

Congress of the United States
Washington, DC 20515

February 14, 2023

The Honorable Gina Raimondo
Secretary of Commerce
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, D.C. 20230

The Honorable Lloyd J. Austin III
Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon
Washington, D.C. 20301

Dear Secretary Raimondo and Secretary Austin:

We write today regarding the Chinese air balloon that recently violated U.S. air space and was shot down by the U.S. military off the coast of South Carolina. According to reports, a U.S. official confirmed the Chinese spy balloon was outfitted with solar panels.¹ Given that the spy balloon was a surveillance device used by the Chinese military and intelligence agencies, we can be confident that it was built with Chinese technology—including Chinese solar panels.

As you know, the Department of Commerce is currently investigating whether Chinese solar manufacturers are illegally violating U.S. trade law. In December, the Department of Commerce issued a preliminary determination that Chinese solar manufacturers operating in Malaysia, Thailand, Vietnam, and Cambodia are illegally circumventing existing antidumping and countervailing (AD/CVD) duty orders on solar cells and modules from China.² The Department of Commerce's final determination is currently scheduled to be issued on May 1, 2023.

Unfortunately, the Biden administration has taken unprecedented action to protect Chinese solar manufacturers from the Department of Commerce's investigation. Last June, President Biden issued the Solar Declaration of Emergency that effectively neutralizes the Department of Commerce's investigation into whether Chinese solar manufacturers are illegally circumventing AD/CVD orders.³ For decades, Democrat and Republican administrations alike have refused to wade into the Department of Commerce's independent fact-finding and reasoned decision-making. Instead of supporting robust enforcement of U.S. trade laws, the emergency declaration gives Chinese manufacturers a free pass to illegally circumvent AD/CVD orders until June 2024 and protects them from retroactive duties—regardless of what the Commerce Department's final determination is.

Not only is the Biden administration protecting Chinese solar companies and allowing them to continue illegal trade activity without consequence, but the administration is also quite possibly protecting the very same companies providing solar panels that are powering Chinese spy balloons. As such, serious questions arise about whether the administration's Solar Emergency

¹<https://www.cbsnews.com/news/chinese-spy-balloon-montana-flight-tracking/>

²<https://www.commerce.gov/news/press-releases/2022/12/departments-commerce-issues-preliminary-determination-circumvention>

³<https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/06/declaration-of-emergency-and-authorization-for-temporary-extensions-of-time-and-duty-free-importation-of-solar-cells-and-modules-from-southeast-asia/>

The Honorable Gina Raimondo
The Honorable Lloyd J. Austin III
February 14, 2023
Page 2

Declaration is undermining U.S. economic and national security by protecting Chinese solar manufacturers that are not only illegally violating U.S. trade law, but also advancing the surveillance activities of the Chinese military and intelligence agencies.

Please provide answers to the following questions by March 7, 2023.

1. Has the administration determined whether the solar panels used on the Chinese spy balloon were manufactured by a Chinese solar company currently under investigation by the Department of Commerce?
2. Is the Department of Defense currently using solar panels manufactured by the same Chinese solar manufacturer that supplied the panels used on the Chinese spy balloon?
3. Given that the Department of Commerce's preliminary determination found that Chinese solar manufacturers are in fact illegally violating U.S. trade law, is the administration considering action to revoke the Solar Emergency Declaration?

As you know, we are moving forward with bipartisan legislation that utilizes the Congressional Review Act (CRA) to reverse the damage done by the Solar Emergency Declaration.⁴ We strongly believe that the Biden administration should immediately revoke the Solar Emergency Declaration. However, if the Biden administration fails to protect American manufacturers and workers, we will continue our efforts to pass this legislation through Congress with veto-proof majorities in the House and Senate.

Thank you for your attention to this serious matter.

Sincerely,



Bill Posey
United States Representative



Rick Scott
United States Senator

⁴ <https://posey.house.gov/news/documentsingle.aspx?DocumentID=397084>