



INTERNATIONAL TRADE COMMISSION

[Investigation No. TA-201-75]

Crystalline Silicon Photovoltaic Cells

(Whether or Not Partially or Fully Assembled into Other Products)

AGENCY: United States International Trade Commission.

ACTION: Publication of summary of the Commission's report on the investigation.

SUMMARY: Section 202(f)(3) of the Trade Act of 1974 requires that the United States International Trade Commission ("Commission") publish in the *Federal Register* a summary of each report that it submits to the President under section 202(f)(1) of the Trade Act of 1974. Set forth below is a summary of the report that the Commission submitted to the President on November 13, 2017, on investigation No. TA-201-75, *Crystalline Silicon Photovoltaic Cells (Whether or Not Partially or Fully Assembled into Other Products)*. The Commission conducted the investigation under section 202(b) of the Trade Act of 1974 following receipt of a petition properly filed on May 17, 2017. The full text of the report (with the exception of confidential business information) will be posted on the Commission's website at <https://www.usitc.gov>.

DATE: November 13, 2017: Transmittal of the Commission's report to the President.

ADDRESSES: United States International Trade Commission,, 500 E Street SW, Washington, DC. 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193), Office of Investigations, U.S. International Trade Commission 500 E Street SW, Washington, DC 20436. The media should contact Margaret O’Laughlin, Office of External Relations (202-205-1819 or margaret.olaughlin@usitc.gov). Hearing-impaired individuals may obtain information on this matter by contacting the Commission’s TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its website (<https://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2002.

SUPPLEMENTARY INFORMATION:

Procedural summary: Effective May 17, 2017, the Commission instituted this investigation under section 202(b) of the Trade Act to determine whether Crystalline Silicon Photovoltaic Cells (Whether or Not Partially or Fully Assembled into Other Products) are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. The Commission instituted the investigation in response to a petition, as amended and properly filed on May 17, 2017 by Suniva, Inc. (“Suniva”), a producer of CSPV cells and CSPV modules in the United States. On May 25, 2017, SolarWorld Americas publicly stated its support for the petition as a co-petitioner.

Notice of the institution of the Commission’s investigation and of the scheduling of public

hearings to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* (82 Fed. Reg. 25331 (June 1, 2017)). The public hearing in connection with the injury phase of the investigation was held on August 15, 2017, in Washington, DC, and the public hearing in connection with the remedy phase of the investigation was held on October 3, 2017, in Washington, DC; all persons who requested the opportunity were permitted to appear in person or by counsel. The Commission voted with respect to injury issues on September 22, 2017, and with respect to remedy issues on October 31, 2017.

The Commission submitted its report to the President on November 13, 2017. The report included the Commission's injury determination and remedy recommendations, an explanation of the basis for the determination and remedy recommendations, and a summary of the information obtained in the investigation.

Determination: On the basis of information developed in the subject investigation, the Commission determined pursuant to section 202(b) of the Trade Act of 1974 that crystalline silicon photovoltaic cells (whether or not partially or fully assembled into other products) ("CSPV products") are 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.

Having made an affirmative injury determination pursuant to section 202(b) of the Trade Act of 1974, the Commission was required to make certain additional findings under the implementing statutes of certain free trade agreements (“FTAs”) or under statutory provisions related to certain preferential trade programs. Under section 311(a) of the NAFTA Implementation Act (19 U.S.C. § 3371(a)), the Commission found that imports of CSPV products from Mexico account for a substantial share of total imports and contribute importantly to the serious injury caused by imports. Under 19 U.S.C. § 3371(a), the Commission also found, with Chairman Rhonda K. Schmidlein dissenting, 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. The Commission further found that imports of CSPV products from Korea are a substantial cause of threat of serious injury, but that imports of CSPV products from Australia, the U.S.-Dominican Republic – Central America Free Trade Agreement (“CAFTA-DR”) countries, Colombia, Jordan, Panama, Peru, and Singapore, individually, are not a substantial cause of serious injury or threat thereof, under the respective implementing legislation for the FTAs with these countries. *See* 19 U.S.C. § 2112 note (Jordan); 19 U.S.C. § 3805 note (Australia, Colombia, Korea, Panama, Peru, Singapore); 19 U.S.C. § 4101 (CAFTA-DR). The Commission also found that the serious injury substantially caused by imports to the domestic industry producing a like or directly competitive article does not result from the reduction or elimination of any duty provided for under the U.S.-Israel Free Trade Agreement or from duty-free treatment provided for under the Caribbean Basin Economic Recovery Act

("CBERA") provisions of the Caribbean Basin Initiative Trade Program or the Generalized System of Preferences ("GSP") program. 19 U.S.C. § 2112 note (Israel); 19 U.S.C. § 2703(e) (CBERA); 19 U.S.C. § 2253(e)(6) (GSP).

Remedy recommendations. In order to address the serious injury to the domestic industry producing CSPV products and be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition, the Commission recommended a series of actions.

