

US-China trade deal: preliminary analysis of the text from WTO perspective

By Peter Lunenborg*

Introduction

The long-awaited 'Phase 1' trade deal between the United States and China was signed by Chinese Vice Premier Liu He and US President Donald Trump in Washington, DC on 15 January 2020. The agreement, officially termed the 'Economic and Trade Agreement between the Government of the United States of America and the Government of the People's Republic of China'¹, will enter into force within 30 days, i.e. on Valentine's Day (Friday, 14 February 2020).

The agreement itself does not use the phrase 'Phase 1' and from the wording of the agreement, a 'Phase 2' deal does not appear to be imminent. This is reinforced by the short termination period of 60 days. The *rendez vous* clause is non-committal and non-specific: "The Parties will agree upon the timing of further negotiations" (Article 8.4: Further Negotiations).

This trade deal cannot be characterized as a 'free trade agreement' under World Trade Organization (WTO) rules, as it does not liberalize 'substantially all trade' (for goods, Article XXIV of the General Agreement on Tariffs and Trade (GATT)) nor has 'substantial sector coverage' (for services, Article V of the General Agreement on Trade in Services (GATS)). The preamble does not mention the objective of concluding a comprehensive trade agreement.

The agreement contains 8 Chapters preceded by a preamble: 1) Intellectual Property; 2) Technology Transfer; 3) Trade in Food and Agricultural Products; 4) Financial

Services; 5) Macroeconomic Policies and Exchange Rate Matters and Transparency; 6) Expanding Trade; 7) Bilateral Evaluation and Dispute Resolution and 8) Final Provisions.

This Policy Brief will go through the text with a broad brush and highlight some key points, in particular from a WTO perspective. More detailed analyses, including on the intellectual property chapter, may be done at a later stage.

Chapter 6 Expanding Trade

Chapter 6, 'Expanding Trade' is the linchpin of the deal. It lays out targets for Chinese imports of 4 broad categories of US products for the years 2020 and 2021. Overall, China "shall ensure that purchases and imports into China from the US of the manufactured goods, agricultural goods, energy products, and services exceed the corresponding 2017 baseline amount by no less than USD 200 billion" (Article 6.2 Trade Opportunities). Most of the other Chapters appear to be supportive of meeting this overall target and specific targets set for the broad product categories, in particular for services (USD 37.9 billion increase in US exports during 2020 and 2021 compared to 2017) and agriculture (USD 32 billion). Interestingly, the agreement does not contain chapters specifically addressing trade in manufactured goods (2-year target of USD 77.7 billion) and energy (USD 52.4 billion).²

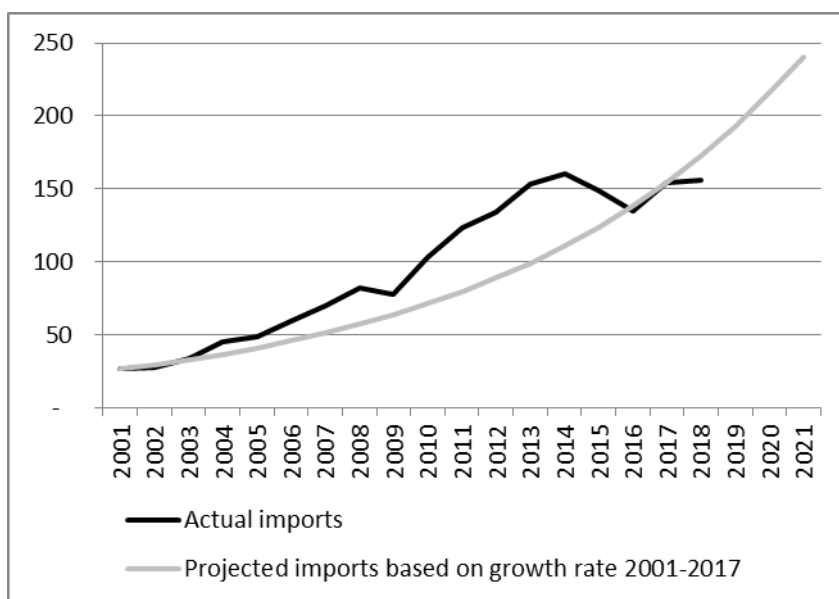
Some commentators have argued that the figure of USD 200 billion is totally unrealistic considering that China only imported USD 154.4 billion in 2017 from the US.

