

CHINA AND THE UNITED STATES: WHY CHINA SHOULD CONTINUE TO TRADE WITH LOWER BARRIERS

Chitra Dave*

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ABSTRACT

Consumer protection is the enforcement of consumer financial protection laws. It also enforces rules that protect consumers, takes consumer complaints, promotes financial education, researches consumer behavior, and monitors financial markets.

In the United States, consumer protection is enforced by the Federal Trade Commission (“FTC”) at the domestic stage. The FTC works to protect consumers “by preventing anticompetitive, deceptive, and unfair business practices.”¹ This is done through public understanding of the market process and not from burdening any business activity.

* J.D. Candidate, 2020, Syracuse University College of Law. The author wishes to thank her parents for their unwavering support and love throughout her entire academic journey. Ms. Dave thanks Professor Gary J. Pieples for his mentorship and advice in the drafting of this note.

1. *About the FTC*, FED. TRADE COMM’N , available at <https://www.ftc.gov/about-ftc> (last visited Feb. 9, 2020).

The World Trade Organization (“WTO”) plays a role in consumer protection in the United States at an international level. The WTO operates global trade rules, acts as a forum for trade agreements, and clears disputes between countries.² In the United States, the WTO allows the American government to conduct trade with other major countries that boost the American economy by increasing the imports and exports in a larger market such as China.

In China, consumer protection on the domestic level is monitored through the State Administration for Industry and Commerce (“SAIC”). The SAIC “maintains market order and protects the rights of businesses and consumers by regulating the market.”³ The SAIC’s responsibilities include but are not limited to regulating the market through administrative enforcement, enforcing antimonopoly laws, and drafting laws and rules.⁴

In China, the WTO came into play on December 11, 2001. After joining the WTO, China quickly grew to the top of the trade market. In 2017, China was ranked first in exporting merchandise and second in importing merchandise and commercial services.⁵ By joining the WTO, China lowered the deficit with the United States, boosting both economies.

With the introduction of the WTO, China began to expand its markets and saw a noticeable difference in its economy. However, China continues to have other restrictions that limit the country from expanding its global reach. The Chinese government and other consumer protection laws do now allow China’s exporters and consumers to purchase nearly as many items as there are in other global markets. If China was to continue trading with countries like the United States, China would have an even more powerful economy because greater numbers of consumers would be purchasing products and more products would be sold internationally. With the introduction of Chinese products in the market, China’s international relationships with other countries would strengthen and form more treaties and acts, resulting in more trade production.

2. *What is the WTO?*, WORLD TRADE ORG., available at https://www.wto.org/english/thewto_e/whatis_e/whatis_e.htm (last visited Feb. 9, 2020).

3. *SAIC Mission*, STATE ADMIN. FOR INDUS. & COM., available at <http://home.saic.gov.cn/english/aboutus/Mission/index.html> (last visited Sept. 19, 2018).

4. *Id.*

5. *China Trade Profile*, WORLD TRADE ORG., available at https://www.wto.org/english/res_e/statis_e/daily_update_e/trade_profiles/CN_e.pdf (last visited Feb. 9, 2020).

Through the introduction of the consumer protection policies, then the inception of the WTO, the importance of trade between the two countries, and counter arguments to the critics, it will be obvious that China should continue to have open barriers for international trade and continue to trade with the United States.

I. INTERNATIONAL CONSUMER PROTECTION POLICIES IN BOTH COUNTRIES

A. *United States*

Prior to the introduction of the WTO in 1995⁶, the United States and China each had its own domestic consumer protection agencies that regulated trade on the international level.

In the United States, the FTC was the head authority for American trade. The FTC was signed into law in 1914 by Woodrow Wilson.⁷ At the time the Commission was enacted, its sole purpose was to protect consumers and promote competition.⁸ As time continued, the FTC began branching out to reach different levels of trade, including international trade.

The international branch also had the same mission, namely, to protect consumers while maximizing economic benefit and consumer choice.⁹ As America began to open its trade borders, more consumers began to get caught in fraud coming from international scams. Infamous scams in America included foreign lottery and internet enabled fraud emails.¹⁰ The foreign lottery emails falsely informed the recipient that they won the lottery in another country and asked the individual to provide them with their social security and bank account numbers so they can directly deposit the money. The FTC began protecting consumers from frauds like these by regulating trade agreements with countries to ensure that scams like this weren't legal, and that the senders would face consequences when caught.

The FTC International Branch's biggest accomplishment for international trade protection was the start of the US SAFE WEB Act.

6. What is the WTO?, *supra* note 2.

7. *Our History*, FED. TRADE COMM'N, available at <https://www.ftc.gov/about-ftc/our-history> (last visited Nov. 3, 2018).

8. *Id.*

9. *Consumer Protection*, FED. TRADE COMM'N, available at <https://www.ftc.gov/policy/international/international-consumer-protection> (last visited Sept. 18, 2018).

10. *Id.*

The US SAFE WEB Act was enacted in 2006.¹¹ The act strengthened the FTC's authority in: 1) information sharing, 2) investigative assistance, 3) confidentiality, 4) enhanced investigative and litigating tools and 5) enforcement relationships. Information sharing authorized the FTC to share compelled and confidential information with foreign law enforcement agencies.¹² Investigative assistance created the International Antitrust Enforcement Assistance Act of 1994, which allowed the FTC to collect information that was needed as long as the other sided reciprocated and on the urgency of a possibly injury.¹³

The US SAFE WEB Act enables the FTC to obtain confidential information from foreign entities that were previously concerned with disclosure of their information.¹⁴ Cross-border jurisdictional authority was also strengthened through the act and provided enhanced investigative litigation tools.¹⁵ Lastly, the act aimed to strengthen enforcement relationships between foreign countries and the FTC.¹⁶ However, following the introduction of the WTO, the FTC has tightened its international laws.

