



Customs & Trade WORKING GROUP MEETING

 **AN FDRA
DIGITAL CONFERENCE**

Wednesday, January 29, 2020

FDRA
FOOTWEAR DISTRIBUTORS AND RETAILERS OF AMERICA



FOOTWEAR DISTRIBUTORS AND RETAILERS OF AMERICA

Thomas Crockett

Director of Government Affairs

Matt Priest

President & CEO

A horizontal decorative bar with a teal-to-dark-teal gradient, featuring a white, brush-stroke-like texture along its top edge.

Congressional Preview 2020



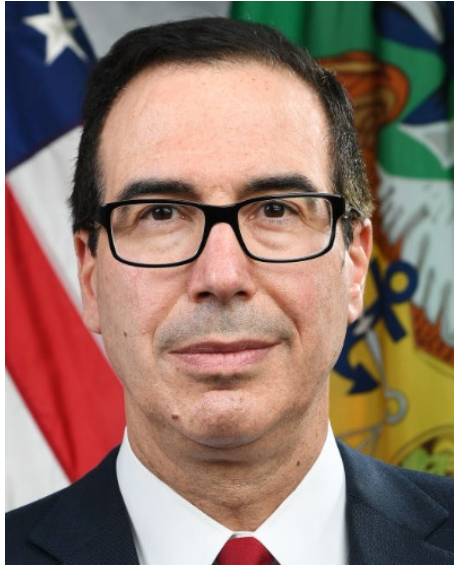
What We Will Cover Today

- **Key Players for U.S. Trade Policy**
- **The Election Landscape 2020**
- **Key Footwear Trade Updates**
- **Intellectual Property in Focus**
- **FDRA Items on the Horizon**

