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Biden's Asia Trade Policy One Year In

A Review and Look Ahead

February 24, 2022



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China Policy



US-China Trade War *actions taken by US*



Tariffs

Since 2018, four tranches (lists) of tariffs introduced by US and China
Covering up to USD 550 billion in US imports from China and USD 185 billion in Chinese imports from US



Public Actions

In 2020, US government took at least 210 China-related public actions across at least 10 departments
Biden administration has continued public actions in similar, but less frequent, manner



Phase One Trade Agreement

Effective February 14 2020
Predominantly covers China structural and purchase commitments over a 2-year period

US-China Trade War Tariffs

US Section 301 Tariffs

China Retaliatory Tariffs

July 6, 2018	25%	\$34 billion <i>in products</i>	List 1	\$34 billion <i>in products</i>	25%	July 6, 2018
Aug. 23, 2018	25%	\$16 billion <i>in products</i>	List 2	\$16 billion <i>in products</i>	25%	Aug. 23, 2018
Sept. 24, 2018 <i>original</i>	10% <i>original</i>	\$200 billion <i>in products</i>	List 3	\$60 billion <i>in products</i>	5 or 10% <i>original</i>	Sept. 24, 2018 <i>original</i>
May 10, 2019 <i>raised</i>	25% <i>raised</i>				10, 20, or 25% <i>Increase on select products</i>	June 1, 2019 <i>Increase on select products</i>
Sept. 1, 2019 <i>original</i>	15%	\$300 billion <i>in products</i>	List 4A	\$75 billion <i>in products</i>	5 or 10%	Sept. 1, 2019
Feb 14, 2020 <i>decreased</i>	7.5%				5 or 2.5% <i>decreased</i>	Feb 14, 2020
Dec. 15, 2019	<i>Canceled</i>				<i>Suspended</i>	Dec. 15, 2019
		\$550 billion <i>in total products</i>		\$185 billion <i>in total products</i>		

US Government Public Actions *by department*



State Department

visa restrictions, travel advisories, diplomatic actions and public statements



White House

executive orders, signing bills into laws and signing of the Phase One trade agreement



Commerce Department

export controls, additions to entities list and advisories



Defense Department

freedom of navigation operations, Taiwan Strait transits, and release of reports and other info



Justice Department

indictments and arrests



Department of Homeland Security

blocking import of items made through forced labor and the release of reports and statements



Treasury Department

sanctions



US Trade Representative

release of reports and public statement

US Government Public Actions *by department*



Federal Communications Commission

designating Huawei and ZTE as national security threats



Energy Department

designating China as a "foreign adversary."



Export-Import Bank

~



Labor Department

a letter and a list of goods made w/ forced labor



Agriculture Department

interim report on agricultural trade w/ China



National Security Agency

cybersecurity advisory regarding China-linked cyber actors



Education Department

letter sent to university officials regarding Confucius Institutes

Phase One Trade Agreement *China commitments*



Structural Commitments

China commits to specific policy changes / reforms in 6 designated areas



Purchase Commitments

China commits to certain purchase increase amounts (from 2017 baseline amount) of specified goods / service in 4 designated areas

Phase One Trade Agreement *China structural commitments*

Intellectual Property

Requires various IP protection commitments in the areas of trade secrets, pharmaceutical-related IP, geographical indications, trademarks, patents, e-commerce infringement, and enforcement against pirated / counterfeit goods

Forced Technology Transfer

Prohibits forced technology transfer and prevents either government from directing or supporting domestic companies to acquire foreign technology that could create “distortion” in sectors and industries

Food & Agricultural Products

Commits China to certain science-based / risk-based standards for assessing import and export of food & agricultural goods

Financial Services

Commits China to improved market access for financial services, including banking, insurance, asset management, and payment / fund management

Exchange Rate Policies

prohibits manipulation of exchange rates or interest rates to devalue their currency

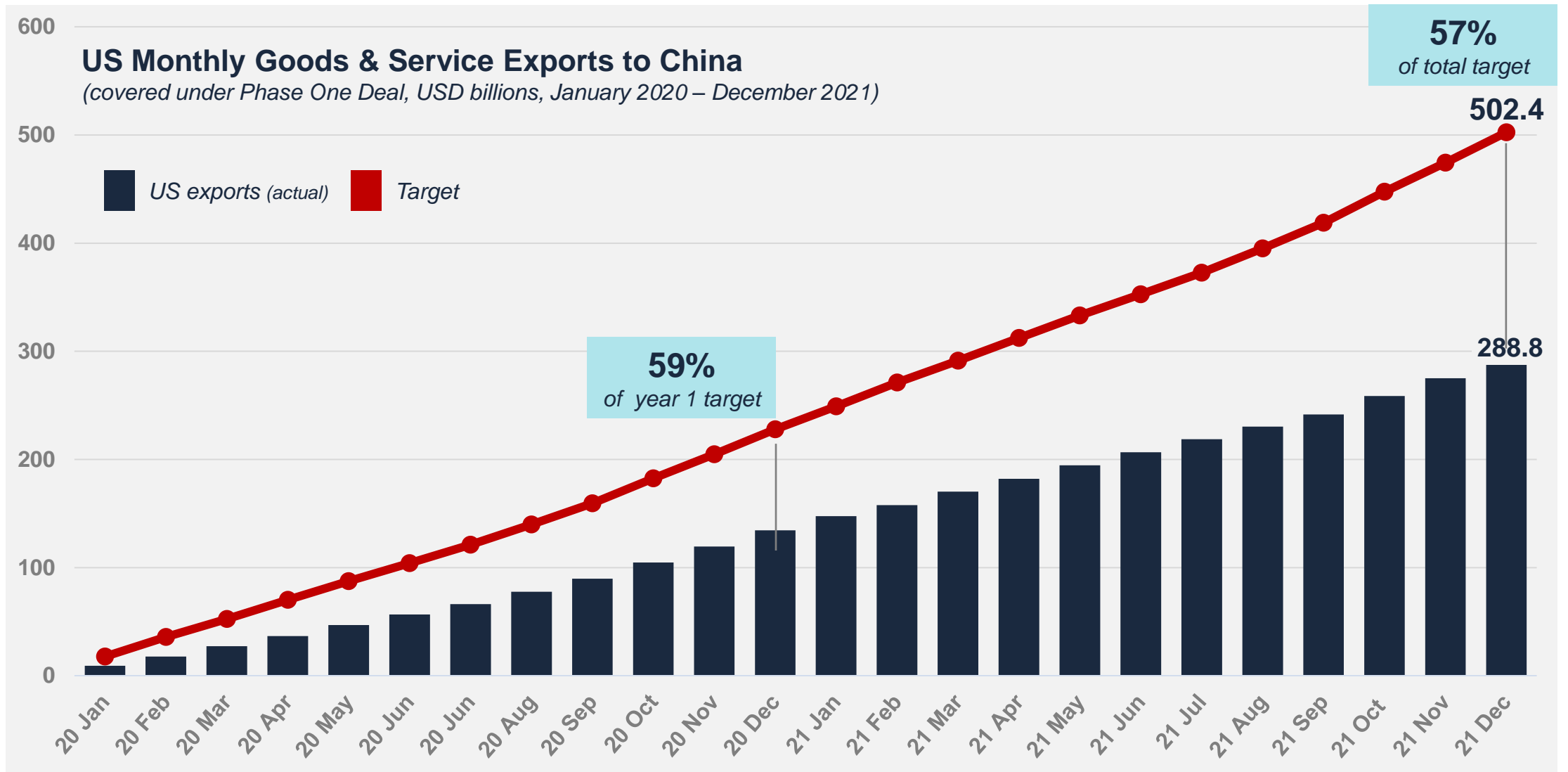
Trade & Service Expansion

China pledges to purchase a minimum of \$200 billion worth of additional US goods and services over the next two years

