TRADE UPDATE
Food & Agriculture

August 24, 2021

Provided by CRA

HIGHLIGHTS

- **U.S. – China:** The Office of the U.S. Trade Representative is inviting public comments on China's WTO compliance for its annual report to Congress. USTR is requesting public comments by September 15th according to a *Federal Register* notice. President Biden has announced his intent to nominate longtime State Department official Nicholas Burns as the U.S. ambassador to China.
- **U.S. – USMCA:** Mexico requested formal consultations on rules of origin for vehicles under USMCA. Mexico's economic minister, Tatiana Clouthier, has requested an official meeting with USTR Katherine Tai, escalating the issue. Separately, workers at a General Motors plant in Silao, Mexico voted again on whether to change unions, this time rejecting their longtime union in an early test of the USMCA's rapid-response mechanism for labor violations.
- **Section 301:** The U.S. Court of International Trade (CIT) issued an order once again extending the deadline for the Biden Administration to establish a repository to allow importers to request that their paid duties under Section 301 tariffs not be immediately liquidated.
- **WTO:** With the WTO's 12th Ministerial only 3 months away, WTO leaders and members are increasingly concerned about the effect the global pandemic and emerging COVID variants may have on a planned in-person Ministerial starting November 30th.

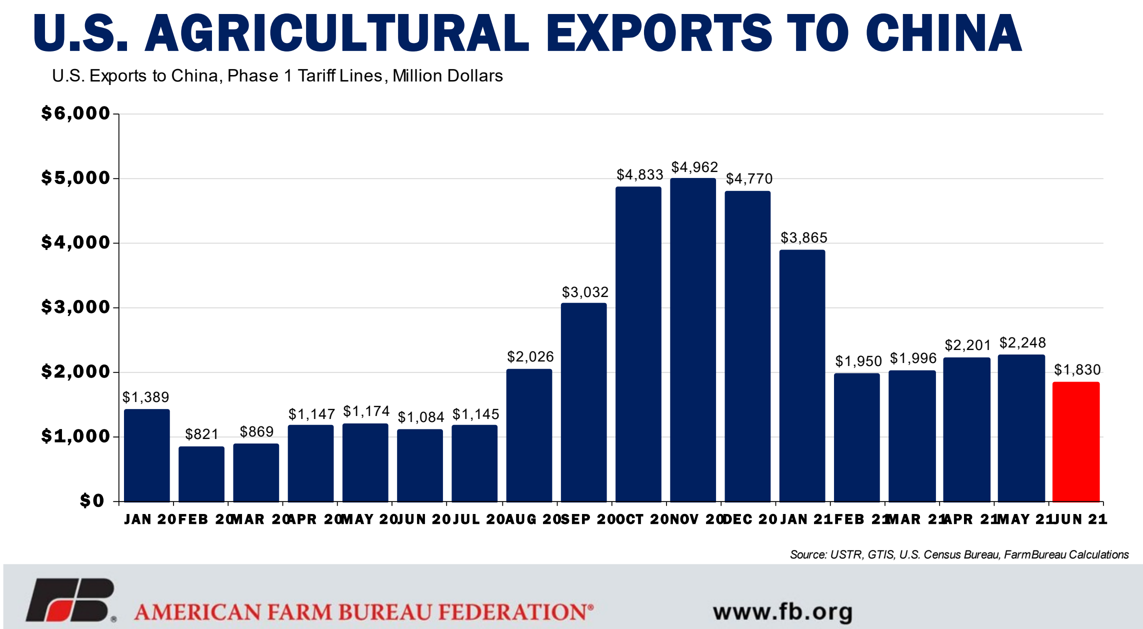
Quote: "The important message sent today is that the Biden Administration and USMCA will ensure that labor provisions in trade agreements can provide worker protections and are an important piece of a worker-centric trade policy." (*The United Auto Workers statement on the GM Silao plant vote to reject its current union*)

China Trade

- The Office of the U.S. Trade Representative is inviting public comments on China's WTO compliance. The public input is part of USTR's development of its annual reports to Congress on China's and Russia's compliance with their commitments to the WTO. According to a *Federal Register* notice, USTR is seeking written comments on China's compliance with the WTO by September 15th, and comments on Russia are due by September 22th, according to another notice. USTR seeks public comments in such areas as trading rights, import regulation, export regulation, internal policies affecting trade, intellectual property rights, services, rule-of-law issues and other WTO commitments, according to the notice.
- Comments are utilized by The Trade Policy Staff Committee (TPSC), an interagency group composed of senior civil service staff and chaired by USTR. The committee solicits public input to inform USTR, among other activities. The annual report to Congress on China's compliance with the WTO is required under section 421 of the U.S.-China Relations Act.
- The separate report on Russia's compliance with WTO is required under Section 201(a) of the Russia and Moldova Jackson-Vanik Repeal and Sergei Magnitsky Rule of Law Accountability Act of 2012. Under the statute, USTR is required to assess Russia's implementation of the WTO Agreement, including the Agreement on the Application of Sanitary and Phytosanitary Measures and the Agreement on Trade Related Aspects of Intellectual Property Rights.

