

Are the walls going up? Trade and investment in a post-pandemic world

June 17, 2020

Meet our presenters



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UNTIL AT LEAST JULY 21

By Canadian Press

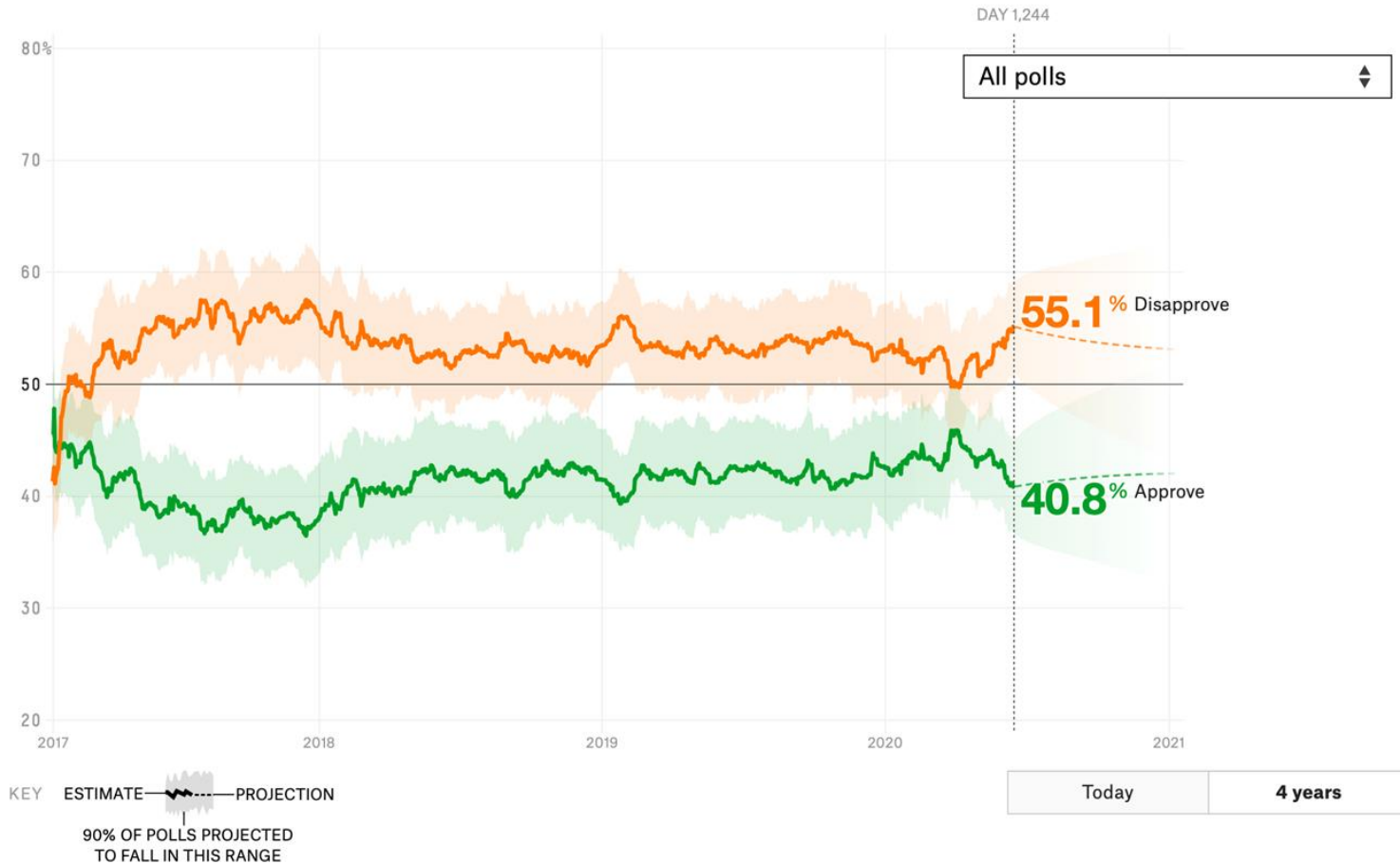
Canada-U.S. border restrictions extended 30 days

Jun 16, 2020

UPDATED JUN. 16, 2020 AT 9:37 AM

How popular is Donald Trump?

