

Tariff Strategies For The US Renewable Energy Sector

By **Lisa Mays, Chris Kolosov and Jonathan Wang** (May 22, 2025, 5:25 PM EDT)

The renewable energy industry is accustomed to complex tariff regimes. For years, solar products have faced not only antidumping and countervailing duties, or AD/CVD, but also Section 301 tariffs on imports of Chinese origin, and the Section 201 safeguard tariffs.

More recently, batteries are becoming the focus of Section 301 tariff increases and a new AD/CVD investigation. With that background, the tariff actions over the past few months under the second Trump administration may challenge even the most seasoned industry experts.

This article summarizes the current tariff landscape relevant to the renewable energy industry, and addresses additional potential impacts on supply chains.

It also provides potential strategies for contending with tariff uncertainty — including diversifying supply chains, seeking certification from suppliers about equipment origins, and adding tariff-related language to supply contracts and offtake agreements.

The Tariff Landscape For Renewables

There is a wide range of statutory authorities that may be used to impose various tariffs. Congress has largely delegated authority to the executive branch to impose tariffs.

The presidential power to act in interests of national security is also broad. Moreover, some of the authorities enable the quick imposition of tariffs versus the usual monthslong regulatory processes that enable industry participation.

Below, we outline the current tariff landscape applicable to the renewable energy industry.

China

As of May 18, the tariffs affecting renewable energy goods of Chinese origin include the following:

Tariff	Amount and Applicability
International Emergency Economic Powers Act Fentanyl Tariff	20% on all goods
IEEPA Reciprocal Tariff	10% on all goods until Aug. 12, at which point the tariff will revert to 34% unless the parties negotiate otherwise in the interim



Lisa Mays



Chris Kolosov



Jonathan Wang

Section 301	<p>50% on crystalline silicon photovoltaic, or CSPV, cells and modules or panels, chemical elements doped for use in electronics, and silicon</p> <p>25% on battery parts for non-lithium-ion batteries</p> <p>25% on lithium-ion non-electrical vehicle batteries starting Jan. 1, 2026</p>
AD/CVD (Solar I)[1]	238.95% on CSPV cells
AD/CVD (Solar II)	152.84% on CSPV modules, laminates and panels
Section 201[2]	14% on CSPV cells, parts or subassemblies of solar cells, including inverters, batteries and DC generators with CSPV cells attached, with a tariff rate quota of 12.5 gigawatts

Southeast Asia

As of May 18, the tariffs affecting Southeast Asian renewable energy goods include the following:

Tariff	Amount and Applicability		
IEEPA Reciprocal Tariff	10% on all goods, subject to the 90-day pause that is set to end on July 8 for certain countries, unless an agreement is reached prior to that date. Unless negotiated otherwise, the following countries may face these reciprocal at the below rates if the pause expires:		
	Indonesia	32%	
	Thailand	36%	
	Laos	48%	
	Vietnam	46%	
AD/CVD on CSPV cells, whether or not assembled into modules, from Cambodia, Malaysia, Thailand and Vietnam	Country[3]	AD Rate	CVD Rate
	Cambodia	125.37%	534.67%
	Malaysia	8.59%	32.49%
	Thailand	111.45%	263.74%
	Vietnam	271.28%	124.57%
Section 201	14% on CSPV cells, parts or subassemblies of solar cells (including inverters, batteries and direct current generators with CSPV cells attached) (except from Cambodia) with a tariff rate quota of tariff rate quota of 12.5 GW		

Canada/Mexico

As of May 18, the tariffs affecting Canadian and Mexican renewable energy goods include the following:

Tariff	Amount and Applicability
IEEPA Border Tariff	25% unless United States-Mexico-Canada Agreement qualifying, then imports are duty-free[4] 10% for energy and energy resources, but that carveout is limited to crude oil, natural gas, lease condensates, natural gas liquids, refined petroleum products, uranium, coal, biofuels, geothermal heat, the kinetic movement of flowing water, and critical minerals
Section 201	14% on CSPV cells, parts or subassemblies of solar cells, including inverters, batteries and DC generators with CSPV cells attached, with a tariff rate quota of 12.5 GW

European Union

As of May 18, the tariffs affecting EU renewable energy goods include the following:

Tariff	Amount and Applicability
IEEPA Reciprocal Tariff	10% on all goods, subject to the 90-day pause that is set to end on July 8 for certain countries, unless an agreement is reached prior to such date. Unless negotiated otherwise, the EU may face a 20% reciprocal rate if the pause expires
Section 201	14% on CSPV cells, parts or subassemblies of solar cells, including inverters, batteries and DC generators with CSPV cells attached, with a tariff rate quota of 12.5 GW

Future Tariff Threats

Potential Increased Universal Tariff

The administration continues to float the idea of a universal tariff of up to 20%, which would likely include imports related to national security sectors such as batteries and solar panels. Such actions could be phased to mitigate market disruption, but would still impose enormous pressure on supply chains.

Battery AD/CVD Case

At the end of last year, the U.S. Department of Commerce started investigating whether active anode material from China, whether imported independently or in a battery, is being dumped or subsidized in the U.S. market.

Typically, active anode material is the key component for lithium-ion battery anodes, so the scope of the case would be broad and encompass battery energy storage systems should the department find dumping or subsidization.

