

## INTERNATIONAL ECONOMIC LAW

*Trump Administration Continues Trade Negotiations with Major Trade Partners*

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In the fall of 2019, the Trump administration reached several trade arrangements, some of them tentative, with important U.S. trade partners. On October 11, 2019, China and the United States announced a preliminary trade deal subject to finalization—one that came after more than a year of escalating tariffs. Just a week earlier, the United States had signed two trade agreements with Japan, one regarding tariff reductions and the other regarding digital trade. None of these deals appear to require subsequent congressional approval in the eyes of the executive branch, unlike the earlier United States-Mexico-Canada-Agreement (USMCA), which was signed in November 2018 and whose fate in Congress appears promising as of mid-December of 2019. In addition to these trade arrangements, the fall of 2019 saw several developments in trade relations between the United States and the European Union tied to the long-running trade disputes.

In March of 2018, the U.S. Office of the Trade Representative (USTR) issued a report concluding that China was engaged in certain unfair trade practices.<sup>1</sup> Over the next year and a half, the two countries engaged in dizzying exchanges of tariffs and counter-tariffs. Continuing this trend in early August of 2019, the Trump administration announced that an additional 10 percent tariff on \$300 billion of goods would go into effect on September 1 and December 15, 2019.<sup>2</sup> In response, China announced it would raise tariffs on various products, including soybeans, pork, and corn.<sup>3</sup> Soon after, President Trump tweeted that American companies should “immediately start looking for an alternative to China, including bringing . . . [their] companies HOME and making [their] products in the USA.”<sup>4</sup> The same day, the Trump administration announced that it would increase the tariffs that were planned

<sup>1</sup> OFFICE OF THE U.S. TRADE REP., FINDINGS OF THE INVESTIGATION INTO CHINA’S ACTS, POLICIES, AND PRACTICES RELATED TO TECHNOLOGY TRANSFER, INTELLECTUAL PROPERTY, AND INNOVATION UNDER SECTION 301 OF THE TRADE ACT OF 1974 (2018). For discussion of this investigation, its aftermath, and the legal landscape underlying subsequent tariffs, see Jean Galbraith, *Contemporary Practice of the United States*, 112 AJIL 505 (2018); Jean Galbraith, *Contemporary Practice of the United States*, 112 AJIL 751 (2018).

<sup>2</sup> See Office of the U.S. Trade Rep. Press Release, USTR Announces Next Steps on Proposed 10 Percent Tariff on Imports from China (Aug. 13, 2019), at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2019/august/ustr-announces-next-steps-proposed> [<https://perma.cc/B99V-27EY>]; see also Jean Galbraith, *Contemporary Practice of the United States*, 113 AJIL 822, 830 (2019).

<sup>3</sup> See Alan Rappeport & Keith Bradsher, *Trump Says He Will Raise Existing Tariffs on Chinese Goods to 30%*, N.Y. TIMES (Aug. 23, 2019), at <https://www.nytimes.com/2019/08/23/business/china-tariffs-trump.html?module=inline>.

<sup>4</sup> Donald J. Trump (@realDonaldTrump), TWITTER (Aug. 23, 2019, 7:59 AM), at <https://twitter.com/realDonaldTrump/status/1164914960046133249> [<https://perma.cc/H643-NNVR>]. Trump declared that he would have the power to prohibit U.S. companies from continuing business in China pursuant to the International Emergency Economic Powers Act (IEEPA). Donald J. Trump (@realDonaldTrump), TWITTER (Aug. 23, 2019, 8:58 PM), at <https://twitter.com/realDonaldTrump/status/1165111122510237696> [<https://perma.cc/2L87-TCTQ>]; but see Joshua Geltzer, *Blame Trump, Not the U.S. Code, for His Abuse of Emergency Authority*, JUST SECURITY (Aug. 26, 2019), at <https://www.justsecurity.org/65978/blame-trump-not-the-u-s-code-for-his-abuse-of-emergency-authority> (arguing that if “Trump in fact invokes the IEEPA to restrict American commercial activity in China, he’ll be . . . violating federal law” and expressing the hope that courts would “reject Trump’s overreach”).

