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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: Preliminary Results of Countervailing Duty Administrative Review and Intent to Rescind the Review, in Part; 2016

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 received countervailable subsidies. 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: 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

On February 23, 2018, Commerce initiated the administrative review of the countervailing duty order on crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells) from the People's Republic of China (China).¹ The period of review is January 1, 2016, through December 31, 2016.

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 37 (February 23, 2018).

On January 23, 2018, Commerce exercised its discretion to toll all deadlines affected by the duration of the closure of the Federal Government from January 20 through January 22, 2018.² As a result, all deadlines in this segment of the proceeding were, at that time, extended by three days.

In addition, Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.³ If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for these preliminary results is now February 12, 2019.

Scope of the Order

The products covered by the countervailing duty order are 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. For a complete description of the scope of this administrative review, *see* the Preliminary Decision Memorandum.⁴

Methodology

Commerce is conducting this administrative 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 preliminarily find that there is a subsidy, (*i.e.*, a financial contribution

² *See* Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated January 23, 2018.

³ *See* Memorandum to the Record from 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, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

⁴ *See* Memorandum, "Decision Memorandum for the Preliminary Results of the Countervailing Duty Administrative Review, Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China," dated concurrently with, and hereby adopted by this notice (Preliminary Decision Memorandum).

from an authority that gives rise to a benefit to the recipient) and that the subsidy is specific.⁵ In making this preliminary determination, Commerce relied, in part, on facts otherwise available, with the application of adverse inferences.⁶ For further information, see “Use of Facts Otherwise Available and Application of Adverse Inferences” in the accompanying Preliminary Decision Memorandum. A list of topics discussed in the Preliminary Decision Memorandum is provided at Appendix I to this notice.

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 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 accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Intent to Rescind Administrative Review, in Part

BYD (Shangluo) Industrial Co., Ltd. (BYD Shangluo) timely filed a no-shipments certification.⁷ Because no evidence on the record contradicts this certification, we preliminarily intend to rescind this administrative review with regard to BYD Shangluo. A final decision on whether to rescind the review with respect to BYD Shangluo will be made in the final results of this review.

⁵ 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.

⁶ See section 776(a) of the Act.

⁷ See Letter from BYD Shangluo, “Crystalline Silicon Photovoltaic Cells, Whether Or Not Assembled Into Modules, from the People’s Republic of China: No Shipment Statement from BYD (Shangluo) Industrial Co., Ltd.,” dated March 26, 2018.

Preliminary Results of Review

We preliminarily determine the net countervailable subsidy rates for the period January 1, 2016, through December 31, 2016, are as follows:

| Company | Subsidy Rate (percent) |
|---|-------------------------------|
| Canadian Solar Inc. and Cross-Owned Affiliates ⁸ | 16.46 |
| Jinko Solar Import and Export Co., Ltd. and Cross-Owned Affiliates ⁹ | 16.29 |
| Non-Selected Companies Under Review ¹⁰ | 16.30 |

Preliminary Rate for Non-Selected Companies Under Review

The statute and Commerce's regulations do not directly address the establishment of rates to be applied to companies not selected for individual examination where Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, Commerce 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 Commerce, as a general rule, to calculate an all others rate using the weighted average of the subsidy weights established for the producers/exporters individually examined, excluding any zero, *de minimis*, or rates based entirely on facts available. For the companies for which a review was requested

⁸ 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. (name was changed to CSI Solar Power Group Co., Ltd. in December 2016); CSI Solartronics (Changshu) Co., Ltd.; CSI Solar Technologies Inc.; CSI New Energy Holding Co., Ltd. (name was CSI Solar Manufacture Inc. until 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.

⁹ Cross-owned affiliates are: Jinko Solar Import and Export Co., Ltd.; Jinko Solar Co., Ltd.; Zhejiang Jinko Solar Co., Ltd.; Jinko Solar (Shanghai) Management Co., Ltd.; Jiangxi Jinko Photovoltaic Materials Co., Ltd.; and Xinjiang Jinko Solar Co., Ltd. *See* Preliminary Decision Memorandum.

¹⁰ *See* Appendix II of this notice for a list of all companies that remain under review but were not selected for individual examination, and to whom we have preliminarily assigned the non-selected company rate.

that were not selected as mandatory company respondents, and for which we did not receive a timely request for withdrawal of review, and for which we are not finding to be cross-owned with the mandatory company respondents, we based the subsidy rate on a weighted-average of the subsidy rates calculated for the two mandatory respondents, Canadian Solar Inc. and Jinko Solar Import and Export Co., Ltd. using their publicly-ranged sales data for exports of subject merchandise to the United States during the POR. A list of these non-selected companies can be found in Appendix II of notice.

