

U.S. and China Conclude Phase One Trade Agreement

January 16, 2020

On January 15, 2020, the United States and China concluded Phase One of a comprehensive Economic and Trade Agreement. The 96-page agreement includes a commitment by China to purchase \$200 billion more in goods and services during the next two years, as well as new commitments on technology transfer, intellectual property, agriculture, and other sectors. In return, the United States has agreed to reduce tariffs on \$120 billion in Chinese goods by half, to 7.5%, and also agreed not to implement other planned tariff increases.

Technology transfer (Chapter 2): The technology transfer commitments are detailed and binding: For example, Article 2.2 states that "neither Party shall require or pressure persons of the other Party to transfer technology to its persons in relation to acquisitions, joint ventures, or other investment transactions." The United States and China also agreed to:

- Prohibit the forcing or pressuring of foreign companies to transfer their technology as a condition for market access, administrative approvals, or receipt of any advantages.
- Require that any transfer or licensing of technology be based on market terms that are voluntary and reflect mutual agreement.
- Prohibit state-directed or supported outbound investment aimed at acquiring foreign technology in sectors and industries targeted by a party's industrial policies.
- Ensure that enforcement and administrative proceedings are impartial, fair, transparent, and non-discriminatory.

Authors

Alan H. Price
Partner

202.719.3375
aprice@wiley.law

Timothy C. Brightbill
Partner

202.719.3138
tbrightbill@wiley.law

Practice Areas

International Trade

Exchange Rates (Chapter 5): The exchange rate chapter states that both countries “shall refrain from competitive devaluations and not target exchange rates for competitive purposes, including through large-scale, persistent, one-sided intervention in exchange markets.” The agreement makes these commitments subject to the enforcement mechanism in Chapter 7.

Dispute Resolution (Chapter 7): Either country may submit an appeal to a Bilateral Evaluation and Dispute Resolution Office. The other party will assess the appeal. Disputes can be elevated all the way to USTR and PRC Vice Premier. If the Parties cannot reach consensus, they may take action - including by suspending obligations under the agreement or by “adopting a remedial measure in a proportionate way.”

Purchases (Chapter 6): As previously reported, the agreement includes commitments by China to increase purchases from the United States by \$200 billion over the next two years, compared to 2017 levels, broken down as follows:

- Manufactured goods: +\$80 billion
- Energy goods: +\$52 billion
- Services: +\$38 billion
- Agriculture: +\$32 billion

Intellectual Property (Chapter 1): The longest chapter in the agreement covers a variety of intellectual property (IP) issues, including trade secret misappropriation, pharmaceutical IP, patents, online infringement, and counterfeit goods.

The agreement can be found [here](#).

Fact sheets on sixteen specific topics can be found [here](#).

For more information, please contact the attorneys listed on this alert.