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Trump Tariff Tirade Catches Industry Off Balance Along with Trading Partners

President Trump shocked industry, Congress and his own inner circle by dropping the bunker buster of trade bombs this week, announcing his intent beginning March 23, to impose 25% tariffs on steel imports to the U.S., along with a 10% tariff on aluminum imports, citing "national security" as the reason for the action.

He explained March 8 that under Sec. 232 of the Trade Expansion Act of 1962, he has authority to "investigate" U.S. imports to determine if a product or products affect national security. Trump said his steel/aluminum decision was predicated on the outcome of a nine-month Department of Commerce (DOC) investigation that found imports of steel to the U.S. were four times this country's exports, and aluminum imports made up 90% of total domestic demand for primary aluminum.

Production agriculture, processing and agribusiness see the move as the latest in a series of confusing trade policy decisions leaving ag facing the possibility of a series of retaliatory tariffs from U.S. trading partners. Nearly 110 House Republicans sent Trump a letter this week urging him to narrow as much as possible the list of nations against which tariffs will be levied. Sen. Jeff Flake (R, AZ) is expected to introduce legislation to block the tariff action altogether.

European Commission (EC) President Jean-Claude Juncker said, "We will put tariffs on Harley-Davidsons, on bourbon and on blue jeans – Levi's," products from politically sensitive Republican states. Other provisional targets favored by Europe include steel products, but also orange juice, tobacco, kidney beans, rice and rice products, cranberries, peanut butter, dairy and other agricultural products. Juncker added, "This is basically a stupid process, the fact that we have to do this. But we have to do it. We can also do stupid." Other trading partners, including Canada and Mexico, have said they'll respond if tariffs are imposed, but stopped short of a specific list.

The president brushed off warnings of a tariff trade war, including one from the World Trade Organization (WTO), which reports at least 18 nations have filed notices of concern over the U.S. action.

Most trade observers say it's clear the president's primary target is Chinese steel exports, which domestic industry says have flooded world markets and driven down prices. Chinese production alone surpasses that of the U.S., Russia, Japan and the European Union (EU) combined. Trump's hoped-for secondary "win" is leveraging NAFTA 2.0 negotiations to include more U.S. priorities by forcing Canada actively negotiate on several issues lest they get hit with tariffs as well.

"When a country (USA) is losing many billions of dollars on trade with virtually every country it does business with, trade wars are good, and easy to win. Example, when we are down $100 billion with a certain country and they get cute, don't trade anymore-we win big. It's easy!," Trump tweeted at 5:50 a.m. EST on March 2.

Within a week, however, Trump's intractable position on global steel/aluminum tariffs had morphed into what some analysts called a very elaborate and melodramatic "warning" to U.S. trade partners. Despite declarations of "I won't back off," "no exceptions," and "this will move forward," the president used a press event prior to his weekly cabinet meeting to say his tariff order would give him "a right to go up or down (with tariff rates) depending on the country, and I'll have the right to drop out countries or add countries – we just want fairness."

A large part of the Trump strategy is to keep trade partners guessing as to just how serious is this White House in punishing those nations it believes are taking unfair advantage of U.S. markets. Agriculture Secretary Sonny Perdue told the president, "He's got some countries just where he wants them," meaning major trading partners are "off-balance" as to what actions like the steel/aluminum tariffs really mean and exactly to what lengths Trump is willing to go to get what he wants, described as "fair and flexible" trade relationships. "Let's use this off-balance technique to decide what we'd like in exchange…whether it's with Mexico, Canada or EU partners," the ag secretary told a Washington, DC forum hosted by the *Wall Street Journal*.

Canada and Mexico received exceptions for at least 30 days because "if we reach a deal (on a new NAFTA treaty), we won't be charging those two countries the tariffs." U.S. Trade Representative Robert Lighthizer has complained of the slow pace of the NAFTA 2.0 talks, so the message translates to "our way or the highway," when it comes to a final NAFTA agreement on such thorny issues ag trade, i.e. Canadian dairy pricing and supply management, Mexican fruit/vegetable anti-dumping complaints, and Canadian wheat export subsidies; dispute resolution; a NAFTA "sunset provision, and labor/wage concessions demanded of Mexico. But even as Trump talked of exempting Canada and Mexico from the tariff regime, he reiterated threats to pull out of the 23-year-old treaty if a "fair deal" is not achieved. April 30 is the deadline to complete what is the eighth and it's hoped, the last round of formal NAFTA 2.0 negotiations.

