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THE U.S.-CHINA PHASE ONE AGREEMENT: DOES IT STILL HAVE MEANING?

中美第一阶段贸易协议 — 此协议现在是否还有意义?

As many might still remember, at the beginning of 2020, our DW-China team reported a historic event – the signing of an economic and trade agreement between the United States and China, publicly known as the “Phase One Agreement.” This [Phase One Agreement](#), championed by the Trump Administration before the world was turned upside down by the COVID-19 pandemic, became effective on February 14, 2020. The architects of the Agreement in the U.S. promised that it would lead to structural reforms in China’s economic and trade regime, especially in the areas of (1) intellectual property protection, (2) forced technology transfers, (3) the opening of financial services within China, and (4) currency and foreign exchange. The Phase One Agreement also includes a commitment by China to make substantial purchases of U.S. goods and services in the next two years. As representatives from China and the U.S. gathered in the East Room of the White House in January 2020 to sign the historic Agreement, President Trump promised that the U.S. and China are “righting the wrongs of the past and delivering a future of economic justice and security for American workers, farmers and families.” He added that the deal has “total and full enforceability.”

许多读者可能还记得，2020年初，我们的迪克森中国团队报道了一件历史性的事件：美国和中国签署了一项经济和贸易协议，即众所周知的《[美中第一阶段贸易协议](#)》。该协议，于2020年2月14日生效，是特朗普政府在世界局势由于疫情发生巨大变化之前所积极倡导的。来自美国的协议制定者承诺该协议将促使中国经济和贸易体制的结构性改革，特别是在以下领域：(1)知识产权保护，(2)强制技术转让，(3)开放中国国内金融服务，(4)货币和外汇。第一阶段协议还包括中国承诺在协议生效的两年内大量购买美国商品和服务。在2020年一月，来自中国和美国的贸易代表聚集在白宫东厅签署这一历史性协议的时候，特朗普总统承诺，美国和中国将“纠正过去的错误并且为美国工人、农民和家庭在经济公正和安全领域创造一个光明的未来。” 特朗普总统同时补充道，该协议具有“完全的可执行性”。

As the Phase One Agreement runs into its second full year, DW-China Team reviews the current status of this once celebrated trade deal and asks: “Does it have relevance in today’s U.S.-China relationship?”

随着《第一阶段贸易协议》的签署进入第二年，迪克森中国团队将回顾这一曾经辉煌的贸易协议的现状，并探究“该协议对今天的中美关系是否还有意义。”

Before the limelight faded in the East Room, many were convinced that Trump’s trade war with China was waning; others suggested that Trump was simply keen on a deal with Beijing that could be sold to his political base in middle America. Trump’s reelection seemed likely, and a robust trading relationship with China promised greater

economic prosperity for both countries, especially the farmers in the Mid-West. Tensions in the South China Sea and Hong Kong had simmered but were tempered by the pro-trade ambitions in the Administration. As the Agreement’s effective date of February 14, 2020 approached, skeptics questioned Beijing’s sincerity, while President Xi’s trade delegation made commitments to significantly increase imports of agriculture products, industrial products, natural resources, and services from the United States.

在白宫东厅的聚光灯消失之前，许多人相信特朗普与中国的贸易战正在熄火；其他人则认为，特朗普只是渴望与北京达成一项可以展现给他在美国中部政治大本营的协议。特朗普的连任似乎是可能的，且与中国的强劲贸易关系为两国，尤其是为美国中西部的农民带来了更大的经济繁荣。虽然南中国海和香港的紧张局势一直在发酵，但这些紧张局势由于政府支持贸易的决心而有所缓和。随着2020年2月14日，协议生效日期的临近，尽管习近平主席的贸易代表团承诺将从美国大幅增加进口农业产品，工业产品，自然资源和服务，怀疑论者依然质疑北京方面的诚意。

The Phase One Agreement called for China to increase purchases of U.S. products by \$200 billion by December 31, 2021; a goal many believed was impossible, especially since it depended largely on agricultural and aerospace exports. Besides additional purchases of certain U.S. products, China also promised to take on new obligations in the areas of intellectual property protection, forced technology transfer, and regulatory trade barriers for various U.S. goods and services. Trump, for his own account, refused to relent on the vast majority of tariffs he had placed on Chinese goods in the 2-year period leading up to the Agreement, touting this was his leverage against Beijing and its commitments.

