

Looking Beyond the 90-day US-China Negotiation Period

A Mid-point Progress Tracker

["US-China Trade Tension Update: What progress can be made in 90 days?"](#) – January 24, 2019

Highlights and Key Takeaways

- ◆ Since agreeing to a temporary truce in tariff increases, the US and China have engaged in bilateral negotiations in both Beijing and Washington, DC.
- ◆ Both sides have arrived at a critical crossroads where the “tough” subjects (i.e., structural issues) must be addressed.
- ◆ US leaders have expressed divergent opinions on the prospects of a deal.
- ◆ Negotiations are set to continue through February, with some speculating that the tariff hike deadline may be pushed beyond March 1 to allow talks to continue into the spring.

Executive Summary

As part of AmCham China’s continued series of events to help members better understand how to navigate the ongoing bilateral trade tensions, our Intellectual Property Rights forum recently hosted a panel of expert practitioners to discuss the progress made thus far, nearly sixty days into the ninety-day negotiation period. In the weeks following, AmCham China has continued to monitor progress closely. This Insights reflects the progress made by both the US and Chinese governments and presents actions suggested by the event attendees.

Progress Tracker

Recent actions by both Chinese and US governments have driven progress in the bilateral negotiations. The below tracker identifies important milestones in the trade talks thus far, including steps taken by both governments and by AmCham China.

- ❖ **Dec. 1, 2018, Buenos Aires:** *President Trump and President Xi meet at the G20 Summit and discuss how to de-escalate trade tensions. Both sides agreed to a temporary halt on new and increased tariffs for 90 days (until Mar. 1, 2019), and an increase in Chinese purchasing of US goods during that period, to allow negotiations to continue.*
- ❖ **Jan. 7-9, 2019, Beijing:** *Official delegations of mid-level trade representatives from US and China met to discuss trade issues (e.g. trade imbalances) and structural issues (e.g. IP, forced technology*

transfers, and other barriers). US Deputy Trade Representative **Jeffery Gerrish**, whom AmCham China met with during the [DC outreach](#) in April 2018, led the US delegation, and PRC Vice-Premier and top economic aide Liu He unexpectedly attended the talks.

- ❖ **Jan. 30-31, 2019, Washington, DC:** Official delegations of cabinet-level trade representatives from US and China met to further negotiate trade deal.
 - **Vice-Premier Liu He** led the Chinese delegation, accompanied by many Chinese participants with whom AmCham China has met in 2018. This includes: Vice Minister of Commerce and Deputy China International Trade Representative **Wang Shouwen**, Vice Chairman of the National Development and Reform Commission **Ning Jizhe**, Deputy Director of the Office of the Central Commission for Financial and Economic Affairs and Vice Finance Minister **Liao Min**.
 - US Trade Representative Robert Lighthizer led the US side, with US participants also including Secretary of Commerce Wilbur Ross and Assistants to the President Larry Kudlow and Peter Navarro. Vice-Premier Liu also met with President Trump during his visit.
- ❖ **Feb. 11-15, 2019, Beijing:** Third-round negotiations of a trade deal began with deputy-level officials kicking off the discussion at the beginning of this week, with principal-level officials from both sides convening later in the week.

Chinese Government	US Government
<ul style="list-style-type: none"> ❖ Dec. 2, 2018: MOFA (Ministry of Foreign Affairs) released statement (Chinese and English) about 90-day truce. ❖ Dec. 5, 2018: Spokesperson from Ministry of Commerce (MOFCOM) announced (Chinese) that bilateral trade talks will move forward in the next 90 days. ❖ Dec. 14, 2018: Ministry of Finance (MOF) announced that its additional tariffs on US autos would be removed for 3 months, starting on Jan. 1, 2019. ❖ Dec. 23, 2019: MOFCOM released updates (Chinese and English) on the phone conversations held with US counterparts regarding 90-day negotiations after G20. ❖ Jan. 11, 2019: MOFCOM released official statement (Chinese and English) regarding the 90-day negotiations in Beijing. ❖ Jan. 28, 2019: Economic delegation led by Vice Premier Liu He arrived in Washington, DC (Chinese and English) for second-round negotiations. 	<ul style="list-style-type: none"> ❖ Dec. 1, 2018: White House released an official statement about the 90-day truce. ❖ Jan. 11, 2019: USTR alerted US senators that exclusions will be available should tariffs be raised after March negotiation deadline. ❖ Jan. 14, 2019: President Trump expressed optimism towards reaching a bilateral deal with China on trade. ❖ Jan. 22, 2019: Secretary of State Mike Pompeo commented on the trade negotiations in remarks to attendees at the World Economic Forum. ❖ Jan. 24, 2019: Commerce Secretary Wilbur Ross shared a pessimistic outlook on trade negotiation. ❖ Jan. 28, 2019: World Trade Organization (WTO) announces inquiry into fairness of US tariffs. ❖ Jan. 31, 2019: President Trump tweeted that a final deal must be negotiated at the executive level between himself and President Xi.