Trump said because the U.S. has a trade surplus with Australia and an important military alliance, that nation will likely be exempted from the tariffs. The 28-nation EU will have to formally petition for an en bloc or country-by-country exemption – no U.S. decision has been made – from the tariff rules.

Perdue, a consistent voice of reason over time in White House trade tug-of-wars and a cabinet secretary not timid in reminding Trump for whom farmers and ranchers voted in 2016, said after the cabinet meeting this week that farmers and ranchers are "rightfully concerned" about trade partner retaliation against agriculture exports as the steel/aluminum tariffs were rolled out, but said "If this has an impact on us completing a beneficial NAFTA deal for U.S. producers, that's a great result."

"We've got a lot of flexibility built into the tariffs. We're going to use this to get NAFTA done," Perdue said.

The National Foreign Trade Council, whose membership has major ag exporters, including the American Soybean Assn. (ASA), the National Council of Farmer Cooperatives (NCFC), the National Pork Producers Council (NPPC) and U.S. Wheat Associates (USWA), formed the Alliance for Competitive Steel & Aluminum Trade, moving swiftly to lobby Congress and the administration this week to ensure the economic consequences of tariffs are well understood. The group's message is that any tariffs are a regressive tax on food, beverages and consumer products, and will work to put the brakes on an accelerating U.S. economy. The group cited the "double whammy" of increased costs to domestic producers while economic pain to industries whose products are the target of retaliation.

Proposed Fix on Sec. 199A Circulating on Capitol Hill

The long-awaited "fix" to Sec. 199A of the new federal tax reform law which skewed grain sales to ag cooperatives and away from private companies and grain elevators is in hand and is now circulating among stakeholders on Capitol Hill and industry for their blessing, said Sen. John Thune (R, SD) this week.

"I think everybody is in pretty good shape," Thune said, adding the language will be made public once all key negotiators have signed off. "I'm sure there is not 100% unanimous consent, but the organizations we are working with, both on the private grain elevator side and the co-op side, have been involved in all of this, so I think we are about there." Thune told one ag news outlet that cooperatives were "not particularly incentivized to a make a deal here…I suspect most of them will be fine with the solution."

Thune and Sen. John Hoeven (R, ND), along with House Republican leaders, led the effort to fix Sec. 199A – they were the authors of the original tax reform redefinition of a "pass-through entity" that inadvertently created the problem – and they've met regularly with the National Council of Farmer Cooperatives (NCFC) and the National Grain & Feed Assn. (NGFA) to find the fix for the market upset. Reports indicate the new language may simply reinstate the old 9% Sec. 199 manufacturing deduction for cooperatives, most of which was returned to member owners.

It's hoped sign-off on the new language, which will be retroactive to December 31, 2017, will come as early as next week so the fix can be rolled into the FY2018 omnibus spending bill being finalized for floor action prior to March 23 when the current continuing resolution funding the government expires. "If this drags on any longer," Thune said, "it will create a lot of problems."

White House to Set Third Hill-Industry RFS/RIN Meeting; RIN Cap, Waiver Credit, E15 Sales Top Topics

Representatives of Senate offices, the biofuels industry and oil and gas interests will sit down as early as Monday next week for a third meeting on how to rework current law governing how the Renewable Fuel Standard (RFS), the Renewable Identification Number (RIN) program and E15 sales may work moving forward. Last week's White House meeting yielded no agreements.

At issue is the petroleum industry's contention the RIN program is too complicated, too expensive and the combination of those factors contributes to small and medium refiners going out of business. The biofuels industry says the RFS/RIN programs run just fine and do not need changes, and both sides have senior senators in their respective corners. Sen. Ted Cruz (R, TX) promotes the refiners position and Sen. Charles Grassley (R, IA) defends the ethanol and biodiesel interests.

The president's engagement is his way of trying to satisfy Rust Belt refinery union workers, while keeping Midwestern farmers and biofuels refiners happy. Both groups supported Trump in his run for the White House.