Abstract

The long-awaited 'Phase 1' trade deal between the United States and China, officially termed the 'Economic and Trade Agreement between the Government of the United States of America and the Government of the People's Republic of China', was signed on 15 January 2020. It will enter into force on Valentine's Day, on Friday, 14 February 2020. This deal is a result of US exercise of political power and unilateral World Trade Organization (WTO)-inconsistent tariffs in order to extract trade concessions, an expression of the most pure protectionism that the WTO is supposed to prevent. Nevertheless, the WTO was unhelpful in addressing the US economic aggression against China. This failure to protect a Member from illegitimate unilateral measures is, perhaps, one of the most significant manifestations of the often-mentioned 'crisis' of the WTO, and actually is one of the subjects on which the proposed 'reform' of the organization should focus.

* Peter Lunenborg is Senior Programme Officer of the Trade for Development Programme (TDP) of the South Centre.

Figure 1. China imports from US (all imports), 2001-2021 (actual and projected, all imports, USD bn)

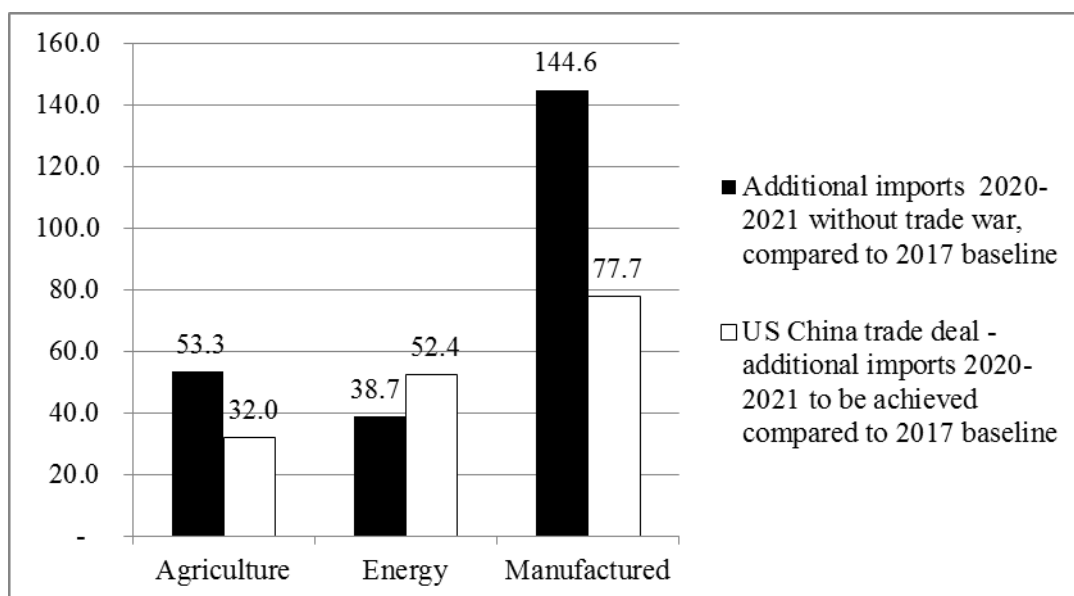


Yet, if one extrapolates the average annual compounded growth rate from 2001 to 2017 (around 12%) to the years 2020 and 2021, China would have imported USD 215.4 billion in 2020 and USD 240.6 billion in 2021. In other words, without the trade war and everything else being equal, China would have imported a combined USD 147 billion more in the years 2020 and 2021 compared to the year 2017. Thus, globally speaking it appears that China would be able to import such amounts although it remains quite a stretch as there is still a gap of more than USD 50 billion compared to the ‘normal’ pattern of trade, based on historical figures (see Figures 1 and 2).

Applying the same methodology to the subcategories of goods covered by the US-China trade deal, it appears that the targets in the US-China trade deal seem to be below the historical import growth trend, except in the case of energy. It is noted that Chinese import growth during the period 2001-2017 was exceptionally high partly due to its WTO accession and associated implementation of WTO commitments and that the Chinese economy has significantly slowed down as a result of the trade war; hence, to project such high growth rates into the future should be taken with caution.

