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## Democrats and Trade 2021

### A Pro-Trade Policy for the Democratic Party

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#### EXECUTIVE SUMMARY

**A** narrative of popular discontent against open trade has taken hold, and politicians on both the left and the right have reacted by taking aim at trade agreements and proclaiming their support for economic nationalism. This is both bad policy and a misreading of the views of most Americans. Democrats should not fall into the trap of trying to compete with Donald Trump in skepticism about trade. Instead, Democrats should set out the positive case for trade liberalization and the rule of law in international trade.

To do so, they should look to the Constitution and reclaim the greater responsibility over trade for Congress

envisioned there. Executive branch protectionism championed by President Trump has harmed the U.S. economy and worsened relationships with our allies. Congress needs to institute checks to make sure this does not happen again in the future. Democrats should also reengage in a constructive manner with U.S. trading partners in multilateral, bilateral, and regional settings. Working with allies, instead of against them, has its own rewards, and can also be used as a basis for addressing the challenge of China's integration into the trading system. In this way, Democrats can develop a pro-trade policy that creates jobs and prosperity for Americans, and that also restores American leadership of the global economy.

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## INTRODUCTION

Democrats hope to elect a Democratic president and a Democratic Congress in November. If they succeed, they will become responsible for, among much else, setting a new trade policy for the country, which has been in retreat from trade liberalization and from international trade cooperation under President Trump. Democrats have ample reasons to be pro-trade. Yet, at times, Democratic officeholders and candidates have seemed to echo Trump’s espousal of trade protectionism. Even when Democrats have supported trade, they have sometimes seemed to apologize for it. They have not portrayed support for trade as the affirmative and progressive policy that it is.

If Democrats control the White House and Congress in 2021, they must return to their long and historic tradition of supporting trade, and articulate why they support it instead of just saying that they oppose Trump’s protectionist policies. They must do what virtually no one in national politics in either party has tried to do lately: they must remind all the American people why being for trade is in their best interest and why being against trade is not. Support for trade must be an essential part of any overall Democratic economic policy that aspires to restore and revitalize American prosperity.

But what should a pro-trade policy for Democrats in 2021 include? Being pro-trade is not as simple as saying “tariffs should be set at zero.” There are complex constitutional, international relations, and governance questions to answer. As I set out below, the key elements of a Democratic trade policy should include the following: reclaim Congress’s constitutional authority over trade policy; repeal Trump’s unilateral tariffs; recommit to multilateralism; recommit to the rule of law in trade; support the modernization of the World Trade Organization (WTO); find a coherent approach to dealing with China; support bilateral and regional trade liberalizing efforts; and promote domestic actions that improve American competitiveness. Through

implementation of these specific items, Democrats can rehabilitate U.S. trade policy, and, in doing so, they can reclaim U.S. leadership in the international trading system.

## RECLAIM CONGRESS’S CONSTITUTIONAL AUTHORITY OVER INTERNATIONAL TRADE

In the United States, authority over trade is established in the Constitution, and Congress must reclaim that authority. Article I, Section 8, of the Constitution provides: “The Congress shall have Power To lay and collect . . . Duties” and to “regulate Commerce with foreign Nations.” Thus, it is Congress that has been entrusted with primary responsibility for international trade. Yet, for nearly a century now, the legislative branch has been slowly ceding its constitutional authority over trade to the executive branch, with the president and specific executive agencies being granted ever-increasing powers.

Some of this delegation has been for the good. Congress has neither the time nor the need to vote on approving every single tariff reduction on every product that may be negotiated as part of a trade agreement. For this reason, Congress has long since given presidents the power to negotiate trade agreements, along with congressional guidelines for negotiating them. This negotiating approach has helped the United States create a multilateral trading system based on trade liberalization and the rule of law. Under this negotiating approach, according to a study by the Bertelsmann Foundation, membership in this global system has boosted annual GDP by \$87 billion in the 25 years since the establishment of the WTO—*more than any other country*.<sup>1</sup>

There has also, however, been congressional delegation that has given presidents the power to impose tariffs unilaterally. Although some of this delegation has made sense in principle, in practice it has given rise to abuse, especially during the Trump administration. Most notably, the legislation ceding congressional trade authority

includes Section 232 of the Trade Expansion Act of 1962, which grants the president authority to restrict trade for national security reasons. It also includes Section 301 of the Trade Act of 1974, which gives the president authority to impose trade sanctions against what the executive branch deems to be unfair trade practices. These statutes are left over from the Cold War era and served a purpose when they were originally enacted, but they are now outdated and need to be rethought. They give the president sweeping powers to impose a whole range of restrictions on trade unilaterally, without consulting Congress and without requiring a congressional vote.

When presidents apply their discretion under these statutes reasonably and responsibly, that can be of value. But as with many other issues where he has pushed the outer limits of his legislated and constitutional powers, Trump has abused this delegated power over trade. He has seized on the broad discretion accorded to him as president under these long-ignored statutes to apply tariffs unilaterally—and often for dubious reasons—on imports from many of our leading trading partners without first seeking the consent of Congress. Actions taken under Section 301 have ostensibly been in response to assertions of unfair trade practices by the targeted countries. Actions taken under Section 232 have been justified on specious claims of national security. Most of these unilateral trade actions taken by the Trump administration are illegal under international trade law.

Reform is likewise needed to the process by which Congress delegates to a president the authority to negotiate trade agreements—the so-called “trade promotion authority.” As a practical matter, some delegation is necessary to negotiate and conclude international trade agreements. If our negotiators had to go to Congress for approval before agreeing to cut every fraction of every tariff, no other country would ever agree to a trade deal with the United States.

Furthermore, as a practical matter in the modern world, there must be a congressional delegation of at least some unilateral trade

authority in case of national emergency. At the same time, a president should not be given a blank check to pursue unilateral or other trade actions. Appropriately, in constructing trade promotion authority, Congress has sought to constrain trade negotiations by the executive branch. In 2021 and beyond, even more attention must be paid by Congress to striking the right balance by imposing negotiating constraints, irrespective of which party happens to hold the presidency.

A pro-trade policy should start by reclaiming Congress’s largely abandoned constitutional authority over foreign commerce. Congressional Democrats should rein in legislatively what a president is allowed to do unilaterally to restrict trade. And this should not be a Democratic initiative alone. As many Republicans as possible should be recruited to join in achieving this restorative end through bipartisan legislative action. They, too, have sworn to uphold the Constitution.

