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November 20, 2023

Case Nos.: A-570-158, A-301-806, A-247-004,
A-331-804, A-533-920, A-560-840, A-475-846,
A-580-918, A-557-826, A-201-860, A-583-874,
A-549-847, A-489-850, A-520-810, A-552-837,
C-570-159, C-560-841, C-201-861, and C-489-851

No. of Pages: 20

Investigation

ITA/E&C/Offices I, II, III, IV, V, VI, VII

PUBLIC DOCUMENT

VIA ELECTRONIC FILING

The Honorable Gina Raimondo
Secretary of Commerce
International Trade Administration
Enforcement & Compliance
APO/Dockets Unit, Room 18022
14th Street & Constitution Avenue, NW
Washington, DC 20230

Re: *Aluminum Extrusions from the People's Republic of China, Colombia, the Dominican Republic, Ecuador, India, Indonesia, Italy, the Republic of Korea, Malaysia, Mexico, Taiwan, Thailand, the Republic of Turkey, the United Arab Emirates, and the Socialist Republic of Vietnam – Scope Comments*

Dear Secretary Raimondo:

On behalf of the Solar Energy Industries Association (“SEIA”), a trade association representing consumers and industrial users of products that could be categorized as subject merchandise, we hereby submit scope comments in the above-referenced investigations.

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Even at this early stage, the investigations have disrupted the solar industry, because the inconsistent and contradictory scope language makes it difficult for our members to determine whether and how the investigations will affect their businesses. As an initial matter, SEIA observes that these investigations cover several aluminum products critical for widespread solar development, including the aluminum mounting systems (i.e., the racking rails) that are critical to residential solar installation and the aluminum frames that surround the solar panels themselves. If these products could be procured domestically, there are incentives in the Inflation Reduction Act for doing so, but it is our understanding that these products are not available from domestic producers. As such, imposing duties on these products would be unnecessary and harmful to clean energy production in the United States. This would run counter to the goals of the Inflation Reduction Act championed by the Biden Administration, which has encouraged unprecedented investment in expansion of solar power throughout the United States. By potentially subjecting products critical to solar infrastructure to duties, these investigations serve as a barrier to achieving these important goals.

SEIA also requests that Commerce confirm that finished solar panels imported into the United States fall outside of the scope of the above-referenced investigations. The scope expressly “excludes assembled merchandise containing non-extruded aluminum components beyond fasteners that is not a part or subassembly of a larger product or system and that is used as imported, without undergoing after importation any processing fabrication, finishing, or assembly or the addition of parts or material, regardless of whether the additional parts or

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material are interchangeable”¹ In the petition, Petitioners listed as examples of such merchandise “windows with glass, door units with door panel and glass, motor vehicles, trailers, furniture, appliances and *solar panels*.”²

Despite the description of excluded merchandise remaining unchanged, the revised scope proposed by Petitioners, and the scope of the investigation in the *Initiation Notice*, omits solar panels as an example of excluded merchandise, while keeping the other examples unchanged.³ However, without revising the merchandise excluded from the investigation, there is no reason for Commerce to treat solar panels as subject to the investigation, while excluding the other merchandise described by Petitioners. Like completed windows, doors, and appliances, solar panels are imported into the United States in their final form and then installed in a larger structure (like a home, commercial building, or utility-scale solar installation), with parts or materials to affix the panels to a structure. Moreover, like the illustrative examples in the scope, solar panels keep their fundamental function following installation: just as a window remains a window after it is installed in a structure, solar panels remain solar panels after installation.

¹ See *Aluminum Extrusions From the People’s Republic of China, Colombia, the Dominican Republic, Ecuador, India, Indonesia, Italy, the Republic of Korea, Malaysia, Mexico, Taiwan, Thailand, the Republic of Turkey, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations (“Initiation Notice”)*, 88 Fed. Reg. 74,421, 74,429 (Oct. 31, 2023).

