Policy impacting trade

Policy | While the supply chain has recoiled from surging materials prices, component shortages and unprecedented volatility in shipping and freight costs, national policies and regulations have also emerged as a sizeable hurdle to frictionless solar trade. Here PV Tech Power recaps the policies to watch in the coming months.

The Withhold Release Order

In late June, the US Department of Commerce confirmed that it had enacted a Withhold Release Order (WRO) against Hoshine Silicon Industry and its subsidiaries, blocking the import of metallurgical-grade silicon and silicon-based products that can be traced to Hoshine. Two months after the WRO was enacted, US Customs and Border Protection (CBP) was said to have started seizing module shipments at the US border, however at the time of publication there has been no definitive statement confirming this, nor the amount of shipments seized. The WRO works by detaining shipments suspected of not complying with the order and requesting the importer supply documentation proving products contained are not linked to the party in question. It has 90 days to provide this, after which CBP will either allow them to leave the port of entry or block them from entering the country permanently. Importers then have a further two months to arrange reshipment, after which goods are presumed abandoned and destroyed. While the WRO remains in place against only Hoshine and its subsidiaries as it stands, the situation has been described as "fluid" with commerce department officials also expressly stating more entities, and perhaps more importantly their customers, are being identified on a regular basis. The order has thrust importance on supply chain transparency and traceability, with most estimates suggesting it will be months yet before manufacturers are in a position to satisfy customs officials.

The budget reconciliation amendment

US President Joe Biden is eager to push most of his agenda within a budget reconciliation bill that is currently passing through the US Senate, with speaker Nancy Pelosi said to want the bill to be in a position to pass by 1 October 2021. While the precise text has yet to be agreed, the bill is set to include an extension of the solar investment tax credit and production tax credit, as well as a direct pay option and tax credit for standalone storage. A potential manufacturing tax credit, as championed by Democrat senator Jon Ossoff, is also under consideration. However during the bill's first reading session in August, Republican senator Dan Sullivan proposed an amendment which would prohibit any renewable energy project using China-made technology or material from claiming any federal funding or subsidy, including the ITC. The amendment was passed with a strong majority – securing 90 votes in favour with just nine against – resulting in what could be a surprise addition to the bill's final text. There is still some way to go for the amendment to be included, but it could be one to watch heading into the latter stages of the bill's progress.

European alternatives

At the G7 summit earlier this year, US authorities insisted that its G7 partners were aligned in clamping down on alleged forced labour practices in Xinjiang. But, to date, not one has followed suit. The UK government has come under pressure from parliamentarians to enforce similar sanctions on imports from Xinjiang, however Prime Minister Boris Johnson has yet to confirm his stance on solar imports in particular. Meanwhile, the European Commission has not commented on future sanctions it may take under the EU Global Human Rights Sanctions Regime. One potential option for the EC to take is to adopt legislation passing in some member states, specifically in Germany and Denmark, which requires companies to conduct audits of their supply chains to ensure they comply with various ESG directives. Companies could face harsh penalties for failing to do so, in effect placing the responsibility solely on the customer or importer. The Commission is said to be publishing further documentation regarding this kind of approach in the autumn.

The Southeast Asia anti-dumping petition

Of perhaps most significance, and certainly of considerable concern from developers spoken to by PV Tech Power, is the petition filed with the US Department of Commerce calling for an investigation into alleged circumvention of anti-dumping and countervailing duties by Chinese module manufacturers. The petition, filed by law firm Wiley on behalf of the American Solar Manufacturers Against Chinese Circumvention (A-SMACC), a coalition of US-based manufacturers that have chosen to remain anonymous, contends that Chinese manufacturer are circumventing AD/CVD duties by shipping to the US market through subsidiaries based throughout Southeast Asia, specifically in Malaysia, Vietnam and Thailand. The case argues that AD/CVD duties currently reserved for modules originating from China under Section 201 – equivalent to 15% until February 2022 – should be extended to those countries. The investigation may also be complicated by the fact that the US International Trade Commission is set to investigate whether the existing S201 tariffs should expire in February 2023 or be extended, with the Biden administration set for crucial decisions to make in balancing its desire to support solar deployment with its trade policy.