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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: Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: Based on an affirmative final determination by the U.S. International Trade Commission (ITC), the Department of Commerce (the Department) is issuing a countervailing duty order on crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the People's Republic of China (PRC). On November 30, 2012, the ITC notified the Department of its affirmative determination of material injury to a U.S. industry.¹

EFFECTIVE DATE: [Insert Date of Publication in the Federal Register.]

FOR FURTHER INFORMATION CONTACT: Gene Calvert, Jun Jack Zhao, or Emily Halle, AD/CVD Operations, Office 6, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3586, (202) 482-1396, or (202) 482-0176, respectively.

SUPPLEMENTARY INFORMATION:

Case History

In accordance with section 705(d) of the Tariff Act of 1930, as amended (the Act), on October 17, 2012, the Department published its final determination in the countervailing duty investigation of solar cells from the PRC.²

¹ See Crystalline Silicon Photovoltaic Cells and Modules from China, Investigation Nos. 701-TA-481 and 731-TA-1190 (Final), USITC Publication 4360 (November 2012).

² See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic

Scope of the Order

The merchandise covered by this 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.

This order covers crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Merchandise under consideration may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, modules, laminates, panels, building-integrated modules, building-integrated panels, or other finished goods kits. Such parts that otherwise meet the definition of merchandise under consideration are included in the scope of this order.

Excluded from the scope of this order are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS).

Also excluded from the scope of this order are crystalline silicon photovoltaic cells, not exceeding 10,000mm² in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently

integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Modules, laminates, and panels produced in a third-country from cells produced in the PRC are covered by this order; however, modules, laminates, and panels produced in the PRC from cells produced in a third-country are not covered by this order.

Merchandise covered by this order is currently classified in the Harmonized Tariff System of the United States (“HTSUS”) under subheadings 8501.61.0000, 8507.20.80, 8541.40.6020, 8541.40.6030, and 8501.31.8000.³ These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this order is dispositive.

Countervailing Duty Order

On November 30, 2012, the ITC notified the Department of its final determination, pursuant to section 705(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured as a result of subsidized imports from the PRC. The ITC also determined that critical circumstances do not exist with respect to subject imports from the PRC.

As a result of the ITC’s final determination, in accordance with section 706(a) of the Act, the Department will direct CBP to assess, upon further instruction by the Department, countervailing duties on unliquidated entries of solar cells from the PRC entered, or withdrawn from warehouse, for consumption on or after March 26, 2012, the date on which the Department published its preliminary countervailing duty determination in the Federal Register, and before July 24, 2012, the date on which the Department instructed CBP to discontinue the suspension of liquidation in accordance with section 703(d) of the Act. Section 703(d) of the Act states that the

³ U.S. Customs and Border Protection (CBP) provided notification that HTSUS number 8501.31.8000 should be added to the scope of the order, as certain articles under this number might fall within the scope. See the May 16, 2012 Memorandum to The File, “ACE Case Reference File Update.”

suspension of liquidation pursuant to a preliminary determination may not remain in effect for more than four months. Entries of solar cells from the PRC made on or after July 24, 2012, and prior to the date of publication of the ITC's final determination in the Federal Register are not liable for the assessment of countervailing duties, due to the Department's discontinuation, effective July 24, 2012, of the suspension of liquidation.

The ITC determined that critical circumstances do not exist with respect to subject imports from the PRC. Because of the ITC's negative determination of critical circumstances, the Department will direct CBP to refund all cash deposits collected on entries of solar cells from the PRC which were entered, or withdrawn from warehouse, for consumption on or after December 27, 2011, and before March 26, 2012. The interest provisions of section 778 of the Act do not apply.

In accordance with section 706 of the Act, the Department will direct CBP to reinstitute the suspension of liquidation of solar cells from the PRC, effective the date of publication of the ITC's notice of final determination in the Federal Register, and to assess, upon further advice from the Department pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates for the subject merchandise. On or after the date of publication of the ITC's final injury determination in the Federal Register, CBP must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the rates noted below:

Company	Subsidy Rate
Changzhou Trina Solar Energy Co., Ltd. Trina Solar (Changzhou) Science and Technology Co., Ltd. (collectively, Trina Solar)	15.97 percent <u>ad valorem</u>

Wuxi Suntech Power Co., Ltd.; Luoyang Suntech Power Co., Ltd.; Suntech Power Co., Ltd.; Yangzhou Rietech Renewal Energy Co., Ltd.; Zhejiang Huantai Silicon Science & Technology Co., Ltd.; Kuttler Automation Systems (Suzhou) Co., Ltd.; Shenzhen Suntech Power Co., Ltd.; Wuxi Sunshine Power Co., Ltd.; Wuxi University Science Park International Incubator Co., Ltd.; Yangzhou Suntech Power Co., Ltd.; and Zhejiang Rietech New Energy Science & Technology Co., Ltd (collectively, Wuxi Suntech)	14.78 percent <u>ad valorem</u>
All Others Rate	15.24 percent <u>ad valorem</u>

This notice constitutes the countervailing duty order with respect to solar cells from the PRC pursuant to section 706(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room 7046 of the main Commerce building, for copies of an updated list of countervailing duty orders currently in effect.

This countervailing duty order is issued and published in accordance with sections 705(c)(2) and 706 of the Act, and 19 CFR 351.211.

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

December 3, 2012 _____
Date

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