Worthy of consideration is a bill introduced by Rep. Warren Davidson (R-OH) that would subject all trade actions by the executive branch to congressional approval.<sup>2</sup> Also deserving of consideration are a bipartisan bill introduced by Sen. Rob Portman (R-OH)<sup>3</sup> that would give the Department of Defense a more prominent role in assessing any potential national security threats posed by traded products, and a bipartisan bill introduced by Rep. Mike Gallagher (R-WI)<sup>4</sup> that would allow Congress to review and approve any executive branch action based on an alleged national security threat posed by a traded product before tariffs are implemented.<sup>5</sup> These additional legislative constraints would prevent presidents from continuing to use “national security” as an excuse to justify an array of trade restrictions that have little or nothing to do with protecting national security.

Two additional proposed bills to amend Section 232 were introduced in July 2019 by Rep. Joe Cunningham (D-SC) and Sen. Sheldon Whitehouse (D-RI). The Cunningham bill would give the Department of Defense a larger

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role in assessing national security threats and enable Congress to review and approve such actions.<sup>6</sup> Senator Whitehouse’s bill would create a process by which U.S. businesses may request to be excluded from Section 232 import duties.<sup>7</sup>

With regard to delegations on trade liberalization, presidents must have the authority to negotiate trade agreements. Democrats should always support trade promotion authority—no matter who happens to be president. Any negotiating authority delegated to presidents must be accompanied by clear and specific instructions from Congress, and that authority must be limited to specific aims spelled out by Congress. Presidents must not be permitted by Congress to do whatever they wish on tariffs. By ending the open-endedness of statutes such as Section 301 and Section 232, and by modernizing trade promotion authority, Congress can go a long way toward reclaiming its constitutional authority over foreign commerce.

### **REPEAL THE UNILATERAL TARIFFS IMPOSED BY THE TRUMP ADMINISTRATION**

The president has claimed repeatedly that his unilateral tariffs under Section 301 are paid by the Chinese.<sup>8</sup> They are not. They are paid directly by importers and indirectly by Americans in the form of higher prices for much that they buy and make. An economic study published by the nonpartisan National Bureau of Economic Research (NBER) concluded that there has been a “complete pass-through of U.S. tariffs to import prices.”<sup>9</sup> (Interestingly, according to their research, workers in heavily Republican counties have been the most negatively affected.)<sup>10</sup> The Trump tariffs on imported products have hurt American consumers by increasing the prices of retail goods and have harmed American manufacturers by increasing the prices of the inputs that go into making their final products. Another economic study published by NBER concluded that the Trump tariffs have “reduced real incomes (of Americans) by about

\$1.4 billion per month.”<sup>11</sup> What is more, “Due to reduced foreign competition, domestic producer prices also increased.”<sup>12</sup>

These tariffs under Sections 301 and 232 are hidden taxes. Because they are applied by the same percentage on products no matter who buys them, they are, like sales taxes, regressive taxes that fall most heavily on the middle class and on the poorest people. This is all the more reason why Democrats, who take pride in being champions of the poor, the workers, and the middle class, should oppose these tariffs and vote for their immediate repeal.

In addition, these taxes on imported products have prompted our trading partners to retaliate by imposing tariffs of their own on their imports of many U.S. products. This retaliation has hurt U.S. farmers, manufacturers, and other exporters, while adding even more to the costs that Americans are already paying because of protectionism. American taxpayers are, for example, paying billions of dollars in relief to farmers hurt by tariffs imposed on U.S. agricultural exports in retaliation against the Trump tariffs—farmers who would much rather sell their goods than be bailed out by taxpayers.<sup>13</sup>

A pro-trade policy must also support trade actions that are consistent with America’s international treaty obligations and that do not circumvent or undermine them. It may be tempting to keep the Trump tariffs and try to use them as leverage to secure concessions from our trading partners in future trade deals—just as Trump has tried to do, largely unsuccessfully. But that would perpetuate the domestic economic damage caused by these tariffs while running counter to existing international treaty commitments in trade. Trump’s tariffs are not only undermining the American economy, they are also undermining the American commitment to the rule of law in world trade, which is essential to continued and increased American prosperity.

The president’s decision to use tariffs as leverage in seeking trade concessions from other countries is twice a mistake. First, the unilateral application by the United States of tariffs

that are higher than those we have promised to levy in international trade agreements is illegal under international law and could lead to lawfully imposed economic sanctions by other countries on U.S. exports that could total billions of dollars in annual lost trade. Second, the assumption that the United States continues to have the economic leverage to bully other countries into submission on trade is founded on a world that no longer exists. The United States accounted for about half of the world's GDP in the halcyon days just after World War II, when the rest of the developed world was still devastated by the war and when what are now developing countries were not yet developing. Today, the United States accounts for a little less than one-fourth of the world's GDP.<sup>14</sup> A trade policy predicated on pushing other countries around is wrong. It also is inconsistent with what Americans are supposed to stand for. Further, it will not work. Eventually, other countries will push back and the American people will suffer the economic consequences.

When the United States approved the implementing legislation for the Uruguay Round trade agreements in 1994 and became a founding member of the WTO, it agreed to take all its trade disputes with other WTO members that fall within the scope of the treaty to the WTO for dispute settlement before taking any retaliatory trade action.<sup>15</sup> In many of the trade actions he has taken, Trump has ignored these treaty obligations.

One example stands out in the eyes of other WTO members: when enacting the implementing legislation for the Uruguay Round trade agreements in 1994, the United States stated its intention to refrain from using Section 301 unilaterally. For more than two decades, up until 2017, the United States remained true to this stated intent. No unilateral retaliatory actions were taken under Section 301. But without first going to the WTO, Trump cited Section 301 as the statutory authority for imposing tariffs on products imported from China. As the Chinese have alleged in a pending WTO dispute, these tariffs

are in clear violation of U.S. obligations under the WTO treaty. (The retaliatory tariffs imposed by the Chinese on many U.S. exports to China may likewise be illegal.)

In addition, Trump has employed Section 232 as the statutory vehicle to justify the steel and aluminum tariffs applied to imports from many U.S. trading partners. The professed excuse for these metal tariffs is national security. Yet, what Trump poses as national security concerns are merely pretexts for protectionism.<sup>16</sup> It is doubtful that any trade-savvy American thinks that importing steel from our Canadian, Mexican, European, Japanese, and other friends and allies poses a threat to America's national security. The threat to our national security would be if we did *not* trade with our friends and allies.

