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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**[C-570-980]**

**Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Amended Final Results of Countervailing Duty**

**Administrative Review; 2015**

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

**SUMMARY:** The Department of Commerce (Commerce) is amending the final results of the countervailing duty administrative review of crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the People's Republic of China (China) to correct a ministerial error.

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

**FOR FURTHER INFORMATION CONTACT:** Gene H. Calvert, 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) 482-3586.

**SUPPLEMENTARY INFORMATION:**

Background

In accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(b)(5), on July 23, 2018, Commerce published its final results in the

administrative review of the countervailing duty order on solar cells from China for the period of review (POR) January 1, 2015, through December 31, 2015.<sup>1</sup> On August 2, 2018, Canadian Solar Inc. (Canadian Solar), a respondent in this administrative review, submitted timely ministerial error allegations concerning the *Final Results*.<sup>2</sup> On August 7, 2018, SolarWorld Americas, Inc. timely filed rebuttal comments to Canadian Solar's allegations.<sup>3</sup> No other parties submitted ministerial allegations or comments on Canadian Solar's allegations. Complaints were filed with the U.S. Court of International Trade (the Court, or CIT) challenging the *Final Results*. The United States sought leave from the Court to address these ministerial error allegations. The Court granted the United States' request and allowed until November 5, 2018, to issue any amended final results.

#### Scope of the Order

The merchandise covered by this 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. Merchandise covered by this order is currently classified in the Harmonized Tariff Schedule 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

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<sup>1</sup> See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2015*, 83 FR 34828 (July 23, 2018) (*Final Results*) and accompanying Issues and Decision Memorandum (Decision Memorandum).

<sup>2</sup> See Letter from Canadian Solar, "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the People's Republic of China: Ministerial Error Comments," dated August 2, 2018; see also Memorandum, "Administrative Review of the Countervailing Duty Order on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Extension of Deadline for Ministerial Error Comments," dated July 30, 2018.

<sup>3</sup> See Letter from the petitioner, "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Rebuttal to Canadian Solar's Ministerial Error Comments," dated August 7, 2018.

of the scope of this order is dispositive. A full description of the scope of the order is contained in the *Final Results* Decision Memorandum.<sup>4</sup>

### Ministerial Errors

Section 751(h) of the Act and 19 CFR 351.224(f) define a “ministerial error” as an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial. Commerce finds that an error alleged by Canadian Solar regarding the calculation of the benchmark used to calculate benefits in the Aluminum Extrusions for Less Than Adequate Remuneration (LTAR) Program constitutes a ministerial error within the meaning of 19 CFR 351.224(f).<sup>5</sup>

In accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the *Final Results* to correct the ministerial error. Specifically, we are amending the net subsidy rates for the mandatory company respondents (*i.e.*, Canadian Solar and Changzhou Trina Solar Energy Co., Ltd.) and for the companies for which a review was requested that were not selected as mandatory company respondents (*i.e.*, the non-selected companies subject to this review).<sup>6</sup> The revised net subsidy rates are provided below.

### Amended Final Results

As a result of correcting the ministerial error, we determine the countervailable subsidy rates for the producers/exporters under review to be as follows:

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<sup>4</sup> See *Final Results* Decision Memorandum at 3-4.

<sup>5</sup> See Memorandum, “Administrative Review of the Countervailing Duty Order on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China, 2015; Response to Ministerial Error Allegations in the Final Results,” dated concurrently with this notice (Response to Ministerial Error Allegations).

<sup>6</sup> Consistent with the *Final Results*, for the non-selected companies, we calculated an amended rate by weight-averaging the amended subsidy rates of the two mandatory respondents using their publicly-ranged sales data for exports of subject merchandise to the United States during the POR.

| <b>Producer/Exporter</b>                                   | <b>Subsidy Rate (percent <i>ad valorem</i>)</b> |
|--|---|
| Canadian Solar and its Cross-Owned Affiliates <sup>7</sup> | 11.59   |
| Trina Solar and its Cross-Owned Affiliates <sup>8</sup>    | 9.12  |

Review-Specific Average Rate Applicable to the Non-Selected Companies Subject to this

Review:

| <b>Producer/Exporter</b>   | <b>Subsidy Rate (percent <i>ad valorem</i>)</b> |
|--|---|
| Baoding Jiasheng Photovoltaic Technology Co., Ltd.                         | 10.64   |
| Baoding Tianwei Yingli New Energy Resources Co., Ltd.                      | 10.64   |
| Beijing Tianneng Yingli New Energy Resources Co., Ltd.                     | 10.64   |
| Canadian Solar International, Ltd.   | 10.64   |
| Chint Solar (Zhejiang) Co., Ltd.   | 10.64   |
| Dongguan Sunworth Solar Energy Co., Ltd.                                   | 10.64   |
| ERA Solar Co., Ltd.  | 10.64   |
| ET Solar Energy Limited  | 10.64   |
| ET Solar Industry Limited  | 10.64   |
| Hainan Yingli New Energy Resources Co., Ltd.                               | 10.64   |
| Hangzhou Sunny Energy Science and Technology Co., Ltd.                     | 10.64   |
| Hangzhou Zhejiang University Sunny Energy Science and Technology Co., Ltd. | 10.64   |
| Hengdian Group DMEGC Magnetics Co., Ltd.                                   | 10.64   |
| Hengshui Yingli New Energy Resources Co., Ltd.                             | 10.64   |
| JA Solar Technology Yangzhou Co., Ltd.                                     | 10.64   |
| Jiangsu High Hope Int'l Group  | 10.64   |
| Jiawei Solarchina Co., Ltd.  | 10.64   |
| Jiawei Solarchina (Shenzhen) Co., Ltd.                                     | 10.64   |

