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DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-853]

Certain Crystalline Silicon Photovoltaic Products from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2016-2017

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on certain crystalline silicon photovoltaic products (solar products) from Taiwan. The period of review (POR) is February 1, 2016, through January 31, 2017. This administrative review covers 11 exporters of the subject merchandise, including one mandatory respondent, Motech Industries, Inc. (Motech). The Department preliminarily determines that Motech made sales of subject merchandise at less than normal value during the POR. Additionally, we are rescinding this administrative review with respect to 23 companies that timely withdrew their requests for administrative review. Interested parties are invited to comment on these preliminary results.

DATES: Applicable [INSERT DATE OF THE PUBLICATION OF THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Ariela Garvett or Thomas Martin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3609 or (202) 482-3936, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 8, 2017, the Department notified interested parties of the opportunity to request an administrative review of orders, findings, or suspended investigations with anniversaries in February 2017, including the antidumping duty order on solar products from Taiwan.¹ On February 28, 2017, SolarWorld Americas Inc. (the petitioner), as well as various exporters and importers, requested that the Department conduct an administrative review of certain exporters covering the POR. On April 10, 2017, the Department published a notice initiating an AD administrative review of solar products from Taiwan covering 34 companies for the POR.²

In the *Initiation Notice*, the Department stated that if it limited the number of respondents for individual examination, it intended to select respondents based on volume data contained in responses to its quantity and value (Q&V) questionnaire.³ On April 10, 2017, the Department issued Q&V questionnaires to all 11 companies that appeared in the U.S. Customs and Border Protection (CBP) data for import and merchandise value.⁴ We received Q&V questionnaire

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 82 FR 9709 (February 8, 2017).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 17188, 17189 (April 10, 2017) (*Initiation Notice*).

³ *Id.* at 17189.

⁴ The Department explained in the *Initiation Notice* that the units used to measure the imported quantities of solar cells and solar modules in the CBP data are in “piece” units, and it would not be meaningful to sum the number of imported solar cells and the number of imported solar modules in attempting to determine the largest Taiwan exporters of subject merchandise by volume. *Id.* Therefore, the Department stated that it would limit the number of Q&V questionnaires issued based on the import values in CBP data. *Id.*

responses from 11 companies⁵ named in the *Initiation Notice*. The remaining 23 companies withdrew their requests for administrative review, pursuant to 19 CFR 351.213(d)(1).

On May 24, 2017, the Department selected Motech as a mandatory respondent.⁶ From May 25, 2017, through November 16, 2017, the Department issued questionnaires to, and received timely responses from, Motech.⁷ The petitioner commented on these responses between July 6, July 28, October 3, and October 24, 2017.

Partial Rescission of Antidumping Duty Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if a party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. Twenty-three companies⁸ withdrew their respective requests for an administrative review within 90 days of the date of publication of *Initiation Notice*. Accordingly, the Department is rescinding this review with respect to these 23 companies.

Scope of the Order

⁵ The 11 companies that submitted a Q&V questionnaire response include: AU Optronics Corporation, EEPV Corp., Gintech Energy Corporation, Inventec Solar Energy Corporation, Kyocera Mexicana S.A. de C.V., Motech Industries, Inc., Neo Solar Power Corporation, Sino-American Silicon Products Inc., Solartech Energy Corp. group, TSEC Corporation, and Vina Solar Technology Co., Ltd.

⁶ See memorandum from Thomas Martin, Senior International Trade Compliance Analyst, Office IV, AD/CVD Operations, Enforcement and Compliance to Abdelali Elouaradia, Director, Office IV, AD/CVD Operations, Enforcement and Compliance regarding “2016-2017 Antidumping Duty Administrative Review of Certain Crystalline Silicon Photovoltaic Products from Taiwan: Respondent Selection,” dated May 24, 2017 (Respondent Selection Memorandum) at 4-5.

⁷ See Letters from Motech to the Department dated June 22, July 13, September 20, October 3, October 13, November 6, November 13, and November 16, 2017.

⁸ Baoding Jiasheng Photovoltaic Technology Co Ltd., Baoding Tianwei Yingli New Energy Resources Co., Ltd., Beijing Tianneng Yingli New Energy Resources Co Ltd., Boviet Solar Technology Co., Ltd., Canadian Solar Inc., Canadian Solar International, Ltd., Canadian Solar Manufacturing (Changshu), Inc., Canadian Solar Manufacturing (Luoyang), Inc., Canadian Solar Solution Inc., E-TON Solar Tech. Co., Ltd., Hainan Yingli New Energy Resources Co., Ltd., Hengshui Yingli New Energy Resources Co., Ltd., Inventec Energy Corporation., Lixian Yingli New Energy Resources Co., Ltd., Shenzhen Yingli New Energy Resources Co., Ltd., Sunengine Corporation Ltd., Sunrise Global Solar Energy., Tianjin Yingli New Energy Resources Co., Ltd., Trina Solar (Schweiz) AG., Trina Solar (Singapore) Science and Technology Pte Ltd., Win Win Precision Technology Co., Ltd., Yingli Energy (China) Co., Ltd., and Yingli Green Energy International Trading Company Limited.

