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What's Been Happening

1 —Solar Panel Row Shows Biden’s Commitment to ‘Green Transition’ — 1

[Executive]

- The Commerce Department is investigating whether solar panels from Cambodia, Malaysia, Thailand and Vietnam, using parts and components from China, are circumventing U.S. Anti-Dumping & Countervailing Duty (AD/CVD) orders on Chinese solar cells and modules.
- Two months into the investigation, President Biden has imposed a two-year moratorium on applying tariffs to solar imports from the four Southeast Asian countries.
- Commerce Secretary Gina Raimondo told the Senate that it is “exceedingly unlikely” that the probe could lead to steep tariffs but resisted calls for an expedited preliminary determination.
- Biden has also invoked the Defense Production Act to turbocharge the domestic solar industry.

[Industry]

- The Commerce Department’s investigation was initiated after a petition from Auxin Solar, which claimed that China was using the four Southeast Asian countries as “export platforms” to evade AD/CVD orders.
- Several industry groups under the Solar Energy Industry Association (SEIA)—which includes some U.S. subsidiaries of Chinese companies subject to the original orders—opposed the Commerce Department probe, arguing that it would hurt U.S. imports.
- U.S. solar panel installations had slowed over the last two months amid possibilities of retroactive tariffs extending from the Commerce Department’s probe as well as supply chain disruptions.

[Legislative]

- Several Senators urged the Commerce Department to accelerate the solar investigation and avoid imposing retroactive tariffs, arguing that the probe was causing “massive disruption” in the U.S. solar industry.
- Meanwhile, another group of lawmakers, all Democrats, criticized SEIA for lobbying against the probe and questioned its claim that the trade enforcement mechanism was leading to an import slowdown.
- Passed by the House, the America COMPETES Act would allow Commerce to expand existing AD/CVD restrictions to cover “circumventing imports” from third countries through an expedited process.

[Mark the Essentials]

- Imports from Malaysia, Vietnam, Thailand and Cambodia account for more than half of total U.S. solar panel supply. 80 percent of the world’s solar cells and modules are currently produced in China.

- In 2012, the Commerce Department imposed AD/CVD orders against solar module imports from China after determining that Chinese companies sold imports at less than their fair value and received unfair government subsidies.
- In 2018, the Trump administration imposed additional tariffs on Chinese solar modules, citing China's "unreasonable and discriminatory" practices on technology transfer and intellectual property.
- Highlighting the dependency of U.S. solar companies on panel imports, a bipartisan group of more than 20 Senators argued that expanded tariffs would significantly undercut the growth of the solar industry and raise energy prices for U.S. consumers.
- Arguing that the solar industry is recovering from a similar tariff petition last year, SEIA said that the Commerce Department's decision to launch the circumvention investigation "responds to the self-interests of one company" and will lead to market volatility.
- Meanwhile, lawmakers led by Senate Finance Committee members Sherrod Brown and Bob Casey say that, given China's virtual global monopoly on solar panel production, AD/CVD laws are critical in shielding domestic manufacturers against unfair trade practices. The lawmakers noted national security concerns with China's dominance in the solar market and have called domestic production of solar modules a necessary component of "our burgeoning electrical grid and infrastructure".

[Keeping an Eye On...]

- Solar is the classic case of a 21st century industry that is riven by tension between its labor and environmental wings. Labor would much prefer that domestic trade enforcement tools are utilized to the hilt to erect tariff barriers behind which upstream production capacity and good-paying union jobs are created. Conversely, environmentalists (and industry) would much prefer that imported solar modules flow freely, so that the clean energy transition can be accelerated. Typically, the regulatory dice tends to be stacked in favor of defensive interests petitioning for protection—and protectionism. Not this time, however. It is a measure of the Biden administration's overriding commitment to the green transition that it has chosen to not just side with the environmentalist (and industry) camp but also: (a) declare a national emergency pursuant to Section 318(a) of the Tariff Act of 1930 and authorize a moratorium on tariffs on solar cells and modules from four Southeast Asian nations, and (b) issue a determination pursuant to Section 303 of the Defense Production Act and accelerate the domestic rollout of clean energy components and technologies, including solar panel parts. Auxin Solar, the impacted U.S. solar cell producer, has already threatened to challenge the administration's action in court. No matter how the court rules—and courts tend to defer to presidential authority at times of a declared emergency—one thing is clear: activist 'industrial policy' is wisely being put to work.

