July 6, 2020

The Honorable Steven Mnuchin
U.S. Secretary of Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220, USA

The Honorable Robert Lighthizer
United States Trade Representative
600 17th Street NW
Washington, DC 20508, USA

His Excellency Liu He
Vice Premier
The State Council
People's Republic of China

Dear Secretary Mnuchin, Ambassador Lighthizer, and Vice Premier Liu:

The U.S.-China Phase One Trade Agreement was a significant achievement in ongoing efforts to advance a more balanced and mutually beneficial U.S.-China economic and commercial relationship. We, the undersigned organizations, strongly support the Agreement and look forward to the benefits to two-way trade, investment, and growth in both countries that will result from its full and timely implementation. We also believe that successful implementation of Phase One will be critical to subsequent negotiation of a Phase Two Agreement.

We are encouraged by the progress achieved to date on important aspects of implementation. We also appreciate ongoing efforts by both governments to monitor and promote fulfillment of the terms of the Agreement, including in the following areas:

- China's release of its promised Intellectual Property Action Plan ("2020-2021 Plan for Promoting the Full Implementation of the 'Opinions on Strengthening the Protection of Intellectual Property'"), which includes commitments to prohibit forced technology transfer; improve the legal environment for protecting trade secrets; combat piracy and counterfeiting; enhance trademark and copyright enforcement; provide effective and time-bound resolution of patent disputes; create a patent linkage system; and strengthen judicial procedures and administrative enforcement;

- China's removal of market access barriers for some U.S. fruits and grains and for nearly all U.S. beef products; the expansion of its list of U.S. facilities eligible to export beef, pork, poultry, seafood, dairy, and infant formula to China; and the adoption of new domestic standards for dairy powder that will allow imports from the United States;

- China's commitment to remove equity caps and joint venture requirements on foreign financial service providers, including asset management, securities and futures, banking, credit rating agencies, and insurance firms, some of which have been removed in the new national Negative List; and

- The lowering of tariffs and the granting of tariff exclusions by both governments.

Given the progress to date and the significant commitments in the Agreement that would benefit the U.S. and Chinese economies as the global economy recovers from COVID-19 disruptions, U.S. industry fully supports the continuation and full implementation of the Phase One Agreement.

To realize the full potential of the Agreement and advance constructive bilateral engagement, we encourage both sides to redouble efforts to implement all aspects of the Agreement, including purchases of U.S. manufactured goods, energy products, services, and agricultural goods, where implementation appears to be lagging.

Acknowledging the obvious disruptions stemming from the COVID-19 pandemic, significantly increased Chinese purchases in these areas over the coming weeks and months would be mutually beneficial, demonstrate the significant benefits of the Phase One Agreement, and help to support the important goals of the China International Import Expo (CIIE). We strongly support and encourage increased efforts by the Trump Administration to work with the U.S. business community and stakeholders in China to increase export promotion efforts at this critical time.

Meeting the global public health challenges from COVID-19 and restoring growth to the global economy will depend in part on both countries working together to fully implement the mutually beneficial outcomes of the Phase One Agreement. Thorough and timely implementation of Phase One commitments is also the most direct and achievable path to removal of tariffs—and to avoid application of new ones—on both sides, which the U.S. business community strongly supports. In the spirit of mutual benefit and to accelerate global economic recovery, our organizations offer the recommendations in the enclosed Annex to the two governments to accelerate the realization of concrete outcomes from the Phase One Agreement.

We also hope that successful implementation of the Phase One Agreement will create the necessary conditions for the start of Phase Two negotiations as soon as possible that can address important outstanding issues, including subsidies, cybersecurity, digital trade and data governance, competition policy, regulatory data protection, and standards setting, among others. Continued negotiations that lead to agreements that are meaningfully implemented will bring mutual benefits to both countries, and support a more balanced and durable bilateral commercial relationship.