Last week, refinery employees from 11 states hit Capitol Hill to explain the cost of RINs is simply too high. This week, managers of 150 biofuels plants across the country wrote Trump asking him to protect the RFS while rejecting manipulation of the RIN market. "There is no way to cut, cap or eliminate RINs without cutting, capping or eliminating gallons of homegrown fuel," the biofuel letter said.

At last week's often contentious session, President Trump, who wants a "win-win" solution to the RFS/RIN fracas, asked if allowing E15 to be sold year-around would increase ethanol sales sufficiently to bring down RIN prices, and in exchange, a two-year cap on those prices might be a compromise. He said he wants to see data on the impact of 12-month E15 sales.

Refiners are pushing a cap on RIN prices – anywhere from 10 cents to 70 cents has been suggested – and Cruz broached the notion of a RIN waiver credit, allowing refiners to buy RINs from the federal government instead of the open market to satisfy their RFS blending obligations. Income from the sale of the waiver credits would be invested in biofuels infrastructure. The biofuels industry rejects the notion of a cap as undermining the RFS; however, they liked the fact Trump is engaged on increasing ethanol sales through a vapor pressure waiver on E15.

A study out of Iowa State University this week says a RIN cap of 10-20 cents in exchange for year-around E15 sales would mean generally lower ethanol consumption, and that without a commensurate increase in ethanol exports, lower corn prices at the farm gate.

Farm Bill Pace Accelerating, Roberts Sets Schedule, Proposals Pile Up

Confirming that “yes, indeed, we will have a Farm Bill,” Senate Agriculture Committee Chair Pat Roberts (R, KS) this week said he’s working toward releasing his committee’s version of omnibus farm program legislation in early April.

“I think April is a very good month to have something happen,” Roberts told an audience at the Global Child Nutrition Foundation meeting in Washington, DC, where he received a lifetime achievement award. While he would not comment on a schedule for the rest of the year citing “very little discussion” within the Senate GOP on agriculture given the press of other issues, he said his committee will make “every effort to provide” predictability to producers. He said his staff is talking to minority staff about Farm Bill provisions, and that he’s getting ready to sit down with committee ranking member Sen. Debbie Stabenow (D, MI) to talk language and timing.

House Agriculture Committee Chair Mike Conaway (R, TX) – who wants to release his draft bill this month – and his panel are in much the same situation, having received some 10-year cost estimates on their draft Farm Bill from the Congressional Budget Office (CBO). As to which committee will release a draft bill first, Roberts said, “I’m not racing with the House. I’m not racing with anybody. I just want to get it right and get it done.”

Meanwhile, Farm Bill stakeholders – or would-be stakeholders – are starting to publicly release their legislative wish lists.

Legislation by Rep. Tim Walz (D, MN) would hike Conservation Stewardship Program (CSP) payments and increase the federal share of the cost of the Environmental Quality Incentives Program (EQIP), while some reports indicate Conaway’s draft bill would merge the two programs to provide both up-front and ongoing conservation assistance to producers. Walz would raise the CSP payment to $23 per acre from about $18 per acre now, with supplemental payments available for certain conservation practices like rotational grazing and crop rotation. The CSP enrollment cap would stay at 10 million acres annually, with 72 million acres currently enrolled. EQIP funding would be held at $1.75 billion a year, with provisions to make it easier for producers to transition from EQIP to CSP. In a related development, wildlife groups are concerned that efforts to increase the Conservation Reserve Program (CRP) cap on acres to 30 million from the current 24 million may require cuts in incentive payments and cost-sharing, moves that would discourage producers from enrolling in the programs.

The Plant Based Foods Assn. (PBFA) is trying to head off the National Milk Producers Federation (NMPF) and the U.S. Cattlemen's Assn. (USCA) by calling on the ag committees to invest more in specialty crops by increasing research expenditures on plant protein and greater support for organic agriculture, but also to block any language, like Sen. Tammy Baldwin's (D, WI) DAIRY PRIDE Act, that might legally stop plant-based food companies from using terms like "milk," "cheese," "meat" and "beef" to describe their products. PBFA sent a letter to both House and Senate Agriculture Committees asking them to put restrictions on industry check-off programs that would allow its members to use the conventional food terms. The group also wants to see lower "subsidies" for crops other than fruits, vegetables and nuts, thereby "leveling the playing field and fostering an open marketplace for all."

