

HOW THE US-CHINA TRADE WAR FURTHER OPENS CHINA'S MARKET

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Executive Summary

1. Trade wars have no winners. The on-going US-China trade war is no exception. The bilateral trade volume dropped in 2019 substantially. However, as a result of the trade war, China has further opened up its market, a boon to the United States and the rest of the world.
2. Since the outbreak of the trade war, the Chinese government has cut tariffs multiple times, announced new measures for opening its financial market to foreign investors, consolidated foreign investment laws and signed the phase one trade deal with the United States. These developments have further opened the second largest and the most promising market to not only the United States, but also the rest of the world.
3. The new Foreign Investment Law (FIL) announced during the parliamentary meetings of 2019 came into effect on 1 January 2020 to become a new guiding document to foreign investment in China.
4. This new FIL is an important spillover effect of the trade war between the United States and China. It addressed three of Washington's alleged complaints about doing business in China: intellectual property theft and forced technology transfer, mandatory partnership with Chinese firms in most sectors, and prejudicial subsidies to Chinese firms.
5. On 15 January 2020, President Donald Trump and Chinese Vice Premier Liu He signed the "Economic and Trade Agreement between the United States of America and the People's Republic of China", the phase one trade deal.
6. The deal covers intellectual property, technology transfer, trade in food and agriculture products and financial services. It virtually addresses all US complaints about Chinese economic practices and policies, except for state subsidies and industrial policy.

7. Not only does the phase one deal secure an additional \$200 billion purchase of American products by China, more importantly, it has removed non-tariff barriers which prevented American dairy products, beef, pork and poultry from entering the Chinese market smoothly. It is the first time that the Chinese government has unilaterally recognised US standards on quality and safety of these products.
8. The Chinese government has also agreed to revoke operation licences of large E-commerce platforms for failing repeatedly to control the sale of counterfeited goods. This is a significant commitment of the Chinese government in fighting online piracy.

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Phase One Deal: a Temporary Truce of the US-China Trade War

- 1.1 It is common knowledge that trade wars have no winners. As the ongoing US-China trade war shows, there is no exception.¹ According to US Census Bureau, merchandise imports from China in 2019 fell to \$452 billion, down about 16% from a year earlier while US exports to China plunged 11% to \$107 billion. Unambiguously, the trade war has given rise to significant collateral damages on both sides. Nobel laureate Paul Krugman, a vocal critic of President Trump, claimed that “Donald Trump has definitely turned out to be a loser”.²
- 1.2 The Trump administration complained that trade with China was unfair and non-reciprocal because Chinese tariffs on American goods were much higher than tariffs imposed by the United States on Chinese goods, not to mention the many non-tariff barriers that existed in the Chinese market and hindered the access of American companies. It also accused China of intellectual property (IP) theft and forcing American companies to transfer their technologies to their Chinese partners.
- 1.3 The United States is using the trade war to rewrite trade rules, force China to further open its market to American firms and abandon unfair practices that distort competition between American and Chinese firms to allow the former to compete with the latter on a level playing field. Since the outbreak of the trade war, the

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¹ Sherman Robinson and Karen Thierfelder, “Who’s winning the US-China Trade War? It’s not the United States or China”, *Peterson Institute for International Economics*, 11 July 2019, <https://www.piie.com/blogs/trade-and-investment-policy-watch/whos-winning-us-china-trade-war-its-not-united-states-or>, accessed 12 June 2020.

² Krugman, P (2019). “How Trump lost his trade war”, *New York Times*, 16 December 2019.

Chinese government has cut tariffs a few times, announced new measures for opening the financial market to foreign investors, consolidate foreign investment laws and signed the phase one trade deal with the United States. These unilateral actions have further opened the second largest and the most promising market to not only the United States, but also the rest of the world.

- 1.4 Given the size of the Chinese economy and its long-term growth potential, the further opening to foreign goods, services and investment will definitely generate huge welfare gains for both China and the rest of the world. The short-term fall in bilateral trade flows should be considered as the price paid for the long-term gains.
- 1.5 On 15 January 2020, US President Donald Trump and Chinese Vice Premier Liu He signed the “Economic and Trade Agreement between the United States of America and the People’s Republic of China”, known also as the phase one deal, at the White House. The trade agreement covers IP, technology transfer, trade in food and agricultural products and financial services. It virtually addresses all of US complaints about Chinese economic practices and policies, except for state subsidies and industrial policy. Most articles in the agreement emphasise the obligations of the Chinese government. China has also agreed to raise its US imports by \$200 billion within two years. Clearly, on paper, the phase one deal seems to be a great victory for President Trump.
- 1.6 With the first phase trade deal finally reached in January, the world heaved a sigh of relief. Multiple rounds of talks and consultations left both the United States and China weary and businesses throughout the world unsettled or facing losses. The deal has been taken as a signal that an end to further stalemate or prolonged uncertainty is in sight, an optimism that more constructive changes in the ways both countries do business, including with each other, are in the pipeline. There were also the sentiments that the two countries have finally reached a deal that could de-escalate trade tensions that had damaged global growth and sapped business investment around the world since early 2018.
- 1.7 However, the COVID-19 pandemic in the first half of 2020 had thrown the spanner into the works. US-China relations went rock bottom when Donald Trump accused

