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# US - China Trade Relations

## A Way Forward

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### The US-China Trade Policy Working Group

### Joint Statement

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## **The US-China Trade Policy Working Group**

### **Joint Statement**

October 18, 2019

We are a group of economists and legal scholars from China and the United States who believe that both our countries could benefit from a new framework for trade negotiations. This document describes one such framework.

Our framework is intended to respect each country's ability to design and implement its own domestic policies, to promote productive negotiations about how to share the benefits and minimize the harms that attend bilateral trade, and to facilitate fair competition in the multilateral sphere of international trade.

We make our proposal against a background of US-China economic relations that have taken a very concerning turn. We believe the acrimony and impasse are in part the result of a worldview that assumes there are only two options:

- (a) China undertakes significant reforms in its industrial, intellectual property rights, and other economic policies to ensure the degree of state intervention in the country's economy more-or-less resembles that of other developed WTO members, while the US reverts back to pre-2018 trade policies; or
- (b) the two economies significantly reduce their economic interdependence ("decouple"), possibly through an intensification of the trade war.

We believe that this worldview should be expanded to entertain a third option between the "deep integration" and "decoupling" scenarios, one that:

- (i) allows countries considerable latitude at home to design a wide variety of industrial policies, technological systems, and social standards,
- (ii) allows countries to use well-calibrated policies (including tariff and non-tariff trade policies) to protect their industrial, technological, and social policy choices domestically without imposing unnecessary and asymmetric burdens on foreign actors, and
- (iii) maintains a set of trade rules that prevent countries from deploying what economists call "beggar-thy-neighbor" policies – policies that produce benefits to the home country only through the harm they impose on other countries.

Our approach is based on recognizing fundamental tradeoffs in the design of any international regime:

On the one hand, individual nations must have the freedom (“policy space”) to design the policies and institutional arrangements that best fit their circumstances and collective preferences. This includes the right to make what other nations may consider policy mistakes. On the other hand, individual nations must also acknowledge how their choices may entail adverse implications for the well-being of other nations.

On the one hand, it is neither economically sensible nor politically sustainable to preclude all such adverse implications by using global rules or bargaining pressures that are perceived as intruding on a country’s sovereign right to make its own domestic policy choices. On the other hand, allowing an individual nation absolute free rein, no matter what the impact on trade or on third countries, would allow it to impose unfair extraterritorial costs onto other nations.

Our approach would prioritize policy space for the US and China, enlarging it perhaps relative to what prevails under the status quo (whether in spirit or the law of the WTO regime). But we also draw clear red lines around “beggar thy neighbor” policies. We believe this approach preserves the bulk of the gains from trade between the two economies, without presuming convergence in economic models. It is an arrangement that is intermediate between the “deep integration” and “decoupling” approaches we mentioned above. It is also generalizable multilaterally, and is consistent with a multilateral approach that produces benefits to third nations.

## Background

It has been almost 18 years since China joined the WTO, the system of trade rules and dispute resolution mechanisms that, at that time, defined the state of the art. During the intervening years, the global economy and the technologies that sustain it have changed dramatically, in ways that very few people anticipated at the time. Five changes in particular should be highlighted:

- (1) Technological progress. New technologies have enabled greater automation and disaggregation of supply chains, reducing wages and job security in many sectors while increasing wage premiums for certain skills. Social and behavioral changes have increased the market value of digital sectors versus agricultural, industrial, and non-digital service sectors. Network effects, increasing returns to scale, and dynamic first-mover advantages have multiplied the number of winner-take-all markets. “Dual use” technologies such as drones, robots, and artificial intelligence applications have multiplied the number of “civilian” industries in which governments have military interests. The economic significance of digital factor endowments has grown.
- (2) Slow adaptation of domestic and international regulatory norms to a digital economy. Before the technological revolution, primary regulatory (and taxation)

authority could be allocated based on the physical location of agricultural and industrial goods and of service providers. Separate nations could, relatively easily, develop cooperative agreements about how that authority would be used. Today, the internet and the cloud have called into question where data is located, who owns it, and which sovereign (if any) should have primary authority to regulate its transmission.

- (3) Dramatic growth of China's presence in the global economy. Between 2001 and 2018, China's share of world GDP has increased from 4% to 16%. Its share in world exports has grown from 2.7% to 10.5%.
- (4) Changed expectations about the future direction of China's domestic policies. In 2001, many expected that, as it grew, China's economy would quickly come to resemble that of the then-largest economies in the world: decentralized market economies, relatively accessible to foreign participation, with relatively small state sectors. Today China has made clear that, at least in the near term, China's economy will continue to feature heavy use of state investment and regulatory tools to support and protect domestic vendors in a broad set of key industries.
- (5) Changed political environments worldwide. In part because of these trends, the political environment for trade policy has changed significantly in most advanced economies, and in the US in particular. Anti-globalization political movements have gained strength. Many societies are undergoing a recalibration of the balance between the requirements of an open economy and the needs of the domestic economy, including notably the interests of groups that have lost or gained little from the past few decades of globalization.

Together, these changes have had significant impacts on the international trade ecosystem, and the political leaders of many WTO members have voiced concerns that globalization pursuant to the WTO system is no longer attuned to their countries' needs. The United States and China have entered into a trade war, dramatically raising tariffs on imports from each other, while also entering bilateral negotiations to reduce those tariffs.

The US-China negotiations have been grounded in an intellectual framework that presumes the only feasible possibilities going forward are (a) deep economic integration through domestic policy convergence to a common set of market economy principles, and (b) substantial "decoupling" into a world with dramatically diminished trading relations. The first of these rests on the framework that undergirded the global economy at the time of China's 2001 Protocol of Accession to the WTO. The second has come to the forefront with the intensification of geopolitical competition between the two nations.

In the balance of this document, we shall offer an alternative intellectual framework that we believe the two countries could reasonably use as the basis for negotiations. It is a balanced framework, designed to help the parties maximize the space in which they both can benefit from trade, without sacrificing each one's ability to make its own domestic policy decisions,

and without enabling the two countries to collude together unfairly to the disadvantage of third countries.

### The “Four Buckets” Framework for Trade Between Divergent Nations

In today’s interdependent global economy, a broad assortment of divergent domestic policies (including policies that have not historically been regulated through WTO rules) can trigger calls to “rebalance” the structure of cross-border market access and trade barriers between countries. One approach to “rebalancing” is to escalate pressures for convergence. Our alternative to this approach is to assume that divergence will not necessarily disappear in the near future. We propose a framework that builds on that assumption and promotes, to the greatest extent possible, the benefits of international trade.

To operationalize our approach, we distinguish four categories (“Buckets”) of policies.

**Bucket 1 (The “Prohibited” Bucket):** In this Bucket, Country A’s actions or policies are likely to create significant distortions in global markets and can be presumed to entail global economic losses. It is appropriate that international norms prohibit actions or policies in this Bucket. “Beggars thy neighbor” policies<sup>1</sup> are canonical examples that fall under this Bucket. For example, country A may impose export or import restrictions with the express purpose of reaping monopoly pricing gains on world markets undermining other countries’ competitiveness. Or country A may engage in discriminatory data policies that promote predatory pricing or rent extraction by national digital companies on foreign markets.

**Bucket 2 (The “Bilateral Discussions and Adjustments” Bucket):** In this Bucket, Country A’s policies cause harm to country B without necessarily taking on a beggar-thy-neighbor character or entailing global economic losses. We put in this Bucket those policies for which a mutually beneficial bargain can be worked out between the two nations that entails the removal of the policies in question. This will typically occur when Country B’s perceived losses from the policy exceed the perceived gains to Country A from sticking with the policies. For example, Country A may engage in industrial policies that Country B’s producers consider unfair and harmful; Country B may prevail on Country A to remove or scale back these policies by offering an alternative economic benefit (e.g., a reduction of Country B’s countervailing tariffs).

**Bucket 3 (The “Domestic Adjustments” Bucket):** In this Bucket, a mutually beneficial bargain cannot be negotiated – perhaps because Country A’s policies bring perceived gains to Country A that exceed the perceived losses by Country B, so that Country B is unable to offer Country A adequate exchange for removing or scaling back the policies in question. In this case, Country A keeps its policies and Country B is allowed to undertake well-calibrated domestic policy adjustments that demonstrably aim to reduce or minimize harm to its domestic economy. For

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<sup>1</sup> *Beggar-thy-neighbor policies are defined as “policies that seek to increase domestic economic welfare at the expense of other countries’ welfare” (Princeton Encyclopedia of the World Economy, emphasis added). Unlike other domestic policies that may entail negative repercussions across the border, they create domestic gains only to the extent that other nations lose. Further, they are globally negative-sum, because they create market inefficiencies (e.g., non-competitive conduct). Our proposed Bucket 1 would contain policies that are adopted with this express beggar-thy-neighbor purpose in mind. Our proposed Bucket 2 would contain policies that may have beggar-thy-neighbor effects but where those effects are not the first-order motivation for the policy.*

example, Country B may implement regulations on domestic firms to curtail the leakage of sensitive technological material to foreign firms. Or Country B may raise trade barriers to protect communities adversely affected by exports from Country A. What is essential here is that the “remedy” employed by Country B must be proportionate and well-targeted at the domestic objective (i.e., it is not a threat targeting Country A or a raising of the stakes in a trade war).