Phase One Agreement

- China’s purchase of U.S. agriculture products in June 2021 were $1.8 billion and continue to outpace monthly purchases in 2020, according to analysis by the American Farm Bureau Federation. China’s monthly agriculture imports peaked in November 2020 at $4.9 billion, reflecting historical seasonal purchase patterns for U.S. products, particularly soybeans. In the first six months of 2021, the second year of the China Phase One agreement, China’s monthly purchases of U.S. agriculture products averaged $12,565 billion compared with $5,580 billion during January-June 2020.



USMCA

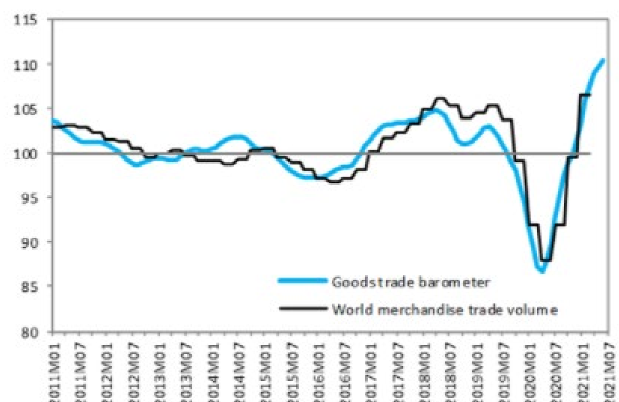
- Mexico began the process of formal consultation with the U.S. over the interpretation and application of USMCA auto rules of origin. USMCA requires 75% North American content within a vehicle for it to be considered as originating from North America. Both countries, however, have disagreed over interpretations of the new rule. They cite differing methodologies to measure the exact percentage of the regional value content of the vehicles, potentially leading to confusion between the countries and among auto companies. U.S. Trade Representative spokesman Adam Hodge said, "We are reviewing Mexico's request for consultations and remain committed to fully implementing the USMCA." Talks must be held within the next 30 days according to USMCA.
- Last week GM auto plant workers held a historic vote rejecting a long-time union. The original vote was the subject of a USMCA labor complaint by USTR. The vote occurred in a General Motors Plant in Silao, Mexico, where workers cast ballots for a second time on whether to keep their existing union. In a 3,214 to 2,623 result, the workers voted to reject their current union. The first vote was initially rejected due to claims of ballot destruction and intimidation. The incident was the basis for the U.S. filing a labor dispute with Mexico under the USMCA rapid response mechanism, which caused Mexico to schedule a new vote with outside organizations such as the International Labor Organization observing the proceeding. Multiple labor organizations hailed the vote, with the United Auto Workers saying that workers withstood “threats and intimidation to reject a pro-employer union contract” and praised the Biden Administration saying they helped “to give workers a free, fair voice in their contracts.”

- Mexican officials will reportedly travel DC to visit with Vice President Kamala Harris to discuss bilateral economic issues. Vice President Harris will meet with Mexican Economy Secretary Tatiana Clouthier and Foreign Affairs Secretary Marcelo Ebrard on September 9th in Washington, DC, and be accompanied by officials from USTR, State Department, and Commerce Department. The economic issues include supply chains and development, "coordination mechanisms in emergency situations," cooperation on development in Mexico and Central America, and "border infrastructure," according to an informal translation of a report from El Financiero.

Tatiana Clouthier, Economy Secretary of Mexico

COVID-19 Developments

- Global goods trade is rebounding strongly from the global pandemic according to the WTO. The latest WTO goods trade barometer reading of 110.4 is the "highest on record since the indicator was first released in July 2016, and up more than 20 points year-on-year," the WTO said. The barometer from May also featured an above average reading at 109.7, according to the WTO.
- The WTO noted that, the latest barometer reading mirrors the WTO's most recent trade forecast, which foresaw an 8% increase in the volume of world merchandise trade in 2021 following a 5.3% drop in 2020. Global goods trade has grown steadily since it registered a sharp decline in the second quarter of 2020 during the early days of the pandemic. The volume of merchandise trade was up 5.7% year-on-year in the first quarter of 2021, the largest jump since the 5.8% rise in third quarter of 2011. The latest barometer reading suggests that goods trade will see an even larger year-on-year increase in the second quarter once trade volume data for that period are available.



