



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-979, A-570-010]

Initiation and Preliminary Results of Changed Circumstances Reviews: Antidumping Duty Orders on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China and Antidumping Duty Order on Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China

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

SUMMARY: The Department of Commerce (the "Department") is simultaneously initiating and issuing the preliminary results of changed circumstances reviews ("CCRs") of the antidumping duty ("AD") orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, ("solar cells") from the People's Republic of China ("PRC") and certain crystalline silicon photovoltaic products ("solar products") from the PRC. The Department initiated these CCRs to determine whether Hanwha Q CELLS (Qidong) Co. Ltd. ("Q CELLS Qidong") is the successor-in-interest to Hanwha SolarOne (Qidong) Co., Ltd. ("SolarOne Qidong") with respect to the AD orders on solar cells and solar products from the PRC and to determine whether Hanwha Q CELLS Hong Kong Limited ("Q CELLS Hong Kong") is the successor-in-interest to SolarOne Hong Kong Limited ("SolarOne Hong Kong") with respect to the AD order on solar products from the PRC. For the reasons noted below, we did not initiate the requested CCR to determine whether Q CELLS Hong Kong is the successor-in-interest to SolarOne Hong Kong with respect to the AD order on solar cells from the PRC. Based on the information on the record, we preliminarily determine that Q CELLS Qidong is the successor-in-interest to SolarOne Qidong for purposes of the AD orders on solar cells and solar products from the PRC

and that Q CELLS Hong Kong is the successor-in-interest to SolarOne Hong Kong for purposes of the AD order on solar products from the PRC. As such, Q CELLS Hong Kong and Q CELLS Qidong are entitled to SolarOne Hong Kong and SolarOne Qidong's cash deposit rates, respectively, with respect to U.S. entries of merchandise subject to the orders noted above. Interested parties are invited to comment on these preliminary results.

DATES: Effective (INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.)

FOR FURTHER INFORMATION CONTACT: Eli Lovely, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-1593.

SUPPLEMENTARY INFORMATION:

Background

On December 7, 2012, the Department published the AD order on solar cells from the PRC in the *Federal Register*.¹ On February 18, 2015, the Department published the AD order on solar products from the PRC in the *Federal Register*.² On September 8, 2016, the Department received a request on behalf of Q CELLS Hong Kong and Q CELLS Qidong for expedited CCRs to establish Q CELLS Hong Kong as the successor-in-interest to SolarOne Hong Kong and to establish Q CELLS Qidong as the successor-in-interest to SolarOne Qidong for purposes of the of the AD orders on solar cells and solar products from the PRC.³ On October 11, 2016,

¹ 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) (“Solar Cells Order”).

² 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 (February 18, 2015) (“Solar Products Order”).

³ See Letter from Q CELLS Hong Kong and Q CELLS Qidong to the Department regarding, “Changed Circumstances Review Request” (September 8, 2016) (“CCR Request”).

SolarWorld Americas, Inc. (“Petitioner”) submitted comments on Q CELLS Hong Kong and Q CELLS Qidong’s CCR request.⁴

Scope of the Orders

The merchandise covered by the Solar Cells 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.⁵ Imports of the merchandise subject to the Solar Cells Order are currently classified under the following subheadings of the Harmonized Tariff Schedule of the United States (“HTSUS”): 8501.61.0000, 8507.20.80, 8541.40.6020, 8541.40.6030, and 8501.31.8000.

The merchandise covered by the Solar Products Order is 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 modules, laminates and/or panels assembled in the PRC consisting of crystalline silicon photovoltaic cells produced in a customs territory other than the PRC.⁶ Imports of the merchandise subject to the Solar Products Order are currently classified under the following subheadings of the HTSUS: 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 these

⁴ See Letter from SolarWorld Americas, Inc. to the Department regarding, “Comments on Hanwha Q Cells Hong Kong Limited and Hanwha Q CELLS (Qidong) Co., Ltd.’s Request for a Changed Circumstances Review” (October 12, 2016) (“Petitioner’s Comments”).

⁵ For a complete description of the Scope of the Order, see Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, from James Maeder, Senior Director, Office I, for Antidumping and Countervailing Duty Operations, “Initiation and Preliminary Results of Changed Circumstances Reviews: Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China and Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China,” (“Preliminary Decision Memorandum”) dated concurrently with, and adopted by, this notice.

⁶ Id.

orders is dispositive. For the full scopes of these orders, see the accompanying Preliminary Decision Memorandum.