[Expanded Reading]

- [Following Solar Debacle, Republicans Come Out Swinging on China](#), Coalition for a Prosperous America, June 9, 2022
- [Biden waives solar panel tariffs for four countries, invokes defense law](#), Reuters, June 6, 2022 [Paywall]
- [Brown, Casey, Kaptur, Sewell, Doyle, Ryan Urge Administration to Shield American Solar Manufacturing Industry from Unfair Foreign Competition](#), U.S. Senator for Ohio Sherrod Brown Press Release, May 26, 2022
- [Deconstructed: Biden's Solar War With China](#), *The Intercept*, May 26, 2022
- [Democrats divided on solar investigation](#), *Axios*, May 26, 2022
- [Commerce Department Could Pay Manufacturers to Reshore Critical Production](#), *The American Prospect*, May 25, 2022
- [Lawmakers battle over Commerce tariff probe into solar panel parts](#), *The Hill*, May 14, 2022
- [Raimondo fails to reassure a rattled solar industry](#), *Washington Post*, May 12, 2022 [Paywall]

- [Solar Trade Probe Risks Delaying Duke Renewable Projects to 2024](#), *Bloomberg*, May 9, 2022 [Paywall]
- [Heinrich, Rosen, Sinema Lead Bipartisan Call On Biden Administration To Expedite Solar Tariff Investigation Decision](#), United States Senator for New Mexico Martin Heinrich Press Release, May 2, 2022
- [Portman, Brown Introduce Legislation to Strengthen Trade Remedy Laws, Protect American Workers](#), United States Senator for Ohio Rob Portman Press Release, April 16, 2021
- [Commerce Department Decision Imperils U.S. Clean Energy Progress](#), Solar Energy Industries Association Press Release, March 28, 2022

2 — Breaking The Impasse At WTO MC12, If Only Slightly — 2

[In One Sentence]

- After years on hiatus, the World Trade Organization’s 12th Ministerial Conference (MC12) was held from June 12-15 in Geneva.
- Key issues discussed included the intellectual property waiver of COVID-19 vaccines, WTO reform, the curbing of harmful fisheries subsidies, and global food security.
- The draft of the “MC12 Outcome Document” calls for a member-driven and open discussion on WTO reform as well as the set-up of a “well-functioning dispute settlement system” by the time of convening of MC13.
- The United States has said it welcomes the trend that WTO members resolve trade disputes at panel level without attempts to appeal.
- Brazil proposed to have annual WTO ministerial meetings in an effort to facilitate negotiation and the delivery of concrete results.

[Mark the Essentials]

- The United States and China are divided over whether COVID-19 IP waiver language should explicitly exclude China, while some developing countries criticized the current version of the COVID-19 waiver as significantly more limited than the initial proposal.
- Concerning fishery subsidies, WTO members maintain disagreements over the extent of special and differential treatment for some developing countries, while the United States proposed to specifically target subsidies related to forced labor.
- The Biden administration has called for reform of the WTO to “recognize global developments”, “move past the old paradigms” and “look beyond simple dichotomies like liberalization vs. protectionism”.
- The United States has criticized the WTO’s Appellate Body for allegedly exceeding its mandate when interpreting the WTO agreements, especially concerning subsidies, trade remedies and technical product standards.
- Since the WTO’s Appellate Body went into paralysis due to the U.S.’ blocking veto, WTO members such as the European Union have set up alternative arrangements for an appeals process that is subject to prior consent by both parties to a dispute.

[Keeping an Eye On...]

- Heads-of-delegation of the WTO member states are, at this time of writing, working into the wee hours of the night in Geneva to hash out a last-minute package deal at MC12. Sources suggest that the package will feature a limited pact on fisheries subsidies and a slimmed-down agreement on new intellectual property flexibilities for producing vaccines. For an organization that has been short on delivery, even a limited package is to be welcomed. That said, it is not too early to prognosticate on the WTO’s future as a liberalizing rulemaking body, given that there has been little rulemaking and even lesser liberalization of late under its aegis. In

important respects, the WTO resembles an institutional exemplification of the Kindleberger Trap. Charles Kindleberger, an economic historian and leading architect of the Marshall Plan, had ascribed the collapse of the international economic and monetary system in the 1930s to the failure of the incumbent great power, Great Britain, and the rising great power, the United States, to furnish the system's public goods requirements. The former was weary and incapable of underwriting the system's requirements; the latter was as yet inward-looking and unwilling to do so. Today, as its power grows, does China have the character and imagination to step forward as an important provider of public goods insofar as the WTO-centered multilateral trade and investment order is concerned—and especially at a time when harsh streaks of economic populism and nationalism is evident in U.S. trade policymaking? For the WTO to survive and prosper in the decades ahead as the crown jewel of global multilateralism, China must commit to its enlightened self-interest today and pursue economic liberalization at home and institutional revitalization abroad.

