

735(b)(1)(A)(i) of the Act by reason of LTFV imports of silicon metal from Malaysia.<sup>2</sup>

**Scope of the Order**

The product covered by this order is silicon metal from Malaysia. For a complete description of the scope of the order, see the appendix to this notice.

**Antidumping Duty Order**

On August 9, 2021, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determination in this investigation, in which it found that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of imports of silicon metal from Malaysia.<sup>3</sup> Therefore, in accordance with section 735(c)(2) of the Act, Commerce is issuing this antidumping duty order. Because the ITC determined that imports of silicon metal from Malaysia are materially injuring a U.S. industry, unliquidated entries of such merchandise from Malaysia, entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of silicon metal from Malaysia. With the exception of entries occurring after the expiration of the provisional measures period and before publication of the ITC’s final affirmative injury determination, as further described below, antidumping duties will be assessed on unliquidated entries of silicon metal from Malaysia entered, or withdrawn from warehouse, for consumption, on or after February 1, 2021, the date of publication of the *Preliminary Determination*.<sup>4</sup>

**Continuation of Suspension of Liquidation**

Except as noted in the “Provisional Measures” section of this notice, in accordance with section 736 of the Act, Commerce intends to instruct CBP to

continue to suspend liquidation on all relevant entries of silicon metal from Malaysia. These instructions suspending liquidation will remain in effect until further notice.

Commerce also intends to instruct CBP to require cash deposits equal to the estimated weighted-average dumping margins indicated in the table below. Accordingly, effective on the date of publication in the **Federal Register** of the notice of the ITC’s final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on subject merchandise, a cash deposit equal to the rates listed below. The relevant all-others rate applies to all producers or exporters not specifically listed.

**Provisional Measures**

Section 733(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of the subject merchandise request that Commerce extend the four-month period to no more than six months. At the request of exporters that account for a significant proportion of silicon metal from Malaysia, Commerce extended the four-month period to six months in this investigation. Commerce published the preliminary determination in this investigation on February 1, 2021.<sup>5</sup>

The extended provisional measures period, beginning on the date of publication of the *Preliminary Determination*, ended on July 31, 2021. Therefore, in accordance with section 733(d) of the Act, Commerce intends to instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of silicon metal from Malaysia entered, or withdrawn from warehouse, for consumption after July 30, 2021, the final day on which the provisional measures were in effect, until and through the day preceding the date of publication of the ITC’s final affirmative injury determinations in the **Federal Register**. Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC’s final determination in the **Federal Register**.

**Estimated Weighted-Average Dumping Margins**

The estimated weighted-average dumping margins are as follows:

*Malaysia:*

Exporter/producer	Estimated weighted-average dumping margin (percent)
PMB Silicon Sdn. Bhd .....	12.27
All Others .....	12.27

**Notification to Interested Parties**

This notice constitutes the antidumping duty order with respect to silicon metal from Malaysia pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at <http://enforcement.trade.gov/stats/iastats1.html>.

This antidumping duty order is published in accordance with section 736(a) of the Act and 19 CFR 351.211(b).

Dated: August 13, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

**Appendix**

**Scope of the Order**

The scope of this order covers all forms and sizes of silicon metal, including silicon metal powder. Silicon metal contains at least 85.00 percent but less than 99.99 percent silicon, and less than 4.00 percent iron, by actual weight. Semiconductor grade silicon (merchandise containing at least 99.99 percent silicon by actual weight and classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2804.61.0000) is excluded from the scope of this order.

Silicon metal is currently classifiable under subheadings 2804.69.1000 and 2804.69.5000 of the HTSUS. While the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope remains dispositive.

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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: Notice of Court Decision Not in Harmony With Final Results of Antidumping Duty Administrative Review; Notice of Amended Final Results**

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

<sup>2</sup> See ITC Letter, Notification of ITC Final Determination in Investigation No. 731–TA–1526 (Final), dated August 9, 2021.

<sup>3</sup> *Id.*

<sup>4</sup> See *Silicon Metal from Malaysia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 85 FR 73676 (February 1, 2021) (*Preliminary Determination*).

<sup>5</sup> See *Preliminary Determination*.

