EXECUTIVE SUMMARY: *THE FILING*

Summary

This current antidumping and countervailing petition's objective is to address market distorting, anti-competitive behavior that creates uncertainty for U.S. solar manufacturers and tens of thousands of American solar workers, while threatening our country's energy security. A level playing field will allow U.S. solar manufacturers to compete and thrive on their own merits, safeguarding good-paying, family sustaining jobs. With a stable supply and pricing environment, we can drive deployment with sustainably made solar technology.

What is the process? What next steps are expected / how soon would you have a ruling?

These cases run about a year from start to finish. The Commerce Department will issue a press release announcing they have initiated the investigation on day 20 (May 14) and issue a Federal Register Notice right after. The Commerce Department has 120 days (4 months) from initiation to issue a preliminary subsidy determination, and 190 days (6 months) from initiation to issue a preliminary antidumping determination.

The ITC will begin a preliminary injury investigation almost immediately after the petition is filed. There will be an ITC staff conference with industry witness testimony on day 21 (May 15). The ITC will make a preliminary assessment on injury from imports on day 45 (May 25) and issue a press release.

Key Solar Manufacturing Facts:

1) Cambodia, Malaysia, Thailand, and Vietnam together accounted for **84% of U.S. panel imports** in the fourth quarter of 2023, up from 78% in the third quarter.
2) The Solar Energy Manufacturers for America's **recent report** showed that this glut will only worsen in 2024. Stockpiling will be 2.4 times the expected demand.
3) In the first quarter of 2024, **module prices are down more than 50%** "with no end in sight."
4) Chinese companies have **called on** the Chinese government to engage in price fixing because prices are so low.

Timeline of Solar Tariffs:

- **First AD/CVD Case (2012):** The first antidumping/countervailing duty (AD/CVD) case was initiated against China by the law firm Wiley, and it primarily targeted Chinese solar cells. This led to a loophole where Chinese companies exported wafers to Taiwan, imported cells from Taiwan, manufactured panels in China, and exported them, circumventing the tariffs. In response, AD/CVD II was implemented in 2014, targeting cells from Taiwan and panels from China. Both measures remain in place to this day.

- **Initial Tariffs (2018):** In June 2018, the United States imposed Section 201 tariffs on solar panel imports, citing unfair competition from Chinese manufacturers and concerns about intellectual property theft. The United States Trade Representative (USTR) claimed the tariffs covered approximately $34 billion worth of imports from China.

- **A-SMACC Petition and Rejection (August-November 2021):** Before the Auxin Solar case, an anonymous group of petitioners called A-SMACC (American Solar Manufacturers Against Chinese Circumvention) filed a similar petition. However, it was rejected because the U.S. Department of Commerce disapproved of the anonymity and the fact that the case was filed against specific Chinese companies rather than entire countries.

- **Auxin Solar Allegations and Commerce Investigation (February-March 2022):** In February 2022, Auxin Solar filed a petition with the U.S. Department of Commerce, requesting a circumvention investigation into solar cells imported from Cambodia, Malaysia, Thailand, or Vietnam. The investigation, which began in March 2022, was intended to determine if these imports were circumventing AD/CVD orders on solar cells from China. While Commerce rejected the A-SMACC case on grounds of anonymous petitioners filing against specific companies, as compared to countries, Auxin re-filed and addressed these concerns raised by Commerce, and the essence of the case remained the same.

- **Preliminary Determination and Investigation (2022-2023):** The Commerce Department issued a preliminary determination in December 2022, finding circumvention by certain companies on solar cell and panel components. The investigation covered factors such as the class of merchandise, completion in third countries, and significance of assembly processes in these countries.

- **Final Ruling and Tariff Implementation (August 2023):** The Commerce Department issued a final ruling on August 18, 2023, determining that solar cells and panels completed in Cambodia, Thailand, Malaysia, and Vietnam from Chinese components were circumventing U.S. trade duties against China. The ruling covered assembled and unassembled solar panels.

The United States implemented tariffs on affected solar component imports. The 18-month long investigation by Commerce resulted in AD/CVD tariff rates applied to solar exports coming out of Southeast Asia, with the official exemption of products from Hanwha Qcells (Malaysia), JinkoSolar (Malaysia) and Boviet Solar (Vietnam).

