TRADE UPDATE
Food & Agriculture

February 12, 2021

Provided by CRA

In light of the Presidents' Day holiday, next week's Trade Update will be released early. The information is current as of Feb 12th.

HIGHLIGHTS

- **U.S. – China:** After a call with Chinese President Xi Jinping, President Biden warned that the U.S. must increase efforts to compete with China or "they're going to eat our lunch."
- **U.S. – U.K.:** Rep. Richard Neal indicated his support for the Biden Administration to conclude ongoing trade negotiations with the U.K. and Kenya this year.
- **Section 201:** The USITC rendered a unanimous vote finding no "serious injury" terminating the Section 201 global safeguard investigation of U.S. blueberry imports.
- **WTO:** The WTO is set to confirm a new leader next week when the General Council convenes on Monday, 15th to take up the appointment of Nigeria's Ngozi Okonjo-Iweala as Director-General.

China Trade

- After a call with Chinese President Xi Jinping, President Biden warned that the U.S. must increase efforts to compete with China or "they're going to eat our lunch." "They're investing billions of dollars and dealing with a whole range of issues that relate to transportation, the environment, and a whole range of other things. So we just have to step up," Biden continued.
- In a different tone, the Chinese government reported that in the call, "Xi stressed that China and the United States both gain from cooperation and lose from confrontation; cooperation is the only right choice for both sides. When China and the United States work together, they can accomplish a great deal for the good of both countries and the world at large; confrontation between the two countries, however, will definitely be disastrous for both countries and the world," he added.
- The U.S. Court of International Trade said that the Biden administration has until March 12 to provide a "master answer" comprehensive response to over 3,500 lawsuits filed against the Section 301 tariffs on goods from China. The lawsuits are filed against $320 billion worth of tariffs on Chinese goods imposed by the Trump administration.
- U.S. ethanol producers have seen a recent surge in imports by China. The Renewable Fuels Association announced that China imported about 13 million gallons of U.S. ethanol in December, following a purchase of 8.6 million gallons in November-the largest Chinese purchase since 2018. U.S. Grains Council President and CEO Ryan LeGrand told *Agri-Pulse*, "We're pleased to see recent purchases and shipments of U.S. ethanol by China. We know Chinese buyers recognize the octane value of U.S. ethanol as evidenced by their purchases in previous years and we hope this is the start of much more to come."

Phase One Agreement

- According to the most recent USDA trade data, the U.S. exported a record-setting $26.4 billion worth of agricultural goods to China in calendar year 2020. *Agri-pulse* reports that surges in U.S. corn, soybeans, and beef imports to China contributed to the record levels. Total U.S. beef exports in 2020 surpassed 2019 exports by 231% while U.S. corn exports in 2020 were valued at $1.2 billion, a 2,000% increase from calendar 2019. Even with the record in agriculture imports, the total is still predicted to fall below China's Phase One commitment levels.

