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### Agenda

1. Welcome & Roll Call
2. Committee Discussion on Project Regarding the Civil Rights Impacts of the Insular Cases in Puerto Rico
3. Next Steps
4. Public Comment
5. Other Business
6. Adjourn

Dated: June 21, 2024.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2024-13993 Filed 6-25-24; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-979, C-570-980]

#### **Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Initiation and Preliminary Results of Changed Circumstances Review**

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) is initiating and issuing preliminary results of changed circumstances reviews (CCR) of the antidumping duty (AD) and countervailing duty (CVD) orders on crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells) from the People's Republic of China (China), with respect to Hanwha Q CELLS Malaysia Sdn. Bhd. Interested parties are invited to comment on these preliminary results.

**DATES:** Applicable June 26, 2024.

**FOR FURTHER INFORMATION CONTACT:** Peter Shaw, 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) 482-0697.

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

On August 23, 2023, Commerce published in the **Federal Register** the final affirmative determination of circumvention with respect to Malaysia.<sup>1</sup> On May 6, 2024, Hanwha Q

CELLS Sdn. Bhd. and Hanwha Q Cells USA, Inc. (collectively, Hanwha) requested, through a CCR request, that Commerce amend the certification requirements for Hanwha, pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), 19 CFR 351.216(b), and 19 CFR 351.221(c)(3).<sup>2</sup> Specifically, Hanwha requested a CCR to amend the Appendix V certification for Hanwha, provided in the *Solar Cells Circumvention*, to add additional wafer suppliers.<sup>3</sup> No interested parties filed comments opposing the CCR request.

#### **Scope of the Orders**

The merchandise covered by these *Orders* 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.<sup>4</sup>

These *Orders* cover 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,

*Determination and Final Affirmative Determinations of Circumvention with Respect to Cambodia, Malaysia, Thailand, and Vietnam*, 88 FR 57419 (August 23, 2023) (*Solar Cells Circumvention*), and accompanying Malaysia Issues and Decision Memorandum (Malaysia IDM).

<sup>2</sup> See Hanwha's Letter, "Resubmission of Hanwha Q CELLS USA, Inc. and Hanwha Q CELLS Malaysia Sdn. Bhd.'s Request for Changed Circumstances Review," dated May 6, 2024 (Hanwha CCR Request).

<sup>3</sup> *Id.* at 2.

<sup>4</sup> 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); see also *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) (collectively, *Orders*). On March 20, 2024, based on a CCR, Commerce amended the *Orders*. See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Results of Changed Circumstances Reviews, and Revocation of the Antidumping and Countervailing Duty Orders, in Part*, 89 FR 19809 (March 20, 2024).

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 *Orders*.

Excluded from the scope of the *Orders* 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 the *Orders* are crystalline silicon photovoltaic cells, not exceeding 10,000 mm<sup>2</sup> 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 the *Orders* are panels with surface area from 3,450 mm<sup>2</sup> to 33,782 mm<sup>2</sup> 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.

Also excluded from the scope of the *Orders* are:

1. Off grid CSPV panels in rigid form with a glass cover, with the following characteristics:

(A) a total power output of 100 watts or less per panel;

(B) a maximum surface area of 8,000 cm<sup>2</sup> per panel;

(C) do not include a built-in inverter;

(D) must include a permanently connected wire that terminates in either an 8mm male barrel connector, or a two-port rectangular connector with two pins in square housings of different colors;

(E) must include visible parallel grid collector metallic wire lines every 1-4 millimeters across each solar cell; and

(F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features, and foam for transport); and

2. Off grid CSPV panels without a glass cover, with the following characteristics:

(A) a total power output of 100 watts or less per panel;

<sup>1</sup> See *Antidumping and Countervailing Duty Orders on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Scope*

(B) a maximum surface area of 8,000 cm<sup>2</sup> per panel;

(C) do not include a built-in inverter;

(D) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell; and

(E) each panel is

1. permanently integrated into a consumer good;

2. encased in a laminated material without stitching, or

3. has all of the following characteristics: (i) the panel is encased in sewn fabric with visible stitching, (ii) includes a mesh zippered storage pocket, and (iii) includes a permanently attached wire that terminates in a female USB–A connector.