Bucket 4 (The “Multilateral Governance” Bucket): In this Bucket, Country A’s actions or policies (with or without any response from Country B) are likely to affect commerce with Country B in a way that is likely to cause spillover damage to the economy of Country C. It is appropriate that international norms and governance procedures be applied to manage such situations. For example, Country A may provide discriminatory trade benefits to Country B, such as by agreeing to reduce tariffs on one product from Country B without reducing tariffs on the same product from Country C.

Buckets 2 and 3 are central to our approach. They are designed to tackle cases where Country A’s policies have adverse implications for Country B, but the harm is the incidental consequence of, and not the primary motivation for, those policies. These are instances in which Country A might plausibly (and honestly) say, “we wish our policies did not have those negative consequences for you, but we need them for the wellbeing of our own economy/society.” The ideal sequence in our framework would be for the two countries first to negotiate to determine whether the case can be settled under Bucket 2. But we also recognize that there will be a number of cases in which a mutual arrangement under which Country A removes the policies in question is not possible. Bucket 3 then authorizes Country B to undertake domestic adjustments aimed at neutralizing the harm imposed by Country A’s policies to the extent possible. We emphasize that Bucket 3 is not meant as retaliation against Country A. It simply allows Country B to insulate itself from the adverse spillovers from Country A’s policies – i.e., to protect its own social and regulatory arrangements.

One advantage of this framework is that it offers a structure whereby the US and China can, together, make choices about how to rebalance their trading relationship in the future. Issues in all Buckets could be addressed by recourse to the WTO’s dispute resolution procedures. But the critical US-China issues in Buckets 1-3 could also be approached bilaterally outside the WTO framework initially, with subsequent WTO-compliance then achieved through the application of various WTO “flexibilities,” or, in the case of new areas such as digital trade, through the development of new WTO norms.

A second advantage of this framework is that it encourages each country to refrain from aggregating the other’s extraterritorially injurious policies into a single grievance and to refrain from amalgamating extraterritorially injurious policies with other, non-economic concerns. The point is not that other concerns are unworthy of attention; it is only to suggest that some problems may be more readily soluble if they are delinked. Unless such an approach is taken, it is difficult to see how a continuously escalating trade war can be avoided.

Under our framework, countries are encouraged to:

- o Identify other countries' specific domestic policies that are a significant cause of material injury to their ability to pursue their own objectives inside their own country (“extraterritorially injurious policies”),
- o Classify extraterritorially injurious policies by reference to Buckets 1-3,
- o Seek a mutually beneficial bargain with the country that is the source of the injury, and, failing such a bargain, to
- o Propose a way that the injured country can mitigate the harm from an extraterritorially injurious policy in the most appropriate (proportionate and well-targeted) way possible.

We do not claim that classifying all contested policies under our Bucket structure will be easy or straightforward. For example, US negotiators are likely to brand many Chinese industrial policies as beggar-thy-neighbor efforts to seize market share from overseas companies that are more efficient, whereas Chinese negotiators may describe those same policies as developmental policies intended to remove growth constraints and thereby to benefit the world economy in the long run. Conversely, Chinese negotiators may brand many US policies as beggar-thy-neighbor efforts to protect less-productive technology companies from foreign competition, whereas US negotiators may describe those same policies as necessary to protect national security. Such disagreements will surely arise. But at least in the case of blatant beggar-thy-neighbor policies, refusal to treat them as such would come at some cost as it would undermine the country's negotiating capital and generate criticism and disapproval from third parties (including the professional legal and economics communities and third countries).

Furthermore, the application of our framework is not limited to domains covered under the scope of existing WTO rules. For example, we intend for the framework to extend to contested policies that arise as a result of new digital technologies. While we encourage all countries to support sustained multilateral attention to these vitally important questions, even in the absence of multilateral regulations our approach offers a conceptual vocabulary for discussing whether such policies are per se problematic (i.e., beggar-thy-neighbor) and what actions other countries could appropriately take to protect their own priorities, in light of others' policy choices.

Our framework is intended, on the one hand, to preserve the ability of countries to develop rules and regulations for digital and emergent technologies in line with their non-trade priorities, while on the other hand, to redress any extraterritorial damages inflicted by such policies. Our hope is that the proposed framework will offer a means to recognize and offset the growing and dynamic nature of such costs in a controlled manner, without the kind of intense periodic bursts of geopolitical tensions we currently observe.



Overall, we believe this framework is one that could be used to facilitate a mutually advantageous resolution of the current trade war between China and the United States. It provides a language and motivating structure for defusing and disaggregating the conflict into more compact, analytically more manageable sets of discussions. It is a roadmap out of the conflict and towards a mutual accommodation.

### **Concluding Remarks**

We need to move away from the current intellectual approach that frames the US-China economic relationship as a choice between economic decoupling, on the one hand, and deeper economic integration on the other. The first of these scenarios forsakes the gains from trade, while it does little to advance the national security of either nation. The second seems unrealistic, as it presumes China will rapidly converge to a US- or European-style economy.

There is a third option, which preserves much of the gains from trade without going all the way into deep integration. While there may well exist more than one intellectually coherent approach to implementing such an option, we are concerned that current policy and diplomatic discussions are not pursuing such an option at all.

We have outlined one possible approach in this document. We have sketched a proposal for a regime of “peaceful economic co-existence” between the US and China. This regime preserves policy space for both countries – for China to conduct its industrial and growth policies and for the US to safeguard its labor markets and technological systems. We believe that it is the best politically sustainable option that can preserve the enormous benefits of robust international trade.

Finally, while our framework was designed in response to the current trade war between the United States and China, it is not nation-specific. It is intended to be applicable to any nations engaged in international trade. It is consistent with existing WTO rules and institutions and can be pursued by China and The United States bilaterally even without those rules and institutions being modified or reformed.



## **The US-China Trade Policy Working Group**

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Jeffrey S. Lehman is founding vice chancellor of NYU Shanghai. He was previously president of Cornell University, founding dean of the Peking University School of Transnational Law, dean of the University of Michigan Law School, a tenured professor of law and public policy, a practicing lawyer in Washington, D.C., and law clerk to Supreme Court Justice John Paul Stevens. He has been president of the American Law Deans Association, board chair of Internet2, and a member of the U.S. delegation to the China-US Legal Experts Dialogue. His awards include the NAACP Legal Defense Fund's National Equal Justice Award and China's Friendship Award. In 2018 he was named one of the 40 most influential foreign experts during China's 40 years of reform and opening up.

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Dani Rodrik is Ford Foundation Professor of International Political Economy at the Harvard Kennedy School, President-Elect of the International Economic Association, and co-director of the Economics for Inclusive Prosperity (EfIP) network. He is the recipient of the Social Sciences Research Council's inaugural Albert O. Hirschman Prize and of the Leontief Prize for Advancing the Frontiers of Economic Thought. Professor Rodrik has published widely in the areas of economic development, international economics, and political economy. He received his PhD in Economics and his MPA from Princeton University. His current research focuses on employment and economic growth, in both developing and advanced economies. His most recent book is *Straight Talk on Trade: Ideas for a Sane World Economy* (2017).

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Robert Howse is Lloyd C. Nelson Professor of International Law at NYU School of Law and co-founder and co-convenor of the New York City Area Working Group on International Economic Law. His teaching and research focus on legal and political philosophy, as well as the governance of trade, investment, and finance through international economic law. His article with Ruti Teitel, "Beyond compliance: Rethinking why International law really matters" (*Global Policy* v.1(2), 2010) was awarded the Global Policy Best Article Prize 2010 (shared with Joseph Stiglitz et al). Professor Howse received his LL.M. from Harvard Law School. The fifth edition of his treatise on international trade law, *The Regulation of International Trade*, co-authored with Antonia Eliason, will be published in 2020.

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Justin Yifu Lin is Dean of the Institute of New Structural Economics, Dean of the Institute of South-South Cooperation and Development, and Professor and Honorary Dean of the National School of Development at Peking University. From 2008 to 2012, he was the Senior Vice President and Chief Economist of the World Bank. Prior to this, Dr. Lin served as the Founding Director and Professor of the China Centre for Economic Research (CCER) at Peking University. He is a Councilor of the State Council and a member of the Standing Committee of the CPPCC. He has authored over 20 books, including *Beating the Odds: Jump-starting Developing Countries* (2017) and *Going Beyond Aid: Development Cooperation for Structural Transformation* (2016). He is a Corresponding Fellow of the British Academy and a Fellow of the Academy of Sciences for the Developing World.

