



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-979]

Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review:

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the People's Republic of China

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

SUMMARY: Pursuant to section 751(b) of the Tariff Act of 1930, as amended (“the Act”), 19 CFR 351.216, and 19 CFR 351.221(c)(3), the Department of Commerce (the “Department”) is initiating, and issuing the preliminary results, of a changed circumstances review of the antidumping duty (“AD”) order on crystalline silicon photovoltaic cells, whether or not assembled into modules, (“solar cells”) from the People’s Republic of China (“PRC”) regarding whether Hangzhou Sunny Energy Science and Technology Co., Ltd. (“Hangzhou Sunny”) is the successor-in-interest to Hangzhou Zhejiang University Sunny Energy Science and Technology Co., Ltd. (“Hangzhou ZU Sunny”). Based on the information on the record, we preliminarily determine that Hangzhou Sunny is the successor-in-interest to Hangzhou ZU Sunny and, as such, is entitled to Hangzhou ZU Sunny’s AD cash deposit rate with respect to entries of subject merchandise. Interested parties are invited to comment on these preliminary results.

DATES: Effective [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, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-2769.

SUPPLEMENTARY INFORMATION:

Background

On December 7, 2012, the Department published the antidumping order on solar cells from the PRC in the *Federal Register*.¹ On April 4, 2016, Hangzhou Sunny requested that the Department initiate an expedited changed circumstances review to determine that Hangzhou Sunny is the successor-in-interest to Hangzhou ZU Sunny for AD purposes.² On May 4, 2016, Hangzhou Sunny responded to a supplemental questionnaire issued by the Department on April 29, 2016.³

Scope of the Order

The merchandise covered by the Order is crystalline silicon photovoltaic cells, whether or not assembled into modules, subject to certain exceptions.⁴ For the full scope of the Order, see the accompanying preliminary decision memorandum.

¹ See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order, 77 FR 73018 (December 7, 2012) (“Order”).

² See Letter from Hangzhou Sunny to the Department regarding, “Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules from the People’s Republic of China: Request for Expedited Changed Circumstances Review” (April 4, 2016) (“CCR Request”).

³ See Letter from Hangzhou Sunny to the Department, regarding “Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules from the People’s Republic of China: Supplemental Response” (May 4, 2016) (“Supplemental Response”).

⁴ For a complete description of the Scope of the Order, see Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Preliminary Results of Changed Circumstances Review: Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China” (“Preliminary Results Memorandum”), dated concurrently with, and adopted by, this notice.

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States (“HTSUS”): 8501.61.0000, 8507.20.80, 8541.40.6020, 8541.40.6030, and 8501.31.8000. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Initiation of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(d), the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from an interested party for a review of, an AD order which shows changed circumstances sufficient to warrant a review of the order. In the past, the Department has used changed circumstances reviews to address the applicability of cash deposit rates after there have been changes in the name or structure of a respondent, such as a merger or spinoff (“successor-in-interest,” or “successorship,” determinations). Thus, consistent with Department practice, the information submitted by Hangzhou Sunny, which includes information regarding a name change, demonstrates changed circumstances sufficient to warrant a review.⁵

Therefore, in accordance with section 751(b)(1) of the Act and 19 CFR 351.216(d), the Department is initiating a changed circumstances review to determine whether Hangzhou Sunny is the successor-in-interest to Hangzhou ZU Sunny.

Preliminary Determination

When it concludes that expedited action is warranted, the Department may publish the notice of initiation and preliminary results for a changed circumstances review concurrently.⁶ The Department has combined the notice of initiation and preliminary results in successor-in-

⁵ See 19 CFR 351.216(d).

⁶ See 19 CFR 351.221(c)(3)(ii).

interest cases when sufficient documentation has been provided supporting the request.⁷ In this instance, because we have determined that the information necessary to support the request is on the record, we find that expedited action is warranted, and are combining the notice of initiation and the notice of preliminary results in accordance with 19 CFR 351.221(c)(3)(ii).