This bogus national-security defense has put WTO jurists in a lose-lose position: either rule in favor of the United States and risk opening up a Pandora's Box of "anything goes" in the WTO when claiming a national security defense, or rule against the United States and risk that Trump will withdraw the United States from membership in the organization. The multilateral trading system thrived for more than 70 years without having to define what the national security defense means. Now, it is being compelled to answer a legal question that no one really wants answered.<sup>17</sup>

Trump and his trade negotiators have sometimes visibly and vocally—and sometimes surreptitiously—wielded the metals tariffs as cudgels in continuing trade negotiations. The president says, "I am a tariff man," and on numerous occasions has threatened to levy higher tariffs while attempting to bully other countries into bending to his will on other matters in trade negotiations.<sup>18</sup> To the extent that any such tariffs would exceed the bound rates pledged by the United States in the WTO, they would be illegal under the WTO treaty. Also, there is the question of whether bullying America's longtime allies and other trading partners by threatening illegal trade restrictions is in the long-term national interest of the United States.

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The Trump administration has also, behind closed doors, intimidated a number of other countries into “voluntarily” accepting quotas on their exports of metals to the United States in exchange for being excused from the illegal U.S. tariffs. These export quotas are simply outlawed “voluntary export restraints” by another name. One of the aims of the Uruguay Round trade negotiations that led to the WTO treaty and to the establishment of the WTO was the abolition of the involuntary “voluntary export restraints” that were forced on small countries by the United States and other large countries in the 1970s and 1980s as a convenient device for protectionism. Voluntary export restraints are the trade form of a protection racket. They are rightly illegal under the WTO treaty, and the United States is acting inconsistently with its WTO obligations by insisting on them.<sup>19</sup>

What is more, these are all violations of international law and are subject to economic sanctions authorized by the WTO. The United States stands to lose an increasing number of pending WTO cases challenging these illegal trade actions and, unless they are thwarted by further manipulations by the United States of the dispute settlement process, are likely to reach judgment starting in 2021. Why should we care? In the aftermath of these legal losses, if these adverse rulings are adopted in dispute settlement, the complaining countries will be authorized by the WTO to impose lawful economic sanctions against the United States. These sanctions will consist of the withdrawal of previously granted trade concessions to the United States in what could add up to hundreds of billions of dollars in trade *annually*. These future trade losses would amount to far more than any conceivable gains the Trump administration may claim could result from its continued actions of circumventing and undermining the international treaty obligations that are upheld through the agreed legal framework of the WTO.

As part of a pro-trade policy for 2021, Democrats should disavow unilateral trade restrictions as illegal under international law where trade disputes fall within the scope of the

WTO treaty. Democrats must work with willing Republicans to refrain from testing the outer limits of international obligations and return to a policy of restraint in international trade law and in international trade institutions.

## **REAFFIRM THE AMERICAN COMMITMENT TO MULTILATERALISM**

Democrats must return to multilateralism in trade. They should reaffirm the longstanding bipartisan commitment of the United States to multilateral trade solutions and to the centrality of the multilateral WTO-based world trading system. Democrats should also recommit the United States to keeping all of its multilateral trade obligations while cooperating constructively with other WTO members to continue to strengthen the global trading system and free more trade worldwide.

Democrats are often supporters of multilateral solutions through international cooperation everywhere *except* in international trade. On climate change, on ocean preservation, on biodiversity, on hunger, on global health, on war and peace—on virtually every concern that transcends national borders, Democrats favor multilateral solutions. Now they must offer their support for multilateral cooperation toward solutions in trade as well.

Why cooperate? Because almost all of the commercial and other economic issues that America faces flow across the artificial bounds of national borders. With each passing day, there are fewer public concerns that are not international in at least some respect. International cooperation is increasingly the only way to address these concerns effectively. Active engagement by the United States in international cooperation and its willing compliance with mutually agreed and mutually binding international rules are not obeisant sacrifices of our national sovereignty on the altar of some forbidding foreign suzerain. They are often the only ways in which we can make effective use of our national sovereignty.<sup>20</sup> In today’s ever more globalized world, if we do

not have ambitious, continuous, and effective international cooperation, then American national sovereignty will eventually become worthless because we will not be able to meet many of the challenges that will face us.

Why multilateralism? In trade, multilateralism is by far the best approach because it maximizes the mutual gains that can be derived from trade. At the core of the WTO-based world trading system is the international legal principle of “most-favored-nation” (MFN) treatment: a basic rule of nondiscrimination that requires that any trade advantage granted by any one WTO member to any other WTO member must also be granted immediately and unconditionally to all other WTO members. The application of the MFN treatment obligation in multilateral trade negotiations under the auspices of the WTO multiplies the opportunities for mutual trade concessions that provide mutual trade benefits, and it maximizes the economic gains from trade agreements for all the countries that belong to the WTO.

However, the WTO treaty does not require that the further liberalization of trade occur only multilaterally. It offers additional practical means of moving forward on new trade issues as they arise through trade agreements that begin with adherence by some, but not all, WTO members and that can evolve to become fully multilateral agreements that include all WTO members. The use of this negotiating approach in the 1970s and 1980s led to the establishment of the WTO. It can be used now to overcome the long stalemate over many pressing and seemingly intractable trade issues that have long stymied global trade negotiators and that have caused the United States and other WTO members to look outside the legal framework of the WTO for trade solutions.

Why adhere to the MFN principle? Why not engage in trade discrimination by managed trade? The ever-present political temptation is for government to intercede in the market to manage trade. The temptation is to have the government dictate market outcomes—to substitute political judgment

for the judgment of the marketplace. This is true in China. This is true in Europe and Japan, in India and Brazil. This is equally true in the United States, where Trump has demonstrated his abiding belief in managed trade. Lining up thousands of U.S. companies to beg government bureaucrats for exemptions from needless steel tariffs is statist (and some would say socialistic) managed trade.

Managed trade is contrary to the fundamentals of a free and open society. It violates the rights of those engaged in the free private enterprise that is the source of so much of American prosperity and that is indispensable to sustaining and enhancing American prosperity. Moreover, managed trade does not work. It distorts market decisions and, in so doing, it undermines the market innovations that are indispensable to attaining more prosperity, much less sharing in it. In contrast, free trade liberates the market by spreading innovations and by stimulating the domestic and foreign competition that inspires more innovations. Free trade makes possible more choices for individuals to decide for themselves how they will use their human freedoms in a free and open society.<sup>21</sup>

Managed trade encourages a transactional view of trade. But this type of approach does not create more trade. It mainly manipulates existing trade, moving it from place to place in contravention of the more productive efficiencies that would result from market-driven outcomes. A transactional approach also results in more trade discrimination. If, for example, China buys more soybeans from the United States while not increasing overall Chinese soybean consumption, then China will also be buying fewer soybeans from the European Union, Brazil, and its other trading partners—in violation of the core WTO most-favored-nation treatment obligation. American producers can equally be the victims of such illegal discrimination.