² Petition for Imposition of Antidumping Duties on Aluminum Extrusions from the People’s Republic of China, Colombia, the Dominican Republic, Ecuador, India, Indonesia, Italy, the Republic of Korea, Malaysia, Mexico, Taiwan, Thailand, the Republic of Turkey, the United Arab Emirates, and the Socialist Republic of Vietnam (Oct. 4, 2023), Vol I at 9 (“Petition Vol. I”) (emphasis added).

³ *Initiation Notice*, 88 Fed. Reg. at 74,429; Petitioners’ Response to Commerce’s Second Supplemental Scope Questions Regarding Common Issues and Injury Petition (Oct. 20, 2023), Exhibit I-Second Scope Supp-1.

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Because solar panels are installed “as-is,” they are categorically different from the subassemblies covered by the scope, like “water heater anodes, side mount valve controls, automotive heating and cooling system components, screen printing frames, and micro channel heat exchangers,”⁴ all of which must be further assembled or manufactured into a finished product (e.g., water heaters or automobiles).

Petitioners have described the language for excluded assembled merchandise as “a reformulation of the scope of the {existing} orders {on aluminum extrusions from China} and the Department’s scope rulings interpreting such orders.” In these orders, Commerce has specifically listed solar panels as an example of excluded “finished merchandise containing aluminum extrusions as parts that are *fully and permanently assembled and completed* at the time of entry.”⁵ Moreover, in the petitions, Petitioners stated that “the scope of these petitions covers products that Petitioners believe were improperly excluded from the scope of the existing antidumping/countervailing duty order{s} on Aluminum Extrusions from China,”⁶ indicating that they did not intend to extend the scope to products that the existing orders expressly excluded, like solar panels. Because the scope as written in the *Initiation Notice* is a

⁴ Response of the Petitioners to Commerce’s First Supplemental Scope Questions Regarding Common Issues and Injury Petition Volume I of the Petition (Oct. 13, 2023) at 17.

⁵ *Aluminum Extrusions from the People’s Republic of China: Antidumping Duty Order*, 76 Fed. Reg. 30,650, 30,651 (May 26, 2011) (emphasis added).

⁶ Petition Vol. I at 12.

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reformulation of the scope of the existing orders on aluminum extrusions from China, solar panels should not fall under the scope of the investigations.

If Commerce finds that solar panels fall under the scope of these investigations (despite the clear reasons that they do not, discussed above), the finding would render the scope utterly inadministrable. There is no logical reason that finished windows, doors, and appliances, which are imported fully assembled and later installed in a structure, should be treated differently from solar panels, which are likewise imported fully assembled and affixed to homes, commercial real estate, or utility-scale solar developments. Moreover, nothing in the description of excluded merchandise in the scope provides a basis for these products to be treated differently. Accordingly, U.S. Customs and Border Protection, and importers themselves, would have no meaningful way to distinguish between finished products incorporating extrusions that fall within the scope and outside of the scope.

For these reasons, Commerce should clarify the definition of assembled merchandise not covered by the investigations, confirming that the scope of the investigations does not cover solar panels.

* * *

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In accordance with Commerce's regulations at 19 C.F.R. § 351.303(f)(1), we are filing this submission electronically via ACCESS at <http://access.trade.gov> and are serving copies today on parties as indicated in the attached certificate of service. If Commerce has any questions regarding this submission or requires additional information, please do not hesitate to contact the undersigned.