China of failing to control the pandemic in January and February, causing it to spread to the United States and resulting in over 4.3 million cases and over 149,000 deaths as of 27 July. The White House is reportedly crafting renewed import tariffs on Chinese imports, inevitably escalating trade tensions again.³ The COVID-19 pandemic has also indefinitely postponed negotiations for a Phase 2 agreement. Amidst the uncertainty, US Treasury Secretary Steven Mnuchin, US Trade Representative Robert Lighthizer and Chinese Vice Premier Liu He, representatives of the two countries spoke on the phone on 8 May to pledge their continued support for the phase one trade deal signed in February.

Chinese Tariff Cuts during the Trade War

- 2.1 From the onset of the US-China trade war in March 2018 to the signing of the phase one trade deal agreement in January 2020, China had made tariff cuts four times, a spillover effect from the trade war. Although commentators often argue that the tariff cuts are part of China's supply-side reform policy, the fact is China's actions have not just benefitted itself or the United States, but also the whole world.⁴
- 2.2 While there have been instances of increased Chinese tariffs towards the United States as a retaliatory measure, which is bad news for US exporters, China has also begun rolling out the red carpet for the rest of the world. The world other than the United States is enjoying much improved access to China's 1.4 billion consumers, a fact that has been little noticed or reported in accounts of the US-China economic confrontation.⁵

³ "Global markets recoil as Trump threatens US-China trade war", *The Guardian*, 1 May 2020, <https://www.theguardian.com/business/2020/may/01/global-markets-donald-trump-us-china-trade-war-coronavirus-covid-19>, accessed 4 May 2020.

⁴ "New China tariff cuts to lower costs for manufactures, consumers", *China Briefing*, 4 October 2018, "China, U.S. suspend trade war", *China Briefing*, 23 May 2018, <https://www.china-briefing.com/news/china-us-suspend-trade-war/>, accessed 19 May 2020.

⁵ Chad P Brown, Jung Eujin and Eva Zhang, "Trump has gotten China to lower its tariffs. Just towards everyone else", *Peterson Institute for International Economics*, 12 June 2019, <https://www.piie.com/blogs/trade-and-investment-policy-watch/trump-has-gotten-china-lower-its-tariffs-just-toward>, accessed 12 June 2020.

- 2.3 China began its first large-scale tariff cuts in May 2018 after the trade war erupted. It had slashed tariffs on imported vehicles and consumer goods. Four months thereafter, it announced new tariff cuts for manufacturers and consumers. In December 2018, it again announced a wide variety of tariff and export duty cuts for businesses in 2019. The latest was in December 2019 when China temporarily adjusted import tariffs on 859 commodities to even below that of the most-favoured-nation (MFN) tax rate in 2020.
- 2.4 On 22 May 2018, following a trade agreement struck between the United States and China to resolve the growing trade frictions and to build on its promises at the April 2018 Boao Forum to slash tariffs, China announced that it would reduce the tariff of imported automobiles from 25% to 15%, and cut tariffs on auto parts from between 8% and 25% to a 6% flat rate.⁶
- 2.5 Following the reduction in tariff on imported vehicles, on 30 May 2018, China's State Council also announced that China would slash import tariffs on a range of consumer goods effective 1 July 2018. China announced substantially lower tariffs on goods such as apparel, cosmetics, cleaning products, home appliances, fitness products and some health-care products. In total, 1,449 categories of goods had their tariffs lowered.⁷
- 2.6 A few significant commodities were targeted in this round of tariff reductions, such as apparels (including clothes, shoes and hats), kitchenware and fitness products which had their tariffs slashed from an average 15.9% to 7.1%.⁸ Import tariffs on aquaculture products (including fishing products) and mineral water were also cut from an average 15.5% to 6.9%.

⁶ "China, U.S. suspend trade war", *China Briefing*, May 23 2018, <https://www.china-briefing.com/news/china-us-suspend-trade-war/>, accessed 19 May 2020.

