

TRADE UPDATE

Food & Agriculture



Provided by CRA

July 27, 2021

HIGHLIGHTS

- **U.S. – China:** Biden administration trade officials continue their top-to-bottom review of U.S.-China trade policy, including the phase-one deal and the Section 301 tariffs (Trade Act of 1974), according to officials.
- **U.S. – USMCA:** The Senate Finance Committee will hold a [hearing](#) to review the implementation of the USMCA on Tuesday, July 27. Witnesses in the hearing will include representatives from the dairy, steel, biotechnology, and oceanic conservation industries.
- **U.S. – Vietnam:** The U.S. and Vietnam struck an [agreement](#) on Vietnam’s currency manipulation averting possible U.S. tariffs under a section 301 investigation.
- **Seasonal Produce:** Reps. Raul Ruiz (D-CA) and Austin Scott (R-GA) introduced legislation ([HR 4580](#)) to provide financial support to some seasonal and perishable growers facing increasing competition and low lower prices from imports, particularly Mexico.
- **WTO:** The U.S. is attempting to [temper expectations](#) on the upcoming WTO ministerial, pushing for a more realistic scope of outcomes for the 12th WTO Ministerial, as other countries are pushing for a more ambitious agenda.

Quote: “Food security is national security, and we must ensure we continue to support our American farmers and create a level playing field.” (*Rep. Austin Scott (R-GA), statement on HR 4850 to provide price support for seasonal produce growers*)

China Trade

- Congress is looking deeper into the [foreign ownership](#) of U.S. agricultural land, specifically ownership from China. By the start of 2020, agricultural owners from China owned about 192,000 acres in the U.S., worth \$1.9 billion. While this is still a smaller number compared to acres owned by Canadian and European owners, the upward trend from China is worrying lawmakers. A recent amendment to the Agriculture-FDA spending bill would block new agricultural acre purchases from companies owned wholly or partially by the Chinese government and bar existing owners from China from receiving federal program support. Some states, such as Iowa and Minnesota, already have state laws restricting broader foreign ownership of agricultural land.

Phase One Agreement

- USTR Katherine Tai and other Biden administration trade officials continue their top-to-bottom review of U.S.-China trade policy, including the phase-one deal and the Section 301 tariffs (Trade Act of 1974), according to officials. However, the Biden administration has given no indication of potential action on the nearly \$370 billion of tariffs on Chinese imports. Ambassador Tai has declined as well to commit to reinstate a tariff-exclusion process, an issue she has said will be part of the top-to-bottom review. USTR officials have noted the complexity of policy issues with China touching trade, from forced labor to tariffs. Deputy USTR nominee Jayme White echoed this sentiment in his recent Senate confirmation process stating, “The U.S. policy toward China touches many facets of our engagement in international trade, including with respect to the regions -- Western Hemisphere, Europe, the Middle East - and topic areas -- labor and environment,” and that the Biden administration and USTR plan to pursue “a China policy that achieves the goals of the Build Back Better agenda and a worker-center trade policy, including with respect to tariff exclusions.”

