

## NAM Staff Report

# **The NAM 2005 China Trade Agenda: Implementation Report and Action Plan**

The NAM Trade Agenda for China is focused on strengthening manufacturing in America and improving the international competitiveness of our manufacturing industry in the worldwide economy. This agenda was finalized by the NAM's China Policy Subcommittee in January 2005 and was approved by the NAM's International Economic Policy Committee that month and by the NAM Board of Directors Trade and Technology Policy Group at the NAM's Board of Directors meeting in March 2005.

This staff report reviews the objectives and the detailed action items called for in that agenda, providing an update on what has been accomplished so far and what steps need to be taken in the near future.

## CHINA TRADE AGENDA ITEMS

### **A. Revalue the Chinese Yuan to Reflect Economic Fundamentals**

*NAM Key Objective: Immediate revaluation of the yuan by up to 40 percent*

This has been the single largest China activity for the NAM staff, which has worked with the Administration and the Congress to obtain significant revaluation of China's currency. Gov. Engler has met with Secretary Snow, and has repeatedly raised this priority with White House and Congressional leadership. While China has stated it will allow its currency to reflect market forces, it has not yet begun to do so and is still manipulating its currency for trade advantage.

*1. Press the Treasury Department to recognize currency manipulation in its semi-annual report to Congress.*

#### **Progress to date:**

- The Administration ramped up its China currency policy in May 2005, when Treasury Secretary Snow stated it was time for China to act. He told the Congress that it is almost certain that China will be cited for currency manipulation in Treasury's October report to Congress if China has not revalued significantly by that time. Secretary Snow defined "significant" as sufficient to affect trade flows. NAM staff has received confirmation from Treasury staff of this position.

- In July, China broke its peg to the dollar, announced its currency would reflect market forces, revalued the yuan by 2.1% and established a mechanism by which the yuan could appreciate/depreciate within a 0.3% band each day. It was also announced that the yuan would be traded against a basket of currencies.
- Since then, however, China has not allowed further movement of its currency, which remains very undervalued and a distorting factor in China's trade with the United States and the world.

### **Next Steps:**

- NAM has stated that, while China's 2.1% revaluation in July is a first step, it is not sufficient to qualify as the "significant" step required. The NAM is looking to October, giving the Chinese time to act. The NAM has told the Administration that if there is not significant movement by that time, which is looking increasingly unlikely, China must be cited for currency manipulation in Treasury's October 2005 report and a process should be started in the IMF for citation of China for violations of its IMF obligations.
- The succeeding step would be to press for a WTO case once the IMF has acted.
- The NAM staff will send out an action alert asking NAM member companies to lobby the White House, the Treasury, and the Congress to have China cited for currency manipulation in October unless there has been significant movement in the yuan by that time.

### ***2. Encourage the Administration to work with the G-7, G-20, APEC and other international organizations to press the Chinese government to revalue the yuan.***

### **Progress to date:**

- NAM staff has focused on the G-7/G-8 process, emphasizing in meetings with the Administration the importance of multilateral cooperation in pressing China to revalue. The Treasury has increased its efforts to have other countries step up pressure on China. Some European, Canadian and Asian leaders are doing so, but some key European leaders have not been vocal on this issue, although their central bankers have been.

### **Next Steps:**

- The NAM will seek to raise the awareness of European industry to the urgency of action on China's currency, in an effort to get them more involved in lobbying their governments and the European Commission.
- The NAM will urge vertical associations to do the same with their counterparts.

***3. Press the Treasury Department to urge the International Monetary Fund to exercise its surveillance authority over exchange rates and cite China under Article IV if progress is not made in consultations.***

**Progress to date:**

- The NAM has raised IMF consultations with Treasury several times. Treasury has indicated it is in discussions with the IMF, but has not revealed the content.

**Next Steps:**

- NAM staff will continue to press this issue with Treasury, and will seek member company lobbying if China fails to take significant revaluation action by October.