❖ Feb. 9, 2019: MOFCOM released official statement ([Chinese](#) and [English](#)) regarding this week's round of negotiations in Beijing.

❖ Feb. 4, 2019: USTR [released](#) its annual report to Congress regarding China's WTO compliance, rating it "poor."

❖ Feb. 8, 2019: White House [released](#) official statement about this week's negotiations.

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❖ To continue to keep members apprised of ongoing negotiations, AmCham China has released member updates and position statements at key junctures during the negotiation process. For more details, review the member updates: [Dec. 3, 2018](#), [Jan. 15, 2019](#), [Jan. 24, 2019](#), and [Feb. 11, 2019](#).

❖ In collaboration with the U.S. Chamber of Commerce, AmCham China delivered priority recommendations for US-China trade negotiations to US officials in mid-January, 2019. For more details, read the [report](#).

❖ AmCham China's 2019 Business Climate Survey, due for release in late February this year, aims to understand the complexity of business environment and operations in China.

❖ A series of exchange programs promoting interactions between American and Chinese communities will be held once per month by AmCham China. For more details, please see [here](#).

What can be done?

This week, top-level representatives from the US and Chinese governments convene in Beijing to further negotiate trade issues. Core issues in the negotiations will revolve around structural issues, such as intellectual property rights and government support of state-owned enterprises. These talks come at a pivotal moment, with the US set to increase tariffs on Chinese goods at the beginning of March should a deal not be reached.

The negotiations are likely to continue through the remainder of February, with the possibility of extending the tariff-truce beyond the March 1 deadline, if both sides deem that progress is being made towards a deal. During these negotiations, AmCham China encourages both sides to keep in mind core goals of supporting businesses and economic development. In addition to recommendations made in AmCham China's prior policy advocacy documents, event attendees and speakers also suggested several steps that both sides could pursue to improve the likelihood of successful negotiations.

Chinese Government

❖ Enact prohibitions in draft foreign investment law of forced IPR and technology transfers;

US Government

❖ Create list of priority structural issues to address during negotiations and pursue those items consistently;

- ❖ *Adapt the existing KPI (key performance indicator) system for government officials such that officials are explicitly encouraged to prevent counterfeiting and IPR violations;*
- ❖ *Industry-specific:*
 - *Entertainment industry: Improve regulations and practices around copyright protection to ensure infringers are more often and more strictly held accountable for violations;*
 - *Retail industry: Prevent bad faith trademark registration by making the absence of good faith a basis for strikedown and increasing time period in which complainants can file objections.*
- ❖ *Have a realistic mindset that some changes might take time to be fully implemented;*
- ❖ *Aim to reach an agreement and framework that supports fairness and transparency in the Chinese legal and regulatory systems;*
- ❖ *Determine what kind of third-party enforcement mechanisms could be put in place to monitor and evaluate progress against promises;*
- ❖ *Create more channels of communications with American businesses in China to hear their voice frequently.*

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- ❖ *Should tariffs increase again in the coming months, companies importing goods should be aware of any potential circumvention red flags since high duty rates can incentivize some exporters to misclassify their products;*
- ❖ *Make recommendations to policymakers about potential monitoring and enforcement mechanisms for both sides to effectively supervise progress made per negotiations;*
- ❖ *Continue to monitor the bilateral trade talks and keep policymakers in both countries apprised of how to best support American and foreign businesses' operations in China.*

Questions for thought

With trade negotiations ongoing, many questions affecting the business community remain unanswered. As the talks continue, members await to see how some of these concerns might be addressed.

Questions

- ❖ *Any deal that comes out of these negotiations will require providing both sides a win. What compromises might we see on the US side? What solutions could allow each side to maintain face?*

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- ❖ *A crucial component of any deal will be how to enforce the agreement. What kinds of enforcement mechanisms might we see, and how would those affect foreign business in China?*
 - ❖ *Other countries, particularly in the EU, will be watching these negotiations closely to determine their own strategies for engaging with China economically. How might we expect a deal between China and the US to affect other countries' trade relations with China?*

If you have questions about the event and or would like to join AmCham China's Intellectual Property Rights Forum, please contact [Evan Schmitt](#); questions about AmCham China's Policy Committee, please contact [Andrew Scott](#); questions about AmCham China's Chinese Government Affairs Committee, please contact [Sijie Wang](#).

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