⁷ "China Slashes Import Tariffs on Consumer Goods", *China Briefing*, 4 June 2018, <https://www.china-briefing.com/news/china-slashes-import-tariffs-on-consumer-goods/>, accessed 19 May 2020.

⁸ Ibid.

- 2.7 Import tariffs on cleaning products, cosmetics and some health-care products were also drastically reduced from an average 8.4% to 2.9%.⁹ The tariff reduction on household appliances (including washing machines and refrigerators) also fell from an average of 20.5% to 8%. Important reductions on various types of fruit and vegetable juice were also made, down from 10-30% to 5%; so were some types of jewellery from 35% to 10%.
- 2.8 On 26 September 2018, China announced another round of tariff cut on 1,585 taxable items including machinery, textiles, paper products and construction materials to lower costs for manufacturers and consumers effective 1 November 2018.¹⁰
- 2.9 According to the State Council of China, there were significant tariff reductions such as the cut from 12.2% to 8.8% for electronic equipment and other industrial products; 11.5% to 8.4% for textiles and building materials; and 6.6% to 5.4% for paper and other resource products.¹¹
- 2.10 On 24 December 2018, China's ministry of finance announced a wide variety of tariff and export duty cuts for businesses in the year of 2019, which was China's third round of tariff cuts in 2018.
- 2.11 While China's first two rounds of tariff cuts primarily targeted consumer goods and industrial products, respectively, the third round affected a wide variety of goods¹² like lithium-ion batteries, cotton, fur and some pharmaceutical raw materials. It also announced temporary tariff reductions for products such as aircraft engines, welding robots and natural feeds.

⁹ Ibid.

¹⁰ "Li Keqiang chaired the executive meeting of the State Council, determining measures to promote the implementation of major foreign investment projects, reduce import tariffs on some commodities, and speed up the promotion of customs clearance and so on", [In Chinese] 26 September 2019, http://www.gov.cn/premier/2018-09/26/content_5325538.htm, accessed 19 May 2020.

¹¹ Ibid.

¹² Ibid.

- 2.12 Furthermore, China enacted lower conventional tariff rates pursuant to previously agreed-upon trade deals with 23 countries and territories.¹³ Meanwhile, export duties were also lowered or removed for chemical fertilisers, apatite, iron ore, slag, coal tar, wood pulp and so on.
- 2.13 During this round of tariff cuts, China had also reduced its most-favoured nation tariff rates for 298 information technology (IT) products, including medical diagnosis machines, speakers and printers on 1 July 2019,¹⁴ with another 14 IT products having their tariff rates provisionally lowered.
- 2.14 The final major import tariff cut was implemented on 23 December 2019 when China's Customs Tariff Commission of the State Council announced that it would temporarily adjust import tariffs on 859 commodities from 1 January 2020.¹⁵ As a result, the adjusted tariffs will be even lower than the respective MFN tax rate in 2020 (see Table 1).
- 2.15 The cuts predominantly affect three categories of goods: consumer goods, raw materials for pharmaceutical goods and raw materials for manufacturing high-tech goods.¹⁶ The reduced import tariffs this round further demonstrate China's willingness to further open its economy to match the growing needs of businesses affected by the trade war.
- 2.16 The announcement also confirmed that further tariff reductions will be made in accordance with China's free trade agreements with New Zealand, Peru, Costa Rica, Switzerland, Iceland, Singapore, Australia, South Korea, Georgia, Chile and Pakistan as well as the Asia-Pacific Trade Agreement.¹⁷

¹³ Ibid.

¹⁴ Ibid.

¹⁵ "The State Council Customs Tariff Commission issued: Announcement of the Import and Export Tariff of the People's Republic of China (2020)" 26 December 2019, <http://gss.mof.gov.cn/gzdt/zhengcefabu/201912/P020191230547817604455.pdf>, accessed 19 May 2020.

¹⁶ Ibid.

¹⁷ "China Cuts Import Tariffs on Select Goods in 2020, Rates lower than MFN", *China Briefing*, 27 December 2019, <https://www.china-briefing.com/news/chinas-2020-import-stimulus-tariff-cuts-to-benefit->

