September 28, 2021

Via Electronic Submission

Senior International Trade Specialist Devin Horne
International Trade Administration
U.S. Department of Commerce
1401 Constitution Ave
Room 28018
Washington, D.C. 20230

Re: ITA-2021-0005, *Request for Comments on U.S. Clean Technologies Export Competitiveness Strategy*

Dear Mr. Horne,

The American Council on Renewable Energy ("ACORE") respectfully submits these comments concerning the August 30, 2021 Request for Comments on U.S. Clean Technologies Export Competitiveness Strategy ("Request for Comments") from the International Trade Administration ("ITA"), identifier ITA-2021-0005. ACORE is a national nonprofit organization dedicated to advancing the renewable energy sector through market development, policy changes and financial innovation.[1] Our membership includes some of the nation's foremost institutional investors, renewable energy developers and manufacturers, technology companies and corporate energy offtakers.[2]

Meeting the Biden-Harris Administration's clean energy goals requires a global view. Achieving the target of a 100% carbon-free power sector by 2035[3] means the clean energy sector must scale at unprecedented speed, necessitating a healthy global supply chain, and we applaud the administration's thorough evaluation of domestic risks to materials that support the renewable energy industry identified in its 100-day supply chain review[4] issued in compliance with its Executive Order on America's Supply Chains.[5] Our national goal of reducing greenhouse gas emissions by 50-52% by 2030 as part of the Paris Climate Agreement places the U.S. response in

[1] See https://acore.org/ for more information about ACORE.
[2] See https://acore.org/our-members/ for more information about ACORE's members.
[3] Executive Order 14008. "Tackling the Climate Crisis at Home and Abroad" January 27, 2021. https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/
[4] White House. "Building Resilient Supply Chains, Revitalizing American Manufacturing and Fostering Broad-Based Growth." June 2021. https://www.whitehouse.gov/wp-content/uploads/2021/06/100-day-supply-chain-review-report.pdf
[5] Executive Order 14017. "America's Supply Chains." February 24, 2021. https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/24/executive-order-on-americas-supply-chains/

international context.[6] Increasing competitiveness against non-U.S. sources of goods used for industry deployment of clean technologies globally—from primary materials to finished products—requires supportive policy. This challenge is particularly acute for the solar industry as one of the leading clean energy subsectors. The relationship between consumer, producer, developer, multinational supply chain and international goals cannot be overstated. ACORE is grateful for ITA's substantive attention to these issues through the Request for Comments.

In response to Question 6, *"For sectors or technologies in which the United States does not currently have a competitive domestic industry, what are the main factors (i.e., economic, technical, regulatory, etc.) inhibiting U.S. industry competitiveness?"*

The U.S. does not currently have a competitive domestic industry for PV solar equipment manufacturing. This status is evidenced by the different forms of "injury"-based import relief for which it has qualified.[7] Unfortunately, the measures put in place over time have had limited success given the short supply in solar panels experienced by the industry at present.[8] In short, the main factors inhibiting U.S. industry competitiveness can, in part, be attributed to regulatory policy that have spurred semi- and finished-product manufacturing in low labor-cost countries.[9]

Challenges within three significant stages of manufacturing play a role in this competitive status. For PV solar cell-making, the U.S. maintains a limited and disaggregated upstream (e.g. metallurgical grade silica or "MG-Si", ingot and wafer) supply chain; has high capital costs; and must comply with significant labor and environmental policies. Due to the reliance on foreign supply chains, domestic manufacturing must face the additional harm imposed by current U.S. trade policies (i.e. tariffs on cell fabrication equipment that currently can only be sourced in China and on cell fabrication bill of materials, or "BOM," items insofar as those are sourced in China).

For PV solar module assembly, the U.S. also lacks adequate supply chain (e.g. ingot, wafer and cell) capacity; has high capital and labor costs; and manufacturing must face the additional harm imposed by current U.S. trade policies (i.e. tariffs on loose cells, on module company equipment that can only be sourced in China and on module company BOM items insofar as those are sourced in China).

