

July 29, 2024

The Honorable Amb. Katherine Tai
United States Trade Representative
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508

Re: ***U.S. Solar Industry Opposition to Government of Mexico's Request for Exemption from Section 201 Safeguard Duties on Bifacial Solar Panels from Mexico***

Dear Ambassador Tai,

On behalf of the American Alliance for Solar Manufacturing Trade Committee (“AASMTC”),¹ we respectfully submit this letter in opposition to the government of Mexico’s request that the Office of the United States Trade Representative (“USTR”) provide an exemption from Section 201 duties for bifacial solar panels from Mexico.² For the reasons stated herein, AASMTC respectfully requests that the USTR decline to exempt Mexican bifacial solar panels.

One of the greatest challenges of the 21st century is developing, improving, and innovating clean energy solutions, and it is imperative that the United States solar industry lead the way towards a sustainable future. The solar industry is already an important part of the U.S. economy, employing more than 34,000 workers, directly or indirectly.³ As the transition to clean energy continues, the solar manufacturing industry will play an increasingly vital role in the U.S.

¹ The members of the AASMTC include Convalt Energy, First Solar, Inc., Hanwha Q CELLS USA, Inc., Mission Solar Energy LLC, Meyer Burger (Americas) Ltd., REC Silicon, and Swift Solar.

² See e.g., Margaret Spiegelman, *Mexico seeks carveout for solar safeguard duties for two-sided panels*, WORLD TRADE ONLINE (July 15, 2024).

³ See *Fact Sheet: American Solar Manufacturing Jobs*, AMERICAN SOLAR TRADE COMMITTEE, available at <https://americansolartradecmte.org/fact-sheet-american-solar-manufacturing-jobs/>.

economy, and could support nearly 1 million U.S. jobs by 2035.⁴ However, the U.S. solar manufacturing industry has continually faced challenges from uncompetitive practices by foreign competitors that benefit from massive subsidies and dump solar cells and modules into the United States. These unfair trade practices have severely impacted the U.S. solar industry's ability to compete and caused solar panel prices to plummet, severely threatening the future of U.S. solar manufacturing.⁵ In fact, given the significant injury unfairly traded imports have inflicted—and continue to inflict—on the domestic industry, U.S. solar manufacturers recently filed new antidumping and countervailing duty petitions, against imports from Cambodia, Malaysia, Thailand, and Vietnam, as part of its ongoing effort to restore a level playing field to the U.S. market. It is because of this continued threat that the Section 201 safeguard measures must remain strong.

Unfair trade practices have allowed Chinese-owned companies (located both inside and outside of China) to put a stranglehold on the global solar manufacturing industry. Chinese-owned companies' share of global solar manufacturing capacity is expected to be more than 80% through 2026,⁶ and Chinese-connected companies produce 99% of wafers, 80% of cells, and 90% of polysilicon.⁷ In fact, due to the Chinese government's longstanding and substantial support for its

⁴ See *Inflection Point: The State of US PV Solar Manufacturing & What's Next*, Solar Energy Manufacturers for America (1Q 2024) at 12, available at: https://static1.squarespace.com/static/620460b5a16553242f92f19f/t/65fae8fca073a15a98d2af4b/1710942461168/Se_ma_Manufacturing_WhitePaper_032024.pdf (noting that a study shows that if all U.S. developers sourced 55% of their manufactured solar goods domestically, the solar manufacturing industry would support 900,000 jobs by 2035").

⁵ See *By the Numbers*, AMERICAN SOLAR TRADE COMMITTEE, available at: <https://americansolartradecmte.org/solar-manufacturing-by-the-numbers/>.

⁶ See Nichola Groom, *China will dominate solar supply chain for years* – Wood Mackenzie, REUTERS (Nov. 7, 2023), available at: <https://www.reuters.com/world/china/china-will-dominate-solar-supply-chain-years-wood-mackenzie-2023-11-07/>.

⁷ See *Fact Sheet: American Solar Manufacturing Jobs*, AMERICAN SOLAR TRADE COMMITTEE, available at <https://americansolartradecmte.org/fact-sheet-american-solar-manufacturing-jobs/>.

solar manufacturing industry, Chinese production of solar panels far exceeds current global demand.⁸ Given Chinese-owned and -supported companies' current role in the solar market, it is not only imperative from an economic standpoint that the U.S. solar manufacturing industry be able to compete on a level playing field, but from national security and energy independence perspectives as well.

Indeed, the Section 201 safeguard tariffs on solar products were imposed in recognition of the substantial injury caused to the U.S. solar industry by a surge of global imports.⁹ Recent history confirms that allowing exclusions or exemptions on tariffs only provides a loophole for companies to funnel imports into the United States and weaken the U.S. solar industry. As the Administration recognized when it removed the bifacial module exclusion to the Section 201 tariffs, “{s}ince {the exclusion on bifacial modules} was implemented . . . imports of bifacial panels have surged, now making up nearly all U.S. solar panel imports and undercutting the effectiveness of the Section 201 safeguard.”¹⁰

There is every reason to believe that if Mexico's exemption request was granted, the same types of surges would recur. Notably, U.S. imports of solar modules from Mexico increased by

⁸ See *Inflection Point: The State of US PV Solar Manufacturing & What's Next*, Solar Energy Manufacturers for America (1Q 2024), available at: https://static1.squarespace.com/static/620460b5a16553242f92f19f/t/65fae8fca073a15a98d2af4b/1710942461168/Se_ma_Manufacturing_WhitePaper_032024.pdf.

