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The International Trade Landscape for 2020

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Practices: Commercial, Competition & Trade

On December 13, 2019, the U.S. Government announced the general terms of a “Phase One” trade agreement with China. Under the terms of this agreement, we understand that China will agree to purchase certain volumes of U.S. products, and embark on some reform of intellectual property protection, as well as the financial services market, and currency controls. In exchange, the U.S. has agreed not to impose the List 4B tariffs on the last remaining imports of goods from China. For now.

As of the first week of January 2020, the main import tariffs in place that relate to Chinese goods include:

Section 201 Tariffs

An additional 30% (reducing to 15% in 2021 and 0% on February 7, 2022) on solar cells and related end products. This tariff is applicable to imports of such products from most countries, once the total share of each country’s imports of such products into the U.S. exceeds the quotas set by the President’s 2018 order.

An additional 18% (reducing to 16% on February 7, 2020 and 0% on February 8, 2021) on washing machines and related parts. This tariff is applicable to all countries except Canada and certain developing economies, once imports of such products into the U.S. exceeds the quotas set by the President’s 2018 order.

The U.S. Government has issued orders excluding certain products from the Section 201 tariffs.

Section 232 Tariffs

An additional 25% duty on imports of certain steel products from all countries (except Canada and Mexico). The U.S. Government has exempted a number of specific steel products from this tariff.

An additional 10% duty on imports of certain aluminum products from all countries (except Canada and Mexico). As with the steel tariff, the U.S. Government has exempted a number of specific aluminum products from this tariff.

Section 301 Tariffs

An additional 25% on List 1 goods of Chinese origin.

An additional 25% on List 2 goods of Chinese origin.

An additional 25% on List 3 goods of Chinese origin.

An additional 10% on List 4A goods of Chinese origin.

The U.S. Government has issued specific product exemptions for Lists 1, 2, and 3. The deadline for submitting requests for exclusion from the List 4A tariff is January 31, 2020.

Under the terms of the “Phase One” agreement between the U.S. and China, the U.S. plans to reduce the List 4A tariff from 10% to 7.5%. The agreement is supposed to be signed on January 15. However, neither government has revealed the specific text of the agreement as yet.

WTO Litigation

Earlier last year, China withdrew its case against the European Union in which China claimed to be entitled to “market economy” status. Sources in the press have indicated this is because the WTO panel’s draft decision was heavily against China on this point. Both the U.S. Government and the European Union have defended against the Chinese claims to be entitled to “market economy” treatment, on the basis that China has failed to abide by a number of obligations that were part of the agreement allowing China into the WTO. The issue has been that China objects to the practice of utilizing third country market prices for steel and other products when European and American regulators determine whether Chinese products are being dumped into overseas markets at unreasonably low prices. The collapse of China’s litigation on this subject signals that the European Union and U.S. Government will continue to use third country pricing measurements to levy antidumping and countervailing duty penalties against Chinese goods. As a consequence, importers can continue to expect to see frequent impositions of additional duties on Chinese goods in Europe and the U.S.

At the same time, litigation between the U.S. and China on the legality of the U.S. Government’s Section 301 tariffs and China’s domestic intellectual property protections continues. The WTO has not yet reached a decision in either case. Nor have decisions been reached in any of the pending WTO cases against the U.S. Government’s Section 232 steel and aluminum tariffs.