Key Players for U.S. Trade Policy



**Wilbur
Ross**
Commerce
Secretary



**Steve
Mnuchin**
Treasury
Secretary



**Larry
Kudlow**
Director, National
Economic Council

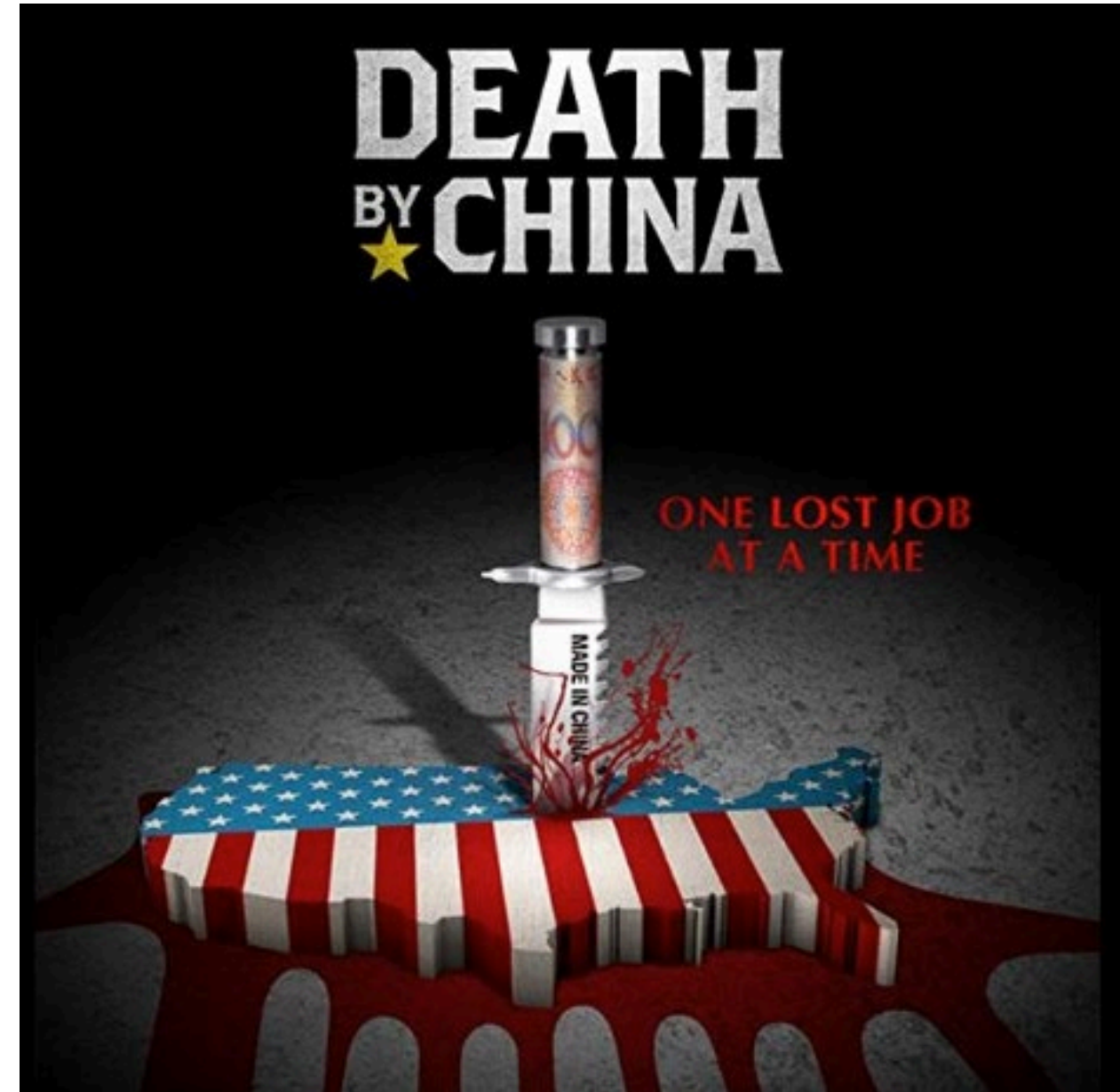


**Robert
Lighthizer**
U.S. Trade
Representative



**Peter
Navarro**
Director,
National Trade
Council

Key Players for U.S. Trade Policy



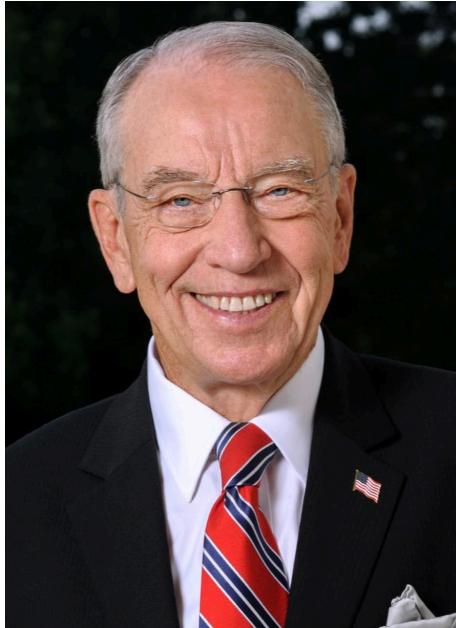
Key Players for U.S. Trade Policy



Key Players for U.S. Trade Policy

Congress Still Has Major Role on Trade Policy

The “Big Four” Committee Chairman on Trade



Chuck Grassley (R-IA)

Chairman

Senate Finance



Ron Wyden (D-OR)

Ranking Member

Senate Finance



Richard Neal (D-MA)

Chairman

Ways & Means

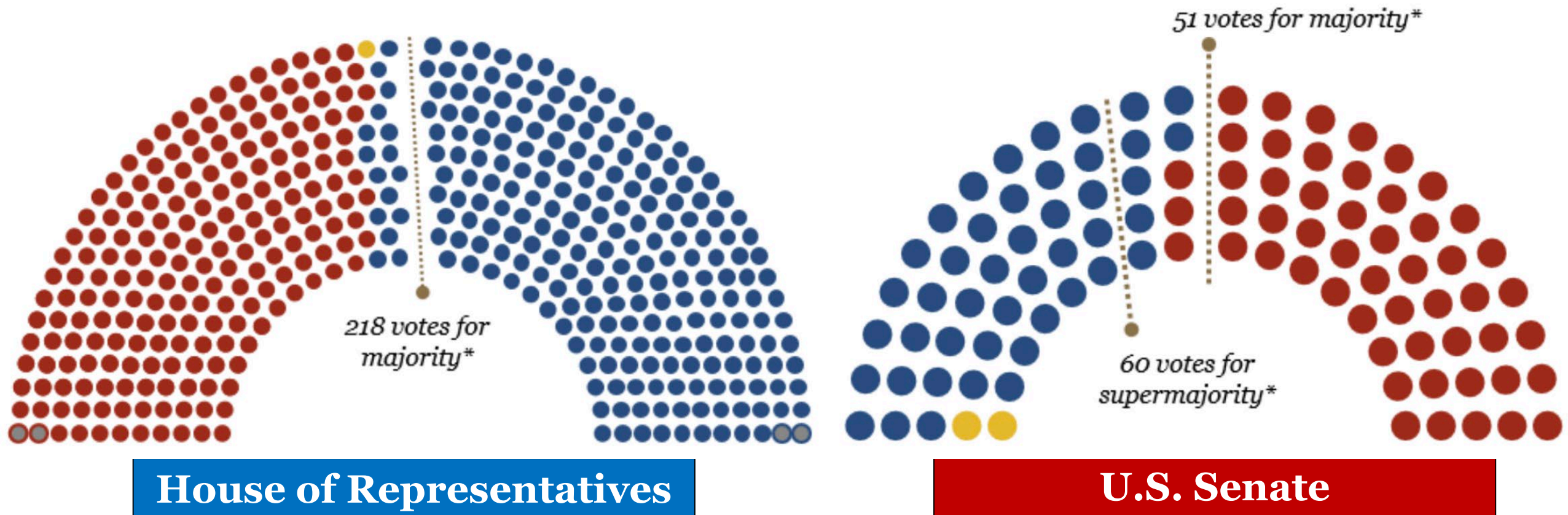


Kevin Brady (R-TX)