U.S. - U.K. Trade

Congressman Richard Neal

- Rep. Richard Neal (D-Mass) indicated his support for the Biden Administration to conclude ongoing trade negotiations with the U.K. and Kenya this year. Rep. Neal, Chairman of the House Ways and Means Committee said, "Moving on to a bilateral trade agreement with the United Kingdom makes good sense." Rep. Neal confirmed he has had discussions with Kenyan officials on continuing trade negotiations. Negotiations on both agreements have paused since the Presidential election and remain on hold as key Biden Administration trade leadership positions are filled. Despite potential expiration of Trade Promotion Authority at the end of June, Rep. Neal said he is hopeful both trade deals can be concluded this year. He emphasized that significant amount of progress was made on the U.S.-UK trade talks in the previous Administration.
- The U.K. is willing to give the Biden Administration time before resuming the talks, British Ambassador Karen Pierce said. A "good amount of progress" on the trade deal was made with the Trump Administration, but the U.K. is open to the possibility that the Biden Administration may want changes or additions, Amb. Pierce said at a Washington International Trade Association conference. She continued stating, "We recognize that a Biden Administration may well want to add in things on labor and environment – particularly to do with climate. We'd be very ready to meet those requirements." Pierce acknowledged bilateral negotiations are on hold at least until the new USTR is in place. She further noted President Biden's policy priorities are focused on economic recovery and beating COVID-19 but postulated that "the FTA itself assists COVID recovery, it's a sign of confidence in global economic revival, and it puts a lot of emphasis on small- and medium-sized enterprises, which will be essential to that recovery in both the US and UK. And it also puts a lot of emphasis on digital commerce." She also emphasized the U.K. is eager to resolve the bilateral conflicts over U.S. Section 232 tariffs imposed on steel and aluminum and the long-running WTO dispute over aircraft subsidies.
- Beyond the uncertainty of timing for the next formal round of bilateral talks for a U.S. – U.K. trade deal, 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.
- As noted previously, the U.K. has officially submitted a formal request for membership to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). "Joining CPTPP will create enormous opportunities for U.K. businesses that simply weren't there as part of the EU and deepen our ties with some of the fastest-growing markets in the world," said U.K. Trade Minister Liz Truss. The U.K. will be the second-largest economy joining the agreement, the largest being Japan. The U.K. hopes the U.S. will join the CPTPP in the future and that the CPTPP can be used to rebuild trade ties. A British official commented that, "We're hopeful the US shares our ambition to join CPTPP, which would mean closer trading ties via plurilateral means."

Trade Promotion Authority

- The odds for Trade Promotion Authority (TPA) renewal in 2021 is garnering increasing attention as President Biden fills key trade positions and the Administration's domestic and trade polices become clearer. New trade agreements appear to fall well below the Administration's top domestic policy priorities of beating COVID-19, rebuilding the domestic economy, and tackling climate change. The implications of a potential lapse of TPA this summer remains unclear for the U.K. and Kenyan trade talks. Several trade commentors have pointed to a divided Congress and other policy priorities as significant hurdles to TPA renewal in 2021.

- Supporters of the proposed U.S.- U.K. free trade agreement, which remains under negotiation, are hoping for TPA renewal to ensure a clear path for Congressional action once an agreement is signed. But TPA renewal may prove a political challenge, particularly in the first year of a new Biden Administration. According to several sources, there is a protectionist mood in Congress and the tough Presidential election suggests it is unlikely that Democrats and Republicans will be able to agree on TPA renewal. Several trade experts note Congressional lawmakers were unhappy with President Trump's decision to opt for "mini-deals" with China and Japan that did not require TPA and so were conducted without Congressional input. This viewpoint may compel a fresh look at the role and details of TPA. Further, President Biden has signaled his intent to pause new trade agreements, though it remains unclear what that approach means for the two negotiations underway with the U.K. and Kenya.

USMCA

- As noted earlier, the Teamsters and several farm groups are opposing the USMCA dairy enforcement case regarding Canada. In a letter signed by 18 organizations and addressed to Biden nominees Tom Vilsack (USDA Secretary) and Katherine Tai (USTR), respectively – the groups argue that the enforcement action is "exacerbating" challenges for dairy farms and workers. "The organizations emphasize they represent "farmer, worker, and civil society organizations in the dairy industry and broader U.S. food system, we are unified in opposition to the U.S. government petition against Canada, and we call on the Biden-Harris administration to rescind this action and instead advance strong worker rights protection and dairy policy reform policy in the U.S."

