

DISCLAIMER: The U.S. delegation is providing the below draft framework solely to help facilitate candid and constructive exchanges between the two sides. The current text is not a proposed international agreement and remains subject to ongoing review. In the interest of time and out of respect for the seriousness of the issues that the two sides will discuss, this document is being provided in advance of the visit and while this review is ongoing.

The U.S. delegation looks forward to discussing this draft and related issues later this week in Beijing.

BALANCING THE TRADE RELATIONSHIP

between

THE UNITED STATES OF AMERICA AND THE PEOPLE'S REPUBLIC OF CHINA

The Government of the United States of America (“United States”) and the Government of the People’s Republic of China (“China”) have strong overlapping interests as the world’s two largest economies and the major drivers of global growth. At present, the United States-China trade relationship is significantly imbalanced. United States investment and the sale of services into China remain severely constrained. China’s industrial policies now targeting U.S. technologies and intellectual property pose significant economic and security concerns to the United States.

There is an immediate need for the United States and China to reduce the U.S. trade deficit with China by ensuring that China’s market is open to United States traders and investors on a fair and non-discriminatory basis. China therefore undertakes to (a) eliminate improper tariff and non-tariff barriers to United States exports to China, (b) address China’s policies and practices related to technology transfer and intellectual property, (c) treat United States service providers in China on terms equal to those provided to Chinese service providers in the United States, and (d) record China’s agreement not to target United States farmers and agricultural products. To address these issues and restore balance in the United States–China trade relationship, there is an immediate need for the United States and China to agree on a set of concrete and verifiable actions.

SECTION 1

TRADE DEFICIT REDUCTION

China commits to work with Chinese importers to engage in trade transactions to achieve targets to which the Parties agree. These transactions are specifically designed to reduce the United States-China trade deficit by \$100 billion in the twelve (12) months beginning June 1, 2018, and an additional \$100 billion in the twelve (12) months beginning June 1, 2019, such that the U.S. trade deficit with China will have decreased compared to 2018 by at least \$200 billion by the end of 2020. China’s purchase of U.S. goods will represent at least 75% of China’s commitment to a \$100 billion increase in purchases of U.S. exports for the twelve months beginning June 1, 2018, and at least 50% of China’s commitment to an additional \$100 billion increase in purchases of U.S. exports in the twelve (12) months beginning June 1, 2019.

SECTION 2

PROTECTION OF AMERICAN TECHNOLOGY AND INTELLECTUAL PROPERTY

In order to address China's policies, laws, regulations, practices and actions that are harming United States intellectual property rights, innovation and technology development, China commits as follows:

- (a) China immediately will cease providing market-distorting subsidies and other types of government support that can contribute to the creation or maintenance of excess capacity in the industries targeted by the Made in China 2025 industrial plan;
- (b) by January 1, 2019, China will eliminate specified policies and practices with respect to technology transfer;
- (c) China will take immediate, verifiable steps to ensure the cessation of Chinese government-conducted, Chinese government-sponsored, and Chinese government-tolerated cyber intrusions into U.S. commercial networks and cyber-enabled theft targeting intellectual property, trade secrets and confidential business information held by U.S. companies;
- (d) China will strengthen specified intellectual property rights protection and enforcement;
- (e) by January 1, 2019, China will eliminate the provisions of the Regulations on the Administration of the Import and Export of Technologies and the Regulations on the Implementation of the Law on Chinese-Foreign Equity Joint Ventures identified in the U.S. request for WTO consultations in *China – Certain Measures Concerning the Protection of Intellectual Property Rights* (DS542); and
- (f) by July 1, 2018, China will withdraw its request for WTO consultations in *United States – Tariff Measures on Certain Goods from China* (DS543) and will take no further action related to this matter under the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (“DSU”).

In addition, China will not take any retaliatory action, whether in the form of tariffs on imports of U.S. products or in any other form, including unwarranted sanitary and phytosanitary (“SPS”) measures, unwarranted technical barriers to trade (“TBT”) measures, antidumping and countervailing duties, and discriminatory inspection, quarantine and testing practices directed at imports of U.S. agricultural products, in response to actions taken or to be taken by the United States, including any new U.S. restrictions on investments or imports. China immediately will cease all retaliatory actions currently being pursued.

