

The US-China Trade Policy Working Group**Joint Statement**

October 18, 2019

We are a group of economists and legal scholars from China and the United States who believe that both our countries could benefit from a new framework for trade negotiations. This document describes one such framework.

Our framework is intended to respect each country's ability to design and implement its own domestic policies, to promote productive negotiations about how to share the benefits and minimize the harms that attend bilateral trade, and to facilitate fair competition in the multilateral sphere of international trade.

We make our proposal against a background of US-China economic relations that have taken a very concerning turn. We believe the acrimony and impasse are in part the result of a worldview that assumes there are only two options:

- (a) China undertakes significant reforms in its industrial, intellectual property rights, and other economic policies to ensure the degree of state intervention in the country's economy more-or-less resembles that of other developed WTO members, while the US reverts back to pre-2018 trade policies; or
- (b) the two economies significantly reduce their economic interdependence ("decouple"), possibly through an intensification of the trade war.

We believe that this worldview should be expanded to entertain a third option between the "deep integration" and "decoupling" scenarios, one that:

- (i) allows countries considerable latitude at home to design a wide variety of industrial policies, technological systems, and social standards,
- (ii) allows countries to use well-calibrated policies (including tariff and non-tariff trade policies) to protect their industrial, technological, and social policy choices domestically without imposing unnecessary and asymmetric burdens on foreign actors, and
- (iii) maintains a set of trade rules that prevent countries from deploying what economists call "beggar-thy-neighbor" policies – policies that produce benefits to the home country only through the harm they impose on other countries.

Our approach is based on recognizing fundamental tradeoffs in the design of any international regime:

On the one hand, individual nations must have the freedom (“policy space”) to design the policies and institutional arrangements that best fit their circumstances and collective preferences. This includes the right to make what other nations may consider policy mistakes. On the other hand, individual nations must also acknowledge how their choices may entail adverse implications for the well-being of other nations.

On the one hand, it is neither economically sensible nor politically sustainable to preclude all such adverse implications by using global rules or bargaining pressures that are perceived as intruding on a country’s sovereign right to make its own domestic policy choices. On the other hand, allowing an individual nation absolute free rein, no matter what the impact on trade or on third countries, would allow it to impose unfair extraterritorial costs onto other nations.

Our approach would prioritize policy space for the US and China, enlarging it perhaps relative to what prevails under the status quo (whether in spirit or the law of the WTO regime). But we also draw clear red lines around “beggar thy neighbor” policies. We believe this approach preserves the bulk of the gains from trade between the two economies, without presuming convergence in economic models. It is an arrangement that is intermediate between the “deep integration” and “decoupling” approaches we mentioned above. It is also generalizable multilaterally, and is consistent with a multilateral approach that produces benefits to third nations.

Background

It has been almost 18 years since China joined the WTO, the system of trade rules and dispute resolution mechanisms that, at that time, defined the state of the art. During the intervening years, the global economy and the technologies that sustain it have changed dramatically, in ways that very few people anticipated at the time. Five changes in particular should be highlighted:

- (1) Technological progress. New technologies have enabled greater automation and disaggregation of supply chains, reducing wages and job security in many sectors while increasing wage premiums for certain skills. Social and behavioral changes have increased the market value of digital sectors versus agricultural, industrial, and non-digital service sectors. Network effects, increasing returns to scale, and dynamic first-mover advantages have multiplied the number of winner-take-all markets. “Dual use” technologies such as drones, robots, and artificial intelligence applications have multiplied the number of “civilian” industries in which governments have military interests. The economic significance of digital factor endowments has grown.
- (2) Slow adaptation of domestic and international regulatory norms to a digital economy. Before the technological revolution, primary regulatory (and taxation)

authority could be allocated based on the physical location of agricultural and industrial goods and of service providers. Separate nations could, relatively easily, develop cooperative agreements about how that authority would be used. Today, the internet and the cloud have called into question where data is located, who owns it, and which sovereign (if any) should have primary authority to regulate its transmission.