Additionally, the competitiveness of domestic solar manufacturing and project development varies according to the size and vertical integration of supply chains. Smaller domestic operators may have less control over their supply chains and increased price sensitivity. While MG-Si

---

[6] White House. "President Biden Sets 2030 Greenhouse Gas Pollution Reduction Target Aimed at Creating Good-Paying Union Jobs and Securing U.S. Leadership on Clean Energy Technologies." April 22, 2021. https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/22/fact-sheet-president-biden-sets-2030-greenhouse-gas-pollution-reduction-target-aimed-at-creating-good-paying-union-jobs-and-securing-u-s-leadership-on-clean-energy-technologies/

[7] U.S. International Trade Commission. "Increased Imports of Crystalline Silicon Photovoltaic Cells (Whether or Not Partially or Fully Assembled into Other Products) Injure U.S. Industry, Says USITC." September 22, 2017. https://www.usitc.gov/press_room/news_release/2017/er0922ll832.htm

[8] Wood Mackenzie. "U.S. Solar Market Insight." June 2021. P6.

[9] Kennedy, Ryan. "US solar panel shipments rose 33% in 2020." PV Magazine. September 3, 2021. https://www.pv-magazine.com/2021/09/03/us-solar-panel-shipments-rose-33-in-2020/

extraction is increasingly co-located with module assembly abroad, this is not necessarily the case in the U.S., resulting in a significant competitive disadvantage. Policy responses to foreign production of solar panels used in domestic solar energy production should take note of this fact.

In response to Question 15, *"How do U.S. trade policies impact the development and deployment of clean technologies in the United States and abroad?"*

ACORE supports the Biden-Harris Administration's work to develop and enhance domestic manufacturing opportunities already in place within the clean energy industry. We appreciate the administration's support for the World Trade Organization's September 2, 2021 rejection of China's challenge to U.S. solar tariff-rate quota.[10] Recent congressional action, however, such as the 2022 Budget Reconciliation Legislative Recommendations for green energy identifying labor and domestic content requirements, though well intended, could significantly constrain renewable deployment if they are not thoughtfully implemented.[11] Critical components necessary for renewable project development are sourced globally. Thus, remedies require robust, forward-looking policy that protects human rights while encouraging domestic production over penalizing current supply chains.

Solar *manufacturing* is constrained in the ways enumerated in response to Question 6 and below. For PV solar cell-making, manufacturing must face tariffs on cellular fabrication equipment that originate from China and on cell fabrication BOM items insofar as those are sourced in China. For PV solar module assembly, manufacturing must face tariffs on loose cells, on module company equipment that can only be sourced in China and on module company BOM items insofar as those are sourced in China.

Solar *deployment* will decline without the removal of trade barriers that blunt the traditional cost declines the renewable energy industry would otherwise enjoy in equipment pricing over time as economies of scale are fully developed and realized.[12] Current trade policy therefore interferes with renewable energy's ability to deliver the lowest levelized cost of electricity in some places where it otherwise would do exactly that. These cost challenges are exacerbated by the dramatic recent growth of natural gas generation, which runs counter to meeting ITA's clean technology export goals.

Recent channel checks with utility-scale solar investors identify escalating headwinds for the industry through a number of data points, including freight, logistics and potential tariff disruptions. Specifically, these data points include *Executive Order on Securing the United States Bulk-Power System,* Sections 232 and 201 tariffs, antidumping and countervailing duties ("AD/CVD") and the U.S. Customs and Border Protection Withhold Release Order ("WRO")

[10] World Trade Organization. "DS562: United States — Safeguard Measure on Imports of Crystalline Silicon Photovoltaic Products." September 2, 2021.
https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds562_e.htm#bkmk562r

[11] House Committee on Ways & Means. "Subtitle F - Infrastructure Financing and Community Development Section-by-Section." September 2021.
https://waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/Section%20by%20Section%20Subtitle%20F%2C%20G%2C%20H%2C%20%26%20J.pdf

