Anonymous Solar Tariff Petitions Threaten the American Solar Economy

Solar Energy Industries Association®

Baseless Petitions Could Rock U.S. Solar Industry to its Core and Halt Climate Change Progress

On August 16th, an anonymous group of companies filed tariff circumvention petitions with the U.S. Department of Commerce. The petitions allege that crystalline silicon photovoltaic (CSPV) cells and panels imported from Malaysia, Vietnam and Thailand should be covered by the antidumping (AD) and countervailing duties (CVD) imposed on cells and panels from China.

If allowed to proceed, these anonymous petitions would cripple the U.S. solar industry and ruin America's plans to tackle climate change. Indeed, the U.S. solar industry is already feeling the adverse impact. The U.S. Department of Commerce must exercise its authority to reject these petitions.

Background & Overview

» The petitioners have asked Commerce to impose tariffs ranging from 50% to 250% on most solar cell and panel imports from Malaysia, Vietnam and Thailand as soon as September 30th.

» Even the initiation of new investigations would immediately disrupt the supply of solar modules available to the U.S. market as these three countries account for:
  - 80% of all crystalline silicon solar module imports in the first half of 2021
  - 59% of total U.S. module supply

» The Biden administration recognizes that greater adoption of solar is critical to meeting climate goals. To that end, the Department of Energy released a Solar Futures Study, which found U.S. solar would need to surpass current deployment by four times to meet U.S. climate aspirations. The report shows that with the right policies in place, solar can address the climate crisis, expand U.S. manufacturing and create hundreds of thousands of new jobs.

» Much of that potential to tackle climate change would be nullified by expanding the AD/CVD tariffs.

The Petitions Lack Merit

» The petitioners are asking Commerce overturn more than a decade of established Commerce precedent in solar trade cases. This is a complete reversal of what the domestic industry has previously represented to Commerce and the U.S. International Trade Commission.

» The petitioners' characterization of the CSPV cell and panel production process as minor or insignificant directly contradicts what domestic solar manufacturers have represented to the U.S. government in every solar trade remedy case over the past decade, including the ongoing Section 201 extension investigation.

» The petitions are also designed to avoid a full and fair inquiry into whether CSPV cell and panel imports from Malaysia, Vietnam, and Thailand are actually subsidized or sold to the United States at less than fair value.

» These anonymous companies are further trying to avoid the requirement to establish harm from imports during a full U.S. International Trade Commission (USITC) investigation and public hearing before the USITC Commissioners, and conveniently exclude domestic panel manufacturers' own solar cell and panel imports from Malaysia and Vietnam.

» Commerce should not allow this backdoor attempt to overturn longstanding Department precedent and avoid a full review of important procedural factors.

» The petitions are based on the false premise that the production of solar cells and panels is a "minor or insignificant" process. In fact, as the domestic industry has argued in every previous U.S. solar trade case, cell and module production are significant manufacturing operations. A couple proof points:
  - More than two-thirds of the value of solar panels from these three countries are created during the manufacturing process in those countries.
  - The production of solar cells and panels, which primarily takes place in these three countries, is capital intensive and requires skilled employees.
  - Nearly all of the critical technological processing occurs in these three countries at the multistep, cell production phase of CSPV manufacturing.
  - It takes between $180 - $360 million in CapEx and 2-3 years from announcement to build a 2 GW cell factory. Similarly, it takes approximately $200 million in CapEx and 2-3 years to build a 1.7 GW solar panel factory. These are the types of investments these three countries have made.

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Tariffs Would Increase Energy Costs, Cripple Deployment and Put Climate Goals at Risk

- Expanding the AD/CVD tariffs to Malaysia, Thailand and Vietnam would cut off supply from these countries and create significant price increases for solar energy in the U.S.
- Buyers would have to pay $50,000-$250,000 per shipping container of modules in tariffs. For context, a single utility-scale project uses multiple containers of panels per day.
- Companies are being forced to use existing module inventory to make up for import shortfalls. That alone is raising the costs of projects by 4% to 20%.
- There is insufficient global supply outside Malaysia, Thailand and Vietnam.
    - Baseline U.S. solar installation forecasts are 30 GW in 2022 and 32 GW in 2023.
    - Without supply from these three countries, installations are likely to fall to less than 26 GW in 2022 and 18 GW in 2023, resulting in a total loss of 18 GW over the next two years.
- In a best case scenario, it would take 18-24 months to establish sufficient manufacturing capacity outside of those countries and likely at higher costs.
- Over the next 15 years, these tariffs would not only disrupt near-term deployment, they would add significant costs that would be passed on to all electricity customers. Those costs could add up to over $3 billion.
- Hitting the domestic solar industry with additional supply uncertainty and increased costs at a time when supply chains are already in disarray would greatly compound challenges.
- If deployment drops 15-40% over the next two years, tens of thousands of skilled downstream workers will have to leave the industry. Regaining their expertise in the years that follow will again add cost and slow decarbonization efforts.
- The lost solar deployment due to these tariffs would result in more than 150 million metric tons of CO_2 added to the atmosphere over the next 9 years during a critical period to reduce emissions and solve the climate crisis.
- With these tariffs in place, it would be nearly impossible to catch up and reach the Biden Administration's goal for solar to account for 40% of electricity generation by 2030, and to decarbonize the U.S. electricity sector.

Yes to U.S. Manufacturing, but Tariffs Don't Work

- Growing the U.S. solar supply chain is of critical importance. Long term policy that drives solar demand and incentivizes a healthy manufacturing sector can drive a strong U.S. manufacturing renaissance. However, needless and harmful tariffs are not the solution.
- U.S. demand for panels and cells far exceeds current domestic production capacity. There is no question that an abrupt move to impose massive new tariffs on solar panels and cells imported from Southeast Asia would stall both ongoing and planned U.S. solar projects. It would negatively impact all industry segments and result in significant domestic job losses.
- Tariffs are a blunt instrument that effectively create a tax on American goods. They would nullify tax credits that encourage solar deployment and reverse cost reductions that enable the U.S. to deploy solar, rather than traditional, dirtier energy sources.
- Malaysia, Thailand and Vietnam have been valued trading partners. We import $147 billion in goods from those three countries annually, including roughly $6 billion in solar goods. They are sovereign countries with their own economic and political profiles. Targeting them for immediate sanctions is at odds with established AD/CVD enforcement procedure.

The anonymous solar tariff petitions could devastate the U.S. solar industry and the 250,000 jobs it supports. Commerce has the authority to reject these meritless petitions. Accordingly, **Commerce should decline to initiate these meritless circumvention investigations that will cause needless harm to the American solar economy.**