



## FACT SHEET

### **Section 201 Cases: Imported Large Residential Washing Machines and Imported Solar Cells and Modules**

On January 22, 2018, U.S. Trade Representative Robert Lighthizer announced that President Trump has approved recommendations to provide relief to U.S. manufacturers and impose safeguard tariffs on imported residential washing machines and solar cells and modules, based on the investigations, findings, and recommendations of the independent, bipartisan U.S. International Trade Commission (ITC).

#### **SECTION 201 CASE: RELIEF REGARDING IMPORTED LARGE RESIDENTIAL WASHING MACHINES (WASHERS)**

- From 2012 to 2016, imports of washers into the United States increased dramatically, causing a substantial loss in market share to domestic producers. By 2016, the domestic producers were running multimillion dollar net operating losses.
- During this time, U.S. manufacturers have sought relief against unfair trade practices:
  - In 2011, Whirlpool filed a petition with the U.S. Department of Commerce (Commerce), contending that washer imports from Korea and Mexico were dumped and subsidized as part of an aggressive downward pricing strategy by the large Korean firms, LG and Samsung.
  - In 2013, Commerce issued antidumping and countervailing duties on imported washers benefitting from unfair trading practices. Korean producers LG and Samsung, which make the vast majority of the washers imported into the United States, subsequently shifted production to China.
  - In 2015, Whirlpool sought relief under trade remedy laws after washer imports from China sharply increased. In early 2017, Commerce issued an antidumping order on washers from China. This led to another shift in production, this time to Thailand and Vietnam.
- On June 5, 2017, at Whirlpool's request, the ITC initiated an investigation under Section 201 of the Trade Act of 1974, covering the years 2012-2016, to determine whether increased imports were a substantial cause of serious injury to domestic producers.
- In 2017, both Samsung and LG announced plans to build large factories in Newberry, South Carolina and Clarksville, Tennessee.

## SECTION 201 DETERMINATIONS FOR WASHERS

- The ITC determined that increased washer imports are a substantial cause of serious injury and recommended global safeguard tariffs on large residential washing machines.
- Following the investigation and recommendations of the ITC, an interagency team led by USTR sought, through a Federal Register Notice published on November 30, 2017, the written views of all participants in the washer industry and conducted a public hearing on January 3, 2018.
- After consultation with the interagency Trade Policy Staff Committee (TPSC), USTR recommended and the President chose to take action by applying the following additional duties:

<b>Tariff-Rate Quotas on Washers</b>			
	Year 1	Year 2	Year 3
First 1.2 million units of imported finished washers	20%	18%	16%
All subsequent imports of finished washers	50%	45%	40%
Tariff of covered parts	50%	45%	40%
Covered parts excluded from tariff	50,000 units	70,000 units	90,000 units

## SECTION 201 CASE: RELIEF REGARDING IMPORTED SOLAR CELLS AND MODULES

- From 2012 to 2016, the volume of solar generation capacity installed annually in the United States more than tripled, spurred on by artificially low-priced solar cells and modules from China.
- China's industrial planning has included a focus on increasing Chinese capacity and production of solar cells and modules, using state incentives, subsidies, and tariffs to dominate the global supply chain:
  - China issued the Renewable Energy Law in 2005 to promote renewable energy including solar, followed by capacity targets in 2007. The State Council listed renewable energy as one of seven strategic emerging industries eligible for special incentives and loans in 2010.
  - China has provided subsidies and financing to its solar companies; has encouraged the development of geographic industrial clusters and components of the supply chain; and has conditioned support on increasing efficiency, R&D expenditures, and manufacturing scale.