Ranking Member

Ways & Means

The Election Landscape for 2020



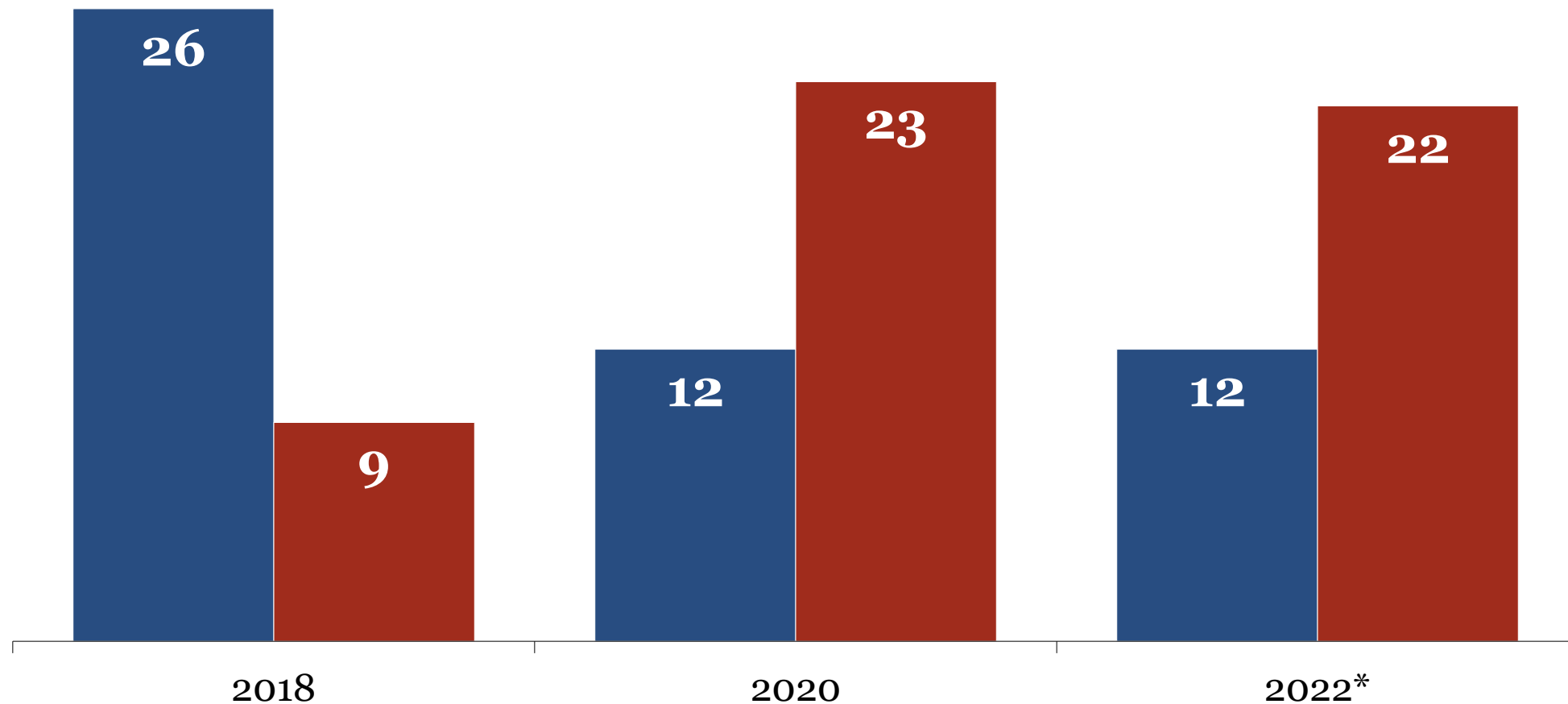
Party	House	Senate
Republican	197	53
Democrat	232	45
Independents.	1	2
Vacancies	5	0