Sincerely,

/s/ Matthew R. Nicely
Matthew R. Nicely
Daniel M. Witkowski
Julia K. Eppard
Sydney L. Stringer

Counsel to the Solar Energy Industries Association

COMPANY CERTIFICATION

I, Stacy J. Ettinger, currently employed by the Solar Energy Industries Association, certify that I prepared or otherwise supervised the preparation of the attached scope comments, dated November 20, 2023, pursuant to the antidumping and countervailing duty investigations into *Aluminum Extrusions from the People's Republic of China, Colombia, the Dominican Republic, Ecuador, India, Indonesia, Italy, the Republic of Korea, Malaysia, Mexico, Taiwan, Thailand, the Republic of Turkey, the United Arab Emirates, and the Socialist Republic of Vietnam* (A-570-158, A-301-806, A-247-004, A-331-804, A-533-920, A-560-840, A-475-846, A-580-918, A-557-826, A-201-860, A-583-874, A-549-847, A-489-850, A-520-810, A-552-837, C-570-159, C-560-841, C 201 861, and C-489-851). I certify that the public information and any business proprietary information of the Solar Energy Industries Association contained in this submission is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. I am also aware that U.S. law (including, but not limited to, 18 U.S.C. § 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the Department may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature:



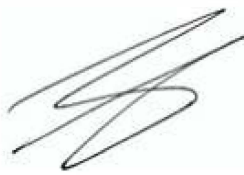
Date:

Nov. 20, 2023

COUNSEL CERTIFICATION

I, Matthew R. Nicely, counsel to the Solar Energy Industries Association, certify that I have read the attached scope comments, dated November 20, 2023, pursuant to the antidumping and countervailing duty investigations into *Aluminum Extrusions from the People's Republic of China, Colombia, the Dominican Republic, Ecuador, India, Indonesia, Italy, the Republic of Korea, Malaysia, Mexico, Taiwan, Thailand, the Republic of Turkey, the United Arab Emirates, and the Socialist Republic of Vietnam* (A-570-158, A-301-806, A-247-004, A-331-804, A-533-920, A-560-840, A-475-846, A-580-918, A-557-826, A-201-860, A-583-874, A-549-847, A-489-850, A-520-810, A-552-837, C-570-159, C-560-841, C 201 861, and C-489-851). In my capacity as counsel of this submission, I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am also aware that U.S. law (including, but not limited to, 18 U.S.C. § 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the Department may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: _____



Date: **November 20, 2023**

PUBLIC CERTIFICATE OF SERVICE

Aluminum Extrusions from the People’s Republic of China, Colombia, Dominican Republic, Ecuador, India, Indonesia, Italy, Malaysia, Mexico, Taiwan, Thailand, Turkey, United Arab Emirates, Vietnam

A-570-158, A-301-806, A-247-004, A-331-804, A-533-920, A-560-840, A-475-846, A-557-826, A-201-860, A-583-874, A-549-847, A-489-850, A-520-810, A-580-918, A-552-837, C-570-159, C-560-841, C-201-861, C-489-851

Investigation

I, Matthew R. Nicely, hereby certify that, on this day, a copy of this submission was served upon the following parties by email delivery:

<p><u>On Behalf of U.S. Aluminum Extruders Coalition and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union:</u> Robert E DeFrancesco III, Esq. Wiley Rein LLP 2050 M Street, NW Washington, DC 20036 rdefrancesco@wiley.law wileytrade@wiley.law</p>	<p><u>On Behalf of Hydro Precision Tubing USA, LLC:</u> Daniel Pickard, Esq. Buchanan Ingersoll & Rooney PC 1700 K Street NW Suite 300 Washington DC 20006 daniel.pickard@bipc.com</p>
<p><u>On Behalf of Ashley Furniture Industries, LLC and Kimball International Inc. , JA Solar Vietnam Company Limited, LONGI MALAYSIA SDN. BHD., Vietnam Sunergy Joint Stock Company, LONGi Solar Technology (H.K.) Limited, The Home Depot USA, Inc.; Target General Merchandise, Inc. (“Target”), Vikram Solar Limited:</u> Kristin H. Mowry, Esq. Mowry & Grimson PLLC 5335 Wisconsin Avenue, NW Suite 810 Washington, DC 20015 khm@mowrygrimson.com</p>	<p><u>On Behalf of Larkcop International Co., Ltd.; NingBo Xingfu Tools Co. Ltd.; LSF Logistics LLC (“LSF”); Top Knobs USA, Inc.; and Hardware Resources, Inc.:</u> Jeffrey S. Neeley, Esq. Husch Blackwell LLP 1801 Pennsylvania Avenue, NW Suite 1000 Washington, DC 20006 jeffrey.neeley@huschblackwell.com</p>

