

Part VII: Adjustment efforts and comments on the safeguard measure

Adjustment plans

Following the vote on injury in the Commission's safeguard investigation, one U.S. producer (SolarWorld, i.e., prior to acquisition by SunPower) included in its prehearing remedy brief a proposed adjustment plan for implementation in the event of appropriate import relief.¹ The applicable excerpt from that brief is reproduced below {footnotes omitted}.

VII. THE DOMESTIC SOLAR INDUSTRY'S ADJUSTMENT TO IMPORTS

*The relief recommended by the Commission should be aimed giving the U.S. solar products industry the "breathing space" to adjust positively to competition with imports. Elsewhere in this brief, SolarWorld has recommended a variety of options aimed at providing such relief, as well as forestalling and combatting circumvention. Here, SolarWorld lays out its vision for what the solar industry in the United States should look like after safeguard relief is phased out. SolarWorld also recounts the specific actions that the current members of the industry have committed to undertake during the relief period. These efforts, which involve expenditures of approximately \$***, will increase U.S. product range, capacity, and employment, while enabling cost savings that will permit the U.S. industry to compete more effectively against imports. Coupled with effective relief, SolarWorld believes that these efforts are realistically targeted at achieving healthy competitive conditions for the U.S. industry, and enabling the industry to compete effectively against imports on a going-forward basis.*

¹ Other than SolarWorld's inclusion of its plans in its prehearing remedy brief and individual U.S. producer responses to questions in the Commission's Safeguard questionnaire concerning efforts to compete and anticipated adjustments in the event relief were provided, no separate proposed adjustment plans were submitted by U.S. producers. U.S. producers' responses on adjustment plans submitted in the Safeguard questionnaire were presented at tables D-1 and D-2 in the Commission's report in the Safeguard proceeding and are reproduced in appendix D of this report.

*In assessing the domestic solar industry's plan for adjusting to imports, and its commitments to undertake significant investment to achieve such adjustment, the Commission should pay no heed to entities such as the Solar Energy Industry Association, which have complained that U.S. solar manufacturers did not file an adjustment plan within 120 days of the petition. As even SEIA admits, the Trade Act of 1974 does not require the filing of an adjustment plan at all. Moreover, a robust, realistic plan adjustment plan depends on the scope of the injury determination, as well as on a determination of what relief efforts may be most effective given that scope. As such, it would have made little sense for the domestic industry to prematurely present a plan that would be overtaken by events, and which would have to be substantially revised. In this regard, SolarWorld would also like to point out that, ***, incorporating the proposed adjustment plan into the remedy proposal permits greater accuracy as to the proposed adjustments.*

With the benefit of the agency's injury finding, and in light of the domestic industry's evaluation of potential remedies and its own current position as of the date of this filing, SolarWorld is able to present an adjustment plan that it believes is both realistic and achievable. SolarWorld stresses, however, that achievement of this adjustment plan requires effective import relief that enables U.S. producers to achieve profitability during the relief period. Further, in light of the technologically complex and competitive nature of this industry, it is not possible to forecast every investment that will be made by every U.S. producer during the relief period.

Below, SolarWorld first describes the conditions that it believes will characterize a healthy U.S. solar industry, and which form goals for the domestic industry's position as it emerges from the relief period. SolarWorld then recounts the commitments that both SolarWorld and other companies made in their questionnaire responses. Finally, SolarWorld briefly addresses the fact that both its overall vision for the industry, and the ability of individual firms to enact the commitments described in their questionnaire responses, necessarily depend on effective relief.

A. The Conditions That Will Characterize a Healthy Industry

As the Commission has found, the U.S. solar industry has suffered serious injury by reason of global imports of solar products. Many producers have exited the market entirely; factories have closed, jobs have been lost, and profits have sunk, even as demand continues to rise. In order to adapt successfully to imports, the solar industry will need to become profitable once again, increase production, increase the diversity of its product offerings, and revive upstream production that has relocated overseas. Below, SolarWorld describes some of the conditions that will characterize a healthy, post-relief industry that can compete effectively with imports. SolarWorld believes that these conditions form a reasonable goal for the industry, and can be achieved given the commitments described in subsection VII.B below, and given relief that provides an effective breathing space for the industry to recover from the serious injury that it has suffered.

