

Fact Sheet: Crystalline Silicon Photovoltaic Cells and Modules Global Safeguard Investigation

Prepared by the U.S. International Trade Commission

This investigation:

- Petition filed with U.S. International Trade Commission on Wednesday, April 26, 2017
- Petition filed by: Suniva, Inc.

Section 201 Investigations in general:

- U.S. International Trade Commission (“Commission”) has sole responsibility to conduct investigations under section 201 of the Trade Act of 1974. If the Commission makes an affirmative injury determination, it recommends a remedy to the President. The President makes the final decision on whether to provide a remedy to the U.S. industry, and if so, the type and duration of the remedy. The remedy is temporary, and the initial period of relief cannot be longer than four years, and if extended, the effective period of relief cannot exceed eight years in the aggregate.
- Investigations sometimes are also referred to as “global safeguard investigations” and “escape clause” investigations.
- When a petition or request is filed, the Commission must determine whether an article is being imported in such **increased quantities** as to be **a substantial cause of serious injury or the threat of serious injury** to a U.S. industry.
- Global safeguard investigations **do not require a finding of an unfair trade practice such as under the U.S. countervailing duty law (a foreign subsidy) or the antidumping duty law.**
- Global safeguard investigations are **not country specific**. They involve imports of the products under investigation from all sources. However, Commissioners who make affirmative injury determinations are required to make additional separate findings for certain countries with which the U.S. has free trade agreements. These include the NAFTA countries (Canada and Mexico), Jordan, Australia, Colombia, Korea, Panama, Peru, Singapore, the CAFTA-DR countries, and Israel.

Process:

- The Commission currently is evaluating the petition for legal sufficiency and compliance with its rules; when that review is completed, the Commission will decide on whether to institute the investigation and publish a notice of its decision in the *Federal Register*.
- The Commission must complete the injury phase within 120 days after the petition is filed, unless it determines that the investigation is “extraordinarily complicated,” in which case it may take up to 30 additional days to make its injury determination. If the Commission makes an affirmative injury determination, it will then conduct a remedy phase. It holds a public hearing in each phase. If the Commission makes a negative injury determination, the case will end and the Commission will not conduct a remedy phase or recommend a remedy.
- At the conclusion of any remedy phase, the Commission will announce its remedy recommendation(s), and forward its determinations and findings and any remedy recommendations in a report to the President. Only the Commissioners who make affirmative injury determinations will recommend remedy measures to the President. The Commission must send its report to the President within 180 days after the petition is filed.
- The President makes the final decision on whether to impose a remedy, and if so, the form, amount, and duration of the remedy. In determining what action to take, if any, the President is to take into account the Commission’s report, industry efforts to make a positive adjustment to import competition, factors related to the national economic interest of the United States, and certain other statutory factors.

Remedy:

- The Commission may recommend to the President an increase in a duty, imposition of a quota, imposition of a tariff-rate quota (e.g., a two-level tariff, under which goods enter at a higher duty after the quota is filled), trade adjustment assistance, or any combination of such actions. In addition, the Commission may also recommend that the President initiate international negotiations to address the underlying cause of the increase in imports or that he implement any other action authorized under the law that is likely to facilitate positive adjustment to import competition. The decision concerning the form of relief ultimately granted is made by the President. The President may take action for an initial period of up to four years.