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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-979

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2016-2017

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that producers and/or exporters subject to this administrative review made sales of subject merchandise at less than normal value. Interested parties are invited to comment on these preliminary results of review.

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

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen and Krishna Hill, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2769 and (202) 482-4037, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce is conducting an administrative review of the antidumping duty order on crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the People's Republic of China (China), and initiated the review on February 23, 2018.¹ The

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 8058 (February 23, 2018) at <http://enforcement.trade.gov/fm/index.html>.

POR is December 1, 2016, through November 30, 2017. On July 27, 2018, we rescinded the review with respect to Changzhou Trina Solar Energy Co., Ltd./Trina Solar (Changzhou) Science and Technology Co., Ltd./Yancheng Trina Solar Energy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./Turpan Trina Solar Energy Co., Ltd./Hubei Trina Solar Energy Co., Ltd.²

Scope of the Order

The merchandise covered by the 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.³ Merchandise covered by this order is classifiable under subheadings 8501.61.0000, 8507.20.80, 8541.40.6015, 8541.40.6020, 8541.40.6025, 8541.40.6030, 8541.40.6035, 8541.40.6045, and 8501.31.8000 of the Harmonized Tariff Schedule of the United States (HTSUS).⁴ Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Preliminary Determination of No Shipments

We preliminarily determine that there is no evidence calling into question the no shipment claims of the following companies: Anji DaSol Solar Energy Science & Technology

² See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 35620 (July 27, 2018).

³ For a complete description of the scope of the order, see DOC Memorandum re: Decision Memorandum for the Preliminary Results of the 2016-2017 Antidumping Duty Administrative Review of Crystalline Silicon Photovoltaic Cells, Whether or not Assembled into Modules, from the People's Republic of China, issued concurrently with and hereby adopted by this notice (Preliminary Decision Memorandum).

⁴ As detailed in the DOC memorandum entitled "Request from Customs and Border Protection to Update the ACE AD/CVD Case Reference File," dated August 2, 2018, the HTS numbers concerning solar cells and solar modules have been updated and we have updated the scope accordingly.

Co., Ltd.; BYD (Shangluo) Industrial Co., Ltd.; Jiawei Solarchina Co., Ltd.; LERRI Solar Technology Co., Ltd.; Ningbo ETDZ Holdings, Ltd.; Sunpreme Solar Technology (Jiaxing) Co., Ltd.; and, Toenergy Technology Hangzhou Co., Ltd. We found that Wuxi Suntech Power Co., Ltd./Luoyang Suntech Power Co., Ltd. and Zhejiang ERA Solar Technology Co., Ltd., which claimed no exports, sales or entries of subject merchandise during the POR did, in fact, sell subject merchandise to the United States during the POR. Neither of these companies filed a separate rate application or certification and thus they have not established their entitlement to a separate rate in this review. For additional information regarding this preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Affiliation and Single Entity Determination

We preliminarily determine that Chint Energy (Haining) Co., Ltd., Chint Solar (Jiuquan) Co., Ltd., and Chint Solar (Hong Kong) Company Limited are affiliated with Chint Solar (Zhejiang) Co., Ltd. (CSZ) (collectively, Chint Solar), pursuant to section 771(33)(E) of the Tariff Act of 1930, as amended (the Act), and that all of these companies should be treated as a single entity pursuant to 19 CFR 351.401(f)(1)-(2). For additional information, *see* the Preliminary Decision Memorandum.