In addition, the following CSPV panels are excluded from the scope of the *Orders*: Off-grid CSPV panels in rigid form with a glass cover, with each of the following physical characteristics, whether or not assembled into a fully completed off-grid hydropanel whose function is conversion of water vapor into liquid water:

(A) A total power output of no more than 80 watts per panel;

(B) A surface area of less than 5,000 cm<sup>2</sup> per panel;

(C) Do not include a built-in inverter;

(D) Do not have a frame around the edges of the panel;

(E) Include a clear glass back panel; and

(F) Must include a permanently connected wire that terminates in a two-port rectangular connector.

Additionally excluded from the scope of the *Orders* are off-grid small portable crystalline silicon photovoltaic panels, with or without a glass cover, with the following characteristics: (1) a total power output of 200 watts or less per panel; (2) a maximum surface area of 16,000 cm<sup>2</sup> per panel; (3) no built-in inverter; (4) an integrated handle or a handle attached to the package for ease of carry; (5) one or more integrated kickstands for easy installation or angle adjustment; and (6) a wire of not less than 3 meters either permanently connected or attached to the package that terminates in an 8mm diameter male barrel connector.

Modules, laminates, and panels produced in a third country from cells produced in China are covered by the *Orders*; however, modules, laminates, and panels produced in China from cells produced in a third country are not covered by the *Orders*.

Additionally excluded from the scope of this *Order* are off-grid small portable crystalline silicon photovoltaic panels, with or without a glass cover, with the following characteristics: (1) a total power output of 200 watts or less per

panel; (2) a maximum surface area of 16,000 cm<sup>2</sup> per panel; (3) no built-in inverter; (4) an integrated handle or a handle attached to the package for ease of carry; (5) one or more integrated kickstands for easy installation or angle adjustment; and (6) a wire of not less than 3 meters either permanently connected or attached to the package that terminates in an 8mm diameter male barrel connector.

Also excluded from the scope of this *Orders* are off-grid crystalline silicon photovoltaic panels in rigid form with a glass cover, with each of the following physical characteristics, whether or not assembled into a fully completed off-grid hydropanel whose function is conversion of water vapor into liquid water:

(A) A total power output of no more than 180 watts per panel at 155 degrees Celsius;

(B) A surface area of less than 16,000 square centimeters (cm<sup>2</sup>) per panel;

(C) Include a keep-out area of approximately 1,200 cm<sup>2</sup> around the edges of the panel that does not contain solar cells;

(D) Do not include a built-in inverter;

(E) Do not have a frame around the edges of the panel;

(F) Include a clear glass back panel;

(G) Must include a permanently connected wire that terminates in a two-port rounded rectangular, sealed connector;

(H) Include a thermistor installed into the permanently connected wire before the two-port connector; and

(I) Include exposed positive and negative terminals at opposite ends of the panel, not enclosed in a junction box.

Merchandise covered by the *Orders* is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.71.0000, 8501.72.1000, 8501.72.2000, 8501.72.3000, 8501.72.9000, 8501.80.1000, 8501.80.2000, 8501.80.3000, 8501.80.9000, 8507.20.8010, 8507.20.8031, 8507.20.8041, 8507.20.8061, 8507.20.8091, 8541.42.0010, and 8541.43.0010. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of the *Order* is dispositive.<sup>5</sup>

#### Proposed Amendment of the Appendix V Certification

Hanwha requested that the Appendix V Certification provided for Hanwha in the *Solar Cells Circumvention* be amended to include additional

<sup>5</sup> See *Orders*.

unaffiliated wafer suppliers.<sup>6</sup> See the appendix to this notice for the amended version of the Appendix V Certification.<sup>7</sup>

#### Initiation of CCRs

Pursuant to section 751(b)(1) of the Act, Commerce will conduct a CCR upon receipt of a request from an interested party that shows changed circumstances sufficient to warrant a review of the *Orders*. In accordance with 19 CFR 351.216(d), Commerce determines that the information submitted by Hanwha shows changed circumstances sufficient to warrant a review of the *Orders*.