A letter from more than 200 trade associations and companies was sent to the Hill this week urging the ag committees to ensure specific mandated funding is in the 2018 Farm Bill to foster energy programs. Currently, about $444 million is spent to support seven energy programs, but those programs expire in September, along with the 2014 Farm Bill unless Congress reauthorizes the energy efforts. The group also wants to see eligibility for various energy programs expanded.

Sen. Heidi Heitkamp (D, ND) introduced a bill this week to expand USDA's current programs on nutrition, housing and outreach to include more Native Americans, guaranteeing, she said, "Indian Country has a seat at the table" when it comes to technical assistance on infrastructure, health care and telecommunications projects, while shifting economic burdens on nutrition and food assistance programs.

Dodd-Frank Reform Bill Approved by Senate Committee

A bipartisan bill to reform Dodd-Frank Act regulation of smaller banks and other financial institutions was approved this week by the Senate Banking, Housing & Urban Affairs Committee, and a vote to move the bill to floor debate was also successful. The bill, described as a way to help community and rural banks compete with "Wall Street titans" would exempt several banks from Dodd-Frank.

The full Senate began debate on the measure this week and is expected to finish early next week, and given support by several Democrats up for reelection in the fall, the bill is expected to easily be approved. GOP Senators are shopping the measure to their House colleagues, and President Trump would welcome the bill with a pen poised for signing, said one banking insider.

Sen. Elizabeth Warren (D, MA) said without Democrat support the bill would never have come out of committee, warning, "If we lose the final vote next week, we'll be paving the way for the next big crash. It's time for the rest of us to fight back and demand that Washington work for us, not the big bank lobbyists."

Basically the bill shifts the requirements for which banks are regulated by Dodd-Frank, a higher level of oversight since the stock market crash in 2008. Dodd-Frank requires banks with at least $50 billion on deposit to be more rigorously inspected, provide more paperwork, etc. The new threshold for regulation would be $250 billion, lowering the number of banks under regulation to 12 from more than 40 under the old law.

WOTUS "Carve Out" Sought by Hill GOP

Language to exempt or "carve out" EPA efforts to repeal and replace the controversial "waters of the U.S. (WOTUS)" final rule is being pushed as a candidate to be included in the FY2018 omnibus spending bill that needs to be finalized by March 23 when the current continuing resolution funding government operations runs out.

The language would exempt EPA efforts on WOTUS from "any provisions of statute or regulation" that might impede agency efforts to get a new rule in place, one that's crafted with greater stakeholder input.

The carve out would get EPA and Administrator Scott Pruitt out from under federal court actions brought by environmental groups, as well as Administrative Procedures Act (APA) rules requiring agencies to solicit and consider public comment to avoid "arbitrary and capricious" agency action. The language was included in the committee-approved Interior-EPA spending bill approved last year.

Trade Notes

NAFTA Ag Section Close to "Closing"? – With the completion of the seventh round of NAFTA 2.0 negotiations all but lost in the steel/aluminum tariff commotion, Mexico described the status of the ag talks as moving "slowly but consistently" toward completion. While U.S. Special Trade Representative (USTR) Robert Lighthizer continually expresses his frustration over the snail's pace at which the overall talks are progressing, Mexico contends the ag section could be completed – "closed" is official NAFTA-speak – by the end of the eighth round of talks to be held in Washington, DC, in late April. However, issues like Canadian dairy pricing and import policy on dairy, wheat exports, and fresh produce anti-dumping positions by the U.S. have skeptics saying the ag chapter is a way away from completion, and could be held open to use ag issues as trades for other non-ag issues. Canada has dug in on U.S. dairy demands, and Mexico has made it clear it won't talk about making it easier for U.S. producers to file anti-dumping complaints on seasonal produce. Meanwhile, the high point of the latest NAFTA 2.0 round was the closing of the chapter on sanitary-phytosanitary standards, updating food safety and ag import standards.

