# NYT

# U.S. Solar Panel Makers Accuse Chinese of Trade Violations

###### By [KEITH BRADSHER](http://topics.nytimes.com/top/reference/timestopics/people/b/keith_bradsher/index.html?inline=nyt-per)

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Seven American solar panel makers filed a broad trade case in Washington against the Chinese solar panel industry on Wednesday, accusing it of using billions of dollars in government subsidies to help gain sales in the American market. The companies also accused China of “dumping” solar panels in the United States for less than it costs to manufacture and ship them.

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Workers at Evergreen Solar's manufacturing plant in Devens, Mass., last year.  The company subsequently moved its operations to China, and in August filed for bankruptcy.

The trade case, filed at the Commerce Department, seeks tariffs of more than 100 percent of the wholesale import price of solar panels from China. Imports of Chinese solar panels to the United States totaled $1.6 billion in the first eight months of this year.

The filing, which the Commerce Department has no choice but to review, under federal rules, comes as anti-China sentiments are running high in some Washington corridors.

The Senate recently passed a bill that would require the Treasury Department to order the Commerce Department to impose tough tariffs on certain Chinese goods, if Treasury found that China was improperly valuing its currency to gain an economic advantage. So far, Republicans have declined to bring the House version up for a vote.

Chinese commerce officials had no immediate comment about the solar panel filing, but have long vehemently opposed such trade cases. The matter will probably be controversial within the United States, too. For one thing, if successful it would drive up the cost of [solar energy](http://topics.nytimes.com/top/news/science/topics/solar_energy/index.html?inline=nyt-classifier) in the name of keeping the American industry competitive.

The case also coincides with criticism by Congressional Republicans of the Obama administration’s efforts to support American clean energy companies. Republicans argue that federal loan guarantees of more than a half-billion dollars to the now-bankrupt solar company Solyndra show the folly of the administration’s trying to guide industrial policy in clean energy.

But two Democratic senators on Wednesday supported the trade case. “American solar operations should be rapidly expanding to keep pace with the skyrocketing demand for these products,” said Senator Ron Wyden of Oregon, who appeared at a Washington news conference on the case held by an Oregon solar panel maker, Solar World Industries America.

“But that is not what has been happening,” Mr. Wyden said. “There seems to be one primary explanation for this; that is, that China is cheating.” He was joined by his Oregon colleague Senator Jeff Merkley, who said China was engaging in “rogue practices.”

Whatever the partisan positioning, though, the trade case would procedurally begin above the political fray. It will follow a quasi-judicial path at the Commerce Department and a related American agency, the International Trade Commission, that is designed to operate without political partisanship influence. Congress created the apolitical process for trade cases during the cold war, because of a perception that Democratic and Republican administrations had tolerated subsidies and dumping by many countries as long as they were American allies against the Soviet Union.

Other recent industry cases against China that have followed this process include one filed in late March, involving galvanized steel wire. The most recently completed tariff case against China, in late May, resulted in tariffs of about 33 percent levied against certain types of imported aluminum products.

A Chinese solar company manager, speaking on condition of anonymity, said in a telephone interview that in any trade case filed by the American industry, “we would be well prepared and are confident we could defend it.”

President Obama recently appeared to support the domestic solar industry’s concerns, in a White House [news conference on Oct. 6](http://www.whitehouse.gov/the-press-office/2011/10/06/news-conference-president): “Even if the technology was developed in the United States, they end up going to China because the Chinese government will say, ‘We’re going to help you get started, we’ll help you scale up, we’ll give you low-interest loans or no-interest loans, we will give siting, we will do whatever it takes for you to get started here.’ ”

United States policy toward China has also emerged as an issue in the presidential campaign, provoking an early back-and-forth between the Obama team and Mitt Romney, whom many Democrats expect to be the Republican nominee. Mr. Romney, talking tough in a Republican debate last week, said the United States had been “run over by China” for 20 years and “you have to have a president that will take action.”