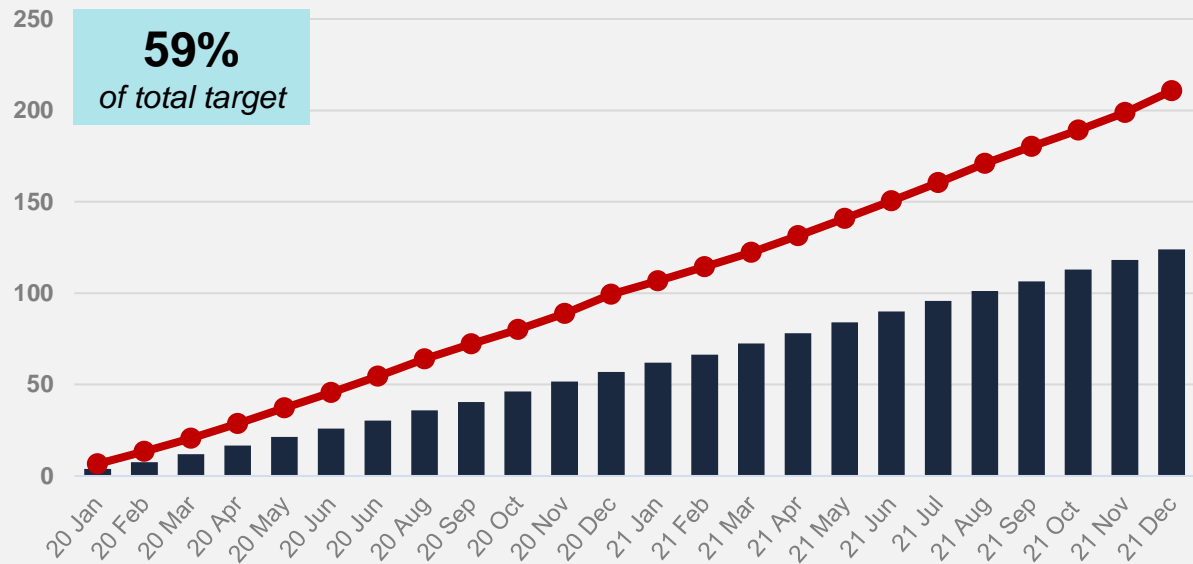
Phase One Trade Agreement *China purchase commitments*

Product Category	Overview	2020 (USD)	2021 (USD)	2-Year Total (USD)
Manufactured Goods	Industrial machinery, electronic equipment and machinery, pharmaceutical products, aircraft (orders and deliveries) vehicles, optical and medical instruments, iron and steel	\$32.9 billion	\$44.8 billion	\$77.7 billion
Energy Goods	Liquefied natural gas (LNG), crude oil, refined products, coal	\$18.5 billion	\$33.9 billion	\$52.4 billion
Services	Business travel and tourism, financial services, insurance, reinsurance, management consulting, telecom services, data hosting, cloud computing services, charges for use of IP	\$12.8 billion	\$25.1 billion	\$37.9 billion
Agricultural Goods	Soybeans, oilseeds meat, cotton, seafood, wheat, fruit, jams, jellies, corn, flour, horses, honey	\$12.5 billion	\$19.5 billion	\$32.0 billion
Total <i>(increase in purchases from 2017 baseline)</i>		\$76.1 billion	\$123.3 billion	\$200 billion

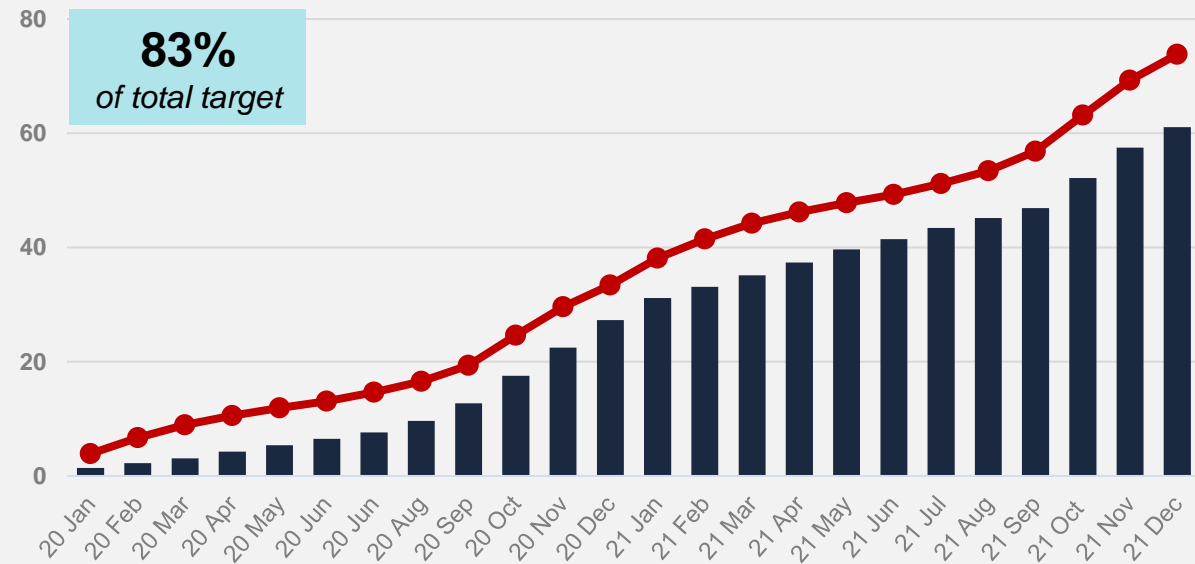
Phase One Trade Agreement *China purchase commitments*



