A Free Trade Guide for the Next Administration and the 117th Congress

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Trade policy is a vital component of the economic agenda of any Administration or Congress. A trade agenda that eliminates tariffs and other barriers to free trade, whether in partnership with low taxes and low regulations or on its own, will spur economic growth and improve the lives of American families and businesses. When individuals are able to buy and sell, free from government intervention, each dollar is stretched further.

For decades, Congress has shirked its constitutional duty to regulate trade by delegating power to the executive branch, power that often goes unchecked. And in recent years, the executive branch has increased its use of that authority. The next Administration and the 117th Congress should work together to set a trade agenda that increases freedom for Americans by lowering barriers at home and abroad. This *Issue Brief* details three areas of trade policy to advance a free trade agenda: (1) eliminating tariffs, (2) expanding the U.S. network of free trade agreements, and (3) working with allies to address global trade challenges.

Principles for Developing a U.S. Trade Agenda

A recent Heritage Foundation *Backgrounder* lays out dozens of policies that would help to increase economic freedom in the U.S., allow the economy to grow, and improve the lives of Americans.

Advancing the freedom of individuals to buy from and sell to one another, without government intervention, is an essential component of advancing this pro-growth agenda. That is why The Heritage Foundation's annual *Index of Economic Freedom* measures trade freedom as one of its 12 indicators.

Year after year, the *Index* shows that higher levels of trade freedom contribute to overall prosperity in the U.S. and around the world.

Advancing trade freedom is, at its core, about increasing freedom and choice for individuals. This freedom is not necessarily about cheap products; rather, it ensures that prices are competitive and determined by supply and demand. Access to competitively priced products from around the world encourages competition between businesses in the U.S. and those located abroad, which leads to innovation and more choices for Americans. It also means that businesses have access to affordable inputs, making the final goods they produce more competitive and easier to sell around the world. The capital that businesses save by not paying tariffs can then be reinvested in hiring additional workers, expanding production, and increasing wages and benefits for existing employees.

Free trade does not guarantee positive outcomes for everyone, but it is a vital component of a capitalist system. Similar to the effects of automation and technological advancement, trade results in “creative destruction,” or churn, in the economy. This means that as innovation and competition increase, some jobs or industries may become obsolete or are no longer the most efficient way to produce a particular good or service. Free trade does not, however, result in an overall decrease of jobs. The net gains of free trade for consumers, job creation, and the overall economy far outweigh the losses.

The question for policymakers is how to help individuals who feel like they have been left behind or whose jobs were eliminated due to increased competition. As they lower barriers to trade at home and abroad, policymakers must also eliminate government-imposed barriers that restrict people from finding new jobs.

The effects of competition can also be countered by eliminating other barriers in law that make it difficult to do business in America. This can be done by eliminating burdensome and costly regulations and reducing and eliminating unnecessary taxes. Heritage analysts detail policies that can aid in this effort.

Key Objectives for the Next Administration and Congress

The Constitution tasks Congress with regulating trade, but over the past several decades, Congress has delegated much of its power to the executive branch, power that goes unchecked. For example, Section 232 of the Trade Expansion Act of 1962 allows the President to impose tariffs on imports that threaten U.S. national security, and Congress only has oversight for situations involving petroleum products.[5]

Section 201 of the Trade Act of 1974 gives the President the ability to impose tariffs to “safeguard” domestic industries, and Congress does not have a role in the process.

Congress is also unable to intervene in investigations under Section 301 of the Trade Act of 1974, which allows the President to investigate foreign trade practices and enforce trade agreements.

As a result of this delegation of power, the executive has used U.S. trade law to impose protectionist tariffs in several cases. For example, President Jimmy Carter used Section 232 in 1980 to impose license fees on petroleum products.

In 2001, President George W. Bush conducted investigations into steel imports using Section 232

and Section 201, and imposed tariffs using Section 201.

President Donald Trump imposed tariffs in 2018 on solar products and washing machines using Section 201, steel and aluminum imports using Section 232, and billions of dollars’ worth of imports from China using Section 301, among several other actions.

Americans now pay significantly more on average to import goods than in 2017. In 2018, the average applied tariff rate in the U.S. increased from 1.5 percent to 2.6 percent. By the end of 2019, the U.S. government had increased tariffs on roughly 15 percent of total imports and nearly all imports from China.

Just like sales taxes, tariffs increase the price of goods. The extra tariffs on imports from China have cost Americans $64.8 billion since 2018. Higher costs mean economic consequences for American businesses and families. For businesses, spending more on tariffs could put a strain on their capital costs, making it difficult to choose between limited business decisions. Businesses may have to delay plans to expand production, hold off on hiring new workers, cancel plans to increase employee salaries and benefits, or simply raise prices. Americans face these challenges in the form of lower wages, fewer job opportunities, and higher prices.

The next Administration and the next Congress should advance three key objectives: (1) eliminating tariffs, (2) expanding the U.S. network of free trade agreements, and (3) address trade challenges through the World Trade Organization (WTO) and with allies.

Eliminating Tariffs. One of the simplest ways to advance Americans' freedom to trade is for Congress and the Administration to eliminate tariffs on imports. Congress does this regularly through a series of trade preference programs. Two of those programs are the Generalized System of Preferences (GSP), which eliminates tariffs on goods from developing countries, and the Miscellaneous Tariff Bill (MTB), which eliminates tariffs on products not available in the U.S. These programs save Americans roughly $1.4 billion in taxes annually and contribute to the competitiveness of goods produced by U.S. manufacturers.