USMCA

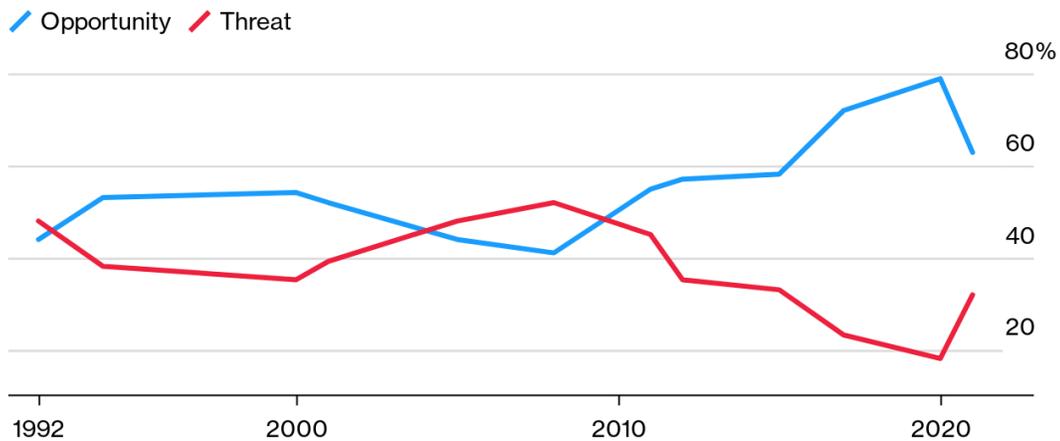
- The Senate Finance Committee will hold a [hearing](#) to review the implementation of the USMCA on Tuesday, July 27. The hearing, titled “Implementation and Enforcement of the United States – Mexico – Canada Agreement: One Year After Entry into Force,” will take place at 9:30 a.m. in Room 215 of the Dirksen Senate Office Building and livestreamed. Scheduled witnesses are:
 - Benjamin Davis, Director of International Affairs, United Steelworkers, Pittsburgh, Pa.
 - Allan Huttema, Chairman, Northwest Dairy Association/Darigold Board of Directors, Parma, Idaho
 - Michelle McMurry-Heath, president and CEO, Biotechnology Innovation Organization, Washington, D.C.
 - Beth Lowell, deputy vice president, U.S. Campaigns, Oceana, Washington, D.C.
- Senator Ken Salazar, President Biden’s nominee to be U.S. Ambassador to Mexico, is set to have a confirmation [hearing](#) with the Senate Foreign Relations Committee on Wednesday, July 28th at 10:00 am.
- As noted earlier, the U.S. filed its first submission within the USMCA against Canada in the dairy tariff rate quota dispute. The recent submission claims that there are five provisions of the tariff rate quota that Canada is in violation of. At the heart of the U.S. complaint is the allocation of 85% to 90% of the TRQ to “processors”, with the U.S. contending that the processor specific allocations violate specific USMCA articles. According to the U.S., reserving the TRQs for processors creates an adverse environment to fair competition amongst processors.

COVID-19 Developments

- Americans’ positive views of international trade declined in 2020 with the onset of the global pandemic and lock-down. Nearly 80% of those surveyed in 2019 viewed trade as an opportunity and 20% as a threat, the peak after rising from about 45% in 2010 in the latest survey in 2021.

Threatened by Trade

Nearly a third of Americans view trade as an economic threat, Gallup says



Source: Gallup

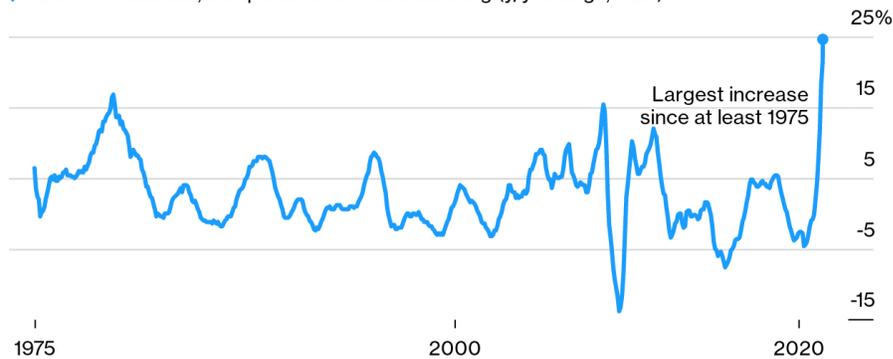
Bloomberg

- Inflationary pressures are emerging within the manufacturing sectors as prices for processed material and components have increased 25% over the past year. The price surge is the largest since 1975.

Material Inflation

Prices of processed materials and components in U.S. manufacturing soar

U.S. PPI materials, components for manufacturing (y/y change, NSA)



Source: Bureau of Labor Statistics

Bloomberg

Section 232 Investigations

- Representative Jimmy Gomez (D-CA) said that Section 232 tariffs on aluminum and steel imports imposed by the Trump administration have had negative consequences for American companies. Speaking at a Washington International Trade Association (WITA) event, Gomez confirmed that the Ways & Means Committee holds weekly discussions with Biden administration officials about tariff policies and is “eager to find solutions.” The administration, he said, still needs time “to conduct a thorough review” and a wholesale approach to China trade policy is necessary.
- As reported earlier, the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) issued a majority 2-1 opinion reversing the ruling of the U.S. Court of International Trade (CIT) that former President Donald J. Trump violated the provisions of Section 232 of the Trade Expansion Act of 1962 (Section 232) by increasing tariffs on steel imports from Turkey beyond those previously implemented under an earlier Presidential proclamation. The Federal Circuit ruling remands the case to the CIT for an entry of judgment against the plaintiff group led by Transpacific Steel LLC.