- (3) Dramatic growth of China's presence in the global economy. Between 2001 and 2018, China's share of world GDP has increased from 4% to 16%. Its share in world exports has grown from 2.7% to 10.5%.
- (4) Changed expectations about the future direction of China's domestic policies. In 2001, many expected that, as it grew, China's economy would quickly come to resemble that of the then-largest economies in the world: decentralized market economies, relatively accessible to foreign participation, with relatively small state sectors. Today China has made clear that, at least in the near term, China's economy will continue to feature heavy use of state investment and regulatory tools to support and protect domestic vendors in a broad set of key industries.
- (5) Changed political environments worldwide. In part because of these trends, the political environment for trade policy has changed significantly in most advanced economies, and in the US in particular. Anti-globalization political movements have gained strength. Many societies are undergoing a recalibration of the balance between the requirements of an open economy and the needs of the domestic economy, including notably the interests of groups that have lost or gained little from the past few decades of globalization.

Together, these changes have had significant impacts on the international trade ecosystem, and the political leaders of many WTO members have voiced concerns that globalization pursuant to the WTO system is no longer attuned to their countries' needs. The United States and China have entered into a trade war, dramatically raising tariffs on imports from each other, while also entering bilateral negotiations to reduce those tariffs.

The US-China negotiations have been grounded in an intellectual framework that presumes the only feasible possibilities going forward are (a) deep economic integration through domestic policy convergence to a common set of market economy principles, and (b) substantial "decoupling" into a world with dramatically diminished trading relations. The first of these rests on the framework that undergirded the global economy at the time of China's 2001 Protocol of Accession to the WTO. The second has come to the forefront with the intensification of geopolitical competition between the two nations.

In the balance of this document, we shall offer an alternative intellectual framework that we believe the two countries could reasonably use as the basis for negotiations. It is a balanced framework, designed to help the parties maximize the space in which they both can benefit from trade, without sacrificing each one's ability to make its own domestic policy decisions,

and without enabling the two countries to collude together unfairly to the disadvantage of third countries.

The “Four Buckets” Framework for Trade Between Divergent Nations

In today’s interdependent global economy, a broad assortment of divergent domestic policies (including policies that have not historically been regulated through WTO rules) can trigger calls to “rebalance” the structure of cross-border market access and trade barriers between countries. One approach to “rebalancing” is to escalate pressures for convergence. Our alternative to this approach is to assume that divergence will not necessarily disappear in the near future. We propose a framework that builds on that assumption and promotes, to the greatest extent possible, the benefits of international trade.

To operationalize our approach, we distinguish four categories (“Buckets”) of policies.

Bucket 1 (The “Prohibited” Bucket): In this Bucket, Country A’s actions or policies are likely to create significant distortions in global markets and can be presumed to entail global economic losses. It is appropriate that international norms prohibit actions or policies in this Bucket. “Beggars thy neighbor” policies¹ are canonical examples that fall under this Bucket. For example, country A may impose export or import restrictions with the express purpose of reaping monopoly pricing gains on world markets undermining other countries’ competitiveness. Or country A may engage in discriminatory data policies that promote predatory pricing or rent extraction by national digital companies on foreign markets.

Bucket 2 (The “Bilateral Discussions and Adjustments” Bucket): In this Bucket, Country A’s policies cause harm to country B without necessarily taking on a beggar-thy-neighbor character or entailing global economic losses. We put in this Bucket those policies for which a mutually beneficial bargain can be worked out between the two nations that entails the removal of the policies in question. This will typically occur when Country B’s perceived losses from the policy exceed the perceived gains to Country A from sticking with the policies. For example, Country A may engage in industrial policies that Country B’s producers consider unfair and harmful; Country B may prevail on Country A to remove or scale back these policies by offering an alternative economic benefit (e.g., a reduction of Country B’s countervailing tariffs).

