



LTI Newsletter

Bringing you the Latest Developments in U.S. and Chinese Strategic Trade Compliance Policy

Fall 2009

An Executive Note

Dear Friends and Partners,

Is the economy turning around for good or are the recent upswings just a blip in a continuing downward trend? This is the question on everyone's mind, whether you're in business, government, or non-profit work. A front page article in the China Daily on October 15, which headlined "Strong Trade Figures Export New Optimism," cautiously cited trade statistics exceeding performance expectations. Some experts cited claimed that the improving figures reflected the fast-acting positive results of government economic stimulus packages, but an economist from Standard Chartered was doubtful, stating "improvements will not be sustained in the next half year because there has not been sufficient growth in domestic investment and consumption."

China's long term economic growth and broadened influence is inevitable, but the pace is not guaranteed to be as rapid as many forecasters portend. An article in the most recent issue of Foreign Affairs entitled "The Default Power" analyzed whether or not U.S. hegemonic power was likely to be abdicated by other existing or rising global powers, including China. While LTI may not agree with all of the articles' conclusions, we recognize that the author, Josef Joffe, made very interesting and educated observations about the prospect for China's growth.

Joffe concluded that as China's population ages and the median age climbs, its population will demand that the government dedicate more social welfare services to supporting them, prompting a shift of resources that will cause a decrease in the export-driven growth. Since the Chinese Communist Party derives its strength and support largely from GDP growth, a slower pace of growth in the future will have both political and economic consequences for China. Meanwhile, a Goldman Sachs study forecasts that the median age of Americans will be among the lowest of the world's global powers by 2050, suggesting a strong workforce that will be difficult for global competitors to challenge. However, population size and age are only part of the factors influencing GDP growth. Joffe also discusses the importance of investments in education and R&D in driving future growth, citing historical evidence that shows relatively weak Chinese Government investment in education and R&D as compared with the United States.

There is no doubt that opportunities abound in improved bilateral trade and business opportunities between the U.S. and China, but it is important to also recognize the challenges in the relationship. The two countries are key trading partners, but also competitors, and therefore, the opportunities must be approached cautiously and strategically and not taken for granted.

- John and Nina

Recent U.S.-China Trade Developments

Strategic & Economic Dialogue (S&ED) Professional, Cooperative, but not Miraculous

From 27-28 July 2009, Treasury Secretary Timothy Geithner and Secretary of State Hillary Clinton met with Chinese counterparts, State Councilor Dai Bingguo and Vice Premier Wang Qishan, for the first meeting of the 2009 U.S.-China Strategic and Economic Dialogue (S&ED) in Washington, DC. Initiated in 2006 by the Treasury Department, the S&ED is now under the State Department and the Treasury Department. Participants included U.S. Cabinet members and some 150 senior Chinese officials, twenty-four of them at or above the ministerial level.

As a result of the meeting, the S&ED engendered a joint fact sheet identifying four key areas on which the dialogue would focus: 1) developing sustainable and balanced economic growth, 2) strengthening the financial system, 3) improving trade and investment policies, and 4) working to strengthen international financial institutions. To combat the many effects of the global economic crisis, both countries committed to increasing information exchange regarding macro-economic policy, and working together while pursuing policies of adjusting domestic demand and relative prices. These measures are intended to lead to more balanced, sustainable, global economic trade and growth.

On the whole, participants from the Chinese and U.S. sides reacted positively to the S&ED. Chinese State Councilor Dai Bingguo said, "The dialogue offers an important initiative for the two countries to deepen understanding, enhance mutual trust, and promote cooperation." Reactions from Secretaries Clinton and Geithner were also optimistic. In his closing statement, Secretary Geithner said, "we look forward to deepening this framework for cooperation as we prepare for the upcoming G20 leaders' meeting in Pittsburg and broadening it through additional important bilateral dialogues during the next year." There are doubts, however, about the effectiveness of the S&ED from both sides. A People's Daily article published at the start of the dialogue said, "although there has been steady progress made, and both sides have listened closely to each other's positions, it wasn't the miraculous breakthrough many people were hoping for, leading to complaints that the Strategic Economic Dialogue fails to produce either strategy or dialogue."