The International Branch continues to serve as the primary agency that protects American consumers from international scams and the Branch, through the US SAFE WEB Act, has strengthened trade relations with countries globally. The International Branch continues to focus on finding ways to keep American consumers protected and ensure that America is maximizing its economic benefit from international and domestic trade.

B. China

Prior to its adoption of the WTO in 2002, China had two different consumer protection agencies that watched over international trade: the State Administration for Industry and Commerce and the National Development and Reform Commission.

The SAIC was created for the protection and rights of consumers, maintenance of socio-economic order, and promotion of the market

11. *The U.S. Safe Web Act: The First Three Years*, FED. TRADE COMM'N (2009), available at <https://www.ftc.gov/sites/default/files/documents/reports/u.s.safe-web-act-first-three-years-federal-trade-commission-report-congress/p035303safewebact2009.pdf> (last visited Nov. 3, 2018).

12. *Id.*

13. *Id.*

14. *Id.* at 3.

15. *Id.* at 4.

16. *U.S. Safe Web Act*, *supra* note 11.

economy.¹⁷ The SAIC is broken down into two different bureaus that supervise various parts of trade in China: a Consumer Protection Bureau and a Department for International Cooperation.¹⁸ The Consumer Protection Bureau was in charge of overseeing the quality of goods in the market, drafting rules and directions and protecting consumers' rights in the service sector.¹⁹ The Bureau also punished irregularities and handled complaints and appeals from the international networks.²⁰ The Department of International Cooperation carried out international cooperation and undertook management of international affairs.²¹

The SAIC also enacted a law on the Protection of Consumer Rights and Interests. The law was created to ensure that legitimate rights existed and that there was order and development in the market.²² The articles create responsibility for the State to protect rights and interests of consumers and to ensure that consumer purchases are under the protection of the law.²³

The SAIC focuses heavily on the protection of consumer rights. Unlike the FTC, the SAIC does not strengthen relations with other international countries and does not enforce international trade, rather, the SAIC focuses on consumer protection. The SAIC also do not try to benefit the economy or stimulate the marketplace.

The National Development and Reform Commission ("NDRC") is a branch of the consumer protection rights in China that enforces international trade protections.²⁴ The main functions of the NDRC are: 1) formulating and implementing national economic and social development strategies; 2) carrying out research and analysis on economic situations; 3) monitoring social development; and 4) summarizing and analyzing the financial situation.²⁵ Through analysis

17. *SAIC Mission*, *supra* note 3.

18. *Our Organizational Set Up*, STATE ADMIN. FOR INDUS. & COM., available at <http://home.saic.gov.cn/english/aboutus/Departments/index.html> (last visited Nov. 3, 2018).

19. *Id.*

20. *Id.*

21. *Id.*

22. *Law of the People's Republic of China on Protection of Consumer Rights and Interests*, STATE ADMIN. FOR INDUS. & COM., available at <http://english.mofcom.gov.cn/aarticle/lawsdata/chineselaw/200211/20021100053545.html> (last visited Feb. 7, 2020).

23. *Id.*

24. *Main Functions of the NDRC*, NAT'L DEV. & REFORM COMM'N (Dec. 17, 2008), available at https://en.ndrc.gov.cn/mfdic_8235/200812/t20081218_1193946.html (last visited Feb. 7, 2020).

25. *Id.*

of China's financial situation, the NDRC controls and monitors China's foreign debts and promotes economic restructuring.²⁶

The NDRC has an anti-monopoly bureau that controls the countries competition policies.²⁷ The bureau is responsible for drafting documents, anti-monopoly consultations and investigations and providing advice to enterprises that are having trouble overseas.²⁸

The NDRC, just like the SAIC, focuses only on consumer protection rights and obeying the law. The consumer protection agencies in China do not foster relationships with other countries like the FTC does in the United States. In China, the focus is on whether the consumers are being protected and whether the sellers are following the laws. The agencies do not help to simulate the economy; they are not finding new ways to increase trade in China or to create acts or treaties to form trade relations with oversea consumers and sellers.

An appropriate example of the kind of trade agreement that China has formed under the SAIC is China's trade agreement with the FTC. The trade agreement focuses solely on cooperation among the two countries on consumer protection.²⁹ The agreement said that, "[t]he two countries agreed to cooperate on exchanging views on issues of common interest, information on laws, regulations and policies, working together to bring awareness and training in consumer protection, and visits when consumer protection issues arose."³⁰

The agreement had no mention of fostering any relationship to create continuous trade between China and the United States. Rather, it simply stated that they would work together to ensure that any consumer protection policies that arose would be taken care of and that the two countries would ensure that they educated their sellers and consumers on their protections and rights to avoid any future issues.

Without nurturing relationships with countries, China is unable to showcase its market to its full potential, and thus, holding back valuable

26. *Id.*

27. *Bureau of Price Supervision and Anti-Monopoly*, NAT'L DEV. & REFORM COMM'N (Dec. 18, 2008), available at https://en.ndrc.gov.cn/mfod_8236/201207/t20120719_1193957.html (last visited Feb. 8, 2020).

28. *Id.*

29. Memorandum of Understanding on Consumer Protection Matters Between the State Administration for Industry and Commerce of the People's Republic of China and the Federal Trade Commission of the United States of America, June 12, 2007, available at https://www.ftc.gov/system/files/documents/cooperation_agreements/070612chinamou.pdf (last visited Feb. 8, 2020).

30. *Id.*

Chinese exports and imports. It is not until the introduction of the WTO that China's economy got the boost it needed to begin trading on a large-scale market along with countries it was not previously connected to through its agencies.

