

Transatlantic Trade | US and Europe – Week of January 11, 2021

Article By:

Stacy A. Swanson

Christina Economides

Carolina Gamba

The United States (US) continues to focus on the aftermath of the US Capitol Building attack on 6 January, as it looks to move forward with a peaceful transition of power this coming week. Meanwhile, the European Union (EU) process for approving the EU-United Kingdom (UK) trade deal took another step forward this week, as the European Parliament began its review.

Looking ahead, addressing concerns with the People’s Republic of China (“China”) remains an area of potential mutual cooperation among the transatlantic trading partners. Separately, the US shined a spotlight this week on collusion between al-Qaeda and Iran, which may further complicate efforts to address Iran’s increased uranium enrichment levels (as noted in our [11 January report](#)).

COVID-19 Updates | EU, UK, US

As anticipated, the European Medicines Agency (EMA) [received](#) on 12 January 2021, the application for a conditional marketing authorization of the COVID-19 vaccine by AstraZeneca and Oxford University. The EMA’s scientific committee for human medicines will review the data submitted and is likely to issue its approval on 29 January, followed by the European Commission through a fast-track approval process.

In the meantime, the EMA provided an [update](#) regarding a recent cyberattack that resulted to third-party access of COVID-19 vaccine data. It announced some of the data was leaked on the internet, which prompted action by the law enforcement authorities.

With many European countries extending national lockdowns, a [proposal](#) from Greece’s Prime Minister Kyriakos Mitsotakis to establish an EU-wide approach on a so-called “vaccine passports” or certificates to allow freedom of movement, is gaining ground among Member States. The issue is expected to be discussed at an informal video-conference of Heads of State and Governments on 21 January. While premature, the travel industry and EU privacy activists oppose the proposal, arguing it would be discriminatory for travelers or “pose[s] essential questions for the protection of data

privacy”.

Effective on 15 January, the UK implemented a ban on travellers to the UK from South America, Portugal and Cape Verde, citing concerns with the Brazilian COVID variant. British and Irish citizens, along with foreign nationals with residence rights, will still be able to travel but must isolate for 10 days.

On 12 January, the US Centers for Disease Control and Prevention (CDC) [issued an order](#) that requires all air passengers aged two and up (including US citizens) arriving in the United States from a foreign country to get tested no more than three days before their flight departs. These travellers must also provide proof of the negative result or documentation of having recovered from COVID-19 to the airline before boarding the flight. The order goes into effect on 26 January.

Amid COVID-19 and resulting changes to how businesses operate in America, please join our Labor & Employment lawyers for a series of informative webinars from 1-4 February, addressing business-focused labor, employment, business immigration, and employee benefits developments and trends, as well as strategies for success moving forward. For more details, visit our website [here](#).

UK-EU Trade Deal | Updates

The European Parliament started its review of the legal text of the EU-UK Trade Deal on 11 and 14 January. Members of the European Parliament (MEPs) broadly welcomed the deal, while expressing regret for not having had time to review the deal prior to its provisional application. Even though MEPs feel sidelined, it is most likely the deal will be ratified before the end of its provisional application, which is set for end of February. During the debate, it became apparent that the Deputy Director General of the European Commission’s Directorate General for Trade and Chief Enforcement Officer, Denis Redonnet, would have a central role in supervising the review of and eventual approval of the EU-UK Trade Deal.

As cross-border business resumes from the provisional application of the EU-UK Trade Deal, [shortages](#) of fresh food have been reported in major supermarkets in Northern Ireland, a situation that may worsen and create disruptions in the broader supply chains, according to heads of large retailers. Some retailers are also [concerned](#) that the new custom compliance procedure could bring further delays later in January. Most importantly, some retailers could [face](#) tariffs on EU-origin goods re-exported from the UK to the EU, because of the rule of origin principle stipulated in the trade deal.

While the trade deal covers a number of issues, many sectors are not covered and separate decisions would need to be implemented concurrently to ensure a continued cooperation. On data flows, the European Commission is preparing to initiate the decision-making process for a UK adequacy decision in the coming weeks, that would ensure safe and compliant data flows between the UK and the EU. The UK Treasury and the European Commission also aim to sign a cooperation agreement that would cover the financial services regulatory cooperation by March 2021.

