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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; 2017-2018

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 in the United States. 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, 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.

SUPPLEMENTARY INFORMATION:

Background

This administrative review is being conducted in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). On March 14, 2019, in response to review requests from multiple interested parties, Commerce initiated 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).¹ The period of review (POR) is December 1, 2017 through November 30, 2018. On May 6, 2019, Commerce selected two exporters to individually examine as mandatory respondents, Trina² and Risen.³ During the course of this review, the mandatory respondents filed responses to Commerce’s questionnaire and supplemental questionnaires, the petitioner (SolarWorld Americas Inc.) commented on those responses, and multiple other companies for which Commerce initiated the review filed either no-shipment claims or applications or certifications for separate rates status. For details regarding the events that occurred subsequent to the initiation of the review, *see* the Issues and Decision Memorandum.⁴

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.⁵ 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

¹ *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 9297 (March 14, 2019).

² Trina refers to the following companies which Commerce is treating as a single entity: Trina Solar Co., Ltd. (formerly, Changzhou Trina Solar Energy Co., Ltd.), Trina Solar (Changzhou) Science and Technology Co., Ltd., Yancheng Trina Guoneng Photovoltaic Technology Co., Ltd (formerly, 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., Trina Solar (Hefei) Science and Technology Co., Ltd., and Changzhou Trina Hezhong Photoelectric Co., Ltd. (collectively, Trina).

³ Risen refers to the following companies which Commerce is treating as a single entity: 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. (collectively, Risen).

⁴ Memorandum “Decision Memorandum for the Preliminary Results of the 2017-2018 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).

⁵ For a complete description of the scope of the order, *see* Preliminary Decision Memorandum.

Tariff Schedule of the United States (HTSUS).⁶ 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: BYD (Shangluo) Industrial Co., Ltd., LERRI Solar Technology Co., Ltd., Ningbo ETDZ Holdings, Ltd., Sumec Hardware & Tools Co., Ltd., and Sunpreme Solar Technology (Jiaxing) Co., Ltd. For additional information regarding this preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Affiliation and Single Entity Determination

We preliminarily determine that Risen Energy Co., Ltd. (Risen Energy), Risen Energy (Changzhou) Co., Ltd. (Changzhou), Risen (Wuhai) New Energy Co., Ltd. (Wuhai), Zhejiang Twinsel Electronic Technology Co., Ltd. (Twinsel), Risen (Luoyang) New Energy Co., Ltd. (Luoyang), Jiujiang Shengchao Xinye Technology Co., Ltd. (Jiujiang), Jiujiang Shengzhao Xinye Trade Co., Ltd. Ruichang Branch (Jiujiang Ruichang Branch), and Risen Energy (HongKong) Co., Ltd. (Hong Kong Risen) (collectively, Risen) are affiliated pursuant to section 771(33)(E) and (F) 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 and Risen Collapsing Memo.⁷

⁶ As detailed in the Memorandum, “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.

⁷ Our affiliation and collapsing analysis is based on information that has been designated business proprietary information. For additional detail, *see* Memorandum, “Affiliation and Single Entity Status of Risen Energy Co. Ltd., Risen (Wuhai) New Energy Co., Ltd., Zhejiang Twinsel Electronic Technology Co., Ltd., Risen (Luoyang)

We also preliminarily determine that Trina Solar Co., Ltd. (formerly, Changzhou Trina Solar Energy Co., Ltd.) (TCZ), Trina Solar (Changzhou) Science and Technology Co., Ltd. (TST), Changzhou Trina Hezhong Photoelectric Co., Ltd. (THZ), Yancheng Trina Guoneng Photovoltaic Technology Co., Ltd (formerly, Yancheng Trina Solar Energy Technology Co., Ltd.) (TYC), Changzhou Trina Solar Yabang Energy Co., Ltd. (TYB), Turpan Trina Solar Energy Co., Ltd. (TLF), Hubei Trina Solar Energy Co., Ltd. (THB), and Trina Solar (Hefei) Science and Technology Co., Ltd. (THFT) (collectively Trina) are affiliated pursuant to sections 771(33)(E) 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 Trina Collapsing Memorandum.⁸

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 Trina. 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,

New Energy Co., Ltd., Jiujiang Shengchao Xinye Technology Co., Ltd., Jiujiang Shengzhao Xinye Trade Co., Ltd. Ruichang Branch, Risen Energy (HongKong) Co., Ltd. and Risen Energy (Changzhou) Co., Ltd. (Changzhou),” issued concurrently with this memorandum.

⁸ Our affiliation and collapsing analysis is based on information that has been designated business proprietary information. For additional detail, *see* Memorandum, “Affiliation and Single Entity Status of Trina Solar Co., Ltd. (formerly, Changzhou Trina Solar Energy Co., Ltd.), Trina Solar (Changzhou) Science and Technology Co., Ltd., Yancheng Trina Guoneng Photovoltaic Technology Co., Ltd (formerly, 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., Trina Solar (Hefei) Science and Technology Co., Ltd., and Changzhou Trina Hezhong Photoelectric Co., Ltd.,” issued concurrently with this memorandum.