## **B. Strengthen and Enforce Intellectual Property Laws**

***NAM Key Objective: A dramatic acceleration of initiatives to reduce and eliminate Chinese intellectual property rights violations***

***1. Encourage the Administration to press China to put into practice the newly announced interpretation of its anti-counterfeiting laws.***

**Progress to date:**

- The NAM and other organizations, and the Coalition Against Counterfeiting and Piracy (CACP) that is co-chaired by the Chamber of Commerce and the NAM have worked continuously with Administration officials and Congressional committees to obtain actions to end the scourge of counterfeiting that is centered in China.
- Activities have focused on cutting Chinese counterfeiting by improving China's laws, by greatly increased criminal prosecution of counterfeiters, and by increasing the effectiveness of border controls on counterfeiting by Chinese, U.S. and third country customs authorities.
- At the July Joint Commission on Commerce and Trade (JCCT), China committed to increased criminal prosecutions; improving national police coordination to obtain a focused and coordinated nationwide enforcement effort; the establishment of a U.S.-China IPR law enforcement working group to enhance cooperation between law enforcement authorities; ensuring use of legal software in the state-owned sector; establishment of a Chinese Embassy IPR Ombudsman to serve as the point of contact for U.S. companies, particularly small- and medium-sized businesses; and actions to rid trade fairs of fake goods.

- While these are worthwhile commitments, all indications are that counterfeiting is continuing to increase, both in China, and as export products around the world – as NAM members have testified to Congress.
- In response to NAM lobbying for steps to help small companies deal with counterfeiting, the Commerce Department has announced, in conjunction with the American Chamber of Commerce in Beijing, the September launch of a pilot program to make it easier for small companies to register their trademarks in China and also to provide legal advice to small firms when they encounter counterfeiting and other intellectual property problems in China.
- The NAM also lobbied successfully for the passage of H.R. 32 in the House, which strengthens trademark enforcement in the United States.

### **Next Steps:**

- While continuing to seek cooperative action on the part of Chinese authorities, the NAM is beginning preparations for the development of a possible WTO case on counterfeiting.
- The NAM has also obtained the commitment of the U.S. government's new Intellectual Property Protection Coordinator to give priority consideration to an NAM proposal for more effective efforts to intercept counterfeit goods as they leave China and as they enter U.S. ports and airports.
- The NAM staff seeks full and quick participation on the part of member companies in designing this proposal.
- NAM staff will also seek widespread lobbying by member companies for passage of the Senate equivalent of HR 32 and for conference action in this session of Congress.
- NAM will use its relationships with counterpart business associations in Japan, Europe, Korea and other regions to encourage greater foreign government attention to counterfeiting and stronger action against problem countries.

***2. Declare China a Priority Foreign Country and consider taking it to the WTO if the out-of-cycle Special 301 Review being done by the USTR in early 2005 does not show sufficient Chinese progress in meeting JCCT and WTO commitments.***

**Progress to date:**

- The NAM submitted a report to USTR on its Special 301 review calling for USTR to take action described above, and testified before four congressional hearings on Chinese counterfeiting.
- Following its out-of-cycle Special 301 review, however, USTR only elevated China to the Priority Watch List and announced that it would “work closely with U.S. industry and other stakeholders, with an eye toward utilizing WTO procedures to bring China into compliance with its trade obligations.”
- However, USTR has indicated its willingness to initiate WTO cases if sufficient information is provided by industry.

**Next Steps:**

- The NAM is obtaining specifics from USTR as to what and how much information would be needed for a counterfeiting case in the WTO, and will begin working with members in an effort to begin preparing for a possible case. Extensive preparation will be necessary.

***3. Engage other countries to implement a program comparable to the recently announced U.S. STOP program to address Chinese counterfeiting.***

**Progress to date:**

- NAM staff has had initial discussions with Japanese, Canadian, and European business associations about increased efforts to block imports of counterfeit goods.

