



solar flare-up with china

MSK Client Alert

September 25, 2017

Two actions took place at the end of last week which heighten concerns that a trade war with China could be ever more likely. First, there was the preliminary decision in the solar panels 201 case. Then, we had the additional sanctions imposed by the President on North Korea.

The 201 solar panel case began when Suniva Inc. and SolarWorld Americas Inc. filed their cases before the International Trade Commission ("ITC") in April and May 2017. These actions are, of course, in addition to the antidumping and countervailing duties currently being imposed on these products from China.

Section 201 refers to a section in the Tariff Act of 1930, as amended, which appears in the law at 19 U.S.C. § 2252. What this provision does is allow an American company which contends it is being "significantly" harmed or threatened with "significant" harm by imports to seek provisional relief from the President. The ITC first conducts a hearing and receives written submissions/comments on the question of whether harm exists. Specifically, by a 4-0 vote, the ITC on September 22nd found that "increased imports of crystalline silicon photovoltaic cells (whether or not partially or fully assembled into other products) are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing an article like or directly competitive with the imported article."

In reaching its decision, the ITC found that..

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