The trade deal might have effects after 2021: “Parties project that the increases in the amounts of manufactured

Figure 2. Targets set in the US-China trade deal for the 2 year-period 2020 and 2021 vs projected additional Chinese imports from US without trade war during same period (USD bn)



Notes: The ‘additional’ amounts are the amounts compared to the year 2017. The imports in the scenario ‘without trade war’ is assumed to be imports if the average annual compounded growth rate of Chinese imports of US goods during 2001-2017 is extrapolated to the years 2020 and 2021 (for the particular subcategories).

goods, agricultural goods, energy products and services purchased and imported into China from the US will continue in calendar years 2022 through 2025.” (Article 6.2.3)

This agreement appears to signal a return to ‘managed trade’. This is quite ironical in view of the strong rhetoric by the US in promoting ‘free markets’ and its current attempts to penalize ‘non-market economies’ in the context of the WTO. In fact, it is the flip-side of a ‘voluntary export restraint’ agreement (VER), in which exports are restricted taking into account certain targets. In the past the US and the European Union (EU) negotiated such agreements with Japan, among others on cars and semiconductors. The WTO Safeguard Agreement prohibits VERs and phased them out. Article 11.1(b) states that “a Member shall not seek, take or maintain any voluntary export restraints, orderly marketing arrangements or any other similar measures on the export or the import side.” A question for WTO Members is whether the US-China trade deal is an “...orderly marketing arrangement or any other similar measure on the export or the import side”.

A main question is how China can ‘ensure’ a particular volume of imports of particular product groups. Not any government in the world including China can simply press a button and imports take place. In areas where China might be able to direct government procurement or trading, the Parties also “acknowledge that purchases will be made at market prices based on commercial considerations” (Article 6.2.5). This is an important clarification sought and obtained by Chinese negotiators, as China would not be forced to purchase US products if not available in adequate quantity or quality, or offered at non-competitive prices.

Tariff policy is a major policy tool available to China to influence the volume of merchandise imports. In order to meet the targets set under the trade deal, China would probably have to forego the retaliatory tariffs it imposed in response to the US unilaterally imposed tariffs under Section 301 which remain in violation of WTO rules, as discussed in the South Centre’s Research Paper 86.³ This might not even be enough and China would have to reduce such tariffs even further, e.g. through duty reductions or exemptions or opening up of tariff rate quotas.

The agreement is silent on the US imposition of tariffs, and it is unclear whether the US would maintain its WTO-inconsistent Section 301 tariffs while China would have to reduce tariffs, at least for the coming 2 years. What will happen after 2021 is a big question mark. Article 8.2 of the Agreement on Safeguards gives any WTO Member the right to suspend ‘the application of substantially equivalent concessions or other obligations under GATT 1994’ if another WTO Member applies a safeguard measure; in some cases this right applies only after 3 years, when the safeguard measure has been implemented as a result of an absolute increase in imports and that such a safeguard measure

conforms to the Safeguard Agreement. The US has unconvincingly argued that Section 301 tariffs are not safeguard measures; China has reserved the right to make use of the right to suspend concessions.

The US also has a role to play in meeting the agreed upon targets. For instance, in order to increase US exports of education-related, business and personal travel it may need to review applicable visa requirements for Chinese nationals, and to increase exports of energy products, it should provide licenses for the export of Liquefied Natural Gas (LNG). Article 6.2.7 addresses this: “If China believes that its ability to fulfil its obligations under this Chapter is being affected by an action or inaction by the US or by other circumstances arising in the US, China is entitled to request consultations with the US.”

Chapter 2 Technology Transfer

Chapter 2 on Technology Transfer contains obligations that go beyond the WTO rules. Some of the wording appears to be borrowed and is reminiscent of Bilateral Investment Treaties (BITs), in particular the prohibition to require technology transfer as a condition for investment, a performance requirement not covered by the WTO Agreement on Trade-Related Investment Measures (TRIMs). While such prohibition may set a precedent for US negotiations with other developing countries, its possible impact would depend on the extent of use and enforcement of such requirements under national laws.⁴

In the US-China trade deal this prohibition has been made more explicit and precise and has been widened to also include ‘pressure’ from the other Party: “Neither Party shall require or pressure persons of the other Party to transfer technology to its persons in relation to acquisitions, joint ventures, or other investment transactions” (Article 2.2 on Market Access). ‘Pressure’ is a rather subjective term and might include a range of measures or circumstances.