<sup>7</sup> Cross-owned affiliates are: Canadian Solar Inc.; Canadian Solar Manufacturing (Luoyang) Inc.; Canadian Solar Manufacturing (Changshu) Inc.; CSI Cells Co., Ltd.; CSI Solar Power (China) Inc.; CSI Solartronics (Changshu) Co., Ltd.; CSI Solar Technologies Inc.; CSI Solar Manufacture Inc. (name was changed to CSI New Energy Holding Co., Ltd. in July 2015); CSI-GCL Solar Manufacturing (Yancheng) Co., Ltd.; Changshu Tegu New Materials Technology Co., Ltd.; Changshu Tlian Co., Ltd.; and Suzhou Sanysolar Materials Technology Co., Ltd. *See* Preliminary Decision Memorandum.

<sup>8</sup> Cross-owned affiliates are: 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.; Hubei Trina Solar Energy Co., Ltd.; Turpan Trina Solar Energy Co., Ltd.; and Changzhou Trina PV Ribbon Materials Co., Ltd.

|  |       |
|--|-------|
| JingAo Solar Co., Ltd.   | 10.64 |
| Jinko Solar Co., Ltd.  | 10.64 |
| Jinko Solar Import and Export Co., Ltd.  | 10.64 |
| Jinko Solar International Limited  | 10.64 |
| Jinko Solar (U.S.) Inc.  | 10.64 |
| Lightway Green New Energy Co., Ltd.  | 10.64 |
| Lixian Yingli New Energy Resources Co., Ltd.                                   | 10.64 |
| Luoyang Suntech Power Co., Ltd.  | 10.64 |
| Ningbo Qixin Solar Electrical Appliance Co., Ltd.                              | 10.64 |
| Risen Energy Co., Ltd.   | 10.64 |
| Shanghai JA Solar Technology Co., Ltd.   | 10.64 |
| Shenzhen Glory Industries Co., Ltd.  | 10.64 |
| Shenzhen Topray Solar Co., Ltd.  | 10.64 |
| Sumec Hardware & Tools Co. Ltd.  | 10.64 |
| Systemes Versilis, Inc.  | 10.64 |
| Taizhou BD Trade Co., Ltd.   | 10.64 |
| tenKsolar (Shanghai) Co., Ltd.   | 10.64 |
| Tianjin Yingli New Energy Resources Co., Ltd.                                  | 10.64 |
| Toenergy Technology Hangzhou Co., Ltd.   | 10.64 |
| Wuxi Suntech Power Co., Ltd.   | 10.64 |
| Yingli Energy (China) Co., Ltd.  | 10.64 |
| Zhejiang Era Solar Technology Co., Ltd.  | 10.64 |
| Zhejiang Jinko Solar Co., Ltd.   | 10.64 |
| Zhejiang Sunflower Light Energy Science & Technology Limited Liability Company | 10.64 |

#### Assessment Rates/Cash Deposits

Normally, Commerce would issue appropriate assessment instructions to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of these amended final results of review, to liquidate shipments of subject merchandise produced and/or exported by the companies listed above entered, or withdrawn from warehouse, for consumption on or after January 1, 2015, through December 31, 2015. However, on August 31, 2018, and on September 20 and 24, 2018, the CIT enjoined liquidation of certain entries that are subject to the *Final Results*.<sup>9</sup> Accordingly, Commerce will not instruct CBP to assess countervailing duties on those enjoined entries pending resolution of the associated litigation.

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<sup>9</sup> The CIT issued the statutory injunctions in case numbers 18-00184, 18-00185, and 18-00186.

Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties, in the amounts shown above for the companies listed above, on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after July 23, 2018, which is the date of publication of the *Final Results*. For all non-reviewed firms, we will instruct CBP to collect cash deposits at 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.

#### Administrative Protective Order

This notice also serves as a reminder to parties that are subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

#### Disclosure

We intend to disclose the calculations performed for these amended final results to interested parties within five business days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

We are issuing and publishing these results in accordance with section 751(h) and 777(i)(1) of the Act, and 19 CFR 351.224(e).

Dated: October 25, 2018.

**Gary Taverman,**

*Deputy Assistant Secretary*

*for Antidumping and Countervailing Duty Operations*

*performing the non-exclusive functions and duties of the*

*Assistant Secretary for Enforcement and Compliance.*

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