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## **CHINA UPDATE**

November 14, 2011

### **Notable Quotes of the Week**

*"The bottom line is the United States cannot be expected to stand by if there is not reciprocity in trade and economic relations. We will continue to bring it up. There is no reason why this should inevitably lead to sharp conflict. There's a win-win opportunity there. In the meantime, where we see rules broken, we'll continue to speak out and bring action. – President Obama in response to a question about US-China relations at the 2011 Asia-Pacific Economic Cooperation meeting*

*"It is becoming increasingly clear that in the 21<sup>st</sup> century, the world's strategic and economic center of gravity will be the Asia-Pacific, from the Indian subcontinent to the western shores of the Americas. One of the most important tasks of American statecraft over the next decade will be to lock in substantially increased investment – diplomatic, economic, strategic, and otherwise – in this region." Secretary Of State Hillary Clinton at the 2011 Asia-Pacific Economic Cooperation meeting*

*"Go ahead and steal US intellectual property – we will do what you have refused to do and pay American innovators their due from the duties on Chinese goods." – Rep. Steve King (R-IA) in his statement introducing legislation to impose duties on certain Chinese imports*

### **Asia-Pacific Economic Cooperation Ministers' and Economic Leaders Meeting**

While the trip will not include a visit to China, last Friday President Obama departed for a 9 day trip focused on Asia, first hosting the Asia-Pacific Economic Cooperation (APEC) Ministers' and Economic Leaders Meeting in Honolulu, Hawaii over the weekend.

The White House has announced that progress was made on the proposed Trans Pacific Partnership trade agreement, with the US and 8 other nations – Brunei, Chile, New Zealand, Singapore, Australia, Malaysia, Peru, and Vietnam – reaching agreement and planning to have legal framework language in place by next year.

Another significant success of the weekend was an agreement among APEC member nations, including the US and China, on a green trade initiative to reduce tariffs on environmental goods and services. The

agreement calls for the creation of a list of green goods that will be subject to a maximum of tariff of 5 percent by the end of 2015. US officials participating in the negotiation of this agreement have indicated that they would like to see solar panels, wind and hydraulic turbines, air pollution filters, and sewage pumps as products included in the list. China, while agreeing to the green trade initiative, had earlier said that the goal was overly ambitious and has cautioned that the decision by the US International Trade Commission (ITC) to launch an investigation into Chinese solar industry practices could strain energy cooperation between the two nations. (See below)

### **President Visits Australia and Indonesia**

Following APEC, the president will travel on to Australia where he will reaffirm the US-Australian military alliance, and is expected to announce an increased US military presence in that country as a counter to the growing military presence of China in the region.

Finally, the president will travel to Indonesia where he will participate in the East Asia Summit, an annual meeting between sixteen East Asian nations and Australia, with the US and Russia joining for the first time this year.

### **ITC to Investigate China Solar Industry Practices**

On Wednesday, November 8, the International Trade Commission determined that it would initiate anti-dumping (AD) and countervailing duty (CVD) investigations of crystalline silicon photovoltaic cells from China. The petitions for this investigation were filed by SolarWorld, Inc. on October 19, and are supported by the Coalition for American Solar Manufacturing (CASM) – a SolarWorld-led coalition comprised of seven member companies and supported by more than 125 associate members and the United Steelworkers. In response to the formation of CASM, solar industry opponents of the petitions have formed the Coalition for Affordable Solar Energy (CASE). On December 5, ITC will make its preliminary injury determination on whether Chinese exports have harmed the domestic solar PV industry in the United States. Should ITC find that there is sufficient evidence Chinese solar imports are harming the domestic industry the investigation will continue with a preliminary CVD determination in January 2012 and a preliminary AD determination in March 2012.

### **ITC Clears Way for Anti-Dumping and Countervailing Duties on Chinese Wood Flooring**

Last week, the ITC made its final determination that the US multi-layered wood flooring industry has suffered injury as a result of dumped and subsidized product from China, the importation of which rose 76% between 2007 and 2009. The ITC determination will allow the Department of Commerce to impose anti-dumping duties and countervailing duties on the import of the product from China. The ITC action was called for by the Coalition for American Hardwood Parity, which filed the petition seeking redress.

### **Legislative Activity**

- In the House of Representatives, Congressman Steven King (R-IA), introduced [HR 3375](#), a bill that would impose duties on Chinese imports in an amount equivalent to the estimated annual loss of revenue to US holders of Intellectual Property rights as result of Chinese violations of those rights. The bill also directs the Office of the US Trade Representative to conduct an annual study for Congress on the amount of such losses. In his introductory [statement](#), Mr. King cited a report that had found that in 2009 owners of IP in the US lost \$48.2 billion in revenue due to Chinese violations.

- This week, with the current Continuing Resolution (CR) set to expire on November 18, Congress must pass another CR funding the federal government until the Fiscal Year 2012 appropriations process has been completed. The current fiscal year started on October 1, but Congress had not finalized the various spending bills funding federal activities. The CR is probably going to be attached to HR 2112 – a “minibus” spending bill that covers the Agriculture, Commerce/Justice/Science, and Transportation/HUD appropriations bills. Likely to be included in the conference report for the “minibus” is a provision, sponsored by Rep. Frank Wolf (R-VA), a vocal critic of the Chinese government, that would prohibit the president’s science advisor or NASA from having any contact with the Chinese government or with Chinese-owned companies. The congressman, who argues that China is actively engaged in cyber-espionage and that the US should not reward them with such high-level contacts, was successful in including the provision in a Fiscal Year 2011 spending bill but the Justice Department made the decision that the provision is unconstitutional and overreaches into the president’s authority to conduct foreign relations activities and advised the president to ignore it. The White House has said that the US is better served by engaging with the Chinese on scientific issues rather than taking the congressman’s approach.

