



(BILLING CODE: 3510-DS-P)

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-979, C-570-980

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Notice of Initiation of Changed Circumstances Reviews, and Consideration of Revocation of the Antidumping and Countervailing Duty Orders in Part

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

SUMMARY: Based on a request from Pitsco, Inc. d/b/a Pitsco Education (Pitsco), the Department of Commerce (the Department) is initiating changed circumstances reviews to consider the possible revocation, in part, of the antidumping duty (AD) and countervailing duty (CVD) orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China (PRC) with respect to certain solar panels, as described below.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Lauren Caserta or Kaitlin Wojnar, 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) 482-4737 and (202) 482-3857, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 7, 2012, the Department published AD and CVD orders on certain crystalline silicon photovoltaic cells, whether or not assembled into modules, from the PRC.¹

On October 6, 2017, Pitsco, an importer of the subject merchandise, requested through a changed circumstances review revocation, in part, of the *Orders* pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.216(b),² with respect to certain solar panels. On October 13, 2017, SolarWorld Americas, Inc. (the petitioner) submitted a letter stating that it does not oppose the scope exclusion language proposed by Pitsco.³ From October 25, 2017, through November 8, 2017,⁴ the Department consulted with both Pitsco and SolarWorld regarding revisions to the proposed exclusion language; specifically, the Department suggested limiting the language to a description of the physical characteristics of the product and also expressed concerns regarding the dimensions indicated in the description.⁵

Accordingly, on November 10, 2017, Pitsco submitted the following revised exclusion language:⁶

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) and *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, From the People's Republic of China: Countervailing Duty Order*, 77 FR 73017 (December 7, 2012) (collectively, *Orders*).

² See Pitsco's Letter, "Request for Changed Circumstances Review (A-570-980; C-570-979)," dated October 6, 2017.

³ See SolarWorld's Letter, "Pitsco, Inc.'s Scope Exclusion Language – Letter of No Opposition," dated October 13, 2017.

⁴ See Memorandum, "Ex Parte Communications with Adduci, Mastriani and Wiley Rein," dated November 13, 2017.

⁵ *Id.*

⁶ See Pitsco's Letter, "Amended Changed Circumstances Review (A-570-980; C-570-979)," dated November 10, 2017.

Excluded from the scope of these orders are panels with surface area from 3,450 mm² to 33,782 mm² with one black wire and one red wire (each of type 22 AWG or 24 AWG not more than 206 mm in length when measured from panel extrusion), and not exceeding 2.9 volts, 1.1 amps, and 3.19 watts. No panel shall contain an internal battery or external computer peripheral ports.

On November 13, 2017, SolarWorld submitted a letter stating that it does not oppose the revised exclusion language submitted by Pitsco on November 10, 2017.⁷

Scope of the Antidumping and Countervailing Duty Orders on Certain Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China

The merchandise covered by the orders 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.

The orders cover 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.

Merchandise under consideration may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, modules, laminates, panels, building-integrated modules, building-integrated

⁷ See SolarWorld's Letter, "Pitsco, Inc.'s Scope Exclusion Language – Letter of No Opposition," dated November 13, 2017.

panels, or other finished goods kits. Such parts that otherwise meet the definition of merchandise under consideration are included in the scope of the orders.

Excluded from the scope of the 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 the orders are crystalline silicon photovoltaic cells, not exceeding 10,000 mm² 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 cell. 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.

Modules, laminates, and panels produced in a third-country from cells produced in the PRC are covered by the orders; however, modules, laminates, and panels produced in the PRC from cells produced in a third-country are not covered by the orders.

Merchandise covered by these orders 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 the orders is dispositive.

Initiation of Changed Circumstances Reviews, and Consideration of Revocation of the Orders in Part

Pursuant to section 751(b) of the Act, the Department will conduct a changed circumstances review upon receipt of a request from an interested party⁸ that shows changed circumstances sufficient to warrant a review of an order.⁹ Based on the information provided by Pitsco, the Department has determined that there exist changed circumstances sufficient to warrant changed circumstances reviews of the AD and CVD orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the PRC. We find that the petitioner's affirmative statement of no interest in the *Orders* with respect to the exclusionary text proposed by Pitsco, as revised by the Department and described above, constitutes good cause for the conduct of these reviews.

Section 782(h)(2) of the Act and 19 CFR 351.222(g)(1)(i) provide that the Department may revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the order, in whole or in part. In addition, in the event the Department determines that expedited action is warranted, 19 CFR 351.221(c)(3)(ii) permits the Department to combine the notices of initiation and preliminary results. In its administrative practice, the Department has interpreted "substantially all" to mean producers accounting for at least 85 percent of the total U.S. production of the domestic like product covered by the order.¹⁰

The petitioner states that it agrees with the exclusion request; however, because the petitioner did not indicate whether it accounts for substantially all of the domestic production of crystalline silicon photovoltaic cells, we are providing interested parties with the opportunity to

⁸ Pitsco stated in its October 6, 2017 CCR request that it is an importer of subject merchandise and as such is an interested party pursuant to 19 CFR 351.102(b)(29).

⁹ See 19 CFR 351.216.

¹⁰ See, e.g., *Certain Cased Pencils from the People's Republic of China: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review, and Intent To Revoke Order in Part*, 77 FR 42276 (July 18, 2012), unchanged in *Certain Cased Pencils from the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review, and Determination To Revoke Order, in Part*, 77 FR 53176 (August 31, 2012).

address the issue of domestic industry support with respect to this requested partial revocation of the orders, as explained below. After examining comments, if any, concerning domestic industry support, the Department will issue the preliminary results of these changed circumstances reviews.

Public Comment

Interested parties are invited to provide comments and/or factual information regarding these changed circumstances reviews, including comments concerning industry support.

Comments and factual information may be submitted to the Department no later than ten days after the date of publication of this notice. Rebuttal comments and rebuttal factual information

may be filed with the Department no later than seven days after the comments and/or factual information are filed.¹¹ All submissions must be filed electronically using Enforcement and

Compliance's AD and CVD Centralized Electronic Service System (ACCESS).¹² An electronically filed document must be received successfully in its entirety by ACCESS, by 5 p.m.

Eastern Time on the due dates set forth in this notice.

¹¹ Submission of rebuttal factual information must comply with 19 CFR 351.301(b)(2).

¹² *See, generally*, 19 CFR 351.303.

The Department will issue preliminary results of these changed circumstances reviews, which will set forth the factual and legal conclusions upon which the preliminary results are based, and, in accordance with 19 CFR 351.221(c)(3)(i), will include a description of any action proposed because of those results. Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results of these reviews. In accordance with 19 CFR 351.216(e), the Department intends to issue the final results of these AD and CVD changed circumstance reviews within 270 days after the date on which the reviews are initiated, or within 45 days if all parties to the proceeding agree to the outcome of the review. This initiation is published in accordance with section 751(b)(1) of the Act and 19 CFR 351.221(b)(1).

James Maeder
Senior Director
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

Dated: November 20, 2017

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