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 Risen and Trina’s Unreported FOP Memoranda.⁹

Separate Rates

Commerce preliminarily determines that the information placed on the record by Risen and Trina, 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 Trina, that are not zero, *de minimis*, or based entirely on facts available and calculated a rate for the companies to which it granted separate rates status, but which it did not individually examine, as described in the Separate Rate Calculation Memorandum¹⁰ 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. ET Solar Energy Limited
6. Hangzhou Sunny Energy Science and Technology Co., Ltd.
7. Hengdian Group DMEGC Magnetics Co., Ltd.
8. Jiangsu High Hope Int’l Group
9. Jiawei Solarchina (Shenzhen) Co., Ltd.
10. LightWay Green New Energy Co., Ltd.
11. Ningbo Qixin Solar Electrical Appliance Co., Ltd.
12. Systemes Versilis, Inc.

⁹ See Memorandum, “Unreported Factors of Production: Risen Energy Co. Ltd.” and “Unreported Factors of Production: Trina Solar Co., Ltd.” issued concurrently with and hereby adopted by this notice.

¹⁰ See Memorandum, “2017-2018 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.

13. tenKsolar (Shanghai) Co., Ltd.
14. Toenergy Technology Hangzhou Co., Ltd.
15. Wuxi Suntech Power Co., Ltd/Luoyang Suntech Power Co., Ltd.
16. Zhejiang ERA Solar Technology 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.¹¹ For additional information regarding Commerce's separate rates determinations, *see* the Preliminary Decision Memorandum.

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,¹² 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).

¹¹ 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*); *see also 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; 2016-2017*, 84 FR 36886, (July 30, 2019).

¹² *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).

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 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:

Exporter	Weighted-Average Dumping Margin (Percent)
Trina Solar Co., Ltd./Trina Solar (Changzhou) Science and Technology Co., Ltd./Yancheng Trina Guoneng Photovoltaic Technology Co., Ltd./Changzhou Trina Solar Yabang Energy Co., Ltd./Turpan Trina Solar Energy Co., Ltd./Hubei Trina Solar Energy Co., Ltd./Trina Solar (Hefei) Science and Technology Co., Ltd./Changzhou Trina Hezhong Photoelectric Co., Ltd.	46.64
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.	75.23
Anji DaSol Solar Energy Science & Technology Co., Ltd.	60.94
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. (Canadian Solar)	60.94
JA Solar Technology Yangzhou Co., Ltd.	60.94
Jiawei Solarchina Co., Ltd.	60.94
JingAo Solar Co., Ltd..	60.94
Jinko Solar Co., Ltd. (Jinko)	60.94
Jinko Solar Import and Export Co., Ltd. (Jinko I&E)	60.94
Jinko Solar International Limited (Jinko Int'l)	60.94
Shanghai BYD Co., Ltd.	60.94
Shanghai JA Solar Technology Co., Ltd.	60.94
Shenzhen Portable Electronic Technology Co., Ltd.	60.94
Shenzhen Sungold Solar Co., Ltd.	60.94

Wuxi Tianran Photovoltaic Co., Ltd.	60.94
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.	60.94
Zhejiang Jinko Solar Co., Ltd.	60.94
Zhejiang Sunflower Light Energy Science & Technology Limited Liability Company	60.94

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.¹³ 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.¹⁴ 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.¹⁵

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.¹⁶ Requests should contain the party's name, address, and telephone number, the number of participants, 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.

¹³ See 19 CFR 351.309(c)(ii).

¹⁴ See 19 CFR 351.309(d).

¹⁵ See 19 CFR 351.309(c)(2), (d)(2).

¹⁶ See 19 CFR 351.310(c).

Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a date and time to be determined.¹⁷ 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.¹⁸ An electronically filed document must be received successfully in its entirety by Commerce's 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.¹⁹

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.²⁰ 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-

¹⁷ See 19 CFR 351.310(d).

¹⁸ See generally 19 CFR 351.303.

¹⁹ 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).

²⁰ See 19 CFR 351.212(b)(1).

specific assessment rates, in accordance with 19 CFR 351.212(b)(1).²¹ 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.²² Where the respondent did not report entered values, Commerce will calculate importer-specific 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.²³ 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.²⁴

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.²⁵ Additionally, where Commerce determines that an exporter under review had no

²¹ 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*).

²² See 19 CFR 351.212(b)(1).

²³ *Id.*

²⁴ See *Final Modification*, 77 FR at 8103.

²⁵ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011), for a full discussion of this practice.

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.

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 percent);²⁶ 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

²⁶ See *ARI Final*, 80 FR at 41002.

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 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: January 31, 2020.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
 - II. Background
 - III. Scope of the Order
 - IV. Preliminary Determination of No Shipments
 - V. Selection of Respondents
 - VI. Single Entity Treatment
 - VII. Discussion of the Methodology
 - VIII. Recommendation
- [FR Doc. 2020-02563 Filed: 2/7/2020 8:45 am; Publication Date: 2/10/2020]