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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-011]

Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review and Preliminary Intent to Rescind, in Part; 2014-2015

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of crystalline silicon photovoltaic products (solar products), from the People's Republic of China (PRC). The period of review (POR) is June 10, 2014, through December 31, 2015. Interested parties are invited to comment on these preliminary results.

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

FOR FURTHER INFORMATION CONTACT: Joseph Traw, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6079.

SUPPLEMENTARY INFORMATION:

Background

On February 18, 2015, the Department issued a countervailing duty (CVD) order on solar products from the PRC.¹ Several interested parties requested that the Department conduct an administrative review of the countervailing duty order, and on April 7, 2016, the Department published in the *Federal Register* a notice of initiation of an administrative review of the *CVD Order* for 31 producers/exporters for the POR.²

Scope of the Order

The products covered by the order are certain crystalline silicon photovoltaic products from the PRC. A full description of the scope of the order is contained in the Preliminary Decision Memorandum.³

Methodology

The Department is conducting this CVD review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we determine that there is a subsidy, *i.e.*, a financial contribution by an “authority” that confers a benefit to the recipient, and that the subsidy is specific.⁴ For a full description of the methodology underlying our preliminary conclusions, including our reliance, in part, on adverse facts available pursuant to sections 776(a) and (b) of the Act, *see the*

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 (February 18, 2015) (*CVD Order*).

² *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 20324 (April 7, 2016) (*Initiation Notice*).

³ *See* “Decision Memorandum for the Preliminary Results of the Countervailing Duty Administrative Review of Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China; 2014,” dated concurrently with this notice (Preliminary Decision Memorandum) and hereby adopted by this notice.

⁴ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and, section 771(5A) of the Act regarding specificity.

Preliminary Decision Memorandum.⁵ 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 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at <http://enforcement.trade.gov/frn/index.html>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Intent to Partially Rescind the Administrative Review, and Partial Rescission of Administrative Review

For an administrative review to be conducted, there must be a reviewable, suspended entry to be liquidated at the newly calculated assessment rate.⁶ Thus, it is the Department's practice to rescind an administrative review when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended.⁷ We preliminarily find that BYD (Shangluo) Industrial Co., Ltd. had no reviewable entries subject to the *CVD Order* and, consistent with our practice, the Department intends to rescind its review of BYD, consistent with 19 CFR 351.213(d)(3). We invite parties to comment on this preliminary intent to rescind and will consider any comments received for the final results.

⁵ A list of topics discussed in the Preliminary Decision Memorandum can be found as an appendix to this notice.

⁶ See section 751(a)(2)(A) of the Act (stating that an administrative review determines the normal value, export price or constructed export price, and dumping margin of an "entry"); 19 CFR 351.212(b)(1) (At the end of the administrative review, the suspended entries are liquidated at the assessment rate computed for the review period).

⁷ See, e.g., *Certain Tissue Paper Products from the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 18497, 18499-18500 (April 4, 2008) (unchanged in final); *Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Rescission of Antidumping Duty Administrative Review*, 77 FR 65532 (October 29, 2012), and accompanying IDM at Issue 2.

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation. Yingli Energy (China) Co., Ltd., Baoding Tianwei 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., Hengshui Yingli New Energy Resources Co., Ltd., Lixian Yingli New Energy Resources Co., Ltd., Tianjin Yingli New Energy Resources Co., Ltd., Shenzhen Yingli New Energy Resources Co., Ltd., and Yingli Green Energy International Trading Company Limited; Canadian Solar Inc., Canadian Solar International, Ltd., Canadian Solar Manufacturing (Changshu), Inc., Canadian Solar Manufacturing (Luoyang), Inc., and Canadian Solar (USA) Inc.; Jinko Solar Co., Ltd., JinkoSolar (U.S.) Inc., Jinko Solar Import and Export Co., Ltd., and Zhejiang Jinko Solar Co., Ltd.; Shanghai BYD Co., Ltd.; Shenzhen Jiawei Photovoltaic Lighting Co., Ltd.; and Wuxi Suntech Power Co., Ltd. timely withdrew their requests for review.⁸ No other party requested a review of these producers/exporters. Therefore, in accordance with 19 CFR 351.213(d)(1), the Department is rescinding this review of the CVD order on solar products from the PRC with respect to these companies.

⁸ See Letter to the Secretary from Yingli, "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Yingli's Withdrawal of Request for Administrative Review," (March 30, 2016); Letter to the Secretary from Canadian Solar, "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Canadian Solar's Withdrawal of Request for Administrative Review," (April 22, 2016); Letter to the Secretary from Jinko, "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Jinko's Withdrawal of Request for Administrative Review," (April 27, 2016); Letter to the Secretary from Shanghai BYD, "Certain Crystalline Silicon Photovoltaic Products, from the People's Republic of China: Withdrawal of Request for Review for Shanghai BYD Co., Ltd.," (May 31, 2016); Letter to the Secretary from Dorfman Pacific Co., Ltd., "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Dorfman Pacific Co., Ltd.'s Withdrawal of Request for Administrative Review," (July 1, 2016); and Letter to the Secretary from Suntech, "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Withdrawal of Request for Administrative Review - Wuxi Suntech Power Co., Ltd.," (July 5, 2016).