TABLE 1 CHINA'S REDUCED PROVISIONAL RATES FOR THE FOURTH IMPORT TARIFF CUT

China's Reduced Provisional Rates for Imported Goods from January 1, 2020		
Product	MFN tax rate in 2020 (%)	Provisional tax rate in 2020 (%)
Consumer goods		
Frozen pork	12	8
Frozen Atlantic salmon	7	5
Grated or powdered cheese	12	8
Fresh cranberries	30	15
Fresh or dried unshelled cashew	20	7
Frozen avocado	30	7
Non-frozen origin juice	30	15
Whisky	10	5
Canned dog food or cat food in retail packaging	15	4
Baby and adult diapers	4	0
Raw material for pharmaceutical goods		
Anti-cancer drug raw materials (e.g. oxaliplatin, carboplatin, nedaplatin, cisplatin)	5.5	0
Rare disease drug raw material (e.g. bicalutamide, penicillamine, riluzole, bosentan)	6.5	0
Human vaccines	3	0
Raw material for manufacturing		
Iron niobium (including ferroniobium)	2	0
Silica Sand and Quartz Sand	3	1
Lithium	5	1
Nickel and Cobalt Sulfate	5	2
Copper winding wires	10	6
Nickel	3	0
Valve Parts	8	4
Mechanical seal	8	5
Lead-acid battery electrodes (retain electrode only)	10	5
Wood products	4-6	2-3
Paper products	5-6	4-5

Source: "China Cuts Import Tariffs on Select Goods in 2020, Rates lower than MFN", *China Briefing*, 27 December 2019, <https://www.china-briefing.com/news/chinas-2020-import-stimulus-tariff-cuts-to-benefit-consumers-pharmaceuticals-high-tech-manufacturing/?hilit=%27china%27%2C%27tariff%27%2C%27cuts%27>, accessed 19 May 2020.

2.17 However, the tariff quota management system for commodities, such as wheat, fertiliser, corn sugar and wool, remains unchanged.¹⁸ Seven provisional tax rates that currently apply to IT products have been removed from 1 July 2020. China has also lowered its most-favoured-nation import tariffs on 176 IT products from the same date.

consumers-pharmaceuticals-high-tech-manufacturing/?hilit=%27china%27%2C%27tariff%27%2C%27cuts%27, accessed 19 May 2020.

¹⁸ Ibid.

- 2.18 According to China's ministry of finance, the lowered tariffs are intended to stimulate import potential in key areas where China faces a "relative domestic shortage", or where there is a "high demand for foreign specialty goods".¹⁹ For example, the list in Table 1 shows a reduction of import tariffs on frozen pork from 12% to 8% to boost domestic supply and stabilise pork prices.
- 2.19 China will also lower tariffs on raw materials for medication for conditions such as diabetes and asthma to reduce medicinal costs and promote the production of new medicines to meet the needs of its ageing population.²⁰ It will also introduce or cut provisional import tax rates for commodities, such as ferroniobium (used as an additive for high strength low-alloy steel in oil and gas pipelines and trucks), as well as expand the import of advanced technologies equipment and spare parts for the continued development of high-tech industries. To complement this, basic raw materials, such as wood and paper products, will also be subject to lower or provisional import tax rates (see Table 2 for a timeline of actions and reactions to the trade war).

TABLE 2 TIMELINE OF AMERICAN ACTIONS AND CHINESE RESPONSES DURING THE TRADE WAR

Date	List of American Actions	Chinese Responses
March-May 2018	Trump signs a memorandum to • file WTO case against China for its discriminatory licensing practices; • restrict US investment in key technology sectors; and • impose tariffs on Chinese products US Trade Representative Office releases an initial list and proposes 25% tariffs on 106 products	Proposes 25% retaliatory tariffs on 106 US products First large-scale tariff cuts • reduce the tariff on imported automobiles from 25% to 15%, and cut tariffs on auto parts from between 8% and 25% to a 6% flat rate • slash import tariffs on a range of consumer goods effective 1 July 2018
July-September 2018	Implements first China-specific tariffs List 1: 25% tariff on 818 imported Chinese products List 2: 25% tariff on 284 Chinese products	Announces retaliatory tariffs on US\$60 billion worth of US goods Tariff cuts to lower costs on 1,585 US and non-US taxable items for manufacturers and consumers

¹⁹ Ibid.

²⁰ Ibid.

	US implements tariffs on US\$200 billion worth of Chinese goods amounting to US\$250 billion	
December 2018	Threatens to announce tariffs on all remaining Chinese products by early December if talks between Trump and Xi at the G20 in Argentina are not successful. This would mean new tariffs on about US\$257 worth of Chinese goods. If announced in early December, the tariffs would likely take effect in February 2019.	The United States and China agree to a temporary truce to de-escalate trade tensions, following a working dinner at the G20 Summit in Buenos Aires on 1 December 2018 Announces the temporary removal of the additional 25% tariffs on US autos and 5% tariffs on certain US auto parts for three months, beginning on 1 January 2019. Resumes its purchase of US soybeans, with reports showing a large purchase of 1.5 million tons of beans was made. Announces a wide variety of tariff and export duty cuts for businesses in the year of 2019 Slashes export duties on 94 items from 1 January 2019 and cut MFN tariffs on 298 IT products beginning on 1 July 2019. Enacts lower conventional tariff rates pursuant to previously agreed trade deals with 23 countries and territories
August-December 2019	August 2019: Imposes 10% tariffs on another US\$300 billion of Chinese goods starting 1 September August 2019: Declares China as a currency manipulator September 2019: Conducts US-China mid-level trade talks in Washington November 2019: Agrees with China to a 'phase one deal' just before the next tariff hike is to take place	Announces the temporary adjustment of import tariffs on 859 commodities effective 1 January 2020

Source: Compiled by the authors based on various published information.