It is freer trade that creates more trade. By lowering barriers to trade everywhere, multilateral liberalization of trade boosts the volume of trade everywhere. Thus, the gains from

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trade are increased everywhere. Once trade barriers are lowered, each country can decide how best to distribute and make the most of its gains from trade domestically. In the United States, it is not in supporting free trade that we have erred; rather, it is in the failure to do all we should be doing to help more Americans share in the gains from trade. Instead of supporting managed trade, Democrats must support freer trade. Increasing and maximizing the gains from trade of the United States is essential to making it possible for all Americans to share in a more bountiful national prosperity.

In contrast to the current trade policies, the emphasis should not be on individual trade transactions; it should be on enhancing the prosperity of the American people by ensuring the survival and success of the WTO and other WTO-consistent bilateral and regional trading systems. For it is from such a systemic focus that the numbers and amounts of individual trade transactions can best be maximized. Above all else, what is needed in international trade is a mutually agreed and mutually upheld rule-based system that enables the freer flow of trade worldwide. As the core of a pro-trade policy, Democrats must support, strengthen, and ensure the continued global success of the WTO.

### **RENEW THE AMERICAN COMMITMENT TO THE RULE OF LAW IN TRADE**

Democrats should work with other WTO members to find a multilateral solution to save the WTO’s independent and impartial system for judging appeals in international trade disputes. By spreading misinformation and false accusations, stonewalling appointments to fill vacancies, and making draconian budget cuts, the Trump administration has eroded the credibility and possibly the existence of the WTO Appellate Body, which is the tribunal of final appeal in world trade. Because the Trump administration has refused to join in the required consensus of all WTO members to appoint new judges, the Appellate Body has been

reduced to one judge; without the minimum of three required by the WTO treaty, the tribunal cannot accept any new appeals.

In its brief history of less than a quarter century, the WTO Appellate Body has become arguably the most significant and successful international legal tribunal in the history of the world. WTO rules have practical meaning only if they are upheld in ways that provide necessary security and predictability to the multilateral trading system.<sup>22</sup> Without the legal check of the Appellate Body, the risk of inconsistency in applying WTO rules rises. So, too, does the likelihood that countries that lose cases before WTO panels will appeal those rulings “into the void,” to an Appellate Body that is no longer there, which in effect blocks enforcement of the rulings against them. The absence of an appellate process puts the fundamental integrity of WTO dispute settlement at risk and thus the continued flow of international trade that is channeled by the fair and effective functioning of the WTO-based trading system.

The framework of international rules that enable the freer flow of trade in the world will work only if the rules are followed and upheld through the international rule of law. As Americans were taught by Alexander Hamilton in the *Federalist Papers*, and as we have preached for decades to other countries throughout the world, the rule of law requires judges to be independent and impartial.<sup>23</sup> For this reason, WTO rules require both independence and impartiality from WTO judges. In rendering their decisions, these judges must not be influenced by any conflicting interests, including those of the 164 members that appointed them to serve the entire trading system.

No one would claim that WTO judges have ruled perfectly, just as no one would claim that about any other tribunal in the world. The act of exercising human judgment is, by its very nature, an act that falls short of perfection simply because it is a human act. Yet any errors the Appellate Body has made while judging hundreds of appeals do not support the unfounded U.S. charge of routine “overreaching” by the WTO appellate judges. The view,



in the words of Trump's trade ambassador, Robert Lighthizer, and now widely accepted within the Washington Beltway, that members of the Appellate Body have a history of creating "new obligations out of whole cloth" has no basis in fact.<sup>24</sup>

Part of this fiction is comprised of "alternative facts" about the outcome of appeals in WTO trade disputes involving the United States. Trump has told the American people that the United States has lost "almost all the lawsuits" it has taken to the WTO.<sup>25</sup> According to one count, however, the United States has *won* 85.4 percent of the cases it has taken to the WTO, slightly more than the average for all WTO members.<sup>26</sup> On the other hand, the United States has lost 83.5 percent of the cases that have been brought against it in the WTO, slightly less than all other WTO members.<sup>27</sup>

Why these widely divergent percentages? One reason is that the United States and other WTO members do not take the geopolitical, commercial, and legal risk of bringing a WTO case unless they are highly confident that they have a winning case. Another reason is that the United States has lost a long string of frequently related WTO cases involving trade remedies because the United States has failed repeatedly to apply its antidumping, anti-subsidy, and other trade remedies consistently with WTO rules.

Trump and his trade advisers have condemned the Appellate Body but have been mute in explaining what they would prefer instead. Their silence on an explanation shows that what they really want is for WTO jurists always to rule as the United States wishes. They seek the rule of power and not the rule of law in the WTO.<sup>28</sup> Democrats must oppose Trump and his administration with respect to the WTO. They must see the facts as they truly are and commit to working with other members of the WTO in order to restore the full functioning of the WTO Appellate Body.<sup>29</sup>

Unquestionably, there is much in the WTO dispute settlement system that can be improved, but the improvements that are needed are largely not the changes sought by the

Trump administration. Instead of perpetuating a trade policy that undermines the fairness and efficiency of the WTO dispute settlement system by crippling the Appellate Body, the rule of law in world trade should be reinforced by restoring the Appellate Body and strengthening it against future political assault.

### **SUPPORT THE MODERNIZATION OF THE WTO**

In addition to restoring the Appellate Body, Democrats should draw on the extensive experience of 25 years of working with the WTO and its dispute settlement process to update and improve the organization. Without question, the WTO dispute settlement system has been the most successful system ever devised for resolving international trade disputes, although it can certainly be improved in numerous respects. Moreover, improvements in dispute settlement must be only one item on an overall agenda for WTO reform that will help bring the WTO fully into the 21st century. In recommitting the United States to the centrality of the WTO in world trade, Democrats also must commit to more cooperation with other countries in updating the current multilateral trade rules and extending the existing multilateral trade framework. Instead of abandoning the WTO, which has taken more than 70 years to build, the United States must work with other countries to improve it in response to ever-new and ever-changing global trade realities.

Built up through round after round of global trade negotiations over the course of more than seven decades, the current scope of the WTO treaty is extensive and includes thousands of pages of rules and rulings that were agreed on and adopted by 164 members. The WTO rules apply to about 98 percent of all world commerce. There is, however, still need for negotiation and agreement on many longstanding issues of international trade. Trade-distorting agricultural subsidies that deny producers the benefits of their comparative advantages should be abolished. The remaining tariff obstacles to trade in manufactured goods should

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be eliminated. These and other important issues remain outstanding after the 15 years of multilateral trade negotiations in the Doha Development Round.