Section 301

- As noted earlier, Treasury Secretary Janet Yellen criticized the Trump Administration’s ineffective use of section 301 tariffs on China and that the phase one deal did not address critical market-distorting behaviors by China. “Tariffs are taxes on consumers. In some cases it seems to me what we did hurt American consumers, and the type of deal that the prior administration negotiated really didn’t address in many ways the fundamental problems we have with China,” she said in an interview with the [New York Times](#) published last Friday. “My own personal view is that tariffs were not put in place on China in a way that was very thoughtful with respect to where there are problems and what is the U.S. interest,” she said. Thus far, the Biden administration has not signaled it would remove the roughly \$370 billion worth of tariffs on China but continues to review the China trade issues.
- As reported earlier, the U.S. Court of International Trade (CIT) granted a preliminary injunction against finalizing some of the Section 301 tariffs on products from China imposed by the Trump Administration. In a two to one [ruling](#), the CIT concluded that U.S. importers of Chinese products covered in List 3 or List 4A of the Section 301 tariffs would be harmed if the duties are liquidated. specialty crop producers “are seeing more and more foreign-subsidized produce dumped into U.S. markets below the cost of production.”

Seasonal Produce

- Reps. Raul Ruiz (D-CA) and Austin Scott (R-GA) introduced legislation ([HR 4580](#)) to provide financial support to seasonal and perishable growers facing increasing import competition and low prices, attempting to address a longstanding complaint by domestic growers who claim unfair trade practices by Mexico in particular. “Our local agriculture industry and domestic food supply chain continue to be threatened by subsidized imports that make it difficult for American farmers to compete,” Rep. Ruiz said in the [statement](#). He said the new program, “will help level the playing field for our local growers and empower them to fight back against unfair foreign competition.” Rep. Scott in a [statement](#) noted that seasonal produce growers “are seeing more and more foreign-subsidized produce dumped into U.S. markets below the cost of production.” He continued, “The impact of these unfair trade practices has only been compounded by labor shortages and supply chain issues due to the COVID-19 pandemic. Food security is national security, and we must ensure we continue to support our American farmers and create a level playing field.”
- The “American Seasonal and Perishable Crop Support Act” would amend the Specialty Crops Competitiveness Act of 2004 by creating an Agriculture Department-run program that would “help producers make up the difference between their production costs and the market costs that have been driven down by unfairly subsidized foreign products,” according to a [statement](#) from Ruiz’ office. The bill calls for payments to seasonal and perishable growers earning “less than \$900,000 for the 3 tax years preceding the most recent tax year, and derives at least 75% of their adjusted gross income from “farming, ranching, or forestry.””



Congressman Raul Ruiz

U.S. – Taiwan Trade

- No significant developments since the [U.S. and Taiwan](#) recently resumed “high-level trade engagements, and expressed a desire to work closely together.” The two sides recently discussed areas of trade where progress has been made, including Taiwan’s enforcement of trade secret protections, and upcoming changes to Taiwan’s medical device approval process. Some outstanding trade concerns that the U.S. and Taiwan seek to engage on include addressing market access barriers to Taiwanese markets faced by U.S. beef and pork producers, as well as Taiwanese copyright legislation, digital privacy, financial services, and regulatory transparency.
- The virtual TIFA meetings was the first between the two countries since 2016 and held under the auspices of the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States. Assistant U.S. Trade Representative for China affairs Terry McCartin and Taiwan’s Office of Trade Negotiations Deputy Trade Representative Jen-ni Yang co-led the discussions.

