

August 5, 2021

**VIA ELECTRONIC FILING**

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

USITC Inv. No. TA-201-075  
(Extension)

**PUBLIC DOCUMENT**

**Re: Crystalline Silicon Photovoltaic Cells (Whether or Not Partially or Fully Assembled Into Other Products): Amendment to the Petition Requesting Extension of Safeguard Relief Pursuant to Section 204 of the Trade Act of 1974**

Dear Secretary Barton:

On behalf of Auxin Solar Inc. (“Auxin Solar”) and Suniva, Inc. (“Suniva”) (together “Legacy Producers”), we hereby submit to the U.S. International Trade Commission the enclosed amendment to the August 2, 2021 petition requesting an extension of safeguard relief on imports of crystalline silicon photovoltaic (“CSPV”) cells and modules.<sup>1</sup>

In their petition for extension, Legacy Producers explained how Auxin Solar and Suniva have standing to file this petition, pursuant to 19 U.S.C. § 2254(c)(1) and 19 C.F.R. § 206.54(b)(2) and are representative of the domestic industry insofar as both companies have supported the safeguard action and are making positive adjustment to import competition. As

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<sup>1</sup> See Crystalline Silicon Photovoltaic Cells (Whether or Not Partially or Fully Assembled Into Other Products): Petition Requesting Extension of Safeguard Relief Pursuant to Section 204 of the Trade Act of 1974 filed by Auxin Solar Inc. and Suniva, Inc. (Aug. 2, 2021) (“Petition”).

discussed in the petition for safeguard relief extension, Auxin Solar has continuously produced CSPV modules domestically and Suniva is the only at-scale CSPV cell manufacturer remaining in the United States, although Suniva's production is currently suspended due to economic headwinds.<sup>2</sup>

The Petition also recognized that, due to Suniva's currently suspended operations and the fact that Auxin Solar's total production likely accounts for less than half of the domestic industry, the Legacy Producers may not *quantitatively* be representative of the domestic industry. As such, the Legacy Producers reported their understanding that other domestic producers — *i.e.*, Hanwha Q-Cells, LG Electronics, and Mission Solar — also support extension of the safeguard action and may make such support known.<sup>3</sup>

On August 4, 2021, Hanwha Q-Cells, LG Electronics, and Mission Solar ("CSPV Module Manufacturers") filed a submission with the Commission requesting an extension of the safeguard action.<sup>4</sup> In that submission, the CSPV Module Manufacturers unequivocally state their support for the extension of the safeguard action and provide their production volume of CSPV modules in 2020.<sup>5</sup> Based on a calculation using their confidential production information in 2020 as the numerator and the total kilowatt volume of imported cells in 2020 as a proxy for total

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<sup>2</sup> See Petition at 19-21.

<sup>3</sup> See Petition at 21.

<sup>4</sup> See Petition to Extend Global Safeguard Relief Pursuant to Section 204 - Crystalline Silicon Photovoltaic Cells, Whether or Not Partially or Fully Assembled Into Other Products filed by Hanwha Q CELLS USA, Inc., LG Electronics USA, Inc., and Mission Solar Energy (Aug. 4, 2021) ("CSPV Module Manufacturers Support for Extension") (excerpts provided in **Attachment 1**).

<sup>5</sup> See *id.* at 16 (**Attachment 1**).

domestic CSPV production in the denominator (because no domestic CSPV cell production occurred in 2020 and we believe that any inventories of U.S. cells have been depleted), the CSPV Module Manufacturers conclude that they “account{ } for well more than 50 percent of total U.S. CSPV production.”<sup>6</sup> The addition of Auxin Solar’s confidential data only increases the *quantitative* representativeness, by production, of the domestic industry that has expressed its explicit support for the extension of the safeguard action.

In addition, and as described in the Petition, the Legacy Producers provided a proposed calculation methodology that relies upon confidential production data for quantifying representativeness of the domestic industry that supports extension.<sup>7</sup> That calculation methodology combined in the numerator the confidential production data of Auxin Solar, Hanwha Q-Cells, LG Electronics, and Mission Solar.<sup>8</sup> For the denominator, the Legacy Producers combined the total production from the numerator and added to that the estimated production of the other domestic producers. Regardless of which methodology the Commission uses to estimate the production of the other domestic producers of CSPV products, given the available data now on the record, there is no doubt that the domestic industry voicing support for extension of the safeguard action on CSPV products is representative of the domestic industry producing the like or directly competitive domestic article. For these reasons, the Legacy

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<sup>6</sup> *Id.* at 20 (**Attachment 1**).

<sup>7</sup> *See* Petition at 21-22.

<sup>8</sup> *See* Petition at 25; *see also* CSPV Module Manufacturers Support for Extension at 16 (confidential version).