to take effect in September and December by 5 percent, as well as increasing another, preexisting set of tariffs by 5 percent on October 1.<sup>5</sup>

In September, however, signs of a thaw emerged. Pending high-level negotiations, China eliminated a small number of U.S. products from being subject to its tariffs, while Trump authorized a two-week delay of the 5 percent tariff increase that was supposed to go into effect on October 1 “as a gesture of good will.”<sup>6</sup>

On October 11, 2019, President Trump announced that a “phase one” deal had been reached with China, “subject to getting written” at a later date.<sup>7</sup> As announced at that time, the deal included commitments by China to purchase \$40 to \$50 billion of U.S. agricultural products annually, to make its markets more accessible to U.S. financial firms, and to have greater foreign exchange market transparency.<sup>8</sup> During the announcement, Trump and his advisors noted that the United States would further delay the implementation of the October tariff increases, although they were not clear about whether the tariffs planned for December would continue as scheduled.<sup>9</sup>

Further negotiations ensued and, on December 13, 2019, the United States and China stated that they had finalized their agreement.<sup>10</sup> According to news reports, China committed to a sizeable increase in its purchase of agricultural products.<sup>11</sup> The United States agreed to cut the tariffs imposed in September 2019 down to 7.5% and to cancel the December tariffs. As of mid-December of 2019, the text of the agreement has not been released and was reportedly awaiting final refinement.<sup>12</sup>

Trump has stated that this deal will be one which does not require the subsequent approval of Congress as a matter of U.S. domestic law,<sup>13</sup> perhaps because the main U.S. concession will

<sup>5</sup> Office of the U.S. Trade Rep. Press Release, USTR Statement on Section 301 Tariff Action Regarding China (Aug. 23, 2019), at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2019/august/ustr-statement-section-301-tariff> [<https://perma.cc/PSE2-7URS>].

<sup>6</sup> See Alexandra Stevenson, *China Lifts Tariffs on Some U.S. Goods in Modest Olive Branch to Trump*, N.Y. TIMES (Sept. 11, 2019), at <https://www.nytimes.com/2019/09/11/business/china-drops-tariffs.html?module=inline> (reporting that China “publish[ed] a short list of products to be spared from retaliatory tariffs on American-made goods”); Donald J. Trump (@realDonaldTrump), TWITTER (Sept. 11, 2019, 4:17 PM), at <https://twitter.com/realDonaldTrump/status/1171925717988388865> [<https://perma.cc/34KF-3CTP>].

<sup>7</sup> Donald J. Trump, Remarks in a Meeting with Vice Premier Liu He of China and an Exchange with Reporters, 2019 DAILY COMP. PRES. DOC. NO. 713, at 1 (Oct. 11) [hereinafter Trump and Liu Joint Statement]. With respect to enforcement, Trump stated that there would be an enforcement provision and U.S. Trade Representative Robert E. Lighthizer noted that there would be “a very elaborate consultation process.” *Id.* at 5.

<sup>8</sup> See *id.* at 2, 11 (also quoting Secretary of the Treasury Mnuchin as saying with respect to the U.S. agricultural exports that these would “scale up to an annual figure” of \$40 to \$50 billion within two years). This would be a large increase compared to current exports. See Office of the U.S. Trade Rep., *The People’s Republic of China*, at <https://ustr.gov/countries-regions/china-mongolia-taiwan/peoples-republic-china> [<https://perma.cc/T956-2TUZ>] (“U.S. total exports of agricultural products to China totaled \$9.3 billion in 2018.”).

<sup>9</sup> Trump and Liu Joint Statement, *supra* note 7, at 7. The September 1 tariffs had already gone into effect, and the Trump administration made no statement about withdrawing those tariffs. See *generally id.* (lacking any mention of the September 1 tariffs); 84 Fed. Reg. 57145 (Oct. 24, 2019) (noting the tariffs originally noticed on August 20, 2019 were “effective September 1, 2019”).