Disclosure and Public Comment

Commerce will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days of the date of publication of these preliminary results.¹¹ Interested parties may submit written comments (case briefs) at a date to be determined by Commerce and rebuttal comments (rebuttal briefs) within five days after the time limit for filing case briefs.¹² Rebuttal briefs must be limited to issues raised in the case briefs.¹³ Commerce will notify interested parties when it has determined a deadline for case briefs. 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.¹⁴

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.¹⁵ Hearing requests should contain the party's name, address,

¹¹ See 19 CFR 351.224(b).

¹² See 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1). Interested parties will be notified through ACCESS regarding the deadline for submitting case briefs.

¹³ See 19 CFR 351.309(d)(2).

¹⁴ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁵ See 19 CFR 351.310(c).

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 will be held at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and location to be determined.¹⁶ 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.¹⁷ All briefs and hearing requests must be filed electronically and received successfully in their entirety through ACCESS by 5:00 p.m. Eastern Time by their respective deadlines.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, Commerce intends 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 publication of these preliminary results.

Assessment Rates and Cash Deposit Requirement

In accordance with 19 CFR 351.221(b)(4)(i), we assigned a subsidy rate for each producer/exporter subject to this administrative review. Upon issuance of the final results, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties 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. For companies for which this review is rescinded, Commerce will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2016, through December 31, 2016, in accordance with 19 CFR 351.212(c)(1)(i).

¹⁶ See 19 CFR 351.310.

¹⁷ See 19 CFR 351.310(c).

Commerce intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Pursuant to section 751(a)(2)(C) of the Act, Commerce also intends to instruct CBP to collect cash deposits of estimated countervailing duties, 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 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.

Notification to Interested Parties

Commerce is issuing and publishing results in accordance with sections 751(a)(l) and 777(i)(l) of the Act and 19 CFR 351.213 and 351.221(b)(4).

Dated: February 12, 2019.

Christian Marsh,
Deputy Assistant Secretary
for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
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- V. Scope of the Order
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- VII. Diversification of China's Economy
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- XI. Analysis of Programs
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Appendix II

Non-Selected Companies Under Review

1. Baoding Jiasheng Photovoltaic Technology Co., Ltd.
2. Baoding Tianwei Yingli New Energy Resources Co., Ltd.
3. Beijing Tianneng Yingli New Energy Resources Co., Ltd.
4. Canadian Solar (USA) Inc.
5. Changzhou Trina Solar Energy Co., Ltd.
6. Changzhou Trina Solar Yabang Energy Co., Ltd.
7. Chint Solar (Zhejiang) Co., Ltd.
8. Dongguan Sunworth Solar Energy Co., Ltd.
9. ERA Solar Co. Limited
10. ET Solar Energy Limited
11. Hainan Yingli New Energy Resources Co., Ltd.
12. Hangzhou Sunny Energy Science and Technology Co., Ltd.
13. Hengdian Group DMEGC Magnetics Co., Ltd.
14. Hengshui Yingli New Energy Resources Co., Ltd.
15. JA Solar Technology Yangzhou Co., Ltd.
16. JA Technology Yangzhou Co., Ltd.
17. Jiangsu High Hope Int'l Group
18. Jiawei Solarchina (Shenzhen) Co., Ltd.
19. Jiawei Solarchina Co., Ltd.
20. JingAo Solar Co., Ltd.
21. Jinko Solar (U.S.) Inc.
22. Jinko Solar International Limited
23. Lightway Green New Energy Co., Ltd.
24. Lixian Yingli New Energy Resources Co., Ltd.
25. Luoyang Suntech Power Co., Ltd.
26. Nice Sun PV Co., Ltd.
27. Ningbo Qixin Solar Electrical Appliance Co., Ltd.
28. Risen Energy Co., Ltd.
29. Shanghai BYD Co., Ltd.
30. Shanghai JA Solar Technology Co., Ltd.
31. Shenzhen Glory Industries Co., Ltd.
32. Shenzhen Topray Solar Co., Ltd.
33. Sumec Hardware & Tools Co., Ltd.
34. Systemes Versilis, Inc.
35. Taizhou BD Trade Co., Ltd.
36. tenKsolar (Shanghai) Co., Ltd.
37. Tianjin Yingli New Energy Resources Co., Ltd.
38. Toenergy Technology Hangzhou Co., Ltd.
39. Trina Solar (Changzhou) Science & Technology Co., Ltd.
40. Wuxi Suntech Power Co., Ltd.
41. Yancheng Trina Solar Energy Technology Co., Ltd.
42. Yingli Energy (China) Co., Ltd.

43. Yingli Green Energy Holding Company Limited
44. Yingli Green Energy International Trading Company Limited
45. Zhejiang Era Solar Technology Co., Ltd.
46. Zhejiang Sunflower Light Energy Science & Technology Limited Liability Company

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