U.S. – EU Trade

- Discussions continue between the U.S. and EU on an [EU proposal](#) to tax international imports from countries that lack aggressive carbon-reduction policies. The recently unveiled proposal could derail multi-lateral discussions on how to tackle climate change according to some observers. If the tariffs targeted the U.S., the Biden administration would be left with the two options of challenging the tax within the WTO or imposing retaliatory tariffs. The Office of USTR has touted carbon border tariffs in its annual strategic plan but has not ruled out utilizing retaliatory tariffs on the EU. Climate envoy John Kerry said in March that he was concerned about a potential carbon border tax that could inflame tensions heading into the UN climate talks in November.
- Earlier this year, the EU and U.S. issued a [joint announcement](#) aiming to work together on finding collaborative solutions to global excess capacity in steel and aluminum and engage in effective discussions regarding the section 232 tariffs. The two trade partners stated that, “European Commission

Executive Vice President Valdis Dombrovskis, United States Trade Representative Katherine Tai and U.S. Secretary of Commerce Gina M. Raimondo today announced the start of discussions to address global steel and aluminum excess capacity.

U.S. - U.K. Trade

- No significant updates since U.K. officials visited in Washing, DC with USTR Katherine Tai, discussing topics related to China's trade practices, including how to ensure fair competition and taking on forced labor, according to a [readout](#) from USTR. Both leaders stressed the importance of fair competition in the global economy and agreed to work together both bilaterally and through multilateral fora to promote fair competition, enhance the international trade system, and address forced labor issues. Ambassador Tai and Secretary Truss committed to continue strengthening the trade and economic partnership between the United States and United Kingdom," USTR reported.
- USTR did not indicate whether Tai and Truss spoke about re-starting discussion on a potential U.S.-U.K. trade deal. Several observers had originally hoped the meeting would spur movement on talks, but Truss suppressed such expectations after the meeting stating, "I have never set a deadline for any trade negotiation because the important thing is to get the right deal that works for both countries." She added that the goal is a "high-quality agreement." However, she did acknowledge that reaching an agreement this year is likely off the table. "That would be a very rapid timeline," Truss told [Bloomberg Television](#). "We just concluded an agreement in principle with Australia and that took a year from start to finish and that was a very rapid timeline. So, I'd agree that the kind of timeline that you're talking about would be extremely fast."

U.S. – Kenya Trade

- According to a recent Congressional Research [report](#) regarding trade with Kenya, many leading U.S. exports, such as machinery, face "low or zero tariffs," U.S. agriculture presently faces some of the "highest barriers to U.S. exports, with average tariff of 20.3%, and relatively high tariffs on dairy (51.7%), animal products (23.1%), and cereals (22.2%)." The reports duly notes that U.S. – Kenya trade negotiations are on hold and that "A U.S.-Kenya FTA would represent a milestone in U.S.- Africa trade and economic relations, but its current prospects are unclear."
- The bilateral trade talks remain paused as the Biden administration reviews the progress on the two rounds of trade negotiations with Kenya under the prior administration. USTR Katherine Tai earlier indicated she is reviewing the negotiations to "ensure that any agreement aligns with the Biden-Harris Administration's Build Back Better agenda," according to a USTR [statement](#). Earlier USDA Secretary Vilsack expressed his optimism that the Biden Administration will move forward with the Kenya trade talks although he did not specify a time frame.

U.S. – Vietnam

- Last week Vietnam averted possible U.S. tariffs related to currency manipulation. The U.S. Department of the Treasury (Treasury) and the State Bank of Vietnam (SBV) reached an agreement to address concerns raised by the U.S. regarding Vietnam's currency practices that were found actionable in an investigation under Section 301 of the Trade Act of 1974 by the Office of the USTR. Under the agreement, the USTR stated that the SBV has agreed to allow Vietnam's currency "to move in line with the development of Vietnam's financial and foreign exchange market and with Vietnam's economic fundamentals." In [the joint statement](#) released by the Treasury and the SBV, the SBV underscored that "the focus of its monetary policy framework is to promote macroeconomic stability and to control inflation" and that the country is "bound under the Articles of Agreement of the IMF [International Monetary Fund] to avoid manipulating its exchange rate in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage and will refrain from any competitive devaluation of the Vietnamese dong."

- Ambassador Katherine Tai welcomed the development. “In light of Treasury and the SBV having reached agreement to address the concerns regarding Vietnam’s currency policies, USTR, in coordination with Treasury, will monitor Vietnam’s implementation of its commitments and work with Vietnam to ensure that it addresses the acts, policies and practices related to the valuation of its currency that were found actionable in the Section 301 investigation,” Tai said.

