



[Billing Code 3290-F8]

**OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

**[Docket Number USTR–2017–0020]**

**Request for Comments and Public Hearing about the Administration’s Action  
Following a Determination of Import Injury with Regard to Certain Crystalline  
Silicon Photovoltaic Cells**

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Request for comments and notice of public hearing.

**SUMMARY:** The United States International Trade Commission (ITC) has determined that certain crystalline silicon photovoltaic (CSPV) 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 that is like or directly competitive with the imported articles. The Commissioners who voted in the affirmative are now conducting a process to recommend a safeguard measure for the President to apply. The Office of the United States Trade Representative (USTR), on behalf of the Trade Policy Staff Committee (TPSC), is announcing a process so that, once the ITC makes its recommendation, domestic producers, importers, exporters, and other interested parties may submit their views and evidence on the appropriateness of the recommended safeguard measure and whether it would be in the public interest. USTR also invites interested parties to participate in a public hearing regarding this matter.

**DATES:** November 20, 2017 at midnight EST: Deadline for submission of written comments.

November 29, 2017 at midnight EST: Deadline for submission of written responses to the initial round of comments.

December 6, 2017 at 9:30 am EST: The TPSC will hold a public hearing in Rooms 1 and 2, 1724 F Street NW, Washington DC.

**ADDRESSES:** USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments in section III below. The docket number is USTR–2017–0020. For alternatives to on-line submissions, please contact Yvonne Jamison, Trade Policy Staff Committee at (202) 395-9666.

**FOR FURTHER INFORMATION CONTACT:** Victor Mroczka, Office of WTO and Multilateral Affairs, at [Victor\\_S\\_Mroczka@ustr.eop.gov](mailto:Victor_S_Mroczka@ustr.eop.gov) or (202) 395-9450, or Dax Terrill, Office of the General Counsel, at [Dax.Terrill@ustr.eop.gov](mailto:Dax.Terrill@ustr.eop.gov) or (202) 395-4739.

**SUPPLEMENTARY INFORMATION:**

**I. The ITC Investigation and Section 201**

On June 1, 2017, the ITC instituted Investigation No. TA–201–75 under section 202 of the Trade Act (19 U.S.C. 2252), as a result of a petition properly filed on May 17, 2017, by Suniva, Inc., a domestic producer of CSPV cells and CSPV modules. The ITC would determine if CSPV cells (whether or not partially or fully assembled into other products) were 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 that is like or directly competitive with the imported articles. The ITC notice of institution (82 FR 25332) identifies the scope of the products covered by

this investigation. On May 25, 2017, another domestic producer of CSPV cells, SolarWorld Americas, Inc., joined the investigation as a petitioner seeking import relief.

On September 22, 2017, after receiving submissions from interested parties and holding a public hearing that provided an opportunity to present opposing views and supporting evidence, the ITC determined that the increased importation of CSPV cells is a substantial cause of serious injury, or threat thereof, to the domestic industry. You can find the ITC determination and additional information about the investigation, including the administrative record consisting of briefs and other submissions, in the Electronic Document Information System (EDIS) on the ITC website at [www.usitc.gov](http://www.usitc.gov).

In light of the affirmative finding on injury, the ITC held a public hearing on October 3, 2017, regarding remedies and interested parties had the opportunity to file submissions on this issue. On November 13, 2017, after the remedy hearing and consideration of the submissions, the ITC will submit to the President a report with its recommendation on action(s) to address the serious injury, or threat thereof, to the domestic industry and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

## **II. Proposed Measure and Opportunity to Comment**

Section 201 of the Trade Act (19 U.S.C. 2251) authorizes the President, in the event of an affirmative determination by the ITC, to take all appropriate and feasible action within his power that he determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs. The statute provides for the President to take action within 60

days after receiving the ITC report, subject to any decision the President makes to request additional information from the ITC. In accordance with section 203(a)(1)(C) of the Trade Act (19 U.S.C. 2253(a)(1)(C)), the TPSC will make a recommendation to the President. This recommendation will take into account the ITC recommendation, the extent to which the domestic industry will benefit from adjustment assistance, the efforts of the domestic industry to make positive adjustments, and other relevant considerations.