**Next Steps:**

- NAM staff will reach out to counterpart foreign organizations in Europe, Asia and Latin America to find ways to work together to see that China ends product counterfeiting and trademark piracy.

## **C. Retain China's Non-Market Economy Status**

*NAM Key Objective: Retain China's non-market economy status (NME) for the full 15 year period negotiated in PNTR unless statutory requirements for market economy status are fully and consistently met.*

- 1. The U.S. government should set up an industry advisory group on NME status to include the NAM.*
- 2. Congressional oversight of China's progress in fulfilling its statutory requirements should be established. The Commerce Department should provide the appropriate congressional body with an annual report of its progress.*

### **Accomplishments:**

- This issue was brought up in a number of Administration meetings. NAM staff were assured that there is no movement to grant market economy status until all requirements are fully met, but Commerce staff believe the existing industry advisory structure (Industry Trade Advisory Committee – ITAC) is the appropriate advisory means.

### **Next Steps:**

- NAM staff will ask NAM members on appropriate ITACs to place China's NME status on the advisory agenda
- NAM will arrange a meeting with the new Under Secretary of Commerce, once he is confirmed, to press for a meeting with industry on China's NME status and to urge an annual report to Congress.

## **D. Eliminate Administrative, Regulatory and Standards Barriers**

*NAM Key Objective: Undertake a vigorous, sustained effort to eliminate the growing number of barriers resulting from trade-related administrative directives, regulatory policies and technical standards, make the process more transparent, and apply regulations uniformly across the country.*

- 1. Establish a U.S.-China regulatory policy and standards forum to facilitate dialogue on technical trade barriers, promote openness and transparency in regulatory and standards development, and encourage harmonization where possible.*

***2. Press for reforms of China's CCC quality mark system to permit U.S. testing bodies to offer CCC certifications and make the process timelier and less costly to U.S. exporters, particularly small and mid-size companies.***

**Progress to date:**

- NAM staff submitted written testimony to the House Science Committee hearing on May 11, highlighting standards-related problems manufacturers were encountering in China and the European Union.
- The NAM International Standards and Regulatory Policy Working Group is compiling information on individual member concerns and developing a list of reforms to the CCC program and China's standards and conformity assessment procedures that need to be made.
- The NAM continues to raise member concerns with USTR and the Commerce Department on the need for China to simplify the CCC mark system and make it less costly, particularly for small and medium manufacturers.
- In its Sept. 2005 report on China's WTO compliance, the NAM highlighted a variety of CCC mark and standards-related problems that NAM member companies experience and called for the creation of a special standards and conformity assessment working group in the Joint Committee on Commerce and Trade (JCCT) to address these concerns.

**Next Steps:**

- The September meeting of the NAM International Standards and Regulatory Policy Working Group will develop recommendations to present to Commerce and USTR on the formation of the special JCCT working group and priority issues for the working group's agenda.
- NAM is working actively on newly emerging Chinese standards regulations and legislation that could adversely impact a range of U.S. companies selling to China, giving special attention to a draft Anti-Monopoly Law and new standards directive that could force companies to share IPR. Letters and advocacy with Administration and Chinese officials will step up in Sept. and Oct.
- The NAM representative on the U.S. Government's Industry Trade Advisory Committee for Standards (ITAC 16) will press for a more concerted Commerce Department and USTR strategy on addressing CCC-related concerns at its next meeting in October.