We also preliminarily determine that Risen (Wuhai) New Energy Co., Ltd., Zhejiang Twinsel Electronic Technology Co., Ltd., Risen (Luoyang) New Energy Co., Ltd., Jiujiang Shengchao Xinye Technology Co., Ltd., Jiujiang Shengzhao Xinye Trade Co., Ltd. Ruichang Branch, and Risen Energy (HongKong) Co., Ltd. are affiliated with Risen Energy Co., Ltd. (Risen Energy) (collectively, Risen) pursuant to sections 771(33)(E) and (F) of the Act and all of these companies should be treated as a single entity pursuant to 19 CFR 351.401(f)(1)-(2). For

additional information, *see* the Preliminary Decision Memorandum and Risen Collapsing Memorandum.⁵

Use of Partial Facts Available (FA) and Partial Adverse Facts Available (AFA)

Certain unaffiliated tollers of inputs used to produce subject merchandise, as well as certain unaffiliated suppliers of solar cells and solar modules failed to provide factors of production (FOP) data for use in calculating the weighted-average dumping margins of Risen and Chint Solar. We preliminarily determine that it is appropriate to apply AFA, pursuant to section 776(a) and (b) of the Act, with respect to the unreported FOPs for purchased solar cells and solar modules. These unreported FOPs for solar cells and solar modules represent a material amount of necessary FOP information. However, in accordance with section 776(a)(1) of the Act, Commerce is applying facts available with respect to the unreported FOPs for the inputs used by the unaffiliated tollers. For details regarding these determinations, *see* the Preliminary Decision Memorandum and the Risen and Chint Solar Unreported FOP Memoranda.⁶

Separate Rates

Commerce preliminarily determines that the information placed on the record by Risen and Chint Solar, as well as by the other companies listed in the rate table in the “Preliminary Results of Review” section below, demonstrates that these companies are entitled to separate rate status. Commerce calculated rates for the mandatory respondents, Risen and Chint Solar, that are not zero, *de minimis*, or based entirely on facts available and calculated a rate for the

⁵ *See* DOC memorandum entitled “Preliminary Affiliation and Collapsing Memorandum for Risen Energy Co. Ltd., Risen (Wuhai) New Energy Co., Ltd., Zhejiang Twinsel Electronic Technology Co., Ltd., Risen (Luoyang) New Energy Co., Ltd., Jiujiang Shengchao Xinye Technology Co., Ltd., Jiujiang Shengzhao Xinye Trade Co., Ltd. Ruichang Branch, and Risen Energy (HongKong) Co., Ltd.,” dated concurrently with this notice (Risen Collapsing Memorandum).

⁶ *See* DOC Memoranda entitled “Unreported Factors of Production: Chint Solar (Zhejiang) Co., Ltd.” and “Unreported Factors of Production: Risen Energy Co. Ltd.” issued concurrently with and hereby adopted by this notice.

companies to which it granted separate rates status, but which it did not individually examine, as described in the Separate Rate Calculation Memorandum⁷ and the Preliminary Decision Memorandum.

Commerce preliminarily determines that the following companies have not demonstrated their entitlement to separate rates status because they did not file a separate rate application or certification with Commerce:

1. De-Tech Trading Limited HK
2. Dongguan Sunworth Solar Energy Co., Ltd.
3. Eoply New Energy Technology Co., Ltd.
4. ERA Solar Co., Ltd.
5. Hangzhou Sunny Energy Science and Technology Co., Ltd.
6. Jinko Solar Co., Ltd.
7. Jinko Solar International Limited
8. LightWay Green New Energy Co., Ltd.
9. Systemes Versilis, Inc.
10. tenKsolar (Shanghai) Co., Ltd.
11. Yingli Green Energy Holding Company Limited
12. Yingli Green Energy International Trading Company Limited
13. Zhejiang Jinko Solar Co., Ltd.

Commerce is preliminarily treating these companies as part of the China-wide entity. Because no party requested a review of the China-wide entity, the entity is not under review and the entity's rate (*i.e.*, 238.95 percent) is not subject to change.⁸ For additional information regarding Commerce's separate rates determinations, *see* the Preliminary Decision Memorandum.

⁷ See DOC Memorandum entitled "2016-2017 Administrative Review of the Antidumping Duty Order on Crystalline Silicon Photovoltaic Cells, Whether or not Assembled into Modules, from the People's Republic of China: Calculation of the Dumping Margin for Respondents Not Selected for Individual Examination," dated concurrently with this notice.

