Center for American Progress

U.S. Trade Policy in North America, China, and Beyond

4 Questions for the Trump Administration

By Andy Green and Daniella Zessoules February 27, 2019

In recent decades, economic, political, and technological barriers to international trade and investment have collapsed around the world. This rapid globalization of commerce has lifted many out of poverty in developing countries, but due in part to a lack of meaningful labor and environmental standards and enforcement, it has also resulted in an outsourcing of production and jobs as well as downward pressure on workers' real wages in developed countries such as the United States.[1] The key trade agreements and international institutions put in place to manage globalization, such as the North American Free Trade Agreement (NAFTA) and China's entry into the World Trade Organization (WTO), have failed to rebalance the rules to enable globalization to work on behalf of all workers—not just in the United States, but in Mexico, China, and more broadly. And in many cases, the trade rules have exacerbated economic pressures on many U.S. workers.[2]

For years, progressive voices in the United States have called for efforts to make globalization work better for working families, communities, and the environment.[3] Now, the Trump administration has sought claim to the trade reform mantle. Those claims, however, should be met with skepticism. The 2017 congressional Republican tax law slashed taxes for corporations and the wealthy on the false promise of raising wages for workers.[4] Corporate profits, share buybacks, and mergers and acquisitions have all boomed, but working-class wages have barely budged.[5] The international provisions of the 2017 tax law further incentivize offshoring operations at the expense of domestic investments and sourcing.[6] The Trump administration's domestic economic agenda of financial deregulation, budget cuts, and attacks on workplace safety and labor rights protections will simply make matters worse for working families.

The administration's record on trade policy has been mixed and largely incoherent. The president railed against NAFTA and other trade agreements for harming workers and U.S. jobs yet renegotiated a new NAFTA deal that fails to make labor and environmental standards meaningfully enforceable.[7] His administration has slapped tariffs on adversaries and allies alike with little strategy—often in the name of national security and without addressing the root causes of the problem. Threatening further tariffs, the administration now is engaged in negotiations with

China over intellectual property theft, market access for foreign multinationals, and a state-led industrial strategy.[8] The president announced a delay in the additional tariffs, suggesting a deal with China is coming together, but concerns have long existed that the administration may settle for high-profile spot sales of U.S. commodities while effectively letting structural impediments and China's industrial policies continue.[9] The cost of what may be President Donald Trump's high-profile deal with China could be real concessions for the United States, including in the technology and national security space, without providing lasting, solidly enforceable benefits more broadly.[10]

As U.S. Trade Representative Robert Lighthizer makes his first appearance this week before the new U.S. House of Representatives, the Trump administration will finally have to answer for its approach. Here are several questions that Congress should ask in order to hold the administration accountable to the American people.

Why has the Trump administration's renegotiation of NAFTA failed to include strong labor and environmental standards and enforcement, while it includes extra-strength intellectual property protections and other deregulatory provisions?

Labor and environmental standards and enforcement are fundamental to delivering the benefits of international trade and economic growth to workers and communities, rather than to executives and shareholders. President Trump's renegotiated NAFTA deal—the U.S.-Mexico-Canada Agreement (USMCA)—removes certain problematic provisions from the old NAFTA, in particular the investor-state dispute resolution chapter for most industries. The deal also secures commitments from Mexico to reform its labor rights. However, it fails to make those labor standards meaningfully enforceable, in particular through independent monitoring and swift and certain at-the-border enforcement tools such as trade remedy duties and exclusion orders.[11] It also largely ignores, and in some cases rolls back, trade provisions related to environmental standards. Provisions to address the threat of climate change are egregiously absent, while investors in the Mexican oil and gas industries retain full investor-state dispute resolution from the original NAFTA—extraordinary rights to protect their investments in special extrajudicial arbitration forums.[12]

Meanwhile, special intellectual property rules in the USMCA lock in monopoly power for corporations and limit the ability of domestic democratic processes to demand public interest-oriented changes, such as greater access to affordable prescription drugs. Similarly, agricultural-related provisions limit the ability of governments to implement consumer and farmer protections, including country-of-origin labeling.[13] These types of deregulatory provisions in trade deals yield benefits to large, well-funded industries but leave consumers, farmers, the environment, workers, and the broader public interest out to dry.

President Trump touts this as his NAFTA rewrite, but it does not do enough for working families and the environment, be they in the United States, Canada, or Mexico. Key questions to ask include:

- Will the administration support the inclusion of independent monitoring and at-the-border enforcement of labor and environmental standards in the new USMCA?
- Will the administration remove the heightened intellectual property provisions that keep the cost of prescriptions drugs high in the United States and would do the same when the USMCA applies them in Canada and Mexico?
- Will the administration secure changes so that farmers and consumers can better protect themselves through tools such as country-of-origin labeling?
- Will the administration remove or limit the other deregulatory sections, including aspects of the regulatory coherence and competition policy chapters?