Bucket 3 (The “Domestic Adjustments” Bucket): In this Bucket, a mutually beneficial bargain cannot be negotiated – perhaps because Country A’s policies bring perceived gains to Country A that exceed the perceived losses by Country B, so that Country B is unable to offer Country A adequate exchange for removing or scaling back the policies in question. In this case, Country A keeps its policies and Country B is allowed to undertake well-calibrated domestic policy adjustments that demonstrably aim to reduce or minimize harm to its domestic economy. For

¹ *Beggar-thy-neighbor policies are defined as “policies that seek to increase domestic economic welfare at the expense of other countries’ welfare” (Princeton Encyclopedia of the World Economy, emphasis added). Unlike other domestic policies that may entail negative repercussions across the border, they create domestic gains only to the extent that other nations lose. Further, they are globally negative-sum, because they create market inefficiencies (e.g., non-competitive conduct). Our proposed Bucket 1 would contain policies that are adopted with this express beggar-thy-neighbor purpose in mind. Our proposed Bucket 2 would contain policies that may have beggar-thy-neighbor effects but where those effects are not the first-order motivation for the policy.*

example, Country B may implement regulations on domestic firms to curtail the leakage of sensitive technological material to foreign firms. Or Country B may raise trade barriers to protect communities adversely affected by exports from Country A. What is essential here is that the “remedy” employed by Country B must be proportionate and well-targeted at the domestic objective (i.e., it is not a threat targeting Country A or a raising of the stakes in a trade war).

Bucket 4 (The “Multilateral Governance” Bucket): In this Bucket, Country A’s actions or policies (with or without any response from Country B) are likely to affect commerce with Country B in a way that is likely to cause spillover damage to the economy of Country C. It is appropriate that international norms and governance procedures be applied to manage such situations. For example, Country A may provide discriminatory trade benefits to Country B, such as by agreeing to reduce tariffs on one product from Country B without reducing tariffs on the same product from Country C.

Buckets 2 and 3 are central to our approach. They are designed to tackle cases where Country A’s policies have adverse implications for Country B, but the harm is the incidental consequence of, and not the primary motivation for, those policies. These are instances in which Country A might plausibly (and honestly) say, “we wish our policies did not have those negative consequences for you, but we need them for the wellbeing of our own economy/society.” The ideal sequence in our framework would be for the two countries first to negotiate to determine whether the case can be settled under Bucket 2. But we also recognize that there will be a number of cases in which a mutual arrangement under which Country A removes the policies in question is not possible. Bucket 3 then authorizes Country B to undertake domestic adjustments aimed at neutralizing the harm imposed by Country A’s policies to the extent possible. We emphasize that Bucket 3 is not meant as retaliation against Country A. It simply allows Country B to insulate itself from the adverse spillovers from Country A’s policies – i.e., to protect its own social and regulatory arrangements.

One advantage of this framework is that it offers a structure whereby the US and China can, together, make choices about how to rebalance their trading relationship in the future. Issues in all Buckets could be addressed by recourse to the WTO’s dispute resolution procedures. But the critical US-China issues in Buckets 1-3 could also be approached bilaterally outside the WTO framework initially, with subsequent WTO-compliance then achieved through the application of various WTO “flexibilities,” or, in the case of new areas such as digital trade, through the development of new WTO norms.

A second advantage of this framework is that it encourages each country to refrain from aggregating the other’s extraterritorially injurious policies into a single grievance and to refrain from amalgamating extraterritorially injurious policies with other, non-economic concerns. The point is not that other concerns are unworthy of attention; it is only to suggest that some problems may be more readily soluble if they are delinked. Unless such an approach is taken, it is difficult to see how a continuously escalating trade war can be avoided.

Under our framework, countries are encouraged to:

- o Identify other countries' specific domestic policies that are a significant cause of material injury to their ability to pursue their own objectives inside their own country ("extraterritorially injurious policies"),
- o Classify extraterritorially injurious policies by reference to Buckets 1-3,
- o Seek a mutually beneficial bargain with the country that is the source of the injury, and, failing such a bargain, to
- o Propose a way that the injured country can mitigate the harm from an extraterritorially injurious policy in the most appropriate (proportionate and well-targeted) way possible.