Section 301

- The U.S Court of International Trade (CIT) issued an order once again extending the deadline for the Biden Administration to establish a repository to allow importers to request that their paid duties under Section 301 tariffs not be immediately liquidated. Liquidation under U.S. Customs and Border Patrol (CBP) occurs when the agency holds a deposit from an importer while it determines the final value of the tariff, followed by CBP issuing a bill for the tariff value. This repository is to be established while the CIT considers whether Section 301 tariffs were legally implemented. CIT had initially extended the repository establishment deadline to August 20, but due to lingering disputes the deadline was extended once again to September 3. Alongside this action was the extension of the broader liquidation moratorium of any unliquidated cases involving Section 301 tariffs from September 2 to October 4.
- As reported earlier, the White House indicted there is no specific timeline to complete its months-long review of U.S. China policy. The Biden administration continues to face questions on the administration's view of the Trump-era section 301 tariffs on China. White House Press Secretary Jen Psaki said, "The president is always going to use every tool in his toolbox, including tariffs, to fight against unfair trade

practices that hurt American workers, businesses and farmers." She continued, "He's been very clear that he thinks the going-it-alone strategy is a losing one. We're stronger when we work with our allies and unite the world's GDP. I know we've talked about an ongoing review, including tariffs. I don't have any preview for you or timeline for that conclusion."

Section 232 Investigations

- As noted earlier, the Associated General Contractors of America detailed how prices for goods and services used in U.S. construction have continued to rise rapidly. Officials within the group have called on the Biden Administration to eliminate the Section 232 in order to ease the price increases on these goods and services. Ken Simonson, the association's chief economist, states "July was the sixth-straight month of double-digit price increases for construction inputs." Data shows the trend continuing unless the tariffs and quotas are removed. Transportation and fuel costs have also risen, highlighting concern that if these costs remain high, they could undermine some of the benefits of the new infrastructure deal.
- 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.

Biden Transition

Nicholas Burns, nominee, U.S. Ambassador to China

- President Biden has announced his intent to nominate longtime State Department official Nicholas Burns as the U.S. ambassador to China. Burns has served in numerous foreign policy positions throughout his career, such as working in the White House National Security Council under George H.W. Bush and Bill Clinton, undersecretary of state under George W. Bush, and advisor to then-Secretary of State John Kerry. He is currently the executive director of the Aspen Strategy Group and Aspen Security Forum, as well as professor at the Harvard Kennedy School. If confirmed, Burns would represent a shift from previous ambassadorships away from former politicians to seasoned diplomats. President Biden also announced his intent to nominate former Chicago mayor Rahm Emanuel as U.S. ambassador to Japan.
- USDA Secretary Tom Vilsack recently announced the selection of two trade policy officials. Brooke Jamison has been appointed Associate Administrator of the Foreign Agricultural Service (FAS) and Regina Black as the new Chief of Staff for Trade and Foreign Agricultural Affairs. Ms. Jamison spent the past twenty-three years working on agriculture and international development policy for government, non-profit and private entities. She previously handled agriculture and trade policy for Sen. Kirsten Gillibrand (D-NY). Ms. Black most recently was the Director of the Executive Office at the U.S. Dairy Export Council. She previously served at USDA in the Obama Administration in various roles, including Special Assistant to the Deputy Secretary and Acting Deputy Chief of Staff for the Foreign Agricultural Service.

Trade Promotion Authority

- No significant news since the National Association of Manufacturers added to the call by industry groups and lawmakers for TPA renewal. In a letter to President Biden, NAM President and CEO Jay Timmons called on the administration to work with Congress without delay to renew TPA. In the letter, Timmons noted that the U.S. "must prioritize new market-opening agreements." He continued, "Without new agreements, manufacturers in the United States risk being left behind our global competitors, many of whom are actively negotiating new trade agreements without us to secure better opportunities for their domestic manufacturers at our expense."

- Additionally, House Ways and Means Republicans recently called on the Biden administration to renew Trade Promotion Authority (TPA), which expired last month. In a letter to President Biden the lawmakers said, "TPA is the foremost tool at our disposal to ensure that the United States continues to have a leading role in writing the trading rules that regulate the global economy." The letter was led by Ways and Means ranking Republican Kevin Brady (Texas) and trade subcommittee ranking Republican Vern Buchanan (Fla). The letter called for discussion on renewed TPA "so that America can once again lead the world by negotiating strong trade agreements that create US jobs and open new markets for American goods and services while raising standards throughout the world." Without the authority to negotiate trade agreement, the United States will leave a void "that malign actors, like China, seek to exploit, and that our allies may fill with policies that reflect priorities other than our own," the letter stated. "The lawmakers contended that "There appears to be strong bipartisan, bicameral support for completing trade negotiations with the United Kingdom and Kenya that are currently under review by your Administration. We know there also is intense bipartisan interest in exploring other potential trade negotiations in the Asia Pacific region and around the world."