- **Moratorium on Duties and Tariff Enforcement (June 2022):** However, the Biden Administration imposed an unprecedented moratorium on collecting tariffs on circumvented products (i.e., most of the manufacturing of the panels was determined to be from China even if the materials came from one of the four countries involved). This moratorium stipulated that regardless of preliminary or final determinations, no duties would be imposed until June 2024. Circumvention cases have a unique "certification scheme" where companies can demonstrate they are no longer circumventing and thus avoid duties, such as by using non-Chinese wafers or incorporating key components on panels. With more than 40 GW of new wafer capacity built in Southeast Asia in the last three years, expectations are that companies will avoid paying duties when the moratorium ends in June.

ABOUT THE ALLIANCE:

The American Alliance for Solar Manufacturing Trade Committee is a coalition of seven member and supporter companies calling for trade law enforcement against foreign entities engaging in illegal practices to protect jobs, ensure fair prices, and foster a strong American solar industry for generations to come. For more information visit: AmericanSolarTradeCmte.org.

FAQs

The future of America's cutting-edge solar industry is at stake for solar developers and manufacturers alike. The unfair and illegal trade practices of Chinese-headquartered companies via Cambodia, Malaysia, Thailand, and Vietnam are causing immense volatility and cost uncertainty. This denies our manufacturers the opportunity to compete on the basis of their merits and pricing and supply volatility makes it impossible for solar developers to plan for the future.

At a time when the U.S. government has created the foundation necessary to invest in the energy transition with the passage of the Inflation Reduction Act (IRA), we must also enforce our trade laws, so these investments support the Act's strategic intent. The IRA presents a once in a lifetime opportunity to expand and secure the solar supply chain and catalyze investments in U.S. manufacturing and innovation in this important sector.

Without swift and effective enforcement of our trade laws, these investments will be for naught, and we will be dependent on Chinese companies to build our clean energy future.

FACTS OF THE PETITION

- On April 24, 2024, the American Alliance for Solar Manufacturing Trade Committee filed a set of antidumping and countervailing duty cases with the U.S. International Trade Commission (ITC) and the U.S. Department of Commerce ("Commerce Department") to investigate unfair trade practices from factories in Cambodia, Malaysia, Thailand, and Vietnam that are injuring the U.S. solar industry.
- The ITC has the authority to determine if the U.S. industry is currently being injured or threatened by imports from these four countries. The Commerce Department has the authority to determine the amount of dumping and subsidies and the levels of antidumping and countervailing duties that would be imposed.
- This alliance includes seven solar manufacturing companies. These companies allege that the domestic industry is injured by dumped and subsidized imports from these countries. Increased production capacity in Asia has led to a collapse of global solar panel prices, unfairly denying U.S. solar manufacturers the opportunity to compete on the basis of their own merits.
- The value of imports of solar cells and modules from Cambodia, Malaysia, Thailand, and Vietnam increased by 141% from 2021 to 2023.
- Shipments from Southeast Asia are accelerating. Cambodia, Malaysia, Thailand, and Vietnam together accounted for 84% of U.S. panel imports in the fourth quarter of 2023, up from 78% in the third quarter, according to the S&P Global Market Intelligence Global Trade Analytics Suite.

- If Chinese companies monopolize the solar market, it will have full discretion over market pricing, destroying healthy competition.
- The Solar Energy Manufacturers for America's (SEMA) recent report showed that a current glut of solar imports will only worsen in 2024. The report projected that stockpiling will be 2.4 times the expected demand: With tariffs, the projected oversupply is 91,600 MW of solar. Without tariffs, it's projected to hit a whopping 102,400 MW of solar. Even with tariffs, there will be far more than enough solar available to meet the projected demand of 38,700 MW.
- Based on first quarter 2024 data, solar panel prices are down more than 50% in the last year "with no end in sight." Irrationally low, market-distorting pricing has caused even Chinese companies to call for the intervention of the Chinese government.
- The IEA reports that there is a year and a half stockpile of solar panels in American warehouses.
- In February 2024, Bill Gates-backed CubicPV Inc., a Massachusetts-based solar manufacturing upstart, canceled its ambitious plan to construct a 10 GW wafer factory just 14 months after the plans were announced. The company attributed these changes to disintegrating market conditions.
- Many U.S. solar manufacturers are losing major sales to dumped and subsidized imports from the four Southeast Asian countries.
- We expect investments in U.S. solar manufacturing to continue to stall given the state of the market, unless the playing field is leveled by enforcing trade laws.
- This petition is not asking for special treatment from the U.S. government – we are simply asking that our current trade laws be enforced.

