RE: Docket No. USTR-2018-0018

TESTIMONY OF:

Thomas P. Kimbis
Executive Vice President
Solar Energy Industries Association, Inc. (SEIA)

Section 301 Committee Hearing

July 24, 2018

Members of the Section 301 Committee, thank you for the opportunity to testify today. I'm Tom Kimbis, Executive Vice President and General Counsel of the Solar Energy Industries Association, or SEIA, the national trade association for solar energy in the United States with approximately 800 member companies that employ more than 100,000 Americans.

I am here today to ask for your consideration in removing from Annex C to the proposed Section 301 order the subheading 8541.40.60, entitled "Diodes for semiconductor devices, other than light-emitting diodes." It is under this HTS code that core solar photovoltaic – or electricity producing – products fall. The code is broken into three lower subheadings that encompass those solar goods:

- unmounted chips and wafers (8541.40.60.10)
- solar panels and modules (8541.40.60.20)
- solar cells not assembled into panels or modules (8541.40.60.30)

On behalf of the American solar energy industry, SEIA strongly supports the removal of this subheading, which, if left as is, would result in the imposition of a 25 percent tariff on core solar wafers, cells and modules from China.

We oppose this tariff for two main reasons.

First, we believe that strong and dynamic trade mechanisms are already in place to increase the cost of importing these goods from China, one of which was put into place just this year with the imposition of Section 201 safeguard provisions.

Second, we do not believe that inclusion of solar wafers, cells and modules would be effective to "obtain elimination of China's harmful acts, policies, and practices," as is the purpose of action under Section 301. Put simply, the existing trade measures are working. Chinese cells and modules account for roughly 1 percent of U.S. imports of these products in January through May of this year, the most recent data available.

Allow me to expand on each of these two points.

China (along with Taiwan) already has the highest duty rates on the dominant type of photovoltaic products imported into the U.S. of any nation in the world, thanks to the combination of two antidumping orders, two countervailing duty orders, and one safeguard order, each of which requires importers to pay additional customs duties on these products.

Antidumping and countervailing duties were imposed on imports of cells and modules from China in 2012 and 2015. the combination of these AD/CVD orders are designed to adjust for any possible dumping and subsidization of Chinese cells and modules into the U.S. market.

We note that, despite solar being mentioned prominently in the report of the 301 investigation launched last year, the original list of goods covered by 301 did not include the HTS codes in question. Although we are not privy to the rationale for the addition of solar photovoltaic goods to Annex C, it is clear that the Administration previously did not consider it necessary to include such goods under the 301 tariff. We do know that after the release of the original list of covered goods and before the publication of the additional $16 billion in goods under Annex C, the Chinese government announced that it was cutting the amount of solar goods it would use internally. Some members of the press speculated that this would lead to more solar goods from China entering the U.S. market.

To the extent that this panel is concerned about the potential for China to dump goods into the booming U.S. market, the AD orders already in effect are specifically designed to prevent such activity. If Chinese exporters reduce their prices into the United States, they are likely to face increased dumping duties. If this is the concern of the Administration and this committee, there is no need to use the blunt instrument of 301 duties to address what years of previous work created to handle this type of situation.

In addition, earlier this year, the United States enacted Section 201 safeguard duties for the first time in nearly two decades, hitting solar cells and modules specifically. Those duties apply to China as much as any other nation. The fact that the 201 duties are global in nature is not a logical reason for thinking they do not impact China. Recall that the effective tariff level of the AD/CVD orders varies by producer but sits atop the thirty-percent duty level imposed by the Section 201 order.

Therefore, imports from China are already subject to the highest tariffs imposed on imports of solar products from anywhere in the world. These tariffs are working to throttle Chinese imports. They have already caused a massive reduction in imports from that country into the U.S., which leads directly to point two.

Simply put, imports of Chinese solar goods have plummeted and are a poor choice for inclusion in this 301 action. If the intent of the U.S. to take these actions is to have a significant effect on China, including targeting those products related to the “Made in China 2025” program, hitting solar cells and modules gives the U.S. little bang for its buck.

The most recent import data shows that China now accounts for roughly 1 percent of U.S. solar imports under the HTS subheading at issue, making the impact of a 301 order on China minimal compared to the many other goods potentially subject to such tariffs.

And yet, there would be a significant downside. The ink is barely dry on the Section 201 safeguard measures that apply equally to China as to any other nation. SEIA estimates that more than 20,000 jobs will be lost domestically due to these orders. We have confirmed that more than 8,000 positions have already been lost across the U.S. during the first few months of the safeguard provisions alone—and those are only the ones we have been able to directly ascertain. We expect that job loss figure to be shown when we have a full year's worth of data from the Section 201 era.

Adding another 25 percent tariff on solar goods, even on a nation that is a minor exporter of solar goods to the U.S., will create the risk of more U.S. economic losses. Even the loss of a single job is not worth the price of piling onto existing tariffs that are having a stifling effect on U.S. imports of solar products from China.

The domestic solar industry therefore sees no reason for an additional 25 percent tariff on imported Chinese solar goods and firmly opposes it. Instead, we applaud the earlier decision of USTR not to list CSPV solar products among those initially subject to the 301 tariff as listed in Annex A and Annex B, urge the Administration to continue with that wise decision, and let the impact of the AD/CVD and 201 tariffs be fully understood before taking any further trade action against these products.

We respectfully request that this committee remove subheading 8541.40.60 from Annex C.