We do not claim that classifying all contested policies under our Bucket structure will be easy or straightforward. For example, US negotiators are likely to brand many Chinese industrial policies as beggar-thy-neighbor efforts to seize market share from overseas companies that are more efficient, whereas Chinese negotiators may describe those same policies as developmental policies intended to remove growth constraints and thereby to benefit the world economy in the long run. Conversely, Chinese negotiators may brand many US policies as beggar-thy-neighbor efforts to protect less-productive technology companies from foreign competition, whereas US negotiators may describe those same policies as necessary to protect national security. Such disagreements will surely arise. But at least in the case of blatant beggar-thy-neighbor policies, refusal to treat them as such would come at some cost as it would undermine the country's negotiating capital and generate criticism and disapproval from third parties (including the professional legal and economics communities and third countries).

Furthermore, the application of our framework is not limited to domains covered under the scope of existing WTO rules. For example, we intend for the framework to extend to contested policies that arise as a result of new digital technologies. While we encourage all countries to support sustained multilateral attention to these vitally important questions, even in the absence of multilateral regulations our approach offers a conceptual vocabulary for discussing whether such policies are per se problematic (i.e., beggar-thy-neighbor) and what actions other countries could appropriately take to protect their own priorities, in light of others' policy choices.

Our framework is intended, on the one hand, to preserve the ability of countries to develop rules and regulations for digital and emergent technologies in line with their non-trade priorities, while on the other hand, to redress any extraterritorial damages inflicted by such policies. Our hope is that the proposed framework will offer a means to recognize and offset the growing and dynamic nature of such costs in a controlled manner, without the kind of intense periodic bursts of geopolitical tensions we currently observe.

Overall, we believe this framework is one that could be used to facilitate a mutually advantageous resolution of the current trade war between China and the United States. It provides a language and motivating structure for defusing and disaggregating the conflict into more compact, analytically more manageable sets of discussions. It is a roadmap out of the conflict and towards a mutual accommodation.

Concluding Remarks

We need to move away from the current intellectual approach that frames the US-China economic relationship as a choice between economic decoupling, on the one hand, and deeper economic integration on the other. The first of these scenarios forsakes the gains from trade, while it does little to advance the national security of either nation. The second seems unrealistic, as it presumes China will rapidly converge to a US- or European-style economy.

There is a third option, which preserves much of the gains from trade without going all the way into deep integration. While there may well exist more than one intellectually coherent approach to implementing such an option, we are concerned that current policy and diplomatic discussions are not pursuing such an option at all.

We have outlined one possible approach in this document. We have sketched a proposal for a regime of “peaceful economic co-existence” between the US and China. This regime preserves policy space for both countries – for China to conduct its industrial and growth policies and for the US to safeguard its labor markets and technological systems. We believe that it is the best politically sustainable option that can preserve the enormous benefits of robust international trade.

Finally, while our framework was designed in response to the current trade war between the United States and China, it is not nation-specific. It is intended to be applicable to any nations engaged in international trade. It is consistent with existing WTO rules and institutions and can be pursued by China and The United States bilaterally even without those rules and institutions being modified or reformed.

The US-China Trade Policy Working Group

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Concurring Statement

Meredith A. Crowley

The joint statement offers a negotiating framework through which the US and China can re-establish a trading relationship that brings economic benefits to both countries. I see this framework as yielding the highest benefits globally if bilateral negotiations can be embedded within the larger framework of the norms and institutions of the WTO and multilateral trading system.

Challenge 1: Countries' established commitments at the WTO may need adjustment

Economic research has documented that the US's trade policy commitments at the WTO have resulted in a higher level of penetration of the US market by producers based in China than China's trade policy commitments have generated for producers based in the US. This asymmetry in border policy commitments, in conjunction with changes in technology, domestic and regulatory policies, and the wider economy have resulted in an asymmetry in the real and perceived benefits of the US-China economic relationship between these countries and across groups within the United States.