[12] Recognized in "Swanson's Law," a phrase named for SunPower Corporation founder Richard Swanson, who observed that the price of solar PV modules tends to drop 20% for every doubling of cumulative shipped volume.

impacting solar. Both freight and logistics delays, as well as the imposition of duties, adversely impact project buildout. Further, higher all-in build costs are projected to experience a total inflation of 30% on materials alone in the short term.[13]

Section 232 tariffs on imported aluminum and steel (10% and 25% respectively) from most countries outside the United States-Mexico-Canada Agreement ("USMCA") raise the cost of domestic wind and solar manufacturing, slowing U.S. deployment and relatively advantaging foreign manufacturers. Similarly, Section 201 tariffs on solar cells and modules (currently at 18%) raise the cost of solar installation, slowing our response to the climate crisis. Further, the uncertainty around an extension of Section 201 tariffs in particular increases the cost of solar deployment previously noted by investors.

Of most recent and pressing concern is the request made of the Commerce Department to impose AD/CVD orders on solar products from Malaysia, Thailand and Vietnam[14] and the particular administration of the WRO imposed on Hoshine Silicon Industry Co. and its subsidiaries.[15] These actions could constrict module imports by 80%, underscoring critical issues in global supply chain resilience. For a host of historical reasons, domestic industry demand currently relies on foreign manufacturing of solar components and panels to fully realize clean energy goals. This supply chain developed over more than a decade and will take time, given technological advances, to adjust to new trade policies and ensure supply chain integrity and the protection of human rights.

In response to Question 11, "*What are the most impactful new actions the Government could take domestically to reduce or remove challenges, risks, and barriers in order to help position U.S. clean technologies industries for competitiveness in the global market?"*

Renewable energy deployment requires policy certainty, and this is best achieved through coordination with industry. The industry planning horizon is five to ten years, and effective policies require a mid- to long-term strategic outlook. Ensuring smart, targeted policy support for both renewable energy manufacturing and deployment must remain the ITA's focus to increase competitiveness.

Absent strong evidence of forced labor used in manufacturing a product, allowing solar imports already shipped from Southeast Asia to enter ports without delay for a well-defined period of time will increase certainty while barring illegal imports. Offering an extension of up to two years to fully regulate supply chains creates both a guardrail and investor security for planned deployment.

---

[13] Dumolin-Smith, Li et al. "US Alternative Energy: Worsening headwinds for US utility-scale solar – higher costs now, tariff risk." Bank of America Global Research. September 9, 2021.

[14] American Solar Manufacturers Against Chinese Circumvention. August 16, 2021. Petitions against crystalline silicon photovoltaic imports from Thailand, Vietnam and Malaysia filed with the U.S. Department of Commerce.

[15] Customs and Border Protection. "The Department of Homeland Security Issues Withhold Release Order on Silica-Based Products Made by Forced Labor in Xinjiang." June 24, 2021. https://www.cbp.gov/newsroom/national-media-release/department-homeland-security-issues-withhold-release-order-silica

In response to Question 12, *"What are the most impactful new actions the Government could take through engagement with foreign countries to reduce or remove challenges, risks, and barriers in order to help position U.S. clean technologies industries for competitiveness in the global market?"*

Maintaining positive trade relations with our allies allows the U.S. to meet our climate goals more quickly and cost effectively, and we encourage the Biden-Harris Administration to work with favored nations to ensure the stability of clean supply chains. The USMCA is one example of an effective reciprocal trade relationship that provides industry supply chain certainty.

Thank you for the opportunity to submit these comments. Please do not hesitate to contact ACORE's Director of Regulatory Affairs, Tyler Stoff, at stoff@acore.org or (202) 507-4634 with any additional questions you may have.

Sincerely,

/s/ *Tyler Stoff*
Tyler Stoff
Director of Regulatory Affairs
American Council on Renewable Energy

/s/ *Allison Nyholm*
Allison Nyholm
Vice President of Policy
American Council on Renewable Energy