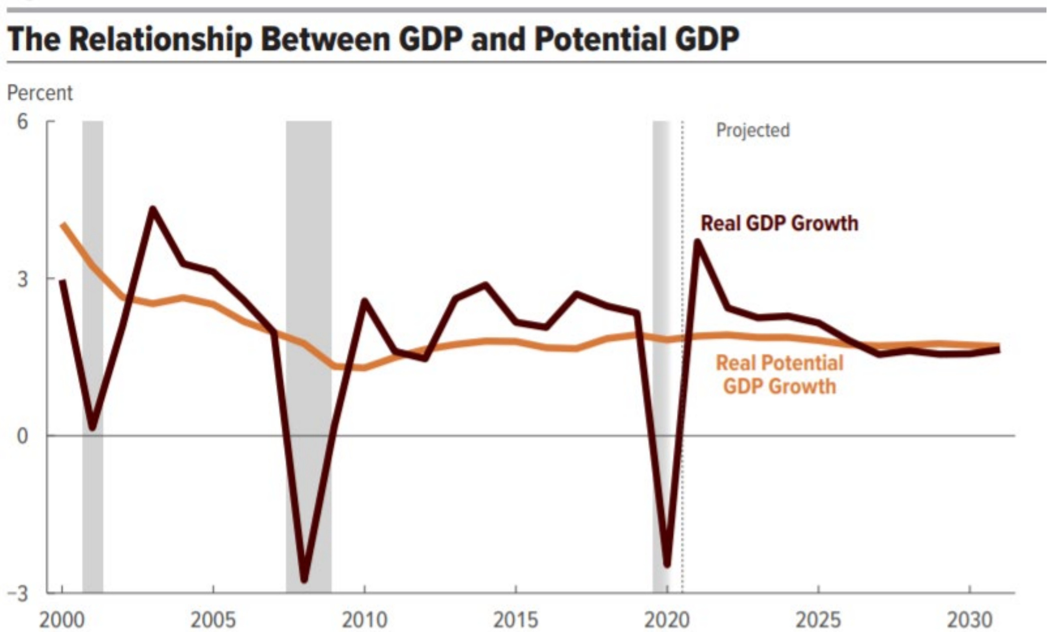
Section 232 Investigations

- This week the U.S. Court of International Trade (CIT) denied a broad challenge by Universal Steel Products and several other importers regarding former President Trumps Section 232 tariffs on steel imports. Universal Steel Products had challenged both the report by the U.S. Department of Commerce ("Commerce") supporting the Section 232 steel tariffs ("Steel Report") and President Trump's executive order, Proclamation 9705, and its subsequent modifications ("Proclamations"), claiming that they violated various Section 232 procedural requirements and the Administrative Procedure Act (APA). The CIT rejected each of the Universal Steel Products' four claims that:
  - The Steel Report is a reviewable, final agency action, is procedurally deficient, and invalidates subsequent presidential action;
  - Both the Secretary of Commerce and President Trump fundamentally misinterpreted the statute
  - President Trump violated Section 232 by failing to set the duration of the action he chose; and
  - Tariffs imposed on Canada, Mexico and EU member countries violated Section 232 timing provisions.
- As previously reported, Members of the Congressional Steel Caucus are urging the White House to leave in place the Section 232 tariffs on imports of steel imposed by the Trump Administration. In a letter signed by 51 lawmakers sent to President Biden, the group requested "that the existing tariffs and quotas remain in place to ensure that imports do not take a significant share of the US market as the nation begins its economic recovery." "As the Biden-Harris Administration review the existing tariffs and quotas in place on certain steel products, we strongly encourage the continuation of a comprehensive program," the letter stated. "Steel is a critical components of the Build Back Better recovery plan and through continuation of the tariffs and quotas we can ensure that these companies and their workers can contribute to a robust economic recovery in our nation."
- In 2018, President Trump imposed 25 percent tariffs and 10 percent tariffs on steel and aluminum imports, 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.

COVID-19 Developments

- The Congressional Budget Office (CB0) expects a strong economic rebound in 2021 as the U.S. makes progress on overcoming the COVID-19 pandemic. CBO projects U.S. real GDP to expand rapidly over the coming year, reaching its previous peak in mid-2021 and surpassing its potential level in early 2025. The annual growth of real GDP averages 2.6 percent during the five-year period, exceeding the 1.9 percent growth rate of real potential GDP.



