

# United States Challenges India's Restrictions on U.S. Solar Exports

## *Enforcement Action Combats Barriers to U.S. Clean Energy Products*

**Washington, D.C.** – United States Trade Representative Ron Kirk announced today that the United States has requested World Trade Organization (WTO) dispute settlement consultations with the Government of India concerning domestic content requirements in India's national solar program. India's program appears to discriminate against U.S. solar equipment by requiring solar energy producers to use Indian-manufactured solar cells and modules and by offering subsidies to those developers for using domestic equipment instead of imports. These forced localization requirements of India's national solar program restrict India's market to U.S. imports. Tackling these barriers is a top priority of the Obama Administration.

**“The Obama Administration is committed to strengthening the American clean energy sector and preserving the millions of jobs it supports,”** said Ambassador Kirk. **“Trade enforcement is critical for ensuring that our clean energy goods and services can compete on an equal footing around the world. As today's action demonstrates, we will not hesitate to enforce our rights under our trade agreements on behalf of American workers and manufacturers.”**

**“Let me be clear: the United States strongly supports the rapid deployment of solar energy around the world, including with India. Unfortunately, India's discriminatory policies in its national solar program detract from that successful cooperation, raise the cost of clean energy, and undermine progress toward our shared objective.”**

Consultations are the first step in the WTO dispute settlement process, and parties are encouraged to agree to a solution at this stage. Under WTO rules, if the matter is not resolved through consultations within 60 days, the United States may request the establishment of a WTO dispute settlement panel.

The Interagency Trade Enforcement Center (ITEC), created by this Administration to enhance U.S. trade enforcement capabilities, provided key support to USTR's monitoring and enforcement unit in the development and initiation of this dispute.

### **Background**

On January 11, 2010, India launched its national solar policy, the Jawaharlal Nehru National Solar Mission (JNNSM). Phase I of that national policy is composed of two parts: Batch 1 and Batch 2. Under Batch 1, India required developers of solar photovoltaic (“PV”) projects employing crystalline silicon technology to use solar modules manufactured in India. Subsequently, under Batch 2, India expanded this domestic sourcing requirement to crystalline silicon solar cells as well. In its draft policy for Phase II of the JNNSM, India has

stated that it is considering expanding the scope of the domestic content requirements further to include solar thin film technologies, which currently comprise the majority of U.S. solar exports to India. India also offers solar energy developers participating in the JNNSM a guarantee that the government will purchase a certain amount of solar power at a highly subsidized tariff rate, provided that they use domestically manufactured solar equipment instead of imports.

These elements of India's national solar policy appear to be inconsistent with India's obligations under the WTO agreements. These obligations include Article III of the General Agreement on Tariffs and Trade 1994 (GATT 1994), which generally prohibits measures that discriminate in favor of domestically produced goods versus imports; Article 2 of the WTO Agreement on Trade-Related Investment Measures, which prohibits trade-related investment measures that are inconsistent with GATT Article III; Article 3 of the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement), which prohibits conditioning a subsidy on the use of domestic over imported goods; and Article 5 of the SCM Agreement, which prohibits causing adverse effects on other WTO Members through subsidies that discriminate against imported goods.

The United States has engaged India on our concerns regarding the JNNSM over the last three years, including in bilateral fora such as the U.S.-India Trade Policy Forum and the U.S.-India Energy Dialogue, and at the WTO in various committees.