

United States Senate

WASHINGTON, DC 20510

September 28, 2021

The Honorable Gina Raimondo
Secretary
U.S. Department of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

RE: Anonymous Petitions to Impose Tariffs on Crystalline Silicon Photovoltaic Solar Cells and Panels from Malaysia, Vietnam, and Thailand

Dear Secretary Raimondo:

We are writing to express our concerns with recent, anonymous petitions alleging illegal trade activity filed with the Department of Commerce (Commerce) that would have a devastating impact on the U.S. solar industry and American solar jobs. Given the significant negative effects of imposing new tariffs on imported solar products, we implore you to carefully assess the validity of these petitions, ensure such claims go through the proper USITC process, and determine whether it is appropriate to initiate an investigation into this matter.

On August 16, 2021, an anonymous group filed three circumvention petitions to expand the scope of existing antidumping and countervailing duty (AD/CVD) orders to include almost all crystalline silicon photovoltaic (CSPV) solar panels and cells imported from Malaysia, Vietnam, and Thailand. Expanded tariffs on products from these countries would threaten thousands of American solar jobs and seriously impede our ability to meet the nation's climate goals.

Commerce has broad discretion regarding circumvention petitions¹, and we believe this is particularly true when the Department is faced with serious procedural concerns. We ask that you carefully consider whether the anonymous petitions on solar imports represent an effort to misuse the circumvention statute 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. As you know, the AD/CVD process requires petitioners to establish harm from imports during a full U.S. International Trade Commission (USITC) investigation and public hearing before the USITC Commissioners. This robust process affords interested parties the opportunity to contest petitioners' claims.

Although we are currently working to develop greater domestic solar manufacturing capacity, currently, U.S. demand for panels and cells far exceeds domestic production capacity. In the first half of 2021, imports from Malaysia, Thailand, and Vietnam accounted for 80% percent of all CSPV imports and 59% of total U.S. panel supply. New tariffs on solar products from these three


¹ 19 U.S.C. § 1677j(b)(1) provides that Commerce “may include such imported merchandise within the scope of such order” and includes a prerequisite that Commerce “determine that action is appropriate under [the anti-circumvention provision] to prevent evasion”).

countries would stall many ongoing and planned U.S. solar projects, negatively impacting every segment of the U.S. solar industry and resulting in significant job losses. In particular, the tariffs would have direct impact on the almost ninety percent of solar jobs in the United States that are not in the manufacturing sector. The President's ambitious climate and solar deployment goals also would be put at serious risk given the Administration's focus on solar as a principal solution to addressing climate change.


Given the likely impact of these proposed tariffs and the procedural questions identified above, we ask that you give careful consideration to the validity of these petitions and whether it is appropriate to initiate a formal investigation in this matter.

Thank you in advance for your attention to these important issues.

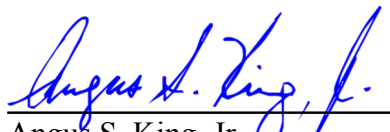
Sincerely,



Jacky Rosen
United States Senator




Thomas R. Carper
United States Senator




Angus S. King, Jr.
United States Senator




Michael F. Bennet
United States Senator



Martin Heinrich
United States Senator



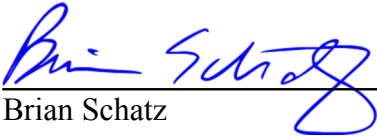
Sheldon Whitehouse
United States Senator



Dianne Feinstein
United States Senator



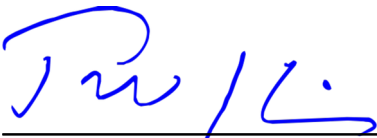
Jack Reed
United States Senator



Brian Schatz
United States Senator



Mazie K. Hirono
United States Senator



Tim Kaine
United States Senator



John Hickenlooper
United States Senator