

Section 201 Safeguards on Solar Products and Washing Machines

February 7, 2018

On January 23, 2018, President Trump announced that he would impose additional tariffs on imports of [large residential washing machines](#) and [solar photovoltaic \(PV\) cells and modules](#), effective February 7, 2018. The President acted based on findings by the [International Trade Commission \(ITC\)](#) that increased U.S. imports of these products were a “substantial cause of serious injury” to U.S. manufacturers, as a result of investigations under [Section 201](#) of the Trade Act of 1974 ([19 U.S.C. §2251, as amended](#)). When initiating the actions on January 23, the [President said](#), “My administration is committed to defending American companies, and they’ve been very badly hurt from harmful import surges that threaten the livelihood of their workers, of jobs, actually, all over this country.” While such actions may benefit some U.S. domestic producers, they could also raise prices for U.S. consumers and domestic industries that use these imports to manufacture downstream products. The Section 201 measures could also increase tensions with various U.S. trading partners.

Section 201 “safeguard” actions provide temporary import relief (e.g., additional tariffs or quotas on imports) in order to facilitate positive adjustment of a U.S. industry to import competition. Safeguard investigations are unlike other trade remedy tools, such as [antidumping \(AD\)](#) and [countervailing duty \(CVD\)](#) cases that investigate “material injury” (or threat thereof) based on sales of imported products at less than fair value (AD) or that are subsidized by a foreign government or other public entity (CVD). Rather, Section 201 cases investigate import surges of fairly traded goods. For more information on Section 201, see CRS In Focus IF10786, *Trade Remedies: Section 201 of the Trade Act of 1974*, by Vivian C. Jones; CRS Legal Sidebar LSB10065, *Shining a Light on the Solar Trade: Investigation Leads to Tariffs on Solar Energy-Related Imports (Part I)*, by Caitlain Devereaux Lewis; and CRS Legal Sidebar LSB10066, *Shining a Light on the Solar Trade: Investigation Leads to Tariffs on Solar Energy-Related Imports (Part II)*, by Caitlain Devereaux Lewis.

Actions taken after Section 201, AD, and CVD investigations will be considered consistent with U.S. international trade obligations if they conform to the relevant [World Trade Organization \(WTO\) Agreements](#). Other WTO members may use these agreements to challenge the United States’ actions through the WTO’s [dispute settlement process](#).

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U.S. Solar Safeguard Action

The four-year [safeguard on solar cells and modules](#)

- Places an annual tariff-rate quota (TRQ) of 2.5 gigawatts on solar cells. All imports under that volume level will enter at the normal U.S. (duty-free) tariff rate. Imports above that level will be assessed a 30% tariff, descending by 5% each year (i.e., 30% in 2018, 25% in 2019).
- Places a 30% tariff on solar modules, also descending by 5% each year.
- Applies to all countries except certain developing country WTO members. North American Free Trade Agreement (NAFTA) partners Mexico and Canada are included in the safeguard.
- Instructs the [U.S. Trade Representative \(USTR\)](#) to develop procedures to process requests for exclusion of particular products from the safeguard measure within 30 days and to announce regulations in the [Federal Register](#).

Response to the Solar Decision

[SolarWorld](#), one of the petitioners in the Section 201 case, expressed hope that the safeguard “will be enough to address the import surge and to rebuild solar manufacturing in the United States.” The [United Steelworkers Union](#), on behalf of the workers who make silicon, aluminum, steel, and other products used in constructing solar cells and modules, said that the import relief “is important not only to the workers in those sectors, but those who are part of the supply chain,” and that the action “is a step forward in drawing a line in the sand that unfair trade will not be allowed.”

Other solar industry members expressed concern about the safeguards. The [Solar Energy Industries Association \(SEIA\)](#), which represents companies that manufacture, plan, install, and finance solar energy products, estimated that about 23,000 jobs would be lost in 2018 and that the tariffs will “result in the cancellation of billions of dollars in solar investments.” For more information on the U.S. solar industry, see CRS In Focus IF10819, *Domestic Solar Manufacturing and New U.S. Tariffs*, by Michaela D. Platzer.

Before the WTO, Taiwan and South Korea have formally requested consultations, the first step in challenging the U.S. action under the [dispute settlement process](#). [China’s Ministry of Commerce](#) announced that China, “with other WTO members, will resolutely defend its legitimate interests.”

U.S. Large Residential Washer Safeguard

The three-year [safeguard on large residential washers and parts](#)

- Places an annual TRQ of 1.2 million units on imports of the targeted washers. All imports under that level will enter under the normal U.S. tariff rate (ranging from 1% to 1.4%), plus an additional duty rate of 20% in the first year, decreasing by 2% each subsequent year.
- Requires washers above the quota limit to be assessed at the normal U.S. tariff rate, plus a 50% duty rate in the first year, decreasing by 5% each subsequent year.
- Places an annual TRQ on washer parts of 50,000 units in the first year, ascending by 20,000 units each year. All imports under that volume level will enter at the normal (2.4%) tariff rate. All imports over the level will be assessed a 50% tariff, descending by 5% each year.
- Applies to all countries except for certain developing country WTO members. NAFTA partner Mexico is included in the safeguard, while Canada is exempt.

Response to the Washer Safeguard Decision

Following the Trump Administration announcement, [Whirlpool](#) reported that it added 200 full-time jobs at its factory in Clyde, Ohio, in anticipation of increased demand following the safeguard decision, and that this would be just the beginning of increased investments and jobs. [Samsung](#), one company that produces the targeted washers, said that the announcement “is a great loss for American workers and consumers,” and that its new South Carolina plant, opened the week before the safeguard announcement, had already hired more than 600 U.S. workers. These washers, which will be made domestically, will be exempt from the tariffs, but any imported washer parts inputs used in the factory manufacturing process may not be exempt, potentially increasing manufacturing costs and consumer prices. [LG Electronics](#) reportedly said that the safeguard decision hindered the planning for its new plant in Tennessee.

At the WTO, South Korea has requested [consultations](#). A pending [Korean request for retaliation](#) against the United States in an AD/CVD dispute on washers was also referred to WTO arbitration in mid-January.

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