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<p><u>On Behalf of Mercury Marine Technology Suzhou Company Ltd.; Bracalente Metal Products (Suzhou) Co., Ltd.; Wuxi Huaguang Automotive Technology Co., Ltd.; Daikin Air Conditioning (SH) Co., Ltd.; Danfoss (Jiaxing) Co., Ltd.; Modine Thermal Systems (Changzhou) Company Ltd.; ACP (Changzhou) Heat Exchanger Co. Ltd.; Ampco Products LTD:</u> Carolyn Connolly, Esq Faegre Drinker Biddle & Reath LLP 1500 K St NW Washington, DC 20005 carolyn.bethea@faegredrinker.com</p>	<p><u>On Behalf of Contemporary Amperex Technology Co., Ltd., Contemporary Amperex Technology (Hong Kong) Limited, Contemporary Amperex Technology Co., Limited Hong Kong Branch; Xiamen Ampace Technology Limited, Sistem Alüminyum Sanayi ve Ticaret A.S:</u> Brady W. Mills, Esq. Morris, Manning & Martin, LLP 1401 I Street, NW Suite 600 Washington, DC 20005 bmills@mmmlaw.com</p>
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<p><u>On Behalf of Ningbo Innopower Tengda Machinery Co., Ltd, Yuyao Beily Sanitary Ware Co.,Ltd, Dongguan City Hongcheng Household Articles Co.,Ltd, Wang Mao Homeware Co., Limited, and Hao Mei Aluminium Products Company Limited:</u> David Craven, Esq. Craven Trade Law LLC 3744 N Ashland Chicago, IL 60613 david.craven@tradelaw.com</p>	<p><u>On Behalf of the Shandong Huajian Aluminum Group Co., Ltd.; Tung Shin Industrial Co., Ltd.:</u> Adams Lee, Esq. Harris Bricken Sliwoski, LLP 600 Stewart Street, Suite 1200 Seattle, WA 98101 adams@harrisbricken.com</p>

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<p><u>On Behalf of Valeo North America, Inc.:</u> Daniel Cannistra Crowell & Moring LLP 1001 Pennsylvania Avenue, NW Washington, DC 20004-2595 dcannistra@crowell.com</p>	<p><u>On Behalf of Guangdong Yongfeng Lihua Shading Technology Co., Ltd.:</u> SI LI Zhonglun Law Firm 20 Jin He East Avenue Chaoyang District Beijing 100020, P. R. China lisi@zhonglun.com</p>
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<p><u>On Behalf of Central Purchasing, LLC, Harbor Freight Tools USA, Inc.:</u> Richard Mojica Miller & Chevalier Chartered 900 16th Street NW Washington, DC 20006 rmojica@milchev.com</p>	<p><u>On Behalf of Zhejiang Guoyao Aluminum Products Co., Ltd.:</u> Xiaohua Hou Commerce & Finance Law Offices 12-14th Floor, China World Office 2, No. 1 Jianguomenwai Avenue, Beijing 100004, China xiaohuahou@tongshang.com</p>
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<p><u>On Behalf of Corporacion Ecuatoriana de Aluminio S.A.; CEDAL Duran S.A.; Estructuras de Aluminio S.A. ESTRUSA; and Estructuras de Aluminio S.A. ESTRUSA Guayaquil:</u> Richard P Ferrin, Esq. Faegre Drinker Biddle & Reath LLP 1500 K Street, N.W. Washington, DC 20005 richard.ferrin@faegredrinker.com</p>	<p><u>On Behalf of Vietnam Sunergy Joint Stock Company (“VSUN”):</u> Jeffrey S. Grimson, Esq. Mowry & Grimson PLLC 5335 Wisconsin Avenue, NW Suite 810 Washington, DC 20015 jsg@mowrygrimson.com</p>
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<p><u>On Behalf of the Embassy of Indonesia:</u> Wijayanto 2020 Massachusetts Avenue, NW Washington, DC 20036 wijayanto@embassyofindonesia.org</p>	<p><u>On Behalf of Hindalco Industries Limited:</u> Atul Sharma Sarvada Legal C-564, Defence Colony, New Delhi - 110024, INDIA atul@sarvada.co.in</p>
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<p><u>On Behalf of PT INDAL ALUMINIUM INDUSTRY TBK.:</u> Peter J. Koenig, Esq. Squire Patton Boggs (US) LLP 2550 M Street, NW Suite 300 Washington, DC 20036 peter.koenig@squirepb.com</p>	<p><u>On Behalf of PT Alfo Citra Abadi:</u> Sukanto Lukman Jl. Mesjid Raya No. 14, Medan 20151, Sumatera Utara - Indonesia lukman@aluminiumalca.com</p>

