

**National Association of Manufacturers
Manufacturers Seek Comprehensive, Innovative and Reciprocal Trade Agreement with
China to Open Markets and Ensure Fairness**

The U.S. commercial relationship with China is in urgent need of repair. China is a crucial market for manufacturers in the United States, as they sell more to China than to any other country outside of Canada and Mexico. Yet for too long, China has reaped the rewards of unfair trade practices, state-led industrial policy and intellectual property theft, exploiting loopholes in decades-old agreements that have not kept pace with China's development, let alone major changes in global technology and manufacturing.

While the United States has – and has used extensively -- a number of tools to fight these distortive practices, those tools alone have not stopped China's underlying actions that allow these harmful activities. The president has grabbed China's attention, giving him an unparalleled opportunity to stop these actions through a strategic approach based on a fair, bilateral, enforceable, rules-based trade agreement by an administration that champions manufacturing.

To get China to play fair, we must write a new set of enforceable rules that govern the U.S.-China commercial relationship. To grow and support well-paying jobs in America, manufacturers in the United States – the most productive in the world – need fair access to 95 percent of consumers who live outside our borders, including the 1.4 billion consumers in China. We must ensure that China respects the basic rules of non-discrimination, fairness, science-based regulation and market-based competition—rules on which the United States' own system have long been based, and make sure we have the tools to enforce these rules when China cheats. When overseas markets are open and trade is fair, American businesses and workers can compete with anyone, and American families and communities win.

Unfortunately, the rules that apply to China are outdated: rules that were largely negotiated more than 24 years ago in creating the World Trade Organization (WTO). The WTO is a key pillar of the rules-based international trading system and a critical enforcement tool for the United States. While the United States must prioritize working constructively and collaboratively with its to update the WTO its rules to reflect the massive changes in the digital economy, trade, transportation and investment activity over the past 25 years, restructuring the U.S.-China commercial relationship cannot wait for that activity and must proceed on a dual track.

Therefore, the NAM urges the United States to negotiate bilaterally with China to address directly and fully the types of barriers, discrimination and unfairness that manufacturers continue to see in the U.S.-China commercial relationship. Manufacturers therefore urge the negotiation of binding new rules with China, including a comprehensive, innovative, reciprocal trade agreement that builds on best-in-class provisions of existing agreements and includes innovative new provisions, all with full enforcement, to address unique challenges in the U.S.-China commercial relationship. Specific negotiating objectives must include:

Eliminate Chinese Market-Distorting Barriers so Manufacturers Can Sell More Made-in-the USA Goods and Grow American Jobs

- Eliminate all Chinese import tariffs and taxes, as well as non-tariff barriers and other discriminatory border measures, that limit U.S. access in critical products (such as remanufactured goods and biotechnology products).
- Eliminate export and import restrictions, including taxes, subsidies, bans and promotion programs, that discriminate against foreign-based products and foster unfair competition against U.S. exports in other markets.
- Eliminate discriminatory government procurement policies, including the use of indigenous innovation policies and industrial policy promotion programs that effectively exclude foreign-based goods and services.

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- Eliminate unnecessary red tape and uneven enforcement at the border.

Raise and Modernize Regulations and Regulatory Practices to Ensure Transparency and Fair Competition for Manufacturers in the United States

- Require the adoption of state-of-the-art transparency processes for government rule-making, including requirements for public notice and comment, full protection of business confidential information and neutral judicial review of administrative rulings.
- Require adoption of strong, transparent anti-corruption and enforcement rules, including rules to criminalize bribery and public corruption, and ensure that these are implemented in a non-discriminatory fashion that does not discriminate against foreign business.
- Require transparent, science-based regulatory practices that promote fairness and non-discrimination and that are subject to dispute resolution, including binding provisions on regulatory coherence and recognition of U.S. international standards.
- Require a fair, transparent and nondiscriminatory competition policy system with strong due-process provisions and that are not used unfairly against foreign business.
- Modernize digital trade rules, including through prohibiting localization of information technology infrastructure, requiring non-discriminatory access to telecommunications networks, ensuring that cybersecurity laws are not used to disadvantage foreign technology companies, and eliminating discriminatory, burdensome and unnecessary restrictions to cross-border data flows.

Protect U.S. Property and Investment, Including Intellectual Property

- Require strong protections for U.S. investors against unfair treatment, discrimination, expropriation without compensation, forced technology transfer, breach of investment contracts, and barriers to the transfer of capital.
- Require strong protections for innovation and intellectual property rights, including for new and emerging technologies, and ensure non-discriminatory approaches to innovation that do not unfairly boost domestic players at the expense of fair market access and treatment for foreign and foreign-invested companies.
- Eliminate structural barriers, such as value-based thresholds, that limit the ability of companies to access meaningful remedies for intellectual property theft.
- Eliminate investment barriers and restrictions for both manufacturing and services that enable manufacturing, including joint venture and equity cap requirements barriers that restrict express delivery, telecommunications and distribution services and investment.

Eliminate State-Directed Market-Distorting Activity

- Eliminate policies and practices designed to promote industry development that discriminate directly or effectively against foreign and foreign-based companies
- Require that state-favored, state-related and state-owned entities act in accordance with commercial considerations, act in a non-discriminatory manner, are prohibited from using their monopoly power to engage in anti-competitive conduct, and do not enjoy or provide any competitive advantages, including subsidies, beyond any other commercial enterprise in either China or any third-country market.

Hold China Accountable with Strong Enforcement Tools

- Subject all parts of the agreement to transparent, neutral dispute settlement procedures to ensure that disputes are settled in a timely, effective and fair manner through neutral enforcement processes.
- Subject all trade and economic commitments to private rights of action where a complainant can demonstrate direct and negative impact of a breach of the agreement. Such processes must be timely, effective and operate in a fair and neutral manner.
- Establish periodic agreement reviews to provide opportunities to identify and address problems and to tackle new issues.