**SUMMARY:** On August 10, 2021, the U.S. Court of International Trade (CIT) issued its final judgment in *Changzhou Trina Solar Energy Co., Ltd. et al. v. United States*, Consol. Court No. 18–00176, sustaining the Department of Commerce’s (Commerce) second remand redetermination pertaining to the 2015–2016 antidumping duty (AD) administrative review of crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the People’s Republic of China (China). Commerce is notifying the public that the CIT’s final judgment in this litigation is not in harmony with the final results reached by Commerce in the 2015–2016 AD administrative review of solar cells from China, and that Commerce is amending the final results of that review with respect to the dumping margin calculated for Trina and certain separate rate respondents.

**DATES:** Applicable August 20, 2021.

**FOR FURTHER INFORMATION CONTACT:** Jeff Pedersen, 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) 482–2769.

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 27, 2018, Commerce published the *Final Results* of its 2015–2016 AD administrative review of solar cells from China.<sup>1</sup> Trina<sup>2</sup> appealed Commerce’s *Final Results*. On May 13, 2020, the CIT remanded to Commerce for further explanation or reconsideration its decision to use Maersk Line (Maersk) data, rather than Xeneta XS (Xeneta) data, to value ocean freight expenses.<sup>3</sup> The CIT also held that Commerce’s decision to not adjust Trina’s U.S. prices to account for countervailing duties related to the Export Buyer’s Credit Program (EBCP) was contrary to law.<sup>4</sup>

In its first remand redetermination, Commerce continued to value Trina’s

ocean freight expenses using Maersk data, rather than Xeneta data; however, under protest, Commerce increased Trina’s U.S. prices by the amount of countervailing duty imposed to offset the export subsidy provided by the Ex-Im Bank of China’s EBCP.<sup>5</sup> In its second remand order, the CIT again directed Commerce to reconsider or further explain its valuation of ocean freight expenses, but it sustained Commerce’s adjustment of Trina’s U.S. prices to account for the Ex-Im Bank of China’s EBCP.<sup>6</sup>

In its second remand redetermination, Commerce valued Trina’s ocean freight expenses using Xeneta data, recalculated Trina’s dumping margin based on this change, and assigned Trina’s recalculated dumping margin to the separate rate respondents which participated in the litigation that led to the remand redetermination.<sup>7</sup> On August 10, 2021, the CIT sustained Commerce’s second remand redetermination.<sup>8</sup>

**Timken Notice**

In its decision in *Timken*,<sup>9</sup> as clarified by *Diamond Sawblades*,<sup>10</sup> the United States Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s August 10, 2021, judgment constitutes a final court decision that is not in harmony with Commerce’s *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

**Amended Final Results**

Because there is now a final court judgment, Commerce is amending its *Final Results*. The amended weighted-average dumping margin for the

respondents which participated in the litigation is as follows:

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 .....	5.08
JingAo Solar Co., Ltd .....	5.08
JA Solar Technology Yangzhou Co., Ltd .....	5.08
Shanghai JA Solar Technology Co., Ltd .....	5.08

**Cash Deposit Requirements**

Because the cash deposit rates for all of the companies listed above have a superseded by subsequent cash deposit rates (*i.e.*, cash deposit rates have been established for these companies in subsequent final results of reviews), this notice does not affect the current cash deposit rates of these companies. Accordingly, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP) for these companies.

**Liquidation of Suspended Entries**

At this time, Commerce remains enjoined by CIT order from liquidating entries of subject merchandise that was exported by any of the companies listed above and that was entered into the United States, or withdrawn from warehouse, for consumption during the period December 1, 2015, through November 30, 2016. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT’s ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise exported by the companies listed above in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by the review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis*. Where an importer-specific *ad valorem* assessment rate is zero or *de*

<sup>1</sup> 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; 2015–2016*, 83 FR 35616 (July 27, 2018) (*Final Results*).

<sup>2</sup> In the *Final Results*, Commerce treated the following seven companies as a single 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./Trina Solar (Hefei) Science and Technology Co., Ltd (collectively, Trina).

<sup>3</sup> See *Changzhou Trina Solar Energy Co., Ltd. et al.*, 450 F. Supp. 3d 1301 (CIT 2020).