II. THE INTRODUCTION OF THE WORLD TRADE ORGANIZATION

The WTO was created on January 1, 1995 to cover trade in services and intellectual property on an international level and create new procedures for dispute settlements.³¹ Over time, the WTO expanded its functions to include: administering WTO trade agreements, providing a forum for trade negotiations, handling trade disputes, monitoring national trade policies, technical assistance and training for developing countries, and cooperation with other international organizations.³² The WTO was created to help producers, exporters, and importers conduct their business. The organization continues to expand as the only global international organization among these nations.³³

The WTO has three components: 1) providing a negotiating forum, 2) rulemaking, 3) and dispute resolution. The negotiating forum allows the nations to sort out trade problems including barriers.³⁴ The set of rules is the basis upon which the countries negotiate trades and provided legal framework to allow trade to flow freely.³⁵ The WTO settles disputes through a procedure that is grounded in the legal framework.³⁶

The dispute settlement process provides for a panel of neutral experts that do not favor foreign government or try to make the process more challenging.³⁷

In 2001, the WTO launched the Doha Round.³⁸ The purpose for this agreement was to reform the already existing international trading

31. What is the WTO?, *supra* note 2.

32. *Id.*

33. *World Trade Organization*, U.S. HISTORY, available at <https://www.u-s-history.com/pages/h2002.html> (last visited Nov. 6, 2018).

34. *Id.*

35. *Id.*

36. *Id.*

37. *America and the World Trade Organization*, IATP, available at https://www.iatp.org/sites/default/files/America_and_the_World_Trade_Organization.htm (last visited Feb. 3, 2020).

38. *The Doha Round*, WORLD TRADE ORG., available at https://www.wto.org/english/tratop_e/dda_e/dda_e.htm (last visited Feb. 3, 2020).

system with lower trade barriers and revised trade rules.³⁹ The agreement was also meant to improve the trading prospects of developing countries.⁴⁰

The introduction of the WTO boosted international trade globally. Membership expanded to 164 members that now represent 98% of international trade.⁴¹ The countries involved have benefited greatly. Their economies are thriving, their markets have expanded to increase the production of exports and imports, and more importantly, their relations with other countries have improved. The WTO requires members to lower trade barriers for other members to allow products to flow freely and has foreign agreements already set up between countries to avoid any foreign dispute settlements.

Following the introduction of the WTO in the United States and China, it can be seen that their markets grew exponentially and that their economies benefitted. The Organization helped their international relations as well. Through the WTO the United States has increased treaties and acts with other countries and China has begun trading with nations that it previously did not have relations with.

A. United States and the World Trade Organization

The United States became a member of the WTO in January of 1948.⁴² Upon the introduction of the WTO the United States noticed the growth of its market, exponentially. The United States no longer had barriers and boundaries; sellers were able to sell their marketable items globally. In 2017, the United States was ranked number one in importing merchandise and in exporting and importing commercial services.⁴³ Prior to 2017, the United States consistently ranked in the top ten percentile for imports and exports.

The WTO requires that countries within the Organization keep lower trade barriers for member countries.⁴⁴ As a result, the United

39. *Id.*

40. *Id.*

41. What is the WTO?, *supra* note 2.

42. *United States of America and the WTO*, WORLD TRADE ORG., available at https://www.wto.org/english/thewto_e/countries_e/usa_e.htm (last visited Feb. 3, 2020) [hereinafter *U.S. & WTO*].

43. *United States of America Trade Profile*, WORLD TRADE ORG. (2018), available at https://www.wto.org/english/res_e/statis_e/daily_update_e/trade_profiles/US_e.pdf (last visited Feb. 8, 2020).

44. Bryan Schonfeld, *Why the U.S. needs the World Trade Organization*, WASH. POST (Sept. 20, 2016), available at <https://www.washingtonpost.com/news/monkey-cage/wp/>

States has less trouble trying to sell its products globally.⁴⁵ The more nations that join the WTO the more nations that the United States has access to and the more convenient it is for countries to trade without any other obstacles in the way. Without the WTO, the United States would lose 60% of American trade.⁴⁶ Countries that are not members of the WTO miss the opportunity to reach full potential by not being on the platform that encourages further trade. If China were to back out of the WTO, China would lose a percentile of its trade. While China is a powerhouse for trade, not having the easier access and lower tariffs to the WTO countries would cause a fatal hit to the economy.

Workers and consumers would be greatly affected if the WTO were not in place because the GDP has grown exponentially since it started, rising to 30% in 2015.⁴⁷ From the start of the WTO, the number of jobs for exporters has grown by 1.3 million.⁴⁸ With the growth in the GDP, thousands of jobs are created in the U.S. to produce the goods and services being exported. Jobs created to export goods pay above the average wage by 13-16%.⁴⁹ Additionally, over 80% of American jobs are dedicated to the service sector that include transportation, environmental services and retailing.⁵⁰ The WTO helps to keep those jobs secure for Americans by allowing them a larger platform to sell those services. From 2010 through 2017, American merchandise exports and imports were ranked in third place compared to the remaining members.⁵¹ America's second most exported good was cars for transportation, close to 5% and nearly 10% of all imports for Non-Agricultural Products.⁵² The service sector is now growing, making it the United States' fastest growing sector while providing the most jobs.⁵³

Because of the numerous job opportunities that the WTO brings to the United States, it also raises the living standards for Americans.

2016/09/20/would-the-u-s-be-better-off-without-the-wto-not-when-the-wto-guides-98-percent-of-global-trade/ (last visited Feb. 8, 2020).

45. *Id.*

46. *Id.* ("The United States has free trade agreements with twenty countries, but these agreements cover only 40% of American trade.").

