019. Goods exports totaled $5.5 billion; goods imports totaled $7.0 billion. The U.S. goods trade deficit with Ecuador was $1.4 billion in 2019 according to USTR.

U.S. – EU Trade

- The EU continues to indicate hope for a renewed relationship with the U.S. under President elect Biden. The EU wants to work with the U.S. on trade and a new pattern on the global economy to put pressure on China. Director general for trade at the European Commission Sabine Weyand said, "No nostalgia, no harking back to times gone by, but really working together to change the world we live in today." Earlier the EU outlined a new trans-Atlantic agenda that prioritizes joint action on the pandemic, economic recovery, climate change and setting of global standards. The EU also recommends a EU-U.S. Summit in the first half of 2021. EU President Ursula von der Leyen said, “When the transatlantic partnership is strong, the EU and the U.S. are both stronger. It is time to reconnect with a new agenda for transatlantic and global cooperation for the world of today.” In regard to trade, “The EU wants to work closely with the US to solve bilateral trade irritants through negotiated solutions, to lead reform of the World Trade Organization, and to establish a new EU-US Trade and Technology Council.”

French Digital Services Tax

- France began collecting digital services taxes by issuing invoices to U.S. companies, according to recent reports. The move to implement its 3% tax on companies with digital revenue of at least 740 million euros worldwide and 25 million euros is “earlier than France indicated.”
- The U.S. is poised to levy tariffs on goods from France in less than a month in response to France’s resumption of digital services taxes on multinational tech firms. While the U.S. agreed to suspend 25% tariffs on roughly $1.3 billion worth of French goods in return for France’s delay in collecting digital services taxes, France’s actions will likely result in USTR imposing Section 301 tariffs by Jan. 6 as originally planned. The U.S. is considering a similar tariff response on other countries that may follow France’s lead in imposing taxes. Ambitions of settling the tax dispute this year waned when talks for new global tax rules were extended until mid-2021.



Civil Aircraft Disputes

- The U.K. will not roll forward tariffs after December 31st when it finalizes the U.K.’s divorce from the EU, as reported above. Preceding the formal announcement, a U.K. trade department spokesperson said, “We want to de-escalate this issue with the U.S. and get these tariffs removed so we can move our trading relationship forward. These tariffs are in nobody’s interests and damage industry and livelihoods on both sides of the Atlantic.”
- On November 4th the EU imposed tariffs of 15% on U.S. aircraft and 25% on agricultural goods, totaling $4 billion under the WTO ruling on U.S. subsidies for Boeing civil aircraft. USTR Robert Lighthizer argued that the EU tariffs were no longer valid as regulations in Washington State regarding Boeing business activities now comport with the WTO rulings. In October the WTO granted the EU the 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.

U.S. – Kenya Trade Negotiations

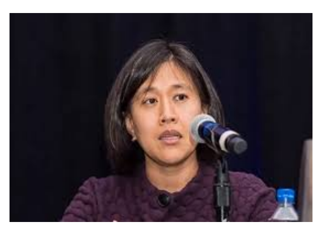
- No significant updates since the recent conclusion of the second round of U.S.-Kenya trade negotiations. According to the American Chamber of Commerce in Kenya, Nairobi prepared text for several chapters for the round on legal and transparency issues; market access for goods; sanitary and phytosanitary measures; textiles and apparel; customs and trade facilitation; technical barriers to trade; services and investment; digital trade; intellectual property; small and medium-sized enterprises; government procurement; state-owned enterprises; and labor and environment. USTR aims to negotiate a comprehensive deal with Kenya prior to TPA's expiration.

Transition 2020

- President-elect Joe Biden has selected Tom Vilsack as Agriculture secretary. Biden described Vilsack as "an outstanding two-term governor of Iowa, and the best secretary of Agriculture I believe our country has ever had." Biden noted that Vilsack, "wasn't anxious to come back, wasn't looking for this job, but I was persistent." "Tom knows the full range of resources available in this department to get immediate relief to those most in need and address the crises facing rural America," Biden said, noting that one in six Americans and one quarter of children are facing hunger, and that there are multiple crises facing rural America. Mr. Vilsack responded saying he will "begin that work by embracing the full benefits of a diverse and inclusive senior leadership team in our department, as I was proud to do in my previous tenure, and continue the work of rooting out inequities in the systems we govern and the programs we lead." Vilsack emphasized that he knows "first hand the character of the dedicated public servants" at USDA and looks forward to leading the department to address the COVID-19 pandemic, the rural economy and food shortages.