An EU-US-Japan (trilateral) statement issued on 14 January 2020 - one day before signature of the US-China trade deal - stressed “the need to reach out to and build consensus with other WTO Members on the need to address forced technology transfer issues...”⁵ As such, it can be expected that some of the contents of Chapter 2 could re-emerge in some form in proposals to the WTO. However, in the WTO Investment Facilitation (IF) negotiations - a plurilateral initiative of which US currently is not part - which explicitly excludes ‘market access’ from its scope, a prohibition of technology-related performance requirements is not foreseen.

Nonetheless, some other language in Chapter 2 could touch upon IF, for instance with respect to the ‘administration’ of measures. Article 2.4.1 (Due Process and Transparency) requires that ‘any enforcement of laws and regulations with respect to persons of the other Party is impartial, fair, transparent, and non-discriminatory’. Especially the words ‘fair’ and ‘non-discriminatory’ bear significance and have been interpreted by investment tribunals inconsistently and often in expansive and unex-

pected ways.⁶

Chapter 3 Trade in Food and Agricultural Products

Chapter 3 deals with agricultural trade containing very detailed measures, mostly with the aim of increasing US exports of certain agricultural products to China and not the other way around. In particular, various Annexes appear to attempt to delineate or limit China's use of Sanitary and Phytosanitary (SPS) measures:

- China cannot require on-site audits for registering US facilities or for approving importation (feed additives/ distillers' dried grains)
- China to allow importation from approved US facilities (most groups of agricultural products)
- China to renew existing licenses within 20 working days (feed additives/ distillers' dried grains)
- China may refuse shipments if it determines that there is a 'significant, sustained or recurring pattern of non-conformity' with a food safety measure, but only from a particular facility (aquatic products, feed additives/ distillers' dried grains)

With respect to the last provision, the concern that 'one bad apple spoils the whole bunch' has been raised earlier by developing countries in the negotiations on Special and Differential (S&D) treatment provisions under paragraph 44 of the Doha Declaration. On the SPS Agreement, the Group of Ninety (G-90) proposed the following: "4.4. Importing developed country Members shall not ban the importation and marketing of products originating from a least developed country Member and developing county member facing capacity constraints based on the rejection of shipments from one or a limited number of suppliers from that Member" (WT/MIN(17)/23/Rev.1, 10 December 2017). The US has addressed this concern for some of its own agricultural products with this trade deal, whilst consistently rejecting – paradoxically – the G-90 proposals.

Some of these measures imply that China has to trust to a great extent the US food safety system. Furthermore, the bar for banning imports on the basis of food safety concerns has been set quite high in the case of aquatic products and feed additives. These raise questions about how China will apply, in relation to US products, 'risk-based' or 'science-based' assessment of food safety in a manner that protects Chinese consumers.

Annex 11 titled Plant Health, is essentially about (re)allowing certain agricultural products in each other's market. Here China has some limited gains, yet obligations are tilted in favour of US. There is an obligation to allow imports of US products into China: The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) (USDA/APHIS) and the General Administration of Customs of the People's Republic of China (GACC) 'shall sign and implement a phytosanitary protocol to

allow the importation' of US fresh potatoes, California nectarines, US blue berries, California Hass avocados, US barley etc. into China – each with specific deadlines. On the other side, the US only has an 'effort obligation': USDA/APHIS shall 'complete its regulatory notice process for imports' of Chinese fragrant pear, Chinese citrus and Chinese jujube/red date. Only in the case of Chinese bonsai Parties shall '... sign, as soon as possible such protocol' (i.e. no specific deadline).