The New Foreign Investment Law

- 3.1 For the greater part of the 2010s, China has been overhauling its decade-long foreign investment regulatory framework to be more in line with international practices and

to continue attracting foreign investment.²¹ The Chinese government issued two important regulations relating to the foreign investment negative list: the Foreign Investment Industrial Guidance Catalogue (2017 amendment) and the Special Administrative Measures (Negative List) for Admission of Foreign Investments to Pilot Free Trade Zones (2017 version), which reflect the most recent development of China on foreign investment and the negative list.

- 3.2 In fact, China began to experiment with the true concept of negative list regulation in its newly established free trade zone.²² When Shanghai was designated China's first free trade zone (FTZ) in 2013, the Shanghai government quickly issued a negative investment list, which only set out access measures applicable to foreign investments that were inconsistent with national treatment.²³
- 3.3 However, rising tensions in the business community due to the US-China trade war, and the major push to fend off complaints of unjust trade practices from partners such as the United States and EU saw China announce the Foreign Investment Law (FIL) during the parliamentary meetings of 2019.
- 3.4 This new FIL is an important spillover effect of the trade war between the United States and China. It addressed three of Washington's alleged complaints about doing business in China: IP theft and forced technology transfer, compulsion for foreign businesses to partner Chinese firms in most sectors, and prejudicial subsidies given to Chinese firms.
- 3.5 The FIL was promulgated in March 2019 during the two-session meetings (*lianghui*); it came into effect on 1 January 2020 and became a new guiding document to government foreign investment in China.²⁴

²¹ Liu Hongchuan, "China: Developments on China's Negative List, FI Access", 20 September 2017, <http://www.mondaq.com/china/inward-foreign-investment/630080/developments-on-china39s-negative-list-fi-access>, accessed 12 June 2020.

²² Negative list refers to a list of prohibited or restricted industries for foreign investment.

²³ Ibid.

²⁴ "Foreign Investment law of the People's Republic of China", 9 September 2019, <http://mg2.mofcom.gov.cn/article/policy/China/201909/20190902898870.shtml>, accessed 19 May 2020.

- 3.6 It will govern activities of all individual foreign investors and foreign-invested enterprises (FIEs), which include both wholly foreign-owned enterprises (WFOEs) and Sino-foreign joint ventures (JVs),²⁵ as well as investors originating from Hong Kong, Macau and Taiwan.
- 3.7 Specifically, the FIL includes a number of provisions that pledge to give foreign investors a level playing field with their domestic firms.²⁶ For example, it explicitly bars Chinese JV partners from stealing IP and commercial secrets from their foreign partners. Furthermore, it not only prohibits government officials from using administrative measures to pursue forced technology transfers, but also makes them criminally liable if they do so.
- 3.8 Besides IP considerations, the law says that foreign investors will receive equal treatment when applying for licences and participating in government procurement, two common complaints from the international business community.²⁷ Foreign investors will also be given equal opportunity to participate in the formulation of standards.
- 3.9 In managing foreign investment, the FIL also says that China should use the Negative List (a comprehensive list of restrictions on foreign investment determined by China's State Council) to ensure pre-establishment national treatment.²⁸ It means that foreign investors will be on par with domestic investors during the initial stages of setting up.
- 3.10 The FIL also specifies measures to protect foreign investments from arbitrary expropriation.²⁹ Under special circumstances, however, the FIL states that the state may expropriate or requisition the investment of foreign investors for public interest.

²⁵ Ibid.

²⁶ "China announces new foreign investment law", *China Briefing*, 20 March 2019, <https://www.china-briefing.com/news/china-announces-new-foreign-investment-law/>, accessed 19 May 2020.

²⁷ "Foreign Investment law of the People's Republic of China", 9 September 2019, <http://mg2.mofcom.gov.cn/article/policy/China/201909/20190902898870.shtml>, accessed 19 May 2020.

²⁸ Ibid

²⁹ Ibid.

