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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 Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2015-2016

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

SUMMARY: The Department of Commerce (Commerce) is conducting an administrative review 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 (China). The period of review (POR) is December 1, 2015, through November 30, 2016. The administrative review covers one mandatory respondent: the collapsed entity Changzhou Trina Solar Energy Co., Ltd./Trina Solar (Changzhou) Science and Technology Co., Ltd./Yancheng Trina Solar Energy Technology Co., Ltd./Changzhou Trina Solar Yabang Energy Co., Ltd./Turpan Trina Solar Energy Co., Ltd./Hubei Trina Solar Energy Co., Ltd., which we have preliminarily determined to treat as a single entity with Trina Solar (Hefei) Science and Technology Co., Ltd (Trina). Commerce preliminarily finds that Trina sold subject merchandise in the United States at prices below normal value (NV) during the POR. Interested parties are invited to comment on these preliminary results.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Krishna Hill, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4037.

SUPPLEMENTARY INFORMATION:

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.¹ Merchandise covered by this order 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.

Preliminary Determination of No Shipments

We preliminarily determine that there is no evidence calling into question the no shipment claims of the following companies: De-Tech Trading Limited HK, Dongguan Sunworth Solar Energy Co., Ltd., Jiawei Solarchina Co., Ltd., Ningbo ETDZ Holdings, Ltd., Shenzhen Sungold Solar Co., Ltd., Taizhou BD Trade Co., Ltd., Toenergy Technology Hangzhou Co., Ltd., and Wuxi Tianran Photovoltaic Co., Ltd. For additional information regarding this determination, *see* the Preliminary Decision Memorandum.

Consistent with an announced refinement to its assessment practice in non-market economy (NME) cases, Commerce is not rescinding this review with respect to these companies, but intends to complete the review of the companies for which it has preliminarily found no

¹ For a complete description of the scope of the order, *see* DOC Memorandum re: Decision Memorandum for the Preliminary Results of the 2015-2016 Antidumping Duty Administrative Review of 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).

evidence of shipments and issue appropriate instructions to CBP based on the final results of the review.²

Preliminary Affiliation and Single Entity Determination

We preliminarily find that Changzhou Trina Solar Energy Co., Ltd./Trina Solar (Changzhou) Science and Technology Co., Ltd./Yancheng Trina Solar Energy Technology Co., Ltd./Changzhou Trina Solar Yabang Energy Co., Ltd./Turpan Trina Solar Energy Co., Ltd./Hubei Trina Solar Energy Co., Ltd. (Trina), which we have preliminarily continued to treat as a single entity, is affiliated with Trina Solar (Hefei) Science and Technology Co., Ltd., pursuant to section 771(33)(F) of the Tariff Act of 103 (the Act) and all of these companies should be treated as a single entity pursuant to 19 CFR 351.401(f)(1)-(2). For additional information, *see* the Preliminary Decision Memorandum and Trina Collapsing Memorandum.³

Use of Partial Facts Available (FA) and Partial Adverse Facts Available (AFA)

Section 776(a) of the Act provides that Commerce shall apply FA if (1) necessary information is not on the record, or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by Commerce, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act. Section 776(b) of the Act further provides that Commerce may use an adverse inference in applying FA (*i.e.*, AFA) when a

² *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-95 (October 24, 2011) and the “Assessment Rates” section, below.

³ *See* Preliminary Decision Memorandum under the “Single Entity Treatment” section; *see also* DOC Memorandum: Affiliation and Single Entity Status of Changzhou Trina Solar Energy Co., Ltd., Trina Solar (Changzhou) Science and Technology Co., Ltd., Yancheng Trina Solar Energy Technology Co., Ltd., Changzhou Trina Solar Yabang Energy Co., Ltd., Turpan Trina Solar Energy Co., Ltd., Hubei Trina Solar Energy Co., Ltd., and Trina Solar (Hefei) Science and Technology Co., Ltd., issued concurrently with and hereby adopted by this notice (Trina Collapsing Memorandum).

party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include reliance on information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

Trina failed to provide factors of production (FOP) data from certain unaffiliated tollers of inputs used to produce subject merchandise, as well as from certain unaffiliated suppliers of solar cells. We preliminarily determine that it is appropriate to apply AFA, pursuant to section 776(b) of the Act, with respect to the unreported FOPs for purchased solar cells. These unreported FOPs for solar cells represent a material amount of necessary FOP information. However, in accordance with section 776(a)(1) of the Act, Commerce is applying FA with respect to the unreported FOPs from the unaffiliated tollers. The record indicates that the tolled portions either represent relatively small percentages of the inputs consumed, the tollers only performed a relatively small portion of the total processing involved in producing the input, or the input accounts for a relatively small share of the overall costs of a solar panel. For details regarding these determinations, *see* the Preliminary Decision Memorandum and the Trina Unreported FOP Memorandum.⁴

