

# It's Time to End Special Trading Privileges for China

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## KEY TAKEAWAYS

Across the political spectrum and throughout the government, the U.S. is shifting away from a permanent, unconditional privileged market access for China.

The U.S. should repeal permanent normal trade relations for China, with increased tariffs on strategic sectors critical to U.S. national and economic security.

Congress should end or limit the *de minimis* tariff exemption's availability for foreign adversaries, particularly those with non-market economies, including China.

China may soon lose privileged access to the U.S. economy, which the country's exporters have enjoyed for decades and which the Chinese Communist Party has leveraged to build China into an industrial powerhouse. In a major shift, both Congress and the President have begun seriously reconsidering the United States' permanent normal trade relations (PNTR) with China. PNTR, also called most-favored nation status, means that a country's goods and services exports will be treated the same as those from any other country with which the United States has "normal" trade relations.<sup>1</sup>

Approved by Congress in 2001, PNTR for China was always controversial, but was initially supported across partisan lines in Washington, including by The Heritage Foundation.<sup>2</sup> However, in the decades since then, the economic and national security costs

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of offshoring and U.S. de-industrialization have become clear. As the case for granting free-market treatment to China's unfree economy has proven unpersuasive, the case for revoking PNTR for China has grown increasingly popular across the U.S. political spectrum.

Some polls report that a plurality of Americans support revoking PNTR outright, and others have found that broad majorities of Americans agree that "China has a large negative impact on the American economy."<sup>3</sup> Although it was underreported amid the presidential election and transition, in November 2024, the nonpartisan U.S.–China Economic and Security Review Commission (USCC) recommended that Congress repeal PNTR for China.<sup>4</sup>

The USCC's report carries a unique symbolism. Congress created the USCC<sup>5</sup>—along with a sister organization focused on human rights, the Congressional–Executive Commission on China (CECC)—as part of the debate on granting China PNTR in 2000. The two China commissions were Congress's oversight mechanism: a tripwire to monitor the negative effects of granting PNTR to China. In 2024, this tripwire was finally triggered. The USCC's recommendations are bipartisan consensus positions among Republican and Democratic political appointees, a remarkable sign that repealing PNTR for China has become a less controversial and more broadly supported policy.

Substantively, U.S. trade relations with China are already far from "normal." Hundreds of billions of dollars of U.S.–China trade are already subject to increased tariffs, at times accounting for the majority of bilateral trade.<sup>6</sup> On other hand, a disproportionately high share of trade with China evades tariffs altogether by leveraging the *de minimis* (literally: pertaining to minimal things) exemption, which waives tariffs for any shipment that the importer declares is worth less than \$800.

When the United States raised this threshold from \$200 in 2016, the value of *de minimis* imports from China exploded from \$1.82 billion that year to \$46.39 billion in 2020, a more than 20-fold increase.<sup>7</sup> China alone accounts for the overwhelming majority of *de minimis* shipments to the U.S., in recent years using the loophole to export approximately twice as many shipments to America as the rest of world combined.<sup>8</sup> Representative Jason Smith (R–MO), Chairman of the House Ways and Means Committee, which handles taxation and trade, has panned the *de minimis* loophole as a de facto free trade agreement between the United States and China.<sup>9</sup>

Proving Chairman Smith's point, certain Chinese companies have built their entire business models around the *de minimis* loophole.<sup>10</sup> This backdoor free trade agreement has costs for the United States—importers

leveraging the *de minimis* loophole are “less likely to face the same level of customs scrutiny that other retailers might face,” and *de minimis* shipments account for “90% of all illegal narcotics, agricultural goods, and counterfeit seizures by customs.”<sup>11</sup> It is time for that to change.

The Heritage Foundation supports the repeal of PNTR with China with the following guidance:

- Substantial increases in tariffs should occur over a reasonable phase-in period.
- In addition to increased baseline tariffs, prohibitive tariff increases should focus on strategic sectors critical for the United States’ national and economic security.
- Efforts to substantially rework the United States’ bilateral economic ties with China will entail major enforcement challenges that must be addressed. Congress should ensure that efforts to repeal PNTR for China are paired with appropriate resourcing of Customs and Border Protection to:
  - Identify and prohibit transshipment, and
  - Handle significant increases in inspections.
- Proceeds generated from increased tariffs on China should be used to ensure proper enforcement, secure core defense-related critical supply chains, and offset the costs of pro-growth tax reform.

The Heritage Foundation supports changes to the *de minimis* policy vis-a-vis China with the following guidance:

- Congress should end or limit the *de minimis* tariff exemption’s availability for foreign adversaries, particularly those with non-market economies, including China.
- For that set of foreign adversaries, Congress should eliminate the *de minimis* loophole.
- At a minimum, Congress should:

- Substantially reduce the *de minimis* threshold for that group of countries;
  - Exclude from the *de minimis* exemption all shipments containing products covered by tariffs imposed under Sections 201 or 301 of the Trade Act of 1974 or Section 232 of the Trade Expansion Act of 1962;
  - Exclude from the *de minimis* exemption import-sensitive products;
  - Exclude from the *de minimis* exemption all shipments from foreign adversary e-commerce companies; and
  - Require and resource the inspection of all shipments originating from foreign adversary companies.
- Congress should avoid increasing burdens on non-commercial shipments and goods carried by individuals.
  - Congress and the Administration should establish thorough enforcement mechanisms to address evasion of *de minimis* reforms, such as Chinese entities effectively importing *de minimis* shipments into the United States from non-adversary countries.
  - Congress and the Administration should ensure that the Uyghur Forced Labor Prevention Act is rigorously and fully enforced by U.S. Customs and Border Protection and other relevant federal authorities.

Both Congress and the executive branch are already moving to end or revise trade privileges that the United States has granted to China. In one of the first actions of his second term, President Trump directed his Cabinet to “assess legislative proposals regarding Permanent Normal Trade Relations with the PRC”—suggesting an openness to change that was inconceivable in other Administrations.<sup>12</sup> Days later, Members of Congress introduced the first such bipartisan legislation to terminate China’s PNTR status.<sup>13</sup> Both the Biden Administration and the second Trump Administration have also sought to limit China’s ability to further exploit the *de minimis* tariff exemption, with President Trump suspending *de minimis* treatment for all commercial imports from China on February 1, 2025.<sup>14</sup> Across the political spectrum and throughout branches of government, the United States is

shifting away from a permanent, unconditional guarantee of privileged market access for China. And rightly so.

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## Endnotes

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