UNITED STATES COURT OF INTERNATIONAL TRADE
NEW YORK, NEW YORK

SILFAB SOLAR, INC., HELIENE, INC., CANADIAN SOLAR (USA), INC., and CANADIAN SOLAR SOLUTIONS INC.,
Plaintiffs,

v.

UNITED STATES OF AMERICA, U.S. CUSTOMS AND BORDER PROTECTION, ACTING COMMISSIONER KEVIN K. MCALEENAN, UNITED STATES INTERNATIONAL TRADE COMMISSION, CHAIRMAN RHONDA K. SCHMIDTLEIN, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE, and UNITED STATES TRADE REPRESENTATIVE ROBERT E. LIGHTHIZER,
Defendants.

Case No. 18-00023

NONCONFIDENTIAL VERSION

COMPLAINT

Silfab Solar, Inc., Heliene, Inc., Canadian Solar (USA) Inc., and Canadian Solar Solutions Inc. (collectively, "Plaintiffs"), by and through counsel, bring this Complaint against the United States of America, United States Customs and Border Protection, Acting Commissioner Kevin K. McAleenan, the United States International Trade Commission, Chairman Rhonda K. Schmidtlein, the Office of the United States Trade Representative, and United States Trade Representative Robert E. Lighthizer (collectively, "Defendants"), and allege as follows:

INTRODUCTION

1. Plaintiffs Silfab Solar, Inc., Heliene, Inc., and Canadian Solar Solutions, Inc. are companies headquartered in Canada that manufacture crystalline silicon photovoltaic ("CSPV")

modules in Canada and import them into the United States. Plaintiff Canadian Solar (USA) Inc. is a United States company that distributes modules produced by Canadian Solar Solutions in the United States.

2. In 2017, the International Trade Commission ("ITC" or the "Commission") conducted an extensive, months-long investigation to determine whether imported CSPV cells, whether or not partially or fully assembled into other products, are a substantial cause of serious injury to the U.S. solar industry. The Commission concluded that *global* imports of CSPV products are a substantial cause of a serious injury to domestic CSPV manufacturers. A majority of the Commission also concluded, however, that CSPV cells and modules imported from Canada do not account for a "substantial share" of total CSPV imports, and do not "contribute importantly to the serious injury" found by the Commission. Furthermore, the Commission failed to recommend to the President any action to remedy the serious injury it had identified.

3. On January 23, 2018, President Donald J. Trump issued a Proclamation, entitled "To Facilitate Positive Adjustment to Competition from Imports of Certain Crystalline Silicon Photovoltaic Cells," attached as Exhibit A (the "Proclamation"). The Proclamation acknowledges that the Commission "did not recommend an action" with respect to CSPV products. Ex. A, ¶ 5. It also acknowledges that the Commission "made negative findings with respect to imports of CSPV products from Canada." *Id.* ¶ 3. Nonetheless, the Proclamation imposes a severe safeguard measure on CSPV cells and modules imported into the United States—including from Canada.

4. That safeguard action takes the form of a tariff-rate quote ("TRQ"). Effective at 12:01 a.m. on February 7, 2018, CSPV cells and modules imported from Canada will be subject to 30% tariff—to be reduced to 25% in year two, 20% in year three, and 15% in year four, and

then expire. The Proclamation exempts an annual quota of 2.5 gigawatts ("GW") of CSPV cells not assembled into other products from the tariff; no Canadian company, however, produces CSPV cells that are not assembled into other products.

5. The Proclamation will inflict immediate, severe, and irreversible injuries on the Plaintiffs. **[**

].

6. The Proclamation, and Defendants' actions in adopting, implementing, and enforcing the Proclamation, are unlawful as applied to Plaintiffs. First, the Proclamation imposes a safeguard measure in the absence of any recommendation by the Commission, in clear violation of the express requirements of sections 201 to 203 of the Trade Act of 1974 (the "Trade Act"), 19 U.S.C. §§ 2251-2253. Second, the Proclamation "proclaims a quantitative restriction" that will result in the importation of a dramatically reduced "quantity {and} value" of CSPV products imported from Canada, in violation of section 312(d) of the North American Free Trade Agreement ("NAFTA") Implementation Act, 19 U.S.C. § 3372(d). Third, the Proclamation fails to exclude Canadian imports from the global safeguard action, notwithstanding that (a) the ITC conclusively found that Canadian imports do not meet the prerequisites for including a NAFTA country in a global safeguard action, and (b) Canadian imports do not constitute a "substantial share" of total imports or "contribute importantly to the serious injury, or threat thereof" caused

by CSPV imports. Sections 201 to 203 of the Trade Act, 19 U.S.C. §§ 2251-2253, and 311 and 312 of the NAFTA Implementation Act, 19 U.S.C. §§ 3371-3372, bar the President from taking safeguard actions against a NAFTA country in this circumstance.