Since the conclusion of the WTO treaty, much has happened to transform world trade and the world economy. Although the WTO rules were written in the 20th century, most are still fit for the 21st century. But no small number of trade rules need updating and, in many aspects of contemporary commerce, new rules are very much needed. Democrats should support the negotiation of new and better WTO rules on digital trade, services trade, and intellectual property, all of which are areas of vast importance to American workers and businesses. New rules are needed to facilitate investment and to ensure free and fair competition. Better disciplines are required for trade-distorting subsidies, including new rules forbidding the favoring by WTO members of their state-owned enterprises. New rules also are needed to provide protections against forced transfers of technology, while encouraging the lawful spread to poorer developing countries of the new technologies they urgently need to confront environmental, health, and other global challenges. Rules are also needed to address product standards, technical regulations, and the proliferation of other non-tariff barriers that are increasingly substituted for tariffs and that pose protectionist obstacles to trade.

Ideally, these new and improved rules should be multilateral, applying to all WTO members from the beginning. Practically, though, it will doubtless be necessary to negotiate and agree on many of these needed updates through approaches within the WTO that include, at the outset, some but not all WTO members. This has often happened in the world trading system, and Democrats should lead in making it happen again. As was done in transforming the 1948–1994 General Agreement on Tariffs and Trade into the WTO, the better rules that result from these plurilateral negotiations can then be entered into force for member nations that have initially agreed to

them and can afterwards be extended to eventually cover all WTO members once the worth of the new rules is demonstrated in the practice of the world marketplace.

As Cordell Hull, a long-serving Democratic Congressman and Secretary of State in the Franklin Roosevelt administration, who won the Nobel Peace Prize for his role in creating the United Nations, wrote in his memoirs, “To be sure, no piece of social machinery, however well-constructed, can be effective unless there is back of it a will and a determination to make it work.”<sup>30</sup> Missing in Trump’s administration is the will and the determination to make the world trading system entrusted to the WTO *work*. The president and his trade team seem indifferent to whether the WTO-based trading system, in which Americans have invested more than seven decades of energy, ingenuity, and hope for a better and a more prosperous world, even survives. In the spirit of Hull, Democrats must make the multilateral trading system work by cooperating with our trading partners to modernize the WTO.

### **SEEK MUTUALLY BENEFICIAL TRADE RELATIONS WITH CHINA UNDER THE RULE OF LAW**

Crucial to maintaining and modernizing the multilateral trading system will be establishing and sustaining a mutually beneficial working and trading relationship between the United States and China. Achieving this goal is in the mutual interest of the United States, China, and the 162 other members of the WTO. For all his preoccupation with China, Trump has so far failed to achieve this goal and does not have a comprehensive strategy for achieving it. His “trade war” with China, comprised of mostly unilateral and illegal trade restrictions on imported goods from China, is a series of impulsive and improvisational salvos; it is not the implementation of a carefully considered overall strategy. The bilateral commercial conflict between the two major trading partners has harmed the economies of both while accomplishing almost nothing

toward addressing the structural hurdles in China that frustrate its full compliance with its WTO obligations.

Democrats must have a strategy for China that encompasses all aspects of the complex American relationship with China. This includes American differences with China on human rights, global health, national security, and more. Yet, this strategy must proceed from an understanding that we live in a globalized world where both the United States and China can prosper the most only if the two countries find some way, despite their differences, of prospering together. We live, too, in a threatened world where such worldwide challenges as confronting pandemics, terrorism, cybersecurity, and climate change can be met only if the United States and China work together. In this world, part of the Democratic strategy for China must address American trade with China.

Unquestionably, there are genuine concerns about Chinese protectionist trade practices. However, Trump's approach of using unilateral and illegal tariffs to intimidate China into changing its behavior has not worked. Democrats should abandon this approach and take a cooperative, constructive, and lawful approach to resolving legitimate concerns about Chinese trade practices.

Democrats should repeal the unilateral tariffs Trump has imposed on Chinese imports and refrain from imposing more. And, in concert with many other countries that have similar concerns about Chinese trade practices, they should refocus U.S. actions on using the legal remedies that are available in WTO dispute settlement and on negotiating more effective legal remedies where they do not yet exist. Only where a WTO remedy has been sought, and where China has chosen not to comply with a WTO ruling against it, should the United States impose economic sanctions on Chinese trade. And only where WTO rules do not exist—such as on many aspects of foreign direct investment—and where there are no bilateral or other treaty obligations, should the United States act unilaterally to counter discriminatory Chinese commercial practices.

As it now stands in the U.S.-China trade war, the tariffs imposed on more than \$350 billion worth of Chinese goods imported into the United States are burdening the economies of both countries.<sup>31</sup> Caught in the vice of a no-win choice between fueling continued growth by priming the pump or, instead, tackling an ever-rising mountain of debt by limiting credit, the Chinese have already found that Trump's tariffs constrain their growth and complicate their economic decisionmaking. Now, with the additional and manifold economic and social pressures inflicted by the coronavirus pandemic, these constraints are even more confining. Meanwhile, in the United States, in 2018 American companies and consumers faced almost \$69 billion in higher tariff costs.<sup>32</sup> Every month, these tariffs cost Americans an additional \$3 billion in extra taxes and \$1.4 billion in lost economic growth—revenues and growth that are sorely needed in the midst of the costly effects of the COVID-19 pandemic in the United States.<sup>33</sup>

The tangible result of all these tariffs has been an anomalous “managed trade” agreement between the United States and China, the so-called “phase one” deal that, amid the pandemic, seems less like a deal and more like wishful thinking. In contrast to the negotiating philosophy of both Republicans and Democrats in the past, the phase-one deal centers on achieving supposed guarantees of *individual* international trade transactions and not on altering the underlying trade arrangements that impede, and thus minimize, the flow of *all* international trade transactions. The Chinese commitments to make specific purchases of American agricultural and manufactured goods seemed unrealistic and unreachable even before the arrival of the pandemic. Now those commitments seem the stuff of fantasy.

Even if the Chinese commitments in the phase-one deal were realistic when they were made, and even if China had every intention of keeping those commitments, in the current circumstances China is probably incapable of keeping them. The deal contains a unilateral

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“China has benefited enormously from membership in the WTO, and it must do more to be fully deserving of that membership.”

enforcement mechanism, but this mechanism seems better suited for closing markets than for opening them. Likely, the use of this mechanism would serve mainly as an excuse for ending the truce in the trade war and starting another round of tariffs and countertariffs between the two countries, thus adding more economic harm to both in addition to the extensive economic damage wreaked by the pandemic.