## **E. Expand Exports to China**

### *1. Expand and Strengthen Export Promotion Programs toward China*

*NAM Key Objective: Expand U.S. exports to China by 300 percent by 2008 (i.e., to more than \$100 billion), particularly higher valued added manufactured products.*

- *Strengthen and expand export promotion and financing programs, particularly for small and mid-sized manufacturers.*
- *Double the Commerce Department's China-specific trade promotion budget for FY2006.*
- *Redeploy Commerce Department commercial service resources and personnel to focus on the China market.*
- *Assist the Commerce Department to tailor export promotion programs to the needs of key manufacturing sectors.*
- *Conclude by June 2005 analysis of 1) comparative export performance by country and manufacturing sector to better gauge China trade opportunities and challenges and 2) techniques of the European Union, Japan and other competitors in their export promotion programs to China in order to emulate global best practices.*

### **Progress to date:**

- NAM sent outline of expanded export promotion program to key officials at White House, Commerce Department and Congress, and has pressed Commerce staff and Congressional committees for added funding.
- Commerce has responded to NAM advocacy by establishing a set of virtual trade centers in China, establishing a web-based China Business Information Center, initiating a U.S.-China International Partner Network to establish trade assistance offices in 14 important business cities in China that will give special attention to the needs of small and mid-size U.S. exporters. Commerce will also be sponsoring a set of China export seminars on the web.
- A major problem, however, is that expanded funding has not been included in appropriations and, in fact, funding for export promotion is at risk of being curtailed severely by the huge increase in costs to participate in increasing embassy security measures. The cost is so large that existing programs are at risk.

## **Next Steps:**

- NAM staff will meet with the new Under Secretary for International Trade after he is confirmed, and also with the new Director-General of the Commercial Service to press for major changes in the China export promotion program.
- On an urgent basis, the NAM and member companies need to lobby both the House and Senate to increase funding for export promotion so as to prevent programs from having to be cut to fund security needs.

## **2. Expand Export Financing**

***NAM Key Objective: Increased funding that matches or exceeds that available to foreign companies competing with U.S. companies in China.***

- ***Ex-Im Bank should greatly expand its programs to expedite financing for exports to China, including for smaller U.S. exporters.***
- ***Set up Small Business Administration Capital and Export Funds for expanding exports to China.***
- ***Special funds should be appropriated by Ex-Im Bank to match tied-aid credits to China from other countries.***

## **Progress to date:**

- Sent Contact Congress alert and worked with several members of Congress to defeat proposed amendment that would cut off Export-Import Bank funds for all U.S. exports to China for a year. The amendment was defeated.
- NAM staff met with Ex-Im Chairman and VP for Export Finance to raise the need for additional financing for exports of equipment and manufactured goods to China and discussed expansion of small business outreach for export financing.
- Key members of Congress, however, seem to view Ex-Im financing as a benefit to China rather than as a benefit to U.S. exporters, and in the present budgetary environment, proposals have been made to restrict funds available to Ex-Im Bank.

## **Next Steps:**

- NAM will lobby relevant Congressional committees to stress the importance of greater export financing and a strong mandate for expanding trade with China in the run-up to the drafting of Ex-Im Bank reauthorization language during 2005-2006 sessions.

- On an urgent basis, the NAM will lobby against cuts in the Ex-Im budget that would transfer out a significant amount of funds needed to administer ongoing programs in the bank. NAM staff will seek active lobbying on the part of member companies, especially SMMs.

### ***3. Eliminate China's High Industrial Tariffs***

***NAM Key Objective: Further reduction in China's industrial tariffs in keeping with its stature as a major industrial market.***

- ***U.S. negotiators should use the Doha Round to press China to reduce tariffs and other trade barriers to levels comparable to the United States, the European Union and Japan.***

#### **Progress to date:**

- The NAM staff has insisted with Commerce and USTR that China must make deep cuts in its industrial tariffs. In June, China supported an effective tariff-cutting formula and sectoral negotiations for industrial trade during the ongoing Doha Round of World Trade Organization (WTO) talks. The "Swiss Formula" that APEC ministers agreed on is a tariff-cutting formula aimed primarily at high tariffs as opposed to lower ones. However, China has indicated that, since it made deep cuts when joining the WTO, its Doha Round cuts should not be as deep as other countries' may be.