<sup>10</sup> Alan Rappeport, Ana Swanson, Keith Bradsher & Chris Buckley, *U.S. and China Reach Initial Trade Deal*, N.Y. TIMES (Dec. 13, 2019), at <https://www.nytimes.com/2019/12/13/business/economy/china-trade-deal.html>.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* (observing that the text “still needs to be translated, scrubbed and signed”).

<sup>13</sup> Donald J. Trump (@realDonaldTrump), TWITTER (Oct. 11, 2019, 7:15 AM), at <https://twitter.com/realDonaldTrump/status/1182661081849835520> [<https://perma.cc/6T4R-ZT55>] (“One of the great things

be the rollback of tariffs, which the executive branch has the authority to undertake under preexisting congressional law.<sup>14</sup> Trump has stated that after the completion of “phase one,” the United States and China will turn to “phase two” and negotiate further with respect to intellectual property, technology transfers, and possibly other issues.<sup>15</sup>

Shortly before the October announcement of the “phase one” deal with China, the United States signed two trade agreements with Japan. Early in the Trump administration, trade talks between the United States and Japan had been at a standstill following President Trump’s 2017 decision that the United States would not become a party to the Trans-Pacific Partnership (TPP).<sup>16</sup> In the fall of 2018, however, Japan agreed to begin negotiations on a new bilateral trade agreement, and the Trump administration notified Congress of the start of these negotiations.<sup>17</sup> During the G-7 summit in France in August of 2019, Trump declared that the two countries were “fairly close” to completing “a major deal.”<sup>18</sup> Several weeks later, on September 16, Trump relayed to Congress his intention to enter into two agreements with Japan: an “initial trade agreement” concerning tariffs and an “Executive Agreement” concerning digital trade.<sup>19</sup> These agreements were finalized on September 25 and signed on October 7.<sup>20</sup>

The agreement on tariffs provides that both parties will lower certain tariffs over time. A USTR press release states that “[o]nce this agreement is implemented, over 90 percent of U.S. food and agricultural products imported into Japan will either be duty free or receive preferential tariff access.”<sup>21</sup> In exchange, the United States has agreed to eliminate or reduce tariffs for agricultural products “such as certain perennial plants and cut flowers, persimmons, green tea, chewing gum, and soy sauce,” as well as a number of industrial goods including

about the China Deal is the fact that, for various reasons, we do not have to go through the very long and politically complex Congressional Approval Process”).

<sup>14</sup> See Kevin Breuninger, *Trump Says the US Has Come to a Substantial Phase One Deal with China*, CNBC (Oct. 11, 2019), at <https://www.cnbc.com/2019/10/11/trump-says-us-has-come-to-a-substantial-phase-one-deal-with-china.html> (quoting a commentator offering reasoning along these lines).

<sup>15</sup> Trump and Liu Joint Statement, *supra* note 7, at 2.

<sup>16</sup> See Motoko Rich, *Japan’s Embrace of Bilateral Trade Talks with U.S. Spares It from Tariffs*, N.Y. TIMES (Sept. 27, 2018), at <https://www.nytimes.com/2018/09/27/world/asia/japan-trump-trade-talks-auto-tariffs.html>.

<sup>17</sup> See White House Press Release, President Donald J. Trump Is Strengthening Ties, Improving Trade, and Deepening Our Global Partnership with Japan (Apr. 26, 2019), at <https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-strengthening-ties-improving-trade-deepening-global-partnership-japan> [<https://perma.cc/BH8Z-QZFH>]; Letters from Robert E. Lighthizer, U.S. Trade Representative, to Charles E. Schumer, U.S. Senate Minority Leader, et al. (Oct. 16, 2018), available at <https://ustr.gov/sites/default/files/20181017004828790-1.pdf> [<https://perma.cc/PZC3-8HV6>].

