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DEPARTMENT OF COMMERCE
International Trade Administration

A-570-010, C-570-011, A-583-853

Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China and from Taiwan: Preliminary Results of Changed Circumstances Reviews, and Intent to Revoke Antidumping Duty Orders and Countervailing Duty Order in Part

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

SUMMARY: On April 20, 2016, the Department of Commerce (the "Department") received a request for revocation, in part, of the antidumping duty ("AD") and countervailing duty ("CVD") orders on certain crystalline silicon photovoltaic products from the People's Republic of China ("PRC") and the AD order on certain crystalline silicon photovoltaic products from Taiwan (collectively "*Orders*") with respect to certain solar panels. We preliminarily determine that the producers accounting for substantially all of the production of the domestic like product to which the *Orders* pertain lack interest in the relief provided by the *Orders* with respect to certain solar panels that are incorporated in the battery charging and maintaining units described below. Accordingly, we intend to revoke, in part, the *Orders* as to imports of certain solar panels that are incorporated in the battery charging and maintaining units, as described below. The Department invites interested parties to comment on these preliminary results.

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

FOR FURTHER INFORMATION CONTACT: Magd Zalok or Howard Smith, AD/CVD

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(202) 482-4162 or (202) 482-5193, respectively.

Background

On February 18, 2015, the Department published an AD order on crystalline silicon photovoltaic products from Taiwan, and AD and CVD orders on crystalline silicon photovoltaic products from the PRC in the *Federal Register*.¹ On April 20, 2016, the Department received a request on behalf of PulseTech Products Corporation (“PulseTech”) for changed circumstances reviews to revoke, in part, the *Orders* with respect to certain stand-alone solar panels and certain solar panels incorporated in a specific type of battery charging and maintaining unit.² In subsequent submissions filed between May 12, 2016, and September 2, 2016, PulseTech modified the description of the exclusion request for solar panels incorporated in battery charging and maintaining units. On September 6, 2016, SolarWorld Americas, Inc. (“Petitioner”) stated that it agrees with the scope exclusion language proposed by PulseTech.³ Ultimately, PulseTech withdrew its request for changed circumstances reviews with respect to the stand-alone solar panels not incorporated in battery charging and maintaining units.⁴

On November 2, 2016, the Department published the notice of initiation of the requested changed circumstances reviews.⁵ Because the statement submitted by Petitioner in support of PulseTech’s Request did not indicate whether Petitioner accounts for substantially all of the domestic production of crystalline silicon photovoltaic products, in the *Initiation Notice*, we

¹ See *Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China: Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 80 FR 8592 (Feb. 18, 2015); see also *Certain Crystalline Silicon Photovoltaic Products from Taiwan: Antidumping Duty Order*, 80 FR 8596 (Feb. 18, 2015).

² See April 20, 2016 letter from PulseTech Products Corporation Re: Resubmission of Requests for Changed Circumstances Review – Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China and from Taiwan (“PulseTech’s Request”).

³ See September 6, 2016 letter from Petitioner Re: Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China and Taiwan: Changed Circumstances Review Request – Letter of No Opposition.

⁴ See PulseTech’s October 28, 2016 submission.

⁵ See *Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China and from Taiwan: Notice of Initiation of Changed Circumstances Reviews, and Consideration of Revocation of the Antidumping and Countervailing Duty Orders in Part*, 81 FR 78967 (Nov. 10, 2016) (“*Initiation Notice*”).

invited interested parties to submit comments concerning industry support for the potential revocation, in part, as well as comments and/or factual information regarding the changed circumstances reviews. No comments or factual information were submitted by any party.

Scope of the AD and CVD Orders on Certain Crystalline Silicon Photovoltaic Products from the PRC

The merchandise covered by these orders are 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 orders, subject merchandise includes modules, laminates and/or panels assembled in the PRC consisting of crystalline silicon photovoltaic cells produced in a customs territory other than the PRC.

Subject merchandise includes modules, laminates and/or panels assembled in the PRC consisting of 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 orders 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 orders are modules, laminates and/or panels assembled in the PRC, consisting of 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 cells. Where more than one module, laminate and/or panel is

permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all modules, laminates and/or panels that are integrated into the consumer good. Further, also excluded from the scope of these orders are any products covered by the existing antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, laminates and/or panels, from the PRC.⁶

Merchandise covered by these orders is currently classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) under subheadings 8501.61.0000, 8507.20.8030, 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 this order is dispositive.

Scope of the AD Order on Certain Crystalline Silicon Photovoltaic Products from Taiwan

The merchandise covered by this order 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.

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.

⁶ 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 (Dec. 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 (Dec. 7, 2012).

Modules, laminates, and panels produced in a third-country from cells produced in Taiwan are covered by this order. However, modules, laminates, and panels produced in Taiwan from cells produced in third-country are not covered by this order.