- 3.11 In such an event, the FIL pledges that expropriations and requisitions will be done in accordance with legally prescribed procedures and offer “fair and reasonable compensation”. Further, Article 35 states that some investments could be subject to national security reviews, and that decisions made for national security reasons are final and cannot be appealed.³⁰ Thus, the FIL benefits all WTO members. It does not result in a zero-sum game which benefits only the United States or China, but also the world at large.

The Significance of the Phase One Trade Deal

- 4.1 Details of the first phase trade deal released in January 2020 show that China’s market has been opened further to the benefit of the entire world. The deal addresses six contentious areas including Chinese purchases from the United States, tariffs, theft of IP rights, currency manipulation, further opening of Chinese financial services and enforcement of the deal.
- 4.2 The issue of Chinese purchases from the United States and the concessions on recognising US standards on dairy and meat products apply specifically to the United States, while the issues of IP rights, currency manipulation, further opening of Chinese financial services and enforcement of the deal are part of China’s overall wider opening. This deal shows that China can and is willing to open its market and ready to set a good example for future bilateral as well as multilateral trade agreement negotiations where China is involved.
- 4.3 In terms of the agreement of Chinese purchases from the United States as part of the phase one trade deal, China agreed to increase purchases of American products and services by at least \$200 billion over the following two years.³¹ China bought \$130 billion in US goods in 2017 and \$56 billion in services before the onset of the trade war.

³⁰ Ibid.

³¹ “Economic and trade agreement between the government of the United States of America and the government of the People’s Republic of China”, https://ustr.gov/sites/default/files/files/agreements/phase%20one%20agreement/Economic_And_Trade_Agreement_Between_The_United_States_And_China_Text.pdf, accessed 19 May 2020.

- 4.4 China has committed to \$77.7 billion in additional manufacturing purchases over two years from the 2017 level, which will be a \$32.9 billion increase in 2020 and a \$44.8 billion increase in 2021. It has also committed to buying at least \$52.4 billion (\$18.5 billion in 2020 and \$33.9 billion in 2021) in additional energy purchases over the two years from a baseline of \$9.1 billion in 2017.³²
- 4.5 China will also purchase \$37.9 billion in services from US companies over the two years, \$12.8 billion above the 2017 level in 2020 and \$25.1 billion above the level in 2021.³³ It also pledges to make an additional purchase of US agricultural products by \$32 billion over two years, including \$12.5 billion above the corresponding 2017 baseline of \$24 billion in 2020 and \$19.5 billion above the baseline in 2021 (see Table 3).

TABLE 3 CHINA'S INCREASED PURCHASES OF US COMMODITIES UNDER PHASE ONE TRADE DEAL

China's Increased Purchases under Phase One Trade Deal (2020-2021)				
Product category		2020	2021	2-year total
Manufactured goods	Industrial machinery, electronic equipment and machinery, pharmaceutical products, aircraft (orders and deliveries), vehicles, optical and medical instruments, iron and steel	US\$32.9 billion	US\$44.8 billion	US\$77.7 billion
Agricultural goods	Soybeans, oilseeds, meat, cotton, seafood, wheat, fruit, jams, jellies, corn, flour, horses, honey	US\$12.5 billion	US\$19.5 billion	US\$32.0 billion
Energy goods	Liquefied natural gas (LNG), crude oil, refined products, coal	US\$18.5 billion	US\$33.9 billion	US\$52.4 billion
Services	Business travel and tourism, financial services, reinsurance, insurance, management consulting, telecom services, data hosting, cloud computing services, charges for use of IP	US\$12.8 billion	US\$25.1 billion	US\$37.9 billion
Total		US\$76.7 billion	US\$123.3 billion	US\$200 billion

Source: "US, China Sign Phase One Trade Deal: How to Read the Agreement", *China Briefing*, 2 March 2020, <https://www.china-briefing.com/news/us-china-phase-one-trade-deal-takeaways-businesses-global-trade/>, accessed 19 May 2020.

³² Gary Clyde Hufbauer "Managed Trade: Centerpiece of US-China phase one deal", *Peterson Institute for International Economics*, 16 January 2020, <https://www.piie.com/blogs/trade-and-investment-policy-watch/managed-trade-centerpiece-us-china-phase-one-deal>, accessed 12 June 2020.

³³ "Economic and trade agreement between the government of the United States of America and the government of the People's Republic of China", https://ustr.gov/sites/default/files/files/agreements/phase%20one%20agreement/Economic_And_Trade_Agreement_Between_The_United_States_And_China_Text.pdf, accessed 19 May 2020.

