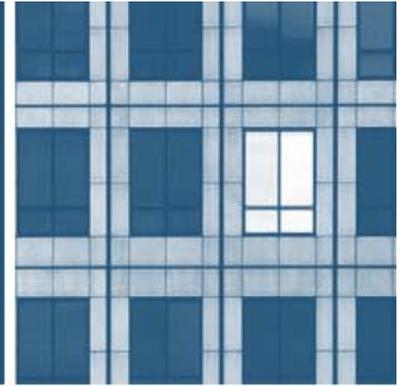


On the Subject



Energy & Commodities Advisory

October 22, 2010

Companies involved in the renewable energy sector, dependent on rare earth minerals, or significantly impacted by U.S.-China trade should be aware of the important new investigation against China recently initiated by the Office of the U.S. Trade Representative (USTR). Since the USTR accepted the petition, it is now inviting public comments on the case, which are due by November 15, 2010.

USTR Initiates Large Investigation of China's Renewable Energy Measures and Requests Public Comment

Any company involved in the renewable energy sector, dependent on rare earth minerals, or significantly impacted by U.S.-China trade should have an interest in an important new investigation against China recently initiated by the Office of the U.S. Trade Representative (USTR).

In early September 2010, we reported that the United Steelworkers filed a 5,800-page petition challenging a long list of Chinese trade practices in the renewable energy sector. Press reports are giving principal emphasis to its challenge against Chinese restrictions on rare earth minerals, which are minerals now mined almost exclusively in China. These minerals are crucial for the development of wind turbines, solar panels, other clean energy applications, fluorescent bulbs, mobile phones, oil and glass refining, and a wide range of military applications. The petition also covers nearly 80 other measures, including a wide assortment of alleged export restrictions, domestic-content and technology-transfer requirements, and subsidies in the clean energy sector.

On October 15, 2010, USTR accepted the petition, launched a 90-day investigation of the Chinese practices at issue, and is now inviting public comment on the case. All comments are due by November 15, 2010. Once USTR concludes its 90-day investigation, it is expected to challenge some or most of the covered practices in the World Trade Organization (WTO).

The investigation has already become a significant trade dispute and source of growing bilateral tension. Unless the case is settled, it could lead to WTO rulings with large implications for numerous sectors of U.S. -China trade and, in time, may result in trade sanctions.

The McDermott Difference

McDermott's International Trade Practice was recently referenced in The New York Times for its WTO experience in its coverage of this dispute. The International Trade Practice, which is actively engaged in WTO and U.S.-China matters, and which has the support of our Shanghai-based strategic alliance partner, MWE China Law Offices, can advise and assist businesses in the renewable energy sector and businesses concerned about how this case may affect bilateral trade relations by counseling on strategies for managing products directly affected by this case, assisting in the preparation of comments, ensuring that views are properly heard by USTR and working with USTR and others in government to help safeguard bilateral interests.

For questions or further information, please contact Carolyn Gleason at cgleason@mwe.com, David Levine at dlevine@mwe.com or Pam Walther at pwalthers@mwe.com.

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