



## Global Trade: 2018 In Review

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### KEY ISSUES IN 2018:

2018 was a tumultuous year for international trade and the multilateral trading system. The Trump Administration's imposition of several sets of tariffs and the subsequent retaliatory tariffs by some of the U.S. trading partners have left the global economy in a more fragile state than it was a year ago. The trade war between the U.S. and China and the yet-to-be-determined terms of Brexit have brought more uncertainty to global trade and make it more likely that new economic and trade patterns will rely less on the multilateral system. The WTO anticipates that growth in merchandise trade volume will end up being 3.9% in 2018, with trade expansion slowing further to 3.7% in 2019.

The following is a brief review provided by USC Gould's Center for Transnational Law and Business of key global trade developments in 2018 which CTLB believes were significant defining changes that created a new reality in the global trading system and relationships.

### TRUMP'S AMERICA FIRST TRADE POLICY:

The recently concluded WTO Trade Policy Review of the United States reported that the Trump Administration's trade agenda has "shifted to adopting policies that are intended to support its national security and strengthen its economy." In "The President's 2018 Trade Policy Agenda and Annual Report" issued last March, President Trump launched a new era in American trade policy. His administration's trade and economic policies are specifically designed to protect U.S. national security. This shift of the Administration's trade policy rests on the five major pillars: 1) Supporting national security; 2) Strengthening the U.S. economy; 3) Negotiating better trade deals for the U.S.; 4) Aggressively enforcing U.S. trade laws; and 5) Reforming the World Trade Organization.

In line with this overall "America First" trade policy, the Trump Administration in the past year has used trade remedies in the form of tariffs to protect American innovation, workers, and businesses including: 1) An investigation under Section 301 of the Trade Act of 1974 which determined that the acts, policies, and practices of the Government of China related to technology transfer, intellectual property theft, and innovation are an unreasonable and discriminatory burden and restrict U.S. commerce; 2) A Section 201 of

the Trade Act of 1974 investigation that led to a determination that imports of solar panels and washing machines from Korea and China were causing serious injury to U.S. domestic manufacturers of these products; and 3) A Section 232 of the Trade Act of 1962 investigation which determined that imports of steel and aluminum were a threat to U.S. national security. These three investigations led to higher tariffs being imposed by the U.S. government. By imposing these tariffs, the Trump Administration sought to achieve two important goals for the Administration: 1) Lower trade deficits with other countries; and 2) Create leverage to pressure foreign governments to make concessions on certain trade practices and measures which the U.S. believes hurt the U.S. trade balance and businesses. In response to these tariffs, several U.S. trading partners imposed retaliatory tariffs on U.S. exports, and nine WTO members – Canada, China, the EU, India, Mexico, Norway, Russia, Switzerland, and Turkey – have initiated cases against the U.S. at the WTO, alleging that these U.S. tariffs violate WTO rules, further straining the multilateral system.

### **U.S.-CHINA TRADE WAR:**

The U.S.-China trade war is a clear demonstration of Trump's "zero-sum" trade policy strategy when it comes to reducing trade deficits, and his "America First" policy aiming to protect U.S. manufacturing, innovation, and competitiveness. The first shot in the trade war between the U.S. and China started on February 7, 2018, when the U.S. implemented global safeguard tariffs — placing a 30 percent tariff on all solar panel imports and a 20 percent tariff on washing machine imports, which had an impact on Chinese manufacturers of these products. Subsequently, the U.S. imposed tariffs on steel and aluminum imports, including those from China. A full trade war was launched when the U.S. imposed tariffs applied exclusively to Chinese products under Section 301. By the end of 2018, the U.S. imposed tariffs on \$250 billion worth of Chinese exports. In retaliation, China imposed tariffs applied exclusively to \$110 billion worth of U.S. exports. These tariffs have started to have a negative impact on both economies as demonstrated by a drop in manufacturing activity in both China and the U.S. during the last quarter of 2018. In addition, as China is the final assembly point for several global supply chains which include inputs from the U.S., Japan, South Korea and Taiwan, the U.S. tariffs will have a negative impact on these other economies as well.

The Section 301 tariffs are designed to force China to address several key concerns identified by the U.S. which have increased the tension between the U.S. and China, including: China's discriminatory IP licensing practices; forced technology transfer, market distorting state-owned enterprises; market access in certain industries and the "Made in China 2025" industry plan. In particular, the Trump Administration believes that the "Made in China 2025" plan will be a potential challenge to U.S. competitiveness and superiority in high-tech sectors as well as the global economic order. President Trump and President Xi agreed to a 90-day truce on further tariff increases until March 1, to provide time for the two sides to reach an agreement to address U.S. concerns. China has already made some concessions and both sides publicly expressed at least some optimism in de-escalating the trade war following the bilateral talks ending on January 9, 2019.