The GSP and MTB are set to expire in December 2020, and if Congress fails to approve them this year, renewal for the long term should be a top priority for Congress and the Administration in 2021.

Outside these programs, Congress can modify any tariff line through legislation and could therefore eliminate some of the most burdensome and costly tariffs on the books. Even removing relatively small tariffs can have a significant economic impact. For example, the average tariff rate on imports of manufactured goods is 1.1 percent. According to the results of a new Heritage Foundation trade model, removing these tariffs would increase manufactured goods exports by nearly 3 percent, reduce consumer prices, increase jobs, and result in higher paying jobs.

The President can also lower or eliminate some tariffs through Section 103 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015.

Expanding the U.S. Network of Free Trade Agreements. The United States currently has 14 trade agreements with 20 countries, and is in various stages of negotiations with Japan, Kenya, the European Union, and the United Kingdom.

Free trade agreements help to lower tariff barriers for Americans, and also to eliminate burdensome non-tariff barriers, such as trade-distorting regulations and subsidies. For example, the United States–Mexico–Canada Agreement banned data localization—a regulation that required companies to store collected data in the same country where it is collected. Such a regulation would have been costly for businesses for no meaningful benefit, as data localization is not proven to lead to more secure data storage.

Eliminating costly, ineffective regulations and subsidies across many sectors is a key component of trade agreement expansion.

The U.S. has been slow in recent years to sign new free trade agreements, meanwhile the European Union, Japan, and other major countries have been rapidly implementing new agreements. For example, since 2017, Japan has entered into two major trade agreements: the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) and the Japan–EU Economic Partnership Agreement.

This means that Americans have more restricted trade with Japan than do the EU and countries in the CPTPP. The U.S. did sign a small agreement with Japan in 2019, but the benefits of that agreement for the country are limited.

A comprehensive trade agreement would result in even freer trade between the American and Japanese people. Mexico has broader trade relations than the U.S. through 13 trade agreements with 50 countries .

The U.S. should be aggressively seeking out new trade agreement partners, especially countries that share the values of rule of law and free markets. The U.S. should pursue full-scale trade agreements with Switzerland, Georgia, Taiwan, and India.

Working with Allies to Address Global Trade Challenges. One of the core trade problems facing the U.S. today is how to deal with countries that do not share the core values of rule of law and free markets—most especially China. It is no secret that the system of governance in China is fundamentally different from that in the U.S., EU, and most of the developed world. At the same time, China is a member of the WTO and benefits from the commitments made by all member countries. China does not always follow the rules, but has been held accountable in countless cases when violations occur. Many argue that the WTO is not enough to handle China, and even that China should not be a member the organization at all.

However, according to a report by the Cato Institute, “if the Trump administration really does want the Chinese economy to be more market-oriented, it should make better use of WTO rules by filing more complaints against China. While it is often accused of flouting the rules, China does a reasonably good job of complying with WTO complaints brought against it.

James Bacchus, former chairman of the WTO Appellate Body, detailed several ways the U.S. could file cases against China, including “a systemic case in the WTO against China relating to the continuing failure of the Chinese government to protect intellectual property rights throughout China.

Outside the WTO, the U.S. should work more closely with its allies to address China’s alleged violations of trade rules and norms. That has not been the strategy over the past several years. Rather than working with its allies, the U.S. has counterproductively imposed tariffs on them, oftentimes with the unjust determination that these imports are a threat to U.S. national security. The U.S. should eliminate these tariffs on its allies and work to address real challenges, namely China.

Recommendations for the Next Administration and the 117th Congress

The next Administration and Congress should advance an economic agenda that will increase the freedom of Americans. This should be the goal of policies ranging from taxes to health care. Specifically, in formulating a trade agenda, they should:

- **Develop a strategy for trade that increases freedom and opportunity for Americans.** Tariffs act like a tax on imports, negatively affecting American families and businesses. Free trade is essential for promoting economic growth and improving the lives of Americans.
- **Eliminate tariffs on all intermediate goods.** Tariffs on intermediate goods (inputs used by American businesses) increase the price of manufacturing. Eliminating these barriers is the simplest way to keep American manufacturers competitive.
- **Pursue trade agreements with like-minded countries.** The U.S. has fewer trade agreements than many other countries, which puts Americans at a disadvantage. The U.S. should be pursuing trade agreements with countries that share its values and economic system.
- **Eliminate Section 232 tariffs on U.S. allies and partners.** Imports of steel and aluminum from U.S. allies like South Korea or the European Union do not threaten U.S. national security. These tariffs are costly for Americans and damage America's relationships with allies.
- **Work with U.S. allies and the WTO to address trade challenges.** The U.S. benefits more from being in the WTO than out of the WTO. The U.S. also benefits more from China being in the WTO than out of it. The WTO is not a silver bullet to fix all of China's illiberal economic practices, but it is an essential tool that the U.S. should use to make trade and investment freer.

Conclusion

Advancing the freedom of individuals to trade with one another, without government intervention, is an essential component of advancing a pro-growth agenda. Congress has spent decades shirking its trade policy responsibilities, and in recent years the executive branch has imposed trade restrictions that harm Americans. The next Administration and the 117th Congress should work together to develop a trade agenda that prioritizes eliminating tariffs, negotiating new free trade agreements, and working with allies to address trade challenges. In doing so, they will not only help the U.S. economy, but also improve the lives of Americans.