But many scholars and China watchers agree that the S&ED is one of the most important U.S.-China meetings, noting its professionalism and cooperativeness, as the relationship between the world's largest developing country and the world's most developed country becomes more internationalized. Among the accomplishments was a signing of a memorandum of understanding (MOU) regarding climate change. It also opened the door for other dialogues to be held in the coming months concerning military-to-military talks, counterterrorism, human rights, and stability in North Korea, Sudan, Afghanistan, and Pakistan.

U.S.-China Trade Relationship Challenged by Allegations of Dumping and Retaliatory Tariffs

On 11 September, U.S. President Barack Obama announced that the United States will levy a three-year import tax on Chinese light truck and car tires after U.S. labor unions stated that a "surge" of Chinese tires on the U.S. market had caused "market disruption." On 13 September 2009, the Chinese Ministry of Commerce called the U.S. tariff "protectionist" and announced that it would launch an anti-dumping and anti-subsidy probe into U.S. auto and chicken imports to China. In response to this and other concerns related to trade barriers, the U.S. Chamber of Commerce released a report on 15 September speculating that further trade disputes with China and other U.S. trading partners could result in 600,000 lost U.S. jobs in the

near future.

Eric Hirschhorn Announced as Nominee for Position of Under Secretary at BIS

On 11 September 2009, U.S. President Barack Obama announced Eric Hirschhorn as his choice for Under Secretary at the U.S. Department of Commerce Bureau of Industry and Security (BIS). Hirschhorn, who is currently a partner at the Washington, DC law firm Winston & Strawn LLP, has been working on U.S. trade and export control issues for several decades, previously serving as Deputy Assistant Secretary for Export Administration at the Department of Commerce before going into private law practice. He has published a wealth of articles and one book on U.S. export controls and embargoes. Obama's nomination of Hirschhorn has yet to be approved by the U.S. Senate.

Top Chinese Legislator Wu Bangguo and President Hu Jintao Make Official Visits to the United States

On his 8 September visit to Washington, DC, top Chinese legislator Wu Bangguo met with US President Barack Obama, Vice President Joe Biden, Secretary of State Hillary Clinton, and Speaker of the House of Representatives, Nancy Pelosi. Before arriving in Washington, DC, Wu spent three days in Phoenix, Arizona attending the China-US Economic and Trade Cooperation Forum. During his trip, Wu also visited U.S. companies Honeywell International and First Solar. The main goal of his trip was promotion of economic cooperation, and as a result of his trip, U.S. and Chinese businesses signed forty-one agreements and contracts amounting to more than USD 12 billion in the areas of new energy and materials, communications, electronics, machinery and tourism.

On his 21-25 September trip to the United States, Chinese President Hu Jintao attended UN meetings in New York City and the Group of Twenty (G20) economic summit in Pittsburgh, Pennsylvania. Hu's UN meetings included the Climate Change Summit, the General Debate of the UN General Assembly, and the Nuclear Non-proliferation and Disarmament Summit of the UN Security Council. Hu was accompanied by several high-ranking members of the Communist Party of China, including Vice Premier Wang Qishan.

U.S.-China High-Tech Working Group

On 29 September 2009, LTI sent two representatives to the U.S.-China High Technology Working Group (HTWG) at the Ronald Reagan Building and International Trade Center in Washington, DC. The talks, which consist of both government and private-sector participants, were hosted in partnership with the National Association of Manufacturers (NAM) and chaired by Daniel O. Hill, U.S. Department of Commerce Acting Under Secretary for Industry and Security, and Zhang Ji, Director General of the Chinese Ministry of Commerce, Department of Mechanic[s], Electronic[s] and Hi-Tech Industry. The goal of the HTWG was to facilitate high-technology exports to commercial end-users in China, while complying with U.S. export control regulations. While no concrete policy changes have been announced as a result of the HTWG, the discussions were frank and many new ideas were floated, most notably regarding new validated end-user (VEU) candidates, verifiable compliance, and cooperation in the field of aerospace.

