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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 Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2014-2015

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

SUMMARY: The Department of Commerce (“the Department”) is conducting an administrative review 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”). The period of review (“POR”) is December 1, 2014 through November 30, 2015. The administrative review covers two mandatory respondents: (1) Canadian Solar International Limited, which we have preliminarily treated as a single entity with five affiliated companies identified below, and (2) the collapsed entity Trina Solar, consisting of Changzhou Trina Solar Energy Co., Ltd. and Trina Solar (Changzhou) Science & Technology Co., Ltd., which we have preliminarily continued to treat as a single entity with five additional affiliated companies identified below. The Department preliminarily finds that both mandatory respondents sold subject merchandise in the United States at prices below normal value (“NV”) during the POR. Interested parties are invited to comment on these preliminary results.

DATES: Effective (Insert date of publication in the Federal Register.)

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2769.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by the 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.¹ Merchandise covered by this order is classifiable under subheadings 8501.61.0000, 8507.20.80, 8541.40.6020, 8541.40.6030, and 8501.31.8000 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Preliminary Determination of No Shipments

Based on an analysis of U.S. Customs and Border Protection (“CBP”) information, and comments provided by a number of companies, the Department preliminarily determines that seven companies under review, BYD (Shangluo) Industrial Co., Ltd., Canadian Solar Inc., Dongguan Sunworth Solar Energy Co., Ltd., Hangzhou Sunny Energy Science and Technology Co., Ltd., Jiangsu High Hope Int’l Group, Wuxi Suntech Power Co., Ltd/Luoyang Suntech Power Co., Ltd., and Zhongli Talesun Solar Co. Ltd. each had no shipments during the POR. For additional information regarding this determination, see the Preliminary Decision Memorandum.

Consistent with an announced refinement to its assessment practice in non-market economy (“NME”) cases, the Department is not rescinding this review, in part, but intends to

¹ For a complete description of the scope of the order, see “Decision Memorandum for Preliminary Results of the 2014-2015 Antidumping Duty Administrative Review of Crystalline Silicon Photovoltaic Cells, Whether or not Assembled into Modules, From the People’s Republic of China” from Edward Yang, Senior Director, Office VII, Antidumping and Countervailing Operations, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, issued concurrently with and hereby adopted by this notice (“Preliminary Decision Memorandum”).

complete the review with respect to the companies for which it has preliminarily found no shipments and issue appropriate instructions to CBP based on the final results of the review.²

Preliminary Affiliation and Single Entity Determination

Based on record evidence, the Department preliminarily finds that Canadian Solar International Limited and the following five companies are affiliated pursuant to section 771(33)(F) of the Tariff Act of 1930, as amended (“the Act”), and should be treated as a single entity pursuant to 19 CFR 351.401(f)(1)-(2): Canadian Solar Manufacturing (Changshu), Inc., Canadian Solar Manufacturing (Luoyang), Inc., CSI Cells Co., Ltd., CSI-GCL Solar Manufacturing (YanCheng) Co., Ltd., and CSI Solar Power (China) Inc. (collectively, together with Canadian Solar International Limited, “Canadian Solar”). For additional information, see Preliminary Decision Memorandum at the section entitled “Single Entity Treatment” and the Canadian Solar Collapsing Memorandum.³

Furthermore, the Department preliminarily continues to find that Trina Solar, Yancheng Trina Solar Energy Technology Co., Ltd., Changzhou Trina Solar Yabang Energy Co., Ltd., Turpan Trina Solar Energy Co., Ltd., and Hubei Trina Solar Energy Co., Ltd. (collectively, “Trina”) are affiliated pursuant to section 771(33)(F) of the Act and should be treated as a single entity pursuant to 19 CFR 351.401(f)(1)-(2). This preliminary finding is based on record evidence showing that the facts and analysis that the Department relied upon in the 2013-2014 AD administrative review of solar cells from the PRC continue to be applicable during the

² See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694, 65694-95 (October 24, 2011) and the “Assessment Rates” section, below.

³ See the December 16, 2016 memorandum from Jeff Pedersen, International Trade Analyst, AD/CVD Operations Office IV to Abdelali Elouaradia, Director, AD/CVD Operations Office IV regarding “Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China: Affiliation and Single Entity Memorandum for Canadian Solar International Limited (“Canadian Solar Single Entity Memorandum”).

instant POR. For additional information, see the Preliminary Decision Memorandum at the section entitled “Single Entity Treatment.”

Use of Partial Facts Available (“FA”) and Partial Adverse Facts Available (“AFA”)

Certain unaffiliated tollers of inputs used by Canadian Solar and Trina to produce subject merchandise and unaffiliated suppliers of solar cells and/or solar modules to both respondents failed to provide FOP data. The Department preliminarily determines that it is appropriate to apply AFA, pursuant to section 776(b) of the Act, with respect to the unreported FOPs for purchased solar cells and solar modules. These unreported FOPs for solar cells and solar modules represent a material amount of necessary FOP information. However, in accordance with section 776(a)(1) of the Act, the Department is applying FA with respect to the unreported FOPs from the unaffiliated tollers. The record indicates that the tolled portions either represent relatively small percentages of the inputs consumed or the tollers only performed a relatively small portion of the total processing involved in producing the input. For details regarding these determinations, see the memoranda regarding unreported FOPs.

