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CLIENT ALERT

U.S. and China Sign "Phase One" Trade Deal

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On January 15, President Trump and Chinese Vice Premier Liu He signed a “Phase One” trade agreement, the first formal text agreement between the two sides since the United States initiated the Section 301 investigation in August 2017, which has since led to mounting U.S. and Chinese tariffs affecting bilateral trade.

The agreement does not specifically address any tariffs currently in place. Instead, it includes pledges by China to increase U.S. exports of certain goods by specified amounts above 2017 baselines by 2020 and 2021, along with commitments in the areas of intellectual property, technology transfer, agriculture (including agricultural biotechnology), financial services, and currency and foreign exchange. The agreement also includes a mechanism for bilateral consultation and enforcement.

Existing tariffs: While the Phase One trade agreement forestalled tariffs set to begin in December 2019 when it was first announced, the text of the Phase One trade agreement released on January 15 does not directly address U.S. or Chinese tariffs in place as a result of the trade dispute.

In December 2019, President Trump announced that 15% tariffs on $110 billion in imports would be cut to 7.5%. Beyond that, neither the U.S. nor China has pledged to cut additional existing tariffs. U.S. Treasury Secretary Steve Mnuchin and U.S. Trade Representative (USTR) Robert Lighthizer issued a joint statement on January 14 that “there is no agreement for further reduction in tariffs” at this time, which means that $370 billion in Chinese imports will continue to be subject to U.S. tariffs.

Expanding trade: China has pledged that it will increase import levels for some goods and services by specified amounts above 2017 import levels over a two-year period ending in 2021:

- *Certain manufactured goods, including autos, aircraft, electronics, some pharmaceutical products, and industrial machinery*: Increase of $32.9 billion by 2020 and $44.8 billion by 2021)
- *Agricultural goods, including soybeans, meat, seafood, grains, and cotton*: Increase of $12.5 billion in 2020 and $19.5 billion in 2021
- *Energy products, including liquefied natural gas, crude oil, and coal*: Increase of $18.5 billion in 2020 and $33.9 billion in 2021
- *Services, including financial services, travel, telecommunications, and information services*: Increase of $12.8 billion in 2020 and $25.1 billion in 2021

The agreement does not specify how China will increase import levels, leaving open questions as to whether China will increase state-ordered imports of certain commodities or encourage private sector imports through trade liberalization (or a combination of both). For U.S. companies in these sectors, there may be opportunities to demonstrate to U.S. and Chinese policymakers how they can help China meet these commitments through increased exports.

Intellectual property: China has agreed to commitments strengthening protections for trade secrets (including from misappropriation via cyber intrusions), combatting online piracy, enhancing patent protections for pharmaceuticals, improving trademark and copyright enforcement, and preventing manufacture and export of pirated or counterfeit goods, including unlicensed use of software.

Technology transfer: China has agreed that it will not support or direct outbound foreign investment aimed at acquiring foreign technology, and that it will refrain from pressuring (formally or informally) U.S. entities to transfer technology through administrative or licensing requirements or as a condition of market access.

Agriculture: China has agreed to commitments related to sanitary and phytosanitary approvals for a range of agricultural imports, including dairy, infant formula, meat, grains, pet food, and biotechnology products.

Financial services: China has agreed to commitments relaxing controls and enhancing approval systems for U.S. financial services companies operating in China, including the removal of foreign equity limits for the insurance, securities and fund management, and futures sectors.

Macroeconomic policies and exchange rate: Both sides committed to make public disclosures of foreign exchange reserve and balance of payments data, and avoid competitive currency devaluations and manipulation of exchange rates.

Enforcement: On enforcement, the Phase One Agreement establishes new bilateral consultative bodies to discuss implementation of the agreement, including:

- A "**Trade Framework Group**" chaired by the U.S. Trade Representative and a Chinese Vice Premiere, for semiannual, high-level consultation on the status of the agreement's implementation;
- A "**Bilateral Evaluation and Dispute Resolution Office**" within each government, led by a Deputy U.S. Trade Representative and a Chinese Vice Minister respectively, that will meet quarterly to assess specific issues and complaints, and;
- A re-established bilateral macroeconomic dialogue, led by the U.S. Secretary of the Treasury and a designated Chinese Vice Premier, that will meet "regularly."

The Trump Administration has stated that it will enter into negotiations for a "Phase Two" agreement, seeking to address issues not covered in Phase One.

Further information on U.S. and Chinese tariffs currently in place can be found here.

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