The Election Landscape for 2020

Democrats, Republicans take turns playing defense in 2018 and 2020

Senate seats in play, by election year

■ Republican seats ■ Democrat seats

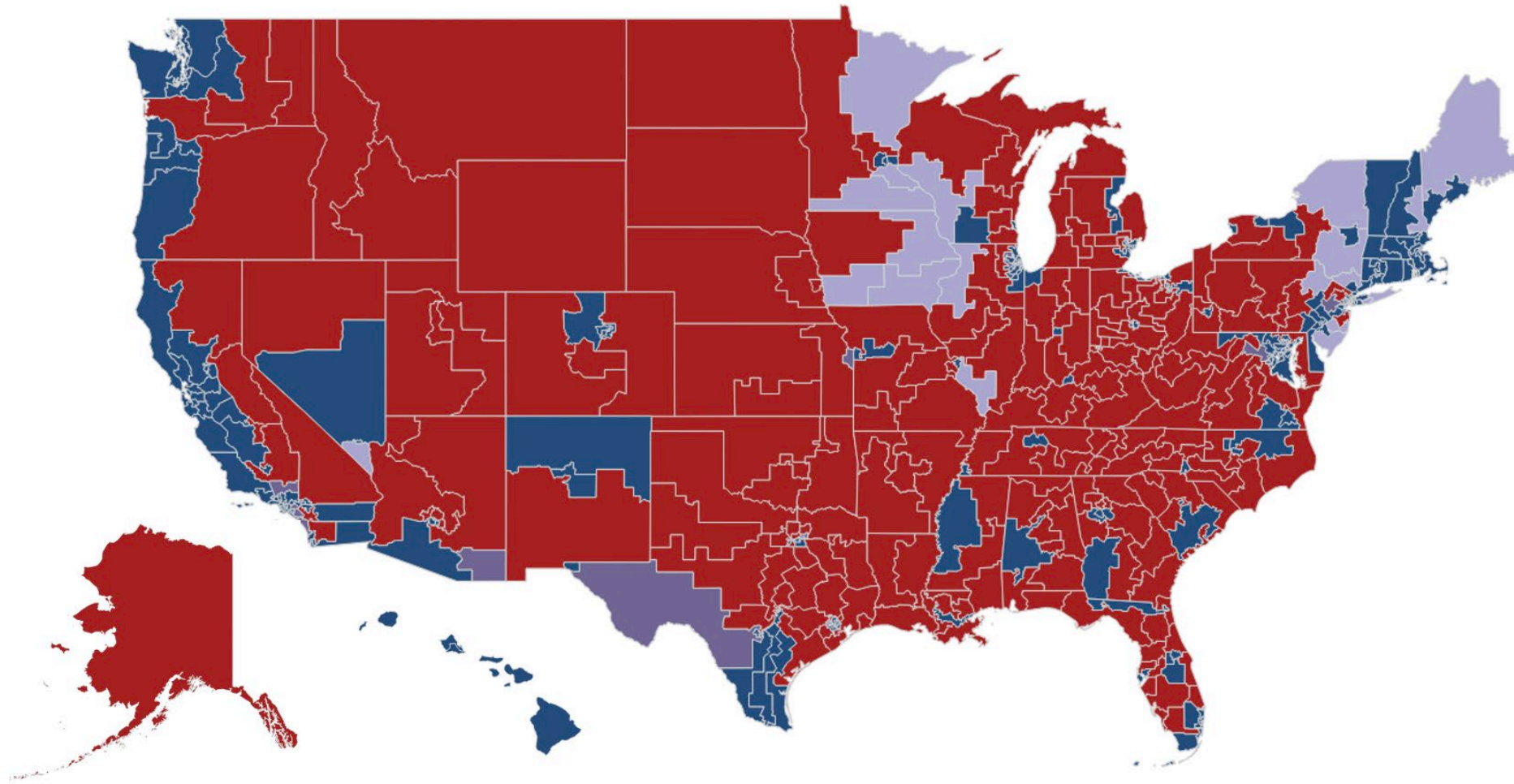


The Election Landscape for 2020

21 districts that voted for Obama in 2012 voted for Trump in the 2016 election

2012 to 2016 presidential results

■ Obama to Clinton ■ Obama to Trump ■ Romney to Clinton ■ Romney to Trump

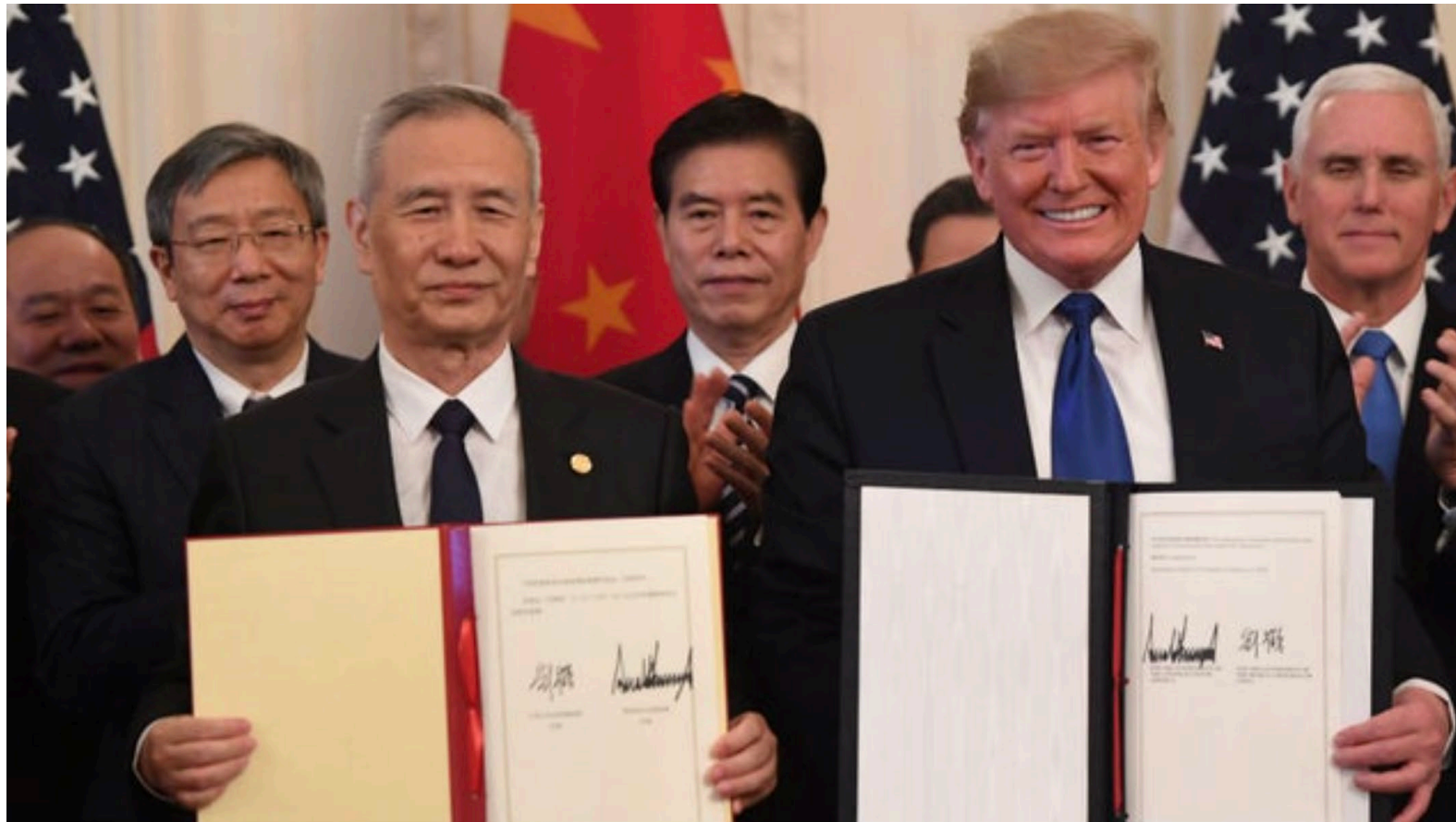


Key Trade Update #1: China Phase One Deal

Agreement Signed January 15th

December added tariffs delayed indefinitely

September added tariffs decrease from 15% to 7.5% on February 14th



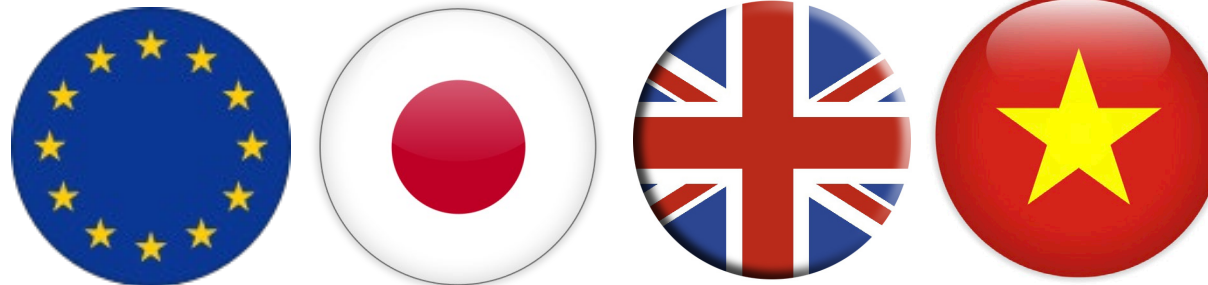
Key Trade Update #2: Free Trade Agreements, GSP?



USMCA



On the Horizon?



Generalized System Preferences (GSP)?



Overview of the US-Mexico-Canada Agreement (USMCA)



What is USMCA?

- An updated version of the North American Free Trade Agreement (NAFTA)
- Retains most NAFTA's provisions but adds some new topics, such as digital trade and small and medium-sized enterprises
- Includes a required joint review and re-agreement after 6 years (if no agreement, USMCA would expire 16 years later)

What does it cover?

Includes 34 chapters and 12 side letters, laying out a free trade framework with key provisions on:



Rules of origin for automobiles



IP protections and digital trade



E-commerce and data protection



Labor & environmental standards



Access to the Canadian dairy market