Annex 14 deals with Tariff Rate Quotas (TRQs). China has TRQs for 7 products: wheat, corn, rice, rice (short and medium; long grain), sugar, wool and cotton. The largest quota quantities are allocated to wheat (9.363 million Tons) and corn (7.2 million Tons) and the TRQs for these products have not always been filled. At the 2013 WTO Bali Ministerial Conference, ministers adopted a decision on TRQ administration with a view to increasing fill rates of existing WTO bound TRQs.⁷

The US was among the Members exempted to implement this decision, while China has to implement the Bali Decision. The US-China trade deal crafts additional rules for China's administration of its wheat, rice and corn TRQs. In particular, unused TRQs are to be re-advertised during the year on 1 October at the time when the US harvest season starts. TRQs are to be allocated in commercially viable shipping amounts. Also, some transparency requirements including detailed publication requirements not compulsory at the WTO or under the Bali decision are demanded from China. The Bali decision on TRQs, last reviewed in 2019, is not mentioned in Annex 14.⁸

Annex 15 on Domestic Support consists of only 2 paragraphs. The first paragraph deals with transparency: "China shall respect its WTO obligations to publish in an official journal its laws, regulations and other measures pertaining to its domestic support programs and policies". Such a publication obligation does not seem to be part of its current WTO obligations: the WTO Agreement on Agriculture (AoA) contains certain notification obligations, including for domestic support measures for which exemption is sought (see Article 18 AoA) but does not contain an obligation to publish. In addition, China does not appear to have undertaken such an additional transparency obligation in its Working Party Report as part of its WTO accession.

In paragraph 2, the US reserves its rights under the WTO Dispute Settlement Understanding (DSU) with respect to China's domestic support measures. This would include WTO dispute settlement case DS511 (*China – Domestic Support for Agricultural Producers*) concerning market price support (MPS) for wheat, Indica rice, Japonica rice and corn, which is to be implemented by 31 March 2020.⁹ US might resort to a compliance panel if it considers that China would be non-compliant. However, in the absence of the Appellate Body such report might not be adopted in case of an appeal.

Annex 16 deals with agricultural biotechnology. It mirrors, and in some cases even strengthens, similar provi-

sions of Chapter 3B of the United States-Mexico-Canada Agreement (USMCA).¹⁰ It contains obligations to speed up the approval processes for products of agricultural biotechnology, accept applications on an ongoing, year-round basis, and to limit such processes to no more than 24 months. Once approved the authorization period shall be at least 5 years. Explicit time limits are not in the USMCA. Annex 16 also contains some rules on 'low-level presence' (LLP) occurrences. China is to provide to the US a summary of any risk or safety assessment that it has conducted in connection with an LLP occurrence. Under the USMCA, such summaries are to be provided 'on request, and if available,' and 'in accordance with its domestic law'.

Chapter 4 Financial Services

Chapter 4 on Financial Services addresses the subsectors of banking; credit rating; electronic payment; financial asset management (distressed debt); insurance; and securities, fund management & futures. This Chapter appears to be more reciprocal, at least compared to the intellectual property rights (IPRs) and agriculture chapters. Yet, while US reaffirms 'non-discriminatory treatment' or commits to consider requests expeditiously for companies such as UnionPay, China Reinsurance Group and CITIC Group, China specifically commits to accept, approve, or make a determination of applications made by US financial services suppliers (the wording differs by subsector). With respect to insurance services, "no later than April 1, 2020, China shall ... approve expeditiously any application by US financial services suppliers for licenses to supply insurance services."

In the area of securities, fund management and future services, China's commitments are substantially beyond its GATS commitments. Under GATS it maintains a foreign investment equity limit of 49 per cent and a possibility to establish joint ventures (foreign minority ownership not exceeding 1/3) with a limited business scope. The US-China trade deal expands the commitments' scope: "licensed financial institutions of the other Party are entitled to supply the same full scope of services in these sectors as licensed financial institutions of the Party" and removes the foreign equity limitations: "No later than April 1, 2020, China shall eliminate foreign equity limits and allow wholly US-owned services suppliers to participate in the securities, fund management, and futures sectors."