Green Technology

Promotion of Green Technology by Chinese Government

Green technology is an area increasingly singled out as a point of great potential for U.S.-China high-tech trade. It is also an area that both governments have made concerted efforts to promote and support in recent years. Below is a summary of initiatives taken by the Chinese and U.S. governments to promote the development of green technology.

Since passing the "China Renewable Energy Law" in 2006, the Chinese government has made the promotion of green energy development and manufacturing a high priority, passing several green energy regulations within the past few years. The "China Renewable Energy Law," which went into effect on 1

January 2006, was enacted in order to promote the development and utilization of renewable energy, increase the supply of energy, improve the structure of energy production, enhance safety in the energy sector, protect the environment, and realize sustainable economic and social development. It defines renewable energy as non-fossil energies, including wind energy, solar energy, geothermal energy, hydropower, biofuels, and tidal and wave energy.

On 11 August, 2008, the Ministry of Finance (MOF) issued the “Provisional Measures for the Administration of Special Funds for Wind Power Generation Equipment.” As part of this measure, MOF will provide financial support to those wholly Chinese-owned companies or joint-ventures with a Chinese partner on Chinese territory that develop and produce their own brands of wind power generation equipment or key parts and components with their own independent intellectual property. The grants can be as high as RMB600 per kilowatt for the first fifty sets of equipment produced above a certain quality level.

In March 2009, the Chinese MOF and the Ministry of Housing and Urban Development (MHUD) launched the “China Solar Roof Plan,” a directive by the State Council to save energy, reduce carbon emissions, and increase the use of solar panels on buildings. MOF issued the “Provisional Measures for the Administration of Grant Funds for Solar Photovoltaic Application to Architecture” and the “Comments on the Acceleration of Solar Photovoltaic Application to Architecture” on 23 March 2009. These directives are aimed at increasing the use of solar panels on buildings in both urban and rural China and stimulating Chinese domestic demand for solar energy. The RMB 20 per watt grants will be issued to pre-approved solar panel projects that meet certain criteria.

Promotion of Green Technology by U.S. Government

On the U.S. side, on 19 May 2009, U.S. President Barack Obama announced that the United States needed to make the investments necessary to become the world’s leading exporter of renewable energy. This announcement injected new life into two long-term programs by the U.S. Department of Energy (DOE) to promote green technology in the United States: the Solar Energy Technology Program and the Wind and Hydropower Technologies Program.

The Solar Energy Technology Program has a long-term goal of reducing the cost of solar energy to be competitive with fossil fuels by the year 2020. The Market Transformation sub-group under the program identifies and prioritizes significant barriers beyond traditional “cost” issues of solar energy and develops specific activities and external partnerships to address those barriers. Some of these activities include the Solar America Cities project, which provides financial and technical assistance to cities committed to the widespread adoption of solar energy technologies; the Solar America Showcases project, which provides technical assistance to large-scale solar installations in high-visibility locations; the Solar America Board for Codes and Standards project, which involves the creation of a collaborative board of experts who formally gather and prioritize input from solar photovoltaic policymakers, manufacturers, and installers and make recommendations for solar technology codes and standards; the State Technical Outreach project, which provides information and tools to state governments and energy agencies developing state solar energy programs; the Utility Technical Outreach project, which provides information and tools to utilities to assist them in developing utility solar energy programs; the Builder Technical Outreach project, which provides information to builders wanting to incorporate solar energy technologies into their building practices; and the Workforce Education, Training, and Development project, which provides resources to educators, professionals, and prospective students seeking education and training in solar energy technologies. The Solar Energy Technology Program has received support from the American Recovery and Reinvestment Act of 2009, also known as the economic stimulus plan, launched in February 2009.