Dispute settlement processes

Jan. 1, 1994
NAFTA

NAFTA goes into effect; tariffs gradually removed

Jan. 1, 2008
Final tariffs removed

The final cross-border tariffs covered by NAFTA removed

Aug. 16, 2017
Round 1

The first round of trade talks begins

May 31, 2018
Tariffs implemented

US imposes tariffs on steel and aluminum imports

Nov. 30, 2018
USMCA signing

Leaders sign the agreement at the G20 summit in Argentina

Dec. 10, 2019
Revised USMCA

Trade reps meet in Mexico City to sign revised deal

Key elements of the USMCA



Rules of origin for automobiles

- All vehicles must be made with 75% North American content, up from 62.5% under NAFTA
- 40%-45% of each automobile must be made by workers making at least \$16/hour



Canadian dairy market

- Canada removes its “Class 7” pricing scheme for ultra-high filtration milk
- US producers gain access to 3.59% of Canada’s dairy market
- Canada largely maintains its supply-management system



Intellectual property rights

- Copyright term increased to 70 years
- ISPs must takedown content if they discover infringements (Canada exempted)
- Extends Sec. 230 to Mexico and Canada which protects tech companies from liability for content published on their sites



Labor and the environment

- Countries must adopt the ILO’s Declaration of Rights at Work and Mexico must enact new collective bargaining statutes
- Requires states to justify their environmental infringements
- Seeks to create a fisheries management system



