TRADE UPDATE
Food & Agriculture

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Provided by CRA

HIGHLIGHTS

- **U.S. – China:** Treasury Secretary nominee Janet Yellen said that President Biden will keep current tariffs on China to provide the Biden Administration time to work with U.S. allies and review all the trade policies toward China of his predecessor.
- **U.S. – U.K.:** British hopes of a quick U.S.-U.K. trade deal wane as President Biden's priorities remain focused on domestic economic recovery policies over continuing free trade agreement negotiations.
- **USMCA:** A group of 122 House lawmakers wrote a letter to President Biden urging the administration to work with Canada and Mexico to add the 2015 Paris Agreement to the list of multilateral environment agreements covered by the USMCA.
- **WTO:** A WTO dispute panel report determined that the U.S. Commerce Department improperly calculated some antidumping and countervailing duties on Korean goods.

Quote: The Biden Administration is "closely monitoring China's adherence to all of its Phase One commitments, including both the purchase commitments and structural commitments. The Biden Administration will make use of the full array of tools to counter China's abusive economic practices and hold Beijing accountable." (*Janet Yellen, Treasury Secretary nominee*)

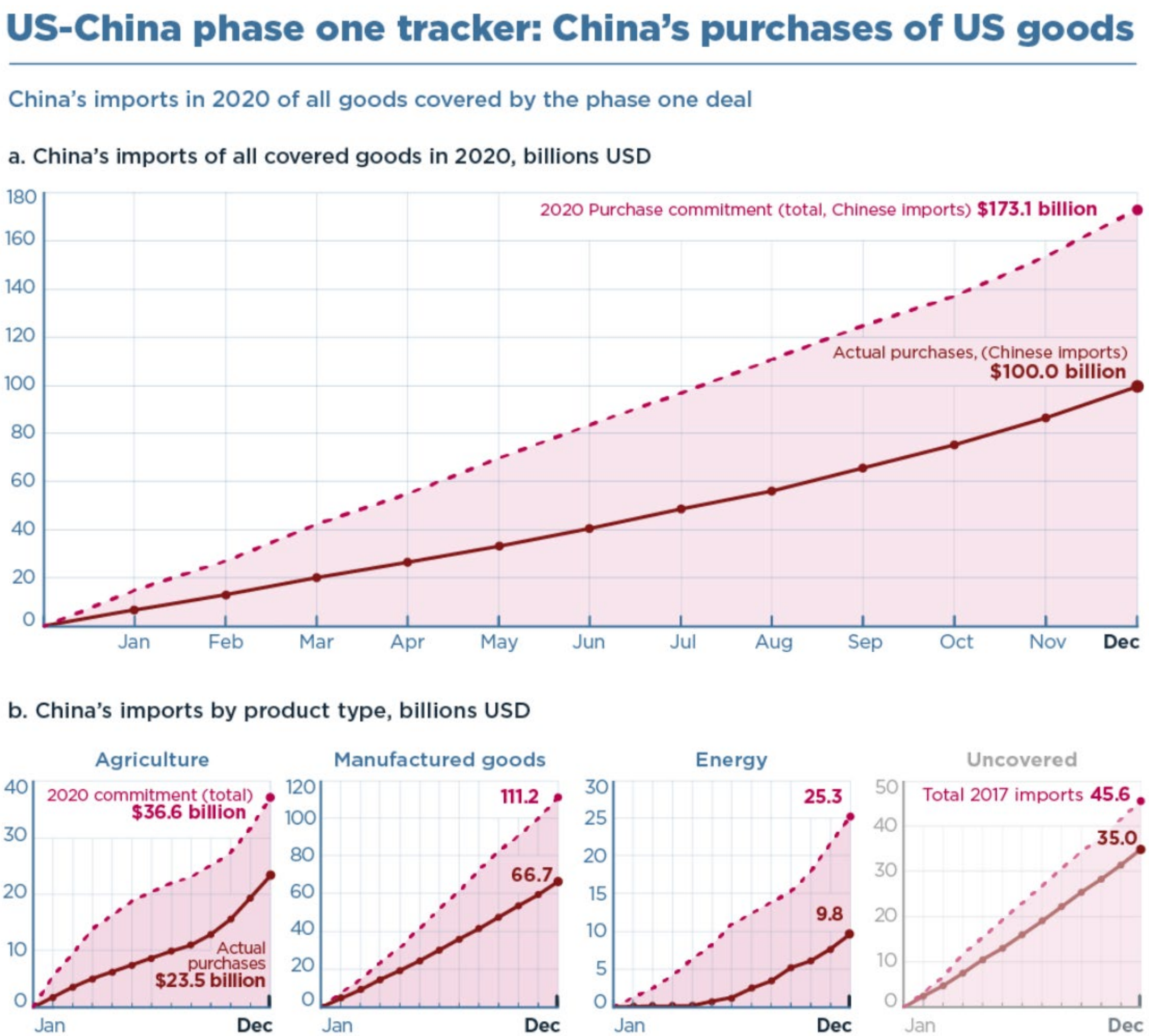
China Trade

- President Biden will keep current tariffs on China to provide the Biden Administration time to work with U.S. allies and review all the trade policies toward China of his predecessor, said Treasury Secretary nominee Janet Yellen. "He is going to consult with allies to galvanize collective pressure. We need a different approach that actually brings meaningful pressure on China." She noted that the Biden Administration is "closely monitoring China's adherence to all of its Phase One commitments, including both the purchase commitments and structural commitments." "The Biden Administration will make use of the full array of tools to counter China's abusive economic practices and hold Beijing accountable," Yellen continued. She emphasized that President Biden also wants to work with allies on how best to engage China. Ms. Yellen's comments were contained in written questions and answers connected with her Senate Finance confirmation hearing for Treasury Secretary.
- As reported earlier, U.S. Customs and Border Protection (CBP) will block imports of all cotton and tomato products from the Xinjiang region of China over findings that the products are commonly made with forced labor of Uighur Muslims. CBP actions were detailed in a new regional withhold release order (WRO). Ken Cuccinelli, acting secretary of the Department of Homeland Security (DHS), told reporters that "DHS will not tolerate forced labor of any kind in U.S. supply chains." Under the WRO, CBP will detain cotton products (e.g., apparel, textiles, etc.) and tomato products (e.g., tomato seeds, canned tomatoes, tomato sauce, etc.) grown or produced by entities operating in Xinjiang at all U.S. ports.