Contrary to the narrative offered by Trump and his trade negotiators, some WTO legal remedies for discriminatory Chinese trade actions do exist and are effective.<sup>34</sup> The Trump administration has simply chosen to ignore most of them and instead has tried to intimidate the Chinese with tariffs. These existing WTO legal remedies should be used by the United States. And, where WTO remedies do not yet exist, the United States should negotiate and agree on new remedies with other WTO members, including China. At the same time, Democrats should join with Republicans in applying a heightened scrutiny to Chinese investments in the United States and finding solutions to the very real threats of Chinese computer hacking, cyber theft, and commercial espionage that may fall outside the scope of the WTO treaty. These piratical practices, too, must be subjected to the international rule of law.

Further integrating China into the global trading system through full compliance with WTO rules is imperative. Since entering the WTO in 2001, the Chinese have made great progress in bringing their economy into compliance with most WTO rules. They have also, for the most part, complied with the WTO rulings rendered against them when they have lost cases in WTO dispute settlement. (In some respects, the Chinese have a better record of complying with adverse WTO rulings than the United States.) Overall, though, China continues to fall short of where it should be in fulfilling its trade obligations to the United States and other WTO members under the WTO treaty. China has benefited enormously from membership in the WTO, and it must do more to be fully deserving of that membership.

Full compliance by China with its WTO obligations will benefit the Chinese people more than anyone else. China should not be “contained.” Like any other country, it has every right to rise economically, to climb the ladder of comparative advantage and develop a more innovative, value-added economy driven by high-tech manufacturing. WTO rules do not prevent the economic rise of China, and Americans should welcome that. To be sure, America must do more domestically and internationally to compete with China economically, but it is neither right nor in America’s interest to try to contain China economically. Through increased trade, investment, and other added economic ties between the two countries, increased Chinese prosperity can continue to help lift American prosperity, and vice versa. By far the greater concern for the United States should not be what will happen if China continues to rise economically; it should be what will happen if China does *not* rise.

The assault by the coronavirus has reminded us that it is imperative to maintain adequate local inventories of essential goods and materials, not least medical equipment and pharmaceuticals. Global supply chains come with productive efficiencies that can make needed goods more available and more affordable for everyone. Global supply chains also come with risks. Equally, the absence of diverse supply chains can pose risks. The solution is to minimize risks of all kinds. It is not to *eliminate* supply chains. In particular, a decoupling of the closely linked U.S. and Chinese economies, in part through a dismantling of the current supply chains that connect them, would deny to Americans and Chinese alike the continued and considerable gains in prosperity that will result from a substantial and mutually beneficial bilateral trade relationship.

For China, these gains would be enhanced through additional opening up and reform of the Chinese economy to make it more market oriented. Small and medium private enterprises “create 90 percent of the new jobs in China.”<sup>35</sup> Private enterprise can be the source

of sustained growth and offer a bright economic future for China. But the recent direction of Chinese economic policy has been toward consolidating more of the Chinese economy under ever tighter centralized state control, a trend heightened in China by the coronavirus pandemic. China can continue to rise only by continuing to open up its economy to the innovative productivity of a free market within an enabling framework of rules upheld by the rule of law.

Clearly, in its size and structure, China presents some unique challenges to the WTO-based trading system. But the challenges it presents are not altogether unique for the WTO. Nor are they entirely unanticipated under WTO rules.<sup>36</sup> To be sure, more and better rules must be negotiated to make certain that China participates fully and fairly in international trade. Yet WTO rules already exist that have not yet been used—and are waiting to be used—to discipline Chinese trade practices within the current WTO legal framework. For all its circumventions of WTO rules and criticisms of the organization, the Trump administration has not altogether ignored the remedy of WTO dispute settlement. It is, however, puzzling why more WTO cases have not been brought by the United States against China since its accession to the WTO in 2001, where legal remedies are already available.

A variety of discriminations in China's internationally controversial "Made in China 2025" program can be challenged successfully in the WTO under current rules. A case against the flagrant failures throughout China in the enforcement of intellectual property rights can be brought under existing WTO rules on intellectual property rights. China's failure to ensure the protection of the trade secrets of foreign companies can be the basis of a WTO complaint under an existing WTO intellectual property rule. Transfers of technology forced on foreigners by the Chinese government are inconsistent with an obligation in China's membership agreement in the WTO. Chinese requirements of domestic content in locally produced products are in violation

of long-existing WTO rules. Likewise, many of the manufacturing and agricultural subsidies provided by the Chinese government to state-owned enterprises and other Chinese firms and entities are inconsistent with WTO current subsidies rules.<sup>37</sup> Conceivably, too, a systemic case could be brought against China on the basis that it has impeded the objectives of the WTO treaty and has nullified or impaired the benefits that other WTO members ought to be receiving under the treaty.<sup>38</sup>

Instead of taking illegal unilateral actions, Democrats must use these existing avenues in the WTO treaty for confronting many of the unfair Chinese trade practices. Currently, the administration contends that there is no legal recourse for the United States against China in the WTO, and it is using that fabricated excuse as justification for acting illegally outside the WTO. The United States must not go it alone in conducting trade relations with China. The European Union, Japan, Canada, and other WTO members share many of the same concerns as the United States about Chinese trade and would likely be willing allies in WTO negotiations and litigation. The United States should work closely with its allies and other trading partners instead of bullying them and insulting them. Multilateral actions are the best way to discipline unfair Chinese trade practices, ensure nondiscriminatory treatment of our own goods and services, help provide more and better jobs for the American people, and help the Chinese people move more quickly toward creating the broader market economy that will bring them greater prosperity.

### **SUPPORT BILATERAL AND REGIONAL ARRANGEMENTS FOR FREER TRADE**

A Democratic policy that affirms the centrality of the WTO in expanding trade need not be a policy that relies on the WTO *exclusively* in expanding trade and the opportunities that can be derived from trade. Democrats should also support trade

“The United States should work closely with its allies and other trading partners instead of bullying them and insulting them.”

“The United States–Mexico–Canada Agreement (USMCA) could be called NAFTA minus.”

agreements with other countries whenever such agreements add to the volume of trade and to the commercial domain covered by the rules for trade. A free trade area between countries that belong to the WTO is permitted under WTO rules as an exception to the most-favored-nation treatment obligation that prohibits trade discrimination when it covers substantially all the trade between the area’s members.<sup>39</sup> If poorly constructed, such agreements can impede or divert trade, but if they are well constructed they can be proving grounds for new approaches to trade that can be tried first bilaterally or regionally and then, once proven, be implemented globally.