An updating calculation of the president's approval rating, accounting for each poll's quality, recency, sample size and partisan lean. [How this works »](#)



New U.K. tariff list ramps up urgency of Canada-U.K. trade talks



Only half of U.K.'s imports will enter tariff-free after Jan.1, with trade under CETA set to expire

[Janyce McGregor](#) · CBC News · Posted: May 19, 2020 6:34 PM ET | Last Updated: May 20



Joe Biden vows to cancel Keystone XL if he wins presidency

The Canadian Press

May 18, 2020 • 1 minute read



China says it has found insects in Canadian logs, raising fears that Beijing is targeting another key export

Nathan VanderKlippe • Published June 16, 2020

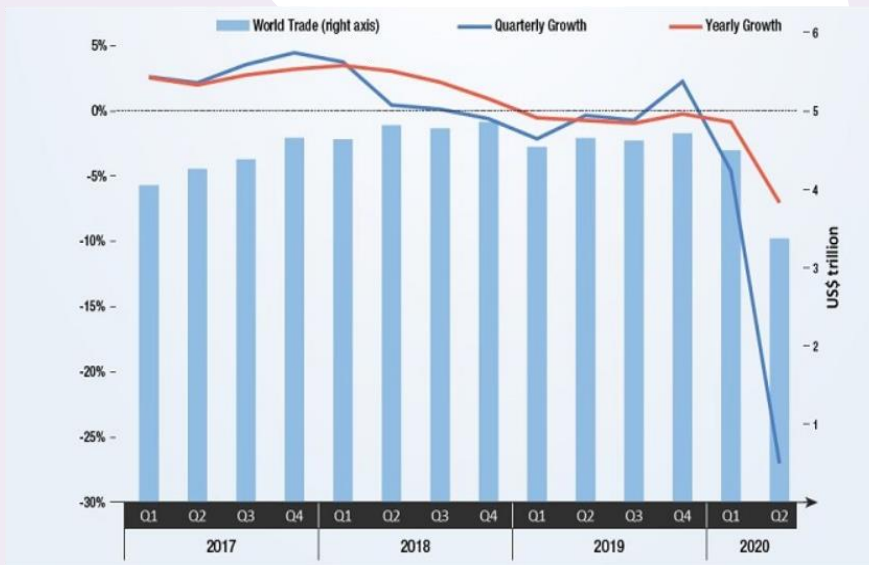


Impact of COVID-19 on global trade

Paul M. Lalonde, Partner, Toronto

- Global trade values and prices have been **negatively impacted** since the first quarter of 2020 by the COVID-19 outbreak.
- UNCTAD predicts that international trade in goods is expected to continue its **nosedive** in the coming months as economies struggle to recover from lockdown measures used to slow the COVID-19 outbreak.
- UNCTAD data published on June 11 shows that merchandise trade **fell by 5% in the first quarter** of the year and point to a 27% drop for the second quarter and a 20% annual decline for 2020.

Trade in goods in 2020



Source: UNCTAD calculations based on national statistics.

- Sectoral trade predictions show the **automotive** and **energy** sectors sharply declining, and the **agri-foods** stabilizing
- **Medical products'** exports more than double in 2020

Canadian Imports and Exports in perspective

		Jan – April 2019	Jan – April 2020	% Change 2020/2019
Globally	Exports	190,225	171,454	-9.9%
	Imports	199,824	176,057	-11.9%
US	Exports	143,114	128,685	-10.1%
	Imports	102,795	90,177	-12.3%
EU	Exports	15,530	14,375	-17.5%
	Imports	25,241	21,769	-13.8%