- CBP had issued a company-specific WRO in early December that covered only the Xinjiang Production and Construction Corps. This WRO, CBP's fourth since the beginning of fiscal year 2021, is much boarder covering an entire area instead of one specific company. Some apparel industry participants have indicated they are struggling to comply with a regionwide ban on cotton because they may not be able to separate fibers from Xinjiang produced with forced labor.

Phase One Agreement

- The Peterson Institute for International Economics (PIIE) released its latest analysis of China's goods purchases under the phase one deal. PIIE found that China's purchases of covered agricultural products only reached 64 percent of their target. Through December 2020, China's imports of covered agricultural products were $23.5 billion compared to the annual target of $36.6 billion in year one of the deal.

- For overall goods (agriculture, manufactured goods, and energy) China's total imports of U.S. covered products were $100.0 billion, compared with the target of $173.1 billion, or 58 percent of their target.



U.S. - U.K. Trade

- U.S. President Biden and U.K. Prime Minister Johnson spoke last week concerning the U.S.-U.K. trade agreement. In a statement, Johnson's office said the two leaders "discussed the benefits of a potential free deal between our two countries, and our Prime Minister reiterated his intention to resolve existing trade issues as soon as possible." "Building on the UK and US' long history of cooperation in security and defence, the leaders re-committed to the NATO alliance and our shared values in promoting human rights and protecting democracy," the statement continued.
- However, British hopes of a quick U.S.-U.K. trade deal wane as President Biden prioritizes domestic economic recovery policies over free trade agreements. This was reaffirmed when White House Press Secretary Jen Psaki said, "I can't give you any timeline," on the U.S.-U.K. trade deal, adding that administration officials were "working to get the pandemic under control, provide economic relief to the

American public." "We, of course, can do multiple things at the same time but those are our primary priorities at this point," Psaki continued, "everything we do must help advance working families and the American middle class. That certainly includes any trade agreements, and that is part of their objective and how they would approach it."