#### **Next Steps:**

- The NAM staff and the NAM WTO Action group will continue to insist that Commerce and USTR press China to make deep cuts and not to consider their accession cuts as pre-payment for the Doha Round. The NAM will also press this point with counterpart associations in other countries.

### ***4. Open China's Public Procurement and Internal Market***

#### ***NAM Key Objectives:***

***China's entry into the WTO government procurement agreement. Elimination of Chinese provincial and local barriers to internal trade that affect market access for U.S. exported products.***

#### ***Actions:***

- ***Include government procurement and internal market access barriers as part of bilateral negotiations with China.***

### **Progress to date:**

- NAM urged the U.S. Government to take strong position in JCCT on China's draft government procurement policy that would preclude Chinese government entities from purchasing software from foreign companies. NAM staff also stressed this to China's Ambassador to the United States. The draft software regulations threatened to close off a market with a potential value of over \$8 billion to U.S. firms.
- At the July JCCT meeting, China agreed to delay, perhaps indefinitely, issuing draft regulations on software procurement, as it further considers public comments and makes revisions in light of WTO rules.
- China also announced that it will accelerate its efforts to join the WTO Government Procurement Agreement (GPA) and towards this end will initiate technical consultations with other WTO Members.

### **Next Steps:**

- The NAM will press further for quick Chinese action to join the Government Procurement Code and to maintain a "stand-still" on any new government procurement restrictions until it incorporates the WTO Code principles into its legislative principles.

## **F. Improve the Export Administration Act and Procedures**

*NAM Key Objective: Streamline the licensing of high-technology products to China to enable U.S. manufacturers to compete against foreign suppliers while also working cooperatively to protect U.S. national security interests.*

*1. Reform the outdated requirements of the Export Administration Act (EAA) to improve efficiency and reflect advances in technology and changes in market availability while also protecting U.S. national security.*

*2. Streamline and improve the licensing procedures for items on the U.S. Munitions List (USML).*

### **Progress to date:**

- NAM has been working directly, and with the Coalition for Expansion of Exports, to seek improvements in export control legislation. The Congressional pressures are moving in the opposite direction – to toughen U.S. export controls and move them back in time. The House Defense Authorization Act contains provisions which would lessen the ability of U.S. companies to compete with foreign companies, but the Senate has not added them so far.

- Responding to NAM and other requests for improved munitions list licensing procedures, the State Department undertook a series of steps that have made the system more transparent and have reduced the decision processing time.

**Next Steps:**

- NAM efforts will be aimed at preventing adverse provisions in Senate legislation, and will then focus on seeing that the House-Senate Conference does not include the adverse provisions that have been passed by the House.

**G. Reduce Visa Delays for Chinese Business Visitors**

*NAM Key Objective: Improve the efficiency of the visa process and ensure that the screening process targets only those applicants that are a clear threat to U.S. national security.*

*1. Seek a review of the Technology Alert List to improve the screening process and tighten the criteria.*

*2. Work with the State Department as it implements its new U.S.-China Business Initiative to see that the timeliness of the visa application process is significantly improved.*

**Progress to date:**

- The NAM has repeatedly raised concerns about the need for improving the Technology Alert List (TAL) with senior U.S. officials and helped to educate them on impacts the TAL is having on business visitors, particularly from China. Though no results have yet been seen, U.S. officials are now aware of the breadth of the problem.
- On the visa issue, however, the State Department initiated several initiatives to make it easier for Chinese business visitors and employers to obtain U.S. visas: establishment of a “Business Visa Center” in the Department’s Visa Office to assist on China business visitors; extending the business (B-1) and tourist (B-2) visas to 12 months and allowing multiple entries; and allowing more flexibility to extend the visas of Chinese scientific and technical visitors requiring sensitive technology screening (so-called Visas Mantis).
- The State Department has also increased staff and reduced the clearance time for visa applications requiring further review in Washington and reduced wait times for visa interviews in U.S. visa offices in China.