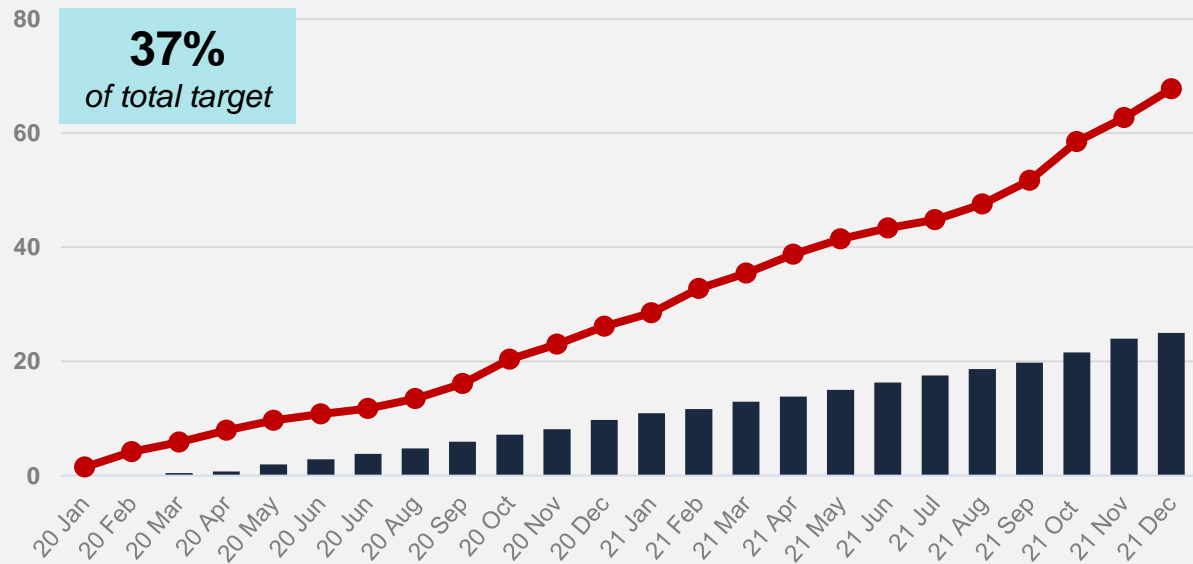
Manufactured Goods



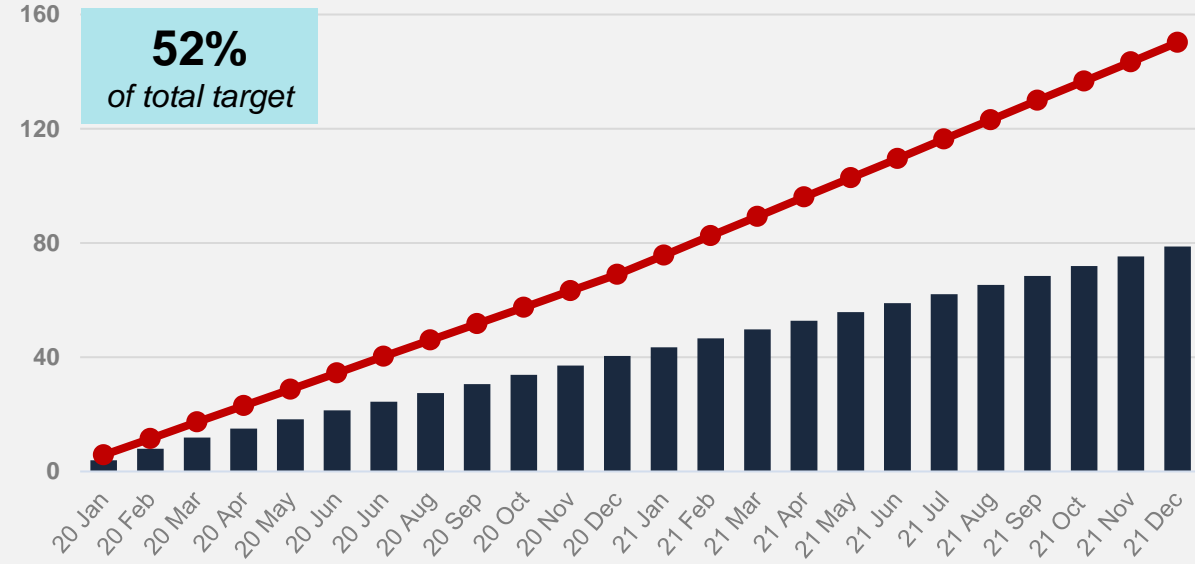
Agricultural Goods



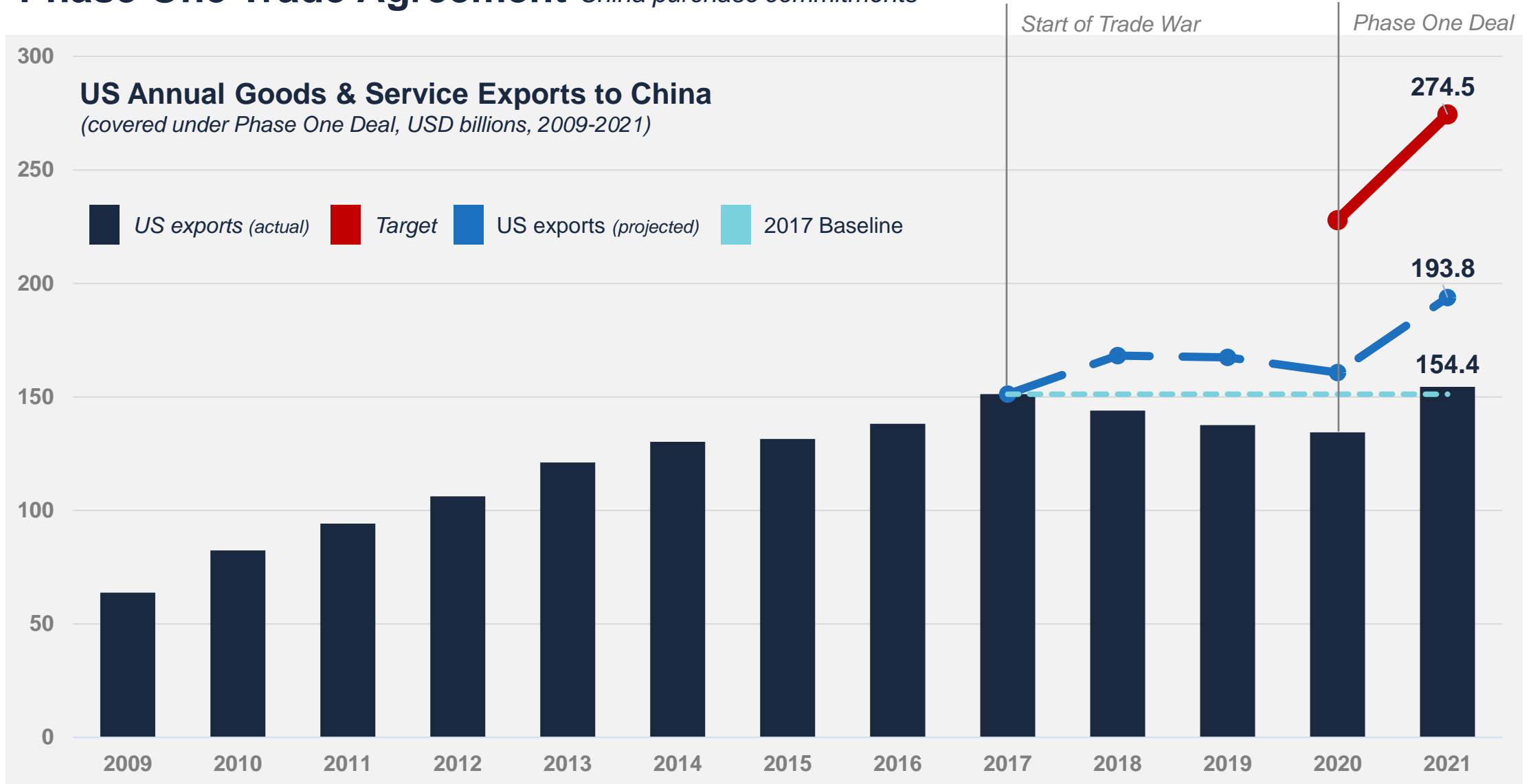
