



Administration Launches Investigation of China Green Energy Support – Will Spend Next 90 Days Gathering Evidence, Holding Hearing

On October 15, the US Trade Representative (USTR) announced that it had accepted a United Steelworkers (USW) Section 301 petition and was launching an investigation into China's government support for its green energy sector. The investigation will examine China's government support for wind and solar energy products, advanced batteries and energy-efficient vehicles.^[1] Over the course of the next 90 days, the Obama Administration will gather evidence, examine submissions from stakeholders in the private sector and hold a hearing. After 90 days, the Administration should request consultations with the government of China, attempt to achieve a negotiated outcome and, if necessary, launch a World Trade Organization (WTO) case. A negotiated outcome and a WTO case may result in higher tariffs or quotas on China-made green tech products and an end to certain support programs from China.

Background

The October 15 announcement was in response to a petition, filed by the USW under Section 301 of the Trade Act of 1974 on September 9, 2010.^[2] The USW's petition alleges that China violates many WTO rules with policies that protect and unfairly support its domestic green technology producers, industries and workers. For example, the petition alleges that China provides trade-distorting direct and indirect subsidies,

Founded in 1890, Squire, Sanders & Dempsey L.L.P. has lawyers in 32 offices and 15 countries around the world. With one of the strongest integrated global platforms and our longstanding one-firm philosophy, Squire Sanders provides seamless [legal counsel worldwide](#).

Contacts:

[Paul A. O'Hop](#)

+1.202.626.6873

[David M. Spooner](#)

+1.202.626.6612

Squire Sanders emphasizes quality, efficiency and alignment with client goals as core standards. Our [Partnering for Worldwide ValueSM](#) initiative is focused on continuously improving our service delivery to maximize the value of our services to clients. Squire Sanders wholeheartedly endorses the Association of Corporate Counsel's Value Challenge® and encourages and manages development and implementation of processes and tools to continually improve staffing and pricing models, training and resource optimization, knowledge management and more.

Squire Sanders publishes on a number of other topics. To see a list of options and to sign up for a mailing, visit our [subscription page](#).

such as low-interest loans and land grants, to its clean-energy sector. The petition further asserts that China restricts market access with export restrictions on critical materials, including rare earth metals and other minerals, vital to the production of green technologies. The petition contends that China requires foreign companies to transfer technology as a condition for entrance into China's market. These examples, among many others, allegedly violate provisions of China's Protocol of Accession to the WTO or specific WTO Agreements.

Section 301 provides that the United States may investigate and sanction foreign countries that maintain acts, policies and practices that violate, or deny US rights or benefits under trade agreements, or are unjustifiable, unreasonable or discriminatory and burden or restrict US commerce. During a Section 301 investigation, USTR must provide interested parties an opportunity to submit their views in writing, and a hearing must be provided, if requested.^[3] These procedures allow private companies to provide views and evidence for USTR's consideration during the investigation. USTR staff will investigate the allegations in the petition and pursue dispute resolution proceedings at the WTO within 90 days.

After 90 days, at the time a WTO case against China is filed, USTR will request formal consultations with China. The aim of consultations is to hammer out a negotiated solution and to persuade and encourage China to end the alleged practices. As a result of a negotiated outcome, the Administration may raise tariffs or place import quotas on China's green energy exports.

With international trade, public policy and energy practices in Washington DC, as well as offices in Beijing and Shanghai, Squire Sanders is uniquely positioned to help clients participate in and influence the US government's green tech investigation, prepare for possible tariffs or quotas, and advise on possible counterclaims from China's government.

[1] Press release: [United States Launches Section 301 Investigation into China's Policies Affecting Trade and Investment in Green Technologies](#).

[2] A full copy of the [petition](#) is now available.

[3] A Federal Register Notice will be published by USTR with details of the investigation's proceedings "as soon as possible, [to] provide opportunity for the presentation of views concerning the issues, including a public hearing" either within 30 days of the initiation or at such other time as timely requested, according to 19 U.S.C. § 2412(a)(4).

Beijing · Bratislava · Brussels ·
Budapest · Caracas · Cincinnati ·
Cleveland · Columbus · Frankfurt ·
Hong Kong · Houston · Kyiv ·
London · Los Angeles · Miami ·
Moscow · New York · Palo Alto ·
Phoenix · Prague · Rio de Janeiro ·
San Francisco · Santo Domingo ·
São Paulo · Shanghai ·
Tallahassee · Tampa · Tokyo ·
Tysons Corner · Warsaw ·
Washington DC · West Palm Beach |
Independent Network Firms:
Beirut · Bogotá · Bucharest ·
Buenos Aires · La Paz · Lima ·
Panamá · Riyadh · Santiago

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations. Counsel should be consulted for legal planning and advice.

©Squire, Sanders & Dempsey L.L.P.
All Rights Reserved
2010

This email was sent by Squire, Sanders & Dempsey L.L.P.
1201 Pennsylvania Avenue, N.W., Suite 500, Washington, D.C. 20004, USA

We respect your right to privacy – [view our policy](#)

[Manage My Profile](#) | [One-Click Unsubscribe](#) | [Forward to a Friend](#)