## **Next Steps:**

- NAM is monitoring implementation of these initiatives and providing feedback to the State Department on their effectiveness.
- NAM is working with member companies on the President's Export Council (PEC) to establish a more regular dialogue on visa concerns and press for further improvements. PEC company representatives will be discussing this at their September meeting and following up with the NAM.
- NAM will continue to seek improvements in the application of the Technology Alert List, including narrowing categories to target truly sensitive technology and preventing normal business contacts and relationships on non-sensitive technology from getting caught up in needless review and red tape.

## **H. Promote Fair Competition**

### ***1. Apply Countervailing Duty Laws to China to Offset the Effects of Chinese Subsidies***

***NAM Key Objective: Elimination of artificially created and maintained competitive advantages through WTO-inconsistent subsidization or other means.***

- ***The Bush Administration should endorse, as a priority in the first session of the 109<sup>th</sup> Congress, legislation that would clarify the intent of Congress to apply countervailing duty provisions to both market and non-market economy countries.***
- ***The Commerce Department's new Unfair Trade Practices Group should undertake and publish an analysis of Chinese subsidization practices.***

### **Accomplishments to date:**

- The NAM Participated in press conference launch of S.593 and H.R.1216, legislation to address subsidies in non-market economies (The NAM was the only organization invited to participate with Congressional sponsors.) NAM staff lobbied the Administration to support application of CVD measures to non-market economies.
- Established Contact Congress feature for legislation. Repeated outreach to SMMs through various publications and National Division.
- Supported H.R. 3283 that incorporated language to apply countervailing duties to NME's, after obtaining one of three attempted improvements.

- H.R. 3283 passed the House; a companion bill, S. 1421, was introduced in the Senate by Sen. Collins (R-ME).
- At the JCCT, China committed to providing a detailed accounting of its subsidies to the WTO by the end of 2005.
- Within the JCCT Structural Issues Working Group, China and the United States also agreed to intensify discussions on structural issues related to China's status as a non-market economy under U.S. anti-dumping law, including a review of China's subsidy practices.

**Next Steps:**

- NAM staff and members will work for passage of S.1421 in the Senate, seeking to obtain improvements that were not achieved in the House bill.
- Staff will also stay apprised of progress in obtaining report of Chinese subsidy practices both from Chinese government and the U.S. Commerce Department.

**2. Apply China Safeguards (Section 421)**

***NAM Key Objective: Appropriate use of Section 421 to address documented Chinese import surges as negotiated in PNTR.***

- ***The Administration should apply appropriate 421 remedies when the ITC has ruled that requirements of the statute have been met.***

**Accomplishments to date:**

- In meetings with the Administration, NAM has expressed strong support for appropriate use of 421 remedies. The Administration has not accepted any ITC recommendations so far, but has told the NAM staff that it will accept strong cases.

**Next Steps:**

- A new case was filed with the ITC in August. NAM staff will closely follow progress of the case, and if the ITC finds a remedy is merited, the NAM will press for Administration acceptance of the recommendations.
- The NAM will continue to press for use of Section 421 as a WTO-compliant means for helping to level the playing field.

### ***3. Make Trade Cases More Affordable***

***NAM Key Objective: Make available appropriate use of U.S. trade law when companies, especially small and mid- sized, cannot afford the high cost of bringing cases.***

- ***The Commerce Department should institute special import monitoring programs.***
- ***The Commerce Department should make use of its existing statutory authority to self- initiate AD, CVD and Section 421 cases in consultation with industry.***

#### **Progress to date:**

- The Commerce Department's Trade Compliance Center has agreed to work with the NAM in providing a one-stop central access point for all the various U.S. Government programs aimed at Chinese trade compliance and unfair trade practices.

#### **Next Steps:**

- NAM staff will work with Commerce staff to develop a guide to map resources available to small companies when they encounter unfair trade practices.
- NAM staff will establish a Trade Hot Line that can be used by NAM member companies to report unfair trade practices and get information on how to utilize U.S. government resources.