In the area of wind power, the DOE announced a memo of understanding (MOU) in 2008 designed to advance wind power technologies and increase their deployment. Under this MOU, DOE is cooperating with six leading U.S. wind turbine manufacturers: GE Energy, Siemens Power Generation, Vestas Wind Systems, Clipper Turbine Works, Suzlon Energy, and Gamesa Corporation, to increase wind turbine performance and reliability. The MOU is part of DOE’s Wind and Hydropower Technologies Program, which leads U.S.

efforts to improve the performance, lower the costs, and accelerate the deployment of wind power technology. This program taps the DOE's national laboratories to conduct research and development activities through competitively selected, cost-shared projects with industry.

With such heavy emphasis being placed on the development of green technology by both the Chinese and U.S. governments, and especially the need to bring the cost of renewable energies down to or below the cost of fossil fuels, LTI sees tremendous opportunity for cooperation in this field.

U.S. and China Team Up on Major Solar Energy Project

On 8 September 2009, U.S. Company First Solar signed an MOU with the Chinese government to establish a two-gigawatt solar power plant in the desert of Inner Mongolia. Chairman Wu Bangguo of the Standing Committee of the National People's Congress of China presided over the signing ceremony. Two-gigawatts, or two billion watts, are equal to the combined energy of two nuclear power plants, making it the largest solar energy project to date. The solar power plant will be set up in the town of Ordos, Inner Mongolia, located 400 miles west of Beijing; it will be built in four phases, set to be completed by 2019.

First Solar CEO Michael J. Ahearn has stated publically that he views China as the solar power market of the future, ahead of the United States and India, due to the priority that the Chinese government has placed on renewable energy. In order to increase the competitiveness of solar power as compared to fossil fuels, the Chinese government has announced that it will set the price of electricity generated by solar power equal to that generated by other methods. As a result, First Solar perceives this market as having tremendous long-term potential and is aiming to be one of the first to break into it.

Note: First Solar is the world's largest developer and manufacturer of thin film solar cells, which is a newly developed solar cell technology. The process of thin film solar cell production uses compound materials rather than silicon alone, and is more economical and resistant to the elements; the disadvantage of thin film solar cell technology is that it is less efficient than traditional silicon at converting light to electricity.

Chinese Standards and Certification Update

New CCC Mark Regulation Issued by AQSIQ

In July 2009, the China General Administration for Quality Supervision, Inspection, and Quarantine (AQSIQ) issued Order No. 117, "Regulations Concerning the Management of Compulsory Product Certification," which went into effect on 1 September 2009. The Order contains three main regulatory changes. First, it stipulates that CCC certification is valid for five years. The product does not need to be re-tested during this five-year period, but annual factory inspection will be required in order to renew certification after five years. CCC certification that was obtained before 1 September 2009 will not be subject to the new requirements. Second, the previous GB 9254 standard has been updated to GB 9254:2008, "Information Technology Equipment - Radio Disturbance Characteristics - Limits and Methods of Measurement." The updated standard requires additional testing for certification of IT/Telecom products. Third, original design manufacturers (ODMs) and original equipment manufacturers (OEMs) of IT products in China applying for CCC certification are now required to supply contracts with their components suppliers. All domestic manufacturers of components listed in the CCC catalogue are now required to have CCC certification. This regulation is meant to better control domestic manufacturers, but foreign manufacturers will also be affected.

Chinese Customs Update

Chinese Customs Reports International Trade Trends

According to statistics released by Chinese Customs on 11 September 2009, the total value of China's foreign trade during the period of January to August 2009 was USD 1.39 trillion, with USD 730.74 billion

from exports and USD 607.92 billion from imports. The European Union was China's biggest trading partner, with a total trade value of USD 224.69 billion. The United States was China's second biggest trading partner, with a total trade value of USD 183.79 billion, and Japan was China's third biggest trading partner, with a total trade value of USD 138.68 billion.

U.S.-China Trade in Agriculture

The agricultural sector is a very crucial part of the U.S.-China trade relationship, one in which LTI has been increasingly called to participate. For those not familiar with U.S.-China agricultural trade, here are some interesting details for your information.