## **WTO REFORM:**

The WTO's membership includes 164 nations and represents over 98 percent of international trade. However, its core agreements and dispute settlement system came into force 24 years ago. With the WTO now facing mounting challenges as the guardian to the multilateral trading system, 2018 brought a growing call among key members to reform or modernize the WTO, not only due to its need to address new trade issues, avoid nationalism, and protectionism, but also to address the urgent need to improve the effectiveness and efficiency of the WTO system itself, including its dispute resolution system. The growing trade tensions between the U.S. and China, together with increasing criticism of the multilateral trading system, further contribute to the increasing calls the WTO faces for reform. The EU and Canada have laid out their respective reform plans. Meanwhile, as a consequence to the growing sense of a multilateral crisis, many countries have turned to bilateral free trade agreements (including the U.S.) or larger regional ones, as a way to implement more modern and comprehensive trade agreements. In addition, within the WTO itself, talks continue on plurilateral negotiations for agreements among willing WTO members. It is expected that momentum for WTO reform and serious efforts to initiate reform measures will increase in 2019.

## **USMCA:**

The U.S., Canada, and Mexico signed a trade deal to replace NAFTA on November 11, 2019, at the G20 summit in Argentina. The new agreement is now formally known as the United States-Mexico-Canada Agreement, or USMCA. The USMCA is designed to modernize the over two decade-old NAFTA to address 21st century trade. While the USMCA will account for more than \$1.2 trillion in trade in one of the world's largest free trade zones, it's essentially NAFTA 2.0. USMCA's text preserves significant components of the existing NAFTA, and more than two-thirds of the chapters can be traced to the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP). The pact has been tweaked to include changes for automakers, labor and environmental standards, new and stronger intellectual property right protections, and some digital trade provisions. Other significant features of the USMCA include: a 16-year "sunset" clause allowing a country to terminate the USMCA; and an investor-state dispute settlement (ISDS) provision which no longer allows U.S. investors to be able to arbitrate disputes over Mexican infrastructure projects such as dams, seaports, and airports. Other changes include: a modernized, high-standard Intellectual Property (IP) chapter that provides strong and effective protection and enforcement of IP rights critical to driving innovation, creating economic growth, and supporting American jobs; a new Digital Trade chapter which contains the strongest disciplines on digital trade of any international agreement; and new labor and environment chapters which are now an integral part of the agreement itself, and which provide stronger protections for labor rights and the environment. The USMCA must still be approved by each of the three country's legislatures. With regard to the United States, President Trump has threatened to withdraw from the existing North American Free Trade Agreement (NAFTA) prior to congress approving the USMCA which could leave a gap in NAFTA's market access and tariff provisions.

## **CPTPP:**

The Comprehensive and Progressive Trans-Pacific Partnership (“CPTPP”) is the successor to the Trans-Pacific Partnership (TPP), which included the U.S. until Donald Trump withdrew from the TPP in 2017. After Australia became the sixth country to ratify this trade deal, the CPTPP took effect on December 30, 2018. The six countries include: Japan, Mexico, New Zealand, Canada, Australia, and Singapore. The other signatory countries include Brunei, Chile, Malaysia, Peru, and Vietnam. The CPTPP countries comprise 14 percent of the world’s GDP. Two-thirds of the provisions in the signed CPTPP are identical to the TPP draft finalized with the U.S. The CPTPP’s 30 chapters retain most of the TPP’s original text and extensive annexes. The most significant revisions were in the investment chapter which narrows the scope of the investor-state dispute settlement (ISDS) mechanism, and the intellectual property (IP) chapter which provides stronger protection for IP rights. The digital trade chapter in the CPTPP is the world’s first international trade agreement in effect to require the free flow of data across borders. Other sectors covered in the CPTPP include: the biotech annex; temporary entry; a dedicated chapter on small and medium-sized enterprises (SMEs); and environmental and labor chapters.

## **BREXIT:**

2018 ended with no Brexit deal with less than three months before the Brexit deadline on March 30, 2019. On November 25, the UK and EU agreed to a Brexit deal that is provided in two parts: 1) The Withdrawal Agreement; and 2) The Guide to the Declaration on Future Relations. The deal faced stiff opposition within the UK and Parliament. Although Britain’s prime minister Theresa May won a party confidence vote and averted a leadership battle that threatened to plunge the country into a prolonged crisis, PM May still lacked the votes in Parliament to pass her Brexit plan and thus had to postpone the Parliament’s meaningful vote to approve the Brexit deal scheduled for December 11 until mid-January at the earliest. In addition, before any Brexit deal can take effect, it must also be approved by the European Parliament in a plenary vote. If the deal is approved, there will be a transition period that will include individual bilateral trade talks with other countries after March 30, 2019. Amidst this turmoil the European Union has stepped up pressure on the UK to approve its Brexit deal by ruling out the prospect of piecemeal negotiations on the aspects of the divorce as an alternative to avoid the UK leaving the EU without any agreement. As a precaution, the EU is preparing no-deal measures in eight areas: aviation; financial services; customs; road transport; climate policy; rights of citizens; livestock and animal products; and personal data. The UK has also issued a wave of no-deal contingency plans in recent months. If the deal is approved, the transition end date is December 31, 2019 and Brexit will be completed in the mid-2020s.