Producers respectfully request that the Commission institute the extension proceeding requested by the Petition Requesting Extension of Safeguard Relief filed on August 2, 2021.

Attached to this letter are counsel certifications regarding the completeness and accuracy of the information contained in the petition, as required by 19 C.F.R. § 206.8. This submission also is filed pursuant to the Commission's notice concerning the temporary change to its filing procedures.<sup>9</sup>

Please do not hesitate to contact the undersigned with any questions.



Christopher T. Cloutier  
Elizabeth J. Drake  
Luke A. Meisner  
Joseph A. Laroski, Jr.

**SCHAGRIN ASSOCIATES**

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*Counsel to Suniva, Inc.*

Respectfully submitted,



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Jack A. Levy  
Myles S. Getlan  
Sarah E. Shulman  
Carl P. Moyer, *Director of Economic Analysis*

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(202) 567-2300

*Counsel to Auxin Solar Inc.*

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<sup>9</sup> See *Temporary Change to Filing Procedures*, 85 Fed. Reg. 15,797 (Mar. 19, 2020).

Attorney Certification

District of Columbia: SS

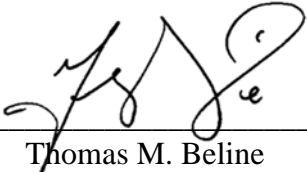
In accordance with section 206.8 of the Commission's rules, I, Thomas M. Beline, counsel to Auxin Solar Inc., certify that (1) I have read the enclosed submission dated August 5, 2021, and (2) based on the information made available to me by Auxin Solar Inc. I have no reason to believe that this submission contains any material misrepresentation or omission of fact, and (3) the information contained in this submission is accurate and complete to the best of my knowledge.

In accordance with section 201.6(b)(3)(iii) of the Commission's rules, I also hereby certify that, to the best of my knowledge, information substantially identical to that for which confidential business treatment has been requested is not available to the general public.

I certify pursuant to 28 U.S.C. § 1746 that the foregoing statements are true and accurate.

I am aware that the information contained above may be subject to verification or corroboration (as appropriate) by the U.S. International Trade Commission. I am also aware that U.S. law (including, but not limited to 18 U.S.C. § 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government.

Dated: August 5, 2021

  
\_\_\_\_\_  
Thomas M. Beline

Attorney Certification

District of Columbia: SS

In accordance with section 206.8 of the Commission's rules, I, Christopher T. Cloutier, counsel to Suniva, Inc., certify that (1) I have read the enclosed submission dated August 5, 2021, and (2) based on the information made available to me by Suniva, Inc. I have no reason to believe that this submission contains any material misrepresentation or omission of fact, and (3) the information contained in this submission is accurate and complete to the best of my knowledge.

In accordance with section 201.6(b)(3)(iii) of the Commission's rules, I also hereby certify that, to the best of my knowledge, information substantially identical to that for which confidential business treatment has been requested is not available to the general public.

I certify pursuant to 28 U.S.C. § 1746 that the foregoing statements are true and accurate.

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Dated: August 5, 2021

A handwritten signature in black ink, appearing to read 'CT Cloutier', written over a horizontal line.

Christopher T. Cloutier

# **Attachment 1**

August 4, 2021

**VIA ELECTRONIC DELIVERY (EDIS)**

The Honorable Lisa R. Barton  
Secretary to the Commission  
U.S. International Trade Commission  
500 E Street, S.W., Room 112  
Washington, DC 20436

Inv. No: TA-201-75 (Extension)

**NON-CONFIDENTIAL VERSION**

Confidential Business Information Deleted from  
Pages 16, 17, 19, 22, 27-31, 44, 48, 51, 54, and 55  
and from Exhibits 1, 3-5, 14, 16, and 18.

Re: *Petition to Extend Global Safeguard Relief Pursuant to Section 204 - Crystalline Silicon Photovoltaic Cells, Whether or Not Partially or Fully Assembled Into Other Products*

Dear Ms. Barton:

On behalf of Hanwha Q CELLS USA, Inc. (“Q CELLS USA”), LG Electronics USA, Inc. (“LGEUS”), and Mission Solar Energy (“Mission”), domestic producers of solar modules, (collectively, the “Petitioners”), we respectfully submit this petition to request extension of the global safeguards relief from imports of *Crystalline Silicon Photovoltaic (“CSPV”) Cells, Whether or Not Partially or Fully Assembled Into Other Products, 201-TA-075*. This is a petition under Section 204(c) of the Trade Act of 1974 (the “Act”) and Subpart F of part 206 of the rules of practice and procedure of the United States International Trade Commission (“Commission”).<sup>1</sup>

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<sup>1</sup> 19 C.F.R. §§ 206.2 and 206.54.