China agrees to immediately cease the targeting of American technology and intellectual property through cyber operations, economic espionage, counterfeiting, and piracy. China also agrees to abide by U.S. export control laws.

SECTION 3

RESTRICTIONS ON INVESTMENT IN SENSITIVE TECHNOLOGY

In light of China's prevailing investment restrictions and state-directed investment in sensitive U.S. technology sectors, including industrial plans such as Made in China 2025, China confirms that it will not oppose, challenge, or otherwise retaliate against the United States' imposition of restrictions on investments from China in sensitive U.S. technology sectors or sectors critical to U.S. national security.

SECTION 4

UNITED STATES INVESTMENT IN CHINA

China recognizes that China should not distort trade through investment restrictions, and that any investment restrictions or conditions imposed by China must be narrow and transparent. U.S. investors in China must be afforded fair, effective and non-discriminatory market access and treatment, including removal of the application of foreign investment restrictions and foreign ownership/shareholding requirements. In furtherance of these principles, China will issue an improved nationwide negative list for foreign investment by July 1, 2018. Within ninety (90) days of the date on which China issues this negative list, the United States will identify existing investment restrictions that deny U.S. investors fair, effective and non-discriminatory market access and treatment. Following receipt of the U.S. list of identified restrictions, China is to act expeditiously to remove all identified investment restrictions on a timetable to be decided by the United States and China.

SECTION 5

TARIFF AND NON-TARIFF BARRIERS

China's tariffs and non-tariff barriers are significantly higher than those of the United States for most tradable goods. China commits to address U.S. concerns relating to tariffs and non-tariff barriers as follows:

- (a) by July 1, 2020, China will reduce its tariffs on all products in non-critical sectors to levels that are no higher than the levels of the United States' corresponding tariffs; and
- (b) China will remove specified non-tariff barriers.

China also recognizes that the United States may impose import restrictions and tariffs on products in critical sectors, including sectors identified in the Made in China 2025 industrial plan.

SECTION 6

UNITED STATES SERVICES AND SERVICES SUPPLIERS

In order to achieve fair treatment with respect to U.S. services and services suppliers, China commits to improve access to its market in specified ways.

SECTION 7

UNITED STATES AGRICULTURAL PRODUCTS

In order to achieve fair treatment with respect to U.S. agricultural products, China commits to improve access to its market in specified ways.

SECTION 8

IMPLEMENTATION

China and the United States will meet quarterly to review progress in meeting agreed targets and reforms.

In the event that the United States considers that China fails to comply with any of China's commitments in this Framework, including deficit targets, China acknowledges the likelihood that the United States will impose additional tariffs or other import restrictions on Chinese products, or on the supply of services or investment, to such extent as the United States deems appropriate. China also understands that it will not oppose, challenge or take any form of action against the United States' imposition of additional tariffs or restrictions pursuant to this paragraph, including action pursuant to the DSU.

China will withdraw its WTO complaints regarding designations of China as a non-market economy by the United States and European Union (*United States – Measures Related to Price Comparison Methodologies* (DS515), *European Union – Measures Related to Price Comparison Methodologies* (DS516)) and will refrain from challenging the treatment of China as a non-market economy under the DSU in the future.

Additionally, within 15 days of receiving written notice of a prohibited product that may have been transshipped through one or more countries, with or without modification, China will provide full details of every such shipment to the suspected destination or destinations. If China fails to do so, or the information reveals that transshipping is occurring, the United States will impose tariffs equal to the amount of suspected transshipments.

China understands that if it fails to uphold any commitment under this Framework for Discussion, it is likely that the United States will impose tariffs on imports from China, and, where appropriate in the case of China's commitments under subsection (c) of Section 2 or the last paragraph in Section 2, U.S. Customs and Border Protection will confiscate counterfeit and pirated goods or levy tariffs to compensate the United States for its lost technologies and intellectual property. China commits to not take any retaliatory action in response to the imposition of tariffs or confiscations by the United States pursuant to this Section.