Energy Goods



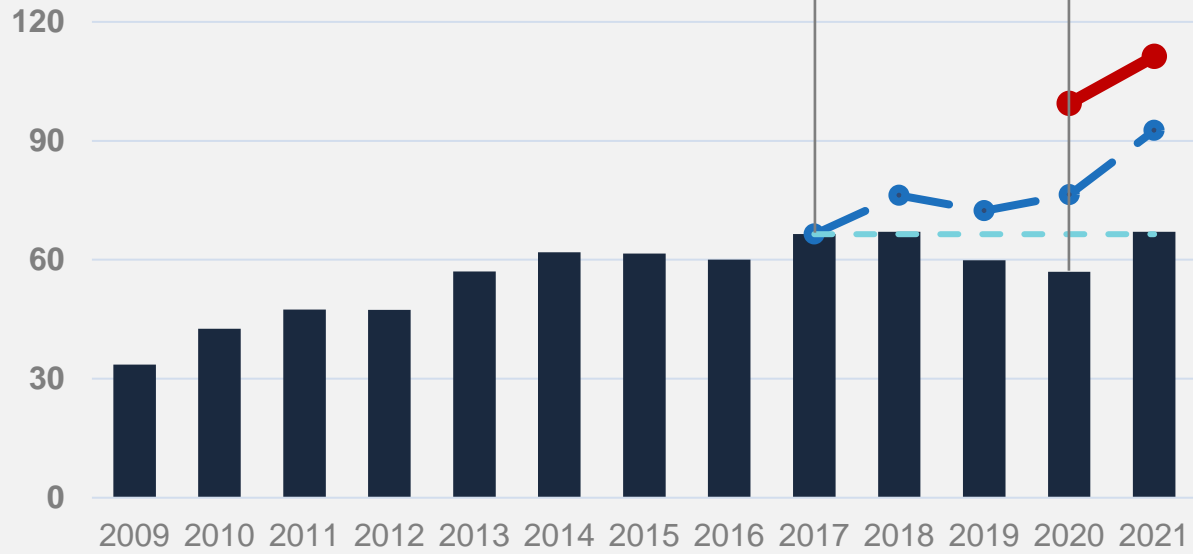
Services



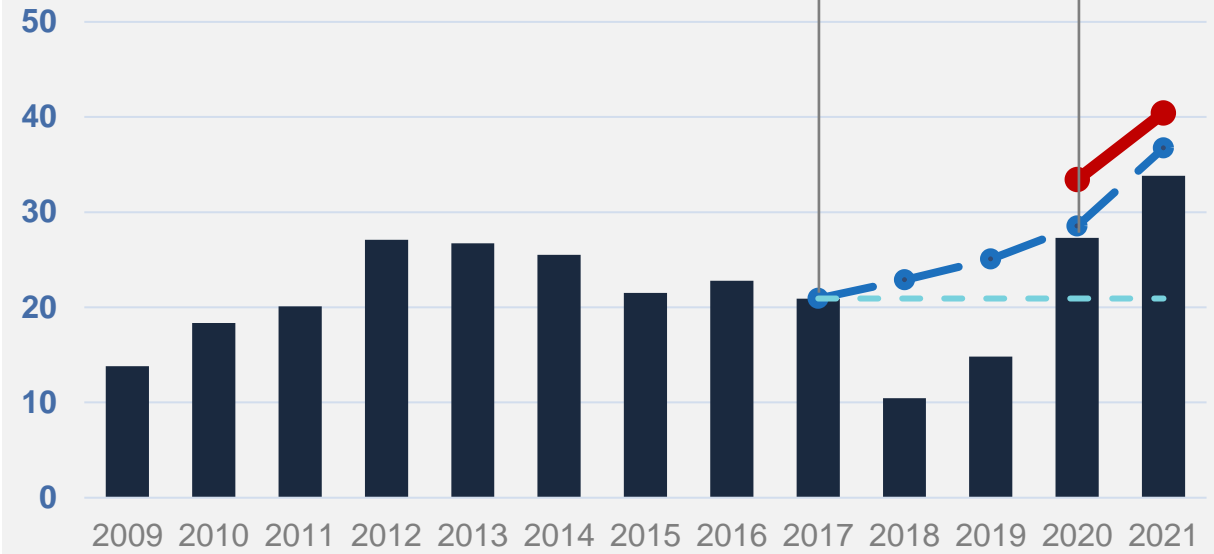
Phase One Trade Agreement *China purchase commitments*



