



## **INTERNATIONAL TRADE COMMISSION**

### **[Investigation No. TA-201-075 (Second Monitoring)]**

#### **Crystalline Silicon Photovoltaic Cells, Whether or Not Partially or Fully Assembled Into Other Products: Monitoring Developments in the Domestic Industry**

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission has instituted investigation No. TA-201-075 (Second Monitoring), Crystalline Silicon Photovoltaic Cells, Whether or Not Partially or Fully Assembled Into Other Products: Monitoring Developments in the Domestic Industry, for the purpose of preparing the report to the President and the Congress required by section 204(a)(2) of the Trade Act of 1974 on its monitoring of developments in the domestic industry following the President's decision to impose a safeguard measure on imports of certain crystalline silicon photovoltaic ("CSPV") cells, whether or not partially or fully assembled into other products (including, but not limited to, modules, laminates, panels, and building-integrated materials) ("CSPV products"), as described in Proclamation 10339 of February 4, 2022.

**DATES:** June 8, 2023.

**FOR FURTHER INFORMATION CONTACT:** Keysha Martinez (202-205-2136) or Andres Andrade (202-205-2078), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The

public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:**

**Background.**--On January 23, 2018, the President, pursuant to section 203 of the Trade Act of 1974 (19 U.S.C. 2253) (Trade Act), issued Proclamation 9693, imposing a safeguard measure on imports of CSPV products, in the form of (a) a tariff-rate quota on imports of solar cells not partially or fully assembled into other products and (b) an increase in duties on imports of modules. The proclamation was published in the *Federal Register* on January 25, 2018 (83 FR 3541). The measure took effect on February 7, 2018, for a period of four years, or through February 7, 2022. The President imposed the measure following receipt of a report from the Commission in November 2017 under section 202 of the Trade Act (19 U.S.C. 2252) that contained an affirmative determination, remedy recommendations, and certain additional findings (see Crystalline Silicon Photovoltaic Cells (Whether or not Partially or Fully Assembled into Other Products), Investigation No. TA-201-75, USITC Publication 4739, November 2017).

On February 7, 2020, the Commission issued its report, pursuant to section 204(a)(2) of the Trade Act (19 U.S.C. 2254(a)(2)), on the results of its monitoring of developments with respect to the domestic solar industry (see Crystalline Silicon Photovoltaic Cells, Whether or Not Partially or Fully Assembled Into Other Products: Monitoring Developments in the Domestic Industry, Investigation No. TA-201-075 (Monitoring), USITC Publication 5021, February 2020).

On March 6, 2020, the Commission issued an additional report pursuant to a request from the United States Trade Representative under section 204(a)(4) of the Trade Act (19 U.S.C. 2254(a)(4)), regarding the probable economic effect on the domestic CSPV cell and module manufacturing industry of modifying the safeguard measure (see Crystalline Silicon Photovoltaic Cells, Whether or Not Partially or Fully Assembled Into Other Products: Advice on the Probable Economic Effect of Certain Modifications to the Safeguard Measure, No. TA-201-

075 (Modification), USITC Publication 5032, March 2020). Subsequently, the President issued Proclamation 10101, determining that the domestic industry had begun to make a positive adjustment to import competition and modifying in part the action applicable to imports covered by the safeguard measure (85 FR 65639, October 16, 2020).

On December 8, 2021, in response to a petition seeking extension of the safeguard measure filed on behalf of Auxin Solar Inc. and Suniva and a petition filed on behalf of Hanwha Q CELLS USA, Inc., LG Electronics USA, Inc., and Mission Solar Energy LLC, the Commission issued its determination and report pursuant to section 204(c) of the Act (19 U.S.C. 2254(c)), finding that the safeguard measure continued to be necessary to prevent or remedy the serious injury to the domestic industry, and that there was evidence that the domestic industry was making a positive adjustment to import competition (see Crystalline Silicon Photovoltaic Cells (Whether or not Partially or Fully Assembled into Other Products): Extension of Action, Investigation No. TA-201-075 (Extension), USITC Publication 5266, December 2021). On February 4, 2022, the President issued Proclamation 10339 (87 FR 7357, February 9, 2022), pursuant to section 203(e)(1)(B) of the Act (19 U.S.C. 2253(e)(1)(B)), extending the safeguard measure on CSPV and parts thereof for an additional period of four years, or through February 6, 2026.