- 4.6 Tariffs, a measure which has been used during the trade conflict since 2018 as a retaliatory measure, were also covered in the deal. As a result of the deal, US import tariffs originally set to take effect on 15 December 2019 that would have affected mass consumed Chinese-made imports like handphones, toys and laptops, among others have been cancelled. In addition, it reaffirms Trump's commitment to halve the 1 September 2019 tariff from 15% to 7.5% on US\$120 billion worth of Chinese products, including flat-panel televisions, Bluetooth headphones and footwear.³⁴
- 4.7 However, other tariffs remain, including the 25% US tariffs slapped on US\$250 billion worth of Chinese products and China's retaliatory tariffs on US\$110 billion of US goods. According to US Treasury Secretary Steven Mnuchin, more tariffs will be rolled back in the phase two trade deal, which was brought up at the close of the phase one deal.
- 4.8 After the voluntary tariff cuts, China's average tariff has decreased to 7% according to the World Bank. Compared with tariffs, non-tariff barriers, such as product standards, certifications, documentations for customs clearance, are major obstacles of American companies' access to the Chinese market. The phase one deal has removed most of the non-tariff barriers to American food, dairy, meat and poultry products.
- 4.9 According to the agreement, the Chinese government recognises that US dairy-safety system provides at least the same level of protection as China's dairy-safety system. China would allow imports of American dairy products, produced by the facilities on the list of FDAs and certified by US Agriculture Marketing Service. This basically implies that there is no necessity for the Chinese government to approve the standard and quality of American dairy products as long they meet American standards. This agreement is a greenlight for American infant formula to enter the Chinese market where millions of Chinese young parents are eager to buy foreign-made infant formula.

³⁴

Ibid.

- 4.10 The phase one deal introduces a similar arrangement for pork, beef, poultry and processed meat. If these products meet American standards and were certified by relevant US agencies, the Chinese government would permit their imports. Traditionally, it is a lengthy, complicated and costly process for importing countries to have their pork, beef, poultry and processed meat certified as disease free and have low or no risk to human. Instead of insisting reciprocity in recognising the quality and safety standards of dairy and meat products, the Chinese government unilaterally accepted the American standards. This is one of the most significant concessions made by the Chinese government, which will benefit American farmers tremendously.
- 4.11 In terms of IP rights, the deal includes stronger Chinese legal protection for patents, trademarks and copyrights, including improved criminal and civil procedures to combat online infringement, pirated and counterfeit goods.³⁵ The deal commits China to follow through on previous pledges to eliminate any pressure for foreign companies to transfer technology to Chinese firms as a condition of market access, licensing or administrative approvals and to eliminate any government advantages for such transfers. Unlike the issue of Chinese purchases from the United States and tariffs, which specifically benefit the United States, the strengthening of Chinese IP rights will benefit all companies.
- 4.12 The rise of online shopping has become a new avenue for piracy and counterfeiting goods. Counterfeits to famous trademarks of American companies could be easily purchased in Chinese e-commerce platforms. To combat the prevalence of pirated goods on e-commerce, the Chinese government has agreed to revoke operating licences of e-commerce platforms which repeatedly fail to curb the sale of counterfeit goods.
- 4.13 China also agreed to refrain from directly supporting outbound investment aimed at acquiring foreign technology to meet its industrial plans — transactions already restricted by stronger US security reviews. Significant progress is also made on the protection of pharmaceutical-related IP. The agreement also calls for China to

³⁵

Ibid.

submit an “Action Plan to strengthen intellectual property protection” within 30 days from the effective date of the agreement.

- 4.14 China also pledges in the currency agreement, which is also part of the deal, to refrain from competitive currency devaluations and using its exchange rate for a trade advantage — a norm that China has accepted for years as part of its commitments to the Group of 20 major economies.³⁶
- 4.15 In 2019, the Trump administration coined China as currency manipulator, arguing that China was deliberately suppressing the value of its currency to give its exports a competitive advantage. The label was dropped just ahead of the signing of the phase one trade deal.³⁷
- 4.16 China also agreed to publicly disclose its foreign exchange reserves and quarterly imports of goods and services. The deal subjects any violations of currency commitments to the agreement’s enforcement mechanism, under which they could once again incur US tariffs.
- 4.17 The further opening of Chinese financial services, which have been a source of complaint of the United States, has also been addressed in the deal. It aims to address several longstanding US complaints about investment barriers in the sector, including foreign equity limitations and discriminatory regulatory requirements. The opening of Chinese financial services will benefit not just the United States, but also the whole world.
- 4.18 As a result of the phase one trade deal, China is also allowing full foreign ownership of life insurers, futures and mutual fund companies in stages during the year of 2020. Foreign ownership caps for securities firms was removed on 1 April 2020 as part of the trade agreement signed with the United States in January.

³⁶ Ibid.

