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TRADE UPDATE
Food & Agriculture

August 3, 2021

HIGHLIGHTS

- **U.S. – China:** Secretary Vilsack lauded the boon in U.S. exports under the phase one agreement but expressed the need to diversify U.S. agriculture exports to avoid over reliance on China.
- **U.S. – USMCA:** Mexico's biotech approval process was center stage at the Senate Finance Committee hearing, as Mexico has not approved a biotech trait for imports since May 2018. Ms. McMurry-Heath, President and CEO of the Biotechnology Innovation Organization, called on the Biden administration to issue a USMCA dispute on the lack of approvals in Mexico.
- **Section 232:** The Commerce Department found that imports of vanadium do not threaten to impair U.S. national security and should not be subject to Section 232 tariffs.
- **WTO:** WTO Director-General Ngozi Okonjo-Iweala urged WTO members to focus on a select few issues to ensure meaningful outcomes at the 12th ministerial conference in late November.

Quote: "We cannot simply say we are going to get rid of the tariffs because we need to protect our steel industry and those workers." (*Commerce Secretary Gina Raimondo commenting on potential removal of section 232 steel and aluminum tariffs*)

China Trade

Tom Vilsack, USDA Secretary

- USDA Secretary Tom Vilsack lauded the beneficial impact of the China phase one agreement for U.S. agriculture, noting the increased level of China's purchases of U.S. agriculture goods. However, he expressed caution and concern with over reliance on the agriculture relationship with China. Speaking at the U.S. Grains Council's annual conference last week, Vilsack commented that the U.S. needs to examine opportunities for market diversity in Asia, Latin American and other regions for U.S. agriculture exporters. "We are in the process at USDA to build back better for trade," Vilsack said. "We've been working on removing barriers to trade and are ready to engage more frequently and closely with our counterparts in other countries. American agriculture is at the center of that work because if something happens internationally, U.S. ag will feel that change. We are prepared and ready to look for more opportunities and diversity in trade partners." Vilsack highlighted that in his first six months as USDA Secretary he has held over 30 meetings with his foreign counterparts to discuss trade barriers for U.S. exporters.
- As noted earlier, 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

- No significant updates as the 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.”

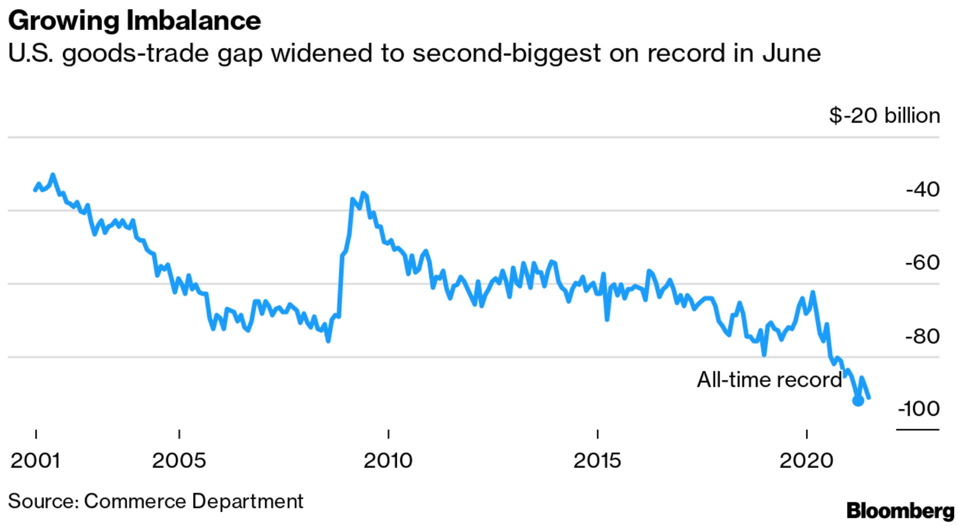
USMCA

- The Senate Finance Committee held a hearing last week to review the implementation of the USMCA. The hearing, titled “Implementation and Enforcement of the United States – Mexico — Canada Agreement: One Year After Entry into Force,” took place on Tuesday, July 27 in Room 215 of the Dirksen Senate Office Building and was livestreamed. The panel of witnesses was:
    - 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.
- Many of the senators and witnesses present expressed displeasure with different aspects of USMCA implementation. Chairman Wyden, alongside other senators, expressed concern on the barriers facing U.S. dairy farmers exporting into Canada, with Mr. Huttema praising the dispute settlement proceedings against these barriers but noting more needed to be done. Another concern brought up by senators include Mexico’s stance against agricultural biotech products. Dr. McMurry-Heath noted that Mexico’s food and drug regulatory authority has not pushed through many biotech products, and that Mexico’s Decree against the importation of biotech corn goes against the USMCA and will lead to a severe impact on U.S. agriculture. Dr. McMurry-Heath, joined by multiple senators, also called on the Biden Administration to appoint a chief agricultural trade negotiator to help the U.S. hold its trade partners accountable to important USMCA and other trade agreement provisions.