Overall evaluation and discussion

Is this a good deal for the US? The US could be bolstered in its belief that Section 301 tariffs worked. On the other hand, if in the end the total amount of Chinese imports from the US during the period 2018-2021 with trade war would have been similar as without the trade war, the question is what finally has been achieved. It could argue that it raised a lot of government revenue on Chinese imports which it would not have otherwise collected. It could also point to the com-

mitments on IPRs and technology transfer, which China perhaps would not have committed to without Section 301 tariffs. Yet, the trade war has not only increased industrial costs and prices for US consumers but also negatively affected manufacturing sectors in the US.¹¹ It has made evident the competitiveness deficits in the US economy rather than its strengths.¹² US rogue behaviour could still sidetrack the deal and the fate of the deal after 2021 is unclear. In general it might not provide a good basis for the future.

This deal lays almost all the implementation burden on China. One commenter noted that "...the accord is a one-sided deal as it largely contains Beijing's commitment to make changes. The 86-page document has 105 mentions of "China shall" (.), while there are only five mentions of "the United States shall" and 27 mentions of "the United States affirms"".¹³ There are very limited gains for China in some areas, such as possible market opening for Chinese jube and certain financial services suppliers, but in such cases the US commitments are not so strong. Despite the economic size and dynamism of its economy, China was left with few options in view of the disruptive impact of the trade war on global value chains and the decline in its economic growth. China seems to have chosen, with this temporary deal, a pragmatic approach that may allow it to preserve its capacity to massively export to the US, which remains an important market for intermediate and consumer products.

The exercise of political power to extract trade concessions through unilateral measures is an expression of the most pure protectionism that the WTO is supposed to prevent. Nevertheless, the WTO was completely unhelpful in addressing the US economic aggression against China. This failure to protect a Member from illegitimate unilateral measures is, perhaps, one of the most significant manifestations of the often-mentioned 'crisis' of the WTO, and actually is one of the subjects on which the proposed 'reform' of the organization should focus.

The US-China trade deal raises a number of other questions in the context of the WTO and the policies needed to achieve the Sustainable Development Goals (SDGs.)

First, there are questions on how some of the provisions could be reconciled with the Most Favoured Nation (MFN) principle underpinning the WTO, especially given that this agreement cannot be considered a "free trade agreement" covered by Article XXIV GATT or Article V GATS, both of which act as MFN exemptions. In the logic of WTO, discriminatory treatment in favour of a particular country is allowed if parties conclude a 'comprehensive' deal.

Much would depend on the actual implementation of the agreement. In the area of goods, any preferential tariff, duty exemption or Tariff Rate Quota which would be more beneficial than the MFN rate would have to apply to all WTO Members. In principle, MFN treatment also applies in the case of the SPS Agreement (food safety measures). In the area of services, commitments made by China that go beyond its GATS commitments, including

the treatment or approval of applications of financial services to operate in China, would have to be applied on an MFN basis.

Second, inevitably, in the real world there will be a trade diversion. This could be significant for certain countries and particular products such as agriculture and energy. Suppliers that 'filled the gaps' in the last two years will probably have to step back which might cause some adjustment problems, although they knew that the market opportunities opened up by the trade war would be temporary. In addition, the referred to Article 6.2.5 of the trade deal acknowledging "that purchases will be made at market prices based on commercial considerations" will still keep open a window for alternative suppliers.

Third, there is a broader question whether this agreement is market-oriented, and how this agreement fits with Article 11 of the WTO Safeguards Agreement. As noted, the very nature of this agreement reveals that, notwithstanding that the US advocates the benefits of free markets, it is prone to State intervention when its companies are under stress or undercut by foreign competitors. Illustrative of this, among many other examples, are the massive subsidies granted to Boeing despite an adverse WTO ruling,¹⁴ the recent call by the US General Attorney for the government to take stakes in mobile companies to counter Huawei's technological advantage in 5G,¹⁵ and the pressures exerted to exclude Huawei from the United Kingdom's market.¹⁶

Fourth, some of the provisions across the agreement, including on IPRs, technology transfer and agricultural trade might set a precedent for future US negotiations or even provide the basis for proposals of new disciplines in WTO. While these norms might have little implications beyond the bilateral context during the term of application of the trade deal, developing countries should remain vigilant to avoid a further shrinking of the policy space they currently retain to implement industrial and technological policies. The Sustainable Development Goals will not be achieved if such countries are not able to get the technologies they need to diversify their economies and address their development challenges.

Endnotes:

¹ The text of the agreement can be retrieved from the website of China's Ministry of Commerce (MOFCOM): <http://images.mofcom.gov.cn/english/202001/20200116155105187.pdf>.

