



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: Notice of Court Decision Not in Harmony with the Results of Countervailing Duty Administrative Review; Notice of Amended Final Results

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

SUMMARY: On December 18, 2024, the U.S. Court of International Trade (CIT) issued its final judgment in *Risen Energy Co., Ltd., v. United States*, Court No. 23-00153, sustaining the U.S. Department of Commerce's (Commerce) remand results pertaining to the administrative review of the countervailing duty (CVD) order on crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the People's Republic of China (China) covering the period January 1, 2020 through December 31, 2020. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the countervailable subsidy rate assigned to producer and/or exporter Risen Energy Co., Ltd. (Risen).

DATES: Applicable December 28, 2024.

FOR FURTHER INFORMATION CONTACT: Lingjun Wang, 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) 482-2316.

SUPPLEMENTARY INFORMATION:

Background

On July 11, 2023, Commerce published its *Final Results* in the 2020 CVD administrative review of solar cells from China. Commerce found that the Government of China failed to

cooperate to the best of its ability and, as adverse facts available, found that Risen used and benefited from the Export Buyer's Credit Program (EBCP).¹

After correcting ministerial errors contained in the *Final Results*, on August 11, 2023, Commerce published the *Amended Final Results*, where we corrected the calculation of the countervailable subsidy rate for Risen from 14.27 percent to 18.95 percent.²

Risen appealed Commerce's *Final Results/Amended Final Results* to the CIT. On August 16, 2024, the CIT remanded the *Final Results/Amended Final Results* to Commerce. The CIT directed Commerce on remand to either attempt verification of the non-use certifications to determine more accurately what proportion of the sales Risen is able to account for, or to remove at least the portion of the EBCP rate attributable to the customers demonstrating non-use from the calculation of Risen's overall subsidy rate.³

In its final *Remand Redetermination*,⁴ issued in November 2024, Commerce found that pro-rating Risen's subsidy rate to account for the number of non-use certifications provided by its U.S. customers is inconsistent with Commerce's practice and the AFA hierarchy. Commerce removed the 5.46 percent EBCP AFA rate from Risen's total countervailable subsidy rate.⁵ The CIT sustained Commerce's *Remand Redetermination*.⁶

Timken Notice

In its decision in *Timken*,⁷ as clarified by *Diamond Sawblades*,⁸ the Court of Appeals

¹ 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; 2020*, 88 FR 44108 (July 11, 2023) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

² See *Notice of Correction to the Final Results, and Amended Final Results of Countervailing Duty Administrative Review; 2020* (August 11, 2023) (*Amended Final Results*).

³ See *Risen Energy Co., Ltd., v. United States*, 724 F.Supp.3d 1356 (CIT 2024).

⁴ See *Final Results of Redetermination Pursuant to Court Remand, Risen Energy Co., Ltd., v. United States* Court No. 23-00153, Slip Op. 24-94 (CIT August 16, 2024), dated November 13, 2024 (*Remand Redetermination*), available at <https://access.trade.gov/public/FinalRemandRedetermination.aspx>.

⁵ *Id.*

⁶ See *Risen Energy Co., Ltd., v. United States*, Slip Op. 24-144 (CIT 2024).

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

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

for the Federal Circuit 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 court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s December 18, 2024, judgment constitutes a final decision of the CIT that is not in harmony with Commerce’s *Final Results/Amended Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* and *Amended Final Results* with respect to producer and/or exporter Risen’s countervailable subsidy rate for the period of January 1, 2020, through December 31, 2020, as follows:

Producer/Exporter	Subsidy Rate (percent <i>ad valorem</i>)
Risen Energy Co., Ltd. ⁹	13.49

Cash Deposit Requirements

Because Risen does not have a superseding cash deposit rate, Commerce will issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP).

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by the CIT order from liquidating entries that: were produced and/or exported by Risen, and were entered, or withdrawn from warehouse, for consumption during the period January 1, 2020 through December 31, 2020. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

⁹ This rate applies Risen Energy Co., Ltd. and its cross-owned companies: Risen Energy (Luoyang) Co., Ltd.; Risen Energy (Wuhai) Co., Ltd.; Risen Energy (Changzhou) Co., Ltd.; Risen Energy (Ningbo) Co., Ltd.; Risen Energy (Yiwu) Co., Ltd.; Zhejiang Boxin Investment Co., Ltd.; Zhejiang Twinsel Electronic Technology Co., Ltd.; Jiangsu Sveck New Material Co., Ltd.; Changzhou Sveck Photovoltaic New Material Co., Ltd. (including Changzhou Sveck Photovoltaic New Material Co., Ltd. Jintan Danfeng Road Branch); Changzhou Sveck New Material Technology Co., Ltd.; Ninghai Risen Energy Power Development Co., Ltd.; Risen (Ningbo) Electric Power Development Co., Ltd.; Changzhou Jintan Ningsheng Electricity Power Co., Ltd.; and Risen (Changzhou) Import and Export Co., Ltd.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess countervailing duties on unliquidated entries of subject merchandise produced and/or exported by Risen in accordance with 19 CFR 351.212(b). We will instruct CBP to assess countervailing duties on all appropriate entries covered by this review when the *ad valorem* rate is not zero or *de minimis*. Where an *ad valorem* subsidy rate is zero or *de minimis*,¹⁰ we will instruct CBP to liquidate the appropriate entries without regard to countervailing duties.

Notification to Interested Parties

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

Dated: December 20, 2024.

/S/ Abdelali Elouaradia

Abdelali Elouaradia,
Deputy Assistant Secretary
for Enforcement and Compliance.

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¹⁰ See 19 CFR 351.106(c)(2).