47. *Id.*

48. U.S. HISTORY, *supra* note 33.

49. *Id.*

50. *Id.*

51. U.S. & WTO, *supra* note 42.

52. *Id.*

53. *Id.*

Everyday shopping for groceries, clothes, electronics, and even cars is more affordable because of the lower trade barriers that are required by the WTO. Lower prices generally meant that people are more likely to purchase more, generating more money in the marketplace to keep prices low and allow the economy to grow. Citizens are also not only purchasing American made products but imports from other countries, improving the economy globally. Due to the decrease in prices, by 2005 there was an increase of \$1500-\$3000 in purchasing power for an average American family.⁵⁴

The United States' international relations have also strengthened with the connection of the WTO. Since members already have lower trade barriers for goods, it has also helped to increase the market access for American exporters of services.⁵⁵ The service sectors for foreign services include: finance, accounting, advertising, engineering and construction.⁵⁶ By selling these services, the American economy is boosting itself and these sectors. Through outsourcing companies, the United States can employ citizens from various countries to increase the jobs in other countries which leads to the same generation in their market since more people are spending money.

Imports play a crucial role in the American economy. Americans are allowed a greater variety of foreign items because of the vast market that the WTO promotes. With an increase in imports into the American market, competition causes prices to decrease to allow companies to stay relevant in the market, making it cheaper for Americans to buy foreign goods.⁵⁷ By purchasing foreign products, the United States is helping other countries stabilize their economies. A huge project of the WTO is to stabilize the economies in the third world⁵⁸ and by selling more products overseas, more money is being generated in their economies to create jobs for their citizens.

The WTO also helps to keep piracy levels low in world markets.⁵⁹ Piracy, the act of reproducing the work of someone else, is most common in movies and in material products.⁶⁰

54. *Id.*

55. *U.S. & WTO, supra note 42.*

56. *U.S. HISTORY, supra note 33.*

57. *Id.*

58. *Id.*

59. *Id.*

60. Piracy Definition, MERRIAM WEBSTER DICTIONARY, available at https://www.iatp.org/sites/default/files/America_and_the_World_Trade_Organization.htm (last visited Feb. 10, 2020).

B. *China and the World Trade Organization*

Unlike the United States, China was late in joining the WTO, officially becoming members in 2001.⁶¹ Prior to joining the WTO, China relied solely on SAIC as its basis for international trade, lacking many of the global connections enjoyed by WTO members. Under the SAIC, China also did not have lower tariff barriers and there were difficulties in trading between countries without legal consideration already in place. Since joining the WTO China's economy has grown immensely, and with a larger marketplace China's exports, income, and positive trade balance have increased.

In 2017, China was ranked first in exporting merchandise, with a 12.77% share in total exports.⁶² It was second in importing merchandise and commercial services, with world total imports of 10.75% and 9.49%, respectively.⁶³ Non-agriculturally, 7% of exports were automatic data processing machines,⁶⁴ and approximately 15% of imports were electronic integrated circuits.⁶⁵

Since China's induction into the WTO, China has followed its rules and become a prominent member. Like other countries, China lowered its barriers to encourage more global trade, and remain supporters of the multilateral trading system.⁶⁶ A multilateral trading system is a "trading system that facilitates the exchange of financial instruments between multiple parties."⁶⁷ China has been a huge contributor to the multilateral system by allowing its trading barriers to be open, transparent, inclusive and non-discriminatory.⁶⁸ For China to participate in the market, it had to restructure its relationship between the government and the market to ensure that all decisions being made were not being directed by the government.⁶⁹ China also reframed a

61. *China Trade Profile*, *supra* note 5.

62. *China*, WORLD TRADE ORG., available at https://www.wto.org/english/res_e/statis_e/daily_update_e/trade_profiles/CN_e.pdf (last visited Feb. 5, 2020).

63. *Id.*

64. *Id.*

65. *Id.*

66. *China and the World Trade Organization*, STATE COUNCIL, CHINA (June 28, 2018), available at http://english.gov.cn/archive/white_paper/2018/06/28/content_281476201898696.htm (last visited Feb. 5, 2020).

67. Tim Smith, *Multilateral Trading Facility (MTF)*, INVESTOPEDIA (Apr. 11, 2019), available at https://www.investopedia.com/terms/m/multilateral_trading_facility.asp (last visited Feb. 9, 2020).

68. *China and the World Trade Organization*, *supra* note 66.

69. *See id.*

legal system that was more aligned to the multilateral trade rules by revising laws and regulations.⁷⁰ In 2004, China recreated a system for foreign trade authorization that increased foreign trade in the private sector and by 2017 that became China's largest export, totaling 46.6% of all goods and services exported.⁷¹ China issued a document in 2014 that required the government to assess the new trade policies and by 2016 it set up a new legal mechanism to enhance its public participation in policy development.⁷²

By joining the WTO, China serves as a template for other transition economies seeking membership.⁷³ Other countries, such as Russia, will see the speed with which China joined the WTO and the hope is that they too will want to become members.⁷⁴ China's involvement in the WTO also helps create a significant role in the agenda for the multilateral trade negotiations.⁷⁵ The size of China's economy could be a strong factor in changing trade negotiations and would be even more important for developing countries.⁷⁶ Developing countries do not have as much power as the developed countries that are members of the WTO and, therefore, with the assistance of a country like China, the developing countries will have more power in the new negotiations. China's membership in the WTO will further help developing countries by requiring adjustments to governing structures.⁷⁷ China has argued that developing countries are underrepresented, and that, by adjusting the government structures, it can gain more power for developing countries in the WTO.⁷⁸

The introduction of the WTO in China had a greater effect on the countries that China is trading with than on the country itself. China is already considered a powerhouse due to the strength of its economy. Further, one of the strongest countries, the United States, is in debt to the China. The countries' membership in the WTO helped to stabilize

70. *Id.*

71. *Id.*

72. *Id.*

73. Nicholas R. Lardy, *U.S.-China Economic Relations: Implications for U.S. Policy*, BROOKINGS (Apr. 25, 2001), available at <https://www.brookings.edu/testimonies/u-s-china-economic-relations-implications-for-u-s-policy/> (last visited Feb. 10, 2019).