Initiation of Changed Circumstances Reviews

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (“the Act”) and 19 CFR 351.216(d), the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from an interested party for a review of, an order which shows changed circumstances sufficient to warrant a review of the order. In the past, the Department has used changed circumstances reviews to consider the applicability of cash deposit rates after there have been changes in the name or structure of a respondent, such as a merger or spinoff (“successor-in-interest,” or “successorship,” determinations).⁷

While Q CELLS Hong Kong requested a CCR with respect to the solar cells proceeding in order to receive SolarOne Hong Kong’s AD cash deposit rate, SolarOne Hong Kong did not receive its own cash deposit rate in the solar cells proceeding but was treated as part of the PRC-wide entity. Therefore, entries of its subject merchandise into the United States receive the PRC-wide entity cash deposit rate.⁸ Accordingly, for purposes of the Solar Cells Order, there is no separate rate for which Q CELLS Hong Kong could be eligible, thus, we have not initiated the requested review of Q CELLS Hong Kong with respect to the Solar Cells Order.

⁷ See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Changed Circumstances Review, 81 FR 91909 (December 19, 2016).

⁸ See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Affirmative Preliminary Determination of Critical Circumstances, 77 FR 31309 (May 25, 2012), unchanged in Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Affirmative Final Determination of Critical Circumstances, in Part, 77 FR 63791 (October 17, 2012). In subsequent reviews, SolarOne Hong Kong did not receive a separate rate. 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), and 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 (June 20, 2016).

However, consistent with Department practice, the information submitted by Q CELLS Hong Kong with respect to the solar products proceeding and the information submitted by Q CELLS Qidong with respect to the solar cells and solar products proceedings, which includes information regarding a name change, demonstrates changed circumstances sufficient to warrant CCRs with respect to these companies and orders.⁹ In the case of the Solar Products Order, the CCR requests were filed less than 24 months after the date of publication of the notice of final determination in the solar products investigation. However, pursuant to 19 CFR 351.216(c), the Department finds that good cause exists to initiate these CCRs. In particular, we find that Q CELLS Hong Kong and Q CELLS Qidong have properly alleged and demonstrated good cause for initiating early CCRs in the case of solar products, along with the initiation with respect to Q CELLS Qidong in the case of solar cells, on the grounds of fairness and ease of administration.

Therefore, in accordance with section 751(b)(1) of the Act and 19 CFR 351.216(d), the Department is initiating CCRs to determine whether Q CELLS Hong Kong is the successor-in-interest to SolarOne Hong Kong for purposes of the AD order on solar products from the PRC, and to determine whether Q CELLS Qidong is the successor-in-interest to SolarOne Qidong for purposes of the AD orders on solar cells and solar products from the PRC.

Preliminary Determination

When it concludes that expedited action is warranted, the Department may combine the notice of initiation of the CCR and the preliminary results of the CCR in a single notice.¹⁰ The Department has combined the notice of initiation and the notice of preliminary results in successor-in-interest CCRs when sufficient documentation has been provided supporting the

⁹ See 19 CFR 351.216(d).

¹⁰ See 19 CFR 351.221(c)(3)(ii).

request for a CCR.¹¹ In this instance, we have on the record the information necessary to make a preliminary finding with respect to Q CELLS Hong Kong and the Solar Products Order and Q CELLS Qidong and the Solar Cells and Solar Products Orders. Thus, we find that expedited action is warranted with respect to the CCR Requests regarding these companies and orders, and we are combining the notice of initiation and the notice of preliminary results in one notice, in accordance with 19 CFR 351.221(c)(3)(ii).

In determining whether one company is the successor to another for purposes of AD cash deposits, the Department examines a number of factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) suppliers; and (4) customer base.¹² While no one, or several, of these factors will necessarily provide a dispositive indication of succession, the Department will generally consider one company to be the successor to another company if its resulting operation is essentially the same as that of its predecessor.¹³ Thus, if the evidence demonstrates that, with respect to the production and sale of subject merchandise, the new company operates as essentially the same business entity as the prior company, the Department will assign the new company the cash deposit rate of its predecessor.¹⁴

In their September 8, 2016, CCR Requests, Q CELLS Hong Kong and Q CELLS Qidong provided evidence for the Department to determine preliminarily their status as successors-in-interest to SolarOne Hong Kong for purposes of the AD order on solar products from the PRC

¹¹ See, e.g., Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada, 70 FR 50299 (August 26, 2005), unchanged in final.

¹² See e.g., Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Multilayered Wood Flooring from the People's Republic of China, 79 FR 48117, 48118 (August 15, 2014), unchanged in Multilayered Wood Flooring from the People's Republic of China: Final Results of Changed Circumstances Review, 79 FR 58740 (September 30, 2014).

¹³ Id.