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Eric Maskin is the Adams University Professor and Professor of Economics and Mathematics at Harvard University. He has made contributions to game theory, contract theory, social choice theory, political economy, and other areas of economics. He received his A.B. and Ph.D from Harvard and was a postdoctoral fellow at Jesus College, Cambridge University. He was a faculty member at MIT from 1977 to 1984, Harvard from 1985 to 2000, and the Institute for Advanced Study from 2000 to 2011. He rejoined the Harvard faculty in 2012. In 2007, he was awarded the Nobel Memorial Prize in Economics (with L. Hurwicz and R. Myerson) for laying the foundations of mechanism design theory.

**Robert W. Staiger**

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Robert W. Staiger is the Roth Family Distinguished Professor in the Arts and Sciences and Professor of Economics at Dartmouth College. He is also a Research Associate at the National Bureau of Economic Research. Staiger's research focuses on international trade policy rules and institutions, with particular emphasis on the economics of the GATT/WTO. His research has been published in numerous academic journals, and in a book, *The Economics of the World Trading System*, co-authored with Kyle Bagwell and published by The MIT Press (2002). Staiger received his A.B. from Williams College in 1980 and his Ph.D. from Michigan in 1985. Prior to joining Dartmouth in 2014, he was a faculty member at Stanford University and the University of Wisconsin.

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## Concurring Statement

**Meredith A. Crowley**

The joint statement offers a negotiating framework through which the US and China can re-establish a trading relationship that brings economic benefits to both countries. I see this framework as yielding the highest benefits globally if bilateral negotiations can be embedded within the larger framework of the norms and institutions of the WTO and multilateral trading system.

### **Challenge 1: Countries' established commitments at the WTO may need adjustment**

Economic research has documented that the US's trade policy commitments at the WTO have resulted in a higher level of penetration of the US market by producers based in China than China's trade policy commitments have generated for producers based in the US. This asymmetry in border policy commitments, in conjunction with changes in technology, domestic and regulatory policies, and the wider economy have resulted in an asymmetry in the real and perceived benefits of the US-China economic relationship between these countries and across groups within the United States.

### **Challenge 2: Markets that are more globally integrated entail larger multilateral spillovers**

The extent to which a border or domestic policy, a social institution or a regulation exerts an extraterritorial injurious effect on groups in a country's trade partners depends not only on the design and nature of the policy/institution or regulation, but also on the nature of competition in that market, the size and geographic location(s) of global demand and global conditions of production and supply. The costs of many policies at issue are not limited to citizens of the US and China, but are spilling over with negative consequences to those in other countries.

### **Challenge 3: Existing WTO frameworks do not exist or do not suit their purpose**

The precise language of the WTO treaty and the jurisprudence of WTO dispute settlement rulings, which have together provided great benefits to people around the world, limit the feasible set of solutions to important and newer problems facing the world. Rules such as those in the WTO's agreements on subsidies and countervailing measures are too restrictive in some contexts and too lax in others if their purpose is to create fair and transparent conditions of competition.

**A path forward:** The four buckets framework provides a path forward to re-open US-China negotiating space to consider domestic policy autonomy and divergence while at the same time encouraging broadly liberal trade. However, any bilateral solution to the US-China trade tensions should be implemented with an eye to understanding that in many sectors, a negotiated settlement will invariably impact those in other economies. Ideally, the three challenges outlined above will be addressed in bilateral negotiations.

The first challenge could be met if bilaterally negotiated policy commitments are transmitted into permanent changes in countries' border policy commitments at the WTO. To address the second challenge, the US and China could establish a formal channel for third countries to voice their interest in specific policies and/or product or service markets under negotiation. To do so, they could follow a procedure similar to that by which third parties express their interest in WTO consultations and disputes. To address the third challenge, the US and China could invite third countries to join them in establishing new plurilateral agreements at the WTO to implement negotiated solutions in areas of current concern to both countries.

## Concurring Statement

**Robert L. Howse**

I fully support the approach to trade policy conflicts that is proposed in the joint statement. However, the joint statement is premised on a rejection of decoupling. By contrast, I believe that partial decoupling of the US and Chinese economies is both desirable and perhaps inevitable. A situation of extreme economic interdependence between great powers who are geopolitical rivals is one that is, in my view, inherently unstable and vulnerable to high levels of conflict. That is a judgment about politics and international relations and in no way goes against the economic and trade policy analysis in the joint statement. At the same time, anything coming close to complete decoupling is virtually unthinkable, given the size of the two economies and what is at stake. So we have to think about areas where decoupling makes sense versus others where it is too costly or difficult. The approach in the joint statement may well be helpful in this regard.

My second caveat goes to the difficulty of trust between rival great powers in a period of considerable tension. We should be cautious about thinking that the approach of the joint statement can be easily converted into enforceable legal agreements with dispute settlement. In some cases, what may be possible at least in the short term are informal understandings about mutual or reciprocal restraint, self-enforcing as it were (i.e. durable to the extent that they continue to produce a desirable stabilization for both sides). In developing any concrete accords based on the approach in the joint statement, negotiators should be particularly attentive to the difficulties of monitoring and verification. They must be vigilant in establishing clearly visible objective benchmarks for compliance. They must recognize the very considerable challenge of applying agreed norms where underlying domestic policies, both their motivations and effects, may not be transparent.

Third, and this really derives from the above-stated concern about geopolitical rivalry, it is impossible to think that matters of national security and other foreign policy interests such as human rights will not spill over into the US-China trade and general economic relationship.

The Huawei issue and reactions to the protests in Hong Kong are examples before our eyes. The proposed approach in the joint statement doesn't attempt to provide a framework for managing these axes of trade or economic tension and conflict. This is not a criticism, only to make clear one (admitted) limit of the capacity of the framework to provide a comprehensive formula for managing the US-China trade relationship.

In emphasizing geopolitics, I am not suggesting that China be simplistically labeled an enemy. The present reality is that ours are two opposed political and economic systems, which if anything appear to be growing farther apart. But we cannot say what the future will hold. The China-US relationship is not only one of states and rival political and economic systems, but of great peoples. Trade should help release the positive potential of that relationship of peoples, but to do so, it must be perceived as fair even if that means it is less "free."

**Concurring Statement**  
**The Principles of Competitive Coexistence**  
**Jiandong Ju<sup>2</sup>**

I endorse the efforts in the joint statement to search for a way of negotiation in resolving the U.S.-China trade disputes, and the idea in the joint statement that institutional diversity should be allowed and preserved in the process of globalization. To my view, the key issue is about the evolving structure of the world order.

The current global governance system is dominated by the US. As China keeps growing, that US dominance will inevitably have to be reformed. The question, therefore, is what would be a better global order in the future? Is it a world order dominated by one super country, or a peaceful co-existence world order structured to encourage competition among several big countries, together with the rest of the world?

I would argue that the latter represents the future of the world, which I call “competitive coexistence.” If one insists on what might be called a “hegemony world order,” the US and China could drift into seeing each other as enemies. However, if we could build a competitive coexistence world order, the US and China would be partners in building the future of the world, even with competition.

In a competitive coexistence world order, our joint statement’s four “Buckets” could naturally evolve in the following way:

**Bucket 1: Mutually beneficial policies.** For example, trade in comparative advantage sectors for both countries, such as reducing tariffs on exports of agricultural products from the US to China, and reducing tariffs on exports of textile products from China to the US. In the system I envision, both countries would always try to expand policies in this bucket.

**Bucket 2: Competing policies.** For example, competing government subsidies for advances in non-military technology. Policies designed to help produce better products would be allowed; policies designed to destroy each other’s products would not be allowed.

**Bucket 3: Bilateral confrontation policies.** For example, military technology competition. Policies in this bucket would be symmetric. If Country A adopted a policy against Country B, it would expect a symmetric policy response from Country B.

**Bucket 4: Multilateral confrontation policies.** For example, Country A adopts policies to confront Country B, and also asks Country C to adopt similar policies to confront Country B as well. There would be benefits for the global order if such global confrontation policies were prohibited. In that manner, bilateral confrontations would not expand to the rest of the world. Neither country would force a third country to stand in its line against its competitor.

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<sup>2</sup> I thank Jeffrey S. Lehman for very helpful comments.

Buckets 1 and 4 are central in this approach, expanding mutually beneficial policies, and prohibiting multilateral confrontation policies. A future world order, peaceful co-existence, relies on big countries, like the US and China, to limit their confrontational actions to bilateral and not to expand to multilateral confrontations.

## Concurring Statement

Feng Lu

I highly appreciate the intention and innovative ideas of the Joint Statement. In this concurring statement I make a few comments on issues in relation to the document.

(1) How to interpret the relationship between the buckets conceptual system and the rules of the multilateral trading system.

