

Leveling the Playing Field with China

End, Protect, Raise: Principles for a U.S.-China Bilateral Agreement

With the president's demonstrated commitment to engage China on its trade abuses, the United States and China have an historic opportunity to enhance our commercial relationship for generations to come. The key at this moment is the right deal, and the goal must be a comprehensive agreement made up of core principles that manufacturers in America are advancing.

Manufacturers in the United States sell more of what they make to China than to any other country outside of North American Free Trade Agreement (NAFTA) partners Canada and Mexico. Yet for too long, China has reaped the rewards of unfair trade practices and state-led industrial policies that exploit loopholes in decades-old agreements that have not kept pace with China's development, let alone major changes in global technology and manufacturing. These actions have fueled a wide variety of problems that harm manufacturers, such as overcapacity in a variety of industries, unfairly traded and injurious imports, continued intellectual property theft and technology transfer, and discriminatory behavior that undercuts the competitiveness of manufacturers in the United States in their commercial engagement—not only in China but around the world.

China must be bound by a new set of enforceable rules that govern the U.S.-China commercial relationship. While the United States has extensively used a number of tools to fight these distortive practices, from domestic enforcement tools to World Trade Organization (WTO) cases to bilateral and multilateral dialogues, these tools alone have not fully addressed China's unfair practices. America must ensure that China respects basic rules that the United States has long championed at home and abroad such as non-discrimination, fairness, transparency, science-based regulation, private property protection and market-based competition, and that the United States has the tools to enforce these rules when China breaks them.

This is why the National Association of Manufacturers (NAM) has been urging the administration to negotiate a comprehensive, enforceable, rules-based trade agreement with China. It's simply the best—and likely only—way to directly, fully and permanently address the unfair and discriminatory barriers that hold our country back. The goal should be binding new rules with China, including innovative new provisions with full enforcement that address unique challenges in the U.S.-China commercial relationship. These negotiations should seek not only to lower effective tariffs for U.S. exports to China, but also address the array of non-tariff barriers and regulatory practices that allow Chinese companies to compete unfairly in China, in the United States and around the world. Enforcement is critical as experience has shown that where the rules are clear and there is binding enforcement, as is the case for many of the WTO cases brought against China, China has generally complied.

The president now has China's attention and with it an unparalleled opportunity to reset the U.S.-China commercial relationship—the NAM urges him to take it. Rebalancing this relationship would have massive benefits for manufacturers in the United States, freeing them to expand sales and manufacturing at home, supporting and creating well-paying jobs in communities across the country. We stand ready to do whatever we can to support these important negotiations. This document represents part of that commitment. On the following page is a list of core negotiating principles that manufacturers believe should guide any negotiation.

A new bilateral trade agreement must be pursued if we want to put our difficult trading challenges behind us for good. Any trade negotiation with China will be difficult and time-consuming, but the core principles that guide those negotiations don't have to be. We think that the following principles offer the best chance to move our country forward in a historic and positive way and they rest on a simple three-word premise:

End, Protect, Raise.

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Principles for a U.S.-China Bilateral Agreement

End Unfairness: *End Chinese Anti-Competitive Activities and Market-Distorting Barriers*

- **End discriminatory trade barriers**, including both tariff and non-tariff challenges designed to shut the United States out of critical markets, including for remanufactured and biotechnology products.
- **End discriminatory export and import policies**, including taxes and tax refunds, subsidies, bans and promotion programs designed to unfairly boost Chinese exports or curb imports.
- **End discriminatory government procurement policies**, including indigenous innovation policies and industrial policy promotion programs designed to exclude U.S. goods and services.
- **End discriminatory industry-development policies and practices**, including those designed to promote Chinese manufacturers and investments at the expense of ours.
- **End discriminatory testing and certification requirements**, including local testing provisions that require imported goods to be re-tested and certified by domestic labs.
- **End the rest of China's discriminatory practices**, including unnecessary red tape, uneven border enforcement and unfair advantages for state-favored, state-related and state-owned entities that provide unfair advantages and foster anti-competitive conduct at home and abroad.

Protect U.S. Assets and Innovation: *Protect U.S. Intellectual Property, Products and Investments*

- **Protect U.S. manufacturers and their investments against unfair treatment**, including discrimination, expropriation without compensation, forced technology transfer and forced local content rules, breach of investment contracts and barriers to the transfer of capital.
- **Protect innovation and intellectual property rights**, including for new and emerging technologies, and ensure non-discriminatory approaches to innovation that do not unfairly boost domestic companies at the expense of fair market access and treatment for manufacturers in the United States or their investments in China.
- **Protect access to meaningful remedies for intellectual property (IP) theft**, including eliminating structural barriers like value-based thresholds that limit the ability of companies to protect their IP.
- **Protect the ability of manufacturers and manufacturing-enabling services to invest**, eliminating investment barriers and joint venture and equity cap requirements barriers impacting sectors from automotive and agricultural processing to express delivery, telecommunications and distribution services that grow U.S. manufacturing exports and jobs.

Raise Standards: *Raise and Modernize Regulations and Regulatory Practices to ensure transparency, fairness and accountability*

- **Raise standards for government rule-making processes**, including requirements for public notice and comment, full protection of business confidential information and neutral judicial review of administrative rulings.
- **Raise standards for regulatory practices**, including requirements for science-based approaches, neutral dispute settlement and binding provisions regarding regulatory coherence and recognition of U.S.-developed, private-sector led standards.
- **Raise standards for competition policy systems**, including strong due-process provisions and neutral oversight.
- **Raise standards for anti-corruption and enforcement rules**, including rules to criminalize bribery and public corruption that are implemented in a non-discriminatory way.
- **Raise standards for digital trade**, including prohibiting localization of information technology infrastructure, mandating non-discriminatory access to telecommunications networks, ensuring that cybersecurity laws do not disadvantage technology companies in the United States, and eliminating discriminatory, burdensome and unnecessary restrictions on cross-border data flows.

The best way to end unfairness, protect U.S. assets and innovation, and raise standards is to ensure this agreement holds China accountable with strong enforcement tools, including subjecting all parts of it to transparent and neutral dispute settlement procedures, ensuring all trade and economic commitments are subject to private rights of action, and establishing periodic agreement reviews to both identify and address existing problems and tackle new ones.