This week brings two related and interesting stories on the prospects for domestic climate change legislation and progress in Copenhagen when the international community gathers in December to try to hammer out a post-Kyoto treaty on climate change. The first is that China's top climate negotiator is "optimistic" that the international community will reach agreement on a new treaty in Copenhagen. It's unclear what the basis for his optimism is given that he also reiterated in strong terms China's opposition to limits on the amount of greenhouse gases China emits. I'm curious whether there are tea leaves to be read in the fact, though, that China is expressing not only optimisim but also some urgency about the need to tackle the climate change problem. Envoy Yu Quingtai also said that global warming is so "fearsome" that "we cannot afford to fail."

The second story is that ten Senate Democrats from midwestern and southeastern states, including Ohio, Minnesota, West Virgina, Pennsylvania and Michigan, wrote a letter to President Obama saying that they will not support domestic climate legislation unless it provides protection to domestic industries that would be hurt be foreign competition in countries that do not limit greenhouse gas emissions. Notably, the letter appears not to demand that other countries (read: China) enact domestic carbon limits before the Senators will back any U.S. climate bill. But the letter does — in its very first sentence — support border adjustments, which are tariffs imposed on imports of goods from countries without domestic greenhouse gas limits based on the embedded carbon content of the goods (for a great analysis of the legality of such border adjustments see Cara's post here). The House version of the Waxman-Markey climate bill also contains border adjustments.

The two stories highlight a major conundrum President Obama will face both in Copenhagen and with Congress in attempting to limit both international and domestic emissions. If the U.S. agrees to a treaty without limits on China, India and other rapidly growing economies the Senate will never ratify the treaty (remember that the Senate refused to ratify the Kyoto accord on the same grounds). Moreover, Congress appears unlikely to pass climate change legislation without a border tax adjustment, particularly if Obama comes home with a treaty that fails to commit China and India to binding emissions limits. But of course China, India and other trading partners without domestic greenhouse gas emissions limits will virulently object to border tariffs based on carbon content. Obama opposes the adjustments and has called them "protectionist" (see Nobel Laureate Paul Krugman's defense of border adjustments here).

It's not clear to me how Obama resolves this conundrum. He has recently **praised**

China for its tough fuel economy standards and China has been selling its progress in producing solar and hydroelectric energy. But those steps forward would do little to alleviate concerns over U.S. domestic limits that would affect the steel, aluminum and cement industries.