Tom Vilsack, Nominee for USDA Secretary

- Vilsack, President and CEO of the U.S. Dairy Export Council, previously served as Agriculture secretary for eight years under the Obama administration, and was a noted key rural and agriculture policy adviser during Biden's presidential campaign. Mr. Vilsack's resume also includes several elected roles as a former two-term governor of Iowa, Iowa State Senator and Mt. Pleasant, Iowa Mayor. Iowa Senator Chuck Grassley articulated his support for Mr. Vilsack as the next USDA Secretary. "Two reasons—one, he understands the role of the family farmer and the importance of that institution in the production of food." "And he's very aware of the importance of biofuels to the health of agriculture," Grassley told reporters.
- President-elect Biden announced the selection of Katherine Tai as the next USTR after her candidacy obtained strong bipartisan Congressional support. In a statement, the president-elect said that Tai's experience will allow her "to hit the ground running on trade and harness the power of our trading relationships to help the U.S. dig out of the COVID-induced economic crisis." Tai is currently the chief trade lawyer for the House Ways and Means Committee and was lauded by several lawmakers for her significant role in USMCA negotiations and deep knowledge of trade tensions with China and other large trade partners. Prior to becoming a staff member in Congress in 2017, Tai spent several years in USTR's general counsel's office specializing in enforcing trade agreements with China and in private practice advising clients on trade policy. Tai, who is Chinese American, would be the first woman of color to lead USTR. She is fluent in mandarin Chinese, holds an undergraduate degree from Yale University and law degree from Harvard Law School.



Katherine Tai, USTR Nominee

- Several lawmakers praised the announcement and Ms. Tai's qualifications. Sen. Earl Blumenauer (D-OR), Chairman of the Ways & Means trade subcommittee said in a statement that Tai was a "fantastic pick from President-elect Biden" who has "played an invaluable role leading the Ways and Means staff while working with members and outside groups on the renegotiated NAFTA and other critical trade issues. She's knowledgeable, patient, creative, and will be the first woman of color to hold this important job. I'm sad to lose her from our committee staff, but she will more than make up for it with what she will bring to the USTR -- a vital agency that affects us all."

Section 201 Investigations

Seasonal Produce

- No significant updates since the U.S. International Trade Commission (USITC) officially launched the fact-finding investigation into strawberry and bell pepper imports. USTR requested the USITC investigate strawberries and bell peppers under Section 332. The Commission is accepting written submissions for the probe until Jan. 15, 2021. The Commission invites interested parties to address information about the condition of the domestic industry, including production, employment, profits and losses, and other factors set out in section 202(c) of the Trade Act. To the extent practical, data and information should include the period 2016-2020 and any subsequent period, according to the agency.
- Separately, USTR has issued a letter to the USITC Chairman Jason Kearns requesting the agency investigate imports of cucumbers and squash and the effect on the domestic seasonal markets. The section 332 investigation (i.e. monitoring investigation) will exam the monthly price trends, including an analysis and comparison of the prices of domestically produced products and imported products.
- The USTR letter responds to a request from Georgia Republican Senators Kelly Loeffler and David Perdue to start an import monitoring action on cucumbers and squash imports from Mexico under Section 332 of the of the Tariff Act of 1930. In a letter the Senators noted that, "cucumbers' import value is currently $894 million, which is a 10% increase from September 2019 and August 2020. Squash's import value is currently $473 million representing a 27% increase during that same time period." Both Loeffler and Perdue are facing run-off elections in January.
- The requested four "monitoring" investigations on imports of strawberries, bell peppers, cucumbers and squash align with USTR's Seasonal Produce Plan which outlined the monitoring investigation stating, "USTR will work with domestic producers to commence an investigation by the International Trade Commission to monitor and investigate imports of strawberries and bell peppers, which could enable an expedited Section 201 global safeguard investigation later this year." According to observers, the information obtained in the monitoring investigations may form the basis for launching section 201 global safeguard investigations in the near future.
- The Section 201 blueberry investigation by the USITC is underway and 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. Key dates in the Section 201 investigative process are noted in a USITC fact sheet:
  - **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).

WTO

- A petition to the WTO asks member countries to suspend patent rules in order to ensure widespread access to affordable COVID-19 vaccines. The petition has more than 900,000 signatures. The letter was sent as WTO members remain deadlocked over the TRIPS waiver proposal, was put forth by India and South Africa and supported by Kenya, Eswatini, Mozambique, Pakistan, Indonesia, Egypt. Yet, the U.S. EU, Switzerland, Canada and Japan oppose it, stating IPR are not an obstacle to responding to COVID-19. The

WTO said in a statement that the Council for Trade Related Intellectual Property Rights is set to convene to discuss a pandemic-focused proposal that would temporarily waive intellectual property obligations on copyright, industrial designs, patents and the protection of undisclosed information.