The merchandise covered by this order is crystalline silicon photovoltaic cells, and modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials.⁹ Merchandise covered by this order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6020, 8541.40.6030 and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope is dispositive.

Methodology

The Department is conducting this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Export price and constructed export price are calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.¹⁰ A list of topics included in the Preliminary Decision Memorandum is included as an Appendix to this notice.

Preliminary Results of Review

⁹ For a complete description of the scope of the products under review, *see* Memorandum from James Maeder, Senior Director, performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Decision Memorandum for Preliminary Results of the 2016-2017 Antidumping Duty Administrative Review of Certain Crystalline Silicon Photovoltaic Products from Taiwan," dated concurrently with, and hereby adopted by this notice (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 available to all parties in the Central Records Unit, room B8024 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://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

¹⁰ *See* Preliminary Decision Memorandum.

As a result of this review, we preliminarily determine the following weighted-average dumping margins for the period February 1, 2016 through January 31, 2017:

Manufacturer/Exporter	Weighted-Average Margin (percent)
Motech Industries, Inc.	1.07
AU Optronics Corporation	1.07
EEPV Corp.	1.07
Gintech Energy Corporation	1.07
Inventec Solar Energy Corporation	1.07
Kyocera Mexicana S.A. de C.V.	1.07
Neo Solar Power Corporation	1.07
Sino-American Silicon Products Inc. and Solartech Energy Corp.	1.07
TSEC Corporation	1.07
Vina Solar Technology Co., Ltd.	1.07

Rate for Companies Not Individually Examined

The statute and the Department's regulations do not address the establishment of a rate to be applied to respondents not selected for individual examination when the Department limits its examination of companies subject to the administrative review pursuant to section 777A(c)(2)(B) of the Act. Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents not individually examined in an administrative review. Section 735(c)(5)(A) of the Act articulates a preference for not calculating an all-others rate using rates

which are zero, *de minimis* or based entirely on facts available (FA).¹¹ Accordingly, the Department's usual practice has been to determine the dumping margin for companies not individually examined by averaging the weighted-average dumping margins for the individually examined respondents, excluding rates that are zero, *de minimis*, or based entirely on facts available.¹² Consistent with this practice, we preliminarily calculated a weighted-average dumping margin for Motech that is above *de minimis* and not based entirely on FA; therefore, the Department preliminarily assigns to the non-selected companies the weighted-average margin calculated for Motech as the non-selected respondent rate for this review.

Assessment Rates

As noted above, we are rescinding the review with respect to 23 companies that withdrew their requests for an administrative review within 90 days of the date of publication of the *Initiation Notice*. As such, the Department intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice for these 23 companies. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption in accordance with 19 CFR 351.212(c)(1)(i).

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review.

¹¹ See *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

¹² *Id.*

For any individually examined respondents whose weighted-average dumping margin is above *de minimis* (i.e., 0.50 percent), we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).¹³ For entries of subject merchandise during the POR produced by each respondent for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate un-reviewed entries at the all-others rate if there is no rate for the intermediate company involved in the transaction.¹⁴ We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is above *de minimis*. Where either the respondent's weighted-average dumping margin is zero or *de minimis*, or an importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

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 duties, where applicable.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of solar products from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final

¹³ In these preliminary results, the Department applied the assessment rate calculation methodology adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012).

¹⁴ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies under review will be the rate established in the final results of this review (except, if the rate is zero or *de minimis*, no cash deposit will be required); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of the proceeding for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 19.50 percent *ad valorem*, the all-others rate established in the less-than-fair-value investigation.¹⁵ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

The Department intends to disclose the calculations used in our analysis to interested parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties are invited to comment on the preliminary results of this review. Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the time limit for filing case briefs.¹⁶ Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each brief: (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of

¹⁵ See *Certain Crystalline Silicon Photovoltaic Products: Final Determination of Sales at Less Than Fair Value*, 79 FR 76966 (December 23, 2014).

¹⁶ See 19 CFR 351.309(d)(1).

authorities.¹⁷ Executive summaries should be limited to five pages total, including footnotes.¹⁸ Case and rebuttal briefs should be filed using ACCESS.¹⁹

Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 30 days of the publication of this notice in the *Federal Register*. If a hearing is requested, the Department will notify interested parties of the hearing schedule. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically *via* ACCESS within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.

We intend to issue the final results of this administrative review, including the results of our analysis of issues raised by the parties in the written comments, within 120 days of publication of these preliminary results in the *Federal Register*, unless otherwise extended.²⁰

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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.

¹⁷ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁸ *Id.*

¹⁹ See 19 CFR 351.303.

²⁰ See section 751(a)(3)(A) of the Act.

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h)(1).

Dated: December 13, 2017.

Gary Taverman,
Deputy Assistance Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.

APPENDIX

List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
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3. Scope of the Order
4. Selection of Respondents
5. Affiliation and Collapsing of Affiliates
6. Unexamined Respondents
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8. Product Comparisons
9. Date of Sale
10. Export Price
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14. Calculation of NV Based on Comparison-Market Prices
15. Currency Conversions
16. Conclusion

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