[Expanded Reading]

- [TRIPS Waiver: How India Abandoned its Own WTO Proposal](#), *The Wire*, June 14, 2022
- [WTO Looks to Reach Trade Deals With its Fate on the Line](#), *VOA News*, June 11, 2022
- [What's Next for the WTO?](#), Council on Foreign Relations, June 10, 2022
- [WTO Crisis: Is There a Way Out?](#), *Geo-Economy of the Future*, June 8, 2022
- [World Trade Organization—Lead, Follow, or Get Out of the Way](#), Center for Strategic and International Studies, June 6, 2022
- [USTR Releases Annual Report on China's WTO Compliance](#), Office of the United States Trade Representative, February 16, 2022

On the Hill

[Legislative Development]

- House Ways & Means trade subcommittee Chair Earl Blumenauer said Congress can finish reconciling the House's America COMPETES Act with the Senate's USICA by July 4, but some Republican lawmakers are less optimistic.
- More than 50 House lawmakers urged congressional leadership to include the Generalized System of Preferences (GPS) reform in the final version of the competition bill.
- Led by Senator Mitt Romney and Senate Majority Whip Dick Durbin, four lawmakers opposed some USICA provisions that would orient research funding to states that have received few NSF funds.
- House Ways & Means Committee member Stephanie Murphy introduced a bill that would require the Treasury department to analyze the impact of Section 301 China tariffs on inflation.
- Biden's nomination for Chief USTR IP negotiator remains unaddressed as Republican Senators maintain their opposition to the WTO IP waiver.

[Hearings and Statements]

- At a U.S.-China Economic and Security Review Commission hearing, experts noted China's deep integration and pervasive presence in global supply chains but also noted the country's consequent vulnerabilities and dependency on the U.S. and its allies.
- In an event at the Cato Institute, Senator Pat Toomey advocated for free trade and criticized what he considered protectionist policies by the Trump and Biden administration.
- With the midterm elections approaching, Democratic lawmakers declared varying positions on China-related tariffs and have sought to score a victory with the wide-ranging competition bill, while Republicans criticized their opponents for not being tough enough on China.

[Keeping an Eye On...]

- With the clock ticking down to the July 4th holiday, congressional conferees charged with reconciling the House's America COMPETES Act with the Senate's U.S. Innovation and Competition (USICA) Act have been busy whittling down their points of difference. The differences are as yet many and a compromise bill is unlikely to be ready by the July 4th break. Given the paramount importance of passage of this China-focused competition bill, a senior congressional leader-led effort is currently underway to pare down the competing bills to their 'must-pass' essentials. Reportedly, House Speaker Pelosi and Senate Majority Leader Schumer have instructed the conference committee chairs to accelerate the talks and cross out that which cannot be reconciled, which presumably pertains to part or many of the trade provisions within the House bill. Politics is the art of the possible, and one should expect political deal-making to deliver the possible in the form of a slimmed-down China competition bill before the 117th Congress adjourns this August.

[Expanded Reading]

- [Usual Midterm Indicators Very Unfavorable for Democrats](#), *Gallup*, June 14, 2022
- [Hearing on "U.S.-China Competition in Global Supply Chains."](#) U.S.-China Economic and Security Review Commission, June 9, 2022
- [Murphy Introduces Bill Requiring Federal Government to Assess Impact of U.S. Tariffs on Inflation](#), U.S. Congresswoman Stephanie Murphy Press Release, June 8, 2022
- [H.R. Repeal Tariffs to Reduce Inflation Act of 2022](#)
- [The \(Updated\) Case for Free Trade](#), Event by the Cato Institute, June 8, 2022
- [The Republicans Could Win the U.S. Midterms. Here's What that Means for the World](#), *Foreign Policy*, June 2, 2022 [Paywall]
- [Romney, Durbin Lead Call for Robust Research Funding in Final Competition Bill](#), U.S. Senator for Utah Mitt Romney Press Release, May 31, 2022
- [Letter from Rep. Stephanie Murphy, Rep. Walorski and Other Members of Congress seeking GSP CNL reform in the Final China Competition Bill](#), U.S. Congress, May 20, 2022
- [Many GOP candidates are bashing each other for ties to China](#), *Washington Post*, May 11, 2022 [Paywall]
- ['Tough on China' gains traction as electoral test](#), *Politico*, February 10, 2022