TRADE UPDATE
Food & Agriculture

February 2, 2021

Provided by CRA

HIGHLIGHTS

- **U.S. – China:** Chinese buyers made two large purchase commitments for U.S. corn, of 1.7 and 1.36 million metric tons, adding to already high levels of purchases. Meanwhile, the Biden Administration confirmed it is reviewing the China phase one deal signaling no lifting of tariffs soon.
- **U.S. – U.K.:** U.K. Trade minister Liz Truss said at the World Economic Forum that Britain will offer to collaborate with the U.S., EU, and Japan, to counter unfair behavior by Chinese state-owned enterprises.
- **USMCA:** Canada says it open to including tenants of the Paris Climate Accord in USMCA and working closely with the Biden Administration on combating climate change and environmental protection.
- **U.S. – EU.:** The EU is calling upon President Bident to swiftly eliminate steel and aluminum tariffs on the EU imposed by the Trump Administration. The EU has opened an antitrust investigation probe into Mondelez, alleging hindering cross-border trade of its products in the EU.
- **WTO:** In the first WTO dispute meeting under a Biden Administration, the U.S. blocked a decision by Hong Kong to escalate the "Made in China" trade dispute from the Trump administration by creating a WTO panel to rule on it.

- **Quote:** "The United States stands ready to engage on all of these difficult issues." (*David Bisbee, U.S. charge d'affairs at the U.S. mission to the WTO, on WTO reform)*

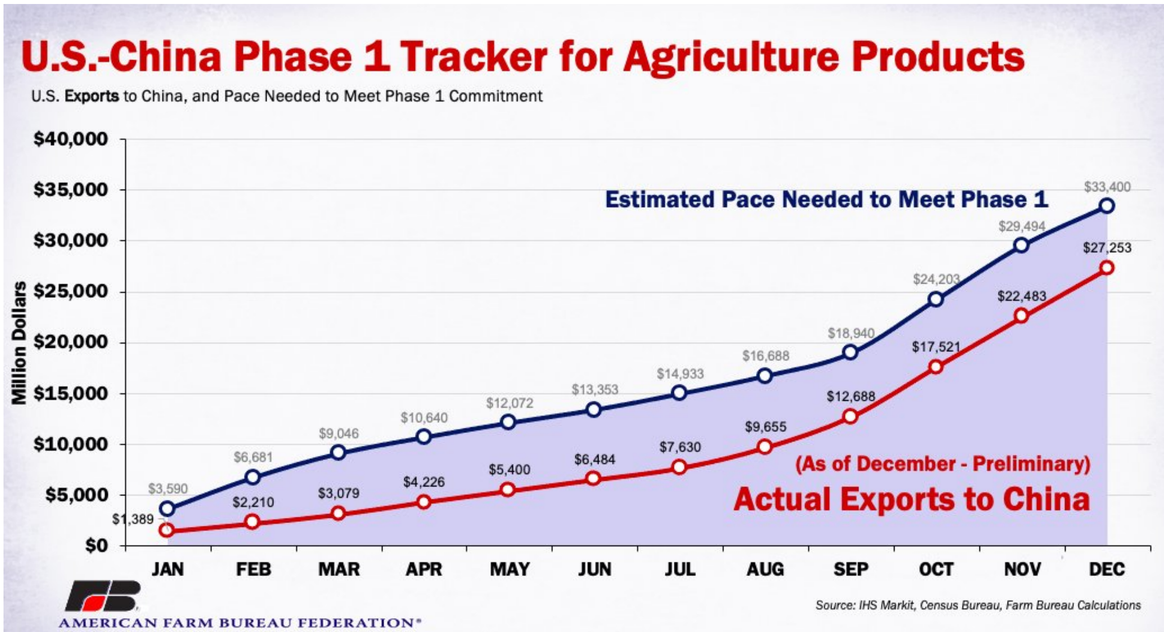
China Trade

- Chinese buyers made two large purchase commitments for U.S. corn continuing to add to an already high level of purchases. USDA reported purchase commitments of 1.7 and 1.36 million metric tons for delivery in the 2020-21 marketing year by Chinese buyers in the past week. Outstanding sales of U.S. corn (i.e., not yet shipped) to China as of Jan. 21 totaled approximately 5.9 million tons compared to 200 tons during same period in 2020, according to USDA's Foreign Agricultural Service. A recent FAS report stated, "China's feed demand will remain robust in (the 2020-21 marketing year) with continued swine restocking and livestock sector growth contributing to an overall feed demand increase of 15.6 million metric tons (above levels in) 2019-20."
- As reported earlier, 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.

