

New York Times (August 16, 2017)

Solar Developers and Panel Makers Clash Over Tariff Request

By DIANE CARDWELL



A SolarWorld Americas factory in Hillsboro, Ore. The company, a producer of crystalline-silicon solar panels, is asking the government to impose steep tariffs on imports of similar products.

WASHINGTON — Dozens of solar industry executives, government officials and foreign diplomats gathered here on Tuesday to urge federal trade commissioners to reject a petition from two troubled domestic solar equipment manufacturers to impose steep tariffs and minimum price guarantees on similar imports.

At risk, they argued, is the future of the solar industry itself.

“They seek a **public remedy for their own private failings**,” said Matthew R. Nicely, a lawyer representing the main solar trade group, the Solar Energy Industries Association, before the United States International Trade Commission. “If successful, they will undermine the hard work and innovation that is making solar a viable alternative to conventional energy sources.”

But Matthew J. McConkey, a lawyer for Suniva, the Georgia-based manufacturer that originally brought the petition, argued that the case was about more than two companies that managed to outlast the many manufacturers squeezed out of business by foreign competition.

“The United States is literally strewn with the carcasses of shuttered **solar manufacturing facilities**,” he said. “It’s about all of those companies and their workers who are out of business.”

At issue is whether the financial woes of Suniva and its co-petitioner, SolarWorld Americas, are a result of **unfair competition from Chinese companies benefiting from state subsidies**, or of their own business practices. And though the sharp drops in the cost of panels have made it difficult for domestic manufacturers to compete, they have also fueled **a boom in solar development throughout the country**, providing a lift to an industry that says it now has more than 250,000 jobs.

Further complicating matters is that Suniva, once lauded on the White House blog as “an American success story” during the Obama administration but now in bankruptcy, is majority-owned by a Chinese company that now disavows the case.

With roots in a protracted trade war between the United States and China that started in 2011, the **dispute centers on crystalline silicon cells, the major electricity-producing components, as well as the modules, or panels**, into which they are assembled. SolarWorld Americas, a subsidiary of a now-bankrupt German panel maker, had filed a trade complaint along with **six other domestic solar manufacturers** that accused their Chinese counterparts of using unfair **government subsidies** to finance their operations and then selling their merchandise for less than the cost of manufacturing and shipping it.

SolarWorld won the case, as well as a second that included Taiwan, where Chinese manufacturers had turned for cells to avoid anticipated tariffs. But that, the petitioners argue, set off a global race to the bottom on price, as **manufacturers opened factories in other low-cost countries, leading to the current case**. This time, the companies are seeking blanket global protections to keep manufacturers from circumventing tariffs aimed at specific countries by expanding elsewhere in what the petition referred to as a game of **Whac-a-Mole**.

The case, which the commission itself designated “extraordinarily complicated,” has given rise to a number of unusual alliances and fault lines. It has lined up almost the entire domestic industry — from electricians to corporate executives — against two of its own. It has also made bedfellows of **solar businesses and conservative-minded policy groups opposed to trade restrictions and subsidies** that have in the past worked to undermine solar’s forward march.

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Among those opposing the Suniva petition is the American Legislative Exchange Council, which is connected with Charles G. and David H. Koch, billionaire brothers whose fortunes derive, at least in part, from fossil fuels.

About 300 people attended Tuesday's hearing, sending staff members scrambling to squeeze extra chairs into the chamber to accommodate all the witnesses and their lawyers, as well as the public. In that group was a crew of solar workers organized by the solar trade group, wearing T-shirts that said, "**Save America's Solar Jobs, No New Solar Tariffs.**"

The opponents, led by the trade group, argued that tariffs would increase the price of solar panels, halting the rapid spread of solar development — especially on the scale undertaken by utilities — and jeopardizing tens of thousands of jobs.

"All else equal, any increase in equipment costs for utility-scale developers, whether the result of lower domestic subsidies or increased import tariffs, would increase the price of solar electricity developers could offer," said Amy Grace, who leads North America research at Bloomberg New Energy Finance. And that increase, she said, "would result in fewer contracts being signed and lower solar deployment."

A handful of renewable energy executives testified that the problems of Suniva and SolarWorld stemmed from their inability to qualify for financing, their inability to produce and deliver modules that met the industry's needs, and their inability to compete in a quickly evolving industry. But the petitioners defended their products, saying that they had attracted steady customers and had few performance problems. Instead, they said, the problem was the quickly plummeting prices that resulted from the oversupply of overseas panels last year.

An economist testifying in support of the petitioners, Andrew Szamosszegi of Capital Trade, offered evidence of a relationship between the glut, particularly in China, and a steep drop in prices last year. He quoted the 2016 financial filing with the Securities and Exchange Commission from SunPower, whose chief executive, Tom Werner, had testified against imposing tariffs.

"**Excess capacity** and industry competition have resulted in the past, and may continue to result, in substantial downward pressure on the price of solar cells and panels," Mr. Szamosszegi read.

A different argument in support of the case was delivered by Bucky Johnson, the mayor of Norcross, Ga., where Suniva is based.

"Some might say protectionism — I say bunk," he told the commission. "Given a level playing field, I believe that Suniva and the solar manufacturing industry can thrive in our economy and provide some of the most innovative and sustainable products in the world."