《第一阶段贸易协议》要求中国在2021年12月31日之前增加购买价值2000亿美元的美国产品。许多人认为这是不可能实现的目标，尤其是考虑到中国主要依赖农业和航空航天出口。除了额外购买特定美国产品外，中国还承诺在知识产权保护、强制技术转让以及规范对美国各种商品和服务设置贸易壁垒等领域承担新的义务。就特朗普本人而言，他拒绝在协议签署之后的两年放宽对中国商品征收的绝大多数关税，声称这是他对抗北京以及敦促北京方面信守承诺的手段。

As the Agreement went into effect, news started to emerge from China that a novel coronavirus had taken hold in Wuhan, China (a city unknown to most Americans at the time). While the world underestimated its devastating threat, those more hawkish towards China in the Administration began questioning the virus’s origins. As the virus’s severity began to reveal itself in the U.S. and Trump’s leadership was scrutinized, the Administration took a tougher and more caustic approach towards Beijing and blamed it for mishandling the crisis. By summer, the promises of what once was described by Trump as the greatest trade agreement in history seemed like nothing more than ancient history. And, why continue to focus on China’s purchasing commitments; how could China deliver on its promises with businesses shut down, ports closed, and the world all but shuttered for months. For the Trump Administration, as the President’s reelection was now in jeopardy, any association with

China in the short term was a liability.

随着协议生效，中国传出新型冠状病毒在中国武汉(当时大多数美国人还不知道的城市)肆虐的消息。当世界低估了它的毁灭性威胁的同时，政府中那些对中国更强硬的人开始质疑病毒的起源。随着疫情的严重性开始在美国显现，特朗普的执政地位也受到了审视，美国政府对北京采取了更为强硬、更严苛的态度，并指责北京处理危机不当。直至2020年夏天，曾被特朗普形容为史上最伟大的贸易协定似乎只是一段古老的历史。为什么要继续关注中国购买商品的承诺？中国如何能在企业停工、港口关闭、世界几乎停摆数月的情况下兑现承诺？对特朗普政府来说，由于连任面临危险，短期内与中国的任何联系都是一种负担。

Behind the scenes and outside the rhetoric in Washington, business between the two largest economies did continue and was being watched by the trade community. In support of the Phase One Agreement, the Office of the U.S. Trade Representative formed the Bilateral Evaluation and Dispute Resolution Office, which was tasked with monitoring China's implementation of its commitments and was to liaise with their counterparts in Beijing if concerns related to compliance with the Agreement arose. The U.S. Census Bureau and the General Administration of Customs of the Peoples Republic of China also were charged with tracking data of U.S. exports and Chinese imports.

在华盛顿方面发出的这些言论的背后，美中这两个最大经济体之间的贸易联系确实在继续，并受到贸易界的关注。为了支持第一阶段协议的履行，美国贸易代表办公室成立了两国评估和争端解决办公室，该办公室负责监督中国履行其在协定下的承诺，并就在协议履行过程中出现的相关问题与北京方面进行联系。美国统计局和中华人民共和国海关总署也负责追踪美国出口和中国进口的数据。

According to data released by the two agencies in June 2021, the Peterson Institute for International Economics published a report showing that through May 2021, China's total imports of products covered in the Phase One Agreement from the United States reached 69% of the year-to-date target. Among all products covered in the Phase One Agreement, China's purchase of agriculture products reached 84%. Agricultural purchases remained closest to reaching the year-to-date target than any other product category. Although Agriculture Secretary Tom Vilsack stated that he was satisfied with China's purchases, especially taking into account the impact of COVID-19, the new U.S. Trade Representative, Katherine Tai, only stated that the Administration will conduct a comprehensive review of China's compliance with the Phase One Agreement in the near future.

根据上述美中两个政府部门2021年6月发布的数据，美国彼得森国际经济研究院发布了一份报告，其中显示，截至2021年5月，中国从美国进口的第一阶段协议涵盖的产品总量达到了协议规定的2021年目标的69%。在进口的第一阶段协议涵盖的产品中，中国对农产品的购买量达到协议规定的2021年目标的84%。与其他产品类别相比，农产品采购仍最为接近协议所规定的2021年目标。美国农业部长维尔萨克表示，他对中国的购买力表示满意，

特别是考虑到疫情的影响；然而新的美国贸易代表戴琪则表示，美国政府将在不久的将来对中国执行第一阶段协议的合规性进行全面审查。

In addition to purchases of U.S. exports, China took measures required by the Phase One Agreement in other areas of concern, as well. Specifically, on intellectual property protection, China released draft measures around pharmaceutical patents and guiding opinions on protecting trade secrets. The new Foreign Investment Law of the People's Republic of China establishes specific requirements for the protection of trade secrets from the perspective of the Chinese Administration, and aims to dispel any concerns held by foreign investors. China also made a series of announcements about copyright protection and released a 5-year intellectual property judicial protection plan in April 2021. In addition to IP protection, the new Foreign Investment Law also implements significant changes in laws and regulations with the Chinese government's intention to promote foreign investment by better protecting the rights and interests of foreign investors and standardizing business practices. Major changes also took place including, whether certain foreign investments should be included in the so-called "Negative List" (a list of industries where foreign investment was limited or restricted), unification of corporate governance rules, and the abandonment of the old WFOE restrictions. Concerning opening the financial services market, China lifted the limitations on the ratio of foreign shareholding in securities and fund management firms, allowing foreign-controlled securities firms to set up joint ventures in mainland China.