According to the Office of the U.S. Trade Representative (USTR), China was the United States' fourth largest agricultural export market in 2008. Leading categories of U.S. agricultural exports to China were soybeans, cotton, and hides and skins. Looking at U.S. agricultural imports, in 2008, China was the 3rd largest supplier of agricultural products to the United States, with leading products including processed fruit and vegetables, fruit and vegetable juices, snack foods, chocolate, and tree nuts.

China is the biggest importer of soybeans in the world, with annual soybean imports accounting for up to seventy percent of total domestic consumption. Forty percent of China's soybean imports come from the United States. China is the largest producer and consumer of pork and pork products in the world. Yet, with such a high domestic demand for pork products, China imports hundreds of thousands of tons of pork annually from the United States, the European Union, and Canada, according to the China Meat Association.

With such a high degree of agricultural trade taking place between the two countries, market and policy fluctuations on each side have a strong effect on the other. According to Jon Caspers, chairman of the U.S. Meat Export Federation, when demand for U.S. pork in China fell in the first half of 2009 due to fears of the H1N1 virus, several U.S. pork producers were driven out of the industry. When the United States began announcing that it was considering a tariff on imported Chinese automobile tires—a tariff that the U.S. government eventually decided upon—the U.S. National Pork Producers Council, the National Chicken Council, and thirty-two other food and agricultural organizations sent a letter to the U.S. Trade Representative (USTR) Office on 3 September 2009, urging them not to issue the tariff for fear of retaliation against agricultural imports from the United States. Since the tariff has been issued, China has announced that it will conduct a probe into chicken imports from the United States. China is the largest export market for U.S. chicken, especially chicken feet, which are not consumed in the United States but are a delicacy in China. With the agricultural industries of the United States and China so inextricably linked, LTI will be following developments in this area very closely.

Coming Soon

U.S.-China to Hold Third Consumer Product Safety Summit

From 21-26 October 2009, in Beijing, the United States and China will hold their third biennial Consumer Product Safety Summit. The last Consumer Product Safety Summit took place in 2007 and addressed topics such as voluntary standards vs. U.S. requirements, stopping the use of lead paint on toys, information exchanges, product recalls, and training on the requirements of the U.S. Consumer Product Safety Commission (CPSC). This year's summit will address the need for a holistic approach to consumer safety, which starts with product design and ends with product use by the consumer. The group will examine the past two years for successes and failures and explore regulatory measures that could be of benefit in the future.

KENTUCKY CORNER

The Kentucky China Trade Center (KCTC) has been busy preparing for the upcoming visit of the Governor

of Kentucky, Steve Beshear, to China. The Governor will visit China from 7-10 October 2009 and will be accompanied by the First Lady of Kentucky, Jane Beshear, and the Secretary of the Kentucky Cabinet for Economic Development, Larry Hayes.

On 9 October 2009, the KCTC will host a reception for the Governor at the Beijing International Equestrian Club, which serves as the state-of-the art China National Equestrian Training Center. The guest list includes the who's who of China's growing equestrian circle, Chinese government and industry representatives, and businesses with ties to Kentucky.

Governor Beshear's visit to China will launch the one-year countdown to the Alltech FEI World Equestrian Games 2010, which will be held next year in Lexington, Kentucky. The World Equestrian Games are held once every four years; 2010 will be the first time in North America.

During his visit to China, Governor Beshear and the First Lady, who is on the board of directors of the World Equestrian Games, hope to fan interest in China for the games in Kentucky and equestrian sports in general. The Commonwealth of Kentucky is the horse capital of the world and is perhaps most renowned for hosting the yearly Kentucky Derby in Louisville, Kentucky. The Kentucky Derby is the first race in the triple crown of thoroughbred horse racing in the United States. The Governor's visit to China and specifically the promotion of the World Equestrian Games is to serve as a springboard to attract investment from China to Kentucky.