Therefore, in accordance with section 751(b)(1) of the Act, and 19 CFR 351.216(d), we are initiating a CCR based on the information contained in Hanwha's CCR request. In addition, Commerce's regulations at 19 CFR 351.221(c)(3)(ii) permit it to initiate a CCR and issue the preliminary results of that CCR simultaneously if it concludes that expedited action is warranted. We have on the record the information necessary to make a preliminary finding and therefore we find that expedited action is warranted. Consequently, we are combining the notice of initiation and the preliminary results of review into a single notice, in accordance with 19 CFR 351.221(c)(3)(ii).

#### Preliminary Results of CCR

In the *Solar Cells Circumvention*, Commerce made its negative circumvention determination for Hanwha based on a direct comparison between Hanwha and its affiliates in the country subject to the *Orders* when examining the criteria under section 781(b)(2) of the Act. As noted in the *Solar Cells Circumvention* Malaysia IDM, Hanwha reported that it sourced inputs solely from unaffiliated suppliers and did not have any upstream input affiliates in China.<sup>8</sup> Specifically, Hanwha reported that it purchased Chinese-origin wafers from unaffiliated suppliers from China. Thus, according to our analysis methodology, and because Hanwha did not source from upstream affiliates in China, we found that its level of investment, research and development, and the extent of production facilities in Malaysia were

<sup>6</sup> See Hanwha CCR Request.

<sup>7</sup> We have afforded business proprietary information (BPI) treatment to the names of the wafer exporters. See Memorandum, "Initiation and Preliminary Results of Changed Circumstances Review—BPI Addendum," dated concurrently with this notice.

<sup>8</sup> See *Solar Cells Circumvention Malaysia* IDM at Comment 9.

not minor or insignificant.<sup>9</sup> Additionally, Commerce's analysis methodology was performed on the particular supply chains reported by each mandatory respondent. Therefore, Commerce specifically stated in the underlying circumvention inquiry that that Hanwha's exports of inquiry merchandise produced with wafers exported by the specific parties reported in its questionnaire responses are not subject to the *Orders*.<sup>10</sup> Given our analysis noted above, Commerce established the certification under Appendix V to provide companies found not to be circumventing on a company-specific basis the ability to certify that their specific supply chain is not subject to the *Orders*.

In this CCR request, Hanwha is requesting two new input suppliers be added to Hanwha's Appendix V certification that were not previously examined in the circumvention inquiry. As noted by Hanwha in its CCR request, these new input suppliers are unaffiliated suppliers providing Chinese-origin wafers produced by themselves or other wafer producers unaffiliated with Hanwha for Hanwha's production in Malaysia. As a result, we find that the addition of these new wafer suppliers to the certification regime does not undermine the analysis and negative circumvention determination made in the underlying inquiry.

As such, because amending the certification with the new wafer suppliers requested by Hanwha in this CCR request would not change the underlying analysis of our circumvention inquiry, we preliminarily determine that it would be appropriate to amend the certification by adding the additional wafer suppliers identified by Hanwha.

#### Public Comment

Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs to Commerce no later than 30 days after the publication of this notice in the **Federal Register**. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline for filing case briefs.<sup>11</sup> Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a

table of authorities.<sup>12</sup> All briefs must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline.

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this CCR, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.<sup>13</sup> Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this CCR. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).<sup>14</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time 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 issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.<sup>15</sup> Parties should confirm the date and the time of the hearing two days before the scheduled date.

#### Final Results

Unless the deadline is extended, pursuant to 19 CFR 351.216(e), Commerce intends to issue the final results of this CCR no later than 270

days after the date on which this review was initiated or 45 days if all parties agree to the outcome of the review.