source: Trade Data Online – value in millions of CAD

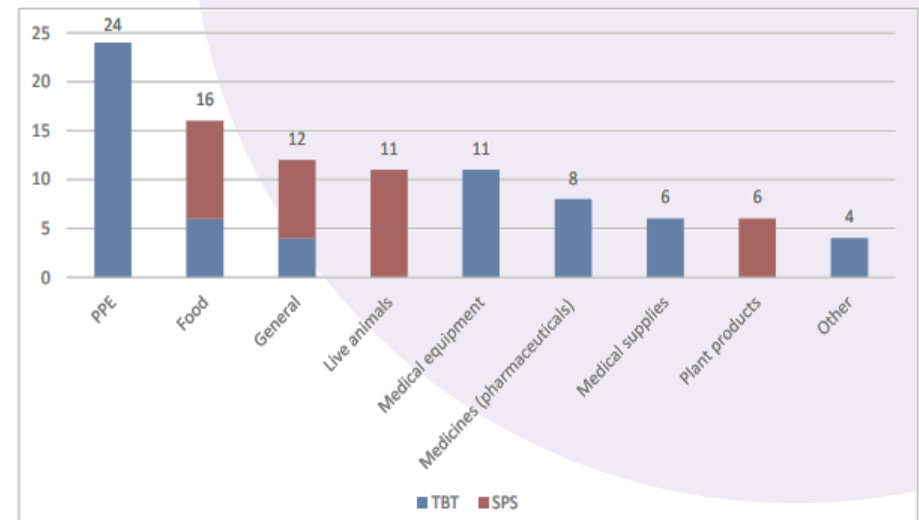
Trade restraint measures

June 12, 2020

Trade restraint measures notified to the WTO

- Measures notified to the WTO fall into four broad categories:
 - streamlining certification procedures;
 - ensuring that medical goods are safe;
 - making food available by relaxing technical regulations; and
 - addressing COVID-19 risks from international trade in live animals.
- Several members have adopted new health, safety or quality requirements for medical goods in response to the pandemic.
- Around half of the measures submitted to the WTO are reported as temporary.

Product coverage of notifications



Source: WTO. [STANDARDS, REGULATIONS AND COVID-19 – WHAT ACTIONS TAKEN BY WTO MEMBERS?](#)

Canada trade measures related to pandemic relief

- [Customs Notice 20-11](#) - Extension of Timeframes for Payment of Customs Duties and GST – extended to June 30, 2020
- [Customs Notice 20-10](#) - Waiver of Late Accounting Penalties - applies to transactions released from March 11, 2020, to May 26, 2020, inclusively.
- [Goods for Emergency Use Remission Order](#) - in conjunction with Tariff Item No. 9993.00.00 allows for the relief of duty and tax for goods required for an emergency and are imported by or on behalf of government entities
- CFIA has [temporarily suspended](#) certain labelling requirements for foodservice products during the COVID-19 pandemic
- [Draft legislation](#) tabled re postponement and retroactive suspension of administrative deadlines in numerous statutes.

Dentons global Government Announcements Tracker

The screenshot shows the Dentons website header with the logo and navigation menu. The breadcrumb trail reads: Home > Issues and opportunities > COVID-19 (Coronavirus) hub > Global government announcement tracker. The main heading is 'Global government announcement tracker'. Below it is a navigation bar with 'About' and 'Insights' tabs. The main content area contains two paragraphs of text.

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Global presence Find your Dentons team Our professionals Issues and opportunities Insights

Home > Issues and opportunities > COVID-19 (Coronavirus) hub > Global government announcement tracker

Global government announcement tracker

About Insights

The support measures and protocols being issued by governments is changing on a daily basis – and looks set to continue to change for the immediate future. To help organizations monitor the situation in markets around the world our teams in 60 countries are summarizing announcements (in English) and loading them into a searchable tracker. If you would like access to this powerful tool, please email us: covid19response@dentons.com

The tool provides analysis by country, topic and by sector and often includes links to source materials as well.

For details: <https://www.dentons.com/en/issues-and-opportunities/covid-19-coronavirus-hub/global-government-announcement-tracker>

Available by request: covid19response@dentons.com

Pandemic impact on supply chains

Is globalization dead?

- Current contraction driven largely by:
 - Supply side issues – plants shut down in China
 - Ports and airports affected around the World
 - Lack of demand – everyone sitting at home
- 2 parallel interconnected decision-making processes will define future of globalization:

Company decisions

- Analyze supply chains and determine whether to make changes and what changes
- Risk will be weighted more heavily and redundancy/resiliency will be favoured: distance = risk

Government decisions

- Active encouragement of “onshoring” being widely discussed
 - Japan – 2B\$ fund created to assist companies in reviewing supply chains
 - UK – Project Defend – Johnson orders plans to end reliance on Chinese imports
 - Canada Committee on Industry, Science and Technology – studying reliance on China

Pandemic impact on supply chains

Is globalization dead?

Company Decisions:

- Unlikely supply chains built over years, with billions invested will be summarily dismantled
- Mass exodus of foreign investors in China unlikely – massive domestic opportunity in China
- Major global opportunities emerging – e.g. growth of digital trade – NASDAQ up on the year

Government Decisions:

- Canada – Broad political and social consensus that encouraging export, particularly by SMEs, and foreign investment are crucial to prosperity.
- Globally, broad support for WTO, existing trade agreements – Ottawa Group for WTO reform

SO, NO. GLOBALIZATION IS NOT DEAD!

