EXECUTIVE SUMMARY
SEIA PRE-HEARING BRIEF: 201 SOLAR TRADE CASE
August 8, 2017

Background

The Solar Energy Industries Association ("SEIA") today submitted a prehearing brief to the U.S. International Trade Commission ("ITC") in the injury phase of the global safeguard investigation of crystalline silicon photovoltaic ("CSPV") cells and modules. SEIA is comprised of over 800 companies representing all aspects of the U.S. solar value chain employing 260,000 American workers. Together, they provide American homes, businesses, government facilities, and factories with clean, reliable, and cost-competitive electricity.

SEIA fully respects the purpose of Section 201 and the legitimacy of granting trade relief to industries that have suffered serious injury when the injury is substantially caused by an increase in imports. In this case, the facts do not warrant trade relief. In other words: good law, bad case.
Petitioners portray themselves as the backbone of U.S. solar manufacturing, yet both SolarWorld and Suniva rely on imported cells and/or modules to survive. Meanwhile, the vast majority of the U.S. solar manufacturing industry rejects the petitioners' arguments and stands with SEIA.

Relevant Economic Conditions

The ITC should consider relevant economic conditions for the whole U.S. solar industry, not just cell manufacturers.

- Solar is booming. The U.S. solar industry grew twenty-fold from 0.1 percent of total U.S. electricity generation in 2010 to approximately 1.4 percent today. It is projected to pass 3 percent in 2020 and 5 percent in 2022.
- Solar is creating jobs. The solar industry employs 260,000 Americans, 51,000 of which joined the industry in 2016, the fourth straight year of 20+ percent workforce growth.
- U.S. jobs manufacturing CSPV cells and modules are very important, but numerically they represent less than 1 percent of the 260,000 solar jobs, and are substantially outnumbered by other U.S. solar manufacturing jobs, which exceeded 35,000 in 2016.

Legal Standards

To prevail on the current injury portion of their case, Petitioners must demonstrate that (1) the domestic industry has suffered **serious injury** and (2) increased imports were a **substantial cause** of that injury (meaning not less significant than any other factor). They cannot do either.

There is Insufficient Evidence of Serious Injury and Increased Imports

As shown in SEIA's brief, the domestic industry has not been seriously injured. Furthermore, the facts undermine petitioners' claim that increases in imports have been of sufficient magnitude to account for any injury to the domestic industry. Import increases were substantial only in the utility segment of the market, where the petitioners chose not to compete.

- In the utility segment, the petitioners were unable to manufacture and supply the 72-cell modules required to meet demand. Their production capacities were insufficient to handle scale requirements for those projects. Therefore, to meet utility-scale demand, increasing CSPV imports were pulled into the U.S. utility market – they did not "flood" the market –to supply developers with necessary products.
- In retail segments, imports didn't increase enough to meet the standard set under the statute, plain and simple. Moreover, the *domestic industry* actually increased its shipments in retail.

The Real Causes of Any Harm Suffered by The Domestic Industry Are Self-Inflicted

Petitioners not only fail to meet the legal threshold for serious injury from increased imports, they also fail to show that the *substantial cause* of their failings was increased imports.

- Petitioners suffered from a series of damaging business decisions that had absolutely nothing to do with imports, but which did hurt their ability to compete.
    - As stated above, they didn't invest in the 72-cell module production line in quantities demanded by utility developers.
    - They failed to develop business relationships to sell into utility-scale markets.
    - Although they focused their business relationships and customer acquisition on retail, they still missed major opportunities to boost business.
        - For example, SolarWorld and Suniva failed to fully qualify their products with major retail purchasers, such as Sunrun and Vivint.
        - Suniva and SolarWorld both experienced complaints from a litany of dissatisfied customers over late shipments, damaged products, and general product unreliability.

Any Decline in Market Prices Is Better Explained by Factors Other Than Imports

- CSPV product – whether domestic or imported – must be priced low enough to compete with other sources on the electricity grid. In recent years, CSPV has been competing against the other dominant sources of new electric capacity: natural gas, wind and thin-film solar (not part of the ITC case). The pressure to match the costs of these other technologies, to reach "grid parity," weighed heavily on CSPV.
    - Technology has been a major driver in lowering solar costs as well. Anticipated accurately by Richard Swanson, founder of SunPower Corp., since the 1970s, costs have fallen dramatically as conversion (photon to electron) efficiencies have increased continually. The falling cost of solar has become so well known that solar incentives are often structured based on this assumption – i.e., incentives are scheduled to phase down or phase out as the technology improves. This too has put downward pressure on CSPV prices, ratcheting up competition, but has nothing to do with imports.

Conclusion

Petitioners cannot satisfy the legal standards required in the injury phase of the ITC's global safeguard investigation of CSPV cells and modules.