

# U.S. Solar Industry Files Antidumping and Countervailing Duty Cases Against Imports of Solar Cells and Modules from China

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On behalf of SolarWorld Industries America Inc., an Oregon-based solar cell manufacturer, Wiley Rein LLP has filed petitions asking the U.S. Department of Commerce and the International Trade Commission (ITC) to conduct antidumping (AD) and countervailing duty (CVD) investigations into Chinese imports of crystalline silicon solar cells and panels. The petitions are supported by the Coalition for American Solar Manufacturing (CASM). The cases are among the largest of their type ever filed against China and are the largest in the renewable-energy industries.

## The Petitions

The petitions request that Commerce impose significant duties on Chinese imports of crystalline silicon solar cells and panels to offset unfair pricing and massive subsidies. Crystalline silicon cells convert sunlight to energy and form the basic elements of solar panels, or modules. The cases cover crystalline silicon solar cells, whether imported individually or partially or fully assembled into panels.

The petitions also request that Commerce retroactively impose duties on imports of Chinese products, due to a massive surge of solar cells and panels that importers knew or had reason to know were illegally dumped or subsidized. If Commerce agrees that "critical circumstances" exist, duties will be imposed on solar cell and panel imports from China three months earlier than they would be imposed otherwise.

## Related Professionals

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## Practice Areas

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International Trade  
Trade Policy and Trade Negotiations  
Antidumping and Countervailing Duties/  
Trade Remedy Cases

The petitions demonstrate that Chinese solar cell and panel producers are dumping their products in the United States in amounts well in excess of 100 percent of their value.

The petitions also establish that Chinese solar cell and panel producers benefit from an all-encompassing range of illegal subsidies from the Chinese government, including massive cash grants; significantly discounted raw material inputs, such as polysilicon and aluminum; heavily discounted or free land, power and water; multi-billion-dollar preferential loans and directed credit; extensive tax exemptions, incentives and rebates; export assistance credits; and export insurance at preferential rates.

## Scope

The scope of the cases is defined as follows:

The merchandise subject to these proceedings consists of crystalline silicon photovoltaic (PV) cells, whether or not individually or partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.

These proceedings cover crystalline silicon PV cells of thickness equal to or greater than 20 micrometers, having a heterogeneous, homogeneous or patterned p/n junction, heterojunction, metal-insulator-semiconductor junction or charge-induced junction. The junction may be formed by any means, including but not limited to dopant diffusion, ion implantation, epitaxial growth, any other deposition or growth of semiconductors, insulators or metals, or bonding of dissimilar materials. The merchandise subject to these petitions may be either partially or fully processed.

The scope of the petitions does not include thin-film photovoltaic products produced from amorphous silicon, cadmium telluride, copper indium gallium selenide, or dye-sensitized solar cells.

For purposes of AD investigations, dumping occurs when a foreign company sells a product in the United States at less than fair value. For purposes of CVD investigations, subsidies are financial assistance from foreign governments, provided to foreign manufacturers, that unfairly benefits the production, manufacture or exportation of goods in that country.

## Next Steps

Commerce and the ITC should initiate AD and CVD investigations within three weeks. The ITC's preliminary injury determination will then be expected before the end of the year, and Commerce should make its preliminary AD and CVD determinations within six months of initiation.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff System of the United States (HTSUS) under subheadings 8541.40.60.20, 8451.40.60.30, 8501.61.00.00 and 8507.20.80.

### Import Statistics

As illustrated below, imports of solar cells and panels from China increased by more than 350 percent from 2008 to 2010. Chinese imports in the first eight months of 2011 were 157 percent higher than imports from China in all of 2010. In fact, more solar panels were imported from China in July 2011 than in all of 2010.

CHINA	2008	2009	2010	Jan.-Aug. 2011	Volume (units)	3,800,000	6,637,000	17,400,000	44,600,000	Value (US\$)
						\$233,340,000	\$424,037,000	\$1,200,000,000	\$1,690,000,000	