<u>U.S. - U.K. Trade</u>

- While Ambassador Katherine Tai discussed core aspects of trade for the Biden Administration during a recent event in Washington State, she did not address the trade negotiations with the U.K. and Kenya that had started under the Trump Administration. While both trade negotiations would likely result in greater market access for domestic agricultural producers, the discussion was focused on continued market access within existing trade agreements, such as the USMCA. The Biden Administration continues to review the rounds of trade negotiations for both the U.K. and Kenya.

<u>U.S. – EU Trade</u>

- The EU, after facing rising pressure from key U.S. dairy groups and lawmakers, has extended the implmentation date for its new dairy entry cetificate requirments from August 21, 2021 to January 15, 2022. This five month extension will provide U.S. producers more time to adjust to the new certificate requirments, as well as allow lawmakers from the U.S. and EU to discuss the requriments overall. Pressure from U.S. dairy groups and lawmakers and discussions between the U.S. and EU have caused the EU to rethink some aspects of the new regulation, with the U.S. fearful that implementation so soon would have caused supply chain disrputions for many goods in a critical industry. Becky Rasdall, the vice president of trade and international affairs at the International Dairy Foods Association, stated that extending the implmentation would prevent both sides from "rushing into a sort of Band-Aid approach."

<u>U.S. – Kenya Trade</u>

- Seven Republican senators, led by Senator Jim Inhofe, sent a letter to last week to Ambassador Tai to prioritize the resumption of negotiations towards a bilateral free trade agreement with Kenya. The August 20th letter cited many benefits for a potential U.S.-Kenya FTA. First, the senators cited how the agreement would further relationships in Africa, building upon relationships already developed through AGOA, as well as help serve as a model for FTAs with other African countries. Second, there are numerous economic opportunities that could come with opening trade with Kenya, a nation that has an average GDP growth of 5.8 percent. Finally, the senators discussed how closer African ties would strengthen U.S. security interests in the region. The senators' stated "A U.S.-Kenya FTA

Oklahoma Senator, Jim Inhofe

presents substantial long-term benefits for the United States, Kenya and the Horn of Africa."

- Started under the Trump administration, U.S.– Kenya talks are indefinitely paused as Biden administration reviews progress on the two rounds of trade negotiations with Kenya in 2020. 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.-Russia

- The U.S. ITC determined that exports of urea ammonium nitrate solutions, a common mixture used in fertilizer, from Russia and Trinidad and Tobago are likely materially harming U.S. industry through unfair subsidization practices. This announcement will allow the Department of Commerce to continue a countervailing duty determination that is due by September 23, and its antidumping duty determination that is due by December 7. The U.S. agricultural industry is concerned about potential duties on urea ammonium nitrate solution imports, as fertilizer already makes up a large portion of a farmer's operating expenses.

U.S.-India

- India has recently stated its intent to work with the U.S. on market access issues to promote bilateral trade with Washington. Indian Commerce and Industry minister Piyush Goyal stated that "The US, as of now has kind of indicated that they are not looking for new trade agreement but we look at working with them for more market access issues on both sides … which includes non-tariff barriers." This comes after negotiations towards a limited, market-access focused trade package with India failed during the Trump Administration. The new negotiations would take place under the U.S.-India Trade Policy Forum, which had been inactive since 2018.

Indian Commerce and Industry minister Piyush Goyal

WTO

- With three months until the WTO 12 Ministerial (MC12), WTO members and leadership are increasingly attempting to manage expectations for modest outcomes. The uncertainty of the global pandemic, which remains uncontained in many countries and new surges of COVID variants may complicate the planned in-person MC12 meetings in Geneva, Switzerland during Nov. 2nd thru December 3rd. Many members are eager for an in-person MC12, acknowledging that a virtual platform removes the behind-the-scenes discussions and deal making that often leads to resolving gaps and differences in WTO negotiations. The primary outcome WTO leaders are expecting will revolve and fishery subsidies, responding to pandemic and mitigating its impact on global trade, and agriculture subsidies and transparency according to reports.
- The Congressional Research Service published a summary of MC12 agriculture negotiations and issues last week. The "In Focus" document highlights the importance of U.S. agriculture trade, the status of agriculture talks related to MC12, and key issues identified by U.S. agriculture and farm groups.
- A noted earlier, the WTO draft text for agriculture negotiation ahead of MC12 calls for capping and reducing trade-distorting domestic subsidies (i.e., support) by up to 50 percent. The WTO agriculture negotiations chair, Costa Rican Ambassador Gloria Abraham Peralta, last week issued a draft negotiating text, hoping the document could serve as a "stepping stone" and help members identify possible compromises and trade-offs "within and across negotiating areas." The draft text suggests that members "commit to capping and reducing the sum of current global agricultural trade- and production-distorting domestic support by half by 2030" and to "reinvigorate" negotiations through incremental steps post MC12. It's unclear how USTR and USDA would respond to the proposed action.