With regard to CSPV cells, Chairman Schmidlein recommends a tariff-rate quota with an in-quota tariff rate of 10 percent ad valorem and an in-quota volume level of 0.5 gigawatts. For U.S. imports of cells that exceed the 0.5 gigawatts volume level, she recommends a tariff rate of 30 percent ad valorem. Chairman Schmidlein recommends that this tariff-rate quota be implemented for four years and that the in-quota level be incrementally raised and the tariff rate be incrementally reduced during the remedy period. With regard to CSPV modules, she recommends an ad valorem tariff rate of 35 percent to be incrementally reduced during the 4-year remedy period. Chairman Schmidlein also recommends that the President initiate international negotiations to address the underlying cause of the increase in imports of CSPV products and alleviate the serious injury thereof. Having made findings that U.S. imports from Australia, the CAFTA-DR countries, Colombia, Israel, Jordan, Panama, Peru, Singapore, and the beneficiary countries under CBERA were not a substantial cause of the serious injury

experienced by the domestic industry, Chairman Schmidlein recommends to the President that U.S. imports from these countries be excluded from the remedy.

Chairman Schmidlein's Recommended Remedy				
	Year 1	Year 2	Year 3	Year 4
Cells: Tariff rate Quota				
In-Quota Tariff Rate	10%	9.5%	9.0%	8.5%
In-Quota Volume Level	0.5 gigawatts	0.6 gigawatts	0.7 gigawatts	0.8 gigawatts
Out-of-Quota Tariff Rate	30%	29%	28%	27%
Modules: Tariff (Ad Valorem)	35%	34%	33%	32%

Vice Chairman David S. Johanson and Commissioner Irving A. Williamson recommend that for a 4-year period the President impose (1) a tariff-rate quota on imports of CSPV products in cell form, and (2) increased rates of duty on imports of CSPV products in module form. For imports of CSPV products in cell form, they recommend an additional 30 percent ad valorem tariff on imports in excess of 1 gigawatt. In each subsequent year, they recommend that this tariff rate decrease by five percentage points and that the in-quota amount increase by 0.2 gigawatts. The rate of duty on in-quota CSPV products in cell form will remain unchanged. For imports of CSPV products in module form, Vice Chairman Johanson and Commissioner Williamson recommend an additional 30 percent ad valorem tariff, to be phased down by five percentage points per year in each of the subsequent years. Having made a negative finding with respect to imports

from Canada under section 311(a) of the North American Free Trade Agreement

Implementation Act, they recommend that such imports be excluded from the above tariff-rate quota and increased rates of duty. Further, Vice Chairman Johanson and Commissioner Williamson recommend that the above tariff-rate quota and increased rates of duty not apply to imports from the following countries with which the United States has FTAs: Australia, Colombia, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Jordan, Nicaragua, Panama, Peru, and Singapore. They also recommend that the tariff-rate quota and increased rates of duty not apply to imports from the CBERA beneficiary countries. Vice Chairman Johanson and Commissioner Williamson recommend that the President direct the United States Department of Labor and the United States Department of Commerce to provide expedited consideration of any application for trade adjustment assistance for workers and/or firms that are affected by subject imports. They recommend the President's consideration of the product exclusions requested by Respondents to which Petitioners have not objected and have indicated they would work to draft appropriate product-specific exclusions. Finally, they recommend that the President also consider any appropriate funding mechanisms that may facilitate a positive adjustment to import competition.

Commissioner Meredith M. Broadbent recommends that the President impose a quantitative restriction on imports of CSPV products into the United States, including cells and modules, for a four-year period, administered on a global basis. She recommends that the quantitative restriction be set at 8.9 gigawatts in the first year and increase by 1.4 gigawatts each

subsequent year. In accordance with section 1102 of the Trade Agreements Act of 1979 (19 U.S.C. § 2581) and the President's authority in section 203(a)(3)(F) of the Trade Act of 1974 (19 U.S.C. § 2253(a)(3)(F)), she also recommends that the President administer these quantitative restrictions by selling import licenses at public auction at a minimum price of one cent per watt. She recommends that the President, to the extent permitted by law, authorize the use of funds equal to the amount generated by import license auctions to provide development assistance to domestic CSPV product manufacturers for the duration of the remedy period, such as through authorized programs at the United States Department of Energy (DOE). Commissioner Broadbent also recommends that the President implement other appropriate adjustment measures, including the provision of trade adjustment assistance by the United States Department of Labor and the United States Department of Commerce to workers and firms affected by import competition. Having made an affirmative finding with respect to imports from Mexico under section 311(a) of the NAFTA Implementation Act, she recommends that the President allocate no less than 720 megawatts to Mexico during the first year within the global quantitative restriction, which would expand by 115 megawatts each year. Having made a negative finding with respect to imports from Canada under section 311(a) of the NAFTA Implementation Act, Commissioner Broadbent recommends that such imports be excluded from the quantitative restriction. Furthermore, she recommends that this quantitative restriction not apply to imports from Australia, the CAFTA-DR countries, Colombia, Israel, Jordan, Panama, Peru, Singapore, and the CBERA beneficiary countries.

Availability of the public version of the report. The public version of the Commission's report containing the Commission's injury determination, its remedy recommendations, an explanation of the basis for its injury determination and remedy recommendations, and a summary of the information obtained in the investigation is contained in *Crystalline Silicon Photovoltaic Cells (Whether or Not Partially or Fully Assembled into Other Products)*, Inv. No. 201-TA-75, USITC Publication 4739 (Nov. 2017).

By order of the Commission.

Issued: November 15, 2017.

Lisa R. Barton,

Secretary to the Commission.

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