WTO Leadership

- Korean Trade Minister Yoo Myung-hee traveled to the U.S. to meet with USTR Lighthizer and Korean press reports state they are expected to discuss Yoo's candidacy to WTO Director-General (DG). However, the Korean embassy in Washington, DC, told *Inside U.S. Trade* that "the purpose of Trade Minister Yoo's visit to the U.S. is to hold discussions for the stable management of bilateral trade issues between Korea and the US and to share views on the future U.S. trade policy." The U.S. came out in favor of Trade Minister Yoo Myung-hee for the vacant WTO Director-General position, while the majority of other WTO members support Nigerian Ngozi Okonjo-Iweala, creating an impasse on the leadership selection, historically reached by consensus among WTO member countries.
- The WTO Director-General selection remains on hold until early in the new year with local COVID restrictions in Geneva and an impasse over a consensus candidate. The WTO General Council chair, David Walker recently postponed a meeting to discuss the DG selection. Ambassador David Walker cited "the health situation and current events" in announcing he was postponing the meeting "until further notice." "It has come to my attention that for reasons including the health situation and current events, delegations will not be in a position to take a formal decision on 9 November," Walker said in his communication to members on Friday.

WTO Reform

- Amb. Robert Lighthizer defended the Trump administration's aggressive stance that led to dissolution of the WTO's appellate body (AB) in December 2019, contending the AB's absence has had little impact on world trade. "No one's really missed it," Lighthizer said speaking at the Milken Institute's Asia Summit. "No one's missed it at all. It's like there is this mythology out there" that it is needed. The outgoing USTR continued, "There's no correlation between the appellate body and increase in trade. There just isn't. It's ridiculous," he said. In Congressional hearing testimony earlier in 2020, Lighthizer contend he would be pleased if the AB never returned.
- While the EU, China and several other WTO members have agreed to an alternate appeals system in the interim until the AB impasse is resolved, the U.S. has refused to join and criticized the action. Shortly after its creation, the U.S. expressed opposition for WTO funding to support the 20-member interim appellate body arrangement known as the led Multi-Party Interim Appeal Arbitration Arrangement (MPIA). The EU-led MPIA was created by some WTO members to fill the void of the defunct Appellate Body. Amb. Lighthizer dismissed the alternate appeals system as "an appellate body after you have a couple of cocktails".
- The Ottawa Group Ambassadors are strongly urging the incoming Biden administration to take a leadership role at the WTO and make WTO reform a priority. The ambassadors -- representing five countries in the Ottawa group (Canada, Singapore, Switzerland, Japan and Australia), a reform-oriented forum comprising about a dozen WTO members , contend that progress on reform is unattainable absent leadership from major trade partners, especially the U.S. The five ambassadors, speaking at a Washington International Trade Association webinar expressed optimism that a refreshed U.S. relationship with the WTO under President-elect Joe Biden could bring about progress on reform. Canadian Ambassador Stephen De Boer emphasized the historic leadership of the US. at the WTO, noting the U.S. has been a "driving force" at the WTO. De Boer argued that WTO members have made considerable progress in addressing U.S. concerns and is "clear testimony to the importance that we collectively accord to having the U.S. on board" with dispute settlement reform. He noted despite these efforts, "We have not yet, however, heard U.S. proposals to resolve their concerns over the [Appellate Body]." De Boer continued, "Engaging in a solution-oriented dialogue to resolve the [Appellate Body] impasse is the constructive thing to do. I

Stephen De Boer, WTO Ambassador

recognize that this may not be the very first time on the new U.S. administration's trade agenda, but I am hopeful it will be addressed early on -- at a time that is commensurate with its importance."

Ag Economy Barometer

- The Ag Economy Barometer declined to an index of 167 in November, after reaching a record high of 183 in October. The 16-point decline was the result of weakened expectations for the future on the part of agricultural producers. November's index of 167 was nearly equal to the pre-pandemic high set back in February but is 9 points lower than the sentiment reading taken just two weeks prior to the 2020 elections. The rebound in positive sentiment the past few months is tied to optimism for rising commodity prices, and expectations for higher farmland values, and farmland rental rates in 2021.