7. Because the Proclamation is unlawful as applied to Plaintiffs, and inflicts grave and irreversible harms on them, Plaintiffs seek a declaration that the Proclamation violates the Trade Act and the NAFTA Implementation Act and an injunction prohibiting its enforcements against Plaintiffs.

PARTIES

8. Plaintiff Silfab Solar, Inc. ("Silfab") is a Canadian solar module producer that exports its modules to the United States, and is headquartered at 240 Courtneypark Drive East, Mississauga, Ontario, Canada L5T 2S5.

9. Plaintiff Heliene, Inc. ("Heliene") is a Canadian solar module producer that exports its modules to the United States, and is headquartered at 520 Allen's Side Road, Sault Ste. Marie, Ontario, Canada P6A 6K4.

10. Plaintiff Canadian Solar (USA) Inc. ("Canadian Solar USA") is a U.S. importer of solar cells and modules, including from Canadian Solar Solutions Inc., and is headquartered at 3000 Oak Road, Suite 400, Walnut Creek, CA 94597.

11. Plaintiff Canadian Solar Solutions, Inc. ("Canadian Solar Solutions") is a Canadian solar module producer that exports its modules to the United States, and is headquartered at 545 Speedvale Avenue West, Guelph, Ontario, Canada N1K 1E6.

12. Defendant United States of America is the federal government of the United States of America.

13. Defendant United States Customs and Border Protection ("CBP") is an executive agency of the U.S. Government and a component of the Department of Homeland Security. It is headquartered at 1300 Pennsylvania Avenue, NW, Washington, DC 20229.

14. Defendant Commissioner Kevin McAleenan is the Acting Commissioner of U.S. Customs and Border Protection. He is sued in his official capacity.

15. Defendant United States International Trade Commission is an independent agency of the U.S. Government, and is headquartered at 500 E St., SW, Washington, DC 20436.

16. Defendant Rhonda K. Schmidtlein is the Chairman of the United States International Trade Commission. She is sued in her official capacity.

17. Defendant Office of the United States Trade Representative ("USTR") is an executive agency of the United States Government and a component of the Executive Office of the President. It is headquartered at 600 17th Street, NW, Washington, DC 20508.

18. Defendant Robert E. Lighthizer is the United States Trade Representative. He is sued in his official capacity.

JURISDICTION AND STANDING

19. This Court has jurisdiction pursuant to 28 U.S.C. § 1581(i)(2)-(4), the Administrative Procedure Act, 5 U.S.C. §§ 702, 704, 706, and 28 U.S.C. § 2631(i).

20. Section 1581 provides, as relevant, that "the Court of International Trade shall have exclusive jurisdiction of any civil action commenced against the United States, its agencies, or its officers, that arises out of any law of the United States providing for * * * (2) tariffs, duties, fees, or other taxes on the importation of merchandise for reasons other than the raising of revenue; (3) embargoes or other quantitative restrictions on the importation of merchandise for reasons other than the protection of the public health or safety; or (4) administration and

enforcement with respect to the matters referred to in paragraphs (1)-(3) of this subsection and subsections (a)-(h) of this section." 28 U.S.C. § 1581(i)(2)-(4).

21. The Trade Act and the NAFTA Implementation Act are laws "providing for * * * tariffs, duties, fees," and "quantitative restrictions" on "the importation of merchandise for reasons other than the protection of the public health or safety," as well as for "administration and enforcement with respect to" those tariffs, duties, fees, and quantitative restrictions. 28 U.S.C. § 1581(i)(2)-(4).

22. On January 23, 2018, the President issued the Proclamation pursuant to section 201 of the Trade Act and section 312 of the NAFTA Implementation Act. On February 7, 2018, CBP began administering and collecting the TRQ imposed by the Proclamation. The Commission made a finding of serious injury on which the TRQ is based and failed to make a recommendation required by the Trade Act for issuance of the TRQ. USTR issued advice to the President regarding the construction and issuance of the TRQ.