The actual antidumping and countervailing duty margins will only be determined after a full investigation by the Commerce Department. It is important to note that the duty rates imposed on most companies could be lower than the rates listed below. Note, current Chinese AD/CVD rates range from 15% to 50% for most cooperating companies. Companies that refuse to cooperate in the investigations, as well as companies in Vietnam (a non-market economy) that are found not to be independent of the Vietnamese government, could be subject to the rates listed below.

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- Dumping margins: ***
    - Vietnam: 271.45%
    - Cambodia: 126.07%
    - Malaysia: 81.24%
    - Thailand: 70.35%

WHAT IS AN ANTIDUMPING COUNTERVAILING DUTY CLAIM
Source: U.S. Department of Commerce

Filing this type of case is the standard procedure and remedy for American manufacturers being harmed by dumped and subsidized imports. These kinds of cases happen frequently, involving products from paper plates to steel. There are more than 670 U.S. antidumping and countervailing duty orders in place today.

An antidumping (AD) and countervailing duty (CVD) case is a legal process used by the U.S. government to address unfair trade practices by foreign companies and governments. Specifically, dumping occurs when a foreign company sells a product in the U.S. market at a price that is lower than the price charged in its home market or at a price that is below its cost of production. This is considered an unfair trade practice that can harm U.S. companies and workers.

To address these unfair trade practices, the U.S. Department of Commerce can impose AD and/or CVD duties on imports. These additional duties are meant to "level the playing field" and offset the unfair pricing or subsidies. U.S. Customs and Border Protection is responsible for enforcing and collecting these AD and CVD duties on imported goods.

This is a helpful video from the U.S. Department of Commerce that explains why enforcement of our trade laws is important to support American industry and workers.

TIMELINE OF AN ANTIDUMPING COUNTERVAILING DUTY PROCEEDING

By law, these cases run about a year from start to finish.

- The Commerce Department will issue a press release announcing it has initiated the investigation on day 20 and issue a Federal Register notice shortly after.
- After the petition is filed, the Commerce Department has 190 days (approximately 6 months) to issue a preliminary antidumping duty ruling, and up to 130 days (approximately 4 months) to issue a preliminary countervailing duty ruling.
- The ITC will begin a preliminary injury investigation almost immediately after the petition is filed.
- There will be an ITC staff conference with industry witness testimony on day 21.
- The ITC will make a preliminary assessment on injury from imports on day 45 and issue a press release. The ITC will then conduct a final phase investigation of injury, toward the end of the approximately one-year investigation period.

HOW WILL THIS PETITION IMPACT CONSUMERS?

To ensure that solar will continue to be accessible and affordable, we need domestic alternatives to a handful of state-backed companies in China. This case will help ensure the continuation and growth of a strong U.S. supply chain for solar panels. According to NREL, if the U.S. solar manufacturing plants that have been announced following the passage of the Inflation Reduction Act are built, American workers can produce enough solar panels and cells to meet our demand by as early as 2025.

These cases will ensure that the U.S. solar industry will be able to supply American homes and businesses with solar panels, independent from any conflicts with China.

WHAT OTHER TARIFFS ARE CURRENTLY IN PLACE ON IMPORTED SOLAR PANELS?

Many foreign solar panels are being imported tariff-free because of a combination of Chinese based companies evading our trade laws and taking advantage of loopholes in our trade laws.

- **Antidumping and countervailing duties** were first placed on Chinese cells in 2012 and Chinese solar panels and Taiwanese cells in 2015.
- **Section 301** tariffs were applied in 2018 to hundreds of groups of products coming directly from China, including solar products. Today, few solar cell and panel imports now come **directly** from China. Chinese companies started producing much of their solar products for export to the U.S. in the four countries named in this petition specifically to avoid paying tariffs like 301. Imports of solar cells and panels from China in 2023 only accounted for 0.04% of panels and 0.01% of cells that came into the United States, according to Census data.
- In 2019, an exemption from **Section 201 tariffs** on bifacial solar panels limited the effectiveness of that tariff: More than 90% of imported panels are now bifacial. The effective duty rate for solar panels in 2023 was 0.4%, down from 9.6% in 2021.
- In 2022, the Biden Administration issued a two-year moratorium on tariffs on Chinese manufacturers under investigation for circumventing U.S. trade law by funneling imports through Southeast Asia. Nearly one year later, the Commerce Department confirmed that several of the Chinese manufacturers were indeed circumventing trade law. As of April 2024, this tariff moratorium is still in place.

The IRA has provided critical support for the American industry, but it pales in comparison to the enormous subsidies and other incentives China offers to Chinese firms. The IRA tax credits for manufacturers only apply to U.S. goods sold – manufacturers need a market that is not distorted by dumping and subsidies to sell into before receiving these credits.