Challenge 2: Markets that are more globally integrated entail larger multilateral spillovers

The extent to which a border or domestic policy, a social institution or a regulation exerts an extraterritorial injurious effect on groups in a country's trade partners depends not only on the design and nature of the policy/institution or regulation, but also on the nature of competition in that market, the size and geographic location(s) of global demand and global conditions of production and supply. The costs of many policies at issue are not limited to citizens of the US and China, but are spilling over with negative consequences to those in other countries.

Challenge 3: Existing WTO frameworks do not exist or do not suit their purpose

The precise language of the WTO treaty and the jurisprudence of WTO dispute settlement rulings, which have together provided great benefits to people around the world, limit the feasible set of solutions to important and newer problems facing the world. Rules such as those in the WTO's agreements on subsidies and countervailing measures are too restrictive in some contexts and too lax in others if their purpose is to create fair and transparent conditions of competition.

A path forward: The four buckets framework provides a path forward to re-open US-China negotiating space to consider domestic policy autonomy and divergence while at the same time encouraging broadly liberal trade. However, any bilateral solution to the US-China trade tensions should be implemented with an eye to understanding that in many sectors, a negotiated settlement will invariably impact those in other economies. Ideally, the three challenges outlined above will be addressed in bilateral negotiations.

The first challenge could be met if bilaterally negotiated policy commitments are transmitted into permanent changes in countries' border policy commitments at the WTO. To address the second challenge, the US and China could establish a formal channel for third countries to voice their interest in specific policies and/or product or service markets under negotiation. To do so, they could follow a procedure similar to that by which third parties express their interest in WTO consultations and disputes. To address the third challenge, the US and China could invite third countries to join them in establishing new plurilateral agreements at the WTO to implement negotiated solutions in areas of current concern to both countries.

Concurring Statement

Robert L. Howse

I fully support the approach to trade policy conflicts that is proposed in the joint statement. However, the joint statement is premised on a rejection of decoupling. By contrast, I believe that partial decoupling of the US and Chinese economies is both desirable and perhaps inevitable. A situation of extreme economic interdependence between great powers who are geopolitical rivals is one that is, in my view, inherently unstable and vulnerable to high levels of conflict. That is a judgment about politics and international relations and in no way goes against the economic and trade policy analysis in the joint statement. At the same time, anything coming close to complete decoupling is virtually unthinkable, given the size of the two economies and what is at stake. So we have to think about areas where decoupling makes sense versus others where it is too costly or difficult. The approach in the joint statement may well be helpful in this regard.

My second caveat goes to the difficulty of trust between rival great powers in a period of considerable tension. We should be cautious about thinking that the approach of the joint statement can be easily converted into enforceable legal agreements with dispute settlement. In some cases, what may be possible at least in the short term are informal understandings about mutual or reciprocal restraint, self-enforcing as it were (i.e. durable to the extent that they continue to produce a desirable stabilization for both sides). In developing any concrete accords based on the approach in the joint statement, negotiators should be particularly attentive to the difficulties of monitoring and verification. They must be vigilant in establishing clearly visible objective benchmarks for compliance. They must recognize the very considerable challenge of applying agreed norms where underlying domestic policies, both their motivations and effects, may not be transparent.

Third, and this really derives from the above-stated concern about geopolitical rivalry, it is impossible to think that matters of national security and other foreign policy interests such as human rights will not spill over into the US-China trade and general economic relationship.

The Huawei issue and reactions to the protests in Hong Kong are examples before our eyes. The proposed approach in the joint statement doesn't attempt to provide a framework for managing these axes of trade or economic tension and conflict. This is not a criticism, only to make clear one (admitted) limit of the capacity of the framework to provide a comprehensive formula for managing the US-China trade relationship.