In response, Mr. Obama’s senior strategist, David Axelrod, countered that Mr. Romney once again was flip-flopping, having criticized Mr. Obama in the past as “[protectionist](http://topics.nytimes.com/top/reference/timestopics/subjects/p/protectionism_trade/index.html?inline=nyt-classifier)” for mounting a trade case against China on behalf of American tire producers.

Wednesday’s filing is a sweeping effort by the hard-pressed United States renewable energy industry to use trade laws to slow or reverse the rapid rise of Chinese companies in the American market.

But it may yet prove too late to save the American industry. China already accounts for three-fifths of the world’s solar panel production, giving it enormous economies of scale even as American companies have been closing factories and laying off thousands of workers this year.

China holds a similar share of the world’s wind turbine market, and Chinese [wind energy](http://topics.nytimes.com/top/reference/timestopics/subjects/w/wind_power/index.html?inline=nyt-classifier) companies are preparing for a big push into the American market as well.

In the case of solar equipment, China exports 95 percent of its production, much of it to the United States, which has helped push wholesale solar panel prices down from $3.30 a watt of capacity in 2008 to $1.80 by last January and now to $1.20. A typical solar panel might have a capacity of 230 watts.

The trade case seeks tariffs “well in excess of 100 percent” on the wholesale price of Chinese solar panels on arrival at American docks, as punishment for “dumping” goods. The filing also requests additional tariffs to offset the benefits from subsidies, but does not propose a percentage.

Including installation, the American solar power market is worth about $6 billion a year. So far, solar power generates only about one-tenth of 1 percent of the United States’ electricity because it is still more expensive than fossil fuels. Any price increase in the technology, as a result of tariffs, is not likely to improve that ratio.

The wholesale price of panels typically represents half the total cost of a fully installed solar power plant for an electric utility, and about a quarter of the total cost of a fully installed residential system.

Citing steeply falling prices of solar technology from China, in August alone Solyndra and two other American solar energy companies filed for bankruptcy protection. Those three companies represented one-sixth of United States’ solar manufacturing capacity. Many of the surviving companies, meanwhile, have been laying off workers and closing factories, or setting up shop in China.

Chinese companies supplied the panels for half of the installations completed in the United States in the second quarter of this year, and since then represent an even higher share of new orders and shipments, said Shayle Kann, a solar power analyst at GTM Research, a renewable energy market research firm in Boston.

Solar World Industries America, the largest maker of conventional solar panels in the United States, made the decision in late spring to assemble a coalition for a case against China, even before Solyndra’s difficulties became widely known, according to Gordon Brinser, Solar World’s president.

Significantly, the other six companies that joined the case have withheld their names, as they are entitled to do under Commerce Department rules. Masking the identities of complainants allows the companies to avoid accusations of protectionism from critics within the United States. And it has become even more important internationally, as many companies fear that the Chinese government is ready to retaliate against any business that challenges its policies.

Solar World Industries America, based in Hillsboro, Ore., is actually a subsidiary of Solar World, a German company. The American subsidiaries of foreign companies are allowed to file antidumping and antisubsidy cases if they produce in the United States. Solyndra is not taking part because it does not manufacture the traditional kind of panels, so-called blue solar panels, covered by the case.

“This had nothing to do with any input from either side of the aisle” in Congress, nor was it influenced by the Obama administration, Mr. Brinser added. Indeed, Solar World might have acted sooner, he said, except that the Obama administration announced a year ago that it would investigate whether China’s clean energy policies violated international trade rules. But so far the administration has taken no action on solar power beyond alerting the World Trade Organization to Chinese subsidies.

When the administration started that investigation, “we hoped something would come out of it,” Mr. Brinser said.

Solar World said it was representing a newly formed trade association, the Coalition for American Solar Manufacturing.

An existing trade group, Solar Energy Industries Association, is deeply split over trade actions against China, because it includes American subsidiaries of Chinese solar manufacturers and American companies that sell raw materials and factory equipment to Chinese solar panel makers. Thomas P. Kimbis, vice president for strategy and external affairs at the Solar Energy Industries Association, said in an e-mail on Tuesday evening that his group would not side with any party in antidumping or antisubsidy cases.