⁸ The China-wide entity rate was last changed in the first administrative review of this proceeding and has been the applicable rate for the entity in each subsequent review, including the one most recently completed. *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, 41002 (July 14, 2015) (*AR1 Final*); *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; 2015-2016*, 83 FR 35616, 35618 (July 27, 2018).

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(B) of the Act. Commerce calculated export and constructed export prices in accordance with section 772 of the Act. Because Commerce has determined that China is a non-market economy country,⁹ within the meaning of section 771(18) of the Act, Commerce calculated NV in accordance with section 773(c) of the Act.

For a full description of the methodology underlying the preliminary results of this review, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is made available to the public *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov> and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at <https://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

Commerce preliminarily determines that the following weighted-average dumping margins exist for the POR:

⁹ *See Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017) (citing Memorandum, "China's Status as a Non-Market Economy," dated October 26, 2017 (China NME Status Memo)), unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).

Exporter	Weighted-Average Dumping Margin (Percent)
Chint Solar (Zhejiang) Co., Ltd./ Chint Energy (Haining) Co., Ltd./Chint Solar (Jiuquan) Co., Ltd./Chint Solar (Hong Kong) Company Limited	98.41
Risen Energy Co. Ltd./Risen (Wuhai) New Energy Co., Ltd./Zhejiang Twinsel Electronic Technology Co., Ltd./Risen (Luoyang) New Energy Co., Ltd./Jiujiang Shengchao Xinye Technology Co., Ltd./Jiujiang Shengzhao Xinye Trade Co., Ltd. Ruichang Branch/RISEN ENERGY (HONGKONG) CO., LTD.	15.74
Canadian Solar International Limited/ Canadian Solar Manufacturing (Changshu), Inc./Canadian Solar Manufacturing (Luoyang)Inc./CSI Cells Co., Ltd./CSI-GCL Solar Manufacturing (YanCheng) Co., Ltd./CSI Solar Power (China) Inc.	44.25
ET Solar Energy Limited	44.25
Hengdian Group DMEGC Magnetics Co., Ltd.	44.25
JA Solar Technology Yangzhou Co., Ltd.	44.25
Jiangsu High Hope Int'l Group	44.25
Jiawei Solarchina (Shenzhen) Co., Ltd.	44.25
JingAo Solar Co., Ltd.	44.25
Jinko Solar Import and Export Co., Ltd.	44.25
Nice Sun PV Co., Ltd.	44.25
Ningbo Qixin Solar Electrical Appliance Co., Ltd.	44.25
Shanghai BYD Co., Ltd.	44.25
Shanghai JA Solar Technology Co., Ltd.	44.25
Shenzhen Sungold Solar Co., Ltd.	44.25
Shenzhen Topray Solar Co., Ltd.	44.25
Sumec Hardware & Tools Co., Ltd.	44.25
Taizhou BD Trade Co., Ltd.	44.25
Wuxi Tianran Photovoltaic Co., Ltd.	44.25
Xiamen Eco-sources Technology Co., Ltd.	44.25
Yingli Energy (China) Company Limited/Baoding Tianwei Yingli New Energy Resources Co., Ltd./Tianjin Yingli New Energy Resources Co., Ltd./Hengshui Yingli New Energy Resources Co., Ltd./Lixian 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./ Shenzhen Yingli New Energy Resources Co., Ltd.	44.25
Zhejiang Sunflower Light Energy Science & Technology Limited Liability Company	44.25

Disclosure and Public Comment

Commerce intends to disclose to parties the calculations performed for these preliminary results of review within five days of the date of publication of this notice in the *Federal Register* in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review.¹⁰ Rebuttal briefs may be filed no later than five days after case briefs are due and may respond only to arguments raised in the case briefs.¹¹ A table of contents, list of authorities used, and an executive summary of issues should accompany any briefs submitted to Commerce. The summary should be limited to five pages total, including footnotes.¹²

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice.¹³ Requests should contain the party's name, address, and telephone number, the number of participants in, and a list of the issues to be discussed at the hearing. Oral arguments at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a date and time to be determined.¹⁴ Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date of the hearing.