Trade Promotion Authority

- Nascent discussions on renewing Trade Promotion Authority (TPA) are occurring in the Congress, according to Rep. Jim Gomez. “There are ongoing discussions,” Gomez said of TPA, which expired on July 1st. “But it's slower than people would imagine just because we're coming out of the pandemic and we're trying to focus on rebuilding our own economy, making sure people are healthy and safe, getting people back to school. So the focus is on that, which is completely logical.” Gomez emphasized that talks were in the early stages and there is “no urgency” to renew TPA. He noted there is an “educational component” to ongoing conversations about TPA because some lawmakers are not as knowledgeable about the idea as trade subcommittee members, or were not in office when the last version of TPA was passed. Gomez said Democrats want to put their mark on a new TPA. Gomez said Congress should be consulted as free trade pacts are negotiated and not just after a deal is done. “We want to make sure we’re involved sooner,” he said. Passed in 2015, TPA was good for three years, through July 1, 2018, but then extended for three years keeping TPA active through July 1, 2021. However, the bill only provided for one three-year extension.
- In Congressional hearings earlier this year, Ambassador Tai has said TPA should be reformed with bipartisan support but has not suggested a timeline. Further, President Biden has signaled his intent to pause new trade agreements, though it remains unclear what the lapse in TPA means for the two negotiations underway with the U.K. and Kenya. TPA was critical to timely passage of the USMCA in 2019.

Biden Transition

- USDA Secretary Tom Vilsack announced the selection of Daniel Whitley to serve as the Administrator for the agency’s Foreign Agricultural Service (FAS). A USDA veteran, Daniel Whitley served as acting FAS administration and has held numerous roles in his 20-year career with USDA. Prior to serving as acting FAS administrator, he was an associate administrator charged with leading the agency’s trade policy and market analysis teams, USDA noted in a [press release](#). Whitley also worked at USDA’s Economic Research Service on market access issues as well as the World Trade Organization.
- Ambassador Katherine Tai announced additional staff selections at the Office of USTR in a tweet last week. More details available in a [USTR statement](#) issued on July 22nd.



Ambassador Katherine Tai ✓
@AmbassadorTai



Welcome all!



United States Trade Representative ✓ @USTRTradeRep · 4h

USTR welcomes new staff members: Allison Smith, DAUSTR for Congressional Affairs; Kamau Marshall, DAUSTR for Media and Public Affairs; Tommy Wolfe, Deputy Executive Secretary; and Sam Michel, Director of Speechwriting. Read more about them here ustr.gov/about-us/polic...

11:19 AM · Jul 22, 2021 · Twitter Web App

Other Ag Trade Developments

- Senator Booker has [introduced legislation](#) that would re-establish mandatory country-of-origin labeling requirements for beef and pork and expand it to dairy products. Co-sponsored by Senators Warren, Sanders, and Markey, the Farm Systems Reform Act would allow “Product of U.S.A.” labeling only when the meat product is from domestically born, raised, and slaughtered animals, and mandate retailers to list the sourcing of dairy product components. This effort is separate from Secretary Vilsack's changes to the “Made in USA” product labeling for agriculture products. Any successful U.S. country of origin labelling laws must abide by WTO rules, especially in respect to how Mexico and Canada successfully argued the previous country-of-origin labelling laws violated WTO rules, leading to the U.S. repealing the law.
- CF Industries has [recently applied](#) for potential duties on fertilizer imports from Russia and Trinidad and Tobago, two countries that together supply more than 80% of the important UAN fertilizer supply to the U.S. While CF Industries supports this move stating that Russian and Trinidad and Tobago have unfairly affected the fertilizer market through dumping and subsidized exports, the American Farm Bureau Federation says new potential duties would raise prices for all farmers. The Farm Bureau also points to USDA data showing fertilizer prices already rising over the last several years, with the duties causing an even greater rise in prices.