² Interestingly, the product categorization in the US-China agreement does not fully correspond with the categorization of agricultural goods, as listed in Annex 1 of the WTO Agreement on Agriculture, and by implication non-agricultural goods (which are all products not classified as agriculture). For instance, mineral waters (HS2201 and HS2202) are considered 'other manufactured goods' (but these are agricultural

goods in the WTO context) and mixtures of odoriferous substances (HS 3302) and seafood (under HS Chapters 3 and 16) are considered 'agriculture' (but considered non-agriculture in the WTO context).

³ Aileen Kwa and Peter Lunenborg, "US' Section 301 Actions: Why They Are Illegitimate and Misguided", South Centre Research Paper 86, (September 2018). Available from https://www.southcentre.int/wp-content/uploads/2018/09/RP86_US-Section-301-Actions-Why-They-are-Illegitimate-and-Misguided_EN.pdf.

⁴ See, e.g. United Nations Conference on Trade and Development (UNCTAD), Foreign direct investment and performance requirements: New evidence from selected countries (New York and Geneva, United Nations, 2003). Available from http://unctad.org/en/docs/iteiia20037_en.pdf, p. 29.

⁵ Joint Statement of the Trilateral Meeting of the Trade Ministers of Japan, the United States and the European Union (14 January 2020). Available from <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2020/january/joint-statement-trilateral-meeting-trade-ministers-japan-united-states-and-european-union>.

⁶ See, e.g. Federico Ortino, "Non-Discriminatory Treatment in Investment Disputes", Chapter 15 in *Human Rights in International Investment Law and Arbitration*, Pierre-Marie Dupuy, Ernst-Ulrich Petersmann and Francesco Francioni, eds. (Oxford University Press, 2009), DOI:10.1093/acprof:oso/9780199578184.003.0015).

⁷ Understanding on Tariff Rate Quota Administration Provisions of Agricultural Products, as Defined in Article 2 of the Agreement on Agriculture, Ministerial Decision of 7 December 2013. Available from https://www.wto.org/english/thewto_e/minist_e/mc9_e/desci39_e.htm.

⁸ Review of the Operation of the Bali Decision on TRQ Administration, G/AG/29, 31 October 2019.

⁹ More information about DS511 (*China – Domestic Support for Agricultural Producers*) can be retrieved from https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds511_e.htm.

¹⁰ Chapter 3 of the USMCA is available at https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/03_Agriculture.pdf.

¹¹ See, e.g., Aaron Flaaen and Justin Pierce, "Disentangling the Effects of the 2018-2019 Tariffs on a Globally Connected U.S. Manufacturing Sector" (December 2019), available at https://www.researchgate.net/publication/338416696_Disentangling_the_Effects_of_the_2018-2019_Tariffs_on_a_Globally_Connected_US_Manufacturing_Sector.

¹² US labor productivity in the current business cycle has grown at an average rate of just 1.1 percent, well below the long-term average rate of 2.3 percent from 1947 to 2007. See Shawn Sprague, "Below trend: the U.S. productivity slowdown since the Great Recession", available at https://www.bls.gov/opub/btn/volume-6/below-trend-the-us-productivity-slowdown-since-the-great-recession.htm#_edn4.

¹³ Cary Huang, "In the Year of the Rat, the US-China trade deal will not usher in a season of goodwill", *South China Morning Post*, 26 January 2020. Available from <https://www.scmp.com/week->

asia/opinion/article/3047341/year-rat-us-china-trade-deal-will-not-usher-season-goodwill.

¹⁴ Tom Miles and Tim Hephner, "WTO says U.S. failed to halt state tax subsidy for Boeing" *Reuters*, 28 March 2019. Available from <https://www.reuters.com/article/us-eu-usa-aircraft-wto/wto-says-us-failed-to-halt-state-tax-subsidy-for-boeing-idUSKCN1R923B>.

¹⁵ Mark Hosenball and David Brunnstrom, "To counter Huawei, U.S. could take 'controlling stake' in Ericsson, Nokia: attorney general", *Reuters*, 6 February 2020. Available from <https://uk.reuters.com/article/us-usa-china-espionage/to-counter-huawei-u-s-could-take-controlling-stake-in-ericsson-nokia-attorney-general-idUKKBN2001DL>.