23. This suit "arises out of" these acts and omissions: It seeks a declaration that Defendants' acts and omissions are unlawful as applied to Plaintiffs, and an injunction prohibiting Defendants from enforcing the Proclamation against Plaintiffs. *See Corus Grp. PLC.* v. *Int'l Trade Comm'n*., 352 F.3d 1351 (Fed. Cir. 2003) (concluding that section 1581(i)(2) grants jurisdiction over an analogous challenge arising out of actions taken pursuant to section 201 of the Trade Act).

24. The Administrative Procedure Act provides that "{a} person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof." 5 U.S.C. § 702; *see id.* §§ 704, 706. Section 2631(i) provides that "{a}ny civil action of which the Court of

International Trade has jurisdiction, other than an action specified in subsections (a)-(h) of this section, may be commenced in the court by any person adversely affected or aggrieved by agency action within the meaning of section 702 of title 5." 28 U.S.C. § 2631(i).

25. CBP and the Commission are "agenc{ies}" as defined by the Administrative Procedure Act. 5 U.S.C. § 551(1). Plaintiffs are adversely affected and aggrieved by Defendants' acts and omissions in adopting and implementing the Proclamation, and are within the "zone of interests" protected by the Trade Act and the NAFTA Implementation Act.

26. Plaintiffs have standing to challenge the Defendants' unlawful acts and omissions in adopting, implementing, and enforcing the Proclamation. Plaintiffs are manufacturers, exporters, and importers of CSPV modules who are responsible for the payment of tariffs on their imports. The Proclamation will inflict severe and irreparable injuries on Plaintiffs, including by imposing a substantial tariff on Plaintiffs' goods, compelling Plaintiffs to forgo business opportunities, and **[**

]. These injuries are directly traceable to the challenged Proclamation, and would be redressed by a favorable decision declaring that Proclamation unlawful as applied to Plaintiffs and enjoining its enforcement against Plaintiffs.

TIMELINESS

27. An action under 28 U.S.C. § 1581(i) must be commenced within two years after the cause of action first accrues.

28. The claims asserted by Plaintiffs accrued at the earliest on January 23, 2018, the date on which President issues the Proclamation. This action is therefore timely filed.

BACKGROUND

A. The Product At Issue: CSPV Cells

29. CSPV cells are products that convert the energy of the sun into electricity. These cells can be manufactured and sold separately, or they can be manufactured and incorporated, partially or fully, into solar modules (and, ultimately, into solar panels or other products). Solar "modules" are functional products capable of being used in residential, commercial, or industrial energy generation.

30. In recent years, there has been tremendous growth in the use of solar power in the United States. Aggregate solar-based electrical capacity has grown seventeen-fold since 2008, from 1.2 gigawatts (GW) to approximately 30 GW.

31. Most CSPV products used in the United States are produced by multinational corporations that conduct their manufacturing overseas. Approximately 67% of CSPV cells and modules are produced in just three countries: Malaysia, South Korea, and Vietnam. The United States and Canada, in contrast, produce only a small fraction of the CSPV products consumed in the United States. The United States manufacturers fewer than 5% of CSPV cells and modules used in the United States, and Canada manufactures only 2%.

32. Plaintiffs Heliene, Silfab, and Canadian Solar Solutions are the only Canadian manufacturers of CSPV cells or modules. Each of the Plaintiffs manufacturers CSPV modules but not CSPV cells. Heliene and Silfab are the importers of record for their products, and thus are responsible for the payment of U.S. import duties on these products. Canadian Solar Solutions imports its products through its U.S. counterpart, Canadian Solar USA, Inc., which is responsible for the payment of U.S. duties.

B. The Commission's Investigation and Report

33. The Trade Act and the NAFTA Implementation Act set forth the process that the Commission and the President must follow before the President takes a safeguard action under section 201 of the Trade Act. Section 202(b) of the Trade Act provides that if the Commission receives a petition for safeguard relief from an imported article, the Commission must determine whether "the article" at issue "is being imported in such increased quantities as to be a substantial cause of serious injury or threat of serious injury to the domestic industry." 19 U.S.C. § 2252(b)(1)(A).