- Beyond the uncertainty of timing for the next formal round of bilateral talks for a U.S. – U.K. trade, the ticking clock on the expiration of Trade Promotion Authority (TPA), which expires in June 2021 could further complicate a U.S.-U.K. agreement. Providing for an up or down vote with strict Congressional timelines for action, TPA historically has been 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.
- Kim Darroch, Britain's former ambassador to Washington, said it was "a stretch" to think a U.K.-U.S. trade deal would happen during President Biden's first term as Britain would not be considered a top priority. Darroch said, "When he comes to do one, there are two much bigger trade deals that he could potentially do, rather than a deal with a medium-sized country of 65m people." Moreover, David Davis, a former Tory cabinet minister, argued that any U.K. trade deal with the U.S. must re-examine London's "asymmetric, ineffective and fundamentally unfair" extradition treaty with Washington, stating, "When the 2003 extradition treaty was introduced, it was sold on the basis that it would be used principally for paedophiles, murderers and terrorists."

Kim Darroch, U.K.'s former ambassador to the U.S.

- U.K. Trade Secretary Liz Truss has indicated that she plans to meet with the Katherine Tai, the incoming USTR, to resolve the civil aircraft dispute. Truss stated this week, "I'm seeking an early meeting with the new U.S. Trade Representative Katherine Tai and this will be one of the items on my agenda. I've been clear with the United States and the European Union that we want to de-escalate this dispute and reach a negotiated settlement."

USMCA

- A group of 122 House lawmakers wrote a letter to President Biden urging the administration to work with Canada and Mexico to add the 2015 Paris Agreement to the list of Multilateral Environment Agreements (MEAs) covered by the USMCA. The letter states that the Biden administration should go a step further and "help restore" the U.S.' role as a "leader in addressing the climate crisis and demonstrate how trade agreements can be utilized to advance climate goals." "Pursuant to Article 24.8.5, a process was established for all signatories to add additional MEAs covered under the agreement. That list should be amended to include the Paris Agreement," the letter says. The letter was led by Rep. Bill Pascrell (D-NJ) and was signed by House Ways & Means trade subcommittee Chairman Earl Blumenauer (D-OR) among other members of the House Ways & Means Committee.
- As reported earlier, the AFL-CIO will "quickly" initiate a labor dispute against Mexico under USMCA after the inauguration of President-elect Joe Biden. "We had some real resistance from the old administration, and we became worried that they would tank it," AFL-CIO President Richard Trumka said. "You're going to see it happening quickly after Biden's inauguration in, I can assure you of that." Trumka said the Trump administration was being "passive-aggressive," adding "they 'yessed' us to death."
- Recently 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.

COVID-19 Developments

- *The Economist* expanded on the World Bank Global Economic Prospects report to include estimates of how global GDP might have evolved without covid-19. *The Economist* concludes, "the cost of covid-19 this year and last will amount to about $10.3 trillion in forgone output: goods and services the world could have produced had it remained unafflicted." The euro area will bear over $2 trillion of the cost, while the U.S. will shoulder roughly $1.7 trillion. Among developing countries, India is predicted to bear the largest loss in dollar terms of about $950 billion. Although a much larger economy, China is much will suffer a smaller GDP shortfall of about $680 billion.

The Economist

U.S. – Vietnam

- No significant update since USTR's released its Section 301 report on Vietnam's currency practices citing illegal policies yet declining to impose tariffs. "Unfair acts, policies and practices that contribute to currency undervaluation harm U.S. workers and businesses, and need to be addressed," stated U.S. Trade Representative Robert Lighthizer. "I hope that the United States and Vietnam can find a path for addressing our concerns." The USTR statement announcing the investigative findings continued, "USTR is not taking any specific actions in connection with the findings at this time but will continue to evaluate all available options. The Section 301 investigation was initiated in October 2020."

- The announcement to forgo tariffs was welcomed by several business groups urging the Trump Administration to consider non-tariff means to address the currency issue. More than 200 companies and trade associations sent a letter urging the Trump administration to avoid imposing Section 301 tariffs on goods from Vietnam. The letter stated, "Responding with tariffs would undermine American global competitiveness and harm American businesses and consumers at a time when they can least afford it, as they are struggling from the impacts of COVID-19.
- Earlier the U.S. Treasury Department named Vietnam a currency manipulator along with Switzerland. Treasury said in the report that the U.S.' goods trade deficit with Vietnam "reflects a large expansion of Vietnam's export capacity in apparel and technology, and its growing global supply chain integration," as well as tariff and non-tariff barriers hindering U.S. automotive and agricultural exports.