Separate Rates

The Department preliminarily determines that the information placed on the record by Canadian Solar and Trina, as well as by the other companies listed in the rate table in the “Preliminary Results of Review” section below, demonstrates that these companies are entitled to separate rate status. The Department calculated weighted-average dumping margins for Canadian Solar and Trina and calculated an all-others rate for the companies to which it granted separate rates status, but which it did not individually examine, as described in the Separate Rate Calculation Memorandum⁴ and the Preliminary Decision Memorandum.

⁴ See the memorandum from Jeff Pedersen International Trade Analyst, AD/CVD Operations, Office IV to Howard Smith Program Manager, AD/CVD Operations, Office IV entitled “2014-2015 Administrative Review of the

On the other hand, the Department preliminarily determines that the following companies have not demonstrated their entitlement to separate rates status because either they did not file a separate rate application or certification with the Department:

1. Jiangsu Sunlink PV Technology Co., Ltd.
2. Ningbo Hisheen Electrical Co., Ltd.
3. Shenzhen Glory Industries Co., Ltd.

The Department treated the companies which it did not grant separate rates status as part of the PRC-wide entity. Because no party requested a review of the PRC-wide entity, the entity is not under review and the entity's rate (i.e., 238.95 percent) is not subject to change.⁵ For additional information regarding the Department's separate rates determinations, see the Preliminary Decision Memorandum.

Methodology

The Department conducted this review in accordance with section 751(a)(1)(B) of the Act. The Department preliminarily determined that both respondents' reported U.S. sales were constructed export price ("CEP") sales and calculated CEPs in accordance with section 772 of the Act. Given that the PRC is an NME country, within the meaning of section 771(18) of the Act, the Department calculated NV in accordance with section 773(c) of the Act.

For a full description of the methodology underlying the preliminary results of this review, see the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS").

Antidumping Duty Order on Crystalline Silicon Photovoltaic Cells, Whether or not Assembled into Modules, from the People's Republic of China: Calculation of the Dumping Margin for Respondents Not Selected for Individual Examination," dated concurrently with this notice.

⁵ 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; 2013– 2014, 81 FR 39905, 39908 (June 20, 2016) ("AR2 Final Results").

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 found at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist for the POR:

Exporter	Weighted-Average Dumping Margin (Percent)
Canadian Solar International Limited/ Canadian Solar Manufacturing (Changshu), Inc./Canadian Solar Manufacturing (Luoyang)Inc./CSI Cells Co., Ltd./CSI-GCL Solar Manufacturing (YanCheng) Co., Ltd./CSI Solar Power (China) Inc.	30.42
Changzhou Trina Solar Energy Co., Ltd./ Trina Solar (Changzhou) Science and Technology Co., Ltd./Yancheng Trina Solar Energy Technology Co., Ltd./Changzhou Trina Solar Yabang Energy Co., Ltd./Turpan Trina Solar Energy Co., Ltd./Hubei Trina Solar Energy Co., Ltd.	7.72
Chint Solar (Zhejiang) Co., Ltd.	13.97
ERA Solar Co., Ltd.	13.97
ET Solar Energy Limited	13.97
Hengdian Group DMEGC Magnetics Co., Ltd.	13.97
JA Solar Technology Yangzhou Co., Ltd.	13.97
Jiawei Solarchina (Shenzhen) Co., Ltd.	13.97
Jiawei Solarchina Co., Ltd.	13.97
JingAo Solar Co., Ltd.	13.97
Lightway Green New Energy Co., Ltd.	13.97
Ningbo ETDZ Holdings, Ltd.	13.97
Risen Energy Co., Ltd.	13.97
Shanghai BYD Co., Ltd.	13.97
Shanghai JA Solar Technology Co., Ltd.	13.97
Shenzhen Sungold Solar Co., Ltd.	13.97

Shenzhen Topray Solar Co., Ltd.	13.97
Star Power International Limited	13.97
Systemes Versilis, Inc.	13.97
Taizhou BD Trade Co., Ltd.	13.97
tenKsolar (Shanghai) Co., Ltd.	13.97
Toenergy Technology Hangzhou Co., Ltd.	13.97
Wuxi Tianran Photovoltaic Co., Ltd.	13.97
Yingli Energy (China) Company Limited/Baoding Tianwei Yingli New Energy Resources Co., Ltd./Tianjin Yingli New Energy Resources Co., Ltd./Hengshui Yingli New Energy Resources Co., Ltd./Lixian Yingli New Energy Resources Co., Ltd./Baoding Jiasheng Photovoltaic Technology Co., Ltd./Beijing Tianneng Yingli New Energy Resources Co., Ltd./Hainan Yingli New Energy Resources Co., Ltd./ Shenzhen Yingli New Energy Resources Co., Ltd.	13.97
Zhejiang Era Solar Technology Co., Ltd.	13.97
Zhejiang Sunflower Light Energy Science & Technology Limited Liability Company	13.97

Disclosure and Public Comment

The Department intends to disclose to parties the calculations performed for these preliminary results of review within five days of the date of publication of this notice in the Federal Register in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review.⁶ Rebuttal briefs may be filed no later than five days after case briefs are due and may respond only to arguments raised in the case briefs.⁷ A table of contents, list of authorities used, and an executive summary of issues should accompany any briefs submitted to the Department. The summary should be limited to five pages total, including footnotes.⁸

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30

⁶ See 19 CFR 351.309(c)(ii).