74. *Id.*

75. *Id.*

76. *Id.*

77. *Id.*

78. Lardy, *supra* note 73.

the world economy and allow it to become a driving force.⁷⁹ China focused on opening trade as long as both countries benefitted from the trade. Further, China wanted to make sure it was able to share opportunities and benefits, while also developing its own nation.⁸⁰ China's goal was also to enhance global well-being and common prosperity.⁸¹ Undeniably, the notion of common prosperity squarely fits into the motives of the communist regime.

China's first method of supporting the WTO's goal of strengthening the world economy was through reducing import tariffs. Although every member is required to lower trade barriers, China reduced its rates from 15.3% to 9.8%, and cut its agricultural products far lower than those in other member countries.⁸² China also lowered its unnecessary trade restrictions including import quotas, licenses, and other requirements for machinery and introduced quota authority for agricultural products.⁸³ Along with trade restrictions, China agreed to lift geographical restrictions in certain areas for enterprises in order to enter to increase the flow of foreign direct investment. In 2017, China's flow of foreign direct investment in services totaled 73% of all the foreign direct investment in China.⁸⁴ In order to do this China created 100 sub-sectors committed to the WTO.⁸⁵

Since its induction to the WTO, China has continued to have a two-way investment that benefits all countries. In assurance, China has continuously topped the list of foreign direct investments since it has joined the WTO,⁸⁶ allowing large companies to come in and boost the economy and the companies' country of origin. China's outward investment cooperation also developed upon the introduction of the WTO. When China joined the WTO it was ranked in twenty-sixth place, and by 2017 it reached third place.⁸⁷ This growth was fostered by technology, economic development and improvement to its citizen's lifestyles.⁸⁸

79. *China and the World Trade Organization*, *supra* note 66.

80. *Id.*

81. *Id.*

82. *Id.*

83. *Id.*

84. *China and the World Trade Organization*, *supra* note 66.

85. *Id.*

86. *Id.*

87. *Id.*

88. *Id.*

Since commencing membership in the WTO, the Chinese government has made substantial efforts to comply with obligations that further the country's economic liberalization. The Chinese government has also made an effort to meet long-term economic goals.⁸⁹ This began with China's Congress amending domestic laws to make provisions consistent with those of the WTO.⁹⁰ Enjoinment has also fostered ideas of globalization for China. China's participation in the new round of trade liberalization has led to ideas for free trade areas in Asia.⁹¹

The WTO has also raised living standards in China. With China accelerating its change in domestic economic reform to comply with the WTO, it has begun to improve living standards for the population.⁹² China is hoping that the increase in the living standards will change the political climate as well. A changing economy can generate pressure on political change, as seen in other Asian countries like Taiwan, South Korea and Thailand.⁹³ China hopes to see a political change that allows it to continue to have more open trade and to help the country flourish. With the change in domestic laws, China is becoming more like the other countries that are in the WTO and the hope is that this progress continues.

The WTO enables China to evaluate the benefits of loosening its trade barriers. By joining the WTO, China allows its economy to grow and allows for its citizens to have a better lifestyle. China has also strengthened its international relations and as members continue to join and more trade markets open up, its economy will flourish as more countries purchase Chinese exports.

III. TRADE BETWEEN THE UNITED STATES AND CHINA

In the current climate, China and the U.S. continue to be major players in the trade industry, especially in achieving their own bilateral trade agreements. China is currently America's largest goods trading partner. It has become the third-largest purchaser of products and services made in the U.S.⁹⁴ In 2018, China was the United States'

89. Lardy, *supra* note 73.

90. *Id.*

91. *Id.*

92. *Id.*

93. *Id.*

94. *Understanding the U.S.-China Trade Relationship*, OXFORD ECONOMICS (Jan. 2017), available at <https://www.uschina.org/sites/default/files/Oxford%20Economics%20US%20Jobs%20and%20China%20Trade%20Report.pdf> (last visited Feb. 13, 2020).

largest supplier of goods imports and the total between both the countries for trade was approximately 737.1 billion dollars.⁹⁵ Both of the countries rely on each other to have strong economies and due to this, continued trade has benefited both countries.

Since beginning trade with China, the U.S. now has 2.6 million jobs that are dependent on Chinese trade.⁹⁶ Many middle-class workers have taken up jobs that require them to travel to China, selling American made products and performing services. The majority of the products come from large firms and industries, including cars, construction equipment and financial firms that export and outsource to China.⁹⁷ With the middle class growing in the U.S., this growth from the Chinese trade expansion allows for the U.S. to tap into a new customer base to boost further employment and economic growth.⁹⁸ With the help of trade, the U.S. is able to keep consumer prices low in the marketplace which generates more money. If trade continues at this increasing rate, the United States' trade deficit could be reduced by half.⁹⁹ By continuing to trade with China, the United States is improving the lifestyle of its citizens. The more that Americans can afford marketplace items, the more they will continue to spend money and strengthen the economy. American companies also will gain more worldwide experience through this continuous trade because they provide the most essential exports and are making the most money in China. If those firms move to more countries than China, they will continue to generate more money that will come back to the American economy. It is important for the United States to continue to keep trading with China to keep the economy on a steady incline.