COVID-19 Developments

- The advance international trade deficit in goods increased by $3.0 billion to $91.2 billion in June from $88.2 billion in May as imports increased more than exports. Exports of goods for June were $145.5 billion, $0.5 billion more than May exports. Imports of goods for June were $236.7 billion, $3.5 billion more than May imports. The June U.S. merchandise-trade deficit is the second largest on record.

	ADVANCE INTERNATIONAL TRADE: GOODS DEFICIT	
JUNE 2021	**$91.2 Billion**	**+3.5%°**
MAY 2021	**$88.2 Billion**	



Section 301

- The General Accounting Office (GAO) reported inconsistencies in USTR's Section 301 tariff exclusion process. The GAO report cited a lack of documentation leading the Office of USTR to apply inconsistent processes for product exclusions from Section 301 tariffs on Chinese goods and extensions to those exclusions. The GAO said that USTR failed to "fully document its internal procedures," and even the documentation the agency undertook to explain its procedures to GAO "was incomplete and did not explain each step in the process, who was responsible for them, and when they should occur." "In addition, we found inconsistencies in the case files we reviewed, particularly in areas where USTR did not have written procedures to explain its process," the agency said. "Without appropriately documenting the roles and responsibilities of reviewers and each step in its decision processes, USTR lacks reasonable assurance that it consistently followed its processes." As a result, GAO recommended that USTR fully document its internal procedures used to make tariff exclusion and extension decisions. The Biden administration has yet to announce whether it will continue the exclusion process.
- The GAO report noted that from 2018 to 2020, U.S. stakeholders submitted about 53,000 exclusion requests to USTR for specific products covered by the tariffs. In July 2018 the Trump administration levied new tariffs on Chinese goods under Section 301 of the Trade Act of 1974, in multiple tranches, eventually covering roughly $370 billion worth of imports. Between July 2018 and December 2020, $463 billion worth of goods were subject to the tariffs, with USTR granting exclusions on $71 billion worth of those imports (not counting retroactive exemptions), the GAO report says.

Seasonal Produce

- In a recent House Agriculture hearing, some U.S. stakeholders in the fruit and produce sector said investment in controlled agriculture is key to reducing reliance on imports. Kevin Safrance, Executive Vice Chairman for Mastronardi Produce, said greater investment in controlled environment agriculture (CEA) — a form of high-tech, glass-enclosed hydroponic production will help the domestic industry grow production. Safrance, said that American farmers — especially high-efficient CEA farms — "have the ability and desire to increase America's food supply from farming done right here in (the U.S.)."
- As reprted earlier, 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."

Section 232 Investigations


Gina Raimondo, U.S. Commerce Secretary

- In an interview with Bloomberg, Commerce Secretary Gina Raimondo explained how the Biden Administration is not planning on fully removing the Section 232 tariffs, saying "We're seeing steel operations back up to capacity or producing more. So we cannot simply say we are going to get rid of the tariffs because we need to protect our steel industry and those workers." However, the U.S. and EU are working towards resolving Section 232 disputes by the end of the year. A major way that the U.S. has resolved Section 232 disputes while leaving the tariffs in place is through striking quota deals. "We're trying to find a solution," Raimondo said in an interview with Bloomberg. She continued, "The reality is that the Trump administration used national security-related tariffs against our allies in Europe, and so there's certainly challenges with that." Raimondo disagreed with Secretary Yellen's statement that the tariffs, specifically those on China, are hurting American consumers, instead claiming the tariffs help level the playing field for American businesses.
- The Commerce Department found that imports of vanadium do not threaten to impair U.S. national security and should not be subject to Section 232 tariffs, according to a report released last week. The section 232 investigation was launched under the Trump administration and the report was completed in February of 2022, but only made public last week. The report noted that "the Secretary has determined that the present quantities and circumstance of vanadium imports do not threaten to impair the national security, as defined in Section 232." The Commerce Department also released the remaining three section 232 reports on uranium, titanium sponge, and transformers and their components. Several lawmakers, Including Senators Pat Toomey (R-PA) along with Senator Mike Crapo (R-Idaho) wrote to Secretary Gina Raimondo asking her to release the four remaining Section 232 reports. In a statement last week, Sen. Toomey said, "Congress requires consultation and reporting for all trade powers delegated to the executive branch. I thank Secretary Raimondo and President Biden for making good on their commitment to publish these reports, something the previous administration repeatedly refused to do, and hope compliance with the law will become routine as opposed to something to celebrate."
- In the other reports Commerce issued several policy recommendations, including suggesting the administration impose tariffs on transformers and their components. Under Section 232, Commerce's Bureau of Industry and Security has 270 days to deliver its recommendations to the president, who then has 90 days to decide whether he agrees with the agency's findings and what action to take or decline any action. However, the deadline has pass for each of the four reports released last Thursday.

