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U.S.-China Phase One Trade Deal

Legal Update

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Overview

The United States and China announced on December 13, 2019, that the two countries have reached agreement on a Phase One trade deal (Phase One Agreement). The United States has agreed to modify its Section 301 tariff actions, and China has agreed to take back certain tariffs that it has proposed. The Phase One Agreement also has provisions regarding intellectual property, technology transfer, agriculture, financial services, and currency and foreign exchange.

Tariffs

The United States and China have both announced a significant decrease in tariffs as part of the Phase One Agreement. The United States has cancelled the round of proposed tariffs for goods set forth on List 4B which was set to take effect on December 15, 2019. In addition, the United States has also halved the 15 percent tariffs that goods on List 4A incur (in place since September 1 to 7.5 percent). In exchange, China has cancelled the retaliatory tariffs on U.S. goods scheduled to take place on December 15, 2019.

The 25 percent tariffs on \$250 billion worth of Chinese goods on Lists 1-3 remain the same pending further negotiations.

Expanding Trade

China has made commitments to purchase certain U.S. goods and services in 2020 and 2021 in a total amount that exceeds China's total purchase of such U.S. goods and services in 2017 by at least \$200 billion, averaging an increase of \$100 each year. Neither the U.S. nor China, however, has revealed to which goods and services the commitment would apply. For reference, U.S. trade data suggests that China imported \$130 billion of U.S. goods and \$56 billion of U.S. services in total in 2017.

Agriculture

According to the fact sheet published by the Office of Trade Representatives of the United States (the USTR), the Agriculture Chapter of the Phase One Agreement discusses structural barriers to trade and will support an expansion of U.S. food, agriculture and seafood products exports. However, the official news releases have not revealed specific terms regarding any commitment by China to increase its import of U.S. agriculture products.

According to U.S. Trade Representative Robert Lighthizer, China has committed to increase its purchase of U.S. agricultural products by \$32 billion in total in 2020 and 2021. The baseline number for China's purchase of U.S. agriculture products in 2017 was \$24 billion.

Technology Transfer

According to the USTR, China has agreed to refrain from forcing or pressuring foreign companies doing business in China to transfer their technologies to Chinese companies for purposes such as obtaining market access, administrative approvals or advantages from government.

China also commits to not direct or support outbound investments targeting the acquisition of foreign technology in accordance with industrial plans that create "distortive situations."

Currency, Financial Services and Intellectual Property

Further, the USTR reported that China has promised it will not carry out competitive devaluations or target exchange rates. There is also a Financial Services Chapter which addresses trade and investment barriers to U.S. financial services providers and an Intellectual Property Chapter that addresses concerns regarding intellectual property issues.

Next Steps

The U.S. said Friday that it would begin negotiations on the next phase of the trade deal immediately. It is expected that the next phase of a trade deal is likely to come in stages.