

National Foundation for American Policy

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New Research: New Plan to Change U.S. Trade Policy Toward China

Time to Use the WTO and Work with Allies After Failure of the Trump Administration's Tariffs and Unilateral Approach

Arlington, Va. – “Looking back at the China trade policy of the Trump administration, the biggest lesson is that unilateralism simply doesn't work, at least not against a major power like China,” according to a [new study](#) from the National Foundation for American Policy (NFAP), a nonpartisan policy research organization.

“Despite the tumultuous two-and-half-year trade war and the Phase 1 deal hailed as an ‘unprecedented’ deal, there has been little progress on the issues U.S. businesses and the Trump administration objected to in China's trade and economic policies,” concluded the study's author Henry Gao, an Associate Professor of law at Singapore Management University. Gao has law degrees from three continents, including a J.D. from Vanderbilt University, and started his career as the first Chinese lawyer at the WTO Secretariat. He is widely published on issues relating to China and WTO and has advised many national governments as well as the WTO and World Bank on trade issues.

The new analysis concludes it is not only the U.S. government that needs a more viable approach: “Many companies would like to see an alternative policy that addresses what they consider unfair or even sometimes predatory practices by the Chinese government but without resorting to protectionist trade and investment policies in the United States. Imposing tariffs on Chinese imports has been ineffective and has harmed U.S. consumers and companies.”

The study, “Rethinking China Trade Policy: Lessons Learned and Options Ahead,” can be found at <https://nfap.com/>.

As unilateralism doesn't work, the only options left are regionalism and multilateralism, according to the analysis. The leading example for regionalism is the Trans-Pacific Partnership Agreement, which was regarded by President Obama as a key instrument to ensure that the U.S. rather than China write the trade rules. The problem, however, is that the U.S. itself has withdrawn from the TPP, and is unlikely to return anytime soon. This leaves us with only the multilateral route, which includes the enforcement of existing rules through WTO litigation, and the negotiation of new rules through WTO reform. This analysis provides a critical evaluation of these two options.

There are a number of China-specific rules that have long been overlooked. Properly interpreted, these rules could be used to not only prevent the Chinese government from intervening in the market, but also ensure that such interventions would not be implemented through state-owned enterprises (SOEs). This can help address the market distortions caused by state intervention. The special rule on subsidies in Section 15(b) of China's WTO Accession Protocol, coupled with existing WTO rules on subsidies, provide a good defense against the problems created by China's unique economic model.

The real problem is not the lack of rules to tackle China's state capitalism, the analysis points out, but the lack of utilisation of existing rules. WTO members — especially the major players — should start conducting well-coordinated countervailing investigations domestically and initiate “big, bold” cases¹ at the WTO to challenge China's subsidies and state intervention in the market through state-owned enterprises. In view of the systemic importance of these issues, the cases are best brought by the United States together with its allies.

It would be unrealistic to assume that meaningful reform efforts at the WTO can be achieved without the participation of China. This is mainly due to the size of China's economy and its significant trade share, which makes it hard for any deal to reach the necessary critical mass without its participation. It is entirely understandable that other WTO Members would want to bring China into the negotiations. At the same time, however, certain guidelines also need to be followed in order to engage China constructively.

First, the proposed rules should be neutral on its face so that it would not be deemed as China-specific or discriminatory against China.

Second, the negotiation shall not be one-sided with a long list of demands on China. Instead, it is very important that China also gets something in return, even if just as a token. The Chinese take the concept of face very seriously and they will react nicely to gestures of goodwill.

Third, it is also very important to have a good understanding of China's own reform goals and policy movements, as they often provide important insights on what China may agree to.

“The time has come to move forward and rethink China trade policy,” said Stuart Anderson, executive director of the National Foundation for American Policy. “Henry Gao points to a new approach that abandons unsuccessful policies based on unilateral action and protectionist tariffs and recommends replacing them by using the rules of the World Trade Organization and working with America's allies to achieve the objective of addressing concerns with China's trade policies.”

About the National Foundation for American Policy

Established in 2003, the National Foundation for American Policy (NFAP) is a 501(c)(3) non-profit, non-partisan public policy research organization based in Arlington, Virginia focusing on trade, immigration and related issues. The Advisory Board members include Columbia University economist Jagdish Bhagwati, Ohio University economist Richard Vedder, Cornell Law School professor Stephen W. Yale-Loehr and former INS Commissioner James W. Ziglar. Over the past 24 months, NFAP's research has been written about in the *Wall Street Journal*, the *New York Times*, the *Washington Post* and other major media outlets. The organization's reports can be found at www.nfap.com. Twitter: [@NFAPResearch](https://twitter.com/NFAPResearch)

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¹ Testimony of Jennifer Hillman before the U.S.-China Economic and Security Review Commission Hearing on US. Tools to Address Chinese Market Distortions (8 June 2018) <www.uscc.gov/sites/default/files/Hillman%20Testimony%20US%20China%20Comm%20w%20Appendix%20A.pdf>.