Separate Rates

Commerce preliminarily determines that the information placed on the record by Trina, as well as by the other companies listed in the rate table in the “Preliminary Results of Review” section below, demonstrates that these companies are entitled to separate rate status. Commerce calculated a rate for the sole mandatory respondent, Trina that is not zero, *de minimis*, or based

⁴ *See* DOC Memorandum re: Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China: Unreported Factors of Production, issued concurrently with and hereby adopted by this notice.

entirely on facts available. Accordingly, we assigned the weighted-average dumping margin for Trina to the non-individually examined companies to which we granted separate rates status.

Conversely, Commerce preliminarily determines that the following companies have not demonstrated their entitlement to separate rates status because they did not file a separate rate application or certification with Commerce:

1. Eoply New Energy Technology Co., Ltd.
2. ERA Solar Co., Ltd.
3. ET Solar Industry Limited
4. Hangzhou Zhejiang University Sunny Energy Science and Technology Co., Ltd.
5. Jiangsu High Hope Int'l Group
6. Jiangsu Sunlink PV Technology Co., Ltd.
7. Systemes Versilis, Inc.
8. Zhongli Talesun Solar Co. Ltd.

Commerce treated these companies as part of the China-wide entity. Because no party requested a review of the China-wide entity, the entity is not under review and the entity's rate (*i.e.*, 238.95 percent) is not subject to change.⁵ For additional information regarding Commerce's separate rates determinations, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(B) of the Act. Commerce calculated constructed export prices in accordance with section 772 of the Act. Given that China is a NME country, within the meaning of section 771(18) of the Act, Commerce calculated NV in accordance with section 773(c) of the Act.

For a full description of the methodology underlying the preliminary results of this review, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is

⁵ *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2014-2015*, 82 FR 29033 (June 27, 2017) (AR3 Final), unchanged in *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 40560 (August 25, 2017) (Amended AR3 Final).

a public document and is made available to the public *via* Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and is 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 found at <https://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

Commerce preliminarily determines that the following weighted-average dumping margins exist for the POR:

Exporter	Weighted-Average Dumping Margin (Percent)
Changzhou Trina Solar Energy Co., Ltd./ Trina Solar (Changzhou) Science and Technology Co., Ltd./Yancheng Trina Solar Energy Technology Co., Ltd./Changzhou Trina Solar Yabang Energy Co., Ltd./Turpan Trina Solar Energy Co., Ltd./Hubei Trina Solar Energy Co., Ltd./ Trina Solar (Hefei) Science and Technology Co., Ltd.	61.61
Anji DaSol Solar Energy Science & Technology Co., Ltd.	61.61
Chint Solar (Zhejiang) Co., Ltd.	61.61
ET Solar Energy Limited	61.61
Hangzhou Sunny Energy Science and Technology Co., Ltd.	61.61
Hengdian Group DMEGC Magnetics Co. Ltd.	61.61
JA Solar Technology Yangzhou Co., Ltd.	61.61
Jiawei Solarchina (Shenzhen) Co., Ltd.	61.61
JingAo Solar Co., Ltd.	61.61
LERRI Solar Technology Co., Ltd.	61.61
Lightway Green New Energy Co., Ltd.	61.61
Ningbo Qixin Solar Electrical Appliance Co., Ltd.	61.61
Risen Energy Co., Ltd.	61.61
Shanghai JA Solar Technology Co., Ltd.	61.61
Shenzhen Topray Solar Co., Ltd.	61.61
Sumec Hardware & Tools Co., Ltd.	61.61

Sunpreme Jiaxing Ltd.	61.61
tenKsolar (Shanghai) Co., Ltd.	61.61
Wuxi Suntech Power Co., Ltd/Luoyang Suntech Power Co., Ltd.	61.61
Yingli Energy (China) Company Limited/Baoding Tianwei Yingli New Energy Resources Co., Ltd./Tianjin Yingli New Energy Resources Co., Ltd./Hengshui Yingli New Energy Resources Co., Ltd./Lixian Yingli New Energy Resources Co., Ltd./Baoding Jiasheng Photovoltaic Technology Co., Ltd./Beijing Tianneng Yingli New Energy Resources Co., Ltd./Hainan Yingli New Energy Resources Co., Ltd.	61.61
Zhejiang ERA Solar Technology Co., Ltd.	61.61
Zhejiang Sunflower Light Energy Science & Technology Limited Liability Company	61.61

Disclosure and Public Comment

Commerce intends to disclose to parties the calculations performed for these preliminary results of review within five days of the date of publication of this notice in the *Federal Register* in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review.⁶ Rebuttal briefs may be filed no later than five days after case briefs are due and may respond only to arguments raised in the case briefs.⁷ A table of contents, list of authorities used, and an executive summary of issues should accompany any briefs submitted to Commerce. The summary should be limited to five pages total, including footnotes.⁸

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice.⁹ Requests should contain the party's name, address, and telephone number, the number of participants in, and a list of the issues to be

⁶ See 19 CFR 351.309(c)(ii).