The international trading rules, either GATT or WTO, are created by contracting parties or members through voluntarily and collectively giving up some of their sovereignty at the margin, with a view to facilitate all participating countries to better explore the comparative advantage in a more open environment and become better off as a whole. The international rules therefore should define the boundary for the “Bilateral Discussions and Adjustments” in Bucket 2, or the “Domestic Adjustments” in Bucket 3. In discussion of the Bucket 3 in the Statement, it mentioned that “Country B may raise trade barriers to protect communities adversely affected by exports from Country B,” it should be noted that the acceptable action taken by Country B in this context should be confined to those without compromising or being in conflict with the existing multilateral trading rules that countries have already agreed on previously.

(2) How to have a balanced assessment on contemporary economic globalization.

First, we should not only examine the cost and benefits for specific countries such as the US and China, but also need to take into account the impact of economic globalization on many developing countries. Second, the accession into the WTO has played a crucial role in facilitating China’s tremendous economic growth witnessed in the early part of the new century, but painful economic reform in the 1990s and hard work by the Chinese people have served as an even more important driving force behind China’s economic catch up. It may be untrue that a country can deliver remarkable economic results only because of suddenly becoming a WTO members. Third, there are indeed problems associated with globalization that justifies serious consideration and necessitate new reforms, but on the whole the problems should be solved through further and better collaboration and integration rather than reversing the historical process or turning the WTO back into the GATT.

(3) How to assess the prospects of China’s economic system in the future.

China’s institutional transformation in the last four decades or so has been motivated through striving to solve her own problems in the spirit of “seek truth from facts” rather than follow any foreign country’s system or model. For the ruling party of the Communist Party of China (CPC), “resemble(ing) that of other developed WTO members” has never been a policy goal or motivation. The principal concept of “socialism with the Chinese characteristics” was adopted in 13th congress of the CPC in 1987, and it has appeared in the title of the political reports in each and every of the following CPC congresses every five years since then. China’s economic reform and opening up in the last 40 years or so has never been smooth and straight-forward,

but there is still strong consensus that China should continue to push forward reform and opening up so as to achieve the goal of her modernization. Though there are uncertainties in future, one thing is for sure that China will design and implement reforms in light of her own fundamental interests of long run development rather than copying another country's model or as a bargaining chip for negotiation with foreign countries.

In summary, although the Chinese and US economies right now face pressure to decouple from each other, there is still fairly significant evidence in the real world, reflecting the need to maintain rational and perhaps more balanced integration between the two economies. Two countries should face and deal with the accumulative problems as the by-products of their 40-years plus successful relationship through creative approaches and endeavors in all fronts, and this Joint Statement may serve a positive effort in this context. At the end of the day, it is the forces of the fundamental economic law rather than political intention that will prevail in history. After twists and adjustments, it is more likely to see the economies of China and the US to deepen integration rather than decouple from each other in the long run.



## Concurring Statement

Justin Yifu Lin

I support the Statement's position that trade issues should be solved through negotiation. I have three comments on the contents of the Statement:

1. Due to the different stages of economic development in developing and developed countries market failures of their industrial upgrading occur in different places. If a developed country is allowed to take measures to overcome market failures for its industrial upgrading and a developing country is not allowed to take corresponding measures, it is like what the Chinese proverb describes: "Only the state officials are allowed to set fire, and the ordinary people are not permitted to light lamps." For example, the technologies of most industries in a developed country are at the forefront of the world. The country needs to invent new technologies by itself for its industrial upgrading. The invention relies on breakthroughs in basic research (R) and the development of new technologies after breakthroughs in basic research (D). Enterprises are enthusiastic for D, but they are not willing to do R. However, without the breakthrough of R, the potential for D is limited. Therefore, the government in a developed country needs to support R for the country's economic development. The fields that R can do are infinite. The budgets that the government can use to support R are limited. As such, the government needs to allocate budget to Rs for industries that are most important for national defense and/or economic development. According to Mazzucato (2011) and Gruber and Johnson (2019), the United States' current global leading industries are the results of the Rs supported by the government in the past decades. In essence, a developed country's support for R is an industrial policy. In addition, the patent system in a developed country compensates for the externalities generated by innovators. A developing country will also have market failures in its industrial upgrading, for example, inadequate hard and soft infrastructure, but the government's budgets and implementation capabilities will not be sufficient to provide adequate hard and soft infrastructure for all potential industries and for the whole nation. The government can only provide the necessary improvements to the industries and places that have the greatest contribution to its economic development, that is, the government needs to have industry-specific and location-specific policies (Lin 2017). This is essentially the same as the support of R in developed countries. The innovator in developing countries will also generate the externalities that should be compensated. The innovation in developing countries is not patentable as it occurs within the global technological frontier. Therefore, the compensation for externalities in a developing country will be different from the patent in a developed country. If, a developing country is not allowed to adopt industry-specific measures to overcome market failures in its industrial upgrading because its measures are not subsidies for basic research or patent for new technology as in a developed country, this is like "only the state officials are allowed to set fire, and the ordinary people are not permitted to light lamps."

2. When a developing country upgrades its industries, the upgrading will inevitably enter into some existing industries in countries more developed than the country, resulting in competition with or even replacement of the more developed countries' industries. This is an inevitable phenomenon of economic development. Only through this process will a developing country

converge to the rank of developed countries. If the industrial upgrading in a developing country needs to compensate the losses in a developed country as suggested in the second bucket of the Statement, or the developed country is allowed to adopt the protection policy as proposed in the third bucket, such policies will compromise or even deprive a developing country's right to development.

3. A developing country may also have some industries that are already at the forefront of the world, such as Huawei's 5G, but the overall strength of a developing country is weaker than a developed country. A developed country may suppress those leading industries in a developing country for purposes of maintaining its vested status and interests in the name of national security. This kind of behavior is essentially a bullying behavior and should be condemned and prohibited.

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## Concurring Statement

Robert W. Staiger

In this concurring statement I propose a way to enlist existing WTO flexibilities in pursuit of the goals of the Joint Statement. I begin from a distillation of the five changes described in the Background section into two distinct issues that have contributed substantially to the current US-China impasse.

First, US expectations of reciprocal market access expansion into the Chinese market arising from China's 2001 entry into the WTO have not been met. This requires a rebalancing of the existing WTO market access commitments between the US and China to achieve the degree of reciprocity in these commitments that was intended to arise from their 2001 negotiations.

Second, US expectations of the balance between the internal benefits and costs of its own tariff commitments agreed to at the 1994 conclusion of the Uruguay Round have not materialized. This may require a rethinking and possible renegotiation of some of the Uruguay Round tariff commitments made by the US, subject to the preservation of reciprocity (once achieved) with China and with other US trading partners who would be impacted by this renegotiation.

To address these two issues and end the trade war, the following three-step procedure is proposed:

**Step 1.** The US and China should agree to end their trade war immediately and revert to tariffs consistent with their respective WTO commitments (e.g., their tariff levels prior to March 1 2018).

**Step 2.** Rebalancing: (i) The US should agree to pursue through the WTO dispute resolution process its concerns about unmet expectations of market access expansion in China, by filing a non-violation claim against China; (ii) In return, China should agree to take the unorthodox step of submitting materials in support of this claim (details of which could be part of the agreement to end the trade war) to the WTO dispute resolution body, thereby augmenting the normal non-violation-claim process and ensuring the success of the US claim in this case; and (iii) The US and China should agree that, once a successful non-violation claim has been adjudicated, both countries will abide by any subsequent WTO rulings on the amount of trade compensation that the US is owed by China (or permissible US retaliation).

**Step 3.** Renegotiation: The US should agree that, as implied by Step 1, any further permanent upward adjustments to its WTO tariff commitments that would have trade implications for China will be undertaken within the context of Article XXVIII renegotiations in the WTO.

The proposal acknowledges the legitimacy of US concerns over non-reciprocity with China (first issue), but asks the US to seek redress for these concerns via a non-violation case brought – with China's assistance – in the WTO dispute forum, thereby rerouting the US-China trade dispute on this issue into WTO dispute resolution processes that are designed to address

such issues in the context of measured, reciprocal, compensatory tariff responses which are themselves subject to the restraints of international control, rather than in the context of uncontrolled unilateral retaliatory tariff actions. At the same time, by drawing a distinction between US concerns over non-reciprocity with China on the one hand and the possibility that the US might rethink its own level of market access commitments (second issue) on the other, the proposal allows these two issues to be disentangled and addressed on separate tracks, and thereby builds on the distinct WTO provisions which are designed to address these issues and which, once augmented to reflect the exceptional circumstances of the US-China trade conflict, can provide the needed flexibilities. The proposal leaves unaddressed some of the important issues facing the US and China (e.g., those relating to digital/new technologies). But in describing a way for both countries to engage in good-faith efforts to address more familiar issues, the proposal may also serve as a trust-building exercise and help pave the way for solutions to these other issues in the future.

