

# United States Senate

WASHINGTON, DC 20510

May 9, 2018

The Honorable Robert Lighthizer  
U.S. Trade Representative  
Executive Office of the President  
600 17<sup>th</sup> Street, NW  
Washington, DC 20006

The Honorable Wilbur Ross  
Secretary  
U.S. Department of Commerce  
1401 Constitution Avenue, NW  
Washington, D.C. 20230

The Honorable Rick Perry  
Secretary  
U.S. Department of Energy  
1000 Independence Avenue, SW  
Washington, D.C. 20585

Dear Ambassador Lighthizer, Secretary Ross, and Secretary Perry:

We are writing to express our appreciation for the President's recent initiatives to protect U.S. manufacturers against unfair competition from foreign imports. We are grateful that, in the proclamation imposing safeguard measures on solar product imports, President Trump thoughtfully included a process for excluding certain products. Under the President's directive, the U.S. Trade Representative is to assess the scope of products covered by the solar tariff and appropriately amend the Harmonized Tariff Schedule when its application would result in unintended consequences that ultimately diminish domestic growth.

Based on the exclusion request criteria set forth in the Federal Register notice published on February 14, 2018 (83 FR 6670), we respectfully request that the Administration consider excluding certain utility-scale products. The International Trade Commission has recognized that the utility-scale solar segment is "acutely price sensitive" because its price is either set at the utilities' lowest avoided cost by state Public Service Commissions in regulated markets, or it is the lone base for competition with other integrated forms of generation in deregulated wholesale markets.<sup>1</sup> Accordingly, an increase of \$0.10/MW would deter private investment and disrupt efforts to integrate utility-scale solar in electrical grids and utility markets nationwide. That setback would be a crippling for this burgeoning industry and hinder our country's efforts to update our energy infrastructure to reliably meet growing demands.

We specifically urge you to exclude 72 cell, 1500 volt utility-scale solar panels from this safeguard measure. Solar manufacturing jobs have surged 58% in the last five years, and the growth rate in over 50 factories throughout the Midwest and South has become increasingly affiliated with the deployment of these 72 cell, 1500 volt panels that have never been manufactured in the United States. Alternative energy markets across the Southwest and West present additional opportunities for solar job growth as those states seek to diversify energy production sources. You astutely recognize consequential "benefit[s] or advantage[s] to the long-term competitiveness of the solar manufacturing

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<sup>1</sup> *Crystalline Silicon Photovoltaic Cells (Whether or Not Partially or Fully Assembled into Other Products)*, Investigation No. TA-201-75, Volume II: Information Obtained in the Investigation, U.S. International Trade Commission, Pub. No. 4739 (Nov. 2017), p. V-3.

supply chain” as a factor for granting a product exclusion. Building a skilled American workforce to meet the demand for solar technologies is essential to upholding the utility-scale market while the U.S. develops and integrates innovative, high-voltage technologies into our utility-scale solar sector.

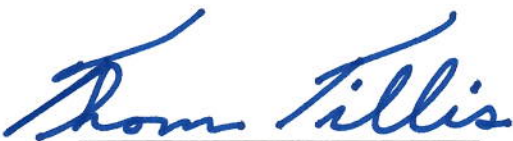
The criteria for considering exclusion requests include “total U.S. production of the particular product for each year from 2014 to 2017” and “whether the particular product is under development by a U.S. producer who will imminently be able to produce it in marketable quantities.” In 2016, the demand for utility-scale solar projects in the U.S. exceeded 10,000MW, but our domestic manufacturing capacity only amounts to 550MW of 72 cell modules. Due to the high cost associated with 72 cell production, that capacity is entirely devoted to higher-margin 1000 volt modules used in the residential and commercial sectors. No available data indicate there was any production of a 1500 volt module from 2014 to 2017. Moreover, in the unlikely event that domestic producers choose to transition existing operations to lower-margin, 1500 volt modules, production would fall far below marketable quantities.

We recognize that enforceability is key to the effectiveness of any safeguard measure imposed by the U.S. To produce the intended result, we must ensure product exclusions do not create loopholes that importers can use to circumvent product restrictions. Customs and Border Protection can easily identify this product by the cell count, wattage (display is currently required on product imports), dimensions, weight, and warrantee.<sup>2</sup> Furthermore, 72 cell, 1500 volt panels cannot be retrofitted as a substitute for products in the residential and commercial solar industries because the high-voltage module is incompatible with use in those service sectors.


The exclusion of 72-cell, 1500 volt solar panels from the safeguard measure will preserve tens of thousands of existing solar manufacturing and development jobs, foster market expansion, and allow the U.S. to once again fairly compete in the global marketplace for energy production technologies. Sensible product exclusions will uphold the integrity of the safeguard measures intended to facilitate positive adjustment to competition from imports of certain crystalline silicon photovoltaic cells.

We very much appreciate your consideration of this request. Solar industry participants in our states stand ready to work with you to support the continued growth of U.S. solar manufacturing.

Sincerely,



Thom Tillis  
United States Senator

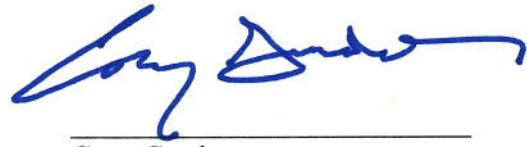


Dean Heller  
United States Senator

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<sup>2</sup> Crystalline silicon photovoltaic (“CSPV”) cells assembled into a single solar module containing 72 or more CSPV cells; UL or IEC certified maximum system voltage of 1,500 Volts DC; surface area greater than 1.9 m<sup>2</sup>; weight greater than 47 pounds; covered by a product warranty of no less than 20 years; the foregoing imported pursuant to a purchase order for the construction of a ground-mounted solar power station with a capacity of one megawatt or more.

  
Jerry Moran  
United States Senator

  
Cory Gardner  
United States Senator

  
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Richard Burr  
United States Senator

  
Pat Roberts  
United States Senator

  
Tim Scott  
United States Senator