⁷ See 19 CFR 351.309(d).

⁸ See 19 CFR 351.309(c)(2), (d)(2).

⁹ See 19 CFR 351.310(c).

discussed at, the hearing. Oral arguments at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a date and time to be determined.¹⁰ Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date of the hearing.

All submissions, with limited exceptions, must be filed electronically using ACCESS.¹¹ An electronically filed document must be received successfully in its entirety by Commerce'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.¹²

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any briefs, within 120 days of publication of these preliminary results of review, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results of this review, Commerce will determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries covered by this review.¹³ Commerce intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. For each individually examined respondent in this review whose weighted-average dumping margin in the final results of review

¹⁰ See 19 CFR 351.310(d).

¹¹ See generally 19 CFR 351.303.

¹² See 19 CFR 351.303 (for general filing requirements); *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011).

¹³ See 19 CFR 351.212(b)(1).

is not zero or *de minimis* (*i.e.*, less than 0.5 percent), Commerce intends to calculate importer-specific assessment rates, in accordance with 19 CFR 351.212(b)(1).¹⁴ Where the respondent reported reliable entered values, Commerce intends to calculate importer-specific *ad valorem* assessment rates by aggregating the amount of dumping calculated for all U.S. sales to the importer and dividing this amount by the total entered value of the sales to the importer.¹⁵

Where the respondent did not report entered values, Commerce will calculate importer-specific assessment rates by dividing the amount of dumping for reviewed sales to the importer by the total sales quantity associated with those transactions. Commerce will calculate an estimated *ad valorem* importer-specific assessment rate to determine whether the per-unit rate is *de minimis*, however, Commerce will direct CBP to assess importer-specific assessment rates where the entered value was not reported based on the resulting per-unit rates.¹⁶ Where an importer-specific *ad valorem* assessment rate is not zero or *de minimis*, Commerce will instruct CBP to collect the appropriate duties at the time of liquidation. Where either the respondent's weighted average dumping margin is zero or *de minimis*, or an importer-specific *ad valorem* assessment rate is zero or *de minimis*, Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.¹⁷

Pursuant to Commerce's refinement to its practice, for sales that were not reported in the U.S. sales database submitted by an exporter individually examined during this review, Commerce will instruct CBP to liquidate such merchandise at the rate for the China-wide entity.¹⁸ Additionally, where Commerce determines that an exporter under review had no

¹⁴ See *Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012) (*Final Modification*).

¹⁵ See 19 CFR 351.212(b)(1).

¹⁶ *Id.*

¹⁷ See *Final Modification*, 77 FR at 8103.

¹⁸ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011), for a full discussion of this practice.

shipments of the subject merchandise, any suspended entries that entered under that exporter's CBP case number will be liquidated at the rate for the China-wide entity. Because no party requested a review of the China-wide entity, the entity is not under review and the entity's rate (*i.e.*, 238.95 percent) is not subject to change.¹⁹

In accordance with section 751(a)(2)(C) of the Act, 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 antidumping duties, where applicable.

Cash Deposit Requirements

Commerce will instruct CBP to require a cash deposit for antidumping duties equal to the weighted-average amount by which the NV exceeds U.S. price. The following cash deposit requirements will be effective for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided by section 751(a)(2)(C) of the Act: (1) for the exporters listed above, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review (except, if the rate is *de minimis* (*i.e.*, less than 0.5 percent), then the cash deposit rate will be zero for that exporter); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity (*i.e.*, 238.95 percent²⁰) and (4) for all non-PRC exporters of subject merchandise that have not received their

¹⁹ See *AR3 Final*, 82 FR at 29035, unchanged in *Amended AR3 Final*.

²⁰ See *AR3 Final*, 82 FR at 29035, unchanged in *Amended AR3 Final*.

own rate, the cash deposit rate will be the rate applicable to China exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

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 and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties and/or countervailing duties has occurred, and the subsequent assessment of double antidumping duties and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213 and 351.221(b)(4).

P. Lee Smith
Deputy Assistant Secretary
for Policy and Negotiations

Dated: January 2, 2018

Appendix

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