Preliminary Results of Review

As a result of this review, we preliminarily determine the countervailable subsidy rates to be:

Company	Subsidy Rate (percent)
Changzhou Trina Solar Energy Co., Ltd. and its cross-owned affiliates ⁹	13.93 percent
Non-Selected Companies under Review ¹⁰	13.93 percent

Preliminary Rate for the Non-Selected Companies Under Review

The statute and the Department's regulations do not directly address the establishment of rates to be applied to companies not selected for individual examination where the Department limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, the Department normally determines the rates for non-selected companies in reviews in a manner that is consistent with section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation.

Section 705(c)(5)(A)(i) of the Act instructs the Department as a general rule to calculate an all others rate using the weighted average of the subsidy rates established for the producers/exporters individually examined, excluding any zero, *de minimis*, or rates based entirely on facts available. In this review, the preliminary subsidy rate calculated for Changzhou Trina Solar Energy Co., Ltd. and its cross-owned affiliates (Trina Solar) is above *de minimis* and is not based entirely on facts available. Therefore, for the companies for which a review was requested that were not selected as mandatory company respondents, and for which we did not

⁹ Cross-owned affiliates are: Trina Solar (Changzhou) Science & Technology Co., Ltd.; Yancheng Trina Solar Energy Technology Co., Ltd.; Changzhou Trina Solar Yabang Energy Co., Ltd.; Hubei Trina Solar Energy Co., Ltd.; Turpan Trina Solar Energy Co., Ltd.; and Changzhou Trina PV Ribbon Materials Co., Ltd. *See* Preliminary Decision Memorandum.

¹⁰ *See* Appendix II to this notice.

receive a timely request for withdrawal of review, and which we are not finding to be cross-owned with the mandatory company respondents, we are preliminarily basing the subsidy rate on the subsidy rate calculated for Trina Solar. For a list of these non-selected companies, please see the Appendix II to this notice.

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of publication of this notice in the *Federal Register*.¹¹ Interested parties may submit case and rebuttal briefs, as well as request a hearing.¹² Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs) within five days after the time limit for filing case briefs.¹³ Rebuttal briefs must be limited to issues raised in the case briefs.¹⁴ Parties who submit case or rebuttal briefs are requested to submit with the argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁵

Interested parties who wish to request a hearing must do so within 30 days of publication of these preliminary results by submitting a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, using Enforcement and Compliance's ACCESS system.¹⁶ Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which

¹¹ See 19 CFR 351.224(b).

¹² See 19 CFR 351.309(c)-(d), 19 CFR 351.310(c).

¹³ See 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1).

¹⁴ See 19 CFR 351.309(d)(2).

¹⁵ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁶ See 19 CFR 351.310(c).

will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and location to be determined.¹⁷ Parties should confirm by telephone the date, time, and location of the hearing. Issues addressed at the hearing will be limited to those raised in the briefs.¹⁸ All briefs and hearing requests must be filed electronically and received successfully in their entirety through ACCESS by 5:00 p.m. Eastern Time on the due date.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, we intend to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after issuance of these preliminary results.

Assessment Rates and Cash Deposit Requirement

In accordance with 19 CFR 351.221(b)(4)(i), we preliminarily assigned subsidy rates in the amounts shown above for the producer/exporters shown above. Upon issuance of the final results, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, CVDs on all appropriate entries covered by this review. We intend to issue instructions to CBP 15 days after publication of the final results of review.

Pursuant to section 751(a)(2)(C) of the Act, the Department also intends to instruct CBP to collect cash deposits of estimated CVDs, in the amounts shown above for each of the respective companies shown above, on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits at

¹⁷ See 19 CFR 351.310.

¹⁸ See 19 CFR 351.310(c).

the most-recent company-specific or all-others rate applicable to the company, as appropriate.

These cash deposit requirements, when imposed, shall remain in effect until further notice.

These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: February 28, 2017.

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Intent to Partially Rescind Review
- IV. Non-Selected Companies Under Review
- V. Scope of the Order
- VI. Application of the Countervailing Duty Law to Imports from the PRC
- VII. Diversification of the PRC's Economy
- VIII. Subsidy Valuation
- IX. Interest Rate Benchmarks, Discount Rates, Input, Electricity, and Land Benchmarks
- X. Use of Facts Otherwise Available and Adverse Inferences
- XI. Analysis of Programs
- XII. Verification
- XIII. Disclosure and Public Comment
- XIV. Conclusion

Appendix II

Non-Selected Companies Under Review

1. Chint Solar (Zhejiang) Co., Ltd.
 2. Hefei JA Solar Technology Co., Ltd.
 3. Perlight Solar Co., Ltd.
 4. Risen Energy Co., Ltd.
 5. Shanghai JA Solar Technology Co., Ltd.
 6. Shenzhen Sungold Solar Co., Ltd.
 7. Sunny Apex Development Limited
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