The United States is not the only side that is benefitting from this trade arrangement. China's middle class is growing at a steady rate due to the rapid increase of the Chinese market.¹⁰⁰ China has recently begun lowering its trade barriers and is allowing for more international imports and more exports. With the increase of imports, just as in America, more middle-class Chinese citizens can afford marketplace items because there is more competition to keep market prices low. By

95. *The People's Republic of China*, OFFICE OF U.S. TRADE REP., available at <https://ustr.gov/countries-regions/china-mongolia-taiwan/peoples-republic-china> (last visited Feb. 13, 2020).

96. *Understanding the U.S.-China Trade Relationship*, *supra* note 94.

97. *See id.*

98. *See id.*

99. *See id.*

100. *See id.*

allowing more imports, American companies have become major contributors to the development of China's economy.¹⁰¹ Companies such as Jeep, General Motors and Apple have planted roots in China, which are growing expansively, creating new sectors in the Chinese economy. Prior to the introduction of these companies, China did not allow foreign cars into the country and citizens that purchased foreign cars often paid double the price as American consumers. In 2002, only 4% of China's population was referred to as the "middle-class," but by 2022 76% of China's population will be considered middle-class.¹⁰²

With the growth of the middle-class, they expect China's consumption to increase at 9% for every year until 2022.¹⁰³ With this growth, it is important for China to open its doors to foreign countries such as the United States because China can have the largest consumer market, even over all European countries. China is expected to continue to grow with the new influx of a generation of spenders and if it continues to remove market barriers, China will have one of the fastest growing economies.¹⁰⁴

It is important for China to continue to trade with the United States, as described above, due to the interdependent relationship acquired via bilateral China-United States trade relations. If China were to stop trading with the United States, the Chinese economy would suffer a lethal detriment. It would not be selling as many exports and it would be restricting its consumer market. China and the United States have a symbiotic trade relationship. As long as that relationship continues, China's economy will continue to grow and strengthen.

A. Conflicts in Trade between the United States and China

Trade between the United States and China has not always been a smooth ride. Both sides have their critics that are against the constant trade between the two powerhouses because they find that the trade creates rift between the two countries.

Many foreign governments worry that China integrated too quickly and that foreign countries will gain too much control of China's economy. Much of China is growing because of the increase of

101. *Understanding the U.S.-China Trade Relationship*, *supra* note 94.

102. Kim Iskyan, *China's middle class is exploding*, BUS. INSIDER (Aug. 27, 2016), available at <https://www.businessinsider.com/chinas-middle-class-is-exploding-2016-8> (last visited Feb. 13, 2019).

103. *Id.*

104. Lardy, *supra* note 73

consumer consumption that has been powered by American companies like Jeep, Apple and General Motors.¹⁰⁵ Officials from the Chinese government fear that these companies will take over the Chinese economy because of how much power they currently hold. China has focused most of its trade on exporting products to other foreign countries, but because of this it has failed to develop a domestic consumption base.¹⁰⁶ With this type of economy, China has become vulnerable to a downturn in its export markets.¹⁰⁷ The fear of the Chinese officials could be concrete if the major American companies that are in China right now take a sudden fall or become less popular than they are now. Much of the Chinese middle class could go back to not being able to afford marketplace items and the Chinese economy could decline if more citizens generate less money. Jim Huang, a Brooks Fellow, said that “China’s economic development is uneven.”¹⁰⁸ By trading with the United States, China is helping to lower its trade deficit, but, according to Chinese officials, China is not getting anything in return. China’s gross domestic product relies 80% on trade, and that is the biggest warning of the unevenness in the economy.¹⁰⁹ If anything were to go wrong in the trade between China and any of its international traders, China could suffer dramatically by not bringing more products to the marketplace and it would not be able to continue growth.

The introduction of China into the WTO has implications for the United States. There are policies that were in play in the United States that intended to threaten China’s status as a major economic power.¹¹⁰ These policies must be removed if the United States wants to continue trading with China and not cause more tension. The United States also remains the only country that has no systematic technical assistance program that assists the Chinese government in meeting its WTO obligations.¹¹¹ This refusal to help China makes the United States seem like it is more interested in imposing rough conditions on China than its enjoyment in the WTO.¹¹² The United States also should apply highly

105. *Id.*

106. Eben Kaplan, *The Uneasy U.S.-Chinese Trade Relationship*, COUNCIL ON FOREIGN REL. (Apr. 19, 2006), available at <https://www.cfr.org/background/uneasy-us-chinese-trade-relationship> (last visited Feb. 13, 2020).

107. *Id.*

108. *Id.*

109. *Id.*

110. Lardy, *supra* note 73.

111. *Id.*

112. *Id.*

protectionist features that insisted China agree to as conditions for WTO membership.¹¹³

Just as there are problems on the Chinese side of trade, there are also problems on the American side regarding trade. As of 2005, the United States ran a bilateral trade deficit with China of \$202 billion.¹¹⁴

Senator Charles Schumer stated that this should have been a red flag to Congress and the rest of the global economy.¹¹⁵ Americans are now worried that the United States was too dependent on China for its imports.¹¹⁶ The United States relies on imports from China to help keep the cost on other products in the American market lower by increasing competition. Americans worry that if China provides America with less products, less Americans will purchase products and services and the American economy will decline.

Adam Segal of the Council on Foreign Relations said that this trade deficit is a consequence of "China replacing all the Asian producers in the United States used to import from."¹¹⁷ Upon China entering the trade market and joining the WTO, the United States slowly began only trading with China because the imports were cheaper in price and it helped strengthen the international relation. By cutting out other importers, many American officials are concerned that the trade deficit will not be shortened because America cannot continue to grow its economy without trading with China.