34. If the Commission makes an affirmative finding under that provision, it must "also find (and report to the President at the time such injury determination is submitted to the President) whether—(1) imports of the article from a NAFTA country, considered individually, account for a substantial share of total imports; and (2) imports of the article from a NAFTA country, considered individually or, in exceptional circumstances, imports from NAFTA countries considered collectively, contribute importantly to the serious injury, or threat thereof, caused by imports." *Id.* § 3371(a).

35. In addition, the Commission "shall * * * recommend that action that would address the serious injury" it has identified. *Id.* § 22532(e)(1). The President in turn may take a safeguard action only "{a}fter receiving a report * * * containing an affirmative finding regarding serious injury." *Id.* § 2253(a)(1)(A). "In determining what action to take * * * , the President shall take into account * * * the report recommendation and report of the Commission." *Id.* § 2253(a)(2)(A).

36. In May 2017, Suniva, Inc. ("Suniva"), a U.S. producer of CSPV cells and modules, filed a petition pursuant to section 202(a) of the Trade Act requesting safeguard

protection from foreign imports of CSPV cells, whether or not partially or fully assembled into other products. Later in the month, the only other U.S. manufacturer of CSPV cells, SolarWorld Inc., joined Suniva as a co-petitioner.

37. Pursuant to section 202(b) of the Trade Act, the Commission instituted a global safeguard investigation regarding Suniva's petition in May 2017. The scope of that investigation encompassed imports of CSPV cells "whether or not partially or fully assembled into other products."

38. As part of its investigation, the Commission held a public hearing on August 15, 2017 regarding injury issues, and also accepted written submissions from interested parties. Plaintiffs participated in those proceedings.

39. On September 22, 2017, the Commission unanimously found that "CSPV products" were being imported into the United States in "such increased quantities as to be a substantial cause of serious injury to the domestic industry producing an article like or directly competitive with the imported article." The Commission's findings are attached as Exhibit B, *Crystalline Silicon Photovoltaic Cells (Whether or not Partially or Fully Assembled into Other Products, Investigation No. TA-201-75, Vol. 1: Determination and Views of Commissioners* (Nov. 13, 2017).

40. A majority of the Commission also found that "imports of CSPV products from Canada do not account for a substantial share of total imports and do not contribute importantly to the serious injury caused by imports." Ex. B, at 5, 66-70. The majority explained that Canada accounts for less than 3% of global CSPV imports, and was the tenth largest importer in 2012 and 2013, the ninth largest in 2014, the seventh largest in 2015, and the tenth largest in 2016. *Id.*, at 67-68.

41. After making its determinations regarding injury, the Commission conducted an investigation to determine the appropriate action to remedy the injuries it identified. The Commission held a public hearing on remedies on October 3, 2017. Each of the Plaintiffs again participated in these proceedings.

42. On October 31, 2017 the Commissioners voted on remedies. No single recommendation received the assent of more than two Commissioners. Instead, the Commission split into three groups, which recommended widely varying remedies. Because the Trade Act requires that a recommendation receive the assent of a "majority of the commissioners voting" or "not less than three commissioners" to qualify as a recommendation of the Commission, 19 U.S.C. § 1330(d)2(2), the ITC did not make a recommendation within the meaning of section 202(e) of the Trade Act.

43. On November 13, 2017, the ITC transmitted a report to the President containing its findings.

C. The President's Proclamation

44. After receiving the ITC report, the Office of the United States Trade Representative, on behalf of the Trade Policy Staff Committee ("TPSC"), issued Federal Register Notice 2017-23098, attached here as Exhibit C. USTR and the TPSC established a schedule for the submission of written comments and a public hearing. Plaintiffs participated in the USTR proceedings.

45. On January 22, 2018, the USTR announced that the U.S. Government would impose a tariff on CSPV cells and modules imported into the United States. The following day, the President issued the Proclamation.

46. The Proclamation imposes a TRQ on imports of CSPV cells, whether or not partially or fully assembled into other products, including imports from Canada. In particular, the Proclamation imposes a 30% tariff on imports of all CSPV products, which will decrease to 25% on February 7, 2019, 20% on February 7, 2020, and 15% on February 7, 2021, and conclude on February 6, 2022. The Proclamation also exempts from the tariff an annual quota of 2.5 GW of cells not partially or fully assembled into other products.