# 中美经贸关系 寻求新的出路

## 中美经贸政策工作小组 联合倡议

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2019年10月27日

## 中美经贸政策工作小组

### 联合倡议

2019 年 10 月 18 日

我们是一群来自中国和美国的经济学家和法学家；我们相信，中美两国可以通过一个新的经贸磋商框架实现共赢。我们为此发表本倡议。

我们所提出的框架意在尊重两国制定并实施本国政策的能力，推动两国通过有效磋商来分享双边贸易的好处、减少损失，并促进全球贸易多边领域中的公平竞争。

我们提出倡议的背景是，中美经贸关系已经呈现出令人担忧的拐点。我们认为，目前的对立和僵局与下述成见有关，即中美两国之间只有两条出路：

- (1) 中国在产业、知识产权和其他经济政策方面实施大规模的改革，以使其政府对经济的干预程度接近其他世贸组织发达国家成员国的水平；与此同时，美国的贸易政策回到 2018 年以前的状况；或者
- (2) 两国大幅度降低在经济上的相互依赖度（“脱钩”），甚至不惜以加剧贸易战为代价。

我们相信，在“深度融合”和“脱钩”之间，还存在着第三条出路，这条出路：

- (1) 给予两国在制定多样的产业政策、科技体系和社会标准等方面更大的自由度；
- (2) 允许两国使用精准的政策措施（包括关税和非关税措施）保护本国在产业、技术和社会政策方面的选择，同时避免对贸易伙伴造成不必要或不对称的负担；以及
- (3) 建立一套经贸规则，防止任何国家采取经济学家所说的“以邻为壑”的政策 --- 这样的政策以伤害别国为代价增进本国的福利。

我们充分认识到，任何国际体系的设计都无法摆脱一些基本的权衡。我们的方案包括下面的权衡：

一方面，每个国家都应当拥有制定符合本国条件、最大化本国集体利益的政策与产业体系的自由度（“政策空间”），即使某些政策可能不受他国认可；另一方面，每个国家也应当承认，它所制定的政策可能对其他国家产生负面影响。

一方面，为规避上述负面影响而试图通过国际规则或谈判施压手段来干扰他国制定国内政策的主权，在经济上是不可取的，在政治上也是不可持续的；另一方面，片面强调一个国家制定国内政策的绝对自由，而忽视对贸易或第三方的影响，则会纵容该国将跨境成本转嫁给别的国家。

我们的方案把中美两国的政策空间放在首位，并相对于现状（世贸组织原则或法理）对之进行扩充，但也明确为“以邻为壑”政策划定红线。我们相信，我们的方案维护两国在双边贸易中的现有利益，但不要求经济模式的趋同。与“深度融合”和“脱钩”这两条路相比，这是一个折衷的方案。同时，我们的方案也可以向多边化方向拓展，与保证第三国利益的多边机制靠拢。

## 背景

中国加入世贸组织至今已有近 18 年的时间。在中国加入时，世贸组织的经贸规则和争端解决机制都是根据当时的情况制定的。而在这 18 年中，全球经济及其支撑技术都发生了超乎预料的巨大变化，尤以下述五个方面最为突出：

- (1) 技术进步。技术进步提高了自动化水平，让供应链更加分散化，一些行业和技能的薪资溢价提高，但许多其他行业的薪资水平和就业保障下降。人们在社交和行为方式上的改变，使得数字经济占有的市场价值比重上升，而农业、工业以及非数字化服务行业的比重下降。网络效应、规模报酬递增效应以及巨大的先动优势，让赢家通吃的市场的数量呈倍数增加。军民两用技术，如无人机、机器人、人工智能等等，在满足军事用途的同时，催生出无数民用用途和行业。数字要素禀赋的经济重要性与日俱增。



- (2) 国内与国际规制规范对数字经济的适应缓慢。科技变革之前，规制（及税收）的权限可以根据工农业产品或服务提供者的实际位置来划分，国家之间也能比较容易地通过合作协议来落实各自的权限。而如今，互联网及云技术使得数据的位置、所有权以及哪个国家可以拥有管理数据传输的主要权限，都变得模糊不清
- (3) 中国在全球经济当中的地位的巨大提升。从 2001 年到 2018 年，中国 GDP 的全球占比从 4% 上升到了 16%，出口额占比从 2.7% 上升到 10.5%。
- (4) 对于中国国内政策导向预期的变化。在 2001 年，很多人预期，随着中国经济的增长，中国经济将快速地向当时的世界大经济体靠拢：更分权的市场经济、对外国投资者更加开放、减小国有经济比例，等等。如今，中国已经明确，至少在短时期内，政府投资和政府政策工具仍将在中国经济中保持重要作用，其目的是确保国内企业在一系列关键行业中的地位。
- (5) 全球政治环境的变化。作为上述趋势的结果之一，在多数发达经济体，贸易政策的政治环境正在发生变化，其中以美国最甚。反全球化浪潮愈演愈烈。许多国家在重新审视和调整经济对外开放和本地经济需求之间的平衡，其中，那些在过去几十年全球化进程中利益受损、或得益很少的群体的诉求，获得更大的权重。

这些变化对于全球经贸生态系统产生了巨大的影响。许多世贸组织成员国的领导人纷纷表示，基于世贸组织体系的全球化已经不再符合他们国家的需求。中国与美国之间爆发贸易战，提高对方出口商品的关税，同时又进行双边谈判以求降低这些关税。

但是，当前的中美谈判被限定在了一个非此即彼的框架里：要么（1）两国的经济深度融合，双方采用共同的市场经济原则来制定本国的经济政策；要么（2）实质性“脱钩”，急剧减少两国之间的经贸联系。前者所依赖的背景，是支撑中国 2001 年加入世贸组织时的全球经济格局，而后者则来源于当前两国日益加剧的地缘政治竞争态势。

在本倡议接下来的内容里，我们将提出一个新的思想性框架，我们相信，这个框架可以成为两国谈判的合理基础。它旨在为两国找到贸易利益和本国政策空间之间的平衡，同时预防两国联手在多边贸易中置其他国家于不利地位。

## 不同国家之间贸易的“四个篮子”框架

在今天高度关联的全球经济里，一国采取不同于他国的国内政策（包括由于历史原因而没有受到世贸组织规则约束的政策），会引发对于跨境市场准入和贸易壁垒进行结构“再平衡”的呼声。一种“再平衡”的方式，是通过进一步施加压力而迫使各国政策趋同。我们认为，各个国家的国内政策的异质性将长期存在。基于这个前提，我们提出我们的框架，以最大限度地维护国际贸易利益。

具体而言，我们列出以下四种政策类别（“篮子”）：

第一只篮子（“禁止篮”）：在这只篮子里，一个国家实施的政策会对全球市场造成严重扭曲，甚至引起全球经济损失，因此国际规则应当明令禁止这类政策。“以邻为壑”的政策就是不折不扣的属于禁止篮的政策。例如，为了在国际市场中获取垄断利益，降低其他国家竞争力而实施进出口限制；或通过不平等的数据政策使得本国数字企业可以通过掠夺性定价或寻租从国外市场攫取高额回报。

第二只篮子（“双边谈判与协调篮”）：在这只篮子里，国家甲实施的政策会对国家乙造成一定的损失，但并不具有以邻为壑的特征、或造成全球经济总量的损失。因此，两国可以本着共赢的态度展开磋商，以消除这些政策。这种谈判一般在国家乙认为本国因这样的政策的损失大于国家甲因该政策所获得的利益时展开。例如，当国家甲实施了对国家乙的企业来说不公平的政策时，国家乙可以通过利益交换的方式（如：降低反倾销关税）来促使国家甲取消该政策或缩减政策规模。

第三只篮子（“国内调整篮”）：在这只篮子里，国家甲采取的政策对国家乙造成的损失小于国家甲的获利，因而无法通过利益交换的方式使国家甲取消政策或缩减政策规模、

形成共赢局面。在这种情况下，国家甲可以保留该政策，同时允许国家乙通过精准调节国内政策的方式来弥补或减轻该政策对其国内市场的影响。例如，国家乙可以发布法规来防止本国机构向外国机构泄露敏感技术资料；或者国家乙可以通过提高贸易壁垒的方式来保护受到国家甲进口货物冲击的本国企业。必须指出，这里提到的国家乙的补救措施必须是和其损失成比例，且精准面向国内对象（不能用来作为威胁国家甲或升级贸易战的筹码）。

第四只篮子（“多边治理篮”）：在这只篮子里，当国家甲采取的政策措施（无论国家乙是否做出反应）不仅影响到国家乙的经济利益，还会造成对国家丙的连带损害。这时就应当启动国际规则和多边机制来控制局面。例如，国家甲实施区别对待的政策，对国家乙的某类产品降低关税，但不给国家丙的同类产品相同的关税待遇。