Where are labor and environmental priorities in Trump's trade negotiations with China?

The widely reported top U.S. priorities in trade negotiations with China include greater market access for Western firms and heightened intellectual property protection. They also involve structural reforms to stop the Chinese government's use of distortive regulations, subsidies, and joint ventures that force technology transfers and otherwise rig competition for the benefit of preferred, often state-owned or controlled businesses.[14] The United States additionally has sought Chinese commitments to purchase U.S. products, in particular commodities. Meanwhile, strong labor and environmental standards and enforcement are, from available reporting, functionally absent from the negotiation.[15] And all of this is occurring with little effort to secure the support of allies.

While China has significantly liberalized its economic and trade regimes over the past three decades, it has recently imposed or continues to maintain a number of state-directed policies that appear to distort trade and investment flows and may pose significant risks to economic and national security. These include methods such as:

- Cyberespionage against U.S. businesses, unions, and others for economic reasons
- Forced technology transfer as conditions for market access or investment, including production for export back to the United States
- Relatively ineffective enforcement of intellectual property rights
- Extensive use of subsidies, investment barriers, procurement preferences, and other industrial policies to favor certain companies and industries, including state support to compete in overseas markets
- Policy interventions to affect the value of its currency[16]

The above-mentioned Chinese industrial policies largely affect the ability of U.S. companies to protect their business interests. There are legitimate reasons that warrant concern about the protection of U.S. businesses' strategies, know-how, and other aspects of competitiveness and ensuring they are not put at risk by state-backed unfair and abusive business practices. But the outgrowth of President Trump's strategy may also be to tie the countries even further together economically; should the Trump administration be successful in securing greater market access and improved intellectual property protections, it will be easier for many U.S. businesses to locate their operations in China—on top of additional export sales of spot products to China.[17]

For some companies, these outcomes will mean greater ability to sell goods and services that are supported by U.S. workers. But in many other cases, relatively few people in the United States, beyond executives, professionals, and shareholders, will be materially affected.[18] Boosting growth opportunities for U.S. business is a normal and acceptable priority for U.S. trade policy. But it should not be the only priority, nor should it be confused with promoting worker interest in good jobs and middle-class wages.[19] Without sufficient structural reforms to drive higher labor and environmental standards in China—whether secured via trade negotiations or through other means—globalization will continue to deliver benefits to business, while working families in both the United States and China will continue to face significant headwinds on wages and living standards.

Recent wage growth in China, including hikes in the minimum wage in many cities, has brought Chinese labor costs closer to those of the United States—taking into account higher U.S. worker productivity. Some manufacturing jobs in China are also under threat from even lower wage countries and automation. But average manufacturing wages in China were still only around $3.60 an hour as of 2016, and environmental costs and other factors remain significant.[20]

There are policy levers that could facilitate even further increases in Chinese wages, thereby reducing the downward pressure of globalization on U.S. working families while also benefiting Chinese working households. A series of structural reforms are needed to boost the economic security of Chinese workers, including: higher minimum wages; labor unions that answer to workers and their interests rather those of local businesses and corrupt power brokers; the ability of workers to obtain reliably swift and uncorrupt enforcement of employment and environmental law; and a real safety net for working families.[21] In effect, Chinese policy has been to produce below what should be the normal cost for doing business, thus making it inappropriately attractive for companies to site operations in China—an outcome deeply unfair to both U.S. and Chinese workers.[22]

The economic insecurity of Chinese working families also leads to a series of macroeconomic policy choices in China that disadvantage both Chinese and U.S. workers. Very high household savings rates and reduced consumption in China requires

Chinese macroeconomic policy to focus on domestic investment and a current account surplus to support domestic demand and employment.[23] In other words, because its workers are insecure, Chinese policy drives overinvestment, including in manufacturing and exports, pulling more jobs from the United States—and further driving down U.S. wages—than would be the case under a more pro-worker approach to economic policy.