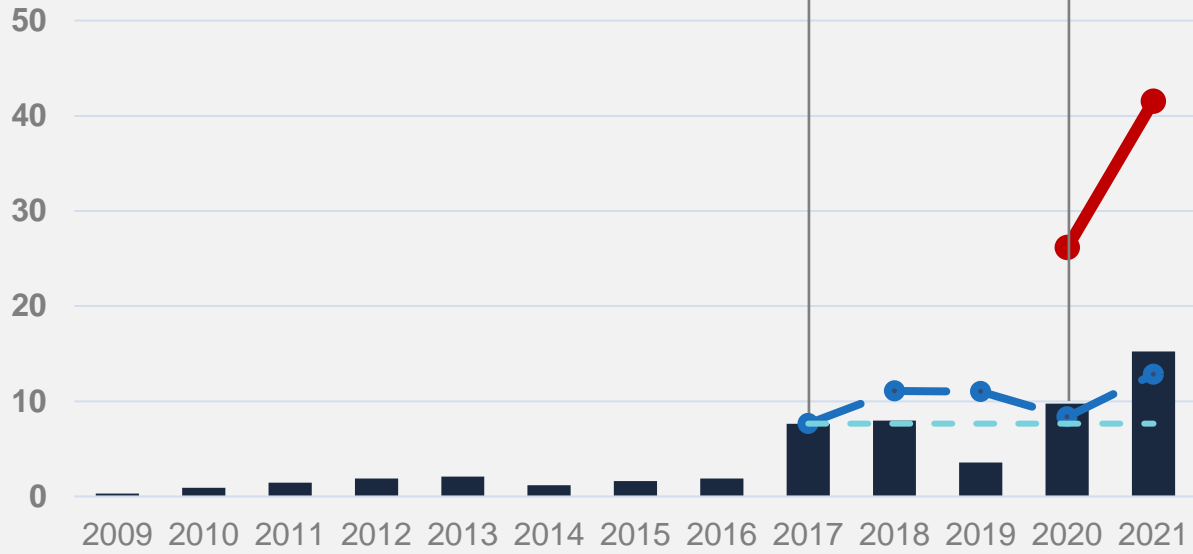
Manufactured Goods



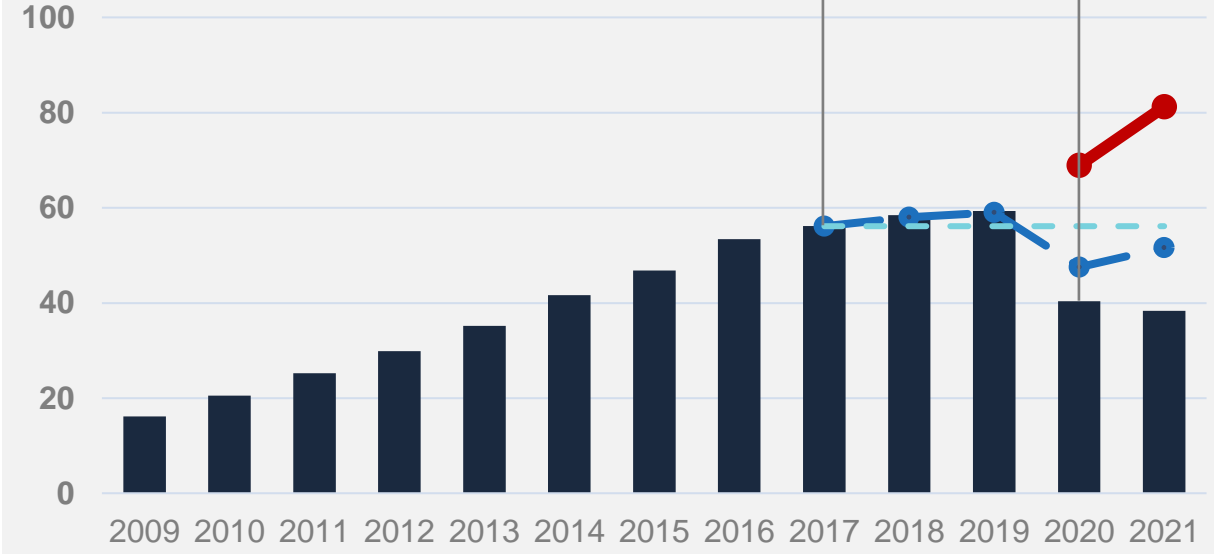
Agricultural Goods



Energy Goods



Services



After Phase One Trade Deal *possible US next steps*

Defense

- Protect sensitive technology, while:
 - Avoid putting US companies at a competitive disadvantage
 - Ensuring US companies can continue to do non-sensitive business w/ China that funds innovation in the United States
- Shield US industries from unfair competition, including enhancing:
 - Trade remedy
 - Investment screening
 - Export control measures (narrowly targeted)
- Coordinate China initiatives w/ allies

Competition

- Create policies that encourage growth in critical technologies, including:
 - Semiconductors
 - Artificial intelligence
 - 5G
 - Synthetic biology
- Pass US-China Innovation and Competition Act
- Maintain competitive tax, tariff, and regulatory policies
- Avoiding policies that unnecessarily target US technology leaders

Offense

- Expand bilateral engagement w/ China (if possible), including:
 - Better Phase One compliance
 - Seeking new commitments in other areas
- Revisit Section 301 tariffs to make them more targeted and ensure they pressure China w/out hurting US economy (expanding tariff exclusion policy)
- Seek trade agreements w/ countries in China's sphere of influence, including through:
 - CPTPP,
 - Digital trade agreement(s)
 - Indo-Pacific Economic Framework (IPEF)
- Seek WTO reforms and work w/ allies on China's unfair practices



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Indo-Pacific Policy

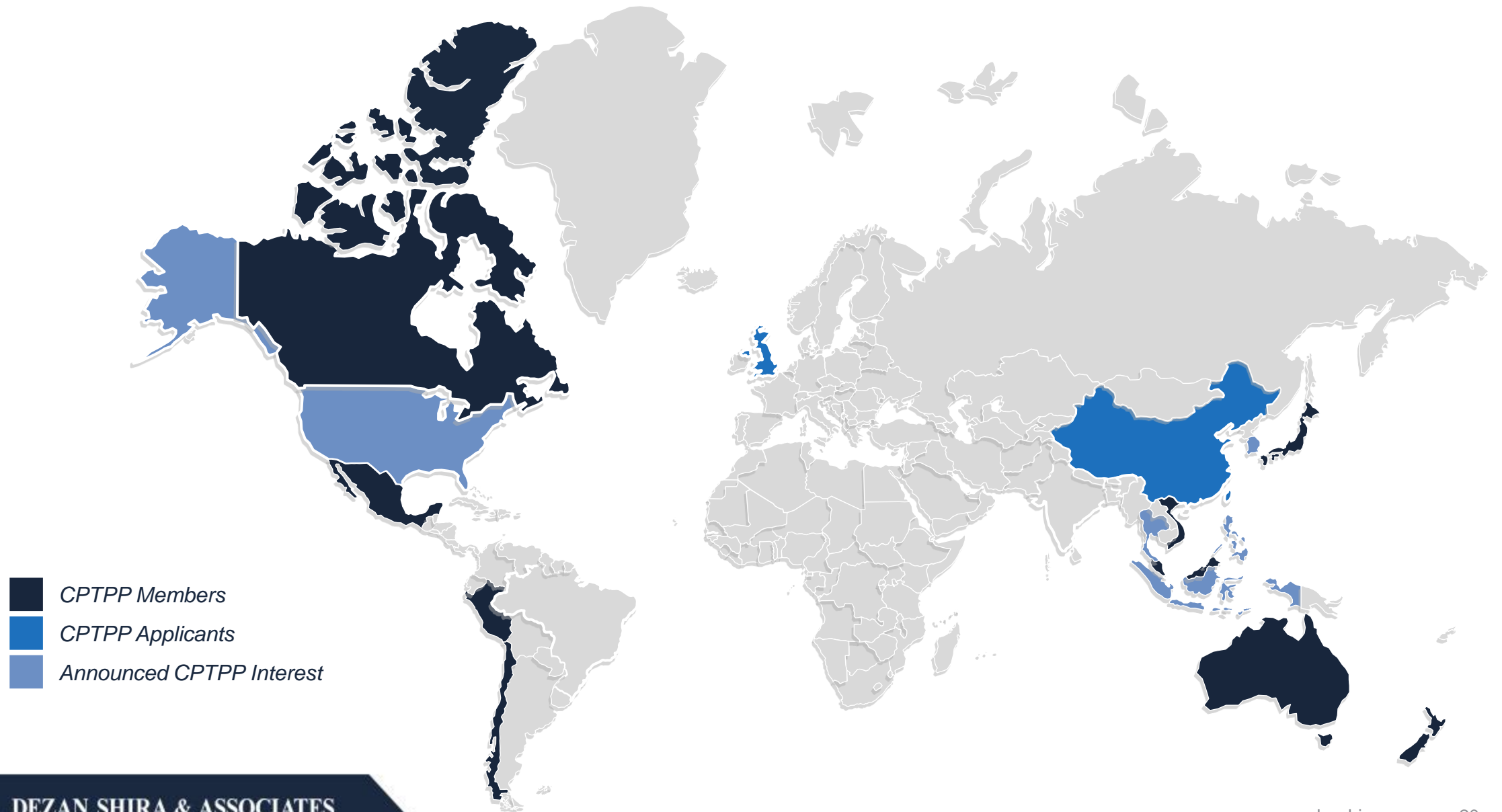


Comprehensive & Progressive Agreement for Trans-Pacific Partnership (CPTPP)














- Free trade agreement between 11 countries in the Asia-Pacific region
(Evolved from the Trans-Pacific Partnership (TPP), which never entered into force due to withdrawal of the United States)
- Entered into force on December 30, 2018
(after majority of signatories ratified agreement signed on March 8, 2018)
- Creates one of the largest free-trade areas
 - Represents 13.4% of global GDP
(approximately USD 13.5 trillion)
 - Only other free trade areas larger are:
 - United States–Mexico–Canada Agreement (USMCA)
 - European Single Market
 - Regional Comprehensive Economic Partnership (RCEP)
- Is a “next-generation” trade agreement w/ high standards and requirements

