

Hemlock leveraging SolarWorld contracts to get Chinese trade duties removed

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The court document from the dramatic initial ruling in the SolarWorld and Hemlock Semiconductor polysilicon dispute reveals that Hemlock was willing to negotiate amendments to the polysilicon Supply Agreements with SolarWorld subsidiary Deutsche Solar, if the German company assisted in resolving a dispute “between the US and China over the exchange of solar-industry products.”



Hemlock was willing to negotiate favorable terms for Deutsche Solar over its ‘Take or Pay’ polysilicon contracts, if SolarWorld agreed to petition the U.S. government to find a resolution to the solar trade dispute between the U.S. and China.

The rabbit is out of the hat in the dispute between SolarWorld and Hemlock Semiconductor. As had been speculated for a long time, Hemlock was willing to negotiate amendments for SolarWorld subsidiary Deutsche Solar over its ‘Take or Pay’ polysilicon contracts, which would include price concessions to better account for the changed market conditions, if SolarWorld agreed to petition the U.S. Department of Commerce to find a resolution to the solar trade dispute between the U.S. and China.

Hemlock’s position was made clear within the court document, as it had contained within it a letter sent to SolarWorld in 2012 by Joseph Rinaldi, Vice President of Hemlock’s parent company Dow Corning Corp., which stipulated how SolarWorld must respond if negotiations over adjusted contracts were to continue.

It said that SolarWorld must send a letter to the U.S. Department of Commerce requesting the pursuing of “good faith negotiations with respect to a potential settlement of the antidumping and countervailing duty investigations involving solar cells and modules from the People’s Republic of China.” Adding that “Any such settlement or amendments [between Deutsche Solar and Hemlock] shall be contingent on a settlement of the antidumping and countervailing duty investigations references in the letter above on terms acceptable to Hemlock Semiconductor.”

The court document then continued that SolarWorld President Gordon Brinser told Hemlock that the letter had been sent, but with a few small word changes. Hemlock, however, considered these word changes to be “quite significant and disappointing,” leading to an escalation in the dispute.

“The most interesting aspect is that Hemlock is apparently using the case as leverage to force SolarWorld to withdraw its petitions for punitive duties on Chinese solar cells and modules in order to regain access to the Chinese polysilicon market in turn,” leading polysilicon analyst Johannes Bernreuter told **pv magazine**. “As SolarWorld is a staunch defender of the duties, the company is in a delicate situation.”

The logic on the side of Hemlock is that the removal of SolarWorld’s petitions for trade duties on Chinese solar cells and modules, would likely result in the removal of said duties, which would, in turn, see China remove similar duties on polysilicon produced in the U.S. This would open up the bustling Chinese solar market to companies that produce polysilicon in the U.S., including Hemlock, REC Silicon and Wacker. Wacker declined to comment when contacted by **pv magazine**.

“We see the ruling as increasing the probability of a trade war resolution: SolarWorld holds the key to a potential trade war resolution as withdrawing the claim against Chinese module producers is likely to trigger the Chinese withdrawal of duties on U.S. polysilicon,” Swedbank analyst Andreas Bertheussen said in a statement. “The ruling is just in time as the U.S. and Chinese trade officials will meet in July under a G20 meeting where the solar trade case will be on the agenda. A SolarWorld under pressure has increased the probability of a deal being struck during that time.”