



*Inv. No. TA-201-3218 (pending institution)*

**PUBLIC DOCUMENT**

May 12, 2017

Honorable Lisa R. Barton  
Secretary  
U.S. International Trade Commission  
500 E Street, SW, Rm. 112A  
Washington, DC 20436

**Re: Section 201 Petition on Crystalline Silicon Photovoltaic Cells and Modules**

Dear Secretary Barton:

On behalf of the Solar Energy Industries Association ("SEIA"), this letter is intended to register our opposition to the import relief requested by Suniva, Inc. ("Suniva") on crystalline silicon photovoltaic ("CSPV") cells and modules and our strongly-held view that the Commission should not institute a safeguard proceeding. As explained below, the petition itself makes clear that Suniva is not "representative" of the domestic CSPV cell/module industry, and, therefore, does not have standing to bring this action. Accordingly, as a matter of law, the Commission should not institute the petition.

SEIA, founded in 1974, is the national trade association of the U.S. solar energy industry, which now employs more than 260,000 Americans. Through advocacy and education, SEIA is building a strong solar industry to power America. SEIA works with its 1,000 member companies to build jobs and diversity, champion the use of cost-competitive solar in America, remove market barriers and educate the public on the use of solar energy.

We have the following three points to share with the Commission.

**First, Suniva is not representative of the domestic CSPV cell/module industry on whose behalf it purports to seek safeguard relief.** Suniva is the sole petitioner and, to our knowledge, no other domestic CSPV cell and/or module producer has expressed support for the petition. Importantly, Suniva accounted for just 21% of U.S. production of CSPV cells and modules in 2016, and 14% in 2015.<sup>1</sup> To our knowledge, producers identified as accounting for the balance of domestic output have neither expressed support nor supplied any other reason for considering Suniva to be representative of them.

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<sup>1</sup> Suniva Petition at Exhibit 5.

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While the statutory language on representativeness does not provide detailed numerical guidance, the petition's own discussion indicates that the "low water mark" was registered in 2000, when the ITC treated as representative a Section 201 petitioner that accounted for 33% of domestic output. Suniva's share is substantially lower. Accordingly, and based on the information contained in the petition, Suniva does not have standing to request safeguard relief on CSPV cells and modules, and an ITC decision to open a safeguard investigation in these circumstances would be unprecedented. For the reasons set out below, this is also not a meritorious case for setting a new "low water mark" and allowing Suniva to stand as an illegitimate representative of the CSPV cell/module industry.

**Second, the relief sought by Suniva would be extremely damaging.** In particular, the duty on unassembled cells, more than doubling their cost, would adversely affect U.S. module assembly operations which account for most of the roughly 1,500 CSPV cell/module manufacturing jobs that currently exist in the United States. Meanwhile, the price floor and duty on modules, more than tripling the current cost in fairly-traded goods for large-scale projects, would undermine project economics and reduce activity along the solar energy value chain, imperiling some 260,000 jobs. Import relief with such severe impacts would be incompatible with the public interest.

**Third, a safeguard proceeding would undercut, not promote, effective action to address the underlying problem of global excess CSPV cell/module manufacturing capacity.** SEIA strongly believes that to the extent there is any excess manufacturing capacity worldwide, erection of trade walls through tariffs and minimum prices does not stimulate domestic solar cell and module manufacturing. In fact, it would cause widescale economic hardships on thousands of American workers and their families. Current allies in the effort to align global capacity with global demand will be distracted by the felt need to oppose a U.S. safeguard action that negatively affects them.

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SEIA appreciates this opportunity to note its stance and concerns in writing. Because no investigation has been instituted, this letter is not being e-filed or served, but we invite you to make it part of the record of whatever formal disposition ultimately takes place. Please contact the undersigned with any questions on this submission.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Abigail Ross Hopper". The signature is fluid and cursive, with the first name being the most prominent.

Abigail Ross Hopper  
President & CEO