CPTPP Members & Applicants

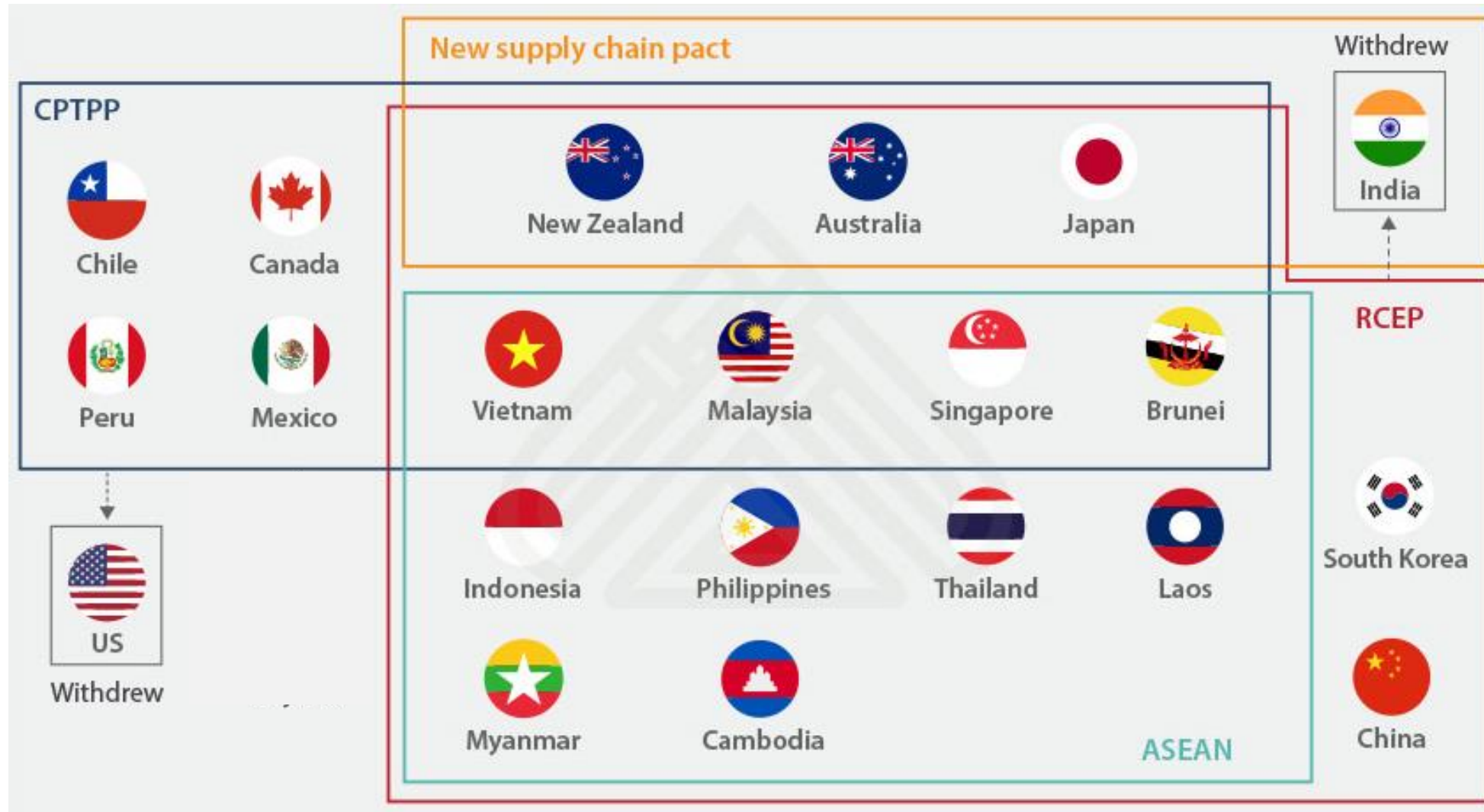


-  *CPTPP Members*
-  *CPTPP Applicants*
-  *Announced CPTPP Interest*




CPTPP Members & Applicants






	Country	Domestic Ratification	CPTPP Notification	Entry Into Force
	Mexico	April 24, 2018	June 28, 2018	December 30, 2018
	Japan	June 13, 2018	July 6, 2018	December 30, 2018
	Singapore	July 19, 2018	July 19, 2018	December 30, 2018
	Australia	October 19, 2018	October 31, 2018	December 30, 2018
	Canada	October 25, 2018	October 29, 2018	December 30, 2018
	New Zealand	October 25, 2018	October 25, 2018	December 30, 2018
	Vietnam	November 12, 2018	November 15, 2018	January 14, 2019
	Peru	July 14, 2021	July 21, 2021	August 21, 2021
	Brunei	~	~	~
	Chile	~	~	~
	Malaysia	~	~	~

Key Asia-Pacific Multilateral Trade Agreements



CPTPP Applicants *new and potential*

Applicants		
Country	Status	Date
 United Kingdom	Working Group established	June 2, 2021
 China	Formal application submitted	September 16, 2021
 Taiwan *	Formal application submitted	September 22, 2021

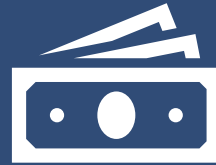
Potential Applicants		
Country	Status	Date
 United States	Announced interest	2018
 Indonesia	Announced interest	2018
 South Korea	Announced interest	2018
 Thailand	Announced interest	2018
 Philippines	Announced interest	2021

* Taiwan officially filed application under the name of "The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (TPKM)."

Key CPTPP Provisions *overview*



Digital Trade & E-commerce



Investment



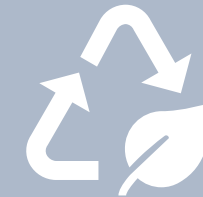
Supply Chains & Goods



Labor



Services



Environment

Digital trade & E-commerce

- Facilitates business-related data transfers and trade in digital products by introducing:
 - Prohibition on data localization measures
 - Commitment to allow cross-border transfer of information by electronic means when such activity is for conduct of business
 - Prohibition on imposing customs duties on electronic transmissions
- Prohibits a requiring access to source code as a condition for the import, sale or use of software

Investment

- Establishes high-standard provisions for investors and covers full life cycle of an investment—from establishment or acquisition, management, operation, expansion and disposition
- Provisions include core obligations of:
 - National treatment and most-favored nation (MFN) treatment
 - Expropriation and compensation
 - Performance requirements and transfers
- Includes Investor-State Dispute Settlement (ISDS) provisions, but ISDS claims scope narrowed (e.g., private companies cannot make ISDS claims relating to investment contracts they have entered into w/ governments)

Supply Chains, Goods, Rules of Origin, & Certification

- Supports development of CPTPP-wide supply chains by allowing for "accumulation" w/in CPTPP region – confirms ability to further process or add materials of one signatory country to products in another signatory country (which will then be treated as originating in the latter country) has become a standard feature in modern trade agreements
- Includes trade facilitative provisions on self-certification of origin, advanced rulings and customs clearance timelines, etc.