Other Notable UK Trade Developments

On 12 January, British Foreign Secretary Dominic Raab [addressed](#) the House of Commons on the UK Government’s comments on human rights violations in Xinjiang, China. Citing a moral duty to respond, Secretary Raab said, ***“The UK has already played a leading role within the international community in the effort to shine a light on the appalling treatment of the***

Uyghurs, and to increase diplomatic pressure on China to stop and to remedy its actions.” While saying China has the right to rebut reports and claims, he noted the UK Government has “repeatedly called for China to allow independent experts and UN officials, including the UN High Commissioner on Human Rights, proper access to Xinjiang.” He added, **“China cannot simply refuse all access to those trusted third party bodies who could verify the facts, and at the same time, maintain a position of credible denial.”**

Other Notable EU Developments

On 11 January, the European Parliament’s Civil Liberties, Justice and Home Affairs Committee [endorsed](#) an inter-institutional agreement of the regulation for terrorist content online, which was [announced](#) on 10 December 2020. Subject to the finalization of the formal legislative procedure, social media platforms would be obliged to remove terrorist content within one hour and the rules allow for cross-border removal orders, which could be issued by relevant authorities in any Member State to any platform established in the EU. Safeguards and exemptions are granted for journalistic and educational coverage, while sanctions for non-compliance will be left at the discretion of Member States, based on the nature and the size of platforms.

The timing of the adoption, only a couple of days after the US Capitol incident, was critical as the debate on online content has been dominating the media over the last days, particularly EU policy debates related to the recently published [Digital Services Act](#). The first exchange of views following the publication of the rules was held on 11 January at the Internal Market and Consumer Protection Committee of the European Parliament. The discussion demonstrated free speech concerns among MEPs, particularly regarding provisions for cross-border removal of illegal content. Some MEPs have been particularly critical about potentially establishing a dangerous precedent of giving content moderation decision-making powers to private companies.

EU-China Comprehensive Agreement on Investment (CAI)

Concerns inside the EU and from the US continue to be raised with respect to the CAI, which aims to achieve market access and fair competition, as [outlined](#) by the EU Commission’s statement. As [previously reported](#), the EU is seeking to ensure access for its operators in the Chinese market, especially those in manufacturing, health, computer sciences and services sectors. However, in order to achieve parity in the markets, China would need to commit to ensuring transparency in subsidies; protect technology transfers and not intervene in related contractual matters; provide stronger legal certainty through transparent regulatory and administrative rules; as well as have an effective dispute settlement mechanism. Ultimately, the CAI could benefit those EU companies investing in China in the automotive, basic materials and chemicals, financial services, agricultural products, consumer products, energy, industrial machinery and health sectors.

As negotiations between the EU and China continue, issues have arisen with respect to implications with the potential agreement, namely its [impact](#) on the US-EU relationship and with issues concerning human rights. Just a few days before the Biden Administration takes office, the CAI could potentially affect the EU’s approach on the situation in the Hong Kong Special Administrative Region of China and its broader policy on China over human rights concerns. These actions may deteriorate transatlantic opportunities. The US Chamber of Commerce’s vice president for China said of the CAI, **“Regrettably, [it] does not appear to be neutral regarding allied cooperation vis-à-vis China.”**

Others believe the CAI could indicate the EU’s willingness to prioritize economic aspects over other

issues, such as human rights issues. In a [joint-letter](#) issued on 12 January, a coalition of NGO's and trade unions expressed their concern on human rights issues in China and the CAI. The group demanded that additional provisions on the protection of human rights be included in the CAI and a clear rejection of human rights abuses "carried out by the Chinese Communist Party".