In emphasizing geopolitics, I am not suggesting that China be simplistically labeled an enemy. The present reality is that ours are two opposed political and economic systems, which if anything appear to be growing farther apart. But we cannot say what the future will hold. The China-US relationship is not only one of states and rival political and economic systems, but of great peoples. Trade should help release the positive potential of that relationship of peoples, but to do so, it must be perceived as fair even if that means it is less "free."

Concurring Statement
The Principles of Competitive Coexistence
Jiandong Ju²

I endorse the efforts in the joint statement to search for a way of negotiation in resolving the U.S.-China trade disputes, and the idea in the joint statement that institutional diversity should be allowed and preserved in the process of globalization. To my view, the key issue is about the evolving structure of the world order.

The current global governance system is dominated by the US. As China keeps growing, that US dominance will inevitably have to be reformed. The question, therefore, is what would be a better global order in the future? Is it a world order dominated by one super country, or a peaceful co-existence world order structured to encourage competition among several big countries, together with the rest of the world?

I would argue that the latter represents the future of the world, which I call “competitive coexistence.” If one insists on what might be called a “hegemony world order,” the US and China could drift into seeing each other as enemies. However, if we could build a competitive coexistence world order, the US and China would be partners in building the future of the world, even with competition.

In a competitive coexistence world order, our joint statement’s four “Buckets” could naturally evolve in the following way:

Bucket 1: Mutually beneficial policies. For example, trade in comparative advantage sectors for both countries, such as reducing tariffs on exports of agricultural products from the US to China, and reducing tariffs on exports of textile products from China to the US. In the system I envision, both countries would always try to expand policies in this bucket.

Bucket 2: Competing policies. For example, competing government subsidies for advances in non-military technology. Policies designed to help produce better products would be allowed; policies designed to destroy each other’s products would not be allowed.

Bucket 3: Bilateral confrontation policies. For example, military technology competition. Policies in this bucket would be symmetric. If Country A adopted a policy against Country B, it would expect a symmetric policy response from Country B.

² I thank Jeffrey S. Lehman for very helpful comments.

Bucket 4: Multilateral confrontation policies. For example, Country A adopts policies to confront Country B, and also asks Country C to adopt similar policies to confront Country B as well. There would be benefits for the global order if such global confrontation policies were prohibited. In that manner, bilateral confrontations would not expand to the rest of the world. Neither country would force a third country to stand in its line against its competitor.

Buckets 1 and 4 are central in this approach, expanding mutually beneficial policies, and prohibiting multilateral confrontation policies. A future world order, peaceful co-existence, relies on big countries, like the US and China, to limit their confrontational actions to bilateral and not to expand to multilateral confrontations.

Concurring Statement

Feng Lu

I highly appreciate the intention and innovative ideas of the Joint Statement. In this concurring statement I make a few comments on issues in relation to the document.

(1) How to interpret the relationship between the buckets conceptual system and the rules of the multilateral trading system.

The international trading rules, either GATT or WTO, are created by contracting parties or members through voluntarily and collectively giving up some of their sovereignty at the margin, with a view to facilitate all participating countries to better explore the comparative advantage in a more open environment and become better off as a whole. The international rules therefore should define the boundary for the “Bilateral Discussions and Adjustments” in Bucket 2, or the “Domestic Adjustments” in Bucket 3. In discussion of the Bucket 3 in the Statement, it mentioned that “Country B may raise trade barriers to protect communities adversely affected by exports from Country B,” it should be noted that the acceptable action taken by Country B in this context should be confined to those without compromising or being in conflict with the existing multilateral trading rules that countries have already agreed on previously.

(2) How to have a balanced assessment on contemporary economic globalization.

First, we should not only examine the cost and benefits for specific countries such as the US and China, but also need to take into account the impact of economic globalization on many developing countries. Second, the accession into the WTO has played a crucial role in facilitating China’s tremendous economic growth witnessed in the early part of the new century, but painful economic reform in the 1990s and hard work by the Chinese people have served as an even more important driving force behind China’s economic catch up. It may be untrue that a country can deliver remarkable economic results only because of suddenly becoming a WTO members. Third, there are indeed problems associated with globalization that justifies serious consideration and necessitate new reforms, but on the whole the problems should be solved through further and better collaboration and integration rather than reversing the historical process or turning the WTO back into the GATT.