第二和第三只篮子是我们的框架的核心，针对的是因国家甲采取了不利于国家乙的政策措施，而使得国家乙的利益受损的情况（但国家甲实施该政策的目的是为了国家甲，而不是为了伤害国家乙）。此时，国家甲有恰当的理由真诚地对国家乙说：“我国政策对于贵国造成损失，并非我国的本意，而是为了维护我国的经济和社会利益。”在理想状况下，两国可以朝着第二只篮子、也就是共赢的方向展开磋商，但是，我们也意识到，在许多情况下，国家甲不愿撤回政策，共赢无法达成。此时，第三只篮子授权国家乙采取措施，调节国内政策，以抵消国家甲的政策带来的损失。必须强调的是，第三只篮子不是鼓励报复行为，而是允许国家乙把自己隔离在国家甲的政策所造成的负面外部性之外，以实现保护国内社会和规制框架等目标。

本倡议的一个优势，在于为中美两国提供了重新平衡未来两国经贸关系的新选项。所有篮子中的问题都可以通过世贸组织的争端解决机制来处理，但中美贸易纠纷当中属于第一到第三只篮子的问题，可以先在世贸组织之外通过双边磋商来处理，然后再通过世贸组织规则允许的“灵活度”纳入世贸组织的框架内。而对于数字贸易等新领域，则需要发展新的世贸组织规则。

本倡议的第二个优势，是鼓励任何一方都不轻易把对方产生跨境伤害的政策统揽到单个的抱怨之中，也不将这些政策与其他非经济问题捆绑在一起。虽然非经济问题也值得关注，但是，把它们分开，一些问题就更容易解决。除非采取这样的策略，就很难看到避免贸易战不断激化的可能性。

我们的倡议鼓励各国：

- 辨别其他国家的国内政策当中，哪些会对自己国家的经济造成实质性损害（“境外损害性政策”）；
- 把这些政策归类到第一到第三只相应的篮子中；
- 与损害源头国展开磋商，寻求共赢方案；如果失败的话，
- 则提出一个方案，让被损害国可以采取（等比例且精准定位的）政策，以减少境外损害性政策所造成的损失。

需要指出的是，本倡议的分类并不一定是一个简单和直接的过程。比如，美国可能会把很多中国的产业政策视为从具有优势的外国公司手里抢夺市场份额的“以邻为壑”政策；而中国则可能把同样的政策视作是挣脱增长制约、且从长远来看对全球经济有益的发展政策。同样，中国也可能把很多美国的政策视为是保护其国内低生产力科技企业免于国际竞争的“以邻为壑”政策，而美国则可以辩称，这些政策是为了维护国家安全。这种争议必然会发生，但在最低层次上，公然否认那些明显的“以邻为壑”政策是会有代价的，既会降低谈判资本，也会引起国际舆论的谴责（包括来自国际法学和经济学界，以及第三国的）。

此外，本倡议的适用范围也不局限于现存的世贸组织规则所管辖的范围。例如，本倡议还可以适用于在数字科技领域有争议的政策。在呼吁世界各国共同关注这些重要问题的同时，即使是在没有现存国际规则的情况下，我们的倡议也为国与国之间的磋商提供一个话语体系，这个话语体系可以用来讨论一些政策本身是否有问题（如是否是“以邻为壑”的），或在给定其他国家的政策前提下，各个国家如何采取行动保护自身的重点领域。

本倡议的另一个目的，是保护各国在数字和新兴科技领域制定符合其非经济需求的政策的能力，并防止因境外的此类政策而蒙受损失的能力。我们希望我们的框架能够让各国在可控的范围内去认识这种日益增长且不断变化的需求，并补偿因其所引发的成本或损失，以避免让当前紧张的地缘政治局势进一步恶化。

总体而言，我们相信，本倡议可以帮助中美两国的贸易战找到一个共赢的解决方案；它提供了一套新的话语体系和方法论，可以把两国的冲突消化并分解为更加细致、且在分析层面更容易把握的双边讨论。我们的倡议提供了一幅走出冲突并达致共存的路线图。

## 结论

要解决当前中美两国的经贸纠纷，必须摆脱把中美经贸关系限定为要么脱钩、要么深度融合的这种非此即彼的思维定势。脱钩放弃了贸易带来的好处，同时又对保护两个国家的国家安全裨益甚微；深度融合要求中国向美国或欧洲式的经济体制迅速靠拢，但这个想法并不现实。

第三条出路是存在的，它可以在不发生深度融合的情况下保留大部分的贸易收益。我们所担心的是，即便实现这一目标的方法可能不止一个，但当前的政策和外交磋商并没有朝着这个方向努力。

我们在本倡议里提出了一种可行的方案，勾画了一幅中美两国“经济和平共处”的图景。在这幅图景中，两国充分保留各自的政策空间 --- 中国可以继续实施产业和发展政策，美国也可以继续保护其就业市场和科技体系。我们相信，这是一个在政治上最可持续、同时又能维持国际贸易所带来的巨大收益的方案。

最后，虽然本倡议是为了应对中美两国当前的贸易战而提出的，但其适用范围却不局限于这两个国家，而是对所有参与国际贸易的国家都适用。它既与现存的世贸组织规则和体系保持一致，也允许中美两国在世贸组织规则涉及不到的领域达成双边协议，而无需世贸组织修改现有规则或体系。

## 中美经贸政策工作小组成员

联合召集人：

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**上海纽约大学建校美方校长、法学教授**

杰弗瑞·雷蒙，上海纽约大学建校美方校长。曾任康奈尔大学校长、北京大学国际法学院创始院长、密歇根大学法学院院长，以及法律与公共政策终身教授、华盛顿特区律师事务所律师、美国最高法院大法官 John Paul Stevens 法律秘书。目前担任美国法学院院长协会主席、Internet2 非营利性先进网络技术联盟董事会主席，以及“中美法律专家对话”的美方代表团队成员。曾获得美国全国有色人种协进会（NAACP）“法律辩护和教育基金会”的国家平等正义奖，以及中国政府对来华工作并做出突出贡献的外国专家所颁发的最高奖项——“友谊奖”。2018 年，获选为 40 位“中国改革开放 40 周年最具影响力的外国专家”之一。

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姚洋，北京大学国家发展研究院院长、中国经济研究中心教授和主任、博雅特聘教授、长江学者。他也是“中国经济 50 人论坛”成员。其研究领域包括中国经济转型与发展，在国内外期刊发表学术论文逾百篇，并出版了关于中国制度经济学和经济发展的多部著作。1986 年毕业于北京大学地理系本科，1989 年毕业于北京大学管理科学中心，获经济学硕士学位，1996 年毕业于美国威斯康星大学农业与应用经济学系，获发展经济学博士学位。

成员（后附个人并发意见）：

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莫瑞迪斯·克劳利，剑桥大学国际经济学讲师、圣约翰学院研究员，以及剑桥大学 - 新经济思维研究所研究协调员。她也是“变动欧洲下的英国”（UKCE）智库高级研究员、英国经济政策研究中心（CEPR）研究员，以及英国国际贸易部两个顾问委员会的成员。其研究重点是国际贸易、多边贸易协定以及贸易政策。拥有哈佛大学公共政策硕士学位，以及威斯康星大学麦迪逊分校经济学博士学位。其学术论文包括与 Chad Bown 共同撰写的 Self-Enforcing Trade Agreements（《美国经济评论》，第 103 卷第 2 期，2013），并编著有 *Trade War: The Clash of Economic Systems Endangering Global Prosperity* (2019)。

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鞠建东，宾夕法尼亚州立大学经济学博士，是清华大学五道口金融学院紫光金融学讲席教授、国际金融与经济研究中心主任、教育部长江学者特聘教授。2014-2017 年担任上海财经大学国际工商管理学院院长。2007-2009 年任国际货币基金组织常驻学者、世界银行咨询顾问。他的文章发表在《美国经济评论》等国际一流杂志，其最新学术论文包括与林毅夫、王勇共同撰写的 Endowment Structures, Industrial Dynamics and Economic Growth（《货币经济杂志》第 76 卷，2015 年）。

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卢锋，北京大学国家发展研究院教授，曾任国发院副院长。获英国利兹大学经济学博士、中国人民大学经济学硕士和法学学士。对人民币汇率、国际收支平衡、农民工与就业、粮食安全等问题进行过系统研究，在中英文期刊上发表了 50 多篇学术论文，并出版了多部学术著作。目前担任财政部、人社部专家和“东盟 - 中日韩宏观经济办公室（AMRO）”顾问小组成员。曾被评为北京大学“十佳教师”。

