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CHINA UPDATE

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Notable Quotes of the Week

"How unstable and unpredictable it would be, if China is not consuming and buying. So when people are worried about China's economic strength, I am not worried. I always worry if China gets weak." – The Honorable Michael Moore, New Zealand Ambassador to the United States, and former Director-General of the World Trade Organization

"China's trading partners have heard from their enterprises on too many occasions that Chinese regulatory authorities threaten to withhold necessary approvals or take other retaliatory actions against foreign enterprises if they speak out against problematic Chinese policies or are perceived as responding cooperatively to their governments' efforts to challenge them." – Michael Punke, Deputy United States Trade Representative

"Any trade restrictive measures that may be imposed will unavoidably cause serious impairment to the sustainable development of the green energy industries as well as consumers' interests both in China and the United States." – Statement from Chinese solar executives in response to SolarWorld petitions to the ITC and Department of Commerce

ITC Moves Ahead with Investigation into China Solar Industry Practices

On Friday, December 2, the six commissioners of International Trade Commission unanimously **determined** that there is a "reasonable indication" the US solar industry is being injured by the importation of crystalline silicon photovoltaic cells and modules from China. The ITC's affirmative determination, in response to the **petition** filed by SolarWorld, means that the Department of Commerce will continue to conduct its antidumping and countervailing duty investigations on imports of these products from China, with its preliminary countervailing duty determination due on or about January 12, 2012, and its preliminary antidumping duty determination due on or about March 22, 2012.

Last week, Rep. Walden (R-OR), Rep. Bono Mack (R-CA), and Rep. Blackburn (R-TN) – all members of the Energy & Commerce Committee – sent a **letter** to Secretary of Commerce Bryson urging a "thorough investigation of these allegations to ensure that China is abiding with its World Trade

Organization obligations and US trade law” and “swift action if it should be found that China has taken advantage of our free and open economy at the cost of US jobs and businesses.”

A more strongly worded Democratic [letter](#) to President Obama was signed by 53 Representatives and 6 Senators. That letter says that “this case comes at a critical juncture for the US clean energy sector and underscores the need to ensure a level playing field for American businesses and workers, not just in the solar arena but for all clean energy technologies, since many of the same issues confronted by the US solar industry exist in other sectors as well. US manufacturers and workers in the clean energy technology sectors are at a major competitive disadvantage as a result of these and other foreign government measures.”

Chinese Solar Sector Responds to SolarWorld Petition

On November 29, fourteen Chinese solar companies held a press conference in response to the dumping and countervailing complaints filed with the ITC and Department of Commerce. The event was led by the China Chamber of Commerce for Import and Export of Machinery and Electronic Products (CCCME) and included representatives of Suntech, Trinia, and Yingli. The Chinese manufacturers were bolstered the week before when the Chinese Ministry of Commerce initiated its own investigation into US government subsidies for solar, wind, and hydropower energy projects.

Congressional Democrats Write to Commerce/USTR on Zeroing Methodology Changes

Rep. Levin (D-MI), Ranking Member of the House Ways & Means Committee, Rep. McDermott (D-WA), Ranking Member of the House Trade Subcommittee, Senator Schumer (D-NY), and Senator Sherrod Brown (D-OH), on November 28 [wrote](#) to Commerce Secretary Bryson and USTR Kirk expressing their concerns about a proposal to eliminate the zeroing antidumping methodology in administrative reviews. As it currently exists, under the zeroing methodology margins for sales of merchandise sold at dumped prices are aggregated, while negative margins for sales of merchandise sold at non-dumped prices are valued at zero. The proposed change would require that the Department of Commerce offset dumping margins on dumped entries by the amount US prices exceed normal value on non-dumped entries. They also addressed concerns about overreaching by the WTO Appellate Body.

China’s Accession to WTO Finalized

As a part of its accession to the World Trade Organization (WTO) in 2001, China agreed to undergo a decade of annual reviews of its efforts to comply with membership commitments in the organization. Last week, the WTO General Council met in Geneva where China’s final transitional review was concluded. In his [statement](#), US Ambassador to the WTO Michael Punke said that “From a bilateral perspective, the expanding trade and investment between the United States and China has provided numerous and substantial opportunities for U.S. businesses, workers, farmers and service suppliers and a wealth of affordable goods for U.S. consumers.” However, he went on to say that “Before concluding our review of China’s first ten years of WTO membership, one other aspect of China’s conduct as a WTO Member needs to be highlighted and discussed, and that is the perception among WTO Members that Chinese government authorities at times use intimidation as a trade tool. China’s trading partners have heard from their enterprises on too many occasions that Chinese regulatory authorities threaten to withhold necessary approvals or take other retaliatory actions against foreign enterprises if they speak out against problematic Chinese policies or are perceived as responding cooperatively to their governments’ efforts to challenge them. In recent years, a pattern also has seemed to emerge of the Chinese government’s reflexive resort to trade actions in response to legitimate actions taken by the United States or other trading partners under their trade remedies laws. This type of conduct is at odds with fundamental principles of the WTO’s rules-based system.”