Excluded from the scope of this order 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 this order 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 cells. 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.

Further, also excluded from the scope of this order 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 PRC.⁷ Also excluded from the scope of this order are modules, laminates, and panels produced in the PRC from crystalline silicon photovoltaic cells produced in Taiwan that are covered by an existing proceeding on such modules, laminates, and panels from the PRC.

Merchandise covered by this order are currently classified in the HTSUS under subheadings 8501.61.0000, 8507.20.8030, 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

⁷ 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 (Dec. 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 (Dec. 7, 2012).

convenience and customs purposes; the written description of the scope of this order is dispositive.

Scope of Changed Circumstances Reviews

PulseTech requests that the Department revoke the *Orders*, in part, to exclude certain solar panels incorporated in battery charging and maintaining units, as described below. The solar panels subject to PulseTech' request are:

(1) less than 300,000 mm² in surface area; (2) less than 27.1 watts in power; (3) coated across their entire surface with a polyurethane doming resin; and (4) joined to a battery charging and maintaining unit (which is an acrylonitrile butadiene styrene (“ABS”) box that incorporates a light emitting diode (“LED”)) by coated wires that include a connector to permit the incorporation of an extension cable. The battery charging and maintaining unit utilizes high-frequency triangular pulse waveforms designed to maintain and extend the life of batteries through the reduction of lead sulfate crystals. The above-described battery charging and maintaining unit is currently available under the registered trademark “SolarPulse.”

Preliminary Results of Changed Circumstances Reviews, and Intent to Revoke the *Orders*, in Part

Pursuant to section 751(d)(1) of the Tariff Act of 1930, as amended (the “Act”), and 19 CFR 351.222(g), the Department may revoke an AD or CVD order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 782(h)(2) of the Act gives the Department the authority to revoke an order if producers accounting for

substantially all of the production of the domestic like product have expressed a lack of interest in the order. Section 351.222(g) of the Department's regulations provides that the Department will conduct a changed circumstances review under 19 CFR 351.216, and may revoke an order (in whole or in part), if it concludes that: (i) producers accounting for substantially all of the production of the domestic like product to which the order pertains have expressed a lack of interest in the relief provided by the order, in whole or in part; or (ii) if other changed circumstances sufficient to warrant revocation exist. Both the Act and the Department's regulations require that "substantially all" domestic producers express a lack of interest in the order for the Department to revoke the order, in whole or in part.⁸ The Department has interpreted "substantially all" to represent producers accounting for at least 85 percent of U.S. production of the domestic like product.⁹

The Department's regulations do not specify a deadline for the issuance of the preliminary results of a changed circumstances review, but provide that the Department will issue the final results of review within 270 days after the date on which the changed circumstances review is initiated.¹⁰ The Department did not issue a combined notice of initiation and preliminary results. As discussed above, the statement provided by Petitioner and offered in support of PulseTech's Request did not indicate whether Petitioner accounts for substantially all domestic production of certain crystalline silicon photovoltaic products.¹¹ Thus, the Department did not determine in the *Initiation Notice* that producers accounting for substantially all of the production of the domestic like product lacked interest in the continued application of the *Orders*

⁸ See section 782(h) of the Act and 19 CFR 351.222(g).

⁹ See *Honey from Argentina; Antidumping and Countervailing Duty Changed Circumstances Reviews; Preliminary Intent to Revoke Antidumping and Countervailing Duty Orders*, 77 FR 67790, 67791 (November 14, 2012), unchanged in *Honey From Argentina; Final Results of Antidumping and Countervailing Duty Changed Circumstances Reviews; Revocation of Antidumping and Countervailing Duty Orders*, 77 FR 77029 (December 31, 2012).

¹⁰ 19 CFR 351.216(e).

¹¹ See *Initiation Notice*.

as to the certain solar panels under consideration here. Further, the Department requested interested party comments on the issue of domestic industry support of a potential partial revocation of the *Orders*.¹² The Department received no comments concerning a lack of industry support with respect to these changed circumstances reviews.

