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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-979

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Preliminary Results of the Changed Circumstances Review

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

SUMMARY: On March 18, 2015, the Department of Commerce (the "Department") initiated a changed circumstance review ("CCR") of the antidumping duty order on crystalline silicon photovoltaic cells, whether or not assembled into modules ("solar cells"), from the People's Republic of China ("PRC") in response to a request from Neo Solar Power Corporation ("Neo Solar"), DelSolar Co., Ltd. ("DelSolar Taiwan"), and DelSolar (Wujiang) Ltd. ("DelSolar Wujiang").¹ Pursuant to section 751(b) of the Tariff Act of 1930, as amended (the "Act"), and 19 CFR 351.216, the Department preliminarily determines that Neo Solar is not the successor-in-interest to DelSolar Taiwan for purposes of determining antidumping duty ("AD") liability in this proceeding. Interested parties are invited to comment on these preliminary results.

DATES: Effective date: [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Erin Kearney, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of

¹ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Initiation of Changed Circumstances Review*, 80 FR 15568 (March 24, 2015) ("*Initiation Notice*"). We note that although the request was submitted on behalf of DelSolar Taiwan, the purported predecessor company, the request also states that DelSolar Taiwan no longer exists as a legal entity.

Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0167.

SUPPLEMENTARY INFORMATION:

Background

On December 7, 2012, the Department published the AD order on solar cells from the PRC in the *Federal Register*.² On February 4, 2015, Neo Solar, DelSolar Taiwan, and DelSolar Wujiang requested that the Department conduct an expedited CCR pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(b) to determine that Neo Solar is the successor-in-interest to DelSolar Taiwan for purposes of the *Order*.³ On March 6, 2015, SolarWorld Americas, Inc., petitioner in the underlying investigation of solar cells (“Petitioner”), submitted comments opposing initiation of this review, contending that Neo Solar should not be treated as the successor-in-interest to DelSolar Taiwan because Neo Solar has neither established that it operates as the same business entity as DelSolar Taiwan, nor that it is eligible for a separate rate.⁴

The Department initiated this CCR on March 18, 2015.⁵ On June 4, 2015, the Department issued a supplemental questionnaire to Neo Solar, DelSolar Taiwan, and DelSolar

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) (“*Order*”).

³ See Letter from Neo Solar, DelSolar Taiwan, and DelSolar Wujiang, “Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China: Changed Circumstances Review Request,” dated February 4, 2015 (“CCR Request”).

⁴ See Letter from the Petitioner, “Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China: Comments on Neo Solar Power Corporation’s Request for a Changed Circumstances Review,” dated March 6, 2015 (“Petitioner’s Initiation Comments”).

⁵ See *Initiation Notice*.

Wujiang.⁶ On June 30, 2015, Neo Solar, DelSolar Taiwan, and DelSolar Wujiang timely responded to the Department's supplemental questionnaire.⁷

Scope of the Order

The merchandise covered by this order is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials. Merchandise covered by this order is currently classified in the Harmonized Tariff System of the United States ("HTSUS") under subheadings 8501.61.0000, 8507.20.80, 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 this order is dispositive.

A complete description of the scope of the order is contained in the Preliminary Decision Memorandum.⁸ The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>.

⁶ See Letter from Howard Smith, Program Manager, Office IV, "Supplemental Questionnaire in the Changed Circumstances Review of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China," dated June 4, 2015 ("Supplemental Questionnaire").

⁷ See Letter from Neo Solar, DelSolar Taiwan, and DelSolar Wujiang, "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China," dated June 30, 2015 ("Supplemental Questionnaire Response").

⁸ See "Decision Memorandum for the Preliminary Results of the Antidumping Duty Changed Circumstances Review of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Neo Solar Power Corporation and DelSolar Co., Ltd." dated concurrently and hereby adopted in this notice.

The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Methodology

In accordance with section 751(b)(1) of the Act, we are conducting this CCR based upon the information contained in the submissions of Neo Solar, DelSolar Taiwan, and DelSolar Wujiang.⁹ For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum.

Preliminary Results of the Changed Circumstances Review

Based on record evidence, we preliminarily determine that Neo Solar is not the successor-in-interest to DelSolar Taiwan. Specifically, we find that material changes occurred after DelSolar Taiwan merged with, and became part of, Neo Solar, including significant changes in management, the board of directors, and ownership. In addition, we find that Neo Solar did not demonstrate that its operations, with respect to the subject merchandise, were materially similar to the operations of DelSolar Taiwan when it comes to supplier relationships and customer base. Thus, we preliminarily determine that Neo Solar does not operate as the same business entity as DelSolar Taiwan with respect to the subject merchandise. A list of topics discussed in the Preliminary Decision Memorandum appears in the Appendix to this notice.

If the Department upholds these preliminary results in the final results, Neo Solar will be subject to the cash deposit rate currently assigned to the PRC-wide entity (*i.e.*, 238.95 percent).¹⁰

⁹ See CCR Request and Supplemental Questionnaire Response.

¹⁰ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2012–2013*, 80 FR 40998 (July 14, 2015).

Public Comment

Interested parties may submit case briefs no later than 14 days after the date of publication of these preliminary results of review in the *Federal Register*.¹¹ Rebuttal briefs, limited to issues raised in the case briefs, may be filed by no later than five days after the deadline for filing case briefs.¹² Parties that submit case or rebuttal briefs are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹³ All briefs are to be filed electronically using ACCESS.¹⁴ An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the day on which it is due.¹⁵

Any interested party may submit a request for a hearing to the Assistant Secretary of Enforcement and Compliance using ACCESS within 14 days of publication of this notice in the *Federal Register*.¹⁶ Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed.¹⁷ Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date of the hearing which will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.¹⁸

¹¹ See 19 CFR 351.309(c)(1)(ii). The Department has exercised its discretion under 19 CFR 351.309(c)(1)(ii) to alter the time limit for submission of case briefs.

¹² See 19 CFR 351.309(d)(1).

¹³ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁴ See 19 CFR 351.303(b).

¹⁵ *Id.*

¹⁶ See 19 CFR 351.310(c).

¹⁷ *Id.*

¹⁸ See 19 CFR 351.310(d).

Final Results of the Review

Unless extended, in accordance with 19 CFR 351.216(e), the Department intends to issue the final results of this changed circumstances review not later than 270 days after the date on which the review was initiated.

Notification to Parties

The Department is issuing and publishing these results in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216 and 351.221(c)(3)(i).

Dated: October 15, 2015.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
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- III. Scope of the Order
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 - Discussion of Methodology
 - Successor-in-Interest Analysis
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