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林毅夫，北京大学新结构经济学研究院院长、教授，北京大学南南合作与发展学院院长，北京大学国家发展研究院名誉院长。1994 年创立北京大学中国经济研究中心（现北京大学国家发展研究院），并担任主任一职。2008 年被任命为世界银行首席经济学家兼负责发展经济学的高级副行长。2012 年在世界银行任期届满，返回北大，继续教学研究工作。现任全国政协常委、经济委员会副主任，国务院参事室参事。膺选为发展中国家科学院（原第三世界科学院）院士及英国科学院外籍院士。主要著作包括《战胜命运》《超越发展援助》等 20 余册。

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埃里克·马斯金，哈佛大学亚当斯大学教授、经济学和数学教授。他在博弈论、契约论、社会选择论、政治经济学等多个经济学领域做出卓越贡献。拥有哈佛大学学士和博士学位，曾任剑桥大学耶稣学院博士后研究员。曾于 1977 年至 1984 年执教于麻省理工学院，1985 年至 2000 年执教于哈佛大学，2000 年至 2011 年执教于普林斯顿高等研究院，并于 2012 年重返哈佛大学。2007 年，因与 L. Hurwicz 和 R. Myerson 在机制设计理论方面的贡献，共同获得诺贝尔经济学奖。

**罗伯特·斯德格尔 (Robert W. Staiger)****达特茅斯学院拉斯家族人文和科学讲席教授**

罗伯特·斯德格尔，达特茅斯学院拉斯家族人文和科学讲席教授、经济学教授，并在美国国家经济研究局担任研究员。其研究重点是国际贸易政策规则与制度，尤为关注关贸总协定（GATT）和世界贸易组织（WTO）所涉及的经济。其研究成果见诸于多家学术期刊，以及与 Kyle Bagwell 共同撰写的《世界贸易体系经济学》（麻省理工学院出版社，2002 年）一书中。1980 年，他获得威廉姆斯学院的学士学位，并于 1985 年获得密歇根大学的博士学位。2014 年加入达特茅斯学院前，曾执教于斯坦福大学和威斯康星大学。

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## 并发意见

### 莫瑞迪斯·克劳利（Meredith A. Crowley）

联合倡议为中美两国重建贸易合作关系，共享经济利益提供了一个新的磋商机制。我认为这一机制有利于让双边磋商充分融入世贸组织和其他多面贸易的规范和体系当中，并为全球经济带来极大好处。

#### **挑战 1：各个国家对世贸组织的既有承诺可能需要调整**

经济学研究表明，美国对世贸组织的政策承诺，使得中国制造的产品进入美国市场比美国制造的产品进入中国市场要容易。这种政策不对称，加上科技、各国国内政策和规定，以及更大的国际经济的变化，导致了中美经贸关系当中的两个国家，以及美国国内许多群体的事实可见的收益不均。

#### **挑战 2：越来越全球化的市场导致更大的多边溢出效应**

一个国家的国内政策、社会体制、规章制度等对贸易伙伴造成伤害的程度，不仅取决于政策、体制或制度设计本身，也取决于市场竞争的程度、全球需求的规模和地理位置，以及产品全球供给情况。不仅中美两国人民要承受这种政策的代价，其他国家同样会受到波及。

#### **挑战 3：世贸组织缺乏能满足中美两国需求的机制，或既有机制不匹配**

世贸组织协议语言的精准性，和世贸组织争端解决机制的严谨性为全世界人民带来了很大的好处，但同时也限制了其解决重要的新生问题的灵活性。对于形成公平且透明的竞争而言，现有的世贸组织关于补贴协议或手段往往不是过紧就是过松。

前进的道路：倡议书中提出的“四只篮子”的机制既保证了中美各自国内政策自主权和多样性，又激励了广泛的自由贸易，为两国展开磋商提供了一条可行的道路。但是，任何解决中美贸易紧张局势的双边方案都应考虑到磋商的结果会在许多方面影响到其他国家。理想状况下，上述的三个挑战可以通过双边磋商来解决。

通过将双边磋商的协议转换成世贸组织体系内的长期政策承诺可以解决第一个挑战。通过由中美两国为第三国提供正式渠道，以发表关于本国利益的政策、产品或服务市场的诉求的方式可以解决第二个挑战。通过由中美两国邀请第三国在世贸组织框架内形成多边协议来落实磋商结果，解决双方关心的问题的方式可以解决第三个挑战。

## 并发意见

罗伯特·豪斯（Robert L. Howse）

我完全支持联合倡议书提出的解决贸易政策争议的方法。但倡议书的立场是拒绝“脱钩”。而我认为中美两国经济的部分脱钩也许是双方所需要也在所难免的。在我看来，两个大国既在地缘政治是对手，又在经济上极度相互依赖，这种关系本身是很难稳定的，而且在面临更高层次的冲突的时候会变得尤为脆弱。这是从政治和国际关系的实际考量，并不是反对倡议书中对经济和贸易政策的分析。同时，鉴于两个经济体的体量和现状，要发生“完全”脱钩的情况也是不太可能的。所以我们应该理性地思考脱钩在哪些方面是合理的，在哪些方面的代价过大。倡议书提出的方法在这里同样适用。

第二点我想提醒的，要在两个互为竞争对手的大国之间，尤其是双方关系显著紧张的时候建立“信任”绝非易事。对于倡议书的提议能迅速转化成可执行的争议解决协议不能过分乐观。某种程度上，倡议书能马上带来的价值是双方能在短期内对相互制约或自我克制形成一种非正式认识（一直持续到形成双方都能接受的长期稳定状态）。要根据倡议书达成切实的协议，磋商双方要特别注意监督和核实过程中的难点，也要特别明确地设定清晰的客观合规指标，还要充分意识到在国内政策的动机和效果可能不明朗的情况下要落实双方协议是会有相当的难度的。

第三点我想提醒的，也是由上述地缘政治上的竞争关系引申出来的，即类似国家安全、人权等其他外交政策诉求必然会影响到中美贸易和总体的经济关系。

华为和香港就是摆在我们眼前的例子。倡议书并没有对这些在经贸之外但对经贸紧张关系推波助澜的因素提出有效的管理机制。这里不是苛责，只是指出（大家应该也已经意识到的）倡议书提出的磋商机制在帮助中美两国全面维护经贸经贸关系方面的局限。

虽然我一再强调地缘政治，但绝不是要把中国简单归类成敌人。当前的现实是两个国家的政治和经济体制大相径庭。但我们也不能就此断言未来会怎样。中美关系不仅仅是国与国、体制与体制的关系，更是两个伟大民族、伟大人民之间的关系。贸易是发扬这种人民的关系当中正能量的有效手段，但必须建立在公平的基础上，即使那意味着少一点所谓“自由”。



## 并发意见

### 竞争共存的原则

鞠建东

我支持倡议书为中美贸易争端寻求谈判解决的努力，尤其是在全球化当中应当允许和保护各国制度的多样性。我认为，这里的关键问题是世界秩序的变化。

当前的全球治理体系由美国主导。随着中国的持续发展，美国对世界秩序的主导作用势必发生改变。所以中美贸易争端的核心问题是怎样的一个世界秩序才是更好的未来？是仍然由一个超级大国主导，还是由若干大国引领全世界在和平共处的环境里展开良性竞争？

我认为后者才是未来世界发展的方向，我称之为“竞争共存”。如果我们继续停留在“霸权稳定”的思维方式里，那中美两国势必会将对方看做是敌人。但如果我们相信一个竞争共存的世界未来，那中美两国完全可以成为构建未来世界秩序的合作伙伴，即使是通过互相竞争。

在竞争共存的世界秩序里，倡议书提出的区分四类政策的构想就可以自然而然地发展如下：

第一类：互惠政策。例如，两国在分别具有比较优势的领域加强国际贸易，比如中国对从美国进口的农产品减税，美国对从中国进口的纺织品减税。两国应该不断拓宽互惠政策。

第二类：竞争政策。例如，在非军用技术的研发、生产、销售上两国在政府补贴政策上的竞争。竞争政策的原则是，帮助企业研发、生产更好产品的政策都是允许的；意在损坏对方产品的研发、生产的政策都应该禁止。

第三类：双边对抗政策。例如，军用技术的竞争：这类政策的原则是对等。如果 A 国实施了一项对抗 B 国的政策，那么 B 国也可以对等地实施类似的对抗 A 国的政策。

第四类：多边对抗政策。例如，A 国实施了对抗 B 国的政策，而且要求 C 国也对 B 国实施类似的政策。从构建竞争共存的国际秩序的角度来讲，应当禁止这一类政策，从而使双边对抗不至于扩散到其他国家。任何一方都不应该胁迫第三国一起对抗其竞争对手。

第一和第四类政策是上述提案的关键所在，拓展互惠政策的空间，限制多边对抗。世界和平的未来，一个竞争共存的世界秩序依赖于中国和美国这样的大国的共同努力，把对抗限制在双边范围之内，而不殃及其他国家。