**Mission Solar Energy LLC** is based and manufactures CSPV products in Texas:

Headquarters and  
 Manufacturing: 8303 S New Braunfels,  
 San Antonio,  
 TX 78235  
 Phone: (210) 531-8600  
<https://www.missionsolar.com/>

**B. Percentage of Domestic Production That Petitioning Firms Account For**

In accordance with 19 C.F.R. § 206.54(d)(4), Petitioners provide below their production data below:

**CSPV Production By Petitioners 2018-2019 (kW)**

	2018		2019		2020		IH 2021		Full Year 2021 (est)	
Hanwha Q CELLS	[	]	[	]	[	]	[	]	[	]
LG Electronics	[	]	[	]	[	]	[	]	[	]
Mission Solar	[	]	[	]	[	]	[	]	[	]
<b>Total for Petitioners</b>	[	]	[	]	[	]	[	]	[	]

The safeguard measures have created the conditions for new investments in the U.S. CSPV industry that created over a thousand U.S. jobs. Domestic module production, in particular, has increased since imposition of the safeguard measures. As demonstrated above, Petitioners’ CSPV production increased year-over-year due in large part to safeguard relief and strong demand conditions. A chart showing the percentage of domestic production that the petitioning firms account for is set forth below at page 19.

That stated, planned production ramp-up and expansions was slower than anticipated in 2020 due to the COVID-19 pandemic and other factors.

**C. Petitioners Are Representative of the Domestic Industry**

Petitioners are CSPV module manufacturers that collectively employ almost [ ]

Email: [Hello@SolarTechUniversal.com](mailto:Hello@SolarTechUniversal.com)  
Website: <https://www.solartechuniversal.com/>  
**SunSpark Technology**<sup>63</sup>  
Address: 3080 12<sup>th</sup> Street, Riverside, CA 92507  
Phone: (951) 342-3050  
Email: [sales@SunSparkUSA.com](mailto:sales@SunSparkUSA.com)  
Website: <https://sunsparkusa.com/>

**E. Basis of Claim of Representativeness**

In **Exhibit 1** we provide a list of all known U.S. CSPV producers that are currently producing. However, Petitioners do not have reliable information on the current U.S. production of each U.S. producer. Nor are Petitioners aware of an industry source that provides U.S. CSPV production estimates for individual companies.

Accordingly, Petitioners believe that the best proxy for total current U.S. production of CSPV products are the total kW of imported CSPV cells over the past two years. The rationale is straightforward. To the best of Petitioners knowledge, over the past two years there was no production of CSPV cells; only modules. Accordingly, over the past two years, all U.S. CSPV module production utilized *imported* CSPV cells. Therefore, the total kW of imported cells provides a good proxy for the total kW of U.S. CSPV production.

We set forth the relevant data below:

		2019		2020
Petitioners' CSPV production	[	]	[	]
Total Estimated U.S. CSPV Production	[	]	[	]
% by Petitioners	[	]	[	]

**Source:** Petitioners' CSPV production is from Petitioners' production records. Total U.S. production of CSPV modules is based on imports of CSPV cells as specified in USITC CSPV Midterm Review Staff Report (USITC Pub. 5021) at C-13 for 2018 and in U.S. CBP 2019 and 2020

<sup>63</sup> SunSpark Technology's U.S. production facilities are limited to small hand-held panels purchased by an agent to supply the U.S. Army.

*NON-CONFIDENTIAL VERSION*

Calendar Year-End Commodity Status Reports, Quota/License Allocated Quantity. CBP data covering the period Feb. 7, 2019 - Feb. 6, 2020 used as annual data for 2019; data for the period Feb. 7, 2020 to Feb. 7, 2021 used as annual data for 2020.

As demonstrated above, in each of the last two years, Petitioners accounted for well more than 50 percent of total U.S. CSPV production. We respectfully submit that such share of production satisfies the criterion of being “representative of the domestic industry” within the meaning of 19 C.F.R. § 206.54(b) and (d)(2), and therefore this petition is filed “on behalf of the domestic industry concerned” pursuant to Section 204(c)(1) of the Trade Act.

## **VI. IMPORTS INTO THE UNITED STATES**

Section 206.54(d)(3) of the Commission’s regulations requires the Petitioners to provide import data for each full year during the remedy period. U.S. Census data on U.S. imports of CSPV products for the years 2018, 2019, 2020 and the period January-May 2021, by sources, are provided at **Exhibit 2 (U.S. Imports of CSPV Products)**.

As the Commission observed in its mid-term review, the safeguard has had beneficial effects in initially curbing the volume of module imports and providing a more favorable environment for investing in U.S. module manufacturing, resulting in increased U.S. module capacity and production.<sup>64</sup> However, as illustrated below, imports of CSPV products have been

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<sup>64</sup> *Monitoring Report*, USITC Pub. 5021 at 6.