Amid increasing bilateral tensions across the relationship, working together to improve trade and grow commerce can provide important benefits to both economies and help to improve relations. We appreciate the efforts both governments have put into implementation to date, and believe that comprehensive and timely action on the recommendations would give a substantial boost to efforts on both sides to achieve Phase One outcomes, pave the way to Phase Two negotiations, and contribute to healthier and more stable U.S.-China relations.

Sincerely,

Advanced Medical Technology Association (AdvaMed)
Aerospace Industries Association
American Apparel & Footwear Association (AAFA)
American Automotive Policy Council (AAPC)
American Chamber of Commerce in South China
American Chamber of Commerce in Southwest China
American Chamber of Commerce in the People's Republic of China
American Chemistry Council (ACC)
American Council of Life Insurers (ACLI)
American Petroleum Institute (API)
American Property Casualty Insurance Association
American Trucking Associations
Association of Equipment Manufacturers (AEM)
Biotechnology Innovation Organization (BIO)
BSA | The Software Alliance
Business Roundtable
Center for Liquified Natural Gas (CLNG)
Coalition of Services Industries (CSI)
Computing Technology Industry Association (CompTIA)
Consumer Technology Association (CTA)
Information Technology Industry Council (ITI)
Interstate Natural Gas Association of America (INGAA)
LNG Allies, The US LNG Association
Medical Imaging and Technology Alliance
Motion Picture Association of America
Motor & Equipment Manufacturers Association
National Foreign Trade Council
National Milk Producers Federation
National Retail Federation
National Turkey Federation
Pharmaceutical Research and Manufacturers of America (PhRMA)
Semiconductor Industry Association
TechNet
Telecommunications Industry Association (TIA)
The Society of Chemical Manufacturers and Affiliates (SOCMA)
U.S. Chamber of Commerce
U.S. Dairy Export Council
United States Council for International Business
United States Information Technology Office
USA Poultry & Egg Export Council
US-China Business Council

ANNEX

RECOMMENDATIONS TO REALIZE FULL IMPLEMENTATION
of
THE U.S.-CHINA PHASE ONE TRADE AGREEMENT

Manufacturing Trade:

- We encourage both governments and business communities to accelerate their engagement to enable increased purchases. Tariff exceptions implemented by China following the Phase One Agreement have provided real and meaningful relief by eliminating added costs for U.S. exporters and Chinese customers. To date, however, actual manufacturing purchases have not increased in line with the Agreement's commitments.
- We believe Chinese government agencies, state-owned enterprises, and state-supported businesses—historically especially responsive to Chinese government policies regarding purchases and procurement—should play a leading role by increasing their purchases of U.S. exports. We are concerned that certain Chinese policies in the areas of procurement and technology standards will impede the realization of China's import commitments in the Agreement that hold immense promise to bolster the commercial relationship.
- China should consider the impact of anti-dumping actions that not only negatively impact U.S. exports, but also negatively affect the Chinese supply chain that relies on inputs for domestic production. Removing these duties would not only support increased imports, but also send a strong signal regarding China's commitment to increase purchases.
- We hope that with the acceleration of economic recovery in China in the second half of 2020, there will be a substantial increase in Chinese purchases of manufactured goods, especially by government-linked or government-regulated entities, in the following areas:

    - Aircraft: At a time when the commercial aviation industry is reeling from the impact of the COVID-19 pandemic, full implementation of the Phase One commitments on aircraft are critical. Chinese carriers need new aircraft to meet China's growing aviation market and American manufacturers are uniquely positioned to help meet that demand. China's commitment to new aircraft purchases from the U.S. would help stimulate growth in China and support tens of thousands of U.S. jobs and we encourage China to move forward immediately on this component of the Agreement. While the greatest contribution to increasing U.S. exports will be the purchase of U.S.-made aircraft, it is also important that the Phase One data reflect purchases by China of other critical high-value U.S.-made aircraft parts such as engines, avionics, or landing gear that may not be reflected in bilateral customs data.