The trade case filed Wednesday contends that China has helped its solar panel industry by providing the equivalent of billions of dollars in subsidies in the form of deeply discounted loans, land, electricity, water and raw materials, as well as cash grants and tax breaks.

Many American companies also receive subsidies from federal, state and local programs — as in the instance of Solyndra’s $528 million in federal loan guarantees. And Mr. Brinser said that Solar World was in the process of obtaining $4 million in research assistance from the federal government. An Energy Department report in July said that American federal subsidies for solar power totaled $1.134 billion in the 2010 fiscal year, up from $179 million in 2009.

But because few American companies export 95 percent of their production, they are less likely to run afoul of trade rules against export subsidies.

And yet, W.T.O. rules also prohibit domestic subsidies that discriminate against imports. While these rules are more lenient than the strictures against export subsidies, China could potentially still file a complaint to the W.T.O. about the American subsidies.

  The Obama administration in May notified the W.T.O. of 46 Chinese policies that the United States labeled as clean energy subsidies, along with dozens of broader subsidy programs not limited to green energy for which Chinese solar power companies could also qualify. China has already repealed many of these policies after the United States complained about them over the last couple years.

    But under Commerce Department rules, companies in the United States may seek punitive tariffs on imports that continue to benefit from past subsidies by foreign governments, like Chinese subsidies that were given to improve brand recognition around the world and then later repealed after the companies became established overseas.

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# Chinese Trade Case Has Clear Targets, Not Obvious Goals



A worker at Suntech Power in Wuxi, China, helps assemble a solar cell. The company could move more production to America.

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HONG KONG

LIKE Detroit automakers taking on the Japanese a generation ago, the seven American solar panel makers that filed [a trade case on Wednesday](http://nyti.ms/r8PUlQ) against China might find that a legal victory, if it comes, may not translate into business success.

In the 1970s and ‘80s, American car companies won a long series of trade cases to limit Japanese car imports. Japan’s automakers responded by moving assembly lines to the United States, creating many new blue-collar jobs. But they kept most of the high-paying design and engineering positions back in Japan. The new factories in the United States not only shielded Japanese auto companies against most further trade [protectionism](http://topics.nytimes.com/top/reference/timestopics/subjects/p/protectionism_trade/index.html?inline=nyt-classifier) but helped them stay competitive when [the yen](http://topics.nytimes.com/top/reference/timestopics/subjects/c/currency/yen/index.html?inline=nyt-classifier) soared against [the dollar](http://topics.nytimes.com/top/reference/timestopics/subjects/c/currency/dollar/index.html?inline=nyt-classifier).

Meanwhile, American consumers had many new, affordable choices in cars — while Detroit continued to have trouble competing with its Japanese rivals.

Don’t be surprised if Chinese solar companies try to pursue a similar path, which could benefit American consumers of [solar power](http://topics.nytimes.com/top/news/science/topics/solar_energy/index.html?inline=nyt-classifier) if it helps propel the technology beyond its current niche status.

Chinese solar panel makers have already begun moving operations to the United States to avoid trade restrictions. With the new case, filed at the Commerce Department, some industry executives expect the Chinese industry to increase its American expansion. That could help the Chinese companies avoid import restrictions and insulate them from currency fluctuations as China allows [the renminbi](http://topics.nytimes.com/top/reference/timestopics/subjects/c/currency/yuan/index.html?inline=nyt-classifier) to appreciate gradually against the dollar.

The trade complaint, which accuses the Chinese industry of receiving unfair government subsidies and dumping its products in the United States at below cost, “will only accelerate the setting up of solar module and solar cell manufacturing in the United States,” said Ocean Yuan. Mr. Yuan is the president of Grape Solar, a company based in Eugene, Ore., that is a big importer of solar panels from China, Korea and Taiwan. Grape Solar has already been in discussions with big Chinese panel makers on ways to move more manufacturing to the United States.

Meanwhile, Suntech Power of Wuxi, China, the world’s largest manufacturer of blue solar panels — the most commonly used type — has already moved some simple assembly tasks to the United States. Other big Chinese manufacturers like Yingli Green Energy and Trina are considering similar moves. A partial shift of Chinese production could help create some new and mostly blue-collar American jobs. But a broader move into the United States could turn Chinese solar panel manufacturers into even fiercer competitors with their American counterparts.

