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## CHINA UPDATE

### QUOTE OF THE WEEK

*"I've often been asked, what has made America such a successful, innovative, dynamic and stable society that has attracted, and continues to attract, people from all around the world. In fact, the answer was first given to me by Chinese scholars and business people and they answered, the defining characteristic of the United States of America is the strong rule of law.... China has a great future ahead of it, but it depends on an active, neutral, and respected judiciary, rule of law, and lawyers. The people of China are counting on you." – U.S. Ambassador to China Gary Locke at Renmin University in Beijing, February 25*

### U.S.-CHINA RELATIONS

#### ***US-China Agreement on North Korean Sanctions***

The US and China are said to have reached an agreement on expanding sanctions against North Korea after that country's third nuclear test. The United Nations Security Council could vote on a draft sanctions resolution. Susan Rice, the US Ambassador to the UN, says that the expanded sanctions are aimed at "the illicit activities of North Korean diplomatic personnel, North Korean banking relationships, and illicit transfers of bulk cash." On February 27, Secretary of State Kerry spoke via telephone with Chinese Foreign Minister Yang Jiechi in a discussion that focused on US-China relations and the situation on the Korean peninsula related to the recent North Korean nuclear test. Earlier in the day, a spokesperson for the Chinese Foreign Ministry had called for negotiations between all parties for a resolution of the Korean nuclear issue. China's Special Representative for the Korean Peninsula met with his Republic of Korea (South Korea) counterpart last week on the nuclear issue.

As further evidence of the heightened tensions with North Korea, the Senate Foreign Relations Committee will hold a hearing on March 7 on "US Policy Toward North Korea." Witnesses will include: Glyn T. Davies,

Special Representative for North Korea Policy, US Department of State; Stephen W. Bosworth, Dean, The Fletcher School of Law and Diplomacy, Tufts University; Robert G. Joseph, Senior Scholar, National Institute for Public Policy; and Joseph DeTrani, President, Intelligence and National Security Alliance.

### ***China Convenes National People's Congress***

On March 5, China opened its annual National People's Congress (NPC), the nation's top legislative branch, where the new leaders approved at last November's 18<sup>th</sup> Party Congress, including incoming president Xi Jinping, will officially assume their new roles in the Chinese government. This year's NPC is expected to see debate on a number of issues including public corruption, the environment, governmental efficiency, and food and drug safety.

### ***Ambassador Locke on Rule of Law***

On February 25, US Ambassador to China Gary Locke delivered remarks at the opening of the Philip Jessup International Law Moot Court Competition at Renmin University in Beijing. Titled "Rule of Law: The Key to Peace and Prosperity," the ambassador's remarks highlighted numerous examples of how the rule of law has, throughout American history, evolved and lead to greater prosperity and stability. His full prepared remarks can be found [here](#).

### ***USCC Hearing on Corporate Accountability***

On March 7, the US-China Economic and Security Review Commission (USCC) will hold a hearing on "Corporate Accountability, Access to Credit, and Access to Markets in China's Financial System – The Rules and Their Ramifications for US Investors." Providing testimony at the hearing will be: Cynthia M. Fornelli, Executive Director, The Center for Audit Quality; Paul Gillis, Professor of Practice and co-director of the IMBA program at Peking University's Guanghua School of Management; Tom Quaadman, Vice President, Center for Capital Markets Competitiveness, US chamber of Commerce; Regina Abrami, Ph.D., Director of the Global Program, Lauder Institute for Management and International Studies; Lynette Ong, Associate Professor of Political Science, University of Toronto; Carl Walter, former COO of JP Morgan China; Sheridan Prasso, Editor-at-Large, Asia Pacific Region, Bloomberg News (providing written testimony only); John Dearie, Executive Vice President for Policy, Financial Services Forum; Paul Saulski, Adjunct Professor, Georgetown University Law Center; and Steve Simchak, Director, International Affairs, American Insurance Association. There will be three panels: 1) China's Financial Sector: Governance, Transparency, and Accountability; 2) China's Banking System and Access to Credit; and 3) Market Conditions and Access Issues for Banking, Investment, Insurance and Other Firms. The hearing will be held at the Dirksen Senate Office Building.