<sup>4</sup> *Id.*

<sup>5</sup> See *Final Results of Remand Redetermination, Changzhou Trina Solar Energy Co., Ltd., et al. v. United States*, Court No. 18–00176, Slip Op. 20–64 (Court of International Trade May 13, 2020) (August 6, 2020).

<sup>6</sup> See *Changzhou Trina Solar Energy Co. v. United States*, 492 F. Supp. 3d 1322 (CIT 2021).

<sup>7</sup> See *Final Results of Remand Redetermination Pursuant to Court Remand, Changzhou Trina Solar Energy Co., Ltd. et al., v. United States* Court No. 18–00176, Slip Op. 21–2 (CIT January 4, 2021) (April 5, 2021).

<sup>8</sup> See *Changzhou Trina Solar Energy Co., Ltd. et al. v. United States*, Consol. Court No. 18–00176, Slip. Op. 21–98 (CIT August 10, 2021).

<sup>9</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>10</sup> See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

*minimis*,<sup>11</sup> we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

#### Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e), 751(a)(1), and 777(i)(1) of the Act.

Dated: August 13, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Application and Reports for Scientific Research and Enhancement Permits Under the Endangered Species Act

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on April 21, 2021 (86 FR 20661) during a 60-day comment period. This notice allows for an additional 30 days for public comments.

*Agency:* National Oceanic & Atmospheric Administration (NOAA), Commerce.

*Title:* Application and Reports for Scientific Research and Enhancement Permits Under the Endangered Species Act.

*OMB Control Number:* 0648–0402.

*Form Number(s):* None.

*Type of Request:* Regular submission (revision and extension of a currently approved collection).

*Number of Respondents:* 175 per year.

*Average Hours per Response:* 12 hours for permit applications; six hours for permit modification requests 6; two hours for annual reports.

*Total Annual Burden Hours:* 810.

*Needs and Uses:* This request is for revision and extension of a currently approved information collection.

The Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) imposed prohibitions against the taking of endangered species. Section 10 of the ESA allows permits authorizing the taking of endangered species for research/enhancement purposes. The corresponding regulations established procedures for persons to apply for such permits. In addition, the regulations set forth specific reporting requirements for such permit holders. The regulations contain two sets of information collections: (1) Applications for research/enhancement permits, and (2) reporting requirements for issued permits.

The required information is used to evaluate the impacts of the proposed activity on endangered species, to make the determinations required by the ESA prior to issuing a permit, and to establish appropriate permit conditions. To issue permits under ESA Section 10(a)(1)(A), the National Marine Fisheries Service (NMFS) must determine that (1) such exceptions were applied for in good faith, (2) if granted and exercised, will not operate to the disadvantage of such endangered species, and (3) will be consistent with the purposes and policy set forth in Section 2 of the ESA.

The currently approved application and reporting requirements apply to Pacific marine and anadromous fish species, as requirements regarding other species are being addressed in a separate information collection. There is one administrative revision requested to the collection itself: NMFS will no longer require “final” permit reports; the reports will simply be considered annual reports that are submitted at the end of a permit's life span.

*Affected Public:* Federal government; State, local, or tribal governments; business or other for-profit organizations, educational institutions.

*Frequency:* Annually.

*Respondent's Obligation:* Required to Obtain or Retain Benefits.

*Legal Authority:* The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

This information collection request may be viewed at [www.reginfo.gov](http://www.reginfo.gov). Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the

following website [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0402.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Recreational Angler Survey of Sea Turtle Interactions

**AGENCY:** National Oceanic & Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of information collection, request for comment.

**SUMMARY:** The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

**DATES:** To ensure consideration, comments regarding this proposed information collection must be received on or before October 18, 2021.

**ADDRESSES:** Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at [Adrienne.thomas@noaa.gov](mailto:Adrienne.thomas@noaa.gov). Please reference OMB Control Number 0648–0774 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or specific questions related to collection activities should be directed to Wendy Piniak, Biologist, NOAA National Marine Fisheries Service, Office of Protected Resources, 1315 East-West Highway, Silver Spring, Maryland

<sup>11</sup> See 19 CFR 351.106(c)(2).