Throughout the past quarter of a century, foremost among the free trade agreements of the United States has been the North American Free Trade Agreement (NAFTA) with our closest neighbors and major trading partners, Mexico and Canada. NAFTA created the world’s largest free trade area, linking 470 million consumers in a \$19 trillion market. Trade among the three countries has quadrupled under this treaty. Investment has multiplied fivefold. The U.S. Chamber of Commerce estimates that six million U.S. jobs depend on trade with Mexico and eight million jobs depend on trade with Canada. A narrow focus on bilateral trade deficits among the three countries can be misleading. For example, 40 percent of every dollar of the value of every good exported from Mexico to the United States is—in reality—the re-export back to the United States of something made in America by U.S. workers. For U.S. trade with Canada, the comparable figure is 25 percent. Workers and businesses in each of the three NAFTA countries are made more competitive worldwide through the integration of regional supply chains that create and sustain jobs throughout North America.<sup>40</sup>

After long assailing NAFTA, Trump has renegotiated it and rechristened it the United States–Mexico–Canada Agreement (USMCA). This new NAFTA is in many respects identical to the old one. In digital trade and a few other sectors, the new agreement incorporates

long-needed improvements developed in the Trans-Pacific Partnership (TPP)—the regional trade agreement that Trump rejected in one of his first acts as president. Otherwise, however, the new provisions in the revised agreement fully justify the glaring omission of the words “free trade” in its new name. The new treaty is less of a free trade agreement and more of a managed trade agreement. All in all, the revised regional agreement could be called “NAFTA minus.”

In particular, the new and esoteric rules of origin that impose stricter requirements of more domestic content in automobile production are classic examples of managed trade. These rules of origin replace market-based outcomes with the arbitrary dictates of politicians and bureaucrats. For U.S. consumers, the result will be fewer choices and higher-priced autos. For U.S. businesses, the result will be less global competitiveness. For U.S. workers, the result will be the short-term protection of some jobs in the U.S. auto industry at the expense of the long-term preservation and the innovative creation of many more jobs throughout the economy. These are always the costs of protectionism. This said, “NAFTA minus” is better than no NAFTA at all. And Democrats should, over time, endeavor to transform “NAFTA minus” into “NAFTA plus” by engaging in more negotiations with our friends and closest neighbors to the north and the south.

Democrats in Congress should take another look, too, at the Trans-Pacific Partnership, which was rejected by President Trump on his first day in office. With the United States on the sidelines, 11 other countries along the Pacific Rim have gone ahead to form the TPP without America, renaming it the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). This partnership includes almost all the mutual trade commitments in the TPP agreement that was negotiated by Obama. A return by the United States to the treaty could be conditioned on agreement by the 11 other countries to implement about 20 provisions that were put on hold when Trump withdrew the United

States, including intellectual property protections, safeguards against the illegal taking and trade of wildlife, and more.<sup>41</sup>

In the aftermath of rejecting the TPP, Trump has been trying to negotiate bilaterally many of the trade concessions that would have been secured in the TPP. Meanwhile, America's trading partners along the Pacific Rim, and especially those in Southeast Asia, are left to doubt our commercial and national commitment to the Pacific region as it becomes an ever-increasing part of the global economy and an ever more important factor in geopolitics. By becoming a part of the CPTPP, the United States can secure many trade benefits while also reassuring trans-Pacific allies and other trading partners that America has not retreated from that crucial crossroads of the world.

Democratic trade policy should also include support for other current and proposed trade arrangements, such as seeking broader trade liberalization with Japan. The Trump administration has signed a partial deal with Japan, but much work remains to be done. Democrats should move ahead with negotiations on a trade deal to eliminate the remaining tariff and non-tariff barriers to trade with the European Union, including on both agricultural and manufactured goods, and they should proceed with free trade negotiations with Brazil and Kenya, and perhaps with other Latin American and African countries. And Democrats should most certainly enhance America's commercial relations with the United Kingdom by early conclusion of a U.S.-UK free trade agreement. In all these endeavors, Democrats must insist on negotiating tactics that are firmly in support of U.S. trade interests but that do not descend into unseemly threats and bullying.

Moving forward, more attention will need to be given when negotiating and renegotiating all international trade agreements to a number of the so-called "trade and" issues that have met with mixed success in recent decades: "trade and labor," "trade and the environment," "trade and human rights," and

more. Criticisms of WTO and other international trade rules and rulings on these "trade and" issues have often been incorrect or exaggerated, yet these are entirely legitimate concerns in 21st-century world commerce.

The kinds of provisions to seek in trade agreements that would address these concerns could include those intended to improve working conditions and enhance environmental protections when making and trading goods. For instance, current trade agreements do not even mention climate change. Democrats could insist that current trade agreements and any new ones acknowledge the common global interest in pursuing trade in ways that are consistent with compliance with the Paris climate agreement and with accomplishment of the United Nations Sustainable Development Goals. As policy, such positions could help weave together U.S. actions on several vital policy fronts into a consistent approach that could work affirmatively on all fronts. As a political tactic, such actions would also make it likely that more congressional Democrats would be willing to vote for trade agreements. The challenge, as always, would be in drawing the right lines that would promote trade while also taking seriously these other equally legitimate concerns.

### **SUPPORT EFFECTIVE DOMESTIC ACTIONS TO ENHANCE AMERICAN COMPETITIVENESS**

An increase in trade will produce the most prosperity for Americans—and for lower-income Americans even more than for those with the highest incomes—if it is accompanied by the many domestic initiatives that are needed to create more competitiveness. This approach alone will ensure that all Americans are empowered to compete in the new global economy. Only if Americans have the skills, the tools, and the enabling frameworks they need to compete will increased trade lead to a much broader sharing of the gains from trade and thus to a more widely shared prosperity. For this reason, a pro-trade

“Democrats should enhance America's commercial relations with the United Kingdom by early conclusion of a U.S.-UK free trade agreement.”

“Democrats should do more to help Americans compete in an increasingly integrated and technologically advanced global economy.”

policy must not be limited solely to trade policy. A commitment to achieving more openness in international trade must be one part of an overall strategy for legislation and governance that supports and secures the best from liberal, market-based capitalism while enabling the full flourishing of all Americans.