除了购买美国出口的产品，中国还根据第一阶段协议的要求在其他相关领域采取了一系列的措施。在知识产权保护方面，中国发布了药品专利保护办法草案和商业秘密保护指导意见。新的《中华人民共和国外商投资法》从中国政府的角度对商业秘密的保护作出了具体规定，旨在消除外国投资者的疑虑。中国还发布了一系列关于版权保护的公告，并于2021年4月发布了知识产权司法保护五年计划。在保护知识产权的同时，新《外商投资法》还对法律法规进行了重大修改，以更好地保护外国投资者的权益，规范商业行为，促进外商投资。这些重大修改包括，是否应将某些外商投资列入所谓的“负面清单”(限制外商投资的行业清单)，统一公司治理规则，以及放弃对外商投资企业的限制等方面。在开放金融服务市场方面，中国取消了外资入股证券和基金管理公司的比例限制，允许外资控股的证券公司在中国内地设立合资企业。

Despite making strides to fulfill the objectives of the Phase One Agreement, the U.S. election in 2020 made it all but impossible for the seeds of economic comity planted in January to grow. While the Trump Administration's China Hawks gained momentum as the election neared and the pandemic did not disappear, Biden signaled that he too would be tough on China, and not just on trade. The Biden Administration had different objectives in 2021, and they did not immediately include stabilizing relations with Beijing. In fact, President Biden has made it clear that he does not intend to tackle trade issues with China any time soon.

尽管中国在履行第一阶段贸易协议承诺方面取得了长足进展，但2020年的美国大选让年初播下的经济友好的种子几乎不可能生长。随着大选的临近，特朗普政府中支持对中国采取强硬态度的势力增强，新冠疫情也并没有消失；同时拜登也表示，他也将对中国采取强硬立场，并且不仅仅是在贸易问题上。拜登政府在2021年有不同的目标，他们没有立即采取措施，稳定与北京的关系。事实上，拜登总统已经明确表示，他并不打算在近期解决与中国的贸易问题。

Nonetheless, China's top officials have quietly maintained conversations with high-level trade officials in the Biden administration. On May 27, 2021, trade officials from both countries, U.S. Trade Representative Katherine Tai and Chinese Vice-Premier Liu He held a virtual meeting where they discussed the trade relationship between the two countries. On June 2, Vice-Premier Liu He held an exchange on issues of concern with the U.S. Treasury Secretary Janet Yellen. Although these conversations were described as "candid" and "productive," both USTR Tai and Treasury Secretary Yellen called for a comprehensive assessment of the implementation of the Phase One Agreement in order to review the U.S.-China trade relationship. To date, while there has been speculation about a Biden/Xi summit, no details have emerged. Should one be scheduled, it is believed the focus will be on regional security concerns in Taiwan, Hong Kong and the South China Sea, not the ongoing impacts of the Trump tariffs or the Phase One Agreement.

尽管如此，中国高层官员仍与拜登政府的高级贸易官员保持对话。2021年5月27日，中美两国贸易官员，美国贸易代表戴琪和中国国务院副总理刘鹤举行了线上会议，讨论了两国之间的贸易关系。同年6月2日，国务院副总理刘鹤与美国财政部长耶伦举行了座谈会，就两国之间有关问题交换了意见。尽管这些对话被报道为“坦诚的”和“富有成效的”，但美国贸易代表戴琪和财政部长耶伦都呼吁对第一阶段协议的执行情况进行全面审核，以评估美中贸易关系。虽然媒体一直在猜测拜登/习近平峰会的举行，但双方就此至今尚未公布任何细节。倘若双边峰会的举行在两国计划之中，相信该峰会的重点将是台湾、香港和中国南海地区的安全，而不是有着持续影响的关税或第一阶段协议。

Regardless, China's fulfilling its original commitments as set forth in the Agreement still influences the U.S.-China trade relationship. On the one hand, it would affect the negotiations regarding a potential Phase Two deal between the two countries, building on recent reforms and signaling tariff relief, which has had dire consequences on many Americans. On the other hand, the additional 301 tariffs remain in place on Chinese imports worth over \$370 billion U.S. dollars, while litigation rages on in the Court of International Trade over their legality. President Biden previously indicated that he will not immediately abandon the "Phase One" bilateral Agreement or remove the tariffs on Chinese imports as his Administration will conduct a full review of the trade deal. USTR Tai also said that any withdrawal of tariffs on imports from China "would hinge on the conversations with Chinese officials and the effectiveness of the phase one deal." But any political observer would note that it is unlikely the current Administration will conclude that the Trump Administration's