<p><u>On Behalf of PT. HANJAYAPERKASA METALS INDONESIA:</u> Maxie Wang NGORO INDUSTRI PERSADA BLOK K-2, NGORO, MOJOKERTO, EAST JAVA, INDONESIA info@hpmindonesia.co.id</p>	<p><u>On Behalf of PT. ALUMINIUM COMPANY EXTRUSION INDONESIA (ALCOMEX INDO):</u> Sukri Hasyim Aluminium Company Extrusion Indonesia (ALCOMEXINDO) Kp. Mariuk RT.004 RW.002 Gandamekar, Cikarang Barat, Bekasi, 17530, Indonesia sukri.exim@alcomexindo.com</p>
<p><u>On Behalf of PT. ALUMINIUM EXTRUSION INDONESIA / ALEXINDO:</u> Martinus Saputra Aluminium Extrusion Indonesia (ALEXINDO) Jl. Raya Bekasi KM 28,7 Bekasi Utara 17124 Indonesia martin@alexindo.com</p>	<p><u>On Behalf of Metra S.p.A.:</u> Luca Bertazzo, Esq. White & Case LLP 701 Thirteenth Street, NW Washington, DC 20005-3807 lbartazzo@whitecase.com</p>
<p><u>On Behalf of the European Commission:</u> Caitlin Hickey Delegation of the European Union 2175 K St NW Washington DC 20037 caitlin.hickey@eeas.europa.eu</p>	<p><u>On Behalf of the Embassy of Italy:</u> Emanuele di Lorenzo Badia 3000 Whitehaven St. NW Washington, DC 20008 econ.washington@esteri.it</p>
<p><u>On Behalf of PrimeSource Building Products, Inc., and its affiliated companies Top Knobs USA, Inc., Hardware Resources, Inc., Nationwide Industries, Inc., NWEnterprises, Inc., and LockeyUSA, LLC:</u> Nithya Nagarajan Husch Blackwell LLP 1801 Pennsylvania Avenue, NW Suite 1000 Washington, DC 20006 nithya.nagarajan@huschblackwell.com</p>	<p><u>On Behalf of New Hudson Facades LLC:</u> Kelly Alice Slater Appleton Luff Pte Ltd 1025 Connecticut Avenue, NW Suite 1000 Washington, DC 20036 slater@appletonluff.com</p>