The impact of lower labor and environmental costs in China can be amplified by exchange rate manipulation. There is substantial evidence that the Chinese government used official financial flows to depreciate the exchange rate throughout much of the decade following its entry into the WTO, which helped reduce the price of Chinese goods relative to the price of goods that were or could be produced in the United States.[24] More recently, in the face of Trump's 10 percent tariffs on nearly half of all Chinese imports, the approximately 10 percent depreciation of the Chinese exchange rate in just the past year serves as a reminder that exchange rate valuation remains an important policy issue.[25] Indeed, Chinese currency levels have returned to their 2008 levels, and a range of market and policy pressures may push the exchange rate even lower.[26] As former Federal Reserve Chairman Paul Volcker is reported to have stated, "trade flows are affected more by ten minutes of movement in the currency markets than by ten years of … [trade] negotiations."[27]

Taken together, China's full participation in global trade, commencing around its entry into the WTO in the early 2000s, resulted in a "China trade shock" on certain U.S. workers and communities—a phenomenon that has been documented economically.[28] The shock could have been—and, to the extent that it continues, may still be—somewhat mitigated by a different approach to trade and globalization. Of course, the responsibility is not only on the Chinese side. U.S. policy for too long has failed to give its workers the tools they need to strengthen their economic security and combat the known downward pressures on jobs and wages from global economic integration. These include stronger collective bargaining rights, workforce training, antitrust enforcement, affordable housing support, and fiscal investments.[29]

This is not to say that China has been entirely without progress or possibility in these areas. Its participation in the Paris Agreement deal was an important step forward in addressing climate change, one of the world's most pressing challenges. At the same time, the Trump administration has stepped back from that same agreement—a deeply dangerous decision with global implications.[30] It is thus incumbent on Congress to demand progress in this vital area.

Ultimately, trade negotiations and international trade institutions must focus much more on improving worker power and environmental standards; these priorities cannot be left solely to domestic institutions.[31] In a world of open, globally interconnected markets, firms can levy against workers a credible threat of moving jobs overseas. Thus, trade policy must lean against race-to-the-bottom pressures in labor and environmental standards. Oversight and accountability through independent monitors, together with strong at-the-border tools, are essential to meaningful enforcement in these areas.[32] Key questions therefore include:

- To what extent has the administration sought strong labor and environmental standards and enforcement in its negotiations with China? If little to no effort has been made, why not?
- Has the administration addressed the insufficiency of the worker safety net for both U.S. and Chinese workers affected by globalization, automation, and other economic shocks?
- What is the administration's strategy for addressing the impacts of currency movement that inappropriately makes investment in and exporting from China more attractive than investing and producing in America?
- How has the administration sought to secure the support of allies for any of its goals in these areas?

Should the administration succeed in limiting Chinese subsidies to companies, will that include giveaways to foreign companies that incentivize offshoring jobs and put U.S. workers and taxpayers at a disadvantage?

Near the top of President Trump's trade negotiation priorities is the elimination of subsidies that support China's industrial policies, reflected in the country's Made in China 2025 plan.[33] These include credit and capital, energy, and other preferences directed by the Chinese state to preferred businesses, often those that are state-owned or state-controlled. The ostensible goal has been dominance in advanced technological sectors with a stable of so-called national winners that can compete with, and surpass, foreign economic power globally.[34] Yet China's economy more broadly is rife with subsidies to businesses, and a full accounting has never been had.[35] These subsidies include the provision of low-cost land, often taken from farmers without just compensation, as well as workforce training, employee housing, and other benefits—which still appear to include some, such as export subsidies, that are banned by the WTO.[36]

Many of these subsidies are designed to be highly attractive to foreign investors. They are sometimes offered because of technologies or supply chains that China wants; other times, local officials in China simply want to boost employment in their locality.[37] The result is to add to the existing unfair cost pressures for businesses to move production from the United States to China. Additionally, U.S. communities and taxpayers feel pressured to match these subsidies, even while their long-term value to workers and communities is limited.[38]

Just as with insufficient labor and environmental enforcement, China's approach to subsidies undercuts both U.S. and Chinese working families. In this case, Chinese farmers see their land taken, often without just compensation, and Chinese taxpayers have few ways to hold their own governmental authorities accountable for corrupt giveaways.[39] Correcting these problems requires enhancing the rule of law and property rights within China, including access to courts for ordinary workers and farmers as well as greater taxpayer accountability. Creating special workarounds from the courts directed at investors, such as those present in investor-state dispute resolution provisions of many trade deals and bilateral investment treaties, do not address the problem—and often make it worse.[40]

Countering the subsidies that China uses to create national winners is important: Those companies may unfairly challenge foreign multinational companies operating in China and abroad, fuel corruption in China, and create other risks to U.S. economic and national security. But, as discussed, it is also important to counter the wide range of giveaways that accrue to businesses generally, including foreign-invested businesses, in China. Key questions thus include:

- Are the Trump administration's negotiators prioritizing the elimination of subsidies for offshoring? If so, how?
- Has the administration mapped available offshoring subsidies and engaged in anti-dumping and countervailing duty enforcement, or used other trade tools, to counter them?
- What role, if any, has enhancing the rule of law played in the Trump administration's negotiations with China? Will the administration commit to not advancing investor-state dispute resolution as part of any agreement?