Phase One Agreement

- The Biden Administration confirmed the China Phase One deal remains under review, along with other national security issues. Speaking to reporters, White House spokeswoman Jen Psaki said, "All aspects of our national security approach, including certainly our relationship with China are under review." "You know, we are focused on approaching that relationship from a position of strength, and that means coordinating and communicating with our allies and partners about how we're going to work with China," she continued. Specific to the Phase One U.S. – China deal, Psaki reiterated that "everything that the past administration has put in place is under review, as it relates to our national security approach. So I would not assume things are moving forward." "We are just reviewing what the path forward looks like and doing that, again, from a position of strength, which means coordinating with our allies, members of Congress, and making a determination before we engage further," she continued.

- China's year-to-date increasing U.S. agricultural product purchases reached $27.2 billion (preliminary) during 2020, completing the first year of the Phase One deal. Based on December trade data, purchases are approximately 19% under the level needed to meet the Phase One deal commitments, the narrowest level in 2020. The Census Bureau releases final data later this week (Feb. 5th). *(For further details on annual historical (2000-2020) U.S. exports to China of Phase One products (see last page)).*



U.S. - U.K. Trade

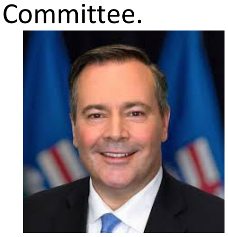
- U.K. Trade minister Liz Truss said at the World Economic Forum that Britain will offer to collaborate with the U.S., EU, and Japan, to counter unfair behavior by Chinese state-owned enterprises. "We want action on subsidies and state-owned enterprises, which can undermine genuine free trade and have to stop being used unfairly - That means being more consistent in enforcing our current system, and bringing in new rules," Truss stated. Britain continues to look for new markets and seeks opportunities to find its role as a leading advocate for free trade.
- While President Biden and Boris Johnson recently discussed the U.S.-U.K. trade agreement, 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."
- 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.

- 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

- The Canadian government says it is open to the idea and looking forward to working with the Biden administration on a "shared priority" of protecting the environment. A spokesperson for the Embassy of Canada said, "Taking action to protect the environment and combat climate change is a top priority for the Canadian government," and Canada looks forward to working closely with the Biden Administration on shared priority whether bilaterally, trilaterally or plurilaterally, according to *Inside Trade.* Eric Miller, president of the Rideau Potomac Strategy Group and an outside trade adviser to the Canadian government, said the political environment was ripe for "deeper cooperation" on the issue, though he and other analysts noted that Republicans in Congress might not be amenable to adding climate change commitments to USMCA.
- The Canadian government's response follows a letter to President Biden from over 120 lawmakers urging the administration to work with Canada and Mexico to add the 2015 Paris Climate 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.
- Alberta Premier Jason Kenney said Canada should impose trade sanctions if no resolution is reached on the Keystone XL pipeline. President Biden recently signed an executive order that effectively blocked the completion of the pipeline. Kenney said he hopes that a resolution can be reached between the Canadian Prime Minister Trudeau and President Biden. "If, however, the U.S. government refuses to open the door to a constructive and respectful dialogue about these issues, then it is clear that the government of Canada must impose meaningful trade and economic sanctions in response to defend our country's vital economic interests," Kenney stated, calling Biden's move "a gut punch" and "an insult directed at the United States' most important ally and trading partner on day one of a new administration."



Jason Kenney, Premier, Alberta Canada

COVID-19 Developments

- The advance international trade deficit in goods decreased to $82.5 billion in December from $85.5 billion in November as exports increased more than imports. The international trade deficit was $82.5 billion in December, down $3.0 billion from $85.5 billion in November. Exports of goods for December were $133.4 billion, $5.9 billion more than November exports. Imports of goods for December were $215.9 billion, $2.9 billion more than November imports.

	ADVANCE INTERNATIONAL TRADE: GOODS DEFICIT	
DECEMBER 2020	$82.5 Billion	-3.5%°
NOVEMBER 2020	$85.5 Billion	

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."