Labor

- Binding commitments that require domestic laws to uphold the following rights as set forth International Labor Organization (ILO) Declaration:
 - Freedom of association and collective bargaining;
 - Elimination of forced labor
 - Abolition of child labor; and
 - Elimination of employment discrimination

Services

(including financial services)

- Provides improved protection, predictability and transparency for service suppliers
- Adopts a "negative list" approach – meaning all services sectors are considered liberalized, except those expressly excluded from coverage in the form of non-conforming measures
 - Negative lists include two types of "non-conforming measures" which are exempt from the Chapter's MFN, national treatment, market access, and/or local presence commitments:
 - Measures subject to a "standstill and ratchet" obligation cannot become more restrictive in future and any future liberalization cannot be reversed
 - Reservations whereby participants maintain complete discretion as to their current and future policy
- Includes transparency obligations and commitments to allow a financial institution to supply new financial services that a country would allow for its own financial institutions
- Additionally, special dispute settlement provisions are tailored to financial services

Environment

- Binding and non-binding commitments relating to environmental protection – binding obligations prohibit:
 - Failing to effectively enforce environmental laws in a manner affecting trade or investment
 - Waiving or otherwise derogating environmental laws to encourage trade or investment
 - Providing certain types of fisheries subsidies that negatively impact overfished stocks

US CPTPP Engagement *obstacles*



Prioritization of Domestic Agenda

Administration focused mainly on domestic agenda in 1st term and given current issues as well as upcoming midterms, may continue to do so



“Worker-Centered” Trade Policy

Any accession to a trade agreement will need to be squared w/ administration’s “worker centered” policy and political base



Congressional Approval

Unclear if there is the political will in congress and political capital from the administration to achieve congressional approval

Trade Promotion Authority (TPA), which the administration let lapse in July, would likely also need to be renewed for progress w/ a CPTPP vote in congress



The TPP, which is the basis for the CPTPP, was something that was negotiated several years ago now. It concluded, I think, six years ago almost exactly.

The world economy has shown us realities in the intervening years that I think we really have to pay attention to.

In terms of our continued investment and engagement with our partners and allies in the Indo-Pacific, I think what we need to do is to fully engage and address the realities and challenges that we see today.

Katherine Tai
United States Trade Representative
October 4, 2021

US CPTPP or Other Trade Engagement *possible scenarios*



CPTPP Accession

Directly accede to CPTPP as it meets almost all trade and policy requirements, and would likely face little opposition in approval from current CPTPP members



CPTPP Plus

Accede based on previous (TPP) market access commitments, but request CPTPP unsuspend most or all contentious provisions and reinstate some or all required additional US clauses and side letters from TPP



Bilateral Agreements w/ Select Countries

Begin negotiations in earnest on bilateral trade or other agreement(s) w/ select Indo-Pacific and/or CTPP member countries



New Multilateral Agreement(s)

Begin negotiations in earnest on multilateral trade or other agreement(s) w/ select Indo-Pacific and/or CTPP member countries

Indo-Pacific Economic Framework (IPEF)



“President Biden also announced that the United States will explore with partners the development of an Indo-Pacific economic framework that will define our shared objectives around trade facilitation, standards for the digital economy and technology, supply chain resiliency, decarbonization and clean energy, infrastructure, worker standards, and other areas of shared interest.”

White House Statement following East Asia Summit

October 27, 2021



Alongside our partners, the United States will put forward an Indo-Pacific economic framework—a multilateral partnership for the 21st century.

We will launch, in early 2022, a new partnership that will promote and facilitate high-standards trade, govern the digital economy, improve supply-chain resiliency and security, catalyze investment in transparent, high-standards infrastructure, and build digital connectivity—doubling down on our economic ties to the region while contributing to broadly shared Indo-Pacific opportunity.

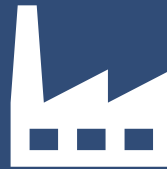
FACT SHEET: Indo-Pacific Strategy of the United States

February 11, 2022

Indo-Pacific Economic Framework (IPEF) *areas of focus*



Trade Facilitation



Supply Chain Resiliency



Digital Economy & Technology



Decarbonization & Clean Energy



Infrastructure



Worker Standards

Trade Facilitation

- Commitments on customs-related issues, including:
 - Enhanced customs procedures such as improving the transparency and availability of relevant laws, regulations, and procedures; expanding electronic processing of information and documents; and facilitating their acceptance by customs authorities
 - Promoting the use of “single windows” for import, export, and transit
 - Establishing “trusted trader programs” to facilitate customs clearance for traders that meet specified security criteria
- Commitments to support SMEs, including:
 - Promoting greater SME participation in Indo-Pacific markets by providing capacity building and technical assistance to fulfill TFA commitments and by increasing access to broadband connectivity
 - Promoting exchange of information and best practices on SME digitization and access to capital, trade finance, trade missions, and training programs
 - Encouraging use of regulatory impact assessments to review and minimize the adverse impact of new regulations on SMEs

Supply Chain Resiliency

- Coordination on mapping, transparency, and information sharing on critical supply chains, including clear definition of what is “critical” (*similar to approach adopted in inaugural U.S.-EU Trade and Technology Council meeting*)
- Cooperation on sharing information w/ other participants on supply chain stress testing and early-warning systems for shortages and bottlenecks through formal government-to-government channels
 - Core member group should evaluate feasibility of creating joint stockpiles or strategic reserves of essential goods
 - Develop mechanisms for testing and certification of components used in critical infrastructure
- Coordinate development finance projects to secure access to key raw materials and critical minerals
- Develop common standards for transparent, trusted, and sustainable supply chains, including:
 - Shared principles on supply chain working conditions
 - Prohibition of importing products from forced labor or illegal conditions
- Provide technical assistance on elevating labor standards and protecting workers, in concert w/ existing International Labor Organization (ILO) programs in region

- Integrate principles / rules in various Indo-Pacific digital deals into a broader regional agreement and add new rules to cover emerging issues, including:
 - Prohibiting restrictions on cross-border data flows and data localization requirements, including for financial services
 - Ensuring nondiscriminatory treatment of digital products
 - Prohibiting customs duties on digital products distributed electronically
 - Prohibiting forced disclosure of proprietary computer source code and algorithms
 - Protecting personal information in digital trade so information transferred across borders is consistent w/ strong privacy principles
 - Permitting use of electronic authentication and e-signatures, while protecting confidential information
 - Promoting access to government-generated public data in formats usable by SMEs
 - Promoting interoperability of privacy rules and related enforcement regimes, such as the APEC Cross-Border Privacy Rules (CBPRs), while respecting U.S. federal and state privacy laws and regulations
- Establish forums / dialogues and seek commitments (non-binding) for cooperation on:
 - Mitigating risks of cyberattacks and cyber theft
 - Dealing w/ fraudulent, misleading, or deceptive commercial activities online
 - Developing new ways to make internet / digital trade tools widely available to underserved groups
 - Promoting greater financial inclusion for people through use of digital tools
 - Establishing an annual digital SME dialogue involving relevant stakeholders to exchange information and best practices on digitization and internationalization of SMEs
 - Promoting digital workforce skills
 - Developing ethical and other standards for use of artificial intelligence
 - Standards-setting processes as they affect digital economy
 - Collaborating on digital technology policies that support global health and climate change objectives

Infrastructure

- Committing to G20 quality infrastructure principles (*agreed to in Osaka 2019*)
- Deepening commitments on transparency (*e.g. making government contracts public, or sharing contract information*)
- Incorporating relevant commitments on sustainability, including:
 - Life-cycle cost assessments for infrastructure projects and prohibiting new coal-fired power plants
 - Enhanced worker rights and required community consultations
- Serious public funding commitments to prepare projects, build capacity in recipient countries, and provide first-loss guarantees and other incentives that reduce risks for prospective investors and catalyze private investment
- Creating a fund w/ public-private financing, which partners pledging deeper commitments can become eligible for
- Supporting B3W objective of mobilizing private capital to boost infrastructure investment