Another trade issue between the United States and China is the value of China's currency.¹¹⁸ Critics claim that China is keeping the value of the Yuan 40% below what its value would be on the open market.¹¹⁹ This disparity allows for Chinese goods to be cheaper in the United States, but United States goods to be more expensive in China, deterring Chinese citizens from purchasing American exports.¹²⁰ This also could be a huge cause of the deficit because China is manipulating America into purchasing more products and services from China than the Chinese are purchasing from America. China is allowing America to increase the deficit between the two countries by encouraging more

113. *Id.*

114. Kaplan, *supra* note 106.

115. *Id.*

116. *Id.*

117. *Id.*

118. *Id.*

119. Kaplan, *supra* note 106.

120. *Id.*

Americans to purchase Chinese products and services but not reciprocating.

Intellectual property rights (“IPR”) are also causing issues in the United States and China trade relations. There are issues of IPR violations on products such as DVDs and other counterfeits in pharmaceuticals, automobiles, and airplane parts.¹²¹ While China has imposed anti-counterfeiting laws and special courts, they have had little effect.¹²² Many companies in the United States now have to train their company’s general in-house counsel in Chinese intellectual property laws in order to pursue counterfeiters and enforcement actions.¹²³

By selling counterfeit products on the market, people are more inclined to purchase those because they are sold at a cheaper price and forego the original American made products. As a result of not purchasing the American products, the Chinese are increasing the deficit in the United States and China trade. This is also unfair on American trade because China takes American products and recreates them with lower quality and sells them for a cheaper price. Though the initial product is American, and China steals the idea and mechanics behind it.

China faces implications as it continues to trade with the U.S. in the midst of its trade deficit, because there is a slim chance that the United States is able to reduce the trade if the current trade climate continues. China’s accession was oversold by the administration that wanted to extend permanent trade relations, so China would not be cut off from the benefits of its WTO commitments.¹²⁴ China continues to have open markets and keeps a limited quota on incoming products but does not want to suffer as a result of the open markets. With the introduction of the WTO, China’s rate of exports is not accelerating at the rate of its imports.¹²⁵

With more exports being sold than imports being domestically purchased, China is concerned about the unbalanced growth of the economy and how the WTO will increase the unevenness on this balance. The WTO’s entry conditions do not help to reduce the United

121. *Id.*

122. *Id.*

123. DANIEL C.K. CHOW & THOMAS J. SCHOENBAUM, INTERNATIONAL BUSINESS TRANSACTIONS (3d ed. 2015).

124. Lardy, *supra* note 73.

125. *Id.*

States' overall trade deficit.¹²⁶ Due to the terms of the agreement China will continue to benefit from the phase out of quotas that that restricted international trade in certain benefits.¹²⁷ While the United States is not affected by the phase out, China will get the opportunity to increase trade in those products which does not allow the United States to catch up its deficit.¹²⁸ China also will continue to benefit from industries being relocated to Asia.¹²⁹ More technologically-based companies and companies that make toys, footwear and apparel¹³⁰ have shifted to Asia in the past few years and because of the easier access to these industrial sites. As such, China is able to produce more products and for a cheaper price. This ability to create faster at a smaller rate continues to make the gap in the deficit harder for the United States to fill.

Although there will always be critics, the critics are failing to see the benefits that have come from the start of the China-United States trade relation. China's economy may be dependent on foreign exports, but they are also one of the biggest markets in the nation. The United States is also getting closer to paying off its own trade deficit, as long as trade between the two countries continues to thrive. Both countries have also helped their citizens' lives flourish by enhancing their lifestyles and allowing for lower prices on everyday products. The benefits from trade between the two countries outweighs any of the negative effects that may result along the way. China and the United States must continue to trade to strengthen their economies.

B. Current Trade Climate between the United States and China

In the past few months China and the United States have begun having obstacles in their normal trade routines. In 2018, President Donald Trump started what would turn into a full trade war with China. During 2018, President Donald Trump put a tariff on \$50 billion worth of Chinese imports sold in the United States.¹³¹ President Trump enforced the tariffs to urge China to change its unfair practices and

126. *Id.*

127. *Id.*

128. *Id.*

129. Lardy, *supra* note 73.

130. *Id.*

131. Jim Tankersley and Keith Bradsher, *Trump Hits China with Tariffs on \$200 Billion in Goods, Escalating Trade War*, N.Y. TIMES (Sept. 17, 2018), available at <https://www.nytimes.com/2018/09/17/us/politics/trump-china-tariffs-trade.html> (last visited Feb. 10, 2019).

reciprocate fair treatment to American companies.¹³² China has not succumbed to the pressure from the American government. Instead, China continues to enforce its current trade policies and remains unaffected by the American tariffs. Due to Chinese perseverance, President Trump chose to expend the tariff on September 24, 2018 to start at 10% and rise to 25% by January 1, 2019.¹³³ The American government staggered these percentages to ensure that during the holiday seasons Chinese imports would sell less,¹³⁴ while domestic good sales would rise, generating more money into the American economy.