### **Senate Armed Services Hearing on Counterfeit Components**

On Tuesday, November 8, the committee convened a hearing to receive testimony on its investigation into counterfeit electronic parts in the Department of Defense supply chain. Serving as witnesses were: Thomas Sharpe, Vice President, SMT Corporation and Liberty Component Services; Richard Hillman, Managing Director, Forensic Audits and Investigative Service, Government Accountability Office; Brian Toohey, President, Semiconductor Industry Association; Lieutenant General Patrick O’Reilly, Director, Missile Defense Agency; Vivek Kamath, Vice President, Supply Side Operations, Raytheon Corporation; Ralph DeNino, Vice President, Corporate Procurement, L-3 Communications; and Charles Dabundo, Vice President and P-8 Poseidon Program Manager, Boeing Defense, Space & Security. The committee’s investigation identified approximately 1,800 cases of suspected counterfeit parts in the defense supply chain. The committee is working to identify a mechanism to enforce rules against counterfeits, with one consideration being a requirement that defense contractors bear the expense of replacing the counterfeit components.

### **Upcoming House Foreign Affairs Committee Hearings**

On November 15, the Subcommittee on Asia and the Pacific will hold a hearing titled “Feeding the Dragon: Reevaluating US Development Assistance to China.” Providing testimony will be the Honorable Nisha Desai Biswal, Assistant Administrator for Asia, United States Agency for International Development.

On November 17, 2011, the committee will mark up two bills related to Taiwan:

- HR 2918, the *Taiwan Policy Act*, introduced by committee Chairwoman Ros-Lehtinen (R-FL), and intended to strengthen and clarify the commercial, cultural, and other relations between the US and the people of Taiwan, as codified in the Taiwan Relations Act. Specifically, the bill:
  - states that it shall be U.S. policy to: (1) support Taiwan and the human rights of its people, (2) permit senior leaders of Taiwan to enter the United States under conditions of appropriate respect and permit meetings between high level Taiwanese and U.S. officials in all U.S. executive departments, (3) sign a comprehensive extradition agreement, (4) accept a letter of request from Taiwan for price and availability data or for a formal sales offer regarding the F-16C/D Fighting Falcon aircraft, and (5) include Taiwan in the visa waiver

program; states that in conducting relations with Taiwan and China the US continues to assent to the six assurances provided to Taiwan in 1982;

- directs: (1) the President to appoint a Director of the American Institute in Taiwan, (2) the Department of State to continue its program to ensure meaningful participation by Taiwan in international organizations, and (3) the Secretary of State to brief Congress about any potential defense-related transfers to Taiwan;
  - authorizes the President to make available to Taiwan defense items or defense services, including: (1) air, maritime, and ground capabilities; and (2) capacity for partnership with friendly foreign militaries; and
  - expresses the sense of Congress that the goal of trade negotiations with Taiwan should be the negotiation of a free trade agreement.
- HR 2992, the *Taiwan Air Power Modernization Act*, introduced by Rep. Kay Granger (R-TX), and intended to provide Taiwan with US-built multirole fighter aircraft to strengthen its defense capability against the People's Republic of China. Specifically, the bill:
- expresses the sense of Congress that: (1) a critical element to maintaining peace and stability in Asia in the face of China's military expansion is ensuring a militarily strong Taiwan, (2) the US has a statutory obligation under the Taiwan Relations Act to help Taiwan maintain sufficient self-defense capabilities, and (3) the proposed fighter aircraft sale to Taiwan would have significant economic benefits to the U.S. economy; and
  - directs the President to carry out the sale of no fewer than 66 F-16C/D multirole fighter aircraft to Taiwan.

### **Securities and Exchange Commission Rules on Reverse Merger Companies**

On November 9 the Securities and Exchange Commission (SEC) [signed off](#) on a new rule that tightens the listing requirements for reverse merger companies – when a shell public company is acquired by a private company, which then operates as a public company without officially going public. The rule had been proposed by NASDAQ, the New York Stock Exchange, and NYSE Amex. Under the new rule, a company will be required to undergo a one-year “seasoning period” during which they will trade in the over-the-counter market or other US or foreign regulated exchange while providing financial and other records to the SEC. This is relevant to China, since many reverse merger companies from that nation have been come under scrutiny for alleged accounting irregularities.

### **US-China Economic and Security Review Commission**

On Wednesday, November 16, the commission will release its 2011 Report to Congress. The report will address a number of issues, including: The US-China Trade and Economic Relationship's Current Status and Significant Changes in 2011; Chinese State-Owned Enterprises and US-China Bilateral Investment; Indigenous Innovation and Intellectual Property Rights; China's 12<sup>th</sup> Five-Year Plan and Technology Development and Transfers to China; China's Internal Dilemmas; Military and Security Year in Review; China's Area Control Military Strategy; The Implications of China's Civil and Military Space Activities; An Overview of China's Relations with North Korea and Iran; Actors in China's Foreign Policy; Taiwan; Hong Kong; and China's Diplomacy Initiatives Regarding Foreign and National Security Policy. The Executive Summary of the 2010 Report to Congress can be found [here](#).