US Capitol Incident | Aftermath

Late on Tuesday, 12 January, the US House of Representatives voted 223-205 vote on a resolution calling on Vice President Mike Pence to invoke the 25th Amendment to convene the Cabinet and seek a majority vote to oust President Trump. (Only one Republican voted in favor of the measure.) The Vice President [sent a letter](#) to Speaker of the House Nancy Pelosi (D-California) ahead of the vote declining to take action and invoke the 25th Amendment. The Vice President said the 25th Amendment is tied to medical conditions of incapacity and disability; he instead called on lawmakers "to avoid actions that would further divide and inflame the passion of the moment." On Wednesday, the House voted 232 to 197 to impeach President Trump, with ten Republican lawmakers voting in favor of impeachment.

Notably, Senate Republican Leader Mitch McConnell (Kentucky) signaled this week that he would not reconvene the Senate early under emergency authorities, suggesting the Senate trial would likely not take place until after President-Elect Biden takes office on 20 January. Convening a trial before 19 January, when the Senate is scheduled to return to session, requires a declaration of a national emergency by the two Senate leaders, Republican Leader McConnell and Democratic Leader Chuck Schumer (D-New York). Prior to the House's impeachment vote, Leader McConnell rebuffed Leader Schumer's call for an emergency session. Schumer does not become Majority Leader until after Vice President-elect Kamala Harris is sworn into office.

The US Constitution mandates that a two-thirds majority in the Senate is required to remove a president; therefore, at least 17 Republicans and every sitting Democrat would need to vote in favor of impeachment. Republican Leader McConnell said in a Wednesday [statement](#) on the Senate's schedule: ***"Given the rules, procedures, and Senate precedents that govern presidential impeachment trials, there is simply no chance that a fair or serious trial could conclude before President-elect Biden is sworn in next week. The Senate has held three presidential impeachment trials. They have lasted 83 days, 37 days, and 21 days respectively."***

After the House impeachment vote, President-elect Biden issued a [statement](#) on Wednesday, saying: ***"I hope that the Senate leadership will find a way to deal with their Constitutional responsibilities on impeachment while also working on the other urgent business of this nation."*** He added, ***"From confirmations to key posts such as Secretaries for Homeland Security, State, Defense, Treasury, and Director of National Intelligence, to getting our vaccine program on track, and to getting our economy going again. Too many of our fellow Americans have suffered for too long over the past year to delay this urgent work."***

A number of corporations are [temporarily suspending](#) political donations in the aftermath of the Capitol breach, particularly to those Republican lawmakers criticized for objecting to the certification of the November election results. Notably, Charles Schwab went one step further and [announced](#) it would discontinue its political action committee (PAC) and no longer accept contributions from employees or make financial contributions to lawmakers. Donations from corporations and special-interest groups remains an issue of concern for Americans.

President-elect Joe Biden's inauguration is set for 20 January under a theme of "America United".

Ahead of the inauguration, 6,200 National Guard were activated from Washington, D.C., and near-by states to assist local law enforcement and US Capitol Police in further protecting the Capitol complex and the inauguration ceremony, as well as other parts of the city. On Monday, 11 January, the Pentagon authorized up to 15,000 National Guardsmen from across the country to provide security, logistics, liaison and communications support to law enforcement in Washington.

Iran & al-Qaeda | US Spotlights Collusion

On 12 January, US Secretary of State Mike Pompeo [spoke](#) at the National Press Club in Washington, where he stated, ***“al-Qaida has a new home base: it is the Islamic Republic of Iran.”*** He urged, ***“We ignore this Iran-al-Qaida nexus at our own peril. We need to acknowledge it. We must confront it. Indeed, we must defeat it.”*** As proof of the relationship, he cited a letter from Osama bin Laden, found by the Navy SEALs during the Abbottabad raid, that said: ***“Iran is our main artery for funds, personnel, and communication... There is no need to fight with Iran unless you are forced to.”*** Secretary Pompeo reminded, ***“Nations have an obligation to sanction entities designated as associated with al-Qaida under the UN Security Council Resolution 1267.”***

Secretary Pompeo also [announced](#) sanctions on Iran-based al-Qaida leaders Sultan Yusuf Hasan al-Arif and Muhammad Abbatay (who is also known as Abd al-Rahman al-Maghrebi). He further announced designations of three leaders of al-Qaida Kurdish Battalions, an al-Qaida-linked group that operates on the border between Iran and Iraq.