## 并发意见

卢锋

我赞同这份联合声明所体现的建设性立场与富有创意的思路，这里对联合声明提出几点意见和评论。

第一，如何理解共同声明的“木桶概念体系”政策含义与多边贸易体系规则之间关系？无论是关贸总协定（GATT）还是世贸组织（WTO），其形成方式都包含缔约国或成员国通过谈判同意共同放弃部分主权形成国际多边贸易规则作用领域，以求使缔约方在更为开放环境中更好地发挥比较优势从而达到合作共赢目的。因而各国义务保证其国际承诺与国内法律及政策相一致。基于这一常识逻辑，相关国家承诺遵守的多边贸易规则，理应界定“木桶 2”中关于“双边讨论和调整”或“木桶 3”中关于“国内调整”的限度或边界。在讨论木桶 3 时，联合声明提到“B 国可能提高贸易壁垒，以保护受到 C 国出口不利影响的领域”。我认为 B 国所采取措施应以不违背其作为缔约方在多边贸易体系场合所承诺规则为限。

第二，如何对当代经济全球化给以均衡与合理的评价？首先，评估经济全球化影响，在比较美国和中国为此支付成本与获得利益同时，还要考虑经济全球化对许多发展中国家带来更多发展机遇的积极影响。其次，通过艰苦谈判加入世贸组织对后续中国开放经济高速增长产生重要推动作用，然而新世纪初年中国经济超预期表现，更多得益于中国人民自身努力奋斗，得益于 90 年代中后期以及更早时期中国国内系统改革的体制创新作用，如果没有内部条件的决定性作用而仅仅依靠加入世贸组织不可能产生经济奇迹。最后，全球化进程确实带来诸多矛盾问题，需认真面对并通过包括 WTO 改革在内的各种方式加以应对化解，然而全球化派生问题根本上需通过深化国际合作加以解决，倒转历史车轮或使世贸组织退回到关贸总协定不是有效药方。

第三，如何看待中国经济体制未来演变前景？中国过去 40 年改革开放与经济体制转型，基本动因是根据实事求是原则务实解决自身经济和社会领域面临的实际问题，而不是为了模仿外国制度或模式。对中国执政党而言，“与 WTO 其它发达成员国体制趋同”从来不是改革

的目标和动力。1987 年中共十三大提出“中国特色社会主义”命题，这个基本命题在此后每五年一次党代会政治报告中均被强调，是对上述观察判断的说明。中国体制转型进程并非径行直遂，然而通过深化改革实现现代化仍是中国社会上上下下的广泛共识。可以肯定的是，中国体制转型路径的未来展开，仍会以中国自身长期发展与现代化的根本利益为本位进行探索选择，不会模仿别国模式，也不会成为外部谈判的筹码。

中美两国关系目前面临困难，然而现实生活呈现的更多经验证据提示两国经济存在广泛而深刻的互补性，寻求发展更加合理与平衡的深度合作是客观经济规律的内在要求。两国需直面与应对几十年成功合作累积派生的矛盾问题，然而最终是基本经济规律力量而不是特定政治意愿决定历史进程。经过阶段性曲折与磨合，未来长期两国经济更可能在更广范围与更深程度融合“挂钩”，而不是相互分离“脱钩”。

## 并发意见

### 林毅夫

我支持这份联合声明所主张的贸易问题应该通过谈判解决的立场，关于这个联合声明的具体内容，我有以下三个意见：

1. 发展中国家和发达国家由于发展阶段不同，在产业升级上市场失灵发生的地方不同，如果允许发达国家针对所要升级的产业采取措施来克服，而不允许发展中国家采取相应的措施，则是“只许州官放火，不许百姓点灯”。例如，发达国家的产业处于世界的前沿，其技产业升级必须靠自己发明新技术，发明依靠对基础科研的突破（R）以及基础科研突破后的新技术的开发（D）。企业对D有积极性，但不愿做R，可是没有R的突破，则D是无源之水，所以，发达国家为了经济的持续发展都由政府来支持R。R可以做的领域几乎无穷多，但是政府可以用来支持R的财政有限，只能根据政府的判断，支持那些对国防和经济发展最重要的领域。根据 Mariana Mazucato（2011）Jonathan Gruber 和 Simon Johnson（2019）两本书中的研究，美国过去数十年来在世界领先的产业都是美国政府支持的R而产生的，所以，发达国家政府对基础科研的资助在本质上是一种产业政策。另外，发达国家的专利制度是对创新者的外部性所做的补偿。发展中国家在产业升级时也会有市场失灵的地方，例如，软硬基础设施的瓶颈约束，但政府财政和执行能力无法对所有可能升级的产业和要发展的地方都提供足够好的软硬基础设施，所以，仅能针对对经济发展有最大贡献的产业和地方提供必要的完善（Lin 2017），这在本质上和发达国家对基础科研的支持是相同；并且，发展中国家的创新者也同样会有外部性，应该有外部性补偿，但是发展中国家的创新是在技术前沿内部进行的无法给予专利，所以，其方式会不同于专利。如果，因为发展中国家的这些支持特定产业升级的措施不是对基础科研的资助或专利，而不允许发展中国家采用，则是“只许州官放火，不许百姓点灯”。

2. 发展中国家在产业升级时，必然会进入到比他发达的国家的现有产业中，产生竞争或取代现有发达国家的产业。这是经济发展的必然现象，也只有经过这个过程，发展中国家才能进入到发达国家的行列。如果，发展中国家的产业升级必须对现有发达国家产业的损失给予第

二桶措施所主张的补偿，或是，允许发达国家采取第三桶措施所建议的保护政策，会妨碍甚至剥夺发展中国家的发展权利。

3. 发展中国家也可能会有些产业已经位于世界前沿，例如华为的 5G，可是国家间的整体实力不同，实力强的国家可能为了维持其既得的地位和利益，而以国家安全为名打压发展中国家的这种产业，这种行为实质上是一种以大欺小的霸凌行为应该受到谴责和禁止。

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## 并发意见

### 罗伯特·斯德格尔 (Robert W. Staiger)

世贸组织体系当中存在相当的空间，为实现倡议书所提出的目标提供了契机。我的这份提案简单罗列了这些空间和机会。首先我想把倡议书开头部分阐述的中美经贸关系五大变化归纳成两个特有的问题，我认为正是这两个问题导致了当前紧张的中美经贸关系。

首先，2001 年中国加入世贸组织以后，美国进入中国市场的实际状况不符合预期。这需要世贸组织体系内，对中美两国之间市场准入的承诺进行重新平衡，从而达到两国在 2001 年达成的协议当中承诺的互惠程度。

第二，美国对于在 1994 年乌拉圭回合谈判结果当中，其所做的关税承诺所能带来的内部收益和成本平衡的预期没有实质性达成。这需要美国重新思考，甚至重新磋商其在乌拉圭会和谈判当中做出的某些关税承诺。这种重新磋商取决于要在多大程度上保持与中国（达成的）互惠关系，以及与受这种重新磋商影响的其他美国贸易伙伴的关系。

针对这两个问题，我在此提出如下三步走的办法，以期能早日结束贸易战。

第一步，中美双方应同意立即终止贸易战，并将关税恢复到各自在世贸组织的承诺的水平（如 2018 年 3 月 1 日之前的关税水平）。

第二步，重新平衡：（1）美国应当通过世贸组织争议解决机制的规定，通过提交非违反（协议）之诉的方式来反映其没有达到预期当中的进入中国市场的程度的问题；（2）相应的，中国应当采取非常规方法，向世贸组织争议解决机构提交支持该申诉的材料（可以作为双方结束贸易战协议的一部分），以确保美国申诉成功；（3）中美双方约定，当非违反之诉成功裁定后，双方须按世贸组织的相关规定，遵守裁定的中国向美国的贸易补偿金额（或在许可范围内的美国的报复金额）。

第三步，重新磋商：承接第一步的关税回调，美国应当承诺，以后任何可能影响对华贸易的关税上调都必须按照世贸组织协定第 28 条的程序进行谈判。

我的提案首先认可美国对于没得到中国对等互惠待遇的不满的合理性（第一个问题），但要求美国（在中国的帮助下）通过走世贸组织非违反之诉的途径来寻求解决。这样就把中美贸易摩擦引回到世贸组织争议解决机制的道路上，在规范、互惠，而且受国际公约约束的关税补偿措施范畴内解决问题，而不是动用无限制的单边报复性关税手段。在考虑美国进入中国市场的待遇问题的同时，美国也要思考调整其自身市场准入承诺的可能性（第二个问题）。本提案的办法可以把两个问题分开对待，在世贸组织体系内找到对应的机制，并充分利用其所提供的宽容度和灵活性，来为中美贸易争端这个特定的问题寻求解决方案。我的提案没有涉及倡议书中提到的另一些中美贸易关系中的重要问题（如：数字和新兴技术领域）。但本着呼吁双方带着善意来共同解决同类型问题的态度，本提案中提出的办法也许可以成为双方建立互信，解决未来的问题的一条有效途径。