#### Notification to Interested Parties

This initiation notice and preliminary results are published in accordance with section 751(b)(1) of the Act, 19 CFR 351.221(b)(1), and 19 CFR 351.221(c)(3)(ii).

Dated: June 20, 2024.

#### Ryan Majerus,

*Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.*

#### Appendix

##### Proposed Amended Appendix V Certification

##### Certification for Entries of Inquiry Merchandise From Companies Found Not To Be Circumventing

*Company Name:* Hanwha Q CELLS Malaysia Sdn. Bhd.

##### Importer Certification

I hereby certify that:

(A) My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY}.

(B) I have direct personal knowledge of the facts regarding importation of the solar cells and solar modules produced in Malaysia that were entered into the Customs territory of the United States under the entry summary number(s) identified below which are covered by this certification. "Direct personal knowledge" refers to the facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the exporter and/or seller's identity and location.

(C) If the importer is acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

The solar cells and/or solar modules covered by this certification were imported by {NAME OF IMPORTING COMPANY} on behalf of {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}.

If the importer is not acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

{NAME OF IMPORTING COMPANY} is not acting on behalf of the first U.S. customer.

(D) The solar cells and/or solar modules covered by this certification were shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM THE MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

(E) I have personal knowledge of the facts regarding the production and exportation of the solar cells and modules identified below. "Personal knowledge" includes facts obtained from another party, (e.g., correspondence received by the importer (or exporter) from the producer of the imported products regarding production).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at Comment 17.

<sup>11</sup> See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

<sup>12</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>13</sup> We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

<sup>14</sup> See *APO and Service Procedures*.

<sup>15</sup> See 19 CFR 351.310(d).

(F) The solar cells and/or solar modules covered by this certification were:

1. Sold to the United States by Hanwha Q CELLS Malaysia Sdn. Bhd.

2. Exported to the United States by Hanwha Q CELLS Malaysia Sdn. Bhd.

3. Produced in Malaysia by Hanwha Q CELLS Malaysia Sdn. Bhd., using wafers manufactured in the People's Republic of China that were exported to Malaysia by: {CHECK THE RELEVANT WAFER EXPORTERS BELOW} (we have afforded business proprietary information (BPI) treatment to the names of the wafer exporters; for a table of the names of the wafer exporters, which must be included as part of this paragraph in the certificate submitted to CBP—please refer to the proprietary version of this certification on ACCESS).

(G) The U.S. Department of Commerce (Commerce) found that solar cells and/or solar modules produced by Hanwha Q CELLS Malaysia Sdn. Bhd., using wafers manufactured in China that were exported by the wafer supplier(s) listed in item F above, and exported by Hanwha Q CELLS Malaysia Sdn. Bhd. are not circumventing the antidumping duty and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China.

(H) This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:

Applicable Line Item # of the Entry Summary:

Foreign Seller's Invoice #:

Applicable Line Item # on the Foreign Seller's Invoice:

(I) I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product specification sheets, production records, invoices, *etc.*) until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

(J) I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of the exporter's certification (attesting to information regarding the production and/or exportation of the imported merchandise identified above), and any supporting documentation provided to the importer by the exporter, until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

(K) I understand that {NAME OF IMPORTING COMPANY} is required to provide U.S. Customs and Border Protection (CBP) and/or Commerce with the importer certification, and any supporting documentation, and a copy of the exporter's certification, and any supporting

documentation provided to the importer by the exporter, upon the request of either agency.

(L) I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

(M) I understand that failure to maintain the required certifications and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are entries of merchandise that is covered by the scope of the antidumping and countervailing duty orders on solar cells and solar modules from China. I understand that such a finding will result in:

(i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the antidumping duty and countervailing duty cash deposits determined by Commerce; and

(iii) the importer no longer being allowed to participate in the certification process.

(N) I understand that agents of the importer, such as brokers, are not permitted to make this certification.

(O) This certification was completed and signed on, or prior to, the date of the entry summary if the entry date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**. If the entry date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**, this certification was completed and signed by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**.

