

Feds Take Action to Alleviate Supply Chain Issues Impacting Solar Industry

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While the solar module market continues to experience the shipping and inflation issues that are impacting many industries, the U.S. Department of Commerce (DOC) and the U.S. Customs and Border Protection (CBP) have taken action in the past week, which is expected to help alleviate two of the biggest obstacles that have been facing the industry and have a positive impact on solar project development in the coming year.

On November 10, the DOC issued a letter rejecting a request to determine that crystalline silicone photovoltaic cells and modules being imported into the United States by certain companies in Malaysia, Thailand, or Vietnam were circumventing the 2012 antidumping duty and countervailing duty orders applicable to the importation of Chinese solar panels. The request was originally filed in August by the American Solar Manufacturers Against Chinese Circumvention (A-SMACC), and the companies implicated by the request include some of the largest players in the solar module market. Since its filing, the request has had a chilling effect on the solar industry and has been a significant contributing factor in solar module supply issues that have been stalling solar project development across the country.

The DOC's rejection was largely based on a determination that the lack of public disclosure of A-SMACC's members would limit DOC's ability to obtain and consider important information regarding industry impacts, particularly given that A-SMACC was requesting duties on certain specified module suppliers, rather than requesting a duty inquiry on a countrywide basis (as was done with respect to Taiwan in 2015). The DOC provided A-SMACC two business days from receipt of the letter to publicly disclose its members to continue its original petition, a deadline that has now passed.

In addition to DOC's rejection of the A-SMACC petition, CBP issued revised guidance on November 10 regarding its Withhold Release Order (WRO) that places restrictions on products utilizing silica produced by [Hoshine Silicon Industry Co.](#) (Hoshine). This revised guidance suggests that CBP will be taking a more lenient approach to enforcing the WRO. Notably, CBP's prior guidance required importers to identify the source of the polysilicon incorporated into imported solar modules, a requirement that many importers found difficult, if not impossible, to document. The revised guidance now requires importers to demonstrate that they have made every reasonable effort to trace their supply chains to guard against the use of forced labor (although compliance with this new standard will not allow for the release of detained products found to be produced or manufactured in violation of the WRO). It is expected that this revised guidance will provide panel suppliers more clarity regarding necessary documentation to demonstrate that their products do not contain materials produced with forced labor and more flexibility to avoid product seizure upon importation, which has been another significant factor impacting the solar

module market.

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