<sup>18</sup> Donald J. Trump, Remarks Prior to a Meeting with Prime Minister Shinzo Abe of Japan and an Exchange with Reporters in Biarritz, France, 2019 DAILY COMP. PRES. DOC. NO. 570, at 2 (Aug. 25).

<sup>19</sup> See Donald J. Trump, Message to the Congress on Notification of Initiation of the United States-Japan Trade Agreement, 2019 DAILY COMP. PRES. DOC. NO. 623, at 1 (Sept. 16) (noting the administration was “pursuing negotiations with Japan in stages” in order to “achieve a comprehensive trade agreement”).

<sup>20</sup> Donald J. Trump, Remarks Prior to a Meeting with Prime Minister Shinzo Abe of Japan in New York City, 2019 DAILY COMP. PRES. DOC. NO. 660, at 1 (Sept. 25) [hereinafter Trump and Abe Joint Statement]; Office of the U.S. Trade Rep., *U.S.-Japan Trade Agreement Text*, at <https://ustr.gov/countries-regions/japan-korea-apec/japan/us-japan-trade-agreement-negotiations/us-japan-trade-agreement-text> [<https://perma.cc/2QQH-DE9K>]; Office of the U.S. Trade Rep., *U.S.-Japan Trade Agreement Text*, at <https://ustr.gov/countries-regions/japan-korea-apec/japan/us-japan-trade-agreement-negotiations/us-japan-digital-trade-agreement-text> [<https://perma.cc/YVM6-LJHB>].

<sup>21</sup> Office of the U.S. Trade Rep. Press Release, Fact Sheet on U.S.-Japan Trade Agreement (Oct. 7, 2019), at <https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2019/september/fact-sheet-us-japan-trade-agreement> [<https://perma.cc/A79Q-2YUJ>].

“machine tools, fasteners, steam turbines, bicycles, bicycle parts, and musical instruments.”<sup>22</sup> The digital trade agreement, which the USTR described as “meet[ing] the gold standard on digital trade rules set by the USMCA,” includes a host of provisions, including “barrier-free cross-border data transfers,” and prohibitions “on imposing customs duties on digital products transmitted electronically such as videos, music, e-books, software, and games.”<sup>23</sup> The terms of both agreements have considerable but not complete similarity to a subset of provisions from the earlier TPP.<sup>24</sup>

By having two separate trade agreements, rather than a combined one, the Trump administration was able to invoke statutory authority for one of the agreements. Section 103(a) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 authorizes the president to “enter into trade agreements with foreign countries” where these agreements are limited to certain adjustments to tariffs.<sup>25</sup> Trump invoked this section by name in notifying Congress of his intent to enter into the agreement on tariffs with Japan.<sup>26</sup> With respect to the digital trade agreement, the Trump administration’s notification to Congress did not specify any statutory authority authorizing this agreement, instead simply describing it as an “Executive Agreement.”<sup>27</sup> In past administrations, the USTR and other executive branch actors have taken the position that certain internationally legally binding trade agreements do not require congressional approval.<sup>28</sup> The assumption as of fall 2019 is that both agreements with Japan will enter into force on January 1, 2020.<sup>29</sup>

Trump characterized the agreement on tariffs as “a tremendous trade deal” and remarked that negotiations for “phase two” are already underway.<sup>30</sup> The next phase will likely relate to U.S. imports of Japanese automobiles, the further entry of U.S. service providers into the Japanese markets, and the regulation of currency exchange rates.<sup>31</sup> At least pending the

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *See id.*; *U.S.-Japan Trade Agreement a “Cheap Imitation” of TPP: Sen. Carper*, BLOOMBERG (Sept. 26, 2019), at <https://www.bloomberg.com/news/videos/2019-09-26/u-s-japan-trade-agreement-a-cheap-imitation-of-tpp-sen-carper-video> (quoting a Democratic senator to the effect that the negotiations had resulted in a “cheap imitation” of the TPP); David Lawder, *U.S.-Japan Trade Deal Versus TPP: Where It Falls Short, Where It Exceeds*, REUTERS (Oct. 7, 2019), at <https://www.reuters.com/article/us-usa-trade-japan/u-s-japan-trade-deal-versus-tpp-where-it-falls-short-where-it-exceeds-idUSKBN1WM0A3> (noting various similarities while observing that the TPP provided for broader tariff reduction but less comprehensive commitments with respect to digital trade).