E-commerce and data protections

- Prohibits cross-border duties on electronically-transmitted products
- Limits requirements on source code disclosures
- Allows free flow of data by restricting data localization requirements



Dispute settlements

- Maintains NAFTA’s state-to-state mechanism for most disputes
- Eliminates the investor-state dispute settlement (ISDS) for Canada
- Retains the ISDS for Mexican oil, natural gas, power generation, infrastructure, and telecommunications sectors

Democrats received several key concessions on USMCA



Enforcement

- Closes enforcement loopholes and streamlined the dispute settlement system
- Removes language which allowed a responding party to block the formation of a dispute settlement panel.
- Creates “rules of evidence” procedures that will require dispute panels to accept testimony from disputing parties



Workers

- Creates an interagency committee to monitor Mexico’s labor reform and established benchmarks for the reform process
- Establishes a new labor-specific enforcement mechanism that provides for facility-based enforcement of labor obligations, covering all manufactured goods and all services traded between the US and Mexico
- Creates penalties for goods and services not produced in compliance with the freedom of association and collective bargaining obligations.



Environment

- Establishes a presumption that environmental violation affects trade and investment; places burden of evidence on accused gov’t
- Adds a commitment for all parties to adopt seven multilateral environment agreements (MEA)
- Creates an interagency committee to assess the current environment landscape of Canada and Mexico and to monitor the implementation of environment obligations
- Creates a new customs verification mechanism to ensure only legally harvested goods are traded through Mexico



Prescription drugs

- Removes the 10-year data exclusivity provisions for biologic pharmaceuticals in USMCA
- Removes provisions enabling “patent evergreening”

Trade Update #3: Temporary Tariff Relief for Footwear

FDRA List for Footwear Lines in the 2018 Miscellaneous Tariff Bill (MTB)

H.R. 4318 (The MTB) will provide temporary tariff reduction for certain products entered, or withdrawn from warehouse for consumption, 30 days after the MTB becomes law and imported on or before December 31, 2020. This FDRA member document covers MTB lines for products covered by Chapter 64 HTS. The MTB also impacts hundreds of other HTS lines, including some items from Chapter 61 and Chapter 62 HTS.

**M
T
B**

Ch. 99 HTS	Article Description (Must Meet to Qualify for MTB Duty Relief)	Chapter 99 Duty Rate	Chapter 64 Duty Rate	Bill Section Number and Title
9902.13.92	Sports footwear, with outer soles and uppers of rubber or plastics, valued over \$12/pair, for men (provided for in subheading 6402.19.90)	8.7%	9.0%	SEC. 1264. SPORTS FOOTWEAR FOR MEN, VALUED OVER \$12 PER PAIR.
9902.13.93	Sports footwear, with outer soles and uppers of rubber or plastics, valued over \$12/pair, other than for men (provided for in subheading 6402.19.90)	8.5%	9.0%	SEC. 1265. SPORTS FOOTWEAR FOR WOMEN, VALUED OVER \$12 PER PAIR.
9902.13.94	Men's work footwear with outer soles and uppers of rubber or plastics, covering the ankle and having an oil-resistant and slip-resistant outer sole (provided for in subheading 6402.91.40)	FREE	6.0%	SEC. 1266. MEN'S OIL AND SLIP RESISTANT OUTSOLE WORK FOOTWEAR.
9902.13.95	Protective active footwear for men (except footwear with waterproof molded bottoms, including bottoms comprising an outer sole and all or part of the upper and except footwear with insulation that provides protection against cold weather) whose height from the bottom of the outer sole to the top of the upper does not exceed 15.34 cm (provided for in subheading 6402.91.42)	FREE	20.0%	SEC. 1267. MEN'S SHOES WITH OUTER SOLES AND UPPERS OF RUBBER OR PLASTIC.
9902.13.96	Protective active footwear for women, with outer soles and uppers of rubber or plastics (except footwear with waterproof molded bottoms, including bottoms comprising an outer sole and all or part of the upper and except footwear with insulation that provides protection against cold weather) whose height from the bottom of the outer sole to the top of the upper does not exceed 15.34 cm (provided for in subheading 6402.91.42), such footwear, if valued at \$26/pair or higher, without openings in the sole or upper designed to vent moisture	1.0%	20.0%	SEC. 1268. WOMEN'S PROTECTIVE ACTIVE SHOES, COVERING ANKLE.

Trade Update #3: Temporary Tariff Relief for Footwear

Current MTB Request Breakdown* (Examples of types of footwear in requests)

6401 (1 MTB request)

6401.92.90: 1 request (fishing wader boots)

6402 (52 MTB requests)

6402.19.90: 8 requests (sports footwear over \$20/pair, golf shoes, cycling shoes)

6402.91.42: 4 requests (protective active)

6402.91.50: 12 requests (laminated textile fabric, laminated textile fabric + certain openings sole or upper)

6402.91.80: 1 request (certain women's)

6402.91.90: 1 request (cheer shoes)

6402.99.23: 1 request (base or platform of wood)

6402.99.31: 13 requests (work, contoured zoris, cheer shoes, golf, certain athletic, women's over \$15/pair)

6402.99.32: 4 requests (protective active)

6402.99.33: 3 requests (laminated textile fabric + certain openings sole or upper)

