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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 Rescission of 2013 – 2014 Antidumping Duty New Shipper Review**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Commerce.

**SUMMARY:** The Department of Commerce (“the Department”) is conducting a new shipper review (“NSR”) 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 (“PRC”). The NSR covers one exporter and producer of subject merchandise, Hengdian Group DMEGC Magnetics Co., Ltd. (“DMEGC”). The period of review (“POR”) is December 1, 2013, through May 31, 2014. The Department preliminarily determines that DMEGC’s sale to the United States was not *bona fide*; therefore, we are preliminarily rescinding this NSR. Interested parties are invited to comment on the preliminary results of this review.

**DATES:** *Effective:* [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Jeffrey 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

On July 28, 2014, the Department published a notice of initiation of a new shipper review of the antidumping duty order on solar cells from the PRC.<sup>1</sup> The Department subsequently issued an antidumping duty questionnaire, and supplemental questionnaires, to DMEGC and received timely responses thereto. Also, interested parties submitted comments on surrogate country and surrogate value selection. The Department extended the deadline for issuing the preliminary results of this review until April 7, 2015.<sup>2</sup>

## 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.<sup>3</sup> Merchandise covered by this review is classifiable under subheadings 8501.61.0000, 8507.20.80, 8541.40.6020, 8541.40.6030, and 8501.31.8000 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

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<sup>1</sup> See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People’s Republic of China: Initiation of Antidumping Duty New Shipper Review*, 79 FR 43710 (July 28, 2014).

<sup>2</sup> See the memoranda to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Jeff Pedersen, International Trade Analyst, Office IV, Antidumping and Countervailing Duty Operations, entitled, “Extension of Deadline for Preliminary Results of Antidumping Duty New Shipper Review” dated January 13, 2015 and February 11, 2015 and the memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Valerie Ellis, International Trade Analyst, Office IV, Antidumping and Countervailing Duty Operations, entitled, “Extension of Deadline for Preliminary Results of Antidumping Duty New Shipper Review” dated March 16, 2015.

<sup>3</sup> For a complete description of the scope of the order, see Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, entitled “Preliminary Rescission of the 2013-2014 Antidumping Duty New Shipper Review: 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”).

## Methodology

The Department is conducting this review in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (“the Act”) and 19 CFR 351.214. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. 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 in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://www.trade.gov/enforcement/>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

## Preliminary Rescission of the Antidumping New Shipper Review of DMEGC

As discussed in the *Bona Fide Sales Analysis Memorandum*,<sup>4</sup> the Department preliminarily finds that the sale made by DMEGC to the United States is not a *bona fide* sale. The Department reached this conclusion based on the totality of circumstances surrounding the reported sale, including, among other things, the price and quantity of the sale and DMEGC’s failure to provide evidence that the subject merchandise was resold at a profit. Because the non-*bona fide* sale was the only reported sale of subject merchandise during the POR, and thus there are no reviewable transactions on this record, we are preliminarily rescinding the instant administrative

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<sup>4</sup> *See* Memorandum from Jeffrey Pedersen, International Trade Analyst, Office IV AD/CVD Operations, to Howard Smith, Acting Director, Office IV, AD/CVD Operations entitled “2013-2014 Antidumping Duty New Shipper Review of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People’s Republic of China: Preliminary *Bona Fide* Sales Analysis for Hengdian Group DMEGC Magnetics Co., Ltd.” dated concurrently with and hereby adopted by this notice (“*Bona Fide* Sales Analysis Memorandum”).

review. *See* 19 CFR 351.213(d)(3). Because much of the factual information used in our analysis of DMEGC’s sale involves business proprietary information, a full discussion of the basis for our preliminary determination is set forth in the Memorandum to Howard Smith, Acting Director, AD/CVD Operations, Office IV, “Preliminary Bona Fide Sales Analysis for Hengdian Group DMEGC Magnetics Co., Ltd.,” dated April 7, 2015, which is on the record of this proceeding.

### Public Comment

Interested parties may submit case briefs no later than 30 days after the date of publication of the preliminary results of review.<sup>5</sup> Rebuttals to case briefs may be filed no later than five days after the briefs are filed. All rebuttal comments must be limited to comments raised in the case briefs.<sup>6</sup>

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement & Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice.<sup>7</sup> Requests should contain the party’s name, address, and telephone number, the number of participants, and a list of the issues to be discussed. Oral argument presentations will be limited to issues raised in the briefs. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date and time to be determined.<sup>8</sup> Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

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<sup>5</sup> *See* 19 CFR 351.309(c).

<sup>6</sup> *See* 19 CFR 351.309(d).

<sup>7</sup> *See* 19 CFR 351.310(c).

<sup>8</sup> *See* 19 CFR 351.310(d).

All submissions, with limited exceptions, must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the Department'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.<sup>9</sup>

The Department intends to issue the final results of this NSR, which will include the results of its analysis of issues raised in any briefs received, no later than 90 days after the date these preliminary results of review are issued pursuant to section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the "Act").

#### Assessment Rates

If the Department proceeds to a final rescission of DMEGC's NSR, the assessment rate to which DMEGC's shipments will be subject will not be affected by this review. However, the Department initiated an administrative review of the antidumping duty order on solar cells from the PRC covering numerous exporters, including DMEGC, and the period December 1, 2013 through November 30, 2014, which encompasses the POR of this NSR.<sup>10</sup> Thus, if the Department proceeds to a final rescission, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend entries during the period December 1, 2013 through November 30, 2014 of subject merchandise exported by DMEGC until CBP receives instructions relating to the administrative review of this order covering the period December 1, 2013 through November 30, 2014.

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<sup>9</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011).

<sup>10</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 6041, 6042 (February 4, 2015).

If the Department does not proceed to a final rescission of this new shipper review, pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific (or customer) assessment rates based on the final results of this review. However, pursuant to the Department's refinement to its assessment practice in NME cases, for entries that were not reported in the U.S. sales database submitted by DMEGC, the Department will instruct CBP to liquidate such entries at the PRC-wide rate.<sup>11</sup>

#### Cash Deposit Requirements

Effective upon publication of the final rescission or the final results of this NSR, pursuant to section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e), the Department will instruct CBP to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise by DMEGC. If the Department proceeds to a final rescission of this new shipper review, the cash deposit rate will continue to be the PRC-wide rate for DMEGC because the Department will not have determined an individual margin of dumping for DMEGC. If the Department issues final results for this new shipper review, the Department will instruct CBP to collect cash deposits, effective upon the publication of the final results, at the rates established therein.

#### 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 prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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<sup>11</sup> For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

We are issuing and publishing these results in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: April 7, 2015.

**Ronald K. Lorentzen,**  
*Acting Assistant Secretary  
for Enforcement and Compliance.*

## Appendix I

### List of Topics Discussed in the Preliminary Decision Memorandum

1. Scope
2. Bona Fide Sales Analysis

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