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## 駐美國代表處經濟組 函

受文者：經濟部國際貿易局

發文日期：中華民國111年1月5日  
發文字號：經美字第1110000007號  
速別：普通件  
密等及解密條件或保密期限：  
附件：如文（經美1110000007\_Attach1.pdf）

主旨：有關美國貿易代表署(USTR)就「太陽能晶矽電池及模組」  
防衛措施，舉行公聽會情形，敬請查參。

說明：

一、本組上(110)年12月10日經美字第1100001498號函諒達。

二、本案背景：

(一)美國於2018年2月起對進口「太陽能電池與模組」採取4  
年防衛措施(2018年2月至2022年2月)：

1、對於「太陽能模組」加徵關稅，第1年為30%，每年下  
降5%，第4年為15%。

2、對於「太陽能電池」設定2.5 GW關稅配額，超過配額  
始加徵關稅，第1年為30%，每年下降5%，第4年為15  
%。

(二)美國廠商2021年8月向美國國際貿易委員會(ITC)申請延  
長該防衛措施4年。ITC於上(12)月公布報告，建議延長  
該防衛措施4年：(本案續將由總統決定是否延長該防衛  
措施。)

1、對於太陽能模組，自2022年2月7日起防衛關稅為14.7

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5%，後續3年每年降低0.25%。

- 2、對於太陽能電池，維持2.5 GW關稅配額，超過配額之進口，自2022年2月7日起防衛關稅為14.75%，後續3年每年降低0.25%。

三、USTR於本(1)月4日舉行「太陽能晶矽電池及模組」防衛措施之公聽會，要點如下：

(一)Auxin Solar等業者請求延長該防衛措施，且該防衛措施應及於「雙面太陽能板」：

- 1、Auxin公司執行長Mamun Rashid表示，若希望太陽能產品之生產基地留在美國，則該防衛措施應盡可能延長。
- 2、R執行長稱，「雙面太陽能板」豁免防衛措施使得該措施功能有限，美國政府2020年10月雖取消該豁免，惟國際貿易法院(CIT)去(2021)年11月判決回復該豁免。Auxin請求拜登政府對該CIT判決提起上訴，並發布命令取消該豁免。

(二)美國太陽能產業協會(SEIA)、美國潔淨能源協會(ACPA)等協會反對延長該防衛措施，且「雙面太陽能板」應豁免該措施：

- 1、SEIA總裁Abby Hopper表示，若延長該防衛措施並取消「雙面板」豁免，則消費者負擔成本高達65億美元，或每個太陽能模組製造工作之成本為650萬美元，大部分成本將由「發電廠規模」(utility-scale)太陽能業者負擔。
- 2、ACPA副總裁Vanessa Sciarra亦稱，美國太陽能模組生產量較小，無法滿足太陽能發電廠之大量需求。
- 3、SEIA表示，「雙面板」應豁免該防衛措施，不論該措施是否延長。對於「雙面板」重新課徵該關稅違反「

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防衛措施應逐步自由化」之法律要求，且將對於「發電廠規模」太陽能業別造成損害。

(三)Auxin Solar及Suniva支持維持現行太陽能電池「關稅配額」(即2.5 GW)，惟Hanwha Q Cells建議調高該關稅配額：

- 1、Auxin之R執行長支持維持現行關稅配額(TRQ)，表示太陽能電池進口量預計將超過該TRQ，因此將導致成本上升，惟該公司願意承受該成本。
- 2、Suniva總裁Matt Card亦支持維持該TRQ，並表示維持該TRQ將對超過配額之進口電池加徵關稅，有助於美國本土製造太陽能電池。
- 3、惟Hanwha Q Cells(支持延長防衛措施)則建議調高太陽能電池TRQ數量至5GW，太陽能電池進口預計將超過現行TRQ(2.5 GW)，將增加該公司生產太陽能模組之成本，且在美國興建太陽能電池廠至少需1年半至2年期間。

(四)加拿大、墨西哥太陽能廠商(如加商Canadian Solar、Heliene、Silfab及墨商Maxeon)及加、墨政府代表表示，倘若美國延長本案防衛措施，則應豁免加、墨太陽能產品。另，越南政府代表表示反對延長該防衛措施，稱該措施對外國及美國皆造成損害，例如美國太陽能板價格為全球最高。

四、檢送相關報導，併請卓參。

正本：經濟部國際貿易局

副本：行政院經貿談判辦公室、經濟部、陳政務次長室(請經濟部代陳)、經濟部工業局  
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## U.S. solar industry spars on extending safeguard measure, exclusion

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January 4, 2022 at 8:19 PM

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Representatives from across the U.S. solar energy industry on Tuesday argued over whether a Trump-era safeguard measure set to expire next month should be extended, and if it is, whether it should include a recently reinstated exclusion for two-sided panels some claim rendered the measures ineffective.

The Trump administration in February 2018 imposed safeguards on solar cells and modules. The safeguards will expire on Feb. 6 if they are not extended. The ITC last month recommended President Biden extend the remedy, set to expire on Feb. 6, for an additional four years.