- The international trade deficit in goods and services decreased to $66.6 billion in December from $69.0 billion in November (revised), as exports increased more than imports. December imports of goods ($217.7 billion) were the highest since October 2018 ($218.9 billion). December exports of foods, feeds, and beverages ($14.5 billion) were the highest on record, driven in part by China's accelerating grains and other agriculture purchases.
- A global shortage of shipping containers resulted in a 165 percent increase in shipping costs over the past year. The U.K. is particularly impacted as the country deals with both the pandemic and adjusting to trade after Brexit. Freight prices for imports into the U.K. from France and Germany, Britain's largest trading partners in Europe, were up 50.5 percent and 31 percent respectively, in January 2021 compared to the January 2020. Christos Chamberlain, general manager at freight forwarding platform Flexport, said the decline in freight service reliability combined with price rises "has to be taken in a hit to margins, or it has to take a hit in consumer prices."

U.S. – EU Trade

- Madelaine Tuininga, the head of unit for sustainable development and the European Green Deal in the European Commission's Directorate-General for Trade, hopes that Europe and the U.S. could "very closely" pursue shared environmental goals through trade policy. Tuininga said the time was "ripe to retake our ambitions" and called for a push that extends "across the different functions of the WTO" and includes more countries than those originally pursuing the Environmental Goods Agreement. Tuininga said that she expects

Madelaine Tuininga, Head of Trade and Sustainable Development, DG TRADE a carbon border adjustment mechanism to be ready by June.

- As noted earlier, the EU is urging President Bident to swiftly eliminate steel and aluminum tariffs 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."

Digital Services Tax

- House Ways and Means Chair Richard Neal (D-Mass.) said that there are benefits to advancing OECD talks on a digital services tax. "I still think America needs to lead in that role," Neal said. He also called the actions by France and the U.K. to implement a digital tax on their won, "ill-considered and unwarranted."
- Earlier 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."
- 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 Robert Lighthizer said he did not impose the tariffs citing "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

- USTR decided not to alter the mix of products subject to retaliatory tariffs in the EU civil aircraft dispute. "The USTR agreed with the affected U.S. industry that it is unnecessary at this time to revise the action," USTR said in its notice this week and that it would "continue to consider the action taken in the investigation."
- On multiple occasions this year, the EU has urged the U.S. to open a dialogue on the long-running trans-Atlantic dispute over aircraft subsidies, aiming for a resolution in the first six months of the Biden Administration. European Director-General for Trade Sabine Weyand said, "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."
- 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 2020, 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.

Section 201 Investigations

Seasonal Produce

- The USITC rendered a unanimous vote finding no "serious injury" terminating the Section 201 global safeguard investigation of U.S. blueberry imports. In a statement, the USITC said it "determined that fresh, chilled, or frozen blueberries are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat of serious injury, to the domestic industry producing an article like or directly competitive with the imported article." The statement noted that all five Commissioners voted negative, and that, "As a result of today's vote, the investigation will end, and the Commission will not recommend a remedy to the President." The Commission will send a detailed report on its determination to the President by March 29, 2021.

- With termination of the blueberry global safeguard investigation, four other related seasonal produce "monitoring" investigations continue at the USITC. The investigations cover imports of strawberries, bell peppers, cucumbers and squash, respectively, and stem from requests from USTR as part of the Seasonal Produce Plan outlined by the prior Administration. The Plan noted that, "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."

Transition 2020

- As reported earlier, the Biden Administration announced filling several key USTR positions, including Greta Peisch, as USTR General Counsel. Peisch has served the past six years as international trade counsel with the Senate Finance Committee. Prior to joining Senate Finance staff, she served as chief counsel for negotiations, legislation and administrative law at USTR and as assistant general counsel and associate general counsel at USTR.
- Additional key USTR appointments were noted in a press release, and are summarized below. Notably many of the incoming team previously served in the Obama Administration or are closely tied to the voices in the Democratic party seeking a greater enforcement and a worker-focused trade policy.

