



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-010]

Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China:

Notice of Court Decision Not in Harmony with Final Results of Antidumping Duty

Administrative Review and Notice of Amended Final Results of Antidumping Duty

Administrative Review

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

SUMMARY: On July 25, 2019, the United States Court of International Trade (the Court) issued its final judgement sustaining the remand redetermination pertaining to the antidumping duty (AD) administrative review of certain crystalline silicon photovoltaic products (solar products), from the People's Republic of China (China) covering the period July 31, 2014 through January 31, 2016. The Department of Commerce (Commerce) is notifying the public that the final judgment in this case is not in harmony with Commerce's final results in the 2014-2016 AD administrative review of solar products from China and that Commerce is amending the final results with respect to AD margins assigned, as detailed below.

DATES: Applicable August 4, 2019.

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

SUPPLEMENTARY INFORMATION:

Background

On July 12, 2017, Commerce published the final results of the 2014-2016 AD administrative review of solar products from China.¹ In the *Final Results*, Changzhou Trina Solar Energy Co., Ltd./Trina Solar (Changzhou) Science and Technology Co., Ltd./Yangcheng Trina Solar Energy Co., Ltd./Turpan Trina Solar Energy Co., Ltd./Hubei Trina Solar Energy Co., Ltd. (collectively, Trina) was not granted an export subsidy offset because Commerce did not make a determination in the countervailing duty (CVD) investigation of certain solar products from China that the Export Buyer's Credits Program was an export subsidy.² However, the Court concluded that Commerce "necessarily found" that the Export Buyer's Credit Program was an export subsidy, and that such a finding is "reasonably discernible" from Commerce's description of the program.³ On January 25, 2019, the Court remanded the *Final Results* to Commerce directing Commerce to increase Trina's U.S. selling prices by the amount countervailed to offset a particular subsidy.⁴ In accordance with the Court's *Remand Order*, under respectful protest, Commerce increased Trina's U.S. selling prices by the amount countervailed to offset a subsidy that Trina received in the most recently completed segment of

¹ See *Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2014-2016*, 82 FR 32170 (July 12, 2017) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM) at Comment 2.

² See *Countervailing Duty Investigation of Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 76962 (December 23, 2014), and accompanying IDM at Comment 16, unchanged in *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).

³ See *Changzhou Trina Solar Energy Co., Ltd. Et Al v. United States*, 359 F. Supp. 3d 1329, 1339 (CIT 2019) (*Remand Order*).

⁴ *Id.* at 1342.

the corresponding CVD proceeding.⁵ On July 25, 2019, the Court sustained Commerce's Remand Redetermination.⁶

Timken Notice

In its decision in *Timken*,⁷ as clarified by *Diamond Sawblades*,⁸ the United States Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a "conclusive" court decision. The Court's July 25, 2019, final judgment sustaining Commerce's Remand Redetermination constitutes a final decision of the Court that is not in harmony with Commerce's *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Commerce will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal, or if appealed, pending a final and conclusive court decision.

Amended Final Results

Because there is now a final Court decision, Commerce is amending the *Final Results*. The revised AD dumping margin for the respondents during the period July 31, 2014 through January 31, 2016 is in the table below:

⁵ See *Final Results of Remand Redetermination, Changzhou Trina Solar Energy Co., Ltd. Et Al v. United States*, Court No. 17-00199, Slip. Op. 19-12 (Court of International Trade January 25, 2019) (Remand Redetermination).

⁶ See *Changzhou Trina Solar Energy Co., Ltd. Et Al v. United States*, Court No. 17-00199, Slip. Op. 19-92, (Court of International Trade July 25, 2019).

⁷ See *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

⁸ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F. 3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

Exporter	Weighted-Average Dumping Margin
Changzhou Trina Solar Energy Co., Ltd./Trina Solar (Changzhou) Science and Technology Co., Ltd./Yangcheng Trina Solar Energy Co., Ltd./Turpan Trina Solar Energy Co., Ltd./Hubei Trina Solar Energy Co., Ltd.	3.42
BYD (Shangluo) Industrial Co., Ltd.	3.42
Chint Solar (Zhejiang) Co., Ltd.	3.42
Hefei JA Solar Technology Co., Ltd.	3.42
Perlight Solar Co., Ltd.	3.42
Shenzhen Sungold Solar Co., Ltd.	3.42
Sunny Apex Development Ltd.	3.42
Wuxi Suntech Power Co., Ltd.	3.42

In the event the Court's ruling is not appealed or, if appealed, upheld by the CAFC, Commerce will instruct U.S. Customs and Border Protection to assess antidumping duties on unliquidated entries of subject merchandise exported by the respondents listed above based on the assessment rates calculated by Commerce in these amended final results of review.

Cash Deposit Requirements

Aside from Shenzhen Sungold Solar Co., Ltd., none of the cash deposit rates of the respondents listed above have been superseded by cash deposit rates calculated in intervening administrative reviews of the AD order on solar products from China. Thus, effective August 4, 2019, the cash deposit rate applicable to entries of subject merchandise exported by all

companies listed above, aside from Shenzhen Sungold Solar Co., Ltd., is 3.42 percent. Because Shenzhen Sungold Solar Co., Ltd. lost its separate rate in the most recently completed review of this order,⁹ we have not revised its cash deposit rate.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e), 751(a)(1), and 777(i)(1) of the Act.

Dated: September 18, 2019.

Jeffrey I. Kessler,

Assistant Secretary

for Enforcement and Compliance.

⁹ See *Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 27764 (June 14, 2019).

[FR Doc. 2019-20816 Filed: 9/24/2019 8:45 am; Publication Date: 9/25/2019]