    - Vehicles and Parts: China's large motor vehicle industry and market, which includes a prominent presence by America's automakers and suppliers, also constitutes an important export destination for U.S.-built vehicles. There remains ample room for growth in China through reform to open up vehicle import policies, which could contribute to China achieving its purchase commitments in this sector. In addition, counterfeit goods are still problematic for the vehicle parts aftermarket, but we are encouraged that the intellectual property (IP) provisions of the Phase One Agreement have the potential to address this concern.

- Chemicals and Plastics: China's chemical market is the largest in the world and is poised to grow significantly in the coming decades as China's middle class grows. While U.S. exports of chemicals and plastics have decreased as a result of the trade dispute, China remains the third biggest export market for these products after Canada and Mexico. The Phase One Agreement includes commitments by China to purchase a range of chemicals, but not the products where U.S. chemical manufacturers are increasingly competitive, for example plastic resins. More purchases by China of chemicals and plastics would increase the global competitiveness of U.S. chemical manufacturers and sustain jobs in the United States.

- Medical Devices: As China's healthcare system recovers from the impact of COVID-19, patients want high-quality medical devices. U.S. firms should be allowed to compete fairly for this market, including by the removal of Buy-Local policies for medical equipment by Chinese regional governments. In addition, China could improve its ability to achieve its purchase commitments by adopting a market-oriented approach and refraining from drastically cutting prices under its "volume-based" procurement system—whether at the provincial or national level. While we understand every government's need to economize spending, especially during the recent economic slowdown, it is important to find the right balance between price and quality in order to recognize the value and innovation that U.S. medical device industry brings to Chinese patients.

- Pharmaceuticals: China could remove important barriers that will allow it to fulfill its pharmaceutical purchase commitments and other Phase One commitments by: 1) accelerating its marketing review and approval of innovative medicines; 2) protecting pharmaceutical patents and regulatory data; and 3) increasing patient access to innovative medicines through pro-innovation government reimbursement and supplemental commercial health insurance policies. Specifically, China should:

    1) Accelerate approval of innovative medicines by implementing global standards and removing serious barriers, such as the regulations governing the use of human genetic resources;

2) Implement the Phase One IP commitments on patent linkage, data supplementation, patent term restoration and patent term adjustment, as well as establish an effective regulatory data protection system in a manner that applies to all new medicines regardless of country of origin or date of launch and that ensures reasonable and fair timeframes and processes will be followed; and

3) Allow government reimbursement applications for all approved medicines, adopt evidence-based methodologies for assessing the value of medicines and establish an enhanced role for supplemental commercial health insurance in the comprehensive healthcare security reform.

Intellectual Property Protection and Enforcement:

- All industries stand to benefit greatly from the continued implementation of the Phase One IP provisions and the enforcement of the new rules. We encourage the Chinese government to carry out IP enforcement of the new measures, particularly with regard to eliminating restrictive procedural requirements, increasing judicial and administrative transparency, strengthening audiovisual IP protection, and following through on obligations (mentioned above) to create a patent linkage system and drug registration guidelines that provide full protection and fair treatment for foreign rights holders.
- Both the United States and China should work to resolve existing trade secrets cases both within the judicial system and arbitration procedures to demonstrate effective IP enforcement, and to support legitimate technology licensees in China.

Energy:

- We urge China to fulfill its Phase One energy purchase commitments by increasing purchases of U.S. crude oil, refined petroleum products, and liquefied natural gas (LNG).
- We recommend that both governments recognize the need for long-term contracts and a flexible approach toward meeting China’s purchase targets, and we urge the Chinese government to provide long-term tariff exemptions on U.S. energy products.
- American companies are ready to supply coal exports to China at a competitive price. We encourage China to end the informal “stability guidance” regulating imports of metallurgical coal and continued purchases.
- We encourage the Chinese government to continue to improve the investment environment by adopting market-based measures that will attract further investment from the United States and help China develop new domestic energy sources and reduce its energy dependence.