Section 232 Investigations

- The U.S. Court of International Trade (CIT) issued an opinion dismissing all but one claim challenging, on various grounds, a proclamation by former President Donald Trump (Proclamation 9980) that imposed 25% tariffs on, inter alia, various imported products made of steel pursuant to Section 232 of the Trade Expansion Act of 1962. However, the CIT will continue to consider the claim that President Trump implemented additional and new duties on certain steel derivative products after the statutory time period for such action had lapsed. PrimeSource Building Products, Inc., a U.S. importer of various steel derivative products, filed a complaint in the CIT on February 4, 2020, arguing that President Trump's Section 232 tariffs (Proclamation 9980) was unlawful and unconstitutional. However, the U.S. Department of Justice (DOJ) filed a motion to dismiss the complaint. PrimeSource then took the case to the CIT.
- 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.
- 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.
- 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

- A top EU official is urging President Bident to swiftly eliminate steel and aluminum on the EU imposed by the Trump Administration. "We very much hope this can be lifted immediately," EU Ambassador to the United States Stavros Lambrinidis said at a U.S. Chamber of Commerce event. Lambrinidis pledged to reciprocate stating, "And then we will of course immediately lift our own countermeasures. And that's going to be a very important boost to so many sectors in our economies, both sides."
- Lambrinidis also said that decoupling was not possible and that the U.S. and EU must out-innovate China in the technology race while protecting innovations. Lambrinidis argued that to counter China, the EU and U.S. should "run faster than China," by continuing U.S. and European leadership on "critical new technologies" and calling for "incentives and capabilities for investment" to maintain the U.S. and the EU as "the biggest innovation hubs in the world." Secondly, Lambrinidis urged the EU and U.S. to "protect the runners." He said, "In other words, you have to have the rules in place to ensure that the intellectual property theft [and] all these other things that risk the advantage that we get through that major investment in running fast to be taken away – you have those rules in place to stop it. And these are trade rules, trade defense rules, WTO rules." Lambrinidis contended that the U.S. and EU must cooperate on digital technology and "setting the standards of the future" to prevent China from doing so, which is "is the biggest challenge we have."

Stavros Lambrinidis, EU Ambassador to U.S.

- The EU has opened an antitrust investigation probe into Mondelez over whether the company has restricted competition by hindering cross-border trade of its products in the EU, specifically Cadbury chocolate. The *Financial Times* reports that the EU remains concerned that Mondelez restricted trade of chocolate, biscuits and coffee between EU member states through agreements and unilateral practices. Margrethe Vestager, the EU's executive vice-president for competition said, "We are opening a formal investigation to see whether Mondelez, a key producer of these products, might have restricted free competition in the markets... leading to higher prices for consumers." Mondelez states, "We will work constructively with the European Commission as it conducts its review."

Digital Services Tax

- Treasury Secretary Janet Yellen and French Economy Minister Bruno Le Maire agreed on the need for a multilateral digital tax solution through OECD negotiations. The French Economy Ministry said in a statement that Le Maire welcomed Yellen's "commitment to active U.S. participation in the ongoing OECD discussions on international taxation to forge a timely international accord" and that both leaders "agreed on the need to find multilateral solutions to many of the issues facing the global economy, including addressing the tax challenges of efficiently and equitably taxing the income of multinational firms."
- At the same time, Italy and the U.K. defended their digital services tax, stating the tax will remain until a multilateral deal is reached. "Traditional businesses pay taxes on their profits in the markets they operate, while digital companies do not," said U.K. Chancellor Rishi Sunak. "Without a [global] solution … we will not be able to remove the unilateral measures that many of us have taken," he added.
- Late last year 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 continues to seek resolution to the long-running trans-Atlantic dispute over aircraft subsidies in the first six months of the Biden Administration, 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."

- 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

- Incoming Senate Agriculture Committee Chairwoman Debbie Stabenow (D-MI) urged the Biden Administration to nominate "the right person" to the position of undersecretary of agriculture for trade and foreign agricultural affairs because the position plays an "important role" in U.S. agriculture. The position was created within the 2014 farm bill and President Obama did not to fill the position while former President Trump nominated Ted McKinney, who was the first to assume the role in late 2017. "They're not negotiating the rules on trade but play a very important role," she continued. "And I want to make sure that we have the right person, who's out there working with our growers to help them create new markets."
- Over 100 major food and agriculture organizations sent a letter to the Senate Finance Committee Chairman Wyden and Ranking Member Crapo advocating for the confirmation of Tai for USTR. The groups say they "roughly one-fifth of the country's economic activity, directly supporting more than 23 million jobs – constituting nearly 15 percent of total U.S. employment." The letter states that Tai "is eminently qualified and deeply familiar with the mission of the Office of the U.S. Trade Representative in opening foreign markets and reducing barriers for U.S. food and agriculture workers and exporters for the benefit of consumers in the U.S. and across the globe." "We especially value Ms. Tai's demonstrated ability to build bipartisan support for trade policies," the letter continues. The Finance Committee has yet to announce a date for a confirmation hearing for Tai.
- The confirmation hearing for President Biden's nominee for Agriculture Secretary Tom Vilsack is scheduled for Feb.2. The Senate Agriculture, Nutrition and Forestry Committee, chaired by Sen. Debbie Stabenow (D-MI), will host the hearing. The outgoing chairman of the Senate Finance Committee Senator Chuck Grassley (R-Iowa), recently endorsed Vilsack, saying he would be honored to introduce Vilsack at the hearing.
- The incoming chairwoman of the Senate Agriculture Committee, Debbie Stabenow (D-MI), says she plans to use climate legislation to increase funds for conservation programs that will encourage growers to reduce greenhouse gas emissions. Stabenow said, "I certainly will advocate funding in these areas … to support what we want to do, and we can't wait for the next farm bill in 2023." Stabenow said she believes that USDA has adequate legal authority to use the Commodity Credit Corp. to buy agricultural