<p><u>On Behalf of PMB Aluminium Sdn Bhd, Gulf Extrusions LLC and Automotive Precision Technology (APT) Sole Proprietorship LLC:</u> Michael Holton, Esq. Grunfeld Desiderio Lebowitz Silverman Klestadt, LLP 1201 New York Ave, NW Suite 650 Washington, DC 20005 mholton@gdlsk.com</p>	<p><u>On Behalf of Tong Heer Aluminium Industries Sdn. Bhd. and Superb Aluminium Industries Sdn. Bhd.:</u> Kelly Alice Slater, Esq. Appleton Luff Pte Ltd 1025 Connecticut Avenue, NW Suite 1000 Washington, DC 20036 slater@appletonluff.com</p>
<p><u>On Behalf of New Age Aluminium Industries Sdn. Bhd.:</u> Camelia C. Mazard, Esq. Doyle, Barlow & Mazard, PLLC 1776 K St., NW Suite 200 Washington, DC 20006 cmazard@dbmlawgroup.com</p>	<p><u>On Behalf of First Solar, Inc., P.A. Resources Berhad:</u> Stephanie Hartmann, Esq. Wilmer Cutler Pickering Hale and Dorr LLP 2100 Pennsylvania Avenue NW Washington, DC 20037 stephanie.hartmann@wilmerhale.com</p>
<p><u>On Behalf of Director of Trade Practices Section, Ministry of Investment, Trade and Industry, Government of Malaysia:</u> Nurul Syuhada Abd Hamid Ministry of International Trade & Industry Malaysia Trade Practices Section, Level 9, MITI Tower, No.7, Jalan Sultan Haji Ahmad Shah, 50480 Kuala Lumpur Malaysia syuhada@miti.gov.my</p>	<p><u>On Behalf of ELALUMINIUM BILLET (M) SDN BHD:</u> Low De Zheng NO.22, JALAN TTC 30, TAMAN TEKNOLOGI CHENG, 75250, MELAKA, MALAYSIA sales@elaluminium.com.my</p>
<p><u>On Behalf of LB ALUMINIUM BERHAD:</u> GAN MIN SZE LOT 11, JALAN PERUSAHAAN BERANANG, KAWASAN PERUSAHAAN BERANANG, 43700 BERANANG, SEMENYIH, SELANGOR, MALAYSIA minsze@lbalum.com.my</p>	<p><u>On Behalf of Aluminio de Baja California S.A. de C.V. (“ABC”):</u> Jeffrey S. Grimson, Esq. Mowry & Grimson PLLC 5335 Wisconsin Avenue, NW Suite 810 Washington, DC 20015 jsg@mowrygrimson.com</p>

<p><u>On Behalf of Coalition for Fair Mexican Exports of Aluminum Extrusions:</u> Jack A Levy, Esq. Rock Creek Trade LLP 900 19th Street, NW Suite 600 Washington, DC 20006 jack@rockcreektrade.com</p>	<p><u>On Behalf of ELICC Americas Corporation, Mexico Curtain Wall System Engineering S DE R.L. DE C.V.:</u> J. Kevin Horgan, Esq. deKieffer & Horgan 1156 15th Street, NW Suite 1101 Washington, DC 20005 khorgan@dhlaw.com</p>
<p><u>On Behalf of Werner Ladder De Mexico, S. DERL, DEC, V:</u> Raymond Paretzky, Esq. McDermott Will & Emery 500 N. Capitol Street, NW Washington, DC 20001-1531 rparetzky@mwe.com</p>	<p><u>On Behalf of MAHLE Behr Rio Bravo, S. de R.L. de C.V.; MAHLE Behr Mexico, S. de R.L. de C.V.; and MAHLE Behr Service Mexico, S. de R.L. de C.V. (collectively, "MAHLE"), MAHLE Behr USA Inc.; MAHLE Behr Charleston Inc.; MAHLE Behr Dayton L.L.C.; MAHLE Behr Service America L.L.C.; MAHLE Behr Manufacturing Management, Inc.; MAHLE Behr Mt. Sterling, Inc. (collectively, "MAHLE"):</u> Mark Ludwikowski, Esq. Clark Hill PLC 1001 Pennsylvania Ave., NW Suite 1300 South Washington, DC 20004 mludwikowski@clarkhill.com</p>
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