- Following these state-directed initiatives, China's share of global solar cell production skyrocketed from 7 percent in 2005 to 61 percent in 2012. China now dominates global supply chain capacity, accounting for nearly 70 percent of total planned global capacity expansions announced in the first half of 2017. China produces 60 percent of the world's solar cells and 71 percent of solar modules.
- During this time, U.S. manufacturers have sought relief against unfair trade practices:
  - In 2011, Commerce found that China had subsidized its producers, and that those producers were selling their goods in the United States for less than their fair market value, all to the detriment of U.S. manufacturers. The United States imposed antidumping and countervailing duties in 2012, but Chinese producers evaded the duties through loopholes and relocating production to Taiwan.
  - In 2013, domestic producers filed new petitions to address these loopholes and the shift in sourcing. Chinese producers responded by moving production abroad, primarily to Malaysia, as well as Singapore, Germany, and Korea.
- From 2012 to 2016, imports grew by approximately 500 percent, and prices dropped precipitously. Prices for solar cells and modules fell by 60 percent, to a point where most U.S. producers ceased domestic production, moved their facilities to other countries, or declared bankruptcy.
- By 2017, the U.S. solar industry had almost disappeared, with 25 companies closing since 2012. Only two producers of both solar cells and modules, and eight firms that produced modules using imported cells, remained viable. In 2017, one of the two remaining U.S. producers of solar cells and modules declared bankruptcy and ceased production.
- On May 17, 2017, based on a petition from Suniva and later joined by SolarWorld, the ITC instituted an investigation under Section 201 of the Trade Act of 1974 to determine whether increased imports were a substantial cause of serious injury to the domestic industry.

#### SECTION 201 DETERMINATIONS FOR SOLAR CELLS AND MODULES

- The ITC determined that increased solar cell and module imports are a substantial cause of serious injury to the domestic industry. Although the Commissioners could not agree on a single remedy to recommend, most of them favored an increase in duties with a carve-out for a specified quantity of imported cells.
- Following the investigation and recommendations of the ITC, an interagency team led by USTR sought via Federal Register Notices on October 25, 2017 and November 14, 2017 the views of all participants in the solar industry and conducted a public hearing on December 6, 2017.

- After consultation with the interagency Trade Policy Staff Committee (TPSC), USTR recommended and the President chose to take action by applying the following additional duties:

<b>Safeguard Tariffs on Imported Solar Cells and Modules</b>				
	Year 1	Year 2	Year 3	Year 4
Tariff increase	30%	25%	20%	15%

\* First 2.5 gigawatt of imported cells are excluded from the additional tariff.

## **COUNTRY EXCLUSIONS**

- U.S. law requires the exclusion of Canada or Mexico from a Section 201 action if the President determines that imports from that country do not account for a substantial share of imports and do not contribute importantly to serious injury to domestic producers.
  - Based on the information and findings of the ITC, the President determined that Canada met these criteria with respect to the Washers case, and Mexico did not. Both Mexico and Canada are included in the solar remedy.
- Consistent with the statute, the President concluded that it is appropriate to include Korea in both safeguard measures.
- Consistent with our WTO obligations and our past practice, the United States is excluding all Generalized System of Preferences (GSP) beneficiary countries that account for less than three percent of total exports from both of the safeguard measures, except for the following:
  - With respect to the washers case, Thailand accounted for more than three percent of total imports. Therefore, although they are a GSP beneficiary country, the President determined to include them in the washers safeguard.
  - With respect to the solar case, Thailand and the Philippines accounted for more than three percent of total imports. Therefore, although they are GSP beneficiary countries, the President determined to include them in the washers safeguard.

## **BACKGROUND ON SECTION 201 INVESTIGATIONS**

- Section 201 of the Trade Act of 1974 authorizes the President to take action, in the form of tariffs, tariff rate quotas, quantitative restrictions or other actions, in response to an ITC determination that increased imports are a substantial cause of serious injury to domestic producers.
- The statute instructs the ITC to conduct an investigation to determine whether increased imports are a substantial cause of serious injury to the domestic producers

of the merchandise. Factors supporting a finding of serious injury include idle or shuttered production facilities, layoffs and other termination of employment, and a decrease in the financial performance of domestic producers.

- If a majority of the ITC Commissioners reach an affirmative determination of serious injury, the statute calls upon the Commissioners voting in the affirmative to make a recommendation as to what action the President should take.
- The statute directs the President to decide what action to take in response to the ITC's determination and in light of any recommendations.
- The statute requires that any action taken must facilitate a positive adjustment to import competition and provide greater economic and social benefits than costs.

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