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DEPARTMENT OF COMMERCE

International Trade Administration

A-583-853

Certain Crystalline Silicon Photovoltaic Products from Taiwan: Notice of Amended Preliminary Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

DATES: Effective Date: (insert date of publication in the *Federal Register*)

SUMMARY: The Department of Commerce (“Department”) has determined that it made certain significant ministerial errors in the preliminary determination of sales at less than fair value in the antidumping duty investigation of certain crystalline silicon photovoltaic products from Taiwan, as described below in the “Supplementary Information” section of this notice. The Department corrected these errors and has recalculated the weighted-average dumping margin for a mandatory respondent and the all-others rate, as described below in the “Amended Preliminary Determination” section of this notice.

FOR FURTHER INFORMATION CONTACT: Magd Zalok or James Martinelli, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: 202-482-4162 or 202-482-2923, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 2014, the Department published its affirmative preliminary determination that certain crystalline silicon photovoltaic products from Taiwan are being, or are likely to be, sold in the United States at less than fair value, as provided by section 733 of the Tariff Act of 1930, as amended (the “Act”).¹

On July 30, 2014, Motech Industries, Inc. (“Motech”), a mandatory respondent in this investigation, submitted a timely ministerial error allegation with respect to the *Preliminary Determination*. In addition, on August 4, 2014, SolarWorld Industries America, Inc. (“Petitioner”) and tenKsolar (Shanghai) Co., Ltd. (“tenKsolar”), an exporter of Chinese panels that were made of cells produced in Taiwan during the period of investigation, submitted timely ministerial error allegations. Therefore, in accordance with 19 CFR 351.224(e), we have made changes, as discussed below, to the *Preliminary Determination*.

Period of Investigation

The period of investigation (“POI”) is October 1, 2012 through September 30, 2013.

Scope of Investigation

The merchandise covered by these investigations is crystalline silicon photovoltaic cells, and modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials. For purposes of these investigations, subject merchandise also includes modules, laminates and/or panels assembled in the subject country consisting of crystalline silicon photovoltaic cells that are completed or partially manufactured within a customs territory other than that subject

¹ See *Certain Crystalline Silicon Photovoltaic Products From Taiwan: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 79 FR 44,395 (July 31, 2014) (“*Preliminary Determination*”).

country, using ingots that are manufactured in the subject country, wafers that are manufactured in the subject country, or cells where the manufacturing process begins in the subject country and is completed in a non-subject country.

Subject merchandise includes crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Excluded from the scope of these investigations are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS). Also excluded from the scope of these investigations are any products covered by the existing antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China.² Also excluded from the scope of these investigations are crystalline silicon photovoltaic cells, not exceeding 10,000mm² in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Merchandise covered by these investigations is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.8030,

² See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 77 FR 73018 (December 7, 2012); *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Countervailing Duty Order*, 77 FR 73017 (December 7, 2012).

8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6020, 8541.40.6030 and 8501.31.8000.

These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of these investigations is dispositive.

Significant Ministerial Errors

Ministerial errors are defined in 19 CFR 351.224(f) as “errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the {Department} considers ministerial.”³ Section 351.224(e) of the Department’s regulations provides that the Department “will analyze any comments received and, if appropriate, correct any significant ministerial error by amending the preliminary determination...”⁴ A significant ministerial error is defined as a ministerial error, the correction of which, either singly or in combination with other errors, would result in (1) a change of at least five absolute percentage points in, but not less than 25 percent of, the weighted-average dumping margin calculated in the original (erroneous) preliminary determination, or (2) a difference between a weighted-average dumping margin of zero (or *de minimis*) and a weighted-average dumping margin of greater than *de minimis* or vice versa.⁵

In accordance with 19 CFR 351.224(e) and (g)(1), the Department is amending the preliminary determination of sales at less than fair value in the antidumping duty investigation of certain crystalline silicon photovoltaic products from Taiwan to reflect the corrections of significant ministerial errors it made in the margin calculation for Motech, a mandatory respondent in this investigation.⁶ As a result of these corrections, the Department has also amended the all others rate.⁷

³ See 19 CFR 351.224(f)

⁴ See 19 CFR 351.224(e)

⁵ See 19 CFR 351.224(g).

⁶ See also Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, “Amended

Ministerial Error Allegations

For a complete analysis of the ministerial error allegations, *see* the Ministerial Error Memo.

Amended Preliminary Determination

As a result of this amended preliminary determination, we have revised the preliminary weighted-average dumping margin for Motech and all others as follows:

Producer or Exporter	Weighted-Average Dumping Margin (Percent)
Motech Industries, Inc.	20.86%
Gintech Energy Corporation	27.59%
All Others	24.23%

The collection of cash deposits and suspension of liquidation will be revised according to the rates calculated in these amended preliminary results. Because these amended rates result in reduced cash deposits, they will be effective retroactively to July 31, 2014, the date of publication of the *Preliminary Determination*, and parties will be notified of this determination, in accordance with section 733(d) and (f) of the Act. International Trade Commission

Notification

In accordance with section 733(f) of the Act, we notified the International Trade Commission (“ITC”) of our amended preliminary determination.

Notification to Interested Parties

Preliminary Determination of Certain Crystalline Silicon Photovoltaic Products from Taiwan: Ministerial Error Memorandum (“Ministerial Error Memo”), which is hereby adopted to this notice.

⁷ See Memorandum to the File from James Martinelli, International Trade Compliance Analyst, AD/CVD Operations, Office IV, Enforcement and Compliance, regarding “Antidumping Investigation of Certain Crystalline Silicon Photovoltaic Products from Taiwan: Calculation of the All Others Rate” (August 15, 2014).

The Department intends to disclose calculations performed in connection with this amended preliminary determination within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

This amended preliminary determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.224(e).

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

August 15, 2014
Date

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