⁹ See e.g., Remarks by President Trump at Signing of Section 201 Actions (Jan. 23, 2018), available at: <https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-signing-section-201-actions/>; *Crystalline Silicon Photovoltaic Cells (Whether or not Partially or Fully Assembled into Other Products)*, Inv. No. TA-201-75, USITC Pub. 4739 (Nov. 2017) (“*Section 201 Determination*”) at 31-43 (discussing how imports are a substantial cause of serious injury to the U.S. domestic solar industry).

¹⁰ FACT SHEET: Biden-Harris Administration Takes Action to Strengthen American Solar Manufacturing and Protect Manufacturers and Workers from China's Unfair Trade Practices, The White House (May 16, 2024), available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2024/05/16/fact-sheet-biden-harris-administration-takes-action-to-strengthen-american-solar-manufacturing-and-protect-manufacturers-and-workers-from-chinas-unfair-trade-practices/>.

an astounding 399% from 2020 to 2023, highlighting the massive expansion in industry and the ease with which Mexico is able to quickly and significantly increase its exports to the United States. Moreover, a substantial portion of this surge can likely be attributed to Chinese solar companies investing in and building manufacturing facilities in Mexico, in order to gain easier access to the U.S. market.¹¹ If the United States were to exempt Mexican bifacial solar panel imports from the Section 201 tariffs, not only would imports directly from Mexico increase, but Chinese manufacturers would exploit the loophole by transshipping Chinese solar panels through Mexico and into the United States, duty free.

This surge in imports underscores why the United States should not enter into an agreement to exempt Section 201 tariffs on bifacial panels from Mexico or otherwise suspend safeguard measures on solar panels. Notably, during the Section 201 investigation, the U.S. International Trade Commission recognized the role surging Mexican imports played in the injury to the domestic industry, stating that “imports of {solar} products from Mexico account{ed} for a substantial share of total imports and contribute{d} importantly to the serious injury caused by imports.”¹² Further, the circumstances are significantly different from those underlying the suspension of Section 201 safeguard measures on imports from Canada. Importantly, there was no surge in imports from Canada.¹³ In contrast, as noted above, there has been a massive increase

¹¹ See e.g., *Chinese company to invest in US \$198M solar panel factory in Durango*, MEXICO NEW DAILY (Jan. 31, 2024), available at: <https://mexiconewsdaily.com/business/chinese-company-to-invest-in-us-198m-solar-panel-factory-in-durango/>; *Got 1 min? Chinese firm acquires 3 more solar power plants in Mexico*, MEXICO DAILY NEWS (Dec. 18, 2023), available at: <https://mexiconewsdaily.com/business/got-1-min-chinese-firm-acquires-3-more-solar-power-plants-in-mexico/>; *Mexico's Nuevo Leon state says China's Trina Solar to invest up to \$1 bln*, REUTERS (Oct. 16, 2023), available at: <https://www.reuters.com/business/energy/mexicos-nuevo-leon-state-says-chinas-trina-solar-invest-up-1-bln-2023-10-16/>.

¹² *Section 201 Determination* at 5.

¹³ Mem. Of Understanding Between the Gov't of the United States of America and the Gov't of Canada on Trade in Solar Prods. (July 8, 2022) at ¶ 3.

in imports from Mexico in recent years. Imports from Mexico will only continue to surge as production capacity at Chinese-owned and -supported manufacturing facilities increase, particularly if antidumping and/or countervailing duty orders are placed on imports from Thailand, Vietnam, Malaysia, and Cambodia.

In short, imports of bifacial solar panels from Mexico are *exactly* the type of products that the Section 201 tariffs are meant to safeguard against, and an exclusion would only serve the interests of China and Chinese-owned companies.¹⁴ Reinstating the exemption on bifacial solar panels from Mexico will lead to a renewed surge of imports from Mexico—much of which will likely be produced by Chinese-affiliated producers—and will contribute to a loss of U.S. jobs and the shuttering of U.S. solar manufacturing facilities.

As the world becomes increasingly reliant on solar energy, it is vital that the United States solar industry have significant manufacturing capacity and a thriving domestic supply chain. The United States cannot be reliant on China, Mexico, or any other country to supply its solar products. Accordingly, AASMTC respectfully requests that the USTR not provide an exemption for bifacial panels from Mexico.

Should you have any questions regarding this letter, please do not hesitate to contact us.

¹⁴ See *Section 201 Determination* at 5, 29, 70-71.

Respectfully submitted,

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