(P) I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

Signature

{NAME OF COMPANY OFFICIAL}  
{TITLE OF COMPANY OFFICIAL}

Date

#### Exporter Certification

#### Certification for Entries of Inquiry Merchandise From Companies Found Not To Be Circumventing

*Company Name:* Hanwha Q CELLS Malaysia Sdn. Bhd.

The party that made the sale to the United States should fill out the exporter certification.

I hereby certify that:

(A) My name is {COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF COMPANY}, located at {ADDRESS OF COMPANY}.

(B) I have direct personal knowledge of the facts regarding the production and exportation of the solar cells and solar

modules for which sales are identified below. "Direct personal knowledge" refers to facts the certifying party is expected to have in its own records. For example, an exporter should have direct personal knowledge of the producer's identity and location.

(C) The solar cells and/or solar modules covered by this certification were shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

(D) The solar cells and/or solar modules covered by this certification were:

1. Sold to the United States by Hanwha Q CELLS Malaysia Sdn. Bhd.

2. Exported to the United States by Hanwha Q CELLS Malaysia Sdn. Bhd.

3. Produced in Malaysia by Hanwha Q CELLS Malaysia Sdn. Bhd. using wafers manufactured in the People's Republic of China (China) that were exported to Malaysia by: {CHECK THE RELEVANT WAFER EXPORTERS BELOW}

(We have afforded business proprietary information (BPI) treatment to the names of the wafer exporters; for a table of the names of the wafer exporters, which must be included as part of this paragraph in the certificate submitted to CBP—please refer to the proprietary version of this certification on ACCESS).

(E) The U.S. Department of Commerce (Commerce) found that solar cells and/or solar modules produced by Hanwha Q CELLS Malaysia Sdn. Bhd., using wafers manufactured in China that were exported by the wafer supplier(s) listed in item D above, and exported by Hanwha Q CELLS Malaysia Sdn. Bhd. are not circumventing the antidumping duty and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China.

(F) This certification applies to the following sales to {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER} (repeat this block as many times as necessary):

# of the Foreign Seller's Invoice to the U.S. Customer:

Applicable Line Item # of the Foreign Seller's Invoice to the U.S. Customer:

(G) I understand that Hanwha Q CELLS Malaysia Sdn. Bhd. is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product specification sheets, production records, invoices, *etc.*) until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

(H) I understand that Hanwha Q CELLS Malaysia Sdn. Bhd. is required to provide the U.S. importer with a copy of this certification and is required to provide U.S. Customs and Border Protection (CBP) and/or Commerce with a copy of this certification, and any

supporting documents, upon the request of either agency.

(I) I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

(J) I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all sales to which this certification applies are sales of merchandise that is covered by the scope of the antidumping and countervailing duty orders on solar cells and solar modules from China. I understand that such a finding will result in:

- (i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;
- (ii) the importer being required to post the antidumping and countervailing duty cash deposits determined by Commerce; and
- (iii) the seller/exporter no longer being allowed to participate in the certification process.

(K) I understand that agents of the exporter, such as freight forwarding companies or brokers, are not permitted to make this certification.

(L) This certification was completed and signed, and a copy of the certification was provided to the importer, on, or prior to, the date of shipment if the shipment date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**. If the shipment date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**, this certification was completed and signed, and a copy of the certification was provided to the importer, by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**.

(M) I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

Signature

{NAME OF COMPANY OFFICIAL}  
{TITLE OF COMPANY OFFICIAL}

Date

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-583-848, A-570-972]

#### Stilbenic Optical Brightening Agents From Taiwan and the People's Republic of China: Notice of Court Decision Not in Harmony With the Results of Antidumping Sunset Reviews, Reinstatement of Antidumping Duty Orders, and Reconduct of Sunset Reviews