WTO

- WTO Deputy Director General Alan Wolff outlined key priorities facing the WTO to make progress on reversing the global COVID-19 pandemic and its threat to both health and the global economy. Speaking at a WTIA conference, Wolff reiterated the refrain that the WTO needs to change, stating, "Now, the trading system needs an update. It needs to be more responsive, more supple, more fit for purpose, to meet current challenges." Mr. Wolff articulated 10 suggestions for the WTO's agenda:
    - addressing trade and health;
    - addressing trade and economic recovery from the pandemic;

Alan Wolff, WTO Deputy Director General

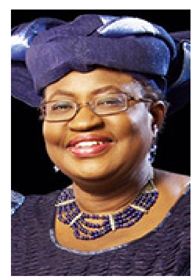
- addressing trade and the environment, including conclusion of the long-stalled Environmental Goods Agreement and starting negotiations on an Environmental Services Agreement;
- addressing trade in the global digital economy through successful outcomes in the Joint Statement Initiative on e-commerce;
- providing trade with a level playing field through additional disciplines on subsidies;
- addressing the central role of trade as a driver of economic development, including through implementation of the Trade Facilitation Agreement;
- making agricultural trade less distorted through better rules on domestic support,
- addressing trade and peace;
- restoring balance to the world trading system; and
- addressing the governance of the trading system by having a dispute settlement system with binding outcomes and a working appellate stage.

Wolff also called upon the U.S. to return to its leadership role.

- The WTO has delayed a decision on Trump's steel tariff case that was brought on by several countries including the EU and China. "The Panel now expects to issue its final report to the parties no earlier than the second half of 2021," the WTO judges said a notice. The judges blamed the delay on the pandemic.
- *POLITICO* reports that the EU passed a trade defence powers law that broadens the scope for the EU to retaliate when a dispute is appealed into the void at the WTO. These expanded powers include retaliation against services and intellectual property in addition to goods. Thus, the EU can now target U.S. or Chinese big tech companies when trade disputes arise. This wider scope for sanctions plays into the EU's bid for "open strategic autonomy" when it comes to trade.

WTO Leadership

- The WTO is set confirm a new leader next week when the General Council convenes on Feb 15th to take up the appointment of Nigeria's Ngozi Okonjo-Iweala as Director-General (DG). The General Council meeting will be held on Monday at 3 p.m., according to a WTO spokesman. Ngozi Okonjo-Iweala would be the first woman and first African to lead the global trade institution.
- The WTO announcement follows quickly on the heels of the Biden administration's announcing its "strong support" for Ngozi Okonjo-Iweala as the WTO's next DG, resolving the previous administration's block and paving the way for quick movement on the DG selection. The cascading events towards were triggered in the past two weeks when South Korean candidate Yoo Myung-hee, the Trump administration's preferred candidate, withdrew her bid for Director-General of the WTO, clearing the path for the Nigerian candidate Ngozi Okonjo-Iweala and allowing the U.S. to change its position.



Ngozi Okonjo-Iweala, WTO DG Candidate

- As the likely next WTO Director General Ngozi Okonjo-Iweala said she "congratulates Yoo Myung-hee on her long campaign and welcomes South Korea's commitment to rebuilding and enhancing multilateralism. There is vital work ahead to do together." A spokesperson for Okonjo-Iweala said, "The WTO must turn its focus to the Covid-19 pandemic and global economic recovery. Dr Okonjo-Iweala is eager to focus on the many needed reforms at the WTO. She is humbled by the support she has received from WTO members and of champions in Nigeria and other parts of the world."

WTO Reform

- As noted earlier, the U.S. expressed 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.
- 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 recent key WTO meeting, 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. The Trump Administration inventoried a litany of violations and major concerns regarding the WTO's dispute settlement system yet stopped short of provided specific reform recommendations.

Ag Economy Barometer

- The Ag Economy Barometer last month decreased 7 points to an index level of 167. January's decrease in sentiment was the third monthly decline since peaking last October at 183. Despite the decline, January's index level parallels strong pre-pandemic sentiments last February for the farm economy, recently buoyed by the ongoing rally in crop prices, expectations for higher farmland values, and farmland rental rates. The declining sentiment the past few months reflects, in part, uncertainty tied to longer-run concerns about policies that could impact U.S. agriculture in the future.