⁷ See 19 CFR 351.309(d).

⁸ See 19 CFR 351.309(c)(2), (d)(2).

days after the date of publication of this notice.⁹ Requests should contain the party's name, address, and telephone number, the number of participants in, and a list of the issues to be discussed at, the hearing. Oral arguments at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date and time to be determined.¹⁰ Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date of the hearing.

All submissions, with limited exceptions, must be filed electronically using ACCESS.¹¹ An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5 p.m. Eastern Time ("ET") on the due date. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with the APO/Dockets Unit in Room 18022 and stamped with the date and time of receipt by 5 p.m. ET on the due date.¹²

Unless otherwise extended, the Department intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any briefs, within 120 days of publication of these preliminary results of review, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results of this review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.¹³ The

⁹ See 19 CFR 351.310(c).

¹⁰ See 19 CFR 351.310(d).

¹¹ See generally 19 CFR 351.303.

¹² See 19 CFR 351.303 (for general filing requirements); Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures, 76 FR 39263 (July 6, 2011).

¹³ See 19 CFR 351.212(b)(1).

Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. For each individually examined respondent in this review whose weighted-average dumping margin in the final results of review is not zero or de minimis (i.e., less than 0.5 percent), the Department intends to calculate importer-specific assessment rates, in accordance with 19 CFR 351.212(b)(1).¹⁴ Where the respondent reported reliable entered values, the Department intends to calculate importer-specific ad valorem assessment rates by aggregating the amount of dumping calculated for all U.S. sales to the importer and dividing this amount by the total entered value of the sales to the importer.¹⁵ Where the importer did not report entered values, the Department intends to calculate an importer-specific assessment rate by dividing the amount of dumping for reviewed sales to the importer by the total sales quantity associated with those transactions. In addition, the Department will calculate an estimated *ad valorem* importer-specific assessment rate to determine whether this rate is de minimis, however, the Department will direct CBP to assess importer-specific assessment rates based on the resulting per-unit rates, where appropriate.¹⁶ Where an importer-specific ad valorem assessment rate is not zero or de minimis, the Department will instruct CBP to collect the appropriate duties at the time of liquidation. Where either the respondent's weighted average dumping margin is zero or de minimis, or an importer-specific ad valorem assessment rate is zero or de minimis, the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.¹⁷

Pursuant to Departmental practice, for entries that were not reported in the U.S. sales database submitted by an exporter individually examined during this review, the Department

¹⁴ See Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification, 77 FR 8101 (February 14, 2012) ("Final Modification").

¹⁵ See 19 CFR 351.212(b)(1).

¹⁶ Id.

¹⁷ See Final Modification, 77 FR at 8103.

will instruct CBP to liquidate such entries at the rate for the PRC-wide entity.¹⁸ Additionally, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's CBP case number will be liquidated at the rate for the PRC-wide entity.

In accordance with section 751(a)(2)(C) of the Act, the final results of this review shall be the basis for the assessment of antidumping duties on POR entries and for future deposits of estimated antidumping duties, where applicable.

Cash Deposit Requirements

The Department will instruct CBP to require a cash deposit for antidumping duties equal to the weighted-average amount by which NV exceeds U.S. price. The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided by section 751(a)(2)(C) of the Act: (1) for the exporters listed above, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review (except, if the rate is de minimis (i.e., less than 0.5 percent), then the cash deposit rate will be zero for that exporter); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the PRC-wide entity (i.e., 238.95 percent¹⁹) and (4) for all non-PRC exporters of subject merchandise that have not received their own rate, the cash deposit rate

¹⁸ See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011), for a full discussion of this practice.

¹⁹ See AR2 Final Results, 81 FR 39908.

will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties and/or countervailing duties has occurred, and the subsequent assessment of double antidumping duties and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213 and 351.221(b)(4).

Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

December 16, 2016

Date

Appendix -- List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Preliminary Determination of No Shipments
5. Selection of Respondents
6. Single Entity Treatment
7. Discussion of the Methodology
 - a. NME Country
 - b. Separate Rates
 - c. Application of Partial FA and AFA
 - d. Surrogate Country
 - e. Date of Sale
 - f. Fair Value Comparisons
 - g. U.S. Price
 - h. Normal Value
 - i. Section 777A(f) of the Act
 - j. Currency Conversion
8. Conclusion

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