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

**SUMMARY:** On May 28, 2024, the U.S. Court of International Trade (CIT) issued its final judgment in *Archroma U.S., Inc., v. United States et al.*, Court No. 22-00354, finding that the regulatory provision upon which the U.S. Department of Commerce relied to revoke the antidumping duty orders on stilbenic optical brightening agents (OBAs) from Taiwan and the People's Republic of China (China) violates section 751(c) of the Tariff Act of 1930, as amended (the Act) and ordering the U.S. Department of Commerce (Commerce) to: accept the domestic interested party Archroma U.S., Inc.'s (Archroma) substantive response; and conduct a full sunset reviews of these orders. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the sunset reviews, and that Commerce intends to: reinstate the antidumping duty orders on OBAs from Taiwan and China; accept Archroma's substantive response; and conduct full sunset reviews of these orders under section 751(c)(1) and (d)(2) of the Act. Commerce will begin reconducting the sunset reviews on July 1, 2024.

**DATES:** Applicable June 7, 2024.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:**

**Background**

On May 10, 2012, Commerce published the antidumping duty orders on OBAs from Taiwan and China in the **Federal Register**.<sup>1</sup> On October 3, 2022,

<sup>1</sup> See *Certain Stilbenic Optical Brightening Agents from Taiwan: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 77 FR 27419 (May 10, 2012); and *Certain Stilbenic Optical Brightening Agents from the People's Republic of China: Amended Final*

Commerce initiated the sunset reviews of the *Orders*.<sup>2</sup>

Pursuant to 19 CFR 351.218(d), the publication of a sunset review notice of initiation in the **Federal Register** establishes two deadlines: a 15-day notice of intent to participate; and a 30-day submission of "complete substantive responses." On October 24, 2022, six days after the 15-day deadline (*i.e.*, October 18, 2022), Archroma submitted its notice of intent to participate in the sunset reviews of the *Orders*; Archroma submitted its substantive response by the requisite deadline. Consequently, Commerce rejected Archroma's notice of intent to participate because it was untimely, and consequently rejected Archroma's substantive response as unsolicited due to Archroma's failure to submit a timely notice of intent to participate.<sup>3</sup> Despite Archroma's subsequent requests for reconsideration,<sup>4</sup> Commerce made no change to its decisions in this regard.<sup>5</sup>

On December 29, 2022, Commerce issued its final results in the sunset reviews of the *Orders*.<sup>6</sup> Because no domestic interested party responded to Commerce's notice of initiation by the applicable deadline, Commerce revoked the *Orders* consistent with section 751(c)(3)(A) of the Act.<sup>7</sup> Archroma subsequently challenged Commerce's *Final Results* at the CIT on that same day.

The CIT held that Commerce could not lawfully revoke the *Orders* solely due to a domestic interested party's untimely filing of a notice of intent to participate.<sup>8</sup> The CIT elaborated that section 751(c) of the Act allows for Commerce to revoke an order only if no domestic interested party provides an "answer to a solicitation for the substantive content that {section

*Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 77 FR 27423 (May 10, 2012) (collectively, *Orders*).

<sup>2</sup> See *Initiation of Five-Year (Sunset) Reviews*, 87 FR 59779 (October 3, 2022).

<sup>3</sup> See Commerce's Letter, "Five-Year ("Sunset") Review of the Antidumping Duty Orders on Stilbenic Optical Brightening Agents from China and Taiwan: Rejection of Notice of Intent to Participate," dated October 28, 2022; see also Memorandum, "Rejection of Certain Documents in ACCESS," dated November 9, 2022.

<sup>4</sup> See Archroma's Letters, "Request for Reconsideration," dated November 11, 2022; and "Supplemental Request for Reconsideration," dated November 17, 2022.

<sup>5</sup> See Commerce's Letter, "Rejection of Request for Reconsideration," dated November 30, 2022.

<sup>6</sup> See *Stilbenic Optical Brightening Agents from People's Republic of China and Taiwan: Final Results of Sunset Reviews and Revocation of Order*, 87 FR 80162 (December 29, 2022) (*Final Results*).

<sup>7</sup> *Id.*

<sup>8</sup> See *Archroma U.S., Inc., v. United States et al.*, Court No. 22-00354, Slip Op. 24-61 (CIT May 28, 2024).