Phase One Agreement was on track for success. For Biden and Tai, the Administration seems less focused on the 301 tariffs (forced IP transfer, technology theft, trade deficit, etc.) and more intent on forcing issues of national security and human rights. Presumably, the Administration will conclude that China has not done enough to fulfill its commitments in the Phase One Agreement, and it must now also show that Beijing will make strides to ameliorate threats in Taiwan, Hong Kong, the South China Sea and the Xinjiang Uygur Autonomous Region. Until these issues are dealt with, trade talks will be slow and incremental.

然而，中国履行其在贸易协议中的最初承诺仍然影响着中美贸易关系。一方面，它将影响两国之间关于可能的第二阶段贸易协议的谈判。该可能达成的第二阶段协议将建立在体制改革和减免关税的目标之上。另一方面，美国至今仍对价值超过3700亿美元的中国产品加征301关税；与此同时，美国国际贸易法庭对该关税的合法性的诉讼仍在激烈进行。拜登总统此前表示，他不会立即放弃第一阶段协议或取消对中国进口商品的关税，因为他的政府将对该贸易协议进行全面审查。美国贸易代表戴琪还表示，任何对中国进口商品的关税的取消“都将取决于与中国官员的对话以及第一阶段协议执行的有效性。”但所有政治观察家都会注意到，目前的政府将不太可能得出上届政府签署的第一阶段协议正在走向成功的结论。对拜登总统和戴琪贸易代表来说，政府似乎不太关注301关税所针对的包括知识产权转让、技术盗窃、贸易赤字等问题，反而更倾向于解决国家安全和人权问题。据推测，美国政府将得出中国在履行第一阶段协议中的承诺方面做得还不够这一结论，并且其还需表明北京将在改善台湾、香港、南中国海和新疆维吾尔自治区面临的威胁方面取得进展。在这些问题得到解决之前，贸易谈判将是缓慢和渐进的。

Postscript: As this Alert went to Press, the [New York Times](#) reported that Secretary Yellen had cast doubt on the merits of the Phase One Agreement and suggested that it had not really effectuated a change in the real concerns involving China. This past week, during a speech in Brussels, Secretary Yellen told finance ministers that they should work together to counter "China's unfair economic practices, malign behavior and human rights abuses," a nod more to Biden's agenda than that of Trump's objectives as promised in the Phase One Agreement. But, unlike Trump, Biden's approach seems to be more bilateral, working with the WTO, U.S. allies and promoting the ASEAN regions in ways that Trump refused to do. Will this be the weakness in Xi's armor, which leads to a more meaningful yet cautious relationship, or will both countries allow the death spiral of conflict to become unhinged. While the future remains uncertain, regional tensions continue to simmer, and nationalistic tendencies run within the veins of both Beijing and Washington. Those depending on healthy economic trade in both countries remain the immediate victims of such rhetoric. Ironically, tariff watchers will take interest in Secretary Yellen's comment that, in fact, the Trump tariffs have done more harm than good for Americans; could this be a window of light in how best to deal with China in the future?

后记:当这一简报即将发布之时,《纽约时报》报道称,耶伦部长对第一阶段协议的价值提出了质疑,并表示该协议并没有真正改变涉及中国的关键问题。上周,在布鲁塞尔的一次演讲中,

耶伦对各国财长说，他们应该共同努力，打击“中国不公平的经济行为、恶意行为和侵犯人权的行爲”，这更多地是对拜登政府议程的认同，而不是对特朗普在第一阶段协议中承诺的目标的认同。但与特朗普不同的是，拜登的方式似乎更加双边化：与世界贸易组织和美国的盟友进行合作，并以特朗普拒绝的方式推动东盟地区的发展。这将会是习主席坚硬盔甲下的软肋吗，从而促使两国走向一个更有意义的，但谨慎的双边关系，或者两国关系会因这些冲突的加剧而变得更为复杂？在美中关系的未来仍不确定的同时，地区紧张局势继续升温，以及美中都存在民族主义的倾向。那些依赖两国健康经济贸易的个人或实体仍是此类言论的直接受害者。讽刺的是，关税观察人士却对耶伦做出的事实上特朗普施加的关税对美国人造成的伤害大于所收获的好处这一评论感兴趣。这能成为未来与中国打交道的最佳途径吗？

As always, we will continue to follow news related to the U.S.-China trade relationship and report back with the latest details.

我们将一如既往地关注有关美中贸易关系的新闻，并向大家汇报最新的细节。

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