

# Trade War in Solar Takes Shape

By KEITH BRADSHER

**HONG KONG — The United States and China are gearing up for a trade war that could catch American users of solar energy in the crossfire.**

**The Commerce Department in Washington on Wednesday opened an investigation sought by American manufacturers who accuse the Chinese of “dumping” solar panels into the United States at prices, aided by government subsidies, lower than the cost of making and distributing them.**

Anticipating that move, the government-controlled Chinese solar industry has been unusually vitriolic this week. A trade group accused the White House of turning the commercial complaint into “a political farce, which is very likely a publicity show initiated by the Obama administration for the coming election.”

**Meanwhile, a new American trade group was formed this week, representing buyers and installers of solar-energy systems.** It argues that any new Commerce Department restrictions on Chinese solar panels would slow the adoption of clean energy technology in the United States and could cost thousands of American jobs. Some environmentalists also oppose policies that might slow the adoption of solar energy.

Solar power is a politically charged issue in Washington, in part because of the bankruptcy this summer of a solar panel maker, Solyndra, after it had received more than \$500 million in federal loan guarantees.

**The use of solar energy in the United States is growing fast, but Chinese solar panel manufacturers have been growing even faster, raising their American market share to more than half now, from almost none five years ago.**

By bringing together complex issues like manufacturing policy, job creation and climate change, the solar panel dispute is emerging as the most politically charged trade case in many years, potentially rivaling Detroit’s legal case against Japanese automakers under a related trade statute in 1980.

The solar panel case “is one of those once-in-a-generation cases,” said Alan W. Wolff, a deputy United States trade representative in the Carter administration who is now the chairman of the international trade practice in the Washington office of the Dewey & LeBoeuf law firm.

Although solar energy now contributes only about one-tenth of 1 percent of American electricity, the amount of new solar wattage installed in the United States has been growing more than 70 percent a year since 2008, according to GTM Research, a renewable energy market analysis firm in Boston.

Seven American manufacturers filed a legal petition on Oct. 19 seeking the Commerce Department investigation and asking that tariffs of more than 100 percent be imposed on solar panels from China. The filing accused the Chinese industry of using billions of dollars in government subsidies to help gain sales in the American market and dumping panels at very low prices.

Under American trade laws, Wednesday was the deadline for the department to either begin a formal inquiry — unless it judged the case to be groundless — or find that few companies manufacturing panels in the United States actually supported it.

Whatever action the American government might take, it could prove too late to save the American solar panel industry. China, whose government has been a big promoter of green-energy companies, already accounts for three-fifths of the world’s solar panel production, giving it enormous economies of scale.

And it exports 95 percent of its production, much of it to the United States, rather than using it within China. That has helped push wholesale solar panel prices down sharply — to \$1 to \$1.20 a watt of capacity today, from \$1.80 in January, from \$3.30 in 2008.

Although plunging prices could speed up the adoption of solar power, the American industry contends the Chinese are simply not playing fair. Besides Solyndra, two other American solar companies that together represented one-sixth of American manufacturing capacity in the sector went bankrupt in August, while four other American solar companies have laid off workers and cut output since spring of last year.

President Obama said in an interview on Nov. 2 with a television reporter from Oregon, the hub of the American solar panel manufacturing industry, that there were “questionable competitive practices coming out of China” in clean energy.

That prompted the “farce” statement this week by the government-controlled Chinese Renewable Energy Industries Association, condemning Mr. Obama’s remark and contending that it indicated a bias in favor of the American manufacturers. “They attempt to shift the responsibility of U.S. clean energy development failure, especially President Obama’s personal responsibility, to Chinese solar cell companies,” the statement also said.

**The Commerce Department uses a quasi-judicial process administered mainly by civil servants to adjudicate antidumping and antisubsidy cases.** Congress created the process in the 1970s to shield the decision makers from political influence. There had been a perception that Republican and Democratic administrations had ignored violations of international trade rules during the cold war by Japan and other countries as long as they remained strong geopolitical allies against the Soviet Union.

Republican and Democratic administrations have defended the current process as insulated from politics.

“The methodology of this is not political,” said Frank L. Lavin, a longtime Republican who has held a series of appointments in Republican administrations, including overseeing the antidumping and antisubsidy investigations office when he was the undersecretary of commerce for international trade during President George W. Bush’s second term.

But like many Republicans, Mr. Lavin was critical of the Obama administration for having provided a half-billion dollars in federal credit guarantees to Solyndra, now bankrupt, a California company with an alternative solar energy technology. The financing is the subject of a continuing investigation by House Republicans.

“It’s very hard to make a case that \$500 million was well spent,” said Mr. Lavin, who is now a public affairs consultant in Hong Kong and not advising either side in the solar panel dispute.

**The Commerce Department is required by law to issue a preliminary decision on the antidumping claim possibly in mid-January but no later than late March,** and on the antisubsidy claim no later than mid-May. Many trade experts expect that the decision would include steep tariffs on imports, and that those tariffs would be retroactive to 90 days before each decision and possibly retroactive to Wednesday’s opening of the department’s investigation.

Chinese industries have lost almost all of the antidumping and antisubsidy cases against them for decades because the United States still categorizes China as a nonmarket economy, which means that special rules are used that tend to favor the American industry.

Most of the big Chinese solar panel manufacturers have subsidiaries in the United States that are the legal importers, so they — not the American installers of solar panels — would incur the initial costs of any tariffs. But those costs could be expected to be passed along to customers; otherwise, Chinese companies might find themselves vulnerable to higher antidumping penalties in the future.

Taking the lead in the dumping petition was SolarWorld Industries America, a unit of the German manufacturer SolarWorld. Six other American solar panel manufacturers signed on to the case with SolarWorld, but all have exercised the option to keep their identities secret.

That anonymity could help relieve them and their executives from fears of retaliation by the Chinese government, which could come in the form of denying them access to the Chinese market or denying them visas.

But the secrecy also makes it hard for the Chinese industry's lawyers to figure out if the companies filing the case have themselves received American government subsidies. SolarWorld Industries America has acknowledged receiving a few million dollars in subsidies for research and none for exports. Government subsidies that promote exports are the ones likely to violate international trade rules.

Li Junfeng, the president of the Chinese Renewable Energy Industries Association and also a deputy director general of the National Development and Reform Commission, China's top economic planning agency, said in a telephone interview on Thursday morning that the United States and China should work together to reduce the cost of solar power instead of engaging in trade conflicts.

While the American manufacturers say that their Chinese competitors have received billions in subsidies, Mr. Li denied this, and said that Chinese companies' subsidies had not come close to Solyndra's. "No one gets a bigger subsidy; all of them are \$10 million or less," and these amounts were mainly in 2005 and 2006, he said.