(3) How to assess the prospects of China’s economic system in the future.

China’s institutional transformation in the last four decades or so has been motivated through striving to solve her own problems in the spirit of “seek truth from facts” rather than follow any foreign country’s system or model. For the ruling party of the Communist Party of China (CPC), “resemble(ing) that of other developed WTO members” has never been a policy goal or motivation. The principal concept of “socialism with the Chinese characteristics” was adopted in 13th congress of the CPC in 1987, and it has appeared in the title of the political reports in each and every of the following CPC congresses every five years since then. China’s economic reform and opening up in the last 40 years or so has never been smooth and straight-forward,

but there is still strong consensus that China should continue to push forward reform and opening up so as to achieve the goal of her modernization. Though there are uncertainties in future, one thing is for sure that China will design and implement reforms in light of her own fundamental interests of long run development rather than copying another country's model or as a bargaining chip for negotiation with foreign countries.

In summary, although the Chinese and US economies right now face pressure to decouple from each other, there is still fairly significant evidence in the real world, reflecting the need to maintain rational and perhaps more balanced integration between the two economies. Two countries should face and deal with the accumulative problems as the by-products of their 40-years plus successful relationship through creative approaches and endeavors in all fronts, and this Joint Statement may serve a positive effort in this context. At the end of the day, it is the forces of the fundamental economic law rather than political intention that will prevail in history. After twists and adjustments, it is more likely to see the economies of China and the US to deepen integration rather than decouple from each other in the long run.

Concurring Statement

Justin Yifu Lin

I support the Statement's position that trade issues should be solved through negotiation. I have three comments on the contents of the Statement:

1. Due to the different stages of economic development in developing and developed countries market failures of their industrial upgrading occur in different places. If a developed country is allowed to take measures to overcome market failures for its industrial upgrading and a developing country is not allowed to take corresponding measures, it is like what the Chinese proverb describes: "Only the state officials are allowed to set fire, and the ordinary people are not permitted to light lamps." For example, the technologies of most industries in a developed country are at the forefront of the world. The country needs to invent new technologies by itself for its industrial upgrading. The invention relies on breakthroughs in basic research (R) and the development of new technologies after breakthroughs in basic research (D). Enterprises are enthusiastic for D, but they are not willing to do R. However, without the breakthrough of R, the potential for D is limited. Therefore, the government in a developed country needs to support R for the country's economic development. The fields that R can do are infinite. The budgets that the government can use to support R are limited. As such, the government needs to allocate budget to Rs for industries that are most important for national defense and/or economic development. According to Mazzucato (2011) and Gruber and Johnson (2019), the United States' current global leading industries are the results of the Rs supported by the government in the past decades. In essence, a developed country's support for R is an industrial policy. In addition, the patent system in a developed country compensates for the externalities generated by innovators. A developing country will also have market failures in its industrial upgrading, for example, inadequate hard and soft infrastructure, but the government's budgets and implementation capabilities will not be sufficient to provide adequate hard and soft infrastructure for all potential industries and for the whole nation. The government can only provide the necessary improvements to the industries and places that have the greatest contribution to its economic development, that is, the government needs to have industry-specific and location-specific policies (Lin 2017). This is essentially the same as the support of R in developed countries. The innovator in developing countries will also generate the externalities that should be compensated. The innovation in developing countries is not patentable as it occurs within the global technological frontier. Therefore, the compensation for externalities in a developing country will be different from the patent in a developed country. If, a developing country is not allowed to adopt industry-specific measures to overcome market failures in its industrial upgrading because its measures are not subsidies for basic research or patent for new technology as in a developed country, this is like "only the state officials are allowed to set fire, and the ordinary people are not permitted to light lamps."