Where are anti-monopoly and corporate accountability priorities in Trump's trade agenda?

President Trump's trade negotiators have made countering the rise of China's state-owned champions—and China's intention for them to dominate advanced industries—one of its top priorities. There are serious and important national security reasons for doing so, such as maintaining control over vital technologies and technological infrastructure.[41] Moreover, the growth of Chinese state champions appears to already be putting pressure on Western countries, causing some to attempt to weaken antitrust laws and permit the construction of their own state-backed champions.[42] That point figured prominently in the debate around the European commissioner for competition's decision to deny, on independent antitrust analysis grounds, the merger of the French and German railway manufacturing champions.[43]

Unfortunately, in a wide range of its trade and economic policies, the Trump administration has placed boosting the monopoly power of U.S. companies, including by reducing their regulatory and tax accountability, front and center. The application of broad-based tariffs, unlike strategic and targeted duties in the context of trade enforcement, tends to boost the market power of domestic industries. The USMCA's provisions on intellectual property, for example, propose enhancing government-granted monopoly rights, which will raise or keep high the prices of prescription drugs.[44] Other provisions in the USMCA constrain the application of antitrust authorities and various aspects of competition policy.[45]

The Trump administration's demands that China grant greater market access within the country and intellectual property protection for U.S. companies are made precisely as the U.S. economy grows increasingly concentrated and less competitive, dominated by a shrinking handful of highly profitable companies.[46] The number of U.S. public companies has fallen from 1996 highs, and even since 1975; today, only a handful of companies earn approximately half of the profits earned by all the companies in the S&P 500.[47] The growth of large, concentrated foreign companies with a growing track record of anti-competitive practices may make Chinese policymakers, long concerned about domination by foreign powers and the retention of Chinese control, including that of the state, more reluctant to open their markets.[48]

Sadly, under this administration, little meaningful antitrust enforcement or rulemaking is anywhere in sight. The Trump administration's antitrust agencies have greenlighted merger after merger, while doing little to tackle the increasingly clear abuses of those with dominant market power. Meanwhile, President Trump's 2017 tax law slashed corporate taxes, which has helped fuel a record high number of mergers and acquisitions, along with extraordinary levels of buybacks and payouts to executives and Wall Street investors.[49] Far too many of these companies take incredible steps to shield their profits offshore, which the 2017 tax bill also makes worse by providing special low tax treatment to offshore operations.[50]

Reducing market concentration is not only potentially helpful for securing market access abroad; it's also essential for U.S. economic vibrancy at home, whether or not China continues along the path of state-led capitalism. This is particularly the case should the Trump administration further proceed to attempt to wall the United States off from Chinese competitors and suppliers, as broad-based tariffs often boost domestic market concentration. Vibrant competition secures innovation and productivity enhancement; entrepreneurialism and access to the American dream; consumer benefits such as choice, price, and product quality; and the broad distribution of economic power essential for a functioning democracy.[51]

Countering market concentration is also important for workers, both in the United States and abroad. The concentrated power of wholesale and retail buyers can place continual, and often unfair, downward pressure on costs. In a world of weak rule of law where injured individuals have no ability to bring class action suits, this can result in the mistreatment of workers, environmental destruction, product quality problems, and more.[52] When trade unions' rights are not sufficiently protected, workers who are unable to collectively bargain to protect themselves are at the mercy of brutally unfair economic power imbalances. This is true especially in many developing and middle-income countries, including Mexico and China, but is also the case in the United States. The United States must work to correct both its domestic policy and its international trade policy gaps in these areas.

Key questions thus include:

- Have trade authorities been monitoring the exclusion process from President Trump's tariff policies for indications of high levels of domestic U.S. market concentration? If those are uncovered, will they be referred to antitrust authorities for prosecution?
- Given the rise of concentration in U.S. markets and the growing evidence of U.S. companies abusing dominant positions, has the administration considered the role that market concentration limits and anti-monopoly principles could play in supporting its efforts to counter state-backed champions in China or in securing greater market access in other markets, such as in India?

Conclusion

From its renegotiated NAFTA agreement to its China negotiations, the Trump administration appears interested in boosting corporate power while doing little to nothing for working families and the planet—all while harming important U.S. relationships around the world. A far stronger strategy for maintaining the benefits of international trade, while addressing its known negative effects on worker wages, is to secure strong labor and environmental standards and enforcement, working to secure the support of allies and partners along these lines. And while trade agreements should secure a level playing field for U.S. and international businesses and workers, it should not come through provisions that lock in corporate monopoly power, limit the neutral domestic regulatory discretion of governments, or provide foreign investors extraordinary rights and powers. Congress must assert its oversight and hold the administration accountable to the real economic priorities of working families.

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Endnotes

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