47. The Proclamation acknowledges that "{t}he ITC did not recommend an action within the meaning of section 202(e) of the Trade Act." Ex. A, ¶ 5. The Proclamation also acknowledges that the Commission "made negative findings with respect to imports of CSPV products from Canada." *Id.* ¶ 3. Nonetheless, the Proclamation states that the President "determined after considering the ITC Report that imports of CSPV products from each of Mexico and Canada, considered individually, account for a substantial share of total imports and contribute importantly to the serious injury or threat of serious injury found by the ITC." *Id.* ¶ 7.

48. The Proclamation applies to modules produced by the Silfab, Heliene, and Canadian Solar Solutions and imported into the United States by Canadian Solar USA. Because Plaintiffs do not produce cells not partially or fully assembled into modules, none of their products will be exempt from the tariff.

49. CBP began enforcing the Proclamation and collecting the tariff it imposes at 12:01 a.m. on February 7, 2018.

COUNT 1

Section 201 to 203 of the Trade Act of 1974, 19 U.S.C. §§ 2251-2253

50. Plaintiffs hereby incorporate by reference paragraphs 1 through 49 of this Complaint.

51. A safeguard measure under section 201 of the Trade Act is unlawful if it entails "a clear misconstruction of the governing statute, a significant procedural violation, or action outside delegated authority," *Corus Grp. PLC* v. *Int'l Trade Comm'n*, 352 F.3d 1351, 1361 (Fed. Cir. 2003) (quoting *Maple Leaf Fish Co.* v. *United States*, 762 F.2d 86, 89 (Fed. Cir. 1985)), or if the Commission failed to satisfy an "independent predicate to Presidential action," *Michael Simon Design, Inc.* v. *United States*, 609 F.3d 1335, 1342-43 (Fed. Cir. 2010).

52. The Trade Act states that the Commission must make a recommendation to the President before he takes action under section 201 of the Trade Act. Section 202(e) provides that the Commission "*shall* * * * *recommend* the action that would address the serious injury" it identifies; that the Commission "*shall include* * * * the recommendations for action" in its report to the President; and that such a recommendation is "*required* to be made." 19 U.S.C. § 2253(e)(1), (e)(6), (f)(2)(B) (emphases added); *see also id.* § 2253(b)(1) (referring to "the actions required to be recommended by the Commission"). Section 203(a)(2)(A) provides that "{i}n determining what action to take * * * , the President *shall* take into account * * * the recommendation and report of the Commission." *Id.* § 2253(a)(2)(A) (emphasis added). Section 203(b)-(d) provides that if the President's action "differs from the action required to be recommended by the Commission," the President "*shall* state in detail the reasons for the difference," and, if Congress overrides his decision, that the President "*shall* * * * proclaim the action recommended by the Commission" and that "the action recommended by the Commission *shall* take effect." *Id.* § 2253(b)(1), (c)-(d) (emphasis added).

53. The ITC did not recommend an action within the meaning of section 202(e) of the Trade Act before the President issued the Proclamation. Ex. A, ¶ 5.

54. By adopting a safeguard measure in the absence of a recommendation by the Commission, the President and USTR violated the express requirements of sections 201 and 203 of the Trade Act. By failing to make a recommendation to the President or include such recommendation in its report to the President, the Commission violated section 202 of the Trade Act. Any actions taken by CBP to implement or enforce the Proclamation against Plaintiffs are *ultra vires* and unlawful.

COUNT 2

Section 312 of the NAFTA Implementation Act, 19 U.S.C. § 3372(d)

55. Plaintiffs hereby incorporate by reference paragraphs 1 through 49 of this Complaint.

56. Section 312(d) of the NAFTA Implementation Act provides that a safeguard action against a NAFTA country is unlawful if it (1) "proclaims a quantitative restriction" and (2) does not "permit the importation of a quantity or value of the article which is not less than the quantity or value of such article imported into the United States during the most recent period that is representative of imports of such article, with allowance for reasonable growth." 19 U.S.C. § 3372(d).

57. A TRQ is a "quantitative restriction." *See* General Agreement on Tariff and Trade 1947, art. XIII ("GATT"); Second Written Submission of United States ¶¶ 82-84, *European Communities—Regime for the Importation, Sale, and Distribution of Bananas*, WT/DS27 (Sept. 27, 2007).