Services:

- Financial Services: We welcome China's commitments to open its financial services markets, now further embodied in the new Negative List, and recognize various announcements from Chinese financial regulators that reference equity cap removals for foreign investors. However, the relevant financial services regulators have yet to provide clarification and legal certainty in the form of official notices and the revision of existing regulations that are needed to fully implement the commitment to remove equity caps and other areas of disparate treatment between foreign-invested and domestically-invested companies in China. This includes 1) revising the *Implementation Rules for the Administrative Measures of Foreign-Invested Insurance Companies* to formalize the removal of the foreign equity cap in life insurance companies as of April 1, 2020; 2) public notice that, pursuant to existing Chinese laws and regulations, foreign investors are permitted to become majority shareholders of joint venture credit rating agencies; 3) issuing implementing regulations that provide a clear roadmap for foreign companies seeking to establish new wholly foreign-owned enterprises or to convert their existing joint ventures into wholly foreign-owned enterprises; and 4) clarification of the timeline and procedures for the removal of "any business scope limitations, discriminatory regulatory processes and requirements," as committed in the Phase One Agreement.

- Audiovisual Content: The Phase One purchasing commitments include charges for the use of IP, which encompass royalties for audiovisual and related products. Given the impact of COVID-19 on demand in China, both countries will need to bring renewed focus on areas that have seen increased demand. Accordingly, we encourage the Chinese authorities to significantly increase the level of purchases of audiovisual content for tv and video distribution, particularly for online video, and increase the revenue share percentage for theatrical screening. China's audiovisual industry, especially online streaming services, has seen rapid growth. The industry's development is attributed to both increasing quality domestic productions as well as creative entertainment content imported from other countries. To meet consumer demand, and as the world deals with the pandemic, China could facilitate increased trade by supporting increased licensing of audiovisual content and services to the Chinese market, as part of China's commitments for purchase of goods and services under the Phase One Agreement.

- Cloud and Related Services: The Phase One Agreement contains purchasing commitments that cover "cloud and related services" under the IMF's BMP6 Category, a critical area of economic activity for U.S. services exporters that have faced a challenging investment and export environment for these services for many years. Covered services include: (1) data hosting, processing, and related services; (2) telecommunication services; (3) computer services; and (4) information services. At a time when both the U.S, and Chinese economies are relying increasingly on cloud-enabled business environments (including via remote work, health and learning) to respond to the COVID-19 crisis, China and the United States have a shared interest in the fulfillment of commitments relating to computer software, as well as cloud and related services. We urge China to provide full and non-discriminatory market access to U.S. cloud providers, including the ability to hold all necessary licenses in China related to hardware, software, facilities, and infrastructure. The Phase One Agreement also contains commitments to increase China's purchases of computer software. Accordingly, we encourage Chinese authorities to take further steps to approve and encourage purchasing of U.S. software, including via royalties for computer software.

Agriculture:

- China's fulfillment of structural obligations in the Phase One Agreement's agriculture chapter have been among the most substantial "early harvest" achievements to date since the Agreement's implementation.
- While we are pleased to see structural changes and some progress on purchases of U.S. agricultural products, we urge the Chinese to further increase bulk and large-scale purchases of all U.S. agriculture products covered by the agreement in the second half of the year—when certain U.S. products reach peak harvest season—in order to meet the Agreement's purchase commitments.
- We also encourage the Chinese authorities to advance reforms to the agricultural biotechnology process to improve transparency, reduce approval timelines to 24 months on average, and limit scope of data requirements to only information needed to assess the safety of a product for its intended use.
- We encourage China to make further progress on the ractopamine risk assessment study in a timely manner.
- We encourage China to engage in technical dialogues with the U.S. government on the mutual acceptance of data for new pesticides. This would help Chinese farmers get the latest crop protection technology to increase their productivity.