Section 232 Investigations

- As a parting tariff action, President, Donald Trump announced plans to lift Section 232 national security tariffs on aluminum imports from the United Arab Emirates (UAE). Effective February 3, the U.S. will remove the 10 percent tariff because the UAE reached an agreement that will limit imports of aluminum from the UAE. "In my judgment, this measure will provide effective, long-term alternative means to address the contribution of the United Arab Emirates to the threatened impairment to our national security by restraining aluminum article exports from the United Arab Emirates to the United States, limiting export surges by the United Arab Emirates, and discouraging excess aluminum capacity and excess aluminum production," according to a Presidential proclamation. The UAE joins Argentina, Australia, Canada and Mexico as the only other countries exempt from the Section 232 aluminum tariffs.
- As reported earlier, multiple U.S. steel industry and labor groups are urging President-elect Biden to keep existing steel tariffs imposed by the Trump Administration citing the tariffs are essential to the "viability of the domestic steel industry." In a letter endorsed by American Iron and Steel Institute and United Steel Workers, among others, the groups said, "Continuation of the tariffs and quotas is essential to ensuring the viability of the domestic steel industry in the face of this massive and growing excess steel capacity." "Removing or weakening of these measures before major steel producing countries eliminate their overcapacity and the subsidies and other trade-distorting policies that have fueled the steel crisis will only invite a new surge in imports with devastating effects to domestic steel producers and their workers," the groups said.
- In 2018, President Trump imposed 25 percent tariffs and 10 percent tariffs on steel and aluminum, respectively, under national security concerns outlined in Section 232 of the Trade Expansion Act of 1962. Several steel and aluminum consuming U.S. industry groups (e.g., Business Roundtable and American Farm Bureau) earlier urged the incoming Biden Administration to remove China section 301 and section 232 tariffs, in part, to support national economic recovery in the wake of the global pandemic. On the international front, the EU, China and other countries challenged the U.S. tariff action at the WTO. A WTO ruling on the case is expected in 2021.
- Presently Commerce is conducting two section 232 investigations involving transformer parts and vanadium. 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. – EU Trade

- President Joe Biden's nominee for Treasury secretary, Janet Yellen did not rule out the possibility of imposing tariffs on countries that unilaterally impose digital services taxes (DST) on U.S. tech companies. Responding to written questions from members of the Senate Finance Committee, Yellen said, "If confirmed, I will be strongly supportive of and firmly committed to cooperative multilateral efforts to

work to resolve the DST disputes. If such disputes were not resolvable through international negotiations, I would work with the United States Trade Representative to determine our best alternative course of action." Yellen stressed that the administration prefers to reach a multilateral solution to the tax dispute and to other economic disputes that might rise in the future, rather than take unilateral action.
- As reported earlier, USTR declined to impose the 25% tariffs on French products, which would be valued at $1.3 billion for France's digital services tax. Former USTR Lighthizer said he did not impose the tariffs because, "the ongoing investigation of similar DSTs adopted or under consideration in 10 other jurisdictions." USTR's press release on the issue provided no timeframe for further action.

Civil Aircraft Disputes

- The EU aims to resolve the long-running trans-Atlantic dispute over aircraft subsidies in the first six months of President-elect Joe Biden's term, according to European Director-General for Trade Sabine Weyand. "Our objective here is to come to a situation where both sides hopefully would agree to suspend the tariffs, which have caught up a lot of people on both sides of the Atlantic that have nothing to do with the dispute … and create space for this negotiation," Weyand said during a Center for Strategic and International Studies event. "And I think, then, within the space of, well not the first 100 days, but the first six months, I think we should be able to settle this issue," she added. "That would certainly be our ambition, and we hope we can work with the incoming administration on that basis." Ms. Weyand's comments also suggested that the recently-imposed tariffs by the Trump administration, which added more European products to its retaliation list, halted discussions that were designed to achieve a "partial settlement."