¹⁴ See Notice of Final Results of Changed Circumstances Review: Polychloroprene Rubber from Japan, 69 FR 67890 (November 22, 2004) citing, Brass Sheet and Strip from Canada: Notice of Final Results of Antidumping Duty Administrative Review, 57 FR 20460 (May 13, 1992); and, Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Initiation of Antidumping Duty Changed Circumstance Review, 70 FR 17063 (April 4, 2005).

and SolarOne Qidong for purposes of the AD orders on solar products and solar cells from the PRC, respectively. Specifically, Q CELLS Hong Kong and Q CELLS Qidong demonstrated that their operations are essentially the same as when they operated under the names SolarOne Hong Kong and SolarOne Qidong, respectively.¹⁵

In February 2015, Hanwha SolarOne Co., Ltd. acquired 100 percent of the outstanding shares of another company named Q CELLS. Hanwha SolarOne Co., Ltd. is the parent entity of SolarOne Hong Kong and SolarOne Qidong. In connection with the transaction, the name of Hanwha SolarOne Co., Ltd. was changed to Hanwha Q CELLS Co., Ltd., SolarOne Hong Kong assumed the name Q CELLS Hong Kong, and SolarOne Qidong assumed the name Q CELLS Qidong. Other than the name changes, there were no significant changes to ownership, management, or operations of the companies.¹⁶ Q CELLS Hong Kong does not have production facilities; rather it purchased solar modules from Q CELLS Qidong. This was also the case when Q CELLS Hong Kong operated under the name SolarOne Hong Kong and purchased solar modules from SolarOne Qidong. Q CELLS Qidong has maintained the same production facilities that were previously under the name of its predecessor company, SolarOne Qidong.¹⁷ Q CELLS Hong Kong and Q CELLS Qidong also provided documentation showing that there have been no material changes in supplier relationships, or their customer bases as a result of the name changes.¹⁸ Based on the foregoing, which is explained in greater detail in the Preliminary Decision Memorandum, the Department preliminarily determines that Q CELLS Hong Kong is the successor-in-interest to SolarOne Hong Kong for purposes of the AD order on solar products

¹⁵ See generally, CCR Request

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

from the PRC, and that Q CELLS Qidong is the successor-in-interest to SolarOne Qidong for purposes of the AD orders on solar cells and solar products from the PRC.

Should our final results of review remain the same as these preliminary results of review, effective the date of publication of the final results of review, we will instruct U.S. Customs and Border Protection to suspend liquidation of entries of solar products exported by Q CELLS Hong Kong at the AD cash-deposit rate applicable to SolarOne Hong Kong, and to suspend liquidation of entries of solar products and solar cells exported by Q CELLS Qidong at the AD cash-deposit rates applicable to SolarOne Qidong.¹⁹

Public Comment

Interested parties may submit case briefs not later than 14 days after the date of publication of this notice.²⁰ Rebuttal briefs, which must be limited to issues raised in case briefs, may be filed not later than seven days after the due date for case briefs.²¹ Parties who submit case briefs or rebuttal briefs in these CCRs are requested to submit with each argument: (1) a statement of the issues filed in the solar products and solar cells proceedings and (2) a brief summary of the arguments filed in the solar products and solar cells proceedings with electronic versions included.

¹⁹ SolarOne Hong Kong and SolarOne Qidong's separate rates in both orders are combination rates. In the solar products antidumping duty proceeding, SolarOne Hong Kong's separate rate is classified under case number A-570-010-017, where SolarOne Hong Kong is identified as the exporter and SolarOne Qidong is identified as the manufacturer. In the same proceeding, SolarOne Qidong has a separate rate classified under case number A-570-010-016, where SolarOne Qidong is identified as the exporter and manufacturer. In the solar cells proceeding, SolarOne Hong Kong does not have a separate rate and SolarOne Qidong has a separate rate, classified under case number A-570-979-014, where SolarOne Qidong is identified as the exporter and manufacturer. If the Department maintains its preliminary findings in the final results of these CCRs, in updating these combination rates, we intend to revise both the names of the exporters and manufacturer consistent with our preliminary finding that Q CELLS Hong Kong and Q CELLS Qidong are the successors-in-interest to SolarOne Hong Kong and SolarOne Qidong, respectively.

²⁰ The Department is exercising its discretion under 19 CFR 351.309(c)(1)(ii) to alter the time limit for the filing of case briefs.

²¹ The Department is exercising its discretion under 19 CFR 351.309(d)(1) to alter the time limit for the filing of rebuttal briefs.

Any interested party may request a hearing within 14 days of publication of this notice.²² 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.²³

All submissions, with limited exceptions, must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS").²⁴ An electronically filed document must be received successfully in its entirety 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.²⁵

Consistent with 19 CFR 351.216(e), we intend to issue the final results of these CCRs no later than 270 days after the date on which these reviews were initiated or within 45 days if all parties agree to the outcome of the reviews.

²² The Department is exercising its discretion under 19 CFR 351.310(c) to alter the time limit for requesting a hearing.

²³ See 19 CFR 351.310(d).

²⁴ ACCESS is available to registered users at <https://access.trade.gov> and available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building.

²⁵ See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures, 76 FR 39263 (July 6, 2011).

We are issuing and publishing this initiation and preliminary results notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216 and 351.221(c)(3).

Dated: February 24, 2017

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

[FR Doc. 2017-04265 Filed: 3/3/2017 8:45 am; Publication Date: 3/6/2017]