Petitioners alleged massive dumping rates of around 900%, which would correspond to a 900% duty rate. The department expected to come out with preliminary determinations by May 27, but pushed that date back to July 16, following the petitioners' request for postponement.

If batteries are manufactured in the U.S. using cells from China, the cells — which comprise a significant portion of the purchase price — would be subject to potentially massive tariffs.

Section 201

The extended safeguard tariffs on CSPV modules remain in place, and are currently scheduled to last until 2026. The administration may explore additional safeguard measures targeting renewable inputs.

Solar Moratorium Litigation

In June 2022, President Joe Biden issued a solar moratorium that suspended the collection of AD/CVD tariffs, which the Commerce Department was ready to impose on imports from Southeast Asia due to circumvention cases.

The moratorium stipulated two critical conditions: Imports had to arrive prior to June 6, 2024, and had to be utilized or installed by Dec. 3, 2024. There is an ongoing lawsuit in which the plaintiffs are challenging the validity of the solar moratorium, arguing that its issuance was beyond the president's authority.

The parties have stipulated that, should the plaintiffs win, U.S. Customs and Border Protection has authority to calculate and demand retroactive payment of AD/CVD not paid under the solar moratorium.

That means that imports of CSPV cells and modules from Cambodia, Malaysia, Thailand and Vietnam with certain Chinese inputs made in 2022-2024 could become subject to backdated duties ordered by the court. The case is unlikely to be resolved in 2025.

IEEPA Litigation

The tariffs imposed under the International Emergency Economic Powers Act are facing several lawsuits by importers challenging the authority to impose the tariffs. Some cases seek a preliminary injunction.

While the executive branch had not previously used authority under the IEEPA to impose tariffs, in 1971, President Richard Nixon did impose a 10% tariffs on all imports under its predecessor statute Trading with the Enemy Act. So there is some precedent for such use of the IEEPA, and any challenges will face a burden to overturn the IEEPA tariffs.

Strategies to Mitigate Tariff Uncertainty

Given the above web of tariffs, companies will need to adopt proactive strategies to navigate imports, supply chains, projects and agreements effectively.

One solution is to diversify supply chains. While diversifying supply chains may not mitigate exposure to universal or global tariffs, it may reduce reliance on countries that are particularly affected, allowing companies to bypass the impact of the higher or dynamic tariffs.

In cases where diversification is not feasible, companies may seek to input flexibility into commitment agreements for sourcing, and negotiate contracts to include termination rights and escalation clauses if tariffs exceed levels that can be absorbed for the current or potential projects.

Further, developers should ensure that tariff language and definitions in supply agreements remain sufficiently broad to encompass any new or increased tariff actions, and address sharing both the burden of tariff increases and the benefit of tariff decreases. Such provisions may help stave off future litigation.

Companies should also assess the sufficiency of tariff protections in existing contracts — including as to risk sharing for changes in tariffs, and as to liability for retroactive tariffs, whether because the solar moratorium were found to be unauthorized and AD/CVD tariffs imposed, or due to errors in import documentation.

If tariff protections in existing contracts are not sufficient, companies should identify how future, unanticipated tariffs may be funded, or, for equipment that has not yet been delivered, if contracts have cancellation provisions that could be exercised.

Regardless of the expected country of origin of various imports, when buying equipment, companies should engage with suppliers to understand how they determined the country of origin.

Consider including provisions that require the supplier to certify the country of origin to the buyer. And consider how any subsequent finding of an error by CBP and imposition of additional duties and fines, including due to incorrectly declared country of origin, would be addressed under the agreement.

For example, consider whether such a determination would be considered a retroactive tariff under the agreement — and if so, which party would bear the risk of such retroactive tariff.

Also consider whether energy offtake agreements treat tariff increases as force majeure or other excused events that would extend milestone dates so equipment supply can be recontacted, or that would allow the project company to terminate if tariff increases make projects financially unviable.

More generally, consider how the exercise of termination rights in supply contracts would affect the project company's obligations under its energy offtake agreements.

When additional tariffs are announced, understand that those tariffs apply as of the date of import — not the date of contracting, or the purchase order date for such products.

Finally, be sure to continue to monitor developments, as these tariffs can be increased or decreased quickly, aggressively and without notice.

Lisa Mays is a partner and the leader of the sanctions, imports and export controls team at Sheppard Mullin Richter & Hampton LLP.

Chris Kolosov is a partner at the firm.

Jonathan Wang is an associate at the firm.

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[1] We provide the antidumping countrywide cash deposit rates for Solar I and Solar II. Solar I are the AD/CVD orders issued in 2021 on Chinese CSPV cells from China, whether or not assembled into modules. Solar II are the AD/CVD orders issued in 2015 on CSPV modules, laminates and panels from China.

[2] The Section 201 tariff is set to expire on Feb. 7, 2026.

[3] These are the countrywide rates. Certain producers have specific rates assigned that may be lower or astronomically higher — e.g., over 3,000%.

[4] Imports that qualify for preferential treatment under the USMCA. The rules that govern whether a product qualifies for USMCA preference are found in General Note 11 of the Harmonized Tariff Schedule of the United States.