carbon credits, a position supported by USDA chief climate advisor Robert Boonie.

- Commerce Secretary nominee Gina Raimondo drew criticism after she refused to commit to keeping Huawei on the agency's blacklist. When questioned by Senator Ted Cruz (R-TX) about using agency resources to combat Chinese threats the U.S. security, Raimondo said, "I will commit that should I be confirmed and I am there, I will review the policy, consult with you, consult with industry, consult with our allies and make an assessment on what is best for American national security." The response upset some senators who said there was no reason for Raimondo to consider changing the decision to list Huawei and other Chinese telecom firms on the blacklist. "This is ridiculous," Senator Ben Sasse (R-NE) said in a statement. "Huawei didn't change because America has a new president. Huawei is still the Chinese Communist Party's tech puppet and a serious threat to national security. Tough talk on China is empty if you let Huawei out of the box."

U.S. – Japan

- Japan imported such a significant level of U.S. beef recently that it could reach a safeguard trigger that would result in a tariff on further U.S. beef imports. *Agripulse* reports, "If the U.S. exports more than 242,000 metric tons of beef to Japan in the Japanese fiscal year — April to March — the tariff on U.S. beef rises by more than 10 percentage points, shooting up from 25.8% to 38.5%. And the sooner that trigger is set off, the longer the tariff increase will be in place." USDA calculated that by Jan. 10, the U.S. had exported 203,721 tons of beef to Japan, which is about 84% of the way to the trigger, with three months left of the fiscal year. U.S. Meat Export Federation economist (USMEF) Erin Borror agreed stating, "Because the United States is the only beef supplier approaching its safeguard threshold, USMEF is concerned that chilled exports to Japan could decline if and when the snapback tariff rate is in place. This may include the weeks leading up to the 'Golden Week' holidays, a key time period for Japanese buyers."

U.S.-Taiwan

- Taiwan's chief trade negotiator John Deng said that it is aware that a quick free trade agreement is unlikely but remains hopeful negotiations will begin in the future. "We absolutely understand U.S. politics and we do not have any unrealistic fantasies. The new government has its priorities and of course we need to understand that," Deng said. Looking toward the future, Deng added, "We have always thought that this a matter of 'when conditions are right, success will flow naturally'."

John Deng, Chief Trade Negotiator, Taiwan

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

- In the first WTO dispute settlement meeting under a Biden Administration, the U.S. blocked a decision by Hong Kong to escalate the "Made in China" trade dispute from the Trump administration by creating a WTO panel to rule on it. However, the U.S. can only block it once and Hong Kong, as a member of the WTO, can raise it again at the WTO next month. The "Made in China" dispute is a U.S. rule stating that goods from the special administrative region of China can be marked as made in China, breaking with former policy.

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

- The U.S. has announced it is committed and ready to engage in WTO reform. *Reuters* reports that David Bisbee, the U.S. charge d'affairs at the U.S. mission to the WTO, said the U.S. is committed to "positive, constructive and active engagement" with all members of the WTO on reforming the body and is actively considering who to choose at its next chief. "The United States stands ready to engage on all of these difficult issues," Bisbee added.
- Over 70 industry groups from around the world sent a letter advocating for the further advancement of plurilateral e-commerce talks ahead of the next WTO ministerial conference. The international group wrote a letter that called on negotiators of the WTO Joint Statement Initiative (JSI) on e-commerce to secure an agreement that "can help realize the promise of cross-border access to technology and the trusted movement of data across regions." The negotiations, which include the U.S., are designed to craft new rules on digital trade and the JSI continues to make progress after circulating a consolidated text in December.
- The fate of the dissolved Appellate Body (AB) remains on hold as the U.S. signaled it is 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.

U.S. Agriculture Exports to China (2000-2020)