

## 4 KEY TAKEAWAYS

# Solar Industry & Chinese Tariff Update

There has been a flurry of activity in U.S. trade policy over the past several weeks that will impact a variety of goods imported into the U.S., including solar panel modules, EVs, and batteries. Kilpatrick attorneys have issued a series of Legal Alerts on these subjects, with their 4 Key Takeaways outlined below:

# 1

### **Anti-Dumping/Countervailing Duty Pause Ends:**

- In response to the April 2022 Auxin Solar investigation request, Commerce finalized anti-dumping/countervailing duties on crystalline silicon photovoltaic cells ("CSPV") imported from Vietnam, Cambodia, Malaysia, and Thailand.
- Where no company-specific rates exist, the rates applied are the China-wide rates (239.95% AD; 15.28% CVD).
- On June 6, 2024, the Biden Administration's two-year pause ends, and the rates will begin to be collected.
- The rates are not being imposed retroactively.

### **Threatened Tariffs on Bifacial Solar Panels:**

- The President imposed tariff-rate quotas and duties under Section 203 of the Trade Act of 1974 up to 30% on all CSPV products from all countries.
- Bifacial panels were exempted by the U.S. Trade Representative ("USTR").
- Reports indicate the Biden Administration will end the exemption—leading to double-digit tariffs on bifacial panels, which account for 98% of all imported panels.

# 2

# 3

### **New AD/CVD Inquiry:**

- Commerce is considering a *new* inquiry for AD/CVD duties on imports of CSPV from Vietnam, Cambodia, Malaysia, and Thailand.
- Petitioners argue that Chinese have relocated to these countries to avoid the impending AD/CVD duties and that these governments are now unfairly subsidizing production.
- Proposed duties range from 70% to 271%.
- An initial determination to advance the investigation will be made in June 2024.
- A preliminary AD/CVD determination could be made as early as July 2024.
- Commerce could impose retroactive duties back 90 days from its initial determination.

### **Sweeping Section 301 Tariffs on Chinese Tech:**

- The USTR completed its review of tariffs imposed on Chinese goods under Section 301 of the Tariff Act and found that China still engaged in unfair activities. It proposed new and increased tariffs across the high-tech sector.
  - **Solar Cells:** tariffs double from 25% to 50% in 2024. Subject to exemptions for domestic manufacturing equipment.
  - **Batteries:** tariffs triple from 7.5% to 25% on Lithium-ion EV batteries (in 2024), non-EV batteries (by 2026), and battery parts (in 2024), and new 25% duties are imposed on critical minerals necessary to their manufacture (in 2024 - except graphite and magnets by 2026).
  - **Electric Vehicles:** tariffs quadruple from 25% to 100% in 2024.
- Comments on these proposals will be out late May 2024.
- These duties are separate from the AD/CVD duties and the Section 203 duties on bifacial solar panels.

# 4

For more information, please contact:

**Thomas Allen:** [TGAllen@ktslaw.com](mailto:TGAllen@ktslaw.com)

**Kurtis Anderson:** [KAnderson@ktslaw.com](mailto:KAnderson@ktslaw.com)

**Mark Reidy:** [MRiedy@ktslaw.com](mailto:MRiedy@ktslaw.com)

**Stephen Anstey:** [SANstey@ktslaw.com](mailto:SANstey@ktslaw.com)

[www.ktslaw.com](http://www.ktslaw.com)