<sup>25</sup> Bipartisan Congressional Trade Priorities and Accountability Act of 2015, Pub. L. No. 114-26, § 103(a), 129 Stat. 320, 333 (setting forth an authorization that will sunset and thus not apply to agreements reached after July 1, 2021).

<sup>26</sup> Message to the Congress on Notification of Initiation of the United States-Japan Trade Agreement, *supra* note 19.

<sup>27</sup> *Id.*

<sup>28</sup> *See* Jean Galbraith, *International Law and the Domestic Separation of Powers*, 99 VA. L. REV. 987, 1037–42 (2013) (describing how, during the first term of the Obama administration, executive branch officials concluded that congressional approval was not needed for the United States to join the Anti-Counterfeiting Trade Agreement, although this position was disputed by some scholars and members of Congress).

<sup>29</sup> CONG. RESEARCH SERV., IF11120, U.S.-JAPAN TRADE AGREEMENT NEGOTIATIONS 1 (2019). Japan’s Diet approved both agreements towards the end of 2019. *See* Office of the U.S. Trade Rep. Press Release, Ambassador Lighthizer Lauds Japan’s Approval of the U.S.-Japan Digital Trade Agreement (Dec. 4, 2019), at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2019/december/ambassador-lighthizer-lauds-japan> [<https://perma.cc/8479-R8DY>].

<sup>30</sup> Trump and Abe Joint Statement, *supra* note 20, at 1.

<sup>31</sup> *See* Ana Swanson, *Trump Announces a Trade Pact with Japan*, N.Y. TIMES (Sept. 25, 2019), at <https://www.nytimes.com/2019/09/25/business/trump-announces-limited-trade-pact-with-japan.html> (“[A Japanese chief

completion of this second phase, some have “question[ed] the extent to which [the initial agreement on tariffs] adheres to Article XXIV of the General Agreement on Tariffs and Trade (GATT) under the [World Trade Organization (WTO)] that requires [Free Trade Agreements] cover ‘substantially all trade,’ in particular given the exclusion of auto trade.”<sup>32</sup>

In seeking to structure the trade deals with China and Japan so as to bypass the need for subsequent congressional approval, the Trump administration is likely conscious of its experience seeking congressional approval for the USMCA. This renegotiation of the North American Free Trade Agreement (NAFTA) was signed on November 30, 2018.<sup>33</sup> By the end of November of 2019, however, only Mexico had received the legislative approval necessary to effectuate it.<sup>34</sup> In the United States, the fate of the USMCA in Congress appeared uncertain throughout the fall of 2019. On May 30, 2019, the USTR submitted “a draft Statement of Administrative Action (SAA) to implement the [USMCA] and a copy of the final legal text as it now stands.”<sup>35</sup> On December 13, 2019, the implementing legislation itself was submitted for congressional consideration, triggering a fast-track process for an up-or-down vote.<sup>36</sup>

Before triggering this process, the Trump administration had undertaken negotiations with Congress—and particularly with the Democrat-controlled House of Representatives—in order to increase the likelihood that the USMCA will be approved. This also required re-opening certain issues with Canada and Mexico. In a major breakthrough in these negotiations in early December of 2019, the Speaker of the House Nancy Pelosi announced support for a modified version of the USMCA, one whose changes strengthened compliance mechanisms for the labor and environmental provisions, while reducing intellectual property protections for certain kinds of pharmaceuticals.<sup>37</sup> Immediately afterward, lead negotiators for Canada, Mexico, and the United States signed a revised version of the USMCA incorporating these changes.<sup>38</sup> On

negotiator, Atsuyuki] Oike added . . . that the two sides would discuss a reduction in the United States’ 2.5 percent tariff on imported passenger cars in their next round of talks.”); CONG. RESEARCH SERV., *supra* note 29, at 2 (listing “Motor Vehicles,” “Services,” and “Currency” as “Potential Provisions in Future Talks”).