6402.99.80: 1 request (children's athletic with glitter uppers)

6402.99.90: 4 requests (footwear incorporating an embedded sensor, golf, cheer shoes)

** Each MTB usually has additional restrictions (ex: value, gender). You can review all the MTBs and their definitions closely by visiting mtbps.usitc.gov and registering for a password to access the online portal.*

Trade Update #3: Temporary Tariff Relief for Footwear

Current MTB Request Breakdown* (Examples of types of footwear in requests)

6403 (72 MTB requests)

6403.19.30: 2 requests (golf)

6403.40.60: 4 requests (internal metatarsal protection, static dissipating protection, alloy toe cap)

6403.51.90: 4 requests (cow/calf hair, certain women's different value ranges)

6403.59.90: 6 requests (certain women's different value ranges)

6403.91.90: 29 requests (laminated textile fabric, certain women's different value ranges, composite safety toe)

6403.99.20: 1 request (base or platform of wood)

6403.99.60: 9 requests (house slippers, certain athletic, laminated textile fabric, composite safety toe)

6403.99.90: 17 requests (house slippers, certain athletic, laminated textile fabric, slip-on, cheer)

** Each MTB usually has additional restrictions (ex: value, gender). You can review all the MTBs and their definitions closely by visiting mtbps.usitc.gov and registering for a password to access the online portal.*

Trade Update #3: Temporary Tariff Relief for Footwear

Current MTB Request Breakdown* (Examples of types of footwear in requests)

6404 (62 requests)

6404.11.20: 1 request (certain women's athletic)

6404.11.81: 1 request

6404.11.85: 7 requests (certain athletic)

6404.11.90: 12 requests (footwear incorporating embedded sensor, laminated textile fabric, ski, golf, cheer)

6404.19.15: 1 request (certain women's non-athletic)

6404.19.20: 16 requests (fishing waders, laminated textile fabric, laminated textile fabric with certain openings)

6404.19.36: 2 requests (not more than \$20/pair)

6404.19.37: 5 requests (house slippers with uppers of MMF textile, women's \$15 or higher)

6404.19.39: 3 requests

6404.19.87: 1 request (house slippers)

6404.19.90: 10 requests (different value ranges, covering the ankle but not knee, an alloy safety toecap and static dissipating protection, slip-on)

6404.20.40: 2 requests

6404:20:60: 2 requests

** Each MTB usually has additional restrictions (ex: value, gender). You can review all the MTBs and their definitions closely by visiting mtbps.usitc.gov and registering for a password to access the online portal.*

Intellectual Property in Focus

The Challenging IP Landscape in 2019



United States Government Accountability Office

Report to the Chairman, Committee on
Finance, U.S. Senate

January 2018

INTELLECTUAL PROPERTY

Agencies Can
Improve Efforts to
Address Risks Posed
by Changing
Counterfeits Market

- January 2018 GAO Report
- Investigators bought products from five popular e-commerce sites (choosing four categories of frequently counterfeit goods)
- **Of the 47 products purchased, 20 turned out to be counterfeit**
- The report led to the U.S. Senate's heightened focus on counterfeit sales on online platforms

Intellectual Property in Focus

The Challenging IP Landscape in 2019



Birkenstock quits Amazon in US after counterfeit surge

PUBLISHED WED, JUL 20 2016•1:10 PM EDT | UPDATED WED, JUL 20 2016•5:57 PM EDT

Amazon has finally admitted to investors that it has a counterfeit problem

By Marc Bain • February 5, 2019

QUARTZ

CBS NEWS / April 16, 2019, 7:45 AM

Amazon touts effort to crack down on counterfeit goods amid complaints



3,121 views | Aug 17, 2019, 03:29am

U.S. Music Industry Accuses Amazon Of Selling 'Millions Of Fake CDs'

Forbes



Amazon is shipping expired food – is it ever safe to eat?

With increasing numbers of Amazon customer complaints about rancid food, it's important to know whether expired food is safe to eat.

Intellectual Property in Focus

The Challenging IP Landscape in 2019

Feds seize \$2.2 million worth of fake Nike shoes at Southern California seaport

CBS NEWS

UPDATED ON: OCTOBER 11, 2019 / 8:01 AM / CBS NEWS

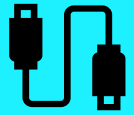


Intellectual Property in Focus

Past Few Years ... FDRA Expands IP Advocacy



Special 301 Testimony to USTR (2016, 2017, 2018, 2019)



U.S. Senate E-Commerce Investigation (2018)



FTC Competition and Consumer Protection in the 21st Century (2018)



U.S. Customs 21st Century Customs Framework Hearing (2019)



Senate Judiciary IP Subcommittee Hearing (2019)



Filed Comments in response to WH Memo on Counterfeits (2019)

Design Patent Seizure Bill

S.2987 - Counterfeit Goods Seizure Act

**Senators Thom Tillis (R-NC), Chris Coons (D-DE),
Mazie Hirono (D-HI), Bill Cassidy (R-LA)**

DHS Report on Counterfeiting and Pirated Goods



SUMMARY: “COMBATING TRAFFICKING IN COUNTERFEIT AND PIRATED GOODS” REPORT

Possible Actions from the Administration Include:

- Aggressively seeking civil fines, penalties, and injunctive actions against those deemed to facilitate the import of counterfeits and help brand owners seeking similar injunctive relief.
- Considering platforms’ domestic warehouses as official consignees of certain imports to encouraged the platforms to abandon fakes in their possession.
- Reassessing where the Administration needs new data and new rules to combat furtive strategies of counterfeiters. CBP will increase attention on high risk shipments, repeat offenders, and advance data on incoming mail.
- Government and industry collaboration, including a public-private consumer education campaign.