U.S. – EU Trade

- Another potential area of cooperation between the U.S. and EU comes from agreements on digital trade and technology. The first EU-U.S. ministerial meeting will be held from September 29-30, with the goal of having tangible results focusing on export controls and supply chains. The Trade and Technology Council is an effort by the EU to distance itself from China and move closer to the U.S. on technology policy.

- 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.

U.S. - U.K. Trade

- The Illinois Farm Bureau and other agriculture stakeholders are eager for more trade opportunities with the United Kingdom — a trade partner already "integral" to the state's food and agriculture sector. Illinois farm bureau President Richard Guebert Jr. said, "We see great opportunity and are motivated to help get these talks on the front burner." He continued, "Trade has always been important to farmers across not only Illinois, but across the Midwest." The comments were made at a virtual meeting, organized by Rep. Rodney Davis, (R-IL), which included state leaders from the farm bureau, the Illinois Department of Agriculture, agribusiness and county farm bureaus, as well as officials from the British Consulate and Embassy. Alan Gogbashian, consul general at the British Consulate in Chicago, said "And of course, agriculture is a huge, huge part of any" such trade. "And sitting here in the Midwest, where agriculture plays such a significant part of the economy, it's important for us that agricultural voices in the Midwest are heard, and your questions, your concerns or interests are fed in and they help shape the negotiation." Illinois Department of Agriculture Director Jerry Costello touted the state's trade in 2020, with about $73 million worth of food and agriculture exported to the U.K. And the U.K. is Illinois' 17th largest food and agriculture market. "There's unlimited potential as far as what we can all do working together," Costello said.
- Last month U.K. officials visited in Washington, 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

- During a Senate Committee on Foreign Relations hearing on U.S. Trade and Investment in Africa, former Assistant USTR Florizelle Liser supported continued U.S. trade ties with the African continent, emphasizing a potential U.S.-Kenya trade agreement and unilateral trade preferences with the other African countries. Liser, while praising AGOA, has stated that future trade relations must be attuned to individual countries and regions in Africa, saying "there is no one-size-fits-all approach to Africa." Liser emphasized how greater integration between the U.S. and individual African countries can help bring them into more global supply chains. Others on the panel stressed the importance of trade and investment into Africa from an economic as well as geopolitical perspective, specifically against China.

- Representative Tai has also recently supported further talks with Africa to expand economic ties, though stopped short of calling for renewed Kenya trade talks. Tai will be renewing the yearly ministerial level AGOA meetings with a virtual meeting this year, an event that was canceled last year due to Covid. Tai wants to emphasize that any new economic talks must align with the Biden Administration's worker-centric trade policy focus. In addition, Commerce Secretary Gina Raimondo said she is planning a trip to Africa "soon," and noted the administration needs to "step up our game" in Africa after the continent. Ms. Raimondo said she has discovered broad interest in doing business with Africa. Neither Tai nor Raimondo provided a timeline for the ministerial.
- 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

- The U.S. and Vietnam are working to implement monitoring procedures after reaching an agreement on 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."

Trade Promotion Authority

- As reported earlier, 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.

WTO

Dacio Castillo, WTO General Council Chair

- WTO General Council Chair Dacio Castillo and WTO Director-General Ngozi Okonjo-Iweala urged WTO members to focus on a select few issues to ensure meaningful outcomes at the 12th ministerial conference at the end of November. "If we are to achieve anything meaningful, we need to focus on a limited number of issues for delivery before or by MC12," Okonjo-Iweala said. Given where the WTO is "at today," members should prioritize two of the following issues: "Fisheries subsidies, agriculture, the WTO's response to the pandemic, WTO reform and dispute settlement," she said. "If we deliver successfully on even two of these, that would be a major outcome for the organization."
- Earlier the U.S. echoed similar sentiments trying to temper expectations on the upcoming WTO ministerial. The U.S. pointed to the pandemic that has complicated regular work, and urged 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.
- Global trade and output bounced back faster than expected since the height of the global pandemic in mid-2020, according to a WTO report. WTO Director-General Ngozi Okonjo-Iweala said the rebound in trade was a result of members exercising "trade policy restraint" and avoid new protectionist measures. "This report clearly suggests that trade policy restraint by WTO members has helped limit harm to the world economy. However, some pandemic-related trade restrictions do remain in place and the challenge is to ensure that they are indeed transparent and temporary," the WTO leader said. Okonjo-Iweala continued, "The multilateral trading system has shown resilience despite the severity of the global health and economic crisis caused by the COVID-19 pandemic." "The report provides ample evidence that members have, by and large, heeded the call to refrain from imposing trade restrictive measures on products and services necessary for combating COVID-19. WTO members deserve credit for this restraint."
- According to a report fact sheet, WTO members enacted 248 COVID-19 related measures that facilitated trade, such as the elimination of import tariffs and taxes. Members enacted 136 measures that were considered trade restrictive, including export restrictions. By mid-May, however, 57 percent of 114 export restrictions had been repealed, the report states.

Trade coverage of new import restrictive measures ($billions) in each reporting period (not cumulative)