<sup>32</sup> CONG. RESEARCH SERV., *supra* note 29, at 2 (noting that while “adherence to Article XXIV has rarely been challenged at the WTO, whether or not the U.S.-Japan deal violates the letter or spirit of this WTO requirement likely depends on the timeline and scope of the next stage talks”).

<sup>33</sup> See Protocol Replacing the North American Free Trade Agreement with the Agreement Between the United States of America, the United Mexican States, and Canada, available at [https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/USMCA\\_Protocol.pdf](https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/USMCA_Protocol.pdf). For a detailed discussion of the notable differences between NAFTA and USMCA, see Jean Galbraith, Contemporary Practice of the United States, 113 AJIL 150 (2019).

<sup>34</sup> On June 19, 2019, Mexico overwhelmingly approved the USMCA. See *LXIV Legislatura: Periodo Extraordinario Primer Año de Ejercicio*, SENADO DE LA REPÚBLICA, at <http://www.senado.gob.mx/64/votacion/3417> [<https://perma.cc/V8J9-K8PY>] (showing a Senate vote of 114 to 4 in favor of the trade agreement). Although the Canadian Parliament began its process in May, it was dissolved prior to completing this process and, as a result, its implementation act must be reintroduced in the next parliamentary session.

<sup>35</sup> Message from U.S. Trade Representative Robert E. Lighthizer to Speaker of the House Nancy Pelosi, at 1 (May 30, 2019). This submission must be made to Congress at least thirty days before submitting an implementing bill. 19 U.S.C. § 4205(a)(1)(D)–(E).

<sup>36</sup> *White House Sends USMCA Implementing Bill to Congress*, INSIDE U.S. TRADE (Dec. 13, 2019), at <https://inside-trade.com/daily-news/white-house-sends-usmca-implementing-bill-congress>.

<sup>37</sup> See Speaker of the House Press Release, Transcript of Speaker Pelosi Press Conference Announcing New USMCA Agreement (Dec. 10, 2019), at <https://www.speaker.gov/newsroom/121019-2>.

<sup>38</sup> Natalie Andrews & William Mauldin, *Revised Trade Pact Set for Likely Approval by Congress in 2020*, WALL ST. J. (Dec. 10, 2019), at <https://www.wsj.com/articles/house-democrats-reach-agreement-with-trump-administration-on-usmca-trade-deal-11575989670>.

December 19, 2019, this implementing legislation passed the House of Representatives by a vote of 385–41, and its prospects of passing the Senate in early 2020 are promising.<sup>39</sup>

In contrast to the indications of progress with respect to trade deals with China, Japan, Mexico, and Canada, trade relations between the United States and the European Union saw mixed developments during the fall of 2019. On August 2, 2019, the United States and the European Union did sign an agreement that increased the quantity of hormone-free U.S. beef that could be exported duty-free to the European Union.<sup>40</sup> In contrast, another ongoing dispute escalated—this one over countermeasures in response to unlawful subsidies to aircraft manufacturers. On October 18, 2019, after getting approval from the World Trade Organization, the United States imposed tariffs on \$7.5 billion worth of European goods as a countermeasure for EU subsidies to Airbus.<sup>41</sup> The United States undertook this step notwithstanding the fact that it has been found in violation of international trade law with respect to U.S. subsidies to Boeing and that, before too long, the WTO will presumably also authorize the EU to impose major tariffs as countermeasures.<sup>42</sup> In response, EU Commissioner for Trade Cecilia Malmström characterized the U.S. tariffs as “short-sighted and counterproductive” and declared that, upon WTO authorization, the European Union would “have no other option” in the absence of a settlement other than to respond with tariffs.<sup>43</sup>

<sup>39</sup> Emily Cochrane & Ana Swanson, *Revised North American Trade Pact Passes House*, N.Y. TIMES (Dec. 19, 2019), at <https://www.nytimes.com/2019/12/19/us/politics/usmca-deal.html>.