Senator Cory Booker

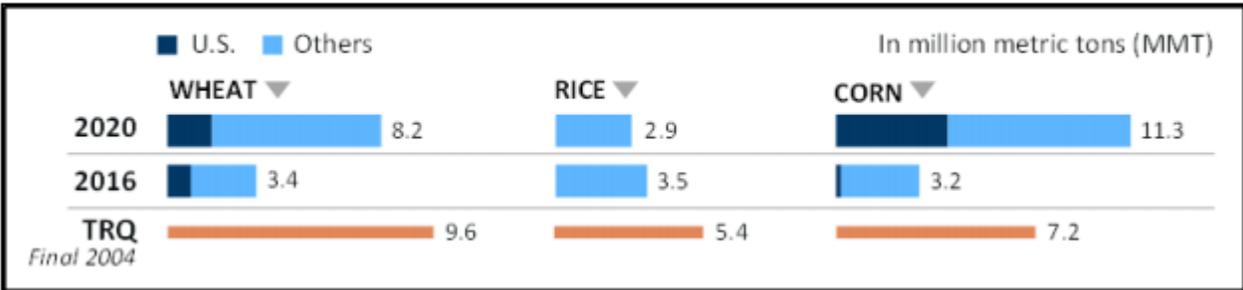
CPTPP

- The Biden Administration has moved into [discussions on a potential digital trade deal](#) with other nations in Asia-Pacific. These talks serve a dual purpose of shoring up digital trade rules with key U.S. trade partners and to reaffirm the Biden Administration's commitment to the Asia-Pacific in order to better counter China in the region. However, many issues remain, such as competing objectives between U.S. national security and trade interests, and the need to negotiate any new trade agreement without TPA. Many other nations in the region hope that a digital agreement with the U.S. can be used as a launching pad towards U.S. inclusion into the CPTPP. Australian Minister for Trade, Tourism and Investment Dan Tehan is optimistic, saying “If we can take that first step, then hopefully we could look at a second step which would be CPTPP membership by the United States,”.

WTO

- The U.S. is attempting to [temper expectations](#) on the upcoming WTO ministerial, even while other countries are pushing for a more ambitious WTO ministerial. The U.S. cites the pandemic that has complicated regular work, and to focus on what can feasibly be done within the WTO in the next few months. To the U.S., the WTO priorities seen as most feasible include negotiations to curb fisheries subsidies, a solution to the WTO's COVID-19 response, agreement on transparency in agricultural talks, and on the domestic regulations of services.
- As reported earlier, the U.S. requested the WTO authorize new tariffs on China for non-compliance in the dispute settlement body (DSB) ruling on China's tariff-rate quotas (TRQs) for certain agriculture products. The U.S. said that China has not implemented the DSB recommendations in the dispute, which involved Chinese TRQs on wheat, rice and corn. The Congressional Research recently published a summary of the dispute titled “[U.S. Challenges to China's Farm Policies](#),” noting the levels of TRQ volumes and U.S. wheat, corn, and rice exports to China 2016 year WTO case was filed).

Figure I. China's Tariff-Rate Quotas (TRQs) and Grain Imports
2016 versus 2020, in million metric tons (MMT)



Source: China Customs Data, via Trade Data Monitor, accessed April 2021. TRQ volumes have not changed since 2004.

- China challenged the U.S. action arguing that it has fully complied with the 2019 WTO ruling and requesting establishment of a compliance panel. China is contending that the U.S. proceeded directly to a request for authorization to take countermeasures (i.e., tariffs) without first initiating a dispute settlement process to challenge compliance. “China has engaged, and continues to engage, in good faith with the United States on its implementation of the DSB's recommendations and rulings,” according to China’s request. “Despite China's adoption and notification of measures taken to comply in full with the DSB's recommendations and rulings before the expiry of the agreed RPT, and despite China's good faith cooperation in relation to the evaluation of those measures by the United States, the United States has filed a request under Article 22.2 of the DSU for authorization from the DSB to suspend concessions or other obligations under the GATT 1994 or other agreements listed in Annex 1A to the WTO Agreement.”
- In 2019, A WTO panel report found that China’s administration of its TRQs for wheat, rice and corn was inconsistent with its obligations to administer TRQs on a transparent, predictable and fair basis. Following the favorable ruling on the complaint lodged by the U.S., both countries agreed that the reasonable period of time for China to implement the panel’s recommendations would expire on June 29, 2021. “In the view of the United States, China failed to bring its measures into compliance with its WTO obligations within that period,” the United States said, adding that there is no agreement on compensation.