The steep tariffs sought in the trade complaint could also cause China to retaliate. The country might, for example, shift more of its hefty annual purchases of solar panel manufacturing equipment to German suppliers instead of American ones. “It would be a travesty for the solar industry,” said Tom Zarrella, a former chief executive of GT Solar, a New Hampshire supplier of the manufacturing equipment.

American companies like GT Solar ship a total of about $1 billion worth of products a year to China, while other American firms ship an additional $1 billion a year in raw materials to the Chinese solar companies. In the first eight months of the year, Chinese panel makers shipped $1.6 billion of products to the United States.

China’s commerce ministry still had no comment on the trade litigation on Thursday, and the state-controlled Chinese news media were still ignoring the case — signs that Chinese officials were struggling to draft a response.

The current betting by trade experts is that the American solar panel industry will win its case, which could lead to tariffs early in 2012, even if the proceedings take a year or so to play out. That is because the United States still classifies China as a nonmarket economy, which sets off special rules for the evaluation of antidumping and antisubsidy cases that heavily favor American companies. American companies have won almost all the antidumping and antisubsidy cases they have filed against Chinese companies for the last 20 years. The solar industry has clear differences from the auto industry, of course. The American solar power market totaled only $6 billion last year, with the industry employing no more than 100,000 people and possibly considerably fewer, depending on whose estimates one believes. In contrast, the United States’ auto industry in the ’70s had revenue in the hundreds of billions and employed more than a million people.

But while the solar industry is in its relative infancy — solar power now contributes about one-tenth of 1 percent of the United States’ electricity — it is growing fast. The new solar wattage installed in the United States has been growing 74 percent a year since 2008, according to GTM Research, a renewable energy market analysis firm in Boston. Companies that develop solar power projects in the United States would not welcome paying tariffs on panels that might exceed 100 percent of the wholesale price.

Victory in the case could still buy the American industry time to reduce costs and improve their efficiency. That may be why shares of the biggest Chinese solar power companies, which trade in New York, fell 5 to 9 percent after the trade case was announced on Wednesday.

But setting up solar panel factories is faster and simpler than building a car assembly plant, which could allow Chinese solar power manufacturers to respond quickly.

To avoid punitive tariffs, Chinese companies would need to make solar cells in the United States and then assemble them into panels — steps that together represent only about half the cost of a solar panel. The other half of the cost consists of a series of initial steps that result in the production of a polysilicon wafer, which the Chinese industry would probably continue to find cheaper to do in China.

Mr. Yuan said that once the necessary construction permits were obtained, it took only three to six months to build a factory that did the final step of assembling solar cells into solar panels. It takes six months to a year to build a highly automated factory to make solar cells from solar wafers.

Many American cities have already been seeking Chinese solar power factory investments, which could speed the permit approval process. Chinese state-owned banks have extended nearly $41 billion in loans and lines of credit to the country’s solar panel manufacturers, according to the trade case against them. Investing even a small part of that money in factories in the United States would sharply increase capacity.

Suntech moved production of the last step in the manufacturing process from China to Goodyear, Ariz., last year. About 100 mostly blue-collar workers in Goodyear assemble panels that each have five or six dozen solar cells that were shipped in from China. The workers then add a glass cover, bolt on an aluminum frame, attach a junction box and package it for shipping.

This process has already enabled Suntech to label the solar panels as “made in U.S.A.” As a result, they now qualify for federal “Buy American” subsidies.

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# China Charges Protectionism in Call for Solar Panel Tariffs

###### By [KEITH BRADSHER](http://topics.nytimes.com/top/reference/timestopics/people/b/keith_bradsher/index.html?inline=nyt-per)

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HONG KONG — The Chinese government Friday condemned a demand by the American solar panel industry for steep tariffs on solar panels shipped to the United States from China.

China accused the American industry of protectionism that could undermine the global economy and harm international efforts to combat global warming. It called for the United States government to reject the industry’s legal filing.