Although China refrains from changing its trade practices, its economy is being affected by the tariffs. China's economy has begun to slow down because more consumers are not purchasing products and the infrastructure spending is declining.¹³⁵ America is taking a financial hit too. Prices are increasing for everyday consumer products such as electronics, food, tools, and housewares.¹³⁶ American companies are also concerned about their futures.¹³⁷ American companies are now unable to hire as many employees as they could when Chinese imports were still coming in and many are unable to produce replacement products for the imports.¹³⁸ If they are unable to produce replacement products and less consumers are purchasing products off the market, the economy is going to begin to slow down. According to a Morgan Stanley researcher, the United States economic growth was reduced by a 0.1% and could worsen if this trade war continues.¹³⁹

America and Chinese international relations have declined as a result of this trade war. The two governments are not on speaking terms and have been threatening their countries largest companies with punishment if they continue to trade. Neither President Trump nor President Xi Jinping are willing to back down from the trade fight. In fact, China is ready to retaliate to President Trump's current plan of increasing tariffs.¹⁴⁰ China has threatened to place a huge tariff on products that are being sold by American companies that are popular in

132. *Id.*

133. *Id.*

134. *Id.*

135. *Id.*

136. Tankersley and Bradsher, *supra* note 131.

137. *See id.*

138. *See id.*

139. *Id.*

140. *Id.*

China, which would further deter Chinese consumers from purchasing those products.¹⁴¹

The international relations have also had an effect on the European market. Sue Noffke, fund manager in United Kingdom equities said, "Germany is a big exporter so if China slows, Germany slows and if Germany slows, Europe generally slows."¹⁴² If this affects Germany, the United States will have a hard time, especially in the automobile industry. Many German cars are purchased in the United States every year and if those cars are not able to be produced at the current rate, they will become more expensive for Americans to purchase and they will stick to cars that are more accessible and affordable. This will create issues between the United States and European countries.

However, European countries are not the only foreign third parties that are being affected by the China and United States trade dispute. Japan's Prime Minister, Shinzo Abe, revealed that Japan was showing an annual trade deficit for the first time since 2015.¹⁴³ He blames this deficit on the US and China trade tensions.¹⁴⁴ Based on statistics, exports to China only increased by 6.8%, when they increased by 20.5% in 2017 and exports from the United States slowed to 2.3% from 6.9%.¹⁴⁵ If this trade tension continues, more third party countries will be affected by it and more issues will arise for the United States and China. If China and the United States were to stop trading, both countries would have a difficult time trying to replace those products by finding a country that would provide them with products at a similar price.

Many analysts have come to terms with the fact that while the trade tension between China and the United States may come to an end, the tech war will continue. China is five years further ahead in technology than even Japan and the United States. Shenzhen has created a fifth-generation wireless technology that allows them to be able to run more virtual reality apps and play war video games.¹⁴⁶ This

141. Tankersley and Bradsher, *supra* note 131.

142. *Trade Row Chain Reaction Impacts Europe*, BBC (Sept. 18, 2018), available at <https://www.bbc.com/news/topics/cxw7qng7vx8t/china-us-relations> (last visited Feb. 10, 2020).

143. *Id.*

144. *Id.*

145. *Id.*

146. David Dodwell, *Expect the US-China trade war to come to a showy end, but the tech war to continue*, S. CHINA MORNING POST (Jan. 26, 2019), available at <https://www.scmp.com/comment/insight-opinion/united-states/article/2183634/expect-us-china-trade-war-come-showy-end-tech> (last visited Feb. 6, 2020).

five-year gap also allows for China to compete in technology for all major data applications ranging from health care to energy management.¹⁴⁷

This has become a concern for the United States because the country is unable to match the rate at which China is creating technology. China will also produce these products in the open market, making the deficit harder to close for the United States. This comes as an issue to the United States because major companies have denied Chinese companies as being unreliable in the past. Huawei, a Chinese tech company that has created the products to extend the 5G platform, on multiple occasions approached companies like Motorola, but was dismissed for having products that would suit developing countries.¹⁴⁸ The United States' position as the top technical nation is at risk.

However, although they are at odds, they are both suffering as a result of this trade tension. If they were to end this issue, the United States could continue to close the deficit between the countries, and China could continue to flourish and build its trade market. However, with this trade war, both country's major companies are suffering losses because they are being tariffed higher than other everyday products. The trade war must end if both countries want to continue having a strong relationship as they currently do.

IV. CONCLUSION

The United States and China have a long history of upheaval and obstacles but have always served as a crutch to one another's economy.

Without the United States, China would not be able to sell exports at its current rate. Chinese trade barriers would still be in place, and thus, China would not have been able to grow its international trade market as it has over the past few years. The Chinese middle class also would not be growing at the rate that it has reached now. The middle class has grown exponentially due to the ability of more workers to afford American-made exports in China and the job opportunities offered by American companies that are planting factories and firms in China.

China's economy would also falter without the United States. China's imports are the biggest part of its fast-growing economy, but without its biggest consumer market, China's economy would slow down. China's economy already has an uneven export to import ratio

147. *Id.*

148. *Id.*

because many Chinese consumers still choose to purchase Chinese counterfeit products that are cheaper. However, without the strength of their imports, the economy would be unbalanced.

China's trade barriers prevented China from expanding its exports to various international markets including the United States. Since the introduction of the WTO, China's economy sky-rocketed and now holds one of the biggest markets in the world. The introduction of the WTO has allowed China's market to thrive at its full potential.

Without the WTO, China will not be able to grow its economical empire. The country would have to return to its previous market layout which consisted of Chinese products being sold to Chinese consumers. With just Chinese products on the market, the Chinese consumers may not be able to purchase everyday products because there would not be competition to keep prices low. Also, all of China's economy would run on imports, whereas currently, the nation's economy strongly is based off of its exports. With just an import-based economy, China as a country would suffer.

China's international relations have strengthened through the increase in its international trade patterns. The Chinese government did not branch out to other countries before membership in the WTO and did not allow other countries to create firms or set up locations in China. Now that it has joined with other countries, China has strengthened ties with other nations and has better international relations. This is important for China because it can extend its relationships with different countries to create more trade relations.

These arguments indicate that although China holds the largest trading market in the world right now, and it would not be successful if it did not have open borders for international trade. Since the start of its membership with the WTO, China has continued to grow and strengthen its economy. As long as China continues to keep its trade barriers open to international trade, China will continue to have the strongest and fastest growing economy.