The potential action the President may take to provide a remedy in the form of a safeguard measure includes:

- Imposition, or increase, of a duty on the imported articles in question.
- Use of a tariff-rate quota.
- Modification or imposition of any quantitative restriction on the importation of the articles into the United States.
- A proposal to negotiate and carry out an agreement with foreign countries to limit the exportation from foreign countries and importation into the United States.
- Procedures for the granting of import licenses.
- Other negotiations to identify the underlying cause of the increased imports to alleviate the injury or threat thereof.
- Legislative proposals that would facilitate a positive adjustment.
- Other action consistent with the President's authority.
- Any combination of these actions.

USTR offers these potential remedies for further consideration by domestic producers, importers, exporters, and other interested parties, and invites views and evidence on

whether a proposed remedy is appropriate and in the public interest. In commenting on the action to take, we request that you address:

1. the appropriateness of any other proposed action and how it would be in the public interest;
2. the short- and long-term effects the proposed action is likely to have on the domestic CSPV industry, other domestic industries, and downstream consumers; and
3. the short- and long-term effects that not taking the proposed action is likely to have on the domestic CSPV industry, its workers, and on other domestic industries and communities.

The TPSC will convene a public hearing on December 6, 2017, at 9:30 am EST in Rooms 1 and 2, 1724 F Street NW, Washington DC. We will provide information about the format and schedule for the hearing to interested parties. Requests to testify must include the following information: (1) Name, address, telephone number, email address, and firm or affiliation of the individual wishing to testify, and (2) a brief summary of the proposed oral presentation.

### **III. Submission Instructions**

USTR seeks public comments with respect to the issues described in Section II. To be assured of consideration, you must submit written comments by midnight EST on November 20, 2017, and any written responses to those comments by midnight EST on November 29, 2017. All comments must be in English and must identify on the reference line of the first page of the submission “Potential Action: CSPV Cells.”

We strongly encourage commenters to make on-line submissions, using the [www.regulations.gov](http://www.regulations.gov) website. To submit comments via [www.regulations.gov](http://www.regulations.gov), enter docket number USTR-2017-0020 on the home page and click “search.” The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled “Comment Now!” For further information on using [www.regulations.gov](http://www.regulations.gov), please consult the resources provided on the website by clicking “How to Use Regulations.gov” on the bottom of the home page. We will not accept hand-delivered submissions.

The [www.regulations.gov](http://www.regulations.gov) website allows users to provide comments by filling in a “Type Comment” field, or by attaching a document using an “Upload File” field. We prefer that you provide comments as an attached document in Microsoft Word (.doc) or Adobe Acrobat (.pdf) format. If the submission is in another file format, please indicate the name of the software application in the “Type Comment” field. File names should reflect the name of the person or entity submitting the comments. Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the comment itself, rather than submitting them as separate files.

For any comments submitted electronically that contain business confidential information, the file name of the business confidential version should begin with the characters “BC”. Any page containing business confidential information must be clearly marked “BUSINESS CONFIDENTIAL” on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific

information that is business confidential. A filer requesting business confidential treatment must certify that the information is business confidential and would not customarily be released to the public by the submitter.

Filers of submissions containing business confidential information also must submit a public version of their comments. The file name of the public version should begin with the character "P". Follow the "BC" and "P" with the name of the person or entity submitting the comments. Filers submitting comments containing no business confidential information should name their file using the name of the person or entity submitting the comments.

As noted, we strongly urge submitters to file comments through [www.regulations.gov](http://www.regulations.gov). You must make arrangements for any alternative method of submission with Yvonne Jamison at (202) 395-9666 in advance of transmitting a comment. You can find general information about USTR at [www.ustr.gov](http://www.ustr.gov).

We will post comments in the docket for public inspection, except business confidential information. You can view comments on [www.regulations.gov](http://www.regulations.gov) by entering the relevant docket number in the search field on the home page.

Edward Gresser,  
Chair of the Trade Policy Staff Committee,  
Office of the United States Trade Representative.  
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