Senate Finally Approves New Ag Negotiator, USTR Execs – Economist Gregg Doud, former CEO of the Commodity Markets Council, staff to the Senate Agriculture Committee, and chief economist at the National Cattlemen's Beef Assn. (NCBA), was finally approved this week by the Senate as chief agriculture negotiator in the Office of the U.S. Special Trade Representative (USTR). Also approved was Dennis Shea to be USTR's top representative to the World Trade Organization (WTO) in Geneva, and C.J. Mahoney to be the deputy USTR for trade in Africa, China and the Western Hemisphere. Doud's nomination was cleared on a strong bipartisan vote by the Senate Finance Committee last October, but Sen. Jeff Flake (R, AZ), upset with a U.S. position at NAFTA 2.0 negotiations to make it easier for produce producers to file anti-dumping complaints against Mexico, put a hold on Doud's Senate vote. Flake released his hold last month.

Time to Revisit TPP – President Trump is increasingly being pushed to make good on his word and revisit whether the U.S. should be part of the Trans-Pacific Partnership (TPP), with one House Democrat saying the White House should use NAFTA negotiations as the "launching pad" to re-enter the 11-nation Pacific Rim trade deal. Rep. Bill Pascrell (D, NJ), ranking member on the Ways & Means Committee, said if the U.S. gets a "fair agreement" on NAFTA, he wants to see the U.S. reopen TPP talks. Trump has said repeatedly if the U.S. could get a "better deal" than that approved during the Obama administration, he'd go for it. Pascrell emphasized a TPP reboot is "doable" with some renegotiation. Meanwhile, wheat growers and millers want the U.S. back in TPP in a big way, sending U.S. Special Trade Representative Robert Lighthizer a letter this week urging President Trump to rejoin TPP. The wheat interests say if the U.S. stays out of TPP and Japan is in the pact, then U.S. growers will lose market share in Japan, because wheat from Australia and Canada will be cheaper than wheat from the U.S.

Northey Sworn in as USDA Undersecretary

Agriculture Secretary Sonny Perdue this week traveled to Des Moines, Iowa, to swear in former Iowa Agriculture Secretary Bill Northey as USDA undersecretary for farm and foreign agricultural services. Perdue said, "I'm thrilled to finally have Bill on board at USDA…and eager to get him to work."

Northey's title will change to undersecretary for farm production and conservation once Congress enacts legislation recognizing Perdue's reorganization of program areas at USDA to reflect the new trade and foreign agricultural affairs undersecretary slot.

The 11-year veteran Iowa ag secretary's nomination was approved by the Senate Agriculture Committee last fall, but a full Senate vote on his nomination was blocked by Sen. Ted Cruz (R, TX) in the political tug of war over the future of the Renewable Fuel Standard (RFS) and the Renewable Identification Number (RIN) program.

A fourth-generation corn and soybean producer, Northey is a former president of the National Corn Growers Assn. (NCGA), and was active in his state Farm Bureau.

Michigan Ag Director Joins Perdue Team

Jamie Clover Adams, director of the Michigan Department of Agriculture & Rural Development, has left that post to become a senior advisor for Secretary of Agriculture Sonny Perdue.

Known for her expertise in international trade, food safety and water quality, Clover Adams was the first woman to head the Michigan agriculture department, which during her tenure saw state food and agriculture hit over $100 billion in economic impact.

She also served as Kansas secretary of agriculture, coming to that position from her role as lobbyist for the Kansas Grain & Feed Assn., and before that as director of labor and environmental government affairs at the American Feed Industry Assn. (AFIA).

Agriculture Champion, Statesman Sen. Thad Cochran to Retire April 1

Chair of the Senate Appropriations Committee and former chair of the Senate Agriculture Committee Sen. Thad Cochran (R, MS) announced this week he will retire from the Senate on April 1. The seven-term Senator and three-term House member said, "I regret my health has become an on-going challenge."

Cochran, who also served as ag committee ranking member, has increasingly missed work in the Senate due to his health, and has appeared frail recently.

Cochran's departure means Mississippi Gov. Phil Bryant will name an interim senator to serve until the November general election when a candidate will be elected to fulfill Cochran's full term expiring in 2020. Sen. Roger Wicker (R, MS) is also on the November ballot, running for his second full term.