All submissions, with limited exceptions, must be filed electronically using ACCESS.¹⁵ An electronically filed document must be received successfully in its entirety by Commerce's

¹⁰ See 19 CFR 351.309(c)(ii).

¹¹ See 19 CFR 351.309(d).

¹² See 19 CFR 351.309(c)(2), (d)(2).

¹³ See 19 CFR 351.310(c).

¹⁴ See 19 CFR 351.310(d).

¹⁵ See generally 19 CFR 351.303.

electronic records system, ACCESS, 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.¹⁶

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any briefs, within 120 days of publication of these preliminary results of review, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results of this review, Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.¹⁷ Commerce intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. For each individually examined respondent in this review whose weighted-average dumping margin in the final results of review is not zero or *de minimis* (*i.e.*, less than 0.5 percent), Commerce intends to calculate importer-specific assessment rates, in accordance with 19 CFR 351.212(b)(1).¹⁸ Where the respondent reported reliable entered values, Commerce intends to calculate importer-specific *ad valorem* assessment rates by aggregating the amount of dumping calculated for all U.S. sales to the importer and dividing this amount by the total entered value of the sales to the importer.¹⁹

Where the respondent did not report entered values, Commerce will calculate importer-specific

¹⁶ See 19 CFR 351.303 (for general filing requirements); *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011).

¹⁷ See 19 CFR 351.212(b)(1).

¹⁸ See *Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012) (*Final Modification*).

¹⁹ See 19 CFR 351.212(b)(1).

assessment rates by dividing the amount of dumping for reviewed sales to the importer by the total sales quantity associated with those transactions. Commerce will calculate an estimated *ad valorem* importer-specific assessment rate to determine whether the per-unit rate is *de minimis*, however, Commerce will direct CBP to assess importer-specific assessment rates where the entered value was not reported based on the resulting per-unit rates.²⁰ Where an importer-specific *ad valorem* assessment rate is not zero or *de minimis*, Commerce will instruct CBP to collect the appropriate duties at the time of liquidation. Where either the respondent's weighted average dumping margin is zero or *de minimis*, or an importer-specific *ad valorem* assessment rate is zero or *de minimis*, Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.²¹

Pursuant to Commerce's refinement to its practice, for sales that were not reported in the U.S. sales database submitted by an exporter individually examined during this review, Commerce will instruct CBP to liquidate such merchandise at the rate for the China-wide entity.²² Additionally, where Commerce determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's CBP case number will be liquidated at the rate for the China-wide entity.

In accordance with section 751(a)(2)(C) of the Act, the final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated antidumping duties, where applicable.

²⁰ *Id.*

²¹ See *Final Modification*, 77 FR at 8103.

²² See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011), for a full discussion of this practice.

Cash Deposit Requirements

Commerce will instruct CBP to require a cash deposit for antidumping duties equal to the weighted-average amount by which the NV exceeds U.S. price. The following cash deposit requirements will be effective for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided by section 751(a)(2)(C) of the Act: (1) for the exporters listed above, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review (except, if the rate is *de minimis* (*i.e.*, less than 0.5 percent), then the cash deposit rate will be zero for that exporter); (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding; (3) for all Chinese exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity (*i.e.*, 238.95 percent²³) and (4) for all non-Chinese exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to China exporter that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that

²³ See *ARI Final*, 80 FR at 41002.

reimbursement of antidumping duties and/or countervailing duties has occurred, and the subsequent assessment of double antidumping duties and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213 and 351.221(b)(4).

Dated: December 20, 2018

P. Lee Smith
Deputy Assistant Secretary
for Policy and Negotiations

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

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