



## Suniva's Solar Trade Case, The U.S. International Trade Commission, and the Solar Industry's View

### BACKGROUND

After declaring bankruptcy, Suniva, Inc. on April 26, 2017 filed a petition with the U.S. International Trade Commission (ITC) asking the government to put its thumb on the scale of the U.S. solar market. On May 25, SolarWorld Americas announced it had joined as co-petitioner. This case poses a major threat to the U.S. solar industry and its 260,000 workers. It also puts at risk billions of dollars in private sector investment in this rapidly-growing industry. SEIA is going to fight this petition every step of the way and ask the government not to endanger a thriving American industry.

Suniva is more than \$100 million in debt and wants a tariff on imported solar cells and a floor price for solar panels made with foreign cells. The company is majority-owned by a Chinese concern, and even it does not support Suniva's request for tariff support. The ITC is an independent, quasi-judicial federal agency that investigates and makes recommendations to the administration on trade matters. On May 23, 2017, the ITC initiated review of this "extraordinarily complicated" case.

### THE SOLAR INDUSTRY'S STANCE

The imposition of tariffs and price floors would damage the whole solar industry.

- According to Goldman Sachs and Bloomberg New Energy Finance, the proposed tariff and minimum pricing requirements would double the price of solar panels in the U.S.
  - This would come after years of lowering solar costs to consumers through innovation, production scale, improved business practices and greater understanding of solar technologies.
  - The rise in solar costs would slash demand. Solar project costs would rise dramatically for both rooftop and utility scale and solar would become less competitive with other electricity sources. Today, solar is one of the least expensive energy sources in America.
  - The U.S. solar industry employs 260,000 Americans. Suniva is putting these jobs at risk and if the petition is successful, many thousands of jobs will be lost.
  - Manufacturing in other parts of the solar sector across the US such as racking systems and inverters have been adding jobs. The U.S. solar manufacturing industry already employs more than 38,000 Americans. The fact that petitioners are laying off employees doesn't reflect the growth in American manufacturing jobs.
- Today's solar industry is a major force in America's economy. GTM valued the industry at \$23 billion in 2016, and solar was the number one source of new U.S. electricity generation last year. This incredible progress will be stopped in its tracks if the petition prevails.
  - The relief sought by Suniva and SolarWorld would exacerbate the underlying problem of an excess global supply of solar cells and modules by severely limiting the U.S. market. Raising trade barriers and inhibiting the import of fairly-traded goods will not jumpstart U.S. cell and module manufacturing.



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## ITC Process & Timeline

**Petition:** On April 26, 2017, Suniva filed a petition under Section 201 of the Trade Act of 1974. The action prompts the ITC to determine whether there has been serious injury or potential for serious injury to domestic industry.

**Initiation:** The agency decided to initiate the case on May 23, 2017.

**Finding:** The ITC has set the schedule based on a determination that the case is "extraordinarily complicated." ITC will reach a decision on the first phase (determination of injury) by Sept. 22, 2017. Should the ITC find that substantial injury has occurred primarily as a result of imports, the Commission will then enter the second phase (determination of remedy) with a recommendation for action delivered to President Trump no later than Nov. 13. The president then has sixty days to act, according to statute.

**Guidance:** If import relief is provided, the ITC periodically reports on developments within the industry during the period of relief. Upon request, the ITC advises the President of the probable economic effect on the industry of the reduction, modification, or termination of the relief.

### ABOUT SUNIVA

- Suniva, Inc. makes solar cells and panels. It is headquartered in the Atlanta metro area.
- Suniva declared bankruptcy in April 2017 after laying off more than 230 employees and closing its factory in Michigan earlier this year. Suniva's actions are now controlled by a New York and London based finance firm, SQN.
- Suniva is majority-owned by Shunfeng International Clean Energy, a Chinese company that holds 63 percent of Suniva's stock and publicly opposes the petition.

### ABOUT SOLARWORLD

- SolarWorld, based in Hillsboro, Ore, manufactures solar cells and panels
- SolarWorld's decision to join the petition helps Suniva, but it is unclear what remedy SolarWorld wants, since it suggested a different approach in its press release.
- SolarWorld is owned by a German parent company that has said it is insolvent, which is similar to bankruptcy.

### 201 PETITIONERS' CLAIM

- The petition with the ITC claims that the domestic PV cell market has suffered because of a flood of imports.
- Suniva is asking the U.S. to place tariffs on international cells and modules made with foreign cells. Shunfeng does not support Suniva's call for tariffs.
- Suniva's request calls for a tariff of 40 cents per watt for solar cells produced outside the U.S. and a

floor price of 78 cents per watt for panels.

- SQN Capital Management, an investment firm to whom Suniva owes more than \$100 million, is bankrolling the company's ITC petition. As Suniva's largest creditor, SQN is trying to sell off Suniva's manufacturing equipment. In a letter to the China Chamber of Commerce for Import and Export of Machinery and Electronic Products, SQN said that if the assets were purchased then the trade case would be dropped.

### WHAT WE ARE DOING

**We will be closely engaged in the legal fight throughout ITC's consideration of the petition. We have retained expert outside counsel, and if there is a finding of injury and an ITC remedy proposed, we will be actively engage in a campaign to educate influencers and the Trump administration as to why supporting this petition is a bad idea.**



## What You Can Do

- **Join our Coalition:** contact Dana Sleeper at [dsleeper@seia.org](mailto:dsleeper@seia.org)
- **Contribute to the cause** at [seia.org/savingsolarjobs](http://seia.org/savingsolarjobs)
- **Join SEIA** at [seia.org/join](http://seia.org/join)
- **Sign up for the Solar Power Advocacy Network** at [seia.org/span](http://seia.org/span)

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