

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: Continuation of Countervailing Duty Order

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

SUMMARY: As a result of the determinations by the Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) that revocation of the countervailing duty (CVD) order on crystalline silicon photovoltaic (CSPV) cells, whether or not assembled into modules, from the People's Republic of China (China) would likely lead to continuation or recurrence of countervailable subsidies and material injury to an industry in the United States, Commerce is publishing a notice of continuation of this CVD order.

DATES: Applicable March 20, 2019.

FOR FURTHER INFORMATION CONTACT: Caitlin Monks, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2670. SUPPLEMENTARY INFORMATION:

Background

On December 7, 2012, Commerce published in the **Federal Register** the notice of the CVD order on CSPV cells from China.¹ On November 1, 2017, Commerce published the notice of initiation of the sunset review of the *Order* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).² On February 26, 2018, the ITC instituted its review of the *Order*.³

As a result of this sunset review, Commerce determined that revocation of the *Order* would likely lead to continuation or recurrence of countervailable subsidies and notified the ITC of the net countervailable

subsidy rates likely to prevail should the *Order* be revoked.⁴

On March 7, 2019, the ITC published its determination, pursuant to sections 751(c) of the Act, that revocation of the *Order* would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁵

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. The *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 the *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.

Additionally, excluded from the scope of this *Order* are panels with surface area from 3,450 mm² to 33,782 mm² with one black wire and one red wire (each of type 22 AWG or 24 AWG not more than 206 mm in length when measured from panel extrusion), and not exceeding 2.9 volts, 1.1 amps, and 3.19 watts. For the purposes of this exclusion, no panel shall contain an internal battery or external computer peripheral ports.

Modules, laminates, and panels produced in a third-country from cells produced in China are covered by this *Order*; however, modules, laminates, and panels produced in China 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 Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.80, 8541.40.6020, 8541.40.6030, 8501.31.8000, 8541.40.6015, 8541.40.6035, 8541.40.6025, and 8541.40.6045. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this *Order* is dispositive.

Continuation of the Order

As a result of the determinations by Commerce and the ITC that revocation of the *Order* would likely lead to continuation or recurrence of countervailable subsidies and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, Commerce hereby orders the continuation of the *Order*.

U.S. Customs and Border Protection will continue to collect CVD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of continuation of this order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, Commerce intends to initiate the next five-year review of the *Order* not later than 30 days prior to the fifth anniversary of the effective date of continuation.

This five-year sunset review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act, and 19 CFR 351.218(f)(4).

¹ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Countervailing Duty Order*, 77 FR 73017 (December 7, 2012) (*Order*).

² See *Initiation of Five-Year (Sunset) Reviews*, 82 FR 50612 (November 1, 2017).

³ See *Crystalline Silicon Photovoltaic Cells and Modules from China; Notice of Commission Determinations to Conduct Full Five-Year Reviews*, 83 FR 8296, 8297 (February 26, 2018).

⁴ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order*, 83 FR 10431 (March 9, 2018).

⁵ See *Crystalline Silicon Photovoltaic Cells and Modules from China: Investigation Nos. 701-TA-481 and 731-TA-1190 (Review)*, 84 FR 8342, 8343 (March 7, 2019).

Dated: March 15, 2019.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

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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: Continuation of Antidumping Duty Order

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

SUMMARY: As a result of the determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC) that revocation 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 (China) would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, Commerce is publishing a notice of continuation of the AD duty order.

DATES: Applicable March 20, 2019.

FOR FURTHER INFORMATION CONTACT: Eli Lovely, 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) 482-1593.

SUPPLEMENTARY INFORMATION:

Background

On December 7, 2012, Commerce published in the **Federal Register** the antidumping duty order on solar cells from China.¹ On November 1, 2017, Commerce published the notice of initiation of this sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).² On November 13, 2017, pursuant to 19 CFR 351.218(d)(1), Commerce received a timely and complete notice of intent to participate in the sunset review from SolarWorld Americas, Inc.

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 *Initiation of Five-Year (Sunset) Review*, 82 FR 50612 (November 1, 2017).

(SolarWorld), in which SolarWorld claimed interested party status as a domestic producer of solar cells under section 771(9)(C) of the Act.³ This notice was filed within the time period specified in 19 CFR 351.218(d)(1)(i).⁴ On December 1, 2017, pursuant to 19 CFR 351.218(d)(3)(i), SolarWorld filed a timely and adequate substantive response.⁵ Commerce did not receive a substantive response from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) first sunset review of the *Order*. As a result of its review, Commerce determined pursuant to sections 751(c)(1) and 752(c) of the Act, that revocation of the *Order* would likely lead to a continuation or recurrence of dumping. Commerce also notified the ITC of the magnitude of the dumping margins likely to prevail should the *Order* be revoked.⁶ On March 7, 2019, the ITC published its determination, pursuant to section 751(c) of the Act, that revocation of the AD duty order on solar cells from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁷

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. The *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 the *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.

Additionally, excluded from the scope of this *Order* are panels with surface area from 3,450 mm² to 33,782 mm² with one black wire and one red wire (each of type 22 AWG or 24 AWG not more than 206 mm in length when measured from panel extrusion), and not exceeding 2.9 volts, 1.1 amps, and 3.19 watts. For the purposes of this exclusion, no panel shall contain an internal battery or external computer peripheral ports.

Modules, laminates, and panels produced in a third-country from cells produced in China are covered by this *Order*; however, modules, laminates, and panels produced in China 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 Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.80, 8541.40.6020, 8541.40.6030, 8501.31.8000, 8541.40.6015, 8541.40.6035, 8541.40.6025, and 8541.40.6045. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this *Order* is dispositive.

³ See Letter from SolarWorld to Commerce re, "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Notice of Intent to Participate in Sunset Review," dated November 13, 2017.

⁴ *Id.*

⁵ See Letter from SolarWorld to Commerce re, "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Substantive Response to Notice of Initiation of Sunset Review," dated December 1, 2017 (SolarWorld Substantive Response).

⁶ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order*, 83 FR 10663 (March 12, 2018) (Final Results), and accompanying Issues and Decision Memorandum.

⁷ See *Crystalline Silicon Photovoltaic Cells and Modules From China, Investigation No. 701-TA-481 and 731-TA-1190*, 84 FR 8342 (March 7, 2019).