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USTR Requests “Credible Real World Cases” Of China Forced Technology Transfer; Outreach Seen As A Prelude To Chinese Vice President Xi Jinping’s February Visit To Washington

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Press reports in early February indicated that the National Association of Manufacturers (“NAM”) solicited information from member companies regarding “credible real world cases” of forced technology transfer in China. NAM contacted members at the request of the United States Trade Representative (“USTR”).

The term “forced technology transfer” describes the pressure to relinquish technology (including trade secrets) that is exerted by the Chinese government and Chinese companies on U.S. companies that seek market access in China, or as a pre-condition to performing certain operations there. Examples of actions to compel technology transfer include action or inaction by the Government of China in government approval processes, or pressure exerted by Chinese business partners directly.

Trade organizations including NAM and other business entities routinely raise Chinese forced technology transfer issues in annual filings to the Special 301 Committee, which is a USTR entity that reports on intellectual property concerns annually. While it is possible that USTR sought information in connection with the annual Special 301 process, observers note that the informal January 27 deadline for submission of information suggested that USTR’s request could have instead been tied to preparations for the February 13-17 visit to Washington by Chinese Vice President Xi Jinping.

The sensitivity of this issue is shown by the fact that NAM’s communication to members stated that commenters need not identify themselves in providing any information to be shared with USTR. Indeed, the communication offered to “sanitize and protect company names.”

Press reports indicate that forced technology transfer was on the agenda at a February 14 meeting between Vice President Joe Biden and Chinese Vice President Xi Jinping. Later that day, the White House issued a *Joint Fact Sheet on Strengthening U.S.-China Relations*, which stated that “China reiterates that technology transfer and technological cooperation shall be decided by businesses independently and will not be used by the Chinese government as a pre-condition for market access.”

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