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How to Make Trade Peace With China

A mutual promise to abide by the WTO's intellectual property rules would solve much of the problem.

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Beijing -- I have spent a week talking with officials and old friends here about the increasing trade conflict between the U.S. and China. The Chinese are nervous about a potential trade war and uncertain about what the U.S. wants. They say we need negotiations to reduce the trade tensions.

I explain that the U.S. has several straightforward goals and negotiations are not necessary. What is needed is a change in Chinese behavior to conform to the rules Beijing accepted when it joined the World Trade Organization in 2001.

The most important issue is the demand that U.S. companies transfer their technology to Chinese counterparts as a condition of doing business in China. American businesses that want to produce or sell in China are often required to enter into a joint venture with a Chinese firm that then has access to U.S. technology. Chinese companies then use that technology to expand their own production and sales at home and to displace American firms in the rest of the world. The result is a loss of income to the American businesses.

The Chinese government acknowledges that WTO rules forbid making the transfer of technology a condition for access to a nation's economy. But it argues that the practice is "voluntary" because American firms aren't forced to do business in China—their other option is to stay out of the country. American companies and officials say it's a form of extortion because U.S. firms should have access to the Chinese market, as they do to markets in Europe and elsewhere, without losing their intellectual property.

Although the Chinese practice violates WTO rules, it is difficult to bring a successful technology-transfer case because American companies fear retaliation by Beijing if they complain openly or provide detailed evidence that the U.S. government can use in pursuing such a case. Even so, the U.S. government began an investigation in August 2017, as called for by WTO rules, and concluded last month that China does violate the rule that market access may not be conditioned on technology transfer. The U.S. then imposed tariffs and other penalties.

This is not the first accusation that China has taken intellectual property from American companies. The U.S. previously complained that Beijing was using sophisticated cyber tools to invade the computer systems of U.S. manufacturers, extract valuable technology, and transfer it to Chinese companies. The Chinese government denied it.

President Obama met with President Xi Jinping in 2013 and showed the Chinese leader evidence obtained by U.S. intelligence that the Chinese army was infiltrating the computers of American companies. At the end of that meeting, the U.S. and China issued a statement that neither government would use its cyber skills to acquire foreign commercial technology. There was no admission of wrongdoing. I understand that such cyber exploitations of American commercial technology declined significantly afterward.

That experience may provide a good model for dealing with the current form of technology transfer. Presidents Trump and Xi could meet and agree that both countries would now accept a literal interpretation of the WTO rule barring technology transfer as a condition for market access, meaning any such practice should not be interpreted as voluntary. There is no need to look back at past actions or admit past violations of WTO rules.

Although the U.S. does not require a transfer of technology by companies that want to do business there, Chinese firms like Baidu that are very sophisticated in artificial intelligence or other fields may welcome such a promise by America.

Other trade issues should be easy to resolve. The U.S. would like China to reduce its excess capacity in steel and other industries and to stop selling the resulting products on the global market at below cost, in violation of WTO rules. Mr. Trump's tariffs on steel are a way of putting extra pressure on China to accelerate its reduction of excess capacity.

The U.S. has an overall trade deficit of 3% of gross domestic product because Americans want to consume more than they produce. Reducing the large U.S. bilateral trade deficit with China would not reduce America's global trade imbalance, but it still would be a politically significant achievement. This could be achieved if China were to substantially shift its global purchase of natural gas toward American producers.

As the Chinese economy grows and Beijing deploys increased military and diplomatic force around Asia and in the rest of the world, the U.S. faces significant geopolitical challenges. Trade issues and the transfer of intellectual property should not be allowed to exacerbate those tensions.

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