Sabine Weyand, EC Director General for Trade

- During the last month of the Trump Administration, USTR announced imposition of additional tariffs on European goods in the aircraft case based on alleged EU misapplication of WTO authorized tariffs in the Boeing subsidies dispute. USTR contended the EU calculated the amount of trade "using EU-27 trade volume," excluding United Kingdom trade. "The effect of this was to unfairly increase the retaliation for the 52 days in which the UK remained within the EU for tariff purposes," and the EU "needs to take some measure to compensate for this unfairness."
- On November 4, 2020 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 previously 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.

Transition 2020

- President Biden has nominated Jewel Bronaugh, the commissioner of the Virginia Department of Agriculture and Consumer Services, as Agriculture Deputy Secretary. Bronaugh would be the first woman of color to serve as USDA Deputy Secretary, the Biden-Harris transition team noted in the announcement, and *The Washington Post* noted that the appointment may "help blunt" some Black leaders' criticism of Biden's appointment of Vilsack as secretary. Virginia Gov. Ralph Northam, a Democrat, appointed Bronaugh as Virginia agriculture commissioner in 2018. Dr. Bronaugh served as the Virginia state executive director for the USDA Farm Service Agency (FSA), and worked closely with USDA Secretary Tom Vilsack during the Obama administration. In spring 2019, Bronaugh launched the Virginia Farmer Stress Task Force, organized in partnership with agricultural and health agencies and organizations, to raise awareness and coordinate resources to address farmer stress and mental health challenges in Virginia. In the fall of

Jewel Bronaugh, USDA Deputy Secretary nominee

2020, she helped establish the Virginia Food Access Investment Fund, a new program to address food access issues within historically marginalized communities.

- Maria Pagan, deputy general counsel at USTR will assume the acting USTR role according to a White House announcement last week. "Today, President Joe Biden announced the acting agency leadership across the administration to assist in the next phase of the transition of government," a White House official stated. "These individuals, nearly all of whom are career civil servants, will temporarily lead federal agencies while Cabinet nominees continue moving through the confirmation process."
- Ms. Pagan previously served as acting USTR in 2017 prior to Robert Lighthizer's confirmation to lead the agency. During her three-month acting USTR period, Pagan signed the U.S. notice of withdrawal from the Trans-Pacific Partnership, ordered by then-President Trump. Pagan was replaced as acting USTR by General Counsel Stephen Vaughn when he was appointed to the role in March 2017.
- The Biden Administration formally announced Nora Todd, a longtime trade adviser for Sen. Sherrod Brown (D-OH), will serve as next USTR chief to of staff. Todd has served as a senior policy adviser for Sen. Brown since 2014 and was heavily involved in USMCA negotiation process in Congress. Sen. Brown stated, "Nora Todd has fought to improve the lives of Ohio workers and their families for years as my chief economic advisor." "She believes in the dignity of work and will serve honorably as USTR Katherine Tai's chief of staff. For too long, our trade policies have prioritized corporate interests at the expense of American workers. As the Biden-Harris administration works to pursue a trade policy to level the playing field and put workers first, I am encouraged to know Nora will be at the center of those efforts."
- The Biden Administration has named three new deputy undersecretaries at USDA. Stacy Dean will be the new deputy undersecretary for food, nutrition and consumer services, overseeing the Food and Nutrition Service. USDA said in the announcement that Dean "has deep experience understanding the delivery of health and human services programs at the state and local levels." Additionally, Justin Maxson, CEO of the Mary Reynolds Babcock Foundation, has been named deputy undersecretary for rural development. Finally, Mae Wu has been named deputy undersecretary of marketing and regulatory programs, overseeing the Animal and Plant Health Inspection Service and the Agricultural Marketing Service. Previously, she worked as a senior director at the Natural Resources Defense Council. Katharine Ferguson, chief of staff in the Office of the Secretary, said, "We are honored to have professionals of the caliber of Stacy, Justin and Mae join our team — three experts with depth of knowledge, experience and respect from peers and colleagues across nutrition, economic development, and food and environmental security. Their talents will help us end the pandemic's grip on our economy, address the urgency of hunger and climate change, and maintain the safety and security of our food."