TAX INCENTIVES PROVIDED BY THE INFLATION REDUCTION ACT

The intent of the IRA is to strengthen clean technology manufacturing and domestic production while we transition to a clean energy economy. If our trade laws are not enforced, it is highly possible the IRA will fail to deliver on manufacturing clean energy technology in America to the degree we can and must if we want to hit our climate goals, while derisking a critical value chain. It is also likely that we will become 100% dependent on Chinese companies for accessing solar technology, making us vulnerable to monopolistic pricing and supply chain access being weaponized to support the Chinese government's geopolitical goals.

According to the Clean Energy Buyers Association, today solar panel manufacturing represents a small portion of global emissions. However, if global energy grids don't get cleaner as solar manufacturing grows, the carbon emissions from manufacturing solar panels could exceed aluminum manufacturing by 2024. Currently, aluminum is the fourth most carbon intensive industry. Solar panel manufacturing will also be cleaner if done in the United States than if permitted to be dominated by Chinese-owned companies.

HOW DOES THE PRICE OF A SOLAR PANEL AFFECT THE COST OF A SOLAR PROJECT?

Solar panels make up only about 8% of the cost of a residential solar installation and less than 22% of utility-scale solar systems, according to a 2024 report by SEMA. Labor, permitting, customer acquisition, etc., are the costs that drive deployment decisions. According to a 2023 Bloomberg New Energy Finance (BNEF) report, the price of a standard solar panel hit an all-time low of 16.5 U.S. cents per watt in August 2023, and absent trade relief, prices are expected to fall further. In any case, solar system prices will be well below the price of fossil fuels. While low prices may seem attractive, these are artificially low. If Chinese companies secure a monopoly of the solar market, they will have full discretion over market pricing, destroying healthy competition.

Global spot markets are important indicators of where U.S. prices are headed. A public PV Insights report also shows that solar panel prices are as low as **10 cents/watt** in China.

The real barriers to deployment are high interest rates, interconnection constraints, and transmission bottlenecks. The focus on solar panel prices is misplaced – one would not try to solve the housing crisis by making bricks cheaper. Similarly, solar panels are an inexpensive portion of the overall cost; making them in the U.S. will not slow deployment.

HOW WILL THE OUTCOME OF THIS CASE AFFECT JOBS?

When we fail to defend our domestic economic policy, American jobs and industry suffer. After the economic collapse in 2008, the U.S. passed the American Recovery and Reinvestment Act (ARRA) in 2009 that included a 30% investment tax credit to spur American solar and clean energy manufacturing. China responded by pouring money into building factories and slashing solar component prices below cost and creating a near instantaneous monopoly. Within three years of ARRA's passage, most American manufacturers shuttered due to unfair market conditions and the uneven playing field influenced by China's anti-competitive, retaliatory actions. SEIA's annual market reports between 2010 and 2013 illustrate the sudden shuttering of American facilities manufacturing at all stages of solar production: ingots, wafers, cells, and finished solar panels.

Following the passage of the Inflation Reduction Act and its historic investments in the clean energy transition, the solar industry is at a critical juncture for growth. According to a study by Dartmouth University, Princeton University, and the Blue Green Alliance, if all U.S. developers sourced 55% of its manufactured solar goods domestically, the solar manufacturing industry would support 900,000 jobs by 2035. That is a significant increase from the estimated 34,000 solar manufacturing jobs in the U.S. today.

COULD THIS AFFECT DEPLOYMENT AND SLOW DOWN OUR CLIMATE GOALS?
The biggest factor holding back solar deployment is the enormous interconnection queue and workforce shortages. The best way to strengthen deployment is to have a vibrant, competitive domestic solar manufacturing industry, not a monopoly by Chinese-owned companies. Trade enforcement has never slowed deployment of solar panels in the United States.

The real risk for deploying solar at the pace our planet needs is a situation in which we are 100% dependent on Chinese companies for future deployment. This means that a foreign adversary would have complete control over pricing and supply chain for the cheapest and cleanest form of electricity.

ENERGY INDEPENDENCE/SECURITY

Solar energy is already the cheapest form of energy and will be an increasingly important part of our energy generation and that of our allies. We shouldn't trade our dependence on foreign oil with our dependence on foreign solar. Look no further than gas prices in Europe following Russia's invasion of Ukraine.

There is tremendous business opportunity in solar; solar technology was invented in the United States, the United States once led in this industry, and we have an opportunity now to reclaim our global leadership.

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