Secretary Pompeo had been slated to visit some European countries this week, where he likely would have talked about the al-Qaeda—Iran axis. The trip, however, was cancelled in the aftermath of the US Capitol incident that had some European officials reluctant to interact with US officials in the waning days of the Trump Administration.

US-EU Developments

On 11 January, the US Customs and Border Control issued a [guidance](#) related to the Office of the US Trade Representative’s (USTR) [decision](#) earlier in January to impose additional tariffs on German and French products, pursuant to the WTO’s ruling on the large civil aircraft dispute. French and German civil aircraft parts are subject to additional tariffs of 15 percent; other products, such as wine, as [listed](#) in Annex 1 Notice, to an additional 25 percent.

French Minister of Economy Bruno Le Maire, who plans to meet with the Biden Administration in Washington in February, called the tariffs illegitimate under the World Trade Organization (WTO) rule, stating, ***“The consequences of trade sanctions on our economy are very negative and very detrimental... We should not add any kind of difficulties to this very difficult economic situation. A trade war is not in the interests of the U.S. and not in the interest of Europe.”*** Minister Le Maire, in support of French winemakers, urged the EU Commission to react to the US measures and propose a compensation.

The Five Eyes intelligence alliance comprising of the US, UK, Australia, Canada and New Zealand, issued a [Joint Statement](#) urging the EU to adopt swiftly an ePrivacy Directive derogation to ensure that electronic communication services could continue to detect online content of child sexual abuse and exploitation. The European Commission published a proposal for [regulation](#) in September 2020, to address this derogation from the ePrivacy Directive, but the proposal has yet to be adopted at the EU-level, prompting a response by the Five Eyes alliance.

By way of background, the EU's ePrivacy Regulation [proposal](#) published in January 2017, would have replaced the ePrivacy Directive and address this issue, but it has been in legislative deadlock at the Council level for the last years. The entry into effect of the [European Electronic Communications Code](#) (EECC), on 21 December 2020, extends the scope of the [ePrivacy Directive](#) (remaining applicable in the absence of the Regulation's implementation) to electronic communication services that include email and internet-based messaging services and prevents them from interfering in detecting online child sexual content and abuse. This discussion builds into a broader debate initiated by the alliance, linking broader public safety matters with end-to-end encryption, a technology used by such internet-based messaging services. The EU is expected to also take legislative action on this matter, as noted in our firm's analytical piece [here](#).

On 14 January, the EU Parliament issued a [memorandum](#) on the EU-US relation and how the EU anticipates improving the relation between the partners. In this communication, the EU spotlighted opportunities that the Biden Administration could mean for the transatlantic relationship. The EU views the future of the relationship as focusing on areas such as combatting and mitigating COVID-19, addressing climate change, and working on technology concerns, trade standards and foreign affairs matters. The memorandum spotlighted President-elect Biden's multilateralism approach, and also touched on the challenge of the EU establishing robust relations with China, while hinting of implications to the EU-US relationship and potential outcomes of the CAI.

Other Notable US Developments

On Thursday, 14 January, President-elect Biden unveiled the first of a two-step plan aimed at stimulating the US economy in the wake of the COVID-19 pandemic. The US\$1.9 trillion economic relief proposal includes an additional US\$1,400 direct payment to eligible individuals (on top of the US\$600 checks approved by Congress in December) and aid to small businesses and local and state governments. The plan also proposed expanding supplemental federal unemployment benefits (set to expire in March for many workers); more support for renters; increased funding for vaccine distribution (including deploying the National Guard to assist), testing and contact tracing; funding to reopen K-12 schools.

The proposal also includes other provisions not directly tied to COVID relief, such as increasing the federal minimum wage to \$15/hour. Emergency funding to upgrade federal information technology infrastructure and address recent breaches of federal government data systems alleged to have originated from Russia is also included. According to a [fact sheet](#) on the proposal, President-elect Biden is seeking to restore U.S. leadership by providing "support to the international health and humanitarian response; mitigate the pandemic's devastating impact on global health, food security, and gender-based violence; support international efforts to develop and distribute medical countermeasures for COVID-19; and build the capacity required to fight COVID-19, its variants, and emerging biological threats."