In a carefully worded statement, the Chinese commerce ministry suggested that if the American government imposed import tariffs on Chinese solar panels, then China would purchase less American factory equipment and raw materials for making solar panels.

But the statement did not specify whether American exports would suffer because of deliberate retaliation by the Chinese government, or simply because Chinese companies would have less need for the equipment and raw materials if the United States market were to be partly or completely closed to them.

Either way, “the result is a lose-lose situation, and this will cause an adverse impact on the bilateral trade interests of the two countries,” the statement said.

A coalition of seven American companies filed the trade case against China on Wednesday. They accused Chinese manufacturers of obtaining billions of dollars in Chinese government subsidies to help them buy market share in the United States, and of dumping solar panels in the United States at prices that did not fully cover the cost of manufacturing and distributing them.

Their petition to the Commerce Department in Washington and a related federal agency, the International Trade Commission, seeks tariffs “well in excess of 100 percent” to offset dumping, plus additional unspecified tariffs to offset the suspected subsidies.

The coalition responded quickly to the Chinese criticism. “The Chinese government’s claims that our actions are improper and protectionist, and that its illegal subsidies and massive dumping of solar product are helping the global economy and the environment, are absurd,” said Gordon Brinser, the chief executive of SolarWorld Industries America, the lead company in the coalition. “China is one of the biggest trade protectionists in the world.  In the solar industry, China is gutting manufacturing and jobs here in America and abroad while China’s solar industry pollutes its own people. The accusations have no basis in fact.”

The United States government has 20 days from the filing of the petition to decide whether to take the case, but the law gives it little discretion to reject it. A preliminary ruling is likely by March on the subsidies claim and by May on the dumping claim.

The Commerce Department and the I.T.C. must use narrow criteria set by Congress that give little discretion to either agency except on the question of whether a domestic industry has suffered significant injury from imports. The American solar panel industry has been laying off thousands of workers and closing factories. If the agencies pursue the case, final rulings could take six months or longer.

The Chinese ministry’s statement barely addressed the substance of the industry’s complaint, mentioning only in passing that Chinese policies were “in line with World Trade Organization rules.”

The ministry also made a clear plea for environmentalists to take its side.

“The development of the solar energy industry is a key measure of the Chinese government to address the challenges of climate change and energy security,” the statement said. “The United States has no reason to criticize other countries’ efforts to try to improve humanity’s environment — rather, it should join together with other countries to strengthen cooperation in the field of solar energy, and join together to face the challenges of climate change and the environment.”

So far, environmental groups in the United States have said little publicly in response to the solar panel trade case. Many environmental groups have advocated the creation of a strong American clean energy industry, which could improve the odds that Congress will continue to approve subsidies for alternative energy.

But many environmentalists also advocate the widest possible installation of solar panels as an alternative to burning fossil fuels. And toward that end, Chinese manufacturers have helped drive down the wholesale price of solar panels from $3.30 a watt in late 2008 to $1 to $1.20 a watt now.

The Chinese statement highlighted a study completed in August for an American trade group, the Solar Energy Industries Association, whose members include Chinese companies. The study calculated that the United States imported $1.4 billion worth of solar panels and other solar products from China last year, but exported solar factory equipment and raw materials valued at $1.69 billion to $1.98 billion to China.

But SolarWorld Industries America, the lead company in the trade filing against China, has pointed out that shipments of Chinese solar panels to the United States surged to $1.6 billion in the first eight months of this year. Meanwhile, American exports of factory equipment and raw materials have weakened as investment in Chinese factories has started to slow and as China has built its own industries to make these products.

Chinese companies are not the only ones unhappy about the American solar panel manufacturers’ case. Many American installers of solar panels are hostile. Mike Hall, the chief executive of Borrego Solar, a solar project developer based in Oakland, Calif., said, “One-hundred percent tariffs would have a massive effect, and the market in the U.S. would screech to a halt.”

World Trade Organization rules strictly ban the use of subsidies by a government to aid its export industries. W.T.O. rules also allow antidumping cases to be pursued within member countries, but do not encourage them.