FOOTWEAR POLICY INSIGHTS

Learn about the latest in policy affecting the footwear industry:

FIGHTING THE FAKES
FOA Policy Insights | JANUARY 7, 2020
SUMMARY: "THE FIGHT AGAINST FAKES" REPORT

OVERVIEW
On January 7, 2020, the Senate Commerce Committee released a 128-page report on its investigation of counterfeit goods and other trademark-related activities. The report identifies the harm caused by counterfeit goods and provides recommendations to help protect and enforce trademark rights.

WHAT IT MEANS
The report provides a general overview of counterfeit goods and trademark law. It highlights the harm caused by counterfeit goods and provides recommendations to help protect and enforce trademark rights. The report also identifies the harm caused by counterfeit goods and provides recommendations to help protect and enforce trademark rights.

PRIVATE SECTOR CHALLENGES
While a committee report does not have the force of law, it can influence the legislative process. The report identifies the harm caused by counterfeit goods and provides recommendations to help protect and enforce trademark rights.

FOA foa.org/Politylightreports

DATA COLLECTION & PRIVACY
FOA Policy Insights | JANUARY 2020
CONGRESSIONAL ACTION ON DATA COLLECTION AND PRIVACY REPORT

OVERVIEW
While data collection and privacy are important issues, they are often overlooked in the context of consumer protection. This report provides an overview of the current state of data collection and privacy law and provides recommendations to help protect and enforce consumer rights.

WHAT IT MEANS
The report provides a general overview of data collection and privacy law. It highlights the harm caused by data collection and privacy violations and provides recommendations to help protect and enforce consumer rights.

FOA foa.org/Politylightreports

MARKETPLACE FAIRNESS
FOA Policy Insights | JANUARY 9, 2020
INTERNET SALES TAXES & MARKETPLACE FAIRNESS REPORT

OVERVIEW
The Supreme Court's decision in South Dakota v. Wayfair, Inc. has led to a wave of new state sales tax laws. This report provides an overview of the current state of internet sales tax law and provides recommendations to help protect and enforce consumer rights.

WHAT IT MEANS
The report provides a general overview of internet sales tax law. It highlights the harm caused by internet sales tax and provides recommendations to help protect and enforce consumer rights.

FOA foa.org/Politylightreports

INFRASTRUCTURE BILL
FOA Policy Insights | JANUARY 9, 2020
INFRASTRUCTURE: TIME FOR A DEAL? REPORT

OVERVIEW
The Infrastructure Investment and Jobs Act is a landmark piece of legislation that will provide for a significant increase in federal spending on infrastructure. This report provides an overview of the current state of infrastructure law and provides recommendations to help protect and enforce consumer rights.

WHAT IT MEANS
The report provides a general overview of infrastructure law. It highlights the harm caused by infrastructure and provides recommendations to help protect and enforce consumer rights.

FOA foa.org/Politylightreports

MINIMUM WAGE
FOA Policy Insights | JANUARY 9, 2020
MINIMUM WAGE RISING? REPORT

OVERVIEW
The minimum wage is a critical component of the labor market. This report provides an overview of the current state of minimum wage law and provides recommendations to help protect and enforce consumer rights.

WHAT IT MEANS
The report provides a general overview of minimum wage law. It highlights the harm caused by minimum wage and provides recommendations to help protect and enforce consumer rights.

FOA foa.org/Politylightreports

FIGHTING THE FAKES
FOA Policy Insights | JANUARY 28, 2020
SUMMARY: "COMBATING TRAFFICKING IN COUNTERFEIT AND PIRATED GOODS" REPORT

OVERVIEW
The report provides a general overview of trafficking in counterfeit and pirated goods. It highlights the harm caused by trafficking and provides recommendations to help protect and enforce consumer rights.

WHAT IT MEANS
The report provides a general overview of trafficking in counterfeit and pirated goods. It highlights the harm caused by trafficking and provides recommendations to help protect and enforce consumer rights.

FOA foa.org/Politylightreports

Fighting the Fakes report (PDF)

Congressional Action on Data Collection and Privacy report (PDF)

Internet Sales Taxes & Marketplace Fairness report (PDF)

Infrastructure Bill report (PDF)

Minimum Wage report (PDF)

Combating Trafficking in Counterfeit and Pirated Goods report (PDF)

The Footwear Executive Summit

Navigating the Ups & Downs of Uncertainty

March 18–19, 2020
WASHINGTON, DC

FDRA
FOOTWEAR DISTRIBUTORS AND RETAILERS OF AMERICA

Questions?