More producers. *SolarWorld envisions that a healthy industry would be comprised of at least 5-6 competing U.S.-based cell/module producers. Each of these producers will have 1 GW or more of capacity, in order to achieve scale and raw material purchasing power. SolarWorld believes that, with a minimum of 5-6 such producers, the U.S. solar products industry will be well placed to provide competitively priced product to consumers across the country, and across distribution channels.*

Lowered production costs. *U.S. production costs have risen as producers exited the market in the face of import competition, and the remaining producers were unable to finance improvements to their facilities that would permit cost savings. A healthy industry, however, will have lowered production costs that not only enable U.S. producers to compete with imports in the U.S. market, but abroad. Given growing global solar demand, SolarWorld expects that a fully adjusted U.S. solar industry will be fully competitive in the U.S. market and able to export a substantial portion of its yearly production by the end of a safeguards remedy period.*

Competitive for government contracts. *A healthy U.S. industry should be fully competitive to supply all U.S. military and federally funded projects. This means an industry that has multiple producers with sufficient production capacity and product diversity to supply such projects, and whose cost structure enables it to compete effectively for such business.*

A revived upstream production chain. It is not only U.S. production of solar cells and modules that has suffered during the past five years. U.S. production operations for upstream inputs into solar production, such as polysilicon, wafers, ribbon, solar glass, and aluminum frames have also suffered, and are currently very limited. SolarWorld envisions a U.S. solar products industry that can access U.S.-based supply for a growing portion of its needs, and becomes progressively less dependent on import supply.

New R&D partnerships. SolarWorld envisions that each U.S. producer in a revived and healthy solar industry will be engaged in research & development partnerships with one or more major U.S. research universities. Such public/private research, including partnerships supported by the U.S. Department of Energy, will lead to new solar patents, new and more efficient solar products, and increased cost savings in production operations. SolarWorld notes that independent commentators have pointed to vigorous R&D as a potent means for restoring U.S. solar competitiveness.

Increased cell and module efficiency. SolarWorld believes that, given effective relief, the U.S. industry can continue to improve cell and module efficiency every year. The continuing development of more efficient products will contribute to the overall competitiveness of U.S. solar products, both in the U.S. market and abroad, and will increase solar product demand.

Long term supply contracts. The enhanced production capacity, product diversity, and cost savings achieved during the relief period will permit U.S. solar companies to form long term, stable commercial supply relationships with major U.S. companies, commercial installers, and corporate leaders. U.S. producers have already developed top-notch customer service and relations programs in an attempt to compete with imports, but have lost ground to the low prices offered by such products, affecting sales, production, and product offerings. During the relief period, the U.S. industry will aim to regain this ground and to transform their superior service into relationships that will enable the industry to effectively compete with imports after the relief period ends.

B. U.S. Solar Producers Have Committed to Significant Adjustment Measures During the Relief Period

*In their responses to the Commission's questionnaires, the remaining members of the domestic solar products industry described in detail specific investments that they would be able to undertake during a relief period. These efforts, which involve expenditures of approximately \$***, will increase U.S. product range, capacity, and employment, while enabling cost savings that will permit the U.S. industry to compete more effectively against imports. Coupled with effective relief, SolarWorld believes that these efforts are realistically targeted at achieving healthy competitive conditions for the U.S. industry, and enabling the industry to compete effectively against imports on a going-forward basis.*

1. SolarWorld is Committed to Engaging in Significant Measures During a Period of Temporary Relief to Allow it to Adjust to Imports

*In its questionnaire response, SolarWorld described approximately \$*** in investments it plans to undertake during the relief period in order to affirmatively adjust to import competition. The proposed investments will increase SolarWorld's ***. Indeed, in the few days since the Commission's injury vote, SolarWorld has already begun hiring back workers and ramping up its production efforts in anticipation of meaningful relief.*

*SolarWorld proposes to use the relief period to implement investments aimed at ***. In particular, SolarWorld proposes to spend more than \$*** to ***. In conjunction with this increase in ***, the company also proposes to increase its ***.*

*In addition to increasing its overall ***, SolarWorld has also committed to *** through an approximately \$*** investment to produce ***. A further \$*** would go toward increasing ***.*

2. Other Producer Commitments

*SolarWorld is not the only U.S. manufacturer that has committed to taking concrete steps to adjust to import competition, and compete more effectively against imports, during the relief period. Producers other than SolarWorld have stated that they will invest a collective \$*** in an effort to adjust to import competition.*

Such adjustments include:

- *\$*** by *** to ***;*
- *\$*** by *** to ***;*
- *\$*** by *** to ***;*
- *\$*** by *** to ***;*
- *\$*** by *** to ***.*
- *\$*** by *** to ***, and a further \$*** aimed at *** by *** to ***.*

C. The Measures Described Above are Based on Estimated Profitability During a Temporary Relief Period

The goals and commitments described above are specific and achievable, but only to the extent that the remedy ultimately recommended and adopted in this case is sufficient to allow the U.S. industry to generate profits during the relief period. The remedy being proposed by the industry is aimed at achieving this goal, thus allowing the relief period to be of maximal effectiveness. Further, in light of the technologically complex and competitive nature of this industry, it is not possible to forecast every investment that will be made by every new or existing producer during the relief period. Nonetheless, the commitments laid out above provide a realistic framework for the U.S. solar industry's actions during the relief period, based on the current status of their facilities and equipment. If the ultimate remedy is sufficient to allow sustained operating profitability during the relief period, these adjustments can be implemented and will equip the producers to compete effectively against imports once relief is phased out.²

² SolarWorld's prehearing remedy brief, September 27, 2017, pp. 49-57.