Openness is a prerequisite to competitiveness, but it does not guarantee it. Thus, in addition to openness, this comprehensive strategy must provide all Americans with an equal opportunity to achieve a personal competitiveness that can be maximized only if there is openness, because “[o]penness alone does not lead to success. The competitiveness of economies in an integrated world [is determined by] how well they convert the potential created by access to global markets into opportunities for their . . . people.”<sup>42</sup> The opportunities offered by more trade will result in more freedom for all of us only if trade is accompanied by domestic actions that better enable all of us to make the most of more trade. An increased openness to more and freer trade internationally must be matched domestically by actions that open the way for more people everywhere to share in the gains from trade. Without such domestic actions, the gains derived from more and freer trade will be fewer, and those gains will be enjoyed by fewer people. All too often, in America and elsewhere, this is precisely what has happened so far in this century.<sup>43</sup>

During the past several decades, an increasing number of Democratic activists and members of the House and Senate have turned away from trade because they have mistakenly seen it as a cause of U.S. economic stagnation and anxiety. But domestic policy, not international trade policy, is largely to blame. Democrats should refrain from reflexively opposing trade and trade agreements. Instead, they should work to improve existing agreements and negotiate new ones in ways that address 21st-century needs without descending into the false promise of protectionism. Simultaneously, they should focus on finding ways to reeducate, retrain,

reemploy, and generally reengage American workers and communities that have been caught short by the relentless and disruptive march of technology and globalization. Democrats should do much more to help prepare the American people to compete in an increasingly integrated and technologically advanced global economy.

What are the needed domestic actions that would enhance American competitiveness in the trading world? The list is long. The alienation of Americans who feel abandoned by their representatives has fueled the populist reaction against trade and globalization. The widespread failure of leadership—from both Democrats and Republicans—has contributed significantly to a misplaced opposition to free trade. But stopping trade will not restart job creation. Freeing trade will.<sup>44</sup>

Open economies are engines of growth, while closed economies decline and die. Competitiveness can only be maximized if there is openness.<sup>45</sup> The best path to competitiveness will vary from country to country, yet the basic ingredients of competitiveness are everywhere much the same. These ingredients include open trade and investment, supportive laws and institutions that enable open markets, and—to glue it all together—the rule of law. Equally essential are financial stability and fiscal solvency. What is more, the basic ingredients of competitiveness include maximizing the potential gains from trade and other economic endeavors—and thus the potential for the enjoyment of individual human freedom—by finding and combining the right mix of market and government actions.

The right line must be drawn everywhere between private and public, between markets and governments, between the necessity to preserve personal liberty and the necessity to empower it. In striving always to find this right line, we must provide: accessible lifelong education for both work and citizenship, beginning with essential and cost-saving investments in early childhood development; practical, skills-based training and other forms of transitional assistance, such as refundable tax credits for workers; modern



and environmentally friendly roads, transit systems, water systems, bridges, seaports, airports, spaceports, communications, power grids, and all other kinds of infrastructure; a fair, limited, and broadly shared tax base; and strong protections for civil rights and worker rights. We must also do more to improve labor mobility; make health care more accessible and affordable; encourage basic scientific research and development; enable an economic atmosphere that supports individual and cooperative initiative, incentive, and enterprise; enforce antitrust laws that ensure ample market competition; and pursue other initiatives that help motivate new economic opportunities through an open economy in an open society.

We Americans cannot maximize our share of the future if we cling stubbornly to a past that no longer exists. One essential ingredient of sustaining and strengthening competitiveness is an openness to change. The embrace of freedom demands a willingness to undergo “the ordeal of change” for the sake of a better future.<sup>46</sup> For any individual, any enterprise, or any country to be competitive in shaping such a future, there must be a firm and unwavering understanding that, as Nobel Prize-winning economist Michael Spence put it, “Sustained growth and structural change go hand in hand.”<sup>47</sup> To be successful in generating economic growth, free markets must be free, if need be, to reinvent the old and create the new.

The older sectors of our economy resist the creative destruction of capitalism.<sup>48</sup> They resist the idea of comparative advantage—the economic concept that we prosper most when we specialize in producing things that we produce relatively better than others. (Note the word “relatively” here, the oft-omitted core of this enduring concept.) As we have witnessed time and again, in trade policy and otherwise, those who derive power and profit from the status quo will seek to forestall change, even change for the better. The less-competitive parts of the economy will resist yielding to the arrival of the new, and will often seek to survive by securing the subsidizing support and other favoritism of government through crony capitalism.

As Franklin Roosevelt said in 1932, “The same man who tells us that he does not want to see the government interfere with business . . . is the first to go to the White House and ask the government for a prohibitive tariff on his product.”<sup>49</sup> Entrenched economic interests that are no longer internationally competitive will do all they can to preserve their entrenchment while denying to themselves the incentivizing benefits of international competition and denying to others new opportunities resulting from new ideas, goods, and services that derive from increased trade and investment. All those engaged in the broader economy will pay the opportunity costs of this protectionism through higher costs, higher taxes, lost innovation, and lost job opportunities.

## CONCLUSION

Whether or not Democrats win the presidency and control of the Congress in 2021, they should adopt a pro-trade agenda that centers on renewing support for trade as a policy that can benefit all Americans. They should restore the constitutional authority of Congress over international trade, and, at the same time, ensure the authority of the president to negotiate new trade agreements in accordance with the expressed will of Congress. To reset our currently fraught trading relationships, Democrats should immediately repeal all unilateral tariffs imposed on imports by the Trump administration under Sections 232 and 301. There must also be a new approach to trade with China, one that makes better use of existing rules and works with America’s allies to develop new rules.

Democrats should also renew the United States’ commitment to the rule of law in trade, including exclusive reliance on the WTO dispute settlement mechanism for resolving all trade disputes with other WTO members that fall within the scope of the WTO treaty, as well as support for the WTO’s multilateral trading system. Democrats should disavow managed trade, support the basic WTO rules forbidding trade discrimination, and

“To be successful in generating economic growth, free markets must be free to reinvent the old and create the new.”

work with U.S. trading partners to restore the WTO Appellate Body as an independent and impartial tribunal for final appeals in WTO dispute settlement.

They should also work to reform the WTO by modernizing it as a fully 21st-century international trade institution. This should be done, in part, by negotiating new and better WTO rules on digital trade, services trade, intellectual property protections, investment, competition, product standards and regulations, and more. Moreover, in addition to strengthening multilateral rules, Democrats should also negotiate new bilateral and

regional trade agreements wherever needed to reduce trade barriers and serve as proving grounds for potentially new and improved global trade rules.

Lastly, to increase and distribute more widely the benefits of trade, Democrats must also undertake reform at home. Effective domestic actions to help all Americans make the most of the gains from trade by enhancing American competitiveness in the United States and in global markets are essential. Making it easier for Americans to innovate and compete at home and abroad is a crucial element to a continued and broadened American prosperity.

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