Section 204(a)(1) of the Trade Act (19 U.S.C. 2254(a)(1)) requires the Commission to monitor developments with respect to the domestic industry, including the progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment to import competition, as long as any action under section 203 of the Trade Act remains in effect. Whenever the initial period of such an action exceeds 3 years, or if an extension of such action exceeds 3 years, section 204(a)(2) requires the Commission to submit a report on the results of the monitoring to the President and the Congress no later than the mid-point of the initial period of the relief, and of each such extension, during which the action

is in effect – in this case by February 6, 2024. Section 204(a)(3) requires the Commission to hold a hearing in the course of preparing such a report.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission’s Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 206, subparts A and F (19 CFR part 206).

**Participation in the investigation and service list.**--Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission’s rules, not later than 21 days after publication of this notice in the *Federal Register*. The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

**Limited disclosure of confidential business information (CBI) under an administrative protective order (APO) and CBI service list.**--Pursuant to section 206.17 of the Commission’s rules, the Secretary will make CBI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 CFR 206.17(a)(3)(iii)) under the APO issued in the investigation, provided that the application is made not later than 21 days after the publication of this notice in the *Federal Register*. The Secretary will maintain a separate service list for those parties authorized to receive CBI under the APO.

The Commission may include CBI in the report it sends to the President and to the United States Trade Representative. Additionally, all information, including CBI, submitted in this investigation may be disclosed to and used by (i) the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the

programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel for cybersecurity purposes.

The Commission will not release information which the Commission considers to be CBI unless the party submitting the CBI had notice, at the time of submission, that such information would be released by the Commission, or such party subsequently consents to the release of the information. The Commission will not otherwise disclose any CBI in a manner that would reveal the operations of the firm supplying the information.

**Hearing.**--As required by statute, the Commission has scheduled a hearing in connection with this investigation. The hearing will be held beginning at 9:30 a.m. on November 14, 2023. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before November 7, 2023. Any requests to appear as a witness via videoconference must be included with your request to appear. Requests to appear via videoconference must include a statement explaining why the witness cannot appear in person; the Chairman, or other person designated to conduct the review, may in their discretion for good cause shown, grant such a request. Requests to appear as remote witness due to illness or a positive COVID-19 test result may be submitted by 3 p.m. the business day prior to the hearing. Further information about participation in the hearing will be posted on the Commission's website at <https://www.usitc.gov/calendarpad/calendar.html>.

All persons desiring to appear at the hearing and make an oral presentation should participate in a prehearing conference, if deemed necessary, to be held at 9:30 a.m. on November 9, 2023. Parties shall file and serve written testimony and presentation slides in connection with their presentation at the hearing by no later than 4:00 p.m. on November 13, 2023. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), and 201.13(f) of the Commission's rules. Parties must submit any

request to present a portion of their hearing testimony in camera no later than 7 days prior to the date of the hearing.

**Written submissions**--Each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is November 6, 2023. Parties may also file posthearing briefs. The deadline for filing posthearing briefs is November 21, 2023. In addition, any person who has not entered an appearance as a party to the investigation may submit, on or before November 21, 2023, a written statement concerning the matters to be addressed in the Commission's report to the President. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain CBI must also conform with the requirements of section 201.6 of the Commission's rules. Any CBI that is provided will be subject to limited disclosure under the APO (see above) and may be included in the report that the Commission sends to the President and the U.S. Trade Representative. The Commission's *Handbook on Filing Procedures*, available on the Commission's website at [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf), elaborates upon the Commission's rules with respect to electronic filings.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, will not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with section 201.16(c) of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**AUTHORITY**: This investigation is being conducted under the authority of section 204(a) of the Trade Act of 1974; this notice is published pursuant to section 206.3 of the Commission's rules.

By order of the Commission.

Issued: June 8, 2023.

**Lisa Barton,**

*Secretary to the Commission.*

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