"If we want to have a manufacturing base for solar products here in the United States, the safeguard needs to be extended for as long as possible," Auxin Solar CEO Mamun Rashid told the Office of the U.S. Trade Representative's Trade Policy Staff Committee during a virtual hearing. Auxin Solar and another U.S.-based solar manufacturer, Suniva, petitioned the U.S. International Trade Commission earlier this year to investigate whether to extend the safeguard measure on crystalline silicon photovoltaic cells and modules.

Tariffs on the solar products, imposed under Section 201 of the Trade Act of 1974, were set at 30 percent in the first year and scheduled to decline by 5 percentage points each following year before expiring in February 2022. The first 2.5 gigawatts of solar cells were exempted from tariffs in each of the four years. The Trump administration announced last year that the 2021 tariffs would be set at 18 percent instead of 15 percent, as originally planned, and that an exemption for bifacial modules would be revoked.

But the Court of International Trade in November said that in adjusting the solar safeguards President Trump acted beyond his authority and reversed the changes, including by reinstating the bifacial module exclusion.

That exclusion, Rashid claimed, undermined the effectiveness of the safeguard. The exclusion for two-sided panels – which Rashid said are meant for commercial, rather than residential projects – was in place for 34 months before Trump revoked it in October 2020.

The exclusion "resulted in foreign producers shipping massive volumes of fake bifacial panels for use in residential and commercial applications," Rashid said. Producers' use of the exclusion, he argued, constituted a kind of circumvention.

In written comments to the panel, Auxin called on the Biden administration to appeal CIT's decision and to issue a proclamation withdrawing the exclusion for bifacial panels pursuant to the president's authority "to take action to eliminate circumvention of the safeguard remedy," among other actions.

Representatives from companies and industry groups that oppose extending the remedy disputed Rashid's claim about circumvention – and further contended that domestic manufacturers were not producing bifacial panels nearly at scale to meet U.S. demand.

"It is true that the ITC found some domestic utility-scale module production and some evidence of bifacial modules sold in the residential market," Vanessa Sciarra, vice president of trade and international competitiveness at the American Clean Power Association, told the panel. "But what is critical to an accurate assessment of this data is scale and context. Any domestic production is simply miniscule when compared to the massive demand of utility projects." ACP, formed in January 2021, represents the utility-grade solar industry as well as members of the wind, storage and transmission industries.

The Solar Energy Industries Association – whose members include manufacturers, project developers, installers and financiers – said in written comments that bifacial panels should be excluded "[r]egardless of the President's decision on extension." Reimposing tariffs on bifacial panels, the group wrote, would "violate the

statutory requirement that actions be progressively liberalized" as well as "significantly impair the utility-scale segment's continued growth."

SEIA President and CEO Abby Hopper told the panel that the "consumer cost" of extending the safeguard measure and withdrawing the exclusion would be over \$6.5 billion, or about \$6.5 million per module manufacturing job – with "the majority of that burden" falling on the utility-scale segment.

The ITC, in its report last month to Biden, recommended maintaining the tariff on imports of modules with decreases of 0.25 percentage points scheduled for Feb. 7 for each of the next three years. It also recommended maintaining the tariff-rate quota on cells -- which some U.S. panel manufacturers say should be raised -- setting the TRQ at 2.5 gigawatts and reducing duties on out-of-quota imports by 0.25 percentage points each year.

The TRQ has not been filled in any of the years the remedy has been in place, but the commission said cell imports could exceed the quota level as early as February.

Auxin Solar, which does not produce cells, supports maintaining the TRQ at the current level even though that likely would mean its costs could go up.

"We don't have foreign ownership and we don't have private equity," Rashid said. "But we're okay with the result of increased costs. The only way to promote domestic cell production is to actually apply the safeguard remedy to cells."

Suniva also supports maintaining the TRQ. The company produced both cells and modules until 2017, when it filed for bankruptcy. It has since reorganized, exited bankruptcy and said it could restart that production.

Suniva President and Chief Operating Officer Matt Card told the panel that investors need to see "a declarative statement from the U.S. government that yes, we want the entire supply chain; we are not satisfied just assembling modules."

Hanwha Q Cells USA and other U.S. manufacturers, meanwhile, have advocated raising the TRQ in the absence of U.S. cell production.

Andrew Munro, general counsel for Hanwha Q Cells USA, told the panel that a "smart extension" of the remedy would increase the TRQ on cells "to a level that would result in no cell tariffs during the next two years" – at least 5 gigawatts, he said – while Hanwha Q Cells and others set up domestic cell production.

The panel also heard from representatives of solar companies with operations in Mexico and Canada and from each of those governments, who called for their countries to be excluded from any extension of the remedy.

A representative from Vietnam, meanwhile, called the remedy a "no-win method" that harms exporters and the U.S., where solar panel prices are "the highest in the world," he said. – *Margaret Spiegelman* ([m Spiegelman@iwpnews.com](mailto:m Spiegelman@iwpnews.com))

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