Stacy Dean, Incoming USDA Deputy Undersecretary for Food, Nutrition, Consumer Services

- The White House announced that Wynn Coggins will be the Acting Deputy Secretary of the Commerce Department until the Senate confirms Gina Raimondo. Coggins previously served as the Deputy Assistant Secretary for Administration since February 2020. The Senate confirmation hearing for Gina Raimondo is scheduled for Tuesday, 26th

U.S. – Kenya Trade Negotiations

- No significant updates since the conclusion of the second round of U.S.-Kenya trade negotiations last fall. At the last round in Kenya, Nairobi prepared text for several chapters market access for goods, sanitary and phytosanitary measures, and technical barriers to trade. USTR aims to negotiate a comprehensive deal with Kenya prior to TPA's expiration.

Section 201 Investigations

Seasonal Produce

- With the Section 201 blueberry investigation hearing completed, the USITC will next turn to determining whether imports are a cause of "serious injury" to the domestic industry as outlined in the statute. The USITC decision on injury is expected on Feb. 11, 2021 and the USITC injury report is due to the President by March 29, 2021. Key dates in the Section 201 investigative process are noted in a USITC fact sheet:
  - **February 11, 2021:** Vote on injury (Statute requires vote by 180 days.
  - **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).
- At present, the USITC is conducting four "monitoring" investigations on imports of strawberries, bell peppers, cucumbers and squash, respectively, in concert with USTR's Seasonal Produce Plan. The plan 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 investigations."

WTO

- A WTO dispute panel report determined that the U.S. Commerce Department improperly calculated some antidumping and countervailing duties on Korean goods. The report also concludes that Korea failed to prove its claim of an "as such" violation by the U.S. for what Korea insisted was an unwritten "rule or norm" to apply "adverse facts available" in certain trade remedy investigations. The duties stem from a challenge in 2018 by Korea on six U.S. antidumping and countervailing investigations on a variety of steel products and large transformers that resulted in duties on Korean exports. The panel faulted the U.S. Commerce Department for failing to meet the conditions set out in the Antidumping Agreement. Specifically, the U.S. failed to sufficiently specify information needed in certain investigations before resorting to "facts available." If the U.S. appeals the decision, the dispute will remain in limbo until the appeals function (i.e., Appellate Body) is restored. If the U.S. does not appeal, the two countries will determine a "reasonable period of time" for the U.S. to comply with the ruling.

WTO Leadership

- As reported earlier, progress on breaking the deadlock on the new WTO Director-General (DG) remains stalled as outgoing Lighthizer earlier reaffirmed the Trump Administration's support of Korean Trade Minister Yoo Myung-hee for the Director-General position, again rejecting Nigerian candidate Ngozi Okonjo-Iweala who has widespread support from other WTO member countries. In a BBC interview, Lighthizer said, "The United States' view is that we need someone with real experience in trade, not someone from the World Bank or a development person. We need a real trade expert," signaling a hardening U.S. stance further delaying the WTO consensus on a new leader.
- The WTO Director-General selection is further complicated by COVID restrictions in Geneva. WTO observers have acknowledged that the pandemic has disrupted WTO proceedings, including the DG selection process. Last December, The WTO General Council chair, David Walker postponed a meeting to discuss the DG selection citing "the health situation and current events" in announcing he was postponing the meeting "until further notice."

WTO Reform

- According to *Inside U.S. Trade*, a Geneva-based trade official familiar with the negotiations said that the U.S. told WTO members it would not advance its positions in the talks on curbing harmful fisheries subsidies while it builds out the new administration. While negotiations had recently resumed, progress seems unlikely as the U.S. remains on the sidelines. The official noted that while members viewed this week's meetings as constructive, there remains the need to resolve the impasse on key topics. Most members pushed for an agreement this year, the official said. The next set of fisheries meetings is scheduled for Feb. 15-19.

- The fate of the dissolved Appellate Body (AB) remains on hold as the U.S. signaled it's not yet ready to engage in a debate over how to reform the WTO's dispute resolution system. In conjunction with a key WTO meeting last week, U.S. officials in a statement said the U.S. was "not in a position" to support a proposal on appellate panel members, citing President Biden's inauguration the same week and the ongoing Presidential transition. Though earlier the Biden team indicated its intention to work with allies to address mutual international concerns, near term action on resurrecting the AB is paused as the Biden Administration focuses on combating the health and economic impacts of the Covid-19 pandemic. The AB ceased functioning in December 2019 when the U.S. blocked new appointments of the last expiring seats for panel members saying the AB for years had overstepped its mandate and the Trump Administration inventoried a litany of violations and major concerns regarding the WTO's dispute settlement system.