Worker Standards

- Integrate labor as a core issue throughout other elements of framework
- Enforcing labor provisions of existing trade agreements in region, while providing capacity and support programs for fair treatment of workers
- Elevate worker rights and inclusivity, including using worker training programs and educational initiatives to encourage women and disadvantaged people's participation in the workforce (even if sensitive in some countries)
- Committing to not block companies / NGOs analyzing and certifying status of supply chain participants' labor practices (*e.g. from forced labor, child labor, etc.*)

Decarbonization & Clean Energy

- Promoting increased investments in technologies w/ environmental remediation capabilities and climate change mitigation benefits, especially those w/ large upfront commitments (*e.g. countries work in concert to deploy carbon-capturing cement products on an industrial scale*)
- Work together to scale up environmentally beneficial investments while eliminating harmful investments, including:
 - Information sharing on which countries are best situated to host certain aspects of renewable energy transition
 - Creating common standards for risk exposure and disclosure
- Expand regional carbon offset markets, including the Australian-led Indo-Pacific Carbon Offsets Scheme
- Increase demand for renewable power throughout the region

Indo-Pacific Economic Framework (IPEF) *structure*



Menu Approach

Discussions on each of the various goals, such as those outlined above, would then proceed separately, w/ different groups of countries participating in different modules

Anticipated result would be a matrix in which some countries make commitments in all the areas and others only in a few



Single Multilateral Agreement

Traditional concept in trade negotiations of a single undertaking in which all issues on agenda would be negotiated simultaneously

Countries expected to subscribe to final agreement in its totality or withdraw

Indo-Pacific Economic Framework (IPEF) *US domestic approval process*



w/ Congressional Approval

- Will add some uncertainty to agreement(s) (*i.e. will congress pass agreement or not*)
- May take time and political capital to have agreement(s) passed domestically
- May require certain concessions within agreement(s) to appease congressional constituencies
- Would give congress opportunity to make and pass new laws to conform w/ agreement(s)



w/Out Congressional Approval

- Would be faster than having to seek congressional approval
- Implies agreements will not contain any obligations that require congressional action (which rules out any market access concessions or changes in law on issues like digital trade, digital competition, or decarbonization) and as such, partner may have little to gain from participation
- Suggests potential participants will be expected to commit to do only what the United States is already doing or is seeking to do
- Congress has no immediate recourse to require its approval, but may take offense to being left out of process and cause issues w/ future trade matter under its purview

Indo-Pacific Economic Framework (IPEF) *keys to success*

Tangible Benefits

- Should be a net positive for US economy to gain domestic political support of key stakeholders
- Must produce benefits for partners or they are not likely to participate or make significant commitments

Binding Rules

- Avoid “no-risk, no-reward trap” just to increase number of participants
- Seek to advance, wherever possible, binding rules and hard commitments that go beyond broad principles and goals
- Important for US interests and in winning congressional / public support necessary

Effective Management

- Avoid a “spaghetti bowl effect” domestically and w/ participating members in different agreements
- Important to name a single person the White House or lead agency to coordinate various elements to:
 - Align and coordinate policies / initiatives domestically
 - Present clear leader and points of contact for partners during negotiation and implementation

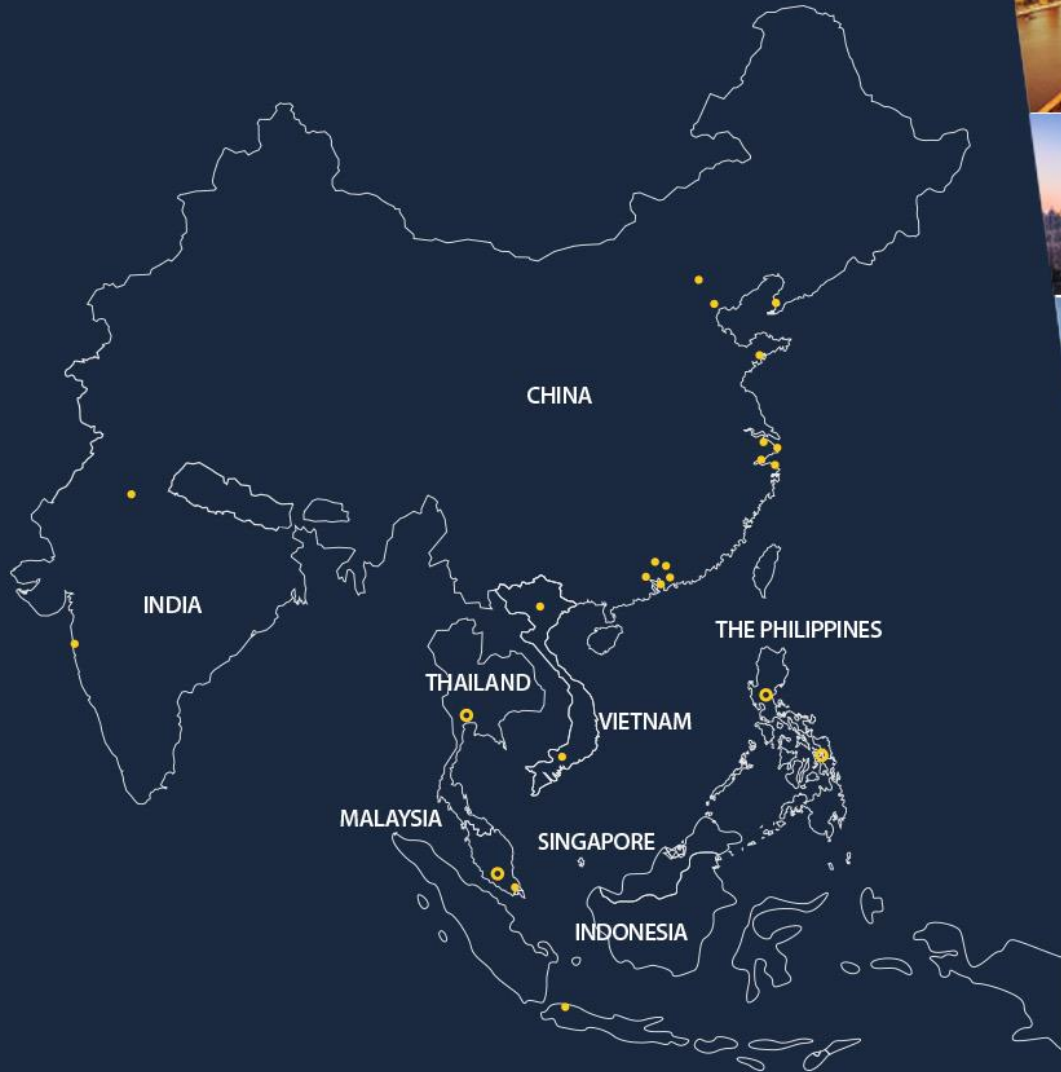
Transparency & Inclusiveness

- Administration has committed itself to an open and inclusive economic policy, so important in this complex negotiation to consult w/ all stakeholders (e.g. labor, small and large businesses, consumers, and environmental and other civil society groups, as well as congress)



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