President-elect Biden argued the steep price tag associated with this first, and an expected second (infrastructure investment proposal, yet to be unveiled), relief plan is "bold" and needed to keep America competitive. Speaker of the House Nancy Pelosi (D-California) and Senate Democratic Leader Chuck Schumer (New York) indicated Wednesday evening that they would "get right to work to turn President-elect Biden's vision into legislation that will pass both chambers and be signed into law." Republican lawmakers responded to the proposal late on Thursday, with criticisms ranging from concerns about the impact a higher minimum wage could have on small businesses to the size of the proposed bailout fund.

On Thursday, 14 January, USTR issued its findings in Section 301 investigations of digital service taxes (DSTs) adopted by Austria, Spain, and the United Kingdom. USTR concluded “each of the DSTs discriminates against U.S. companies, is inconsistent with prevailing principles of international taxation, and burden or restricts U.S. commerce.” USTR declined to take actions in connection with the findings; the Biden Administration will likely be presented with options to pursue.

Also on Thursday, USTR released its [report](#) on notorious markets for counterfeiting and piracy. For the first time, USTR included internet platforms and how they may facilitate the importation of counterfeit and pirated goods. The report noted, **“For example, right holders expressed concern that the seller information displayed by Amazon is often misleading such that it is difficult for consumers and right holders alike to determine who is selling the goods”** and **“that Amazon does not sufficiently vet sellers on its platforms.”** This includes Amazon’s domains in the United Kingdom, Germany, Spain, France and Italy.

Sanctions Updates | EU, US

EU companies are facing US sanctions after the US Department of State [reportedly](#) shared a list of companies allegedly involved in or supporting the Nord Stream 2 pipeline project. The recently enacted *Fiscal Year 2021 National Defense Authorization Act* (NDAA; H.R. 6395) included a provision that expands US sanctions related to construction of the Nord Stream 2 or TurkStream pipeline projects. A forthcoming State Department report is expected to list those companies believed to have helped build, insure or verify equipment used during construction of the Nord Stream 2 pipeline.

On 10 January, the EU Council [extended](#) sanctions against the Democratic Republic of Congo and relisted one person until 12 December 2021. This decision follows the EU’s condemnation of human rights violations and obstruction of the electoral system.

The EU [decided](#) against recognizing Juan Guaidó as the interim President of Venezuela, following the recent Venezuelan elections. The EU instead confirmed its intent to continue engagement with all political and civil society actors in Venezuela amid the non-democratic elections that took place on 6 December 2020. EU High Representative issued a [declaration](#) calling for a peaceful process to resolve the political crisis and emphasizing in the EU’s readiness to impose additional sanctions.

The US Government announced the following restrictions this week:

Iran

- On 13 January, the Department of Treasury’s Office of Foreign Assets Control (OFAC) [imposed](#) sanctions against two organizations, along with their leaders and subsidiaries, controlled by the Supreme Leader of Iran – (1) the Execution of Imam Khomeini’s Order, and (2) Astan Quds Razavi.
- On 15 January, the State Department [sanctioned](#) seven entities and two individuals for doing business with the Islamic Republic of Iran Shipping Lines (IRISL) – which was sanctioned in June 2020 – its subsidiaries, and other Iranian shipping entities. State continues to remind the IRISL is “the preferred shipping line for Iranian proliferators and procurement agents.”

Russia

- On 11 January, OFAC [took](#) additional action against seven individuals and four entities that are part of a Russia-linked foreign influence network associated with Andrii Derkach, who previously was designated and allegedly sought to influence the 2020 U.S. presidential election.

© Copyright 2025 Squire Patton Boggs (US) LLP

National Law Review, Volume XI, Number 15

Source URL: <https://natlawreview.com/article/transatlantic-trade-us-and-europe-week-january-11-2021>