³⁷ “US, China Sign Phase One Trade Deal: How to Read the Agreement”, *China Briefing*, 2 March 2020, <https://www.china-briefing.com/news/us-china-phase-one-trade-deal-takeaways-businesses-global-trade/>, accessed 19 May 2020.

- 4.19 China also pledges to take no longer than 90 days to decide on applications from electronic-payment service providers, including for wholly foreign-owned operations. Regulators also cleared the way for full takeovers of local banks by foreigners in 2020, a year after it eased ownership caps. Foreign companies could also be lead underwriters for all types of bonds, and control wealth management firms, pension fund managers and inter-dealer brokers with the signing of the deal.
- 4.20 In terms of enforcement of the deal, the United States and China will resolve differences over how the deal is implemented through bilateral consultations, starting at the working level, and escalating to top-level officials.³⁸ If these consultations do not resolve disputes, there is a process for imposing tariffs or other penalties.³⁹
- 4.21 While Washington under the Trump administration adopted a more confrontational and punitive approach that led to the trade war in the first half of 2018, a return to old consultative ways through the enforcement mechanism of the phase one trade deal would be necessary to rebuild the damaged bilateral relationship and shore up on the much reduced trust reserves between the two countries.⁴⁰

COVID-19 and Trade War: More Uncertainties?

- 5.1 The COVID-19 pandemic has pushed the United States and China down a collision course, with President Trump blaming China for its cover-up in the initial stages of the outbreak in China, and accusing the World Health Organisation (WHO) of misleading the world. The Trump administration has also notified Congress and the United Nations that the United States is formally withdrawing from the WHO in

³⁸ Ibid.

³⁹ “Economic and trade agreement between the government of the United States of America and the government of the People’s Republic of China”, https://ustr.gov/sites/default/files/files/agreements/phase%20one%20agreement/Economic_And_Trade_Agreement_Between_The_United_States_And_China_Text.pdf, accessed 19 May 2020.

⁴⁰ “US, China Sign Phase One Trade Deal: How to Read the Agreement”, *China Briefing*, 2 March 2020, <https://www.china-briefing.com/news/us-china-phase-one-trade-deal-takeaways-businesses-global-trade/>, accessed 19 May 2020.

early July, leaving it effectively isolated on the world stage during a global public health crisis.⁴¹

- 5.2 While the phase one trade deal has stabilised trade tensions, COVID-19 threatens to overshadow the agreement and subsume the entire US-China relationship. What could have been an opportunity for cooperation among the world's two leading powers has instead devolved into a battleground, with one nation blaming the other for the virus spread and each vying, unsuccessfully, to use the crisis to generate soft power.
- 5.3 President Donald Trump and President Xi Jinping are unlikely to back down from the confrontation. The two leaders see blame deflection as necessary, if not advantageous, to their domestic position. Public support in each country for a tougher approach towards the other leaves little room for either leader to make concessions necessary for broader reconciliation.
- 5.4 This dynamic makes the current trade truce unsustainable. Simmering tensions and the lack of trust at the strategic level will sap any momentum that existed prior to the coronavirus for a phase two trade agreement. Disagreements over the implementation of the phase one trade deal will result in a reciprocal hostile trade action and even the abandonment of the initial agreement.
- 5.5 The coronavirus pandemic has also added unforeseen economic risks to the phase one trade deal. China's GDP contracted by 6.8% in the first quarter of 2020; the implosion of the global economy due to the pandemic might further jeopardise China's ability to meet its commitment to purchase an additional \$200 billion worth of US goods over the next two years.⁴²

⁴¹ "Trump administration begins formal withdrawal from World Health Organization", *CNN*, 8 July 2020, <https://edition.cnn.com/2020/05/19/us/trump-who-funding-threat-explainer-intl/index.html>, accessed 27 July 2020.

⁴² Jack Caporal, "Covid-19 Risks Reigniting US-China Trade War", *Brink News*, 5 May 2020, <https://www.brinknews.com/covid-risks-reigniting-us-china-trade-war-economic-recovery-recession/>, accessed 12 June 2020.

- 5.6 The lack of a vaccine and the continued surge in new infections in many areas around the world have also resulted in dire worldwide economic conditions that stifled both Chinese demand and US production.⁴³ It is highly unlikely that growth will rebound to a point that China can carry out its promises to the United States.
- 5.7 The US-China trade relationship is hence at risk of another round of tit-for-tat escalation. While nothing has been done to bridge fundamental differences between the two countries, risks have been added, not removed, due to COVID-19. This leaves the two economies on course for further decoupling, which will generate costs in both economies as well as globally. The reality is that the two countries need each other when both are falling into the pandemic recession. Neither could afford the further escalation of the trade war.

⁴³ Ibid.