- But...
- Parochial instincts strengthen in times of crisis
- World marked by trade uncertainty: US – China; US national security tariffs/WTO/November election, Brexit/UK trade agreements, WTO reform...

Foreign investment review in the age of COVID-19

Sandy Walker, Partner, Toronto

Foreign investment review in Canada – Overview:

- Key elements of foreign investment review (FIR) regime in Canada in *Investment Canada Act* (ICA):
 - Acquisitions of control subject either to:
 - “net benefit to Canada” review and pre-closing approval by ISED Minister or
 - notification (pre or post closing) for all other foreign acquisitions.
 - National security screening applies to foreign acquisitions of all sizes including minority interests and to investments in new businesses.
 - Notifications required for establishment of new Canadian business

Trajectory of FIR Pre-COVID

- In Canada, liberalization of “net benefit to Canada” review but national security review introduced (2009)
- Net benefit to Canada review thresholds increased dramatically over last 5 years (except for cultural businesses)
 - Only large transactions subject
 - Moderate size acquisitions by SOEs caught as well
- Pivot to national security review
 - Minority investments and investments of all sizes
 - Started off slow but more reviews occurring but still very small percentage of total filings
- Scope of national security review unclear but broadening
 - NS Guidelines list risk factors including:
 - traditional areas such as military and defence (e.g., sensitive technology), but also critical infrastructure, critical goods and services, government contracts, potential for surveillance, “Canada’s international interests, including foreign relationships”
- Data now an area of interest as well; in the US, a number of cases where personal information raised national security risks
- Outside of Canada: foreign investment review on the rise – e.g., US, European Union and its Member States

What's new with COVID-19?

Canada tightens foreign investment scrutiny, citing economic impact of COVID-19 – April 18, 2020

What's new with COVID?

- No new legislation yet – existing FIR regime has broad coverage
- Minister Bains' statement April 18, 2020 on how government will exercise its discretion:
 - concern about economy and national security and bargain basement acquisitions of distressed Canadian companies
 - Greater scrutiny of health care related and critical goods and services to Canadians and governments
 - Heightened security of SOEs and private investors closely tied to foreign states – investments being made for strategic reasons, not commercial ones; more information required, extended timelines
- Mirrored in other countries: Japan, Australia, New Zealand, EU (e.g., Germany, France, Spain, Italy) and UK

What's new with COVID? (continued)

- June 2020: House of Commons Industry Committee – opposition parties driven; reviewing Investment Canada Act and studying further restrictions:
 - Lower net benefit to Canada review thresholds to protect Canadian “strategic industries”
 - Meaning of “strategic”?
 - Temporary Moratorium on acquisitions by SOEs from authoritarian countries
- Proposed Legislative amendment allowing for extensions to national security timeline – omnibus bill: more uncertainty; not clear why necessary

Trajectory post COVID for trade and foreign investment Predictions

- COVID-related restrictions will last well beyond health crisis
 - Concerns about foreigners buying Canadian companies at fire sale prices
 - Desire to protect and promote Canadian capacity in certain sectors
- How? Broader use of national security review powers to screen foreign investments in certain sectors OR “net benefit” review for certain sectors
 - “strategic” industries? technology (protecting Canadian IP and research and development)
- Heightened scrutiny of SOE investments to continue reflecting concern about non-commercial objectives and geopolitical tensions
- BUT more foreign investment screening does not likely mean frequent blocking of foreign investment; conditions may apply
- Greater uncertainty about what transactions will be screened and without increased resources, reviews will take even longer
- Greater need for strategic planning before investments; GR strategy

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Pandemic impact on global trade

Predictions

1. Pandemic has not changed human nature – person to person/cultural proficiency still matter
2. In person trade missions will return
3. Rapid acceleration of digital trade and trade-related technology: electronic contracting, shipping, customs, trade finance, product inspection, container scanning etc.
4. Redundancy/diversification favoured – countries, suppliers, port facilities, shipping routes
5. Risk of supply chain disruption more highly weighted in decision-making
6. Nike swoosh-shaped recovery in trade volumes
7. Increased use of trade remedies (anti-dumping/countervail/safeguards) to protect vulnerable industries (2 new cases in Canada in recent weeks – more expected)
8. Slow but steady progress on reform/normalization at WTO (accelerated if Biden elected)
9. No repeat of Smoot Hawley Tariff Act and similar mistakes (90 years ago today!)

Question & Answers

Thank you

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