<sup>40</sup> Office of the U.S. Trade Rep. Press Release, United States and European Union Sign Breakthrough Agreement on U.S. Beef Access to EU (Aug. 28, 2019), at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2019/august/united-states-and-european-union> [<https://perma.cc/V4GA-QULB>]; *The European Union and the United States Sign an Agreement on Imports of Hormone-Free Beef*, EUROPEAN COMMISSION, at [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_19\\_5010](https://ec.europa.eu/commission/presscorner/detail/en/IP_19_5010) [<https://perma.cc/WTT4-E79Y>] (also noting the need for future approval from the European Parliament).

<sup>41</sup> European Commission Press Release, Statement by Commissioner for Trade Cecilia Malmström on U.S. Countermeasures in Airbus Dispute, at <https://trade.ec.europa.eu/doclib/press/index.cfm?id=2075> [<https://perma.cc/U7XN-HWVB>]; James McAuley, *Trump’s Proposed Cheese and Wine Tariffs Rile Europeans*, WASH. POST (Oct. 3, 2019), at [https://www.washingtonpost.com/world/europe-decries-proposed-us-tariffs-on-french-wine-italian-cheese-and-other-products/2019/10/03/2dab6dd9-89fb-403c-8f1d-77edd5cd29db\\_story.html](https://www.washingtonpost.com/world/europe-decries-proposed-us-tariffs-on-french-wine-italian-cheese-and-other-products/2019/10/03/2dab6dd9-89fb-403c-8f1d-77edd5cd29db_story.html); see also Recourse to Article 22.5 of the DSU by the European Union: Decision by the Arbitrator, European Communities and Certain Member States – Measures Affecting Trade in Large Civil Aircraft, WTO Doc. WT/DS316/ARB (finding the European Union had broken certain global trade rules by providing subsidies to Airbus, damaging the United States annually by approximately \$7.5 billion).

<sup>42</sup> See European Commission Press Release, Statement on the Publication of WTO’s Award in the Airbus Dispute, at <https://trade.ec.europa.eu/doclib/press/index.cfm?id=2068> [<https://perma.cc/RW7T-GUX5>]; European Commission Press Release, EU Scores Final Victory in the WTO Boeing Dispute, at <https://trade.ec.europa.eu/doclib/press/index.cfm?id=1999&title=EU-scores-final-victory-in-the-WTO-Boeing-dispute> [<https://perma.cc/4GP6-JBB7>].

<sup>43</sup> See Statement on the Publication of the WTO’s Award in the Airbus Dispute, *supra* note 42 (stating that “[o]ur readiness to find a fair settlement remains unchanged”); David J. Lynch, *U.S. Can Impose Tariffs on \$7.5 Billion in Goods Because E.U. Gave Illegal Subsidies to Airbus*, WTO Rules, WASH. POST (Oct. 2, 2019), at [https://www.washingtonpost.com/business/economy/the-united-states-can-impose-tariffs-on-75-billion-in-goods-because-european-union-gave-illegal-subsidies-to-airbus-wto-rules/2019/10/02/021edc06-e51d-11e9-b403-f738899982d2\\_story.html](https://www.washingtonpost.com/business/economy/the-united-states-can-impose-tariffs-on-75-billion-in-goods-because-european-union-gave-illegal-subsidies-to-airbus-wto-rules/2019/10/02/021edc06-e51d-11e9-b403-f738899982d2_story.html) (quoting a senior USTR official as saying the EU proposals were “not sufficient”).