58. Plaintiffs imported millions of dollars and hundreds of megawatts of cells into the United States last year, and expected to import a similar number this year. The Proclamation makes it prohibitively expensive for Plaintiffs to import more than a *de minimis* number of cells

into the United States. None of Plaintiffs' products are exempt from the tariff-rate quota, because none of their products are cells not partially or fully assembled into other products.

59. The Proclamation proclaims a quantitative restriction that permits the importation of a dramatically reduced quantity and value of CSPV cells from Canada.

60. By adopting, implementing, and enforcing the Proclamation against Plaintiffs, the Defendants have violated section 312(d) of the NAFTA Implementation Act.

COUNT 3

Sections 201 to 203 of the Trade Act of 1974, 19 U.S.C. §§ 2252-2253, and Section 311 to 312 of the NAFTA Implementation Act, 19 U.S.C. §§ 3371-3372

61. Plaintiffs hereby incorporate by reference paragraphs 1 through 49 of this Complaint.

62. Section 311(a) of the NAFTA Implementation Act provides that if the Commission makes an affirmative finding that global imports are causing serious injury, the Commission "shall also find (and report to the President at the time such injury determination is submitted to the President) whether—(1) imports of the article from a NAFTA country, considered individually, account for a substantial share of total imports; and (2) imports of the article from a NAFTA country, considered individually or, in exceptional circumstances, imports from NAFTA countries considered collectively, contribute importantly to the serious injury, or threat thereof, caused by imports." 19 U.S.C. § 3371(a). Section 203(a) of the Trade Act provides that the President may take a safeguard measure only "{a}fter receiving a report * * * containing an affirmative finding regarding serious injury." *Id.* § 2253(a)(1)(A).

63. Section 312(a) of the NAFTA Implementation Act provides that "{i}n determining whether to take action under {section 201 of the Trade Act} with respect to imports from a NAFTA country, the President shall determine whether—(1) imports from such country,

considered individually, account for a substantial share of total imports; and (2) imports from a NAFTA country, considered individually, or in exceptional circumstances imports from NAFTA countries considered collectively, contribute importantly to the serious injury, or threat thereof, found by the International Trade Commission." *Id.* § 3372(a). Section 312 (b) of the NAFTA Implementation Act provides that "{i}n determining the nature and extent of action to be taken under {section 201 of the Trade Act}, the President shall exclude from such action imports from a NAFTA country if the President makes a negative determination under subsection (a)(1) or (2) of this section with respect to imports of such country." *Id.* § 3372(b).

64. A majority of the Commission found that imports of CSPV products from Canada do not "account for a substantial share of total imports" or "contribute importantly to the serious injury, or threat thereof, caused by imports." *See* Ex. A, ¶ 3.

65. The Commission's finding was correct: Because Canadian imports constitute a tiny fraction of total CSPV cells imported to the United States, among other reasons, Canada does not account for a "substantial share of total imports" of CSPV products or "contribute importantly to the serious injury, or threat thereof, found by the International Trade Commission."

66. Notwithstanding the Commission's negative finding as to injury, and despite the fact that Canada does not account for a "substantial share of total imports" of CSPV products or "contribute importantly to the serious injury, or threat thereof, found by the International Trade Commission," the Proclamation imposes a safeguard measure on CSPV imports from Canada.

67. By adopting, implementing, and enforcing the Proclamation against Plaintiffs, the Defendants have violated sections 201 to 203 of the Trade Act and sections 311 to 312 of the NAFTA Implementation Act.

PRAYERS FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that this Court:

(1) Hold and declare that the Proclamation, as applied to Plaintiffs, is unauthorized by and contrary to the laws of the United States;

(2) Enjoin Defendants from implementing or enforcing the Proclamation against Plaintiffs; and

(3) Pursuant to Court of International Trade Rule 65(b)(2), set an expedited hearing within fourteen (14) days to determine whether the Temporary Restraining Order should be extended; and

(4) Grant Plaintiffs such further and additional relief as this Court may deem just and proper.

Respectfully submitted,

/s/ Jonathan T. Stoel

Jonathan T. Stoel
Craig A. Lewis
Mitchell P. Reich
Michael G. Jacobson
HOGAN LOVELLS US, LLP
555 Thirteenth Street, N.W.
Washington, DC 20004-1109
(202) 637-6634

Counsel to Plaintiffs Heliene Inc., Silfab Solar Inc., Canadian Solar Solutions Inc., and Canadian Solar (USA) Inc.

Dated: February 7, 2018