In determining whether one company is the successor to another for purposes of applying the AD law, the Department examines a number of factors including, but not limited to, changes in: (1) Management, (2) production facilities, (3) suppliers, and (4) customer base.⁸ While no one or several of these factors will necessarily provide a dispositive indication of succession, the Department will generally consider one company to be the successor to another company if its resulting operation is essentially the same as that of its predecessor.⁹ Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the prior company, the Department will assign the new company the cash deposit rate of its predecessor.¹⁰

In its April 4, 2016 CCR Request and its May 4, 2016 Supplemental Response, Hangzhou Sunny provided evidence for us to preliminarily determine that it is the successor-in-interest to Hangzhou ZU Sunny. Specifically, Hangzhou Sunny demonstrated that it is essentially the same as Hangzhou ZU Sunny despite some changes to its predecessor's

⁷ See, e.g., Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada, 70 FR 50299 (August 26, 2005).

⁸ See, e.g., Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Multilayered Wood Flooring From the People's Republic of China, 79 FR 48117, 48118 (August 15, 2014), unchanged in Multilayered Wood Flooring From the People's Republic of China: Final Results of Changed Circumstances Review, 79 FR 58740 (September 30, 2014).

⁹ Id.

¹⁰ See Notice of Final Results of Changed Circumstances Review: Polychloroprene Rubber from Japan, 69 FR 67890 (November 22, 2004) citing, Brass Sheet and Strip from Canada: Notice of Final Results of Antidumping Duty Administrative Review, 57 FR 20460 (May 13, 1992); and, Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Initiation of Antidumping Duty Changed Circumstance Review, 70 FR 17063 (April 4, 2005).

management, the production facility, suppliers, or the customer base following the name change

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According to the information provided, although there were certain changes to the board of directors and management when comparing Hangzhou Sunny to Hangzhou ZU Sunny, Hangzhou Sunny is owned, managed and operated by the same principal owners as Hangzhou ZU Sunny.¹² Regarding its production of the subject merchandise, Hangzhou Sunny has stated that its production facility is the same as that of Hangzhou ZU Sunny.¹³ Hangzhou Sunny also provided documentation showing that there has been no material changes in suppliers of inputs or services related to the production, sale and distribution of the subject merchandise¹⁴ or in the U.S. customer base.¹⁵ Based the foregoing, which is explained in greater detail in the Preliminary Results Memorandum, we preliminarily determine that Hangzhou Sunny is the successor-in-interest to Hangzhou ZU Sunny and, as such, that it is entitled to Hangzhou ZU Sunny's AD cash-deposit rate with respect to entries of subject merchandise.

Should our final results remain the same as these preliminary results, effective the date of publication of the final results, we will instruct U.S. Customs and Border Protection to suspend liquidation of entries of subject merchandise exported by Hangzhou Sunny at the AD cash-deposit rate applicable to Hangzhou ZU Sunny.

Public Comment

Interested parties may submit case briefs not later than 14 days after the date of publication of this notice.¹⁶ Rebuttal briefs, which must be limited to issues raised in such briefs,

¹¹ See, generally, CCR Request and Supplemental Response.

¹² See Preliminary Results Memorandum at 3.

¹³ Id.

¹⁴ Id., at 3.

¹⁵ Id.

¹⁶ The Department is exercising its discretion under 19 CFR 351.309(c)(1)(ii) to alter the time limit for the filing of case briefs.

may be filed not later than seven days after the due date for case briefs.¹⁷ Parties who submit case briefs or rebuttal briefs in this changed circumstances review are requested to submit with each argument: (1) A statement of the issue and (2) a brief summary of the argument with an electronic version included.

Any interested party may request a hearing within 14 days of publication of this notice.¹⁸ Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230 in a room to be determined.¹⁹

All submissions, with limited exceptions, must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS").²⁰ An electronically filed document must be received successfully in its entirety 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.²¹

¹⁷ The Department is exercising its discretion under 19 CFR 351.309(d)(1) to alter the time limit for the filing of rebuttal briefs.

¹⁸ The Department is exercising its discretion under 19 CFR 351.310(c) to alter the time limit for requesting a hearing.

¹⁹ See 19 CFR 351.310(d).

²⁰ ACCESS is available to registered users at <https://access.trade.gov> and available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building.

²¹ See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures, 76 FR 39263 (July 6, 2011).

Consistent with 19 CFR 351.216(e), we will issue the final results of this changed-circumstances review no later than 270 days after the date on which this review was initiated or within 45 days if all parties agree to the outcome of the review.

We are issuing and publishing this initiation and preliminary results notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216 and 351.221(c)(3).

Dated: May 20, 2016.

Paul Piquado,

Assistant Secretary

for Enforcement and Compliance.

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