¹⁶ Kevin Liptak, "Trump 'tore into' Boris Johnson over Huawei in phone call, source says", *CNN*, 7 February 2020. Available from <https://edition.cnn.com/2020/02/07/politics/donald-trump-boris-johnson-huawei/index.html>.



The South Centre is the intergovernmental organization of developing countries that helps developing countries to combine their efforts and expertise to promote their common interests in the international arena. The South Centre was established by an Intergovernmental Agreement which came into force on 31 July 1995. Its headquarters is in Geneva, Switzerland.

Readers may reproduce the contents of this policy brief for their own use, but are requested to grant due acknowledgement to the South Centre. The views contained in this brief are attributable to the author/s and do not represent the institutional views of the South Centre or its Member States. Any mistake or omission in this study is the sole responsibility of the author/s. For comments on this publication, please contact:

The South Centre
Chemin du Champ d'Anier 17
PO Box 228, 1211 Geneva 19
Switzerland
Telephone: (4122) 791 8050
south@southcentre.int
<http://www.southcentre.int>

Follow the South Centre's Twitter: [South_Centre](https://twitter.com/South_Centre) 

Previous South Centre Policy Briefs

No. 53, September 2018 – Considerations for the Effective Implementation of National Action Plans on Antimicrobial Resistance by Mirza Alas and Viviana Muñoz Tellez

No. 54, October 2018 – The Use of TRIPS Flexibilities for the Access to Hepatitis C Treatment by Germán Velásquez

No. 55, October 2018 – Advancing international cooperation in the service of victims of human rights violations in the context of business activities by Kinda Mohamadieh

No. 56, October 2018 – Setting the pillars to enforce corporate human rights obligations stemming from international law by Daniel Uribe

No. 57, January 2019 – Will the Amendment to the TRIPS Agreement Enhance Access to Medicines? by Carlos M. Correa

No. 58, March 2019 – Why the US Proposals on Development will Affect all Developing Countries and Undermine WTO by Aileen Kwa and Peter Lunenburg

No. 59, April 2019 – The 'obvious to try' method of addressing strategic patenting: How developing countries can utilise patent law to facilitate access to medicines by Olga Gurgula

No. 60, May 2019 – Exploding Public and Private Debt, Declining ODA and FDI, Lower World GDP and Trade Growth – Developing Countries Facing a Conundrum by Yuefen LI

No. 61, May 2019 – The US-Mexico-Canada Agreement: Putting Profits Before Patients by Maria Fabiana Jorge

No. 62, June 2019 – Intellectual Property and Electronic Commerce: Proposals in the WTO and Policy Implications for Developing Countries by Vitor Ido

No. 63, June 2019 – 'Phase 1B' of the African Continental Free Trade Area (AfCFTA) negotiations by Peter Lunenburg

No. 64, July 2019 – The USMCA must be amended to ensure access to affordable drugs in Mexico by Maria Fabiana Jorge

No. 65, July 2019 – Time for a Collective Response to the United States Special 301 Report on Intellectual Property by Viviana Muñoz-Tellez, Nirmalya Syam and Thamara Romero

No. 66, August 2019 – Impacts of Unilateral Coercive Measures in Developing Countries: the need to end the US embargo on Cuba by Vicente Paolo Yu and Adriano José Timossi

No. 67, October 2019 – Enhancing Access to Remedy through International Cooperation: Considerations from the Legally Binding Instrument on Transnational Corporations and Other Business Enterprises by Danish

No. 68, October 2019 – The Core Elements of a Legally Binding Instrument: Highlights of the Revised Draft of the Legally Binding Instrument on Business and Human Rights by Daniel Uribe Terán

No. 69, December 2019 – Crisis at the WTO's Appellate Body (AB): Why the AB is Important for Developing Members by Danish and Aileen Kwa

No. 70, December 2019 – Lights Go Out at the WTO's Appellate Body Despite Concessions Offered to US by Danish and Aileen Kwa

No. 71, January 2020 – Major Outcomes of the 2019 World Health Assembly by Mirza Alas and Nirmalya Syam