## **TRADE**

### ***US 2012 Trade Agenda***

On March 1, the Obama Administration released its 2013 Trade Agenda and 2012 Annual Report. The Office of the USTR is the lead agency for development of the President's Trade Policy Agenda – which is required by statute to be provided to Congress no later than March 1 each year. The annual report for the previous year is also required and is a review of progress on trade issues over the past year. The Administration's 2013 Trade Policy Agenda is as follows: Expand Job Supporting US Trade; Enforce US Trade Rights Under the Rules to Ensure a Level Playing Field; Enhance Trade and Investment Relationships with Partners Worldwide; Fight Poverty and Foster Global Economic Growth Through Trade; and Develop Balanced Trade

Policy Informed by Diverse Perspectives. More specifically, the agenda includes advancing negotiations on the Trans-Pacific Partnership, launching negotiations with the EU on a Trans-Atlantic Trade and Investment Partnership, and securing results at the World Trade Organization through “fresh, credible approaches for trade liberalization.” The full report, which addresses challenges associated with China in 2012, as well as prospects for 2013, can be found [here](#).

### ***US Makes Preliminary Ruling on Chinese Hardwood and Plywood***

On February 27, the Department of Commerce announced a preliminary affirmative countervailing duty (CVD) determination in its investigation of imports of hardwood and decorative plywood from China. Commerce determined that Chinese producers/exporters have received countervailable subsidies ranging from 0.22 percent (*de minimis*) to 27.16 percent. A preliminary ruling on a companion antidumping investigation is due by April 2013, with a final determination in both investigations expected in July 2013. Should Commerce make an affirmative final determination, and the US International Trade Commission makes an affirmative final determination that imports of the affected products will materially injure, or threaten to materially injure, the domestic industry, Commerce will issue CVD and AD orders.

### ***USTR Official Outlines US-China Enforcement & Monitoring Relationship***

On February 28, Timothy Reif, general counsel in the Office of the US Trade Representative (USTR), delivered remarks at the Georgetown Law School International Trade Update. In his remarks, Mr. Reif outlined four key areas of the US enforcement and monitoring relationship with China. They are: intellectual property rights, Chinese retaliatory trade remedies, US trade remedies, and core industrial policy.

### ***China's Hedges on Fourth Revised Offer for GPA Accession***

On February 27, in response to a request from the US and the EU, China said that, because of leadership changes in that country, it will not be possible to submit a fourth revised offer for accession to the Government Procurement Agreement (GPA) within the timeframe requested. When China acceded to the World Trade Organization (WTO) in 2001 it agreed to open its government procurement market but has, as evidenced by this latest proposal, been able to develop an offer that is acceptable to GPA membership, which currently includes the US, the EU, Armenia, Aruba, Canada, Hong Kong, Iceland, Israel, Japan, Liechtenstein, Norway, Singapore, South Korea, Switzerland, and Taiwan. The US and the EU were joined by Canada, Japan, Norway, South Korea, and Switzerland in criticizing the most recent Chinese offer, based on the thresholds at which government procurement contracts would be subject to GPA requirements (the US and EU say there were too high), exclusion of state-owned enterprises in China from coverage, the limited number of services sectors included, and China's proposal that they be granted a five year transition period for implementation of commitments made under the GPA.

## **ENERGY & ENVIRONMENT**

### ***CFIUS Court Ruling***

On February 22, the US District Court for the District of Columbia rejected most claims brought by Ralls Corp., owned by two Chinese nationals, which challenged a presidential order directing it to divest its interest in several wind farm projects located in the vicinity of a US naval base in Oregon. The court did allow a due process claim to move forward. On September 28, 2012, after the Committee for Foreign Investment in the United States (CFIUS) reviewed the proposed wind farm projects, the Department of the Treasury announced a presidential order prohibiting the acquisition and ownership of four wind farm projects by the Ralls Corp.

### ***EU Anti-Subsidy Trade Investigation***

On February 28, the European Commission launched a trade defense inquiry into Chinese solar glass imports. The Commission, which conducts trade policy on behalf of the 27 European Union member states, said the Chinese solar glass antidumping investigation was separate from the anti-dumping and anti-subsidy investigation launched last year.

### ***Pew Report Release on US-China Clean Energy Relationship***

On March 6, the Pew Charitable Trusts will host a webinar on the release of their new report “Advantage America: The US-China Clean Energy Technology Relationship in 2011.” Participants in the event will include: Phyllis Cuttino, director of the clean energy program at Pew; Nathaniel Bullard, a clean energy and China analyst at Bloomberg New Energy Finance; and Hoil Kim, vice president, general counsel, and secretary of GT Advanced Technologies, Inc.

## **MISCELLANEOUS**

### ***SEC Settles with Chinese Petrochemical Company***

On February 28, Keyuan Pharmaceuticals and its former chief financial officer Aichun Li agreed to pay approximately \$1 million as part of an agreement to settle an action by the US Securities and Exchange Commission that alleged the company and the CFO had maintained a secret cash account and had failed to disclose certain transactions.

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