As noted in the *Initiation Notice*, PulseTech requested revocation of the *Orders*, in part, and supported its request. In light of PulseTech's Request, Petitioner's agreement with the scope exclusion language proposed by PulseTech, and in the absence of any interested party comments received during the comment period, we preliminarily conclude that changed circumstances warrant revocation of the *Orders*, in part, because the producers accounting for substantially all of the production of the domestic like product to which the *Orders* pertain lack interest in the relief provided by the *Orders* with respect to certain solar panels incorporated in battery charging and maintaining units, as described above. We will consider comments from interested parties on these preliminary results of reviews before issuing the final results of these reviews.¹³

Accordingly, we are notifying the public of our intent to revoke the *Orders*, in part. We intend to carry out this revocation by including the following exclusion language in the scope of each of the *Orders*:

Additionally, excluded from the scope of the order are solar panels that are: (1) less than 300,000 mm² in surface area; (2) less than 27.1 watts in power; (3) coated across their entire surface with a polyurethane doming resin; and (4) joined to a battery charging and

¹² *Id.*

¹³ See, e.g., *Honey from Argentina; Antidumping and Countervailing Duty Changed Circumstances Reviews; Preliminary Intent to Revoke Antidumping and Countervailing Duty Orders*, 77 FR 67790, 67791 (November 14, 2012); *Aluminum Extrusions from the People's Republic of China: Preliminary Results of Changed Circumstances Reviews, and Intent to Revoke Antidumping and Countervailing Duty Orders in Part*, 78 FR 66895 (November 7, 2013); see also 19 CFR 351.222(g)(1)(v).

maintaining unit (which is an acrylonitrile butadiene styrene (“ABS”) box that incorporates a light emitting diode (“LED”)) by coated wires that include a connector to permit the incorporation of an extension cable. The battery charging and maintaining unit utilizes high-frequency triangular pulse waveforms designed to maintain and extend the life of batteries through the reduction of lead sulfate crystals. The above-described battery charging and maintaining unit is currently available under the registered trademark “SolarPulse.”

If we make a final determination to revoke the *Orders* in part, then the Department will apply this determination to each order as follows. If, at the time of the final determinations, there have been no completed administrative reviews of an order, then the partial revocation will be applied to unliquidated entries of merchandise subject to the changed circumstances review that were entered or withdrawn from warehouse, for consumption, on or after the date that corresponds to the date suspension of liquidation first began in the relevant proceeding.¹⁴ If, at the time of the final determinations, there have been completed administrative reviews of an order, then the partial revocation will be retroactively applied to unliquidated entries of merchandise subject to the changed circumstances reviews that were entered or withdrawn from warehouse, for consumption, on or after the day following the last day of the period covered by the most recently completed administrative review of the applicable order. Specifically, under this scenario, the partial revocation for merchandise subject to the AD orders would be applied retroactively to unliquidated entries of merchandise entered or withdrawn from warehouse, for consumption, on or after February 1, 2016, and the partial revocation for merchandise subject to

¹⁴ Suspension of liquidation first began for merchandise subject to the CVD order on June 10, 2014; suspension of liquidation first began for merchandise subject to the AD orders on July 31, 2014.

the CVD order would be applied retroactively to unliquidated entries of merchandise entered or withdrawn from warehouse, for consumption, on or after January 1, 2016, as applicable.

Public Comment

Interested parties are invited to comment on these preliminary results of reviews in accordance with 19 CFR 351.309(c)(1)(ii). Case briefs may be submitted no later than 14 days after the date of publication of these preliminary results.¹⁵ Rebuttals to case briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the due date for case briefs.¹⁶ All submissions must be filed electronically using Enforcement and Compliance's AD and CVD Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at <http://access.trade.gov> and in the Central Records Unit, room B8024 of the main Department of Commerce building. An electronically filed document must be received successfully in its entirety by ACCESS, by 5 p.m. Eastern Time on the day it is due.

Any interested party may request a hearing within 14 days of publication of this notice.¹⁷ 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. Oral presentations at the hearing 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 for the hearing to be held at the U.S.

Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230 in a room to be determined.¹⁸

¹⁵ The Department is altering the deadline for the submission of case briefs, as authorized by 19 CFR 351.309(c)(1)(ii).

¹⁶ The Department is altering the deadline for the submission of rebuttal briefs, as authorized by 19 CFR 351.309(d)(1).

¹⁷ The Department is exercising its discretion under 19 CFR 351.310(c) to alter the time limit for requesting a hearing.

¹⁸ See 19 CFR 351.310(d).

The Department intends to issue the final results of these changed circumstances reviews, which will include its analysis of any written comments received, no later than 270 days after the date on which these reviews were initiated.

If, in the final results of these reviews, the Department continues to determine that changed circumstances warrant the revocation of the *Orders*, in part, we will instruct U.S. Customs and Border Protection to liquidate without regard to AD or CVD duties, and to refund any estimated AD or CVD duties, on all unliquidated entries of the merchandise covered by the revocation that are not covered by the final results of an administrative review or automatic liquidation.

The current requirement for cash deposits of estimated AD and CVD duties on all entries of subject merchandise will continue unless they are modified pursuant to the final results of these changed circumstances reviews.

These preliminary results of reviews and notice are in accordance with sections 751(b) and 777(i) of the Act and 19 CFR 351.221 and 19 CFR 351.222.

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

February 9, 2017

Date
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