2. When a developing country upgrades its industries, the upgrading will inevitably enter into some existing industries in countries more developed than the country, resulting in competition with or even replacement of the more developed countries' industries. This is an inevitable phenomenon of economic development. Only through this process will a developing country

converge to the rank of developed countries. If the industrial upgrading in a developing country needs to compensate the losses in a developed country as suggested in the second bucket of the Statement, or the developed country is allowed to adopt the protection policy as proposed in the third bucket, such policies will compromise or even deprive a developing country's right to development.

3. A developing country may also have some industries that are already at the forefront of the world, such as Huawei's 5G, but the overall strength of a developing country is weaker than a developed country. A developed country may suppress those leading industries in a developing country for purposes of maintaining its vested status and interests in the name of national security. This kind of behavior is essentially a bullying behavior and should be condemned and prohibited.

References:

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Concurring Statement

Robert W. Staiger

In this concurring statement I propose a way to enlist existing WTO flexibilities in pursuit of the goals of the Joint Statement. I begin from a distillation of the five changes described in the Background section into two distinct issues that have contributed substantially to the current US-China impasse.

First, US expectations of reciprocal market access expansion into the Chinese market arising from China's 2001 entry into the WTO have not been met. This requires a rebalancing of the existing WTO market access commitments between the US and China to achieve the degree of reciprocity in these commitments that was intended to arise from their 2001 negotiations.

Second, US expectations of the balance between the internal benefits and costs of its own tariff commitments agreed to at the 1994 conclusion of the Uruguay Round have not materialized. This may require a rethinking and possible renegotiation of some of the Uruguay Round tariff commitments made by the US, subject to the preservation of reciprocity (once achieved) with China and with other US trading partners who would be impacted by this renegotiation.

To address these two issues and end the trade war, the following three-step procedure is proposed:

Step 1. The US and China should agree to end their trade war immediately and revert to tariffs consistent with their respective WTO commitments (e.g., their tariff levels prior to March 1 2018).

Step 2. Rebalancing: (i) The US should agree to pursue through the WTO dispute resolution process its concerns about unmet expectations of market access expansion in China, by filing a non-violation claim against China; (ii) In return, China should agree to take the unorthodox step of submitting materials in support of this claim (details of which could be part of the agreement to end the trade war) to the WTO dispute resolution body, thereby augmenting the normal non-violation-claim process and ensuring the success of the US claim in this case; and (iii) The US and China should agree that, once a successful non-violation claim has been adjudicated, both countries will abide by any subsequent WTO rulings on the amount of trade compensation that the US is owed by China (or permissible US retaliation).

Step 3. Renegotiation: The US should agree that, as implied by Step 1, any further permanent upward adjustments to its WTO tariff commitments that would have trade implications for China will be undertaken within the context of Article XXVIII renegotiations in the WTO.

The proposal acknowledges the legitimacy of US concerns over non-reciprocity with China (first issue), but asks the US to seek redress for these concerns via a non-violation case brought – with China's assistance – in the WTO dispute forum, thereby rerouting the US-China trade dispute on this issue into WTO dispute resolution processes that are designed to address

such issues in the context of measured, reciprocal, compensatory tariff responses which are themselves subject to the restraints of international control, rather than in the context of uncontrolled unilateral retaliatory tariff actions. At the same time, by drawing a distinction between US concerns over non-reciprocity with China on the one hand and the possibility that the US might rethink its own level of market access commitments (second issue) on the other, the proposal allows these two issues to be disentangled and addressed on separate tracks, and thereby builds on the distinct WTO provisions which are designed to address these issues and which, once augmented to reflect the exceptional circumstances of the US-China trade conflict, can provide the needed flexibilities. The proposal leaves unaddressed some of the important issues facing the US and China (e.g., those relating to digital/new technologies). But in describing a way for both countries to engage in good-faith efforts to address more familiar issues, the proposal may also serve as a trust-building exercise and help pave the way for solutions to these other issues in the future.