

MESSAGE NO: 2346303 MESSAGE DATE: 12/11/2012
MESSAGE STATUS: Active CATEGORY: Countervailing
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FR CITE: 77 FR 72884 FR CITE DATE: 12/06/2012

REFERENCE
MESSAGE #
(s):

CASE #(s): C-570-980

EFFECTIVE DATE: 12/06/2012 COURT CASE #:

PERIOD OF REVIEW: 01/01/2010 TO 12/31/2010

PERIOD COVERED: TO

Notice of Lifting of Suspension Date:

TO: { Directors Of Field Operations, Port Directors }

FROM: { Director AD/CVD & Revenue Policy & Programs }

RE: Countervailing Duty Order on Crystalline Silicon Photovoltaic Cells, Whether or not Assembled Into Modules, from the People's Republic of China (C-570-980)

1. On 12/07/2012, the Department of Commerce (Commerce) published in the Federal Register its countervailing duty order on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China (77 FR 73017).
2. The merchandise covered by this 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.

This 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 this 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.

Modules, laminates, and panels produced in a third-country from cells produced in the PRC are covered by this order; however, modules, laminates, and panels produced in the PRC 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 System of the United States (“HTSUS”) under subheadings 8501.61.0000, 8507.20.80, 8541.40.6020, 8541.40.6030, and 8501.31.8000 (Footnote 1). These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this order is dispositive.

Footnote 1: U.S. Customs and Border Protection (CBP) provided notification that HTSUS number 8501.31.8000 should be added to the scope of the order, as certain articles under this number might fall within the scope. See the May 16, 2012 Memorandum to The File, “ACE Case Reference File Update,” regarding the subject countervailing duty investigation.

3. As noted in paragraph 2, modules, laminates, and panels produced in a third-country from subject cells produced in the PRC are covered by this order; however, modules, laminates, and panels produced in the PRC from solar cells produced in a third-country are not covered by the scope of this order. However, in order for no cash deposit to be required for panels/modules not containing subject solar cells produced in the PRC, the following certification and documentation requirements must be met:

A. Importers of panels/modules from any country that do not contain subject solar cells produced in the PRC must maintain the following certification, as well as documentation supporting the certification:

Importer Certification

I hereby certify that I am an official of (insert name of company importing solar panels/modules), that I have knowledge of the facts regarding the importation of the solar panels/modules or other products containing solar panels/modules that entered under entry number(s) (insert entry number(s) covered by the certification), and that these solar panels/modules do not contain solar cells produced in the People’s Republic of China. By signing this certificate, I also hereby certify that (insert name of company importing solar panels/modules) maintains sufficient documentation supporting this certification for all solar cells used to produce the solar panels/modules imported under the above-referenced entry number(s). I understand that agents of the importer, such as

brokers, are not permitted to make this certification. Also, I am aware that records pertaining to this certification may be requested by CBP. I understand that this certification should be completed at the time of the entry. Also, I understand that failure to maintain the required certification or failure to substantiate the claim that the panels/modules do not contain solar cells produced in the People's Republic of China will result in suspension of all unliquidated entries for which these requirements were not met and the requirement that the importer post an AD cash deposit or, where applicable, a bond, on those entries equal to the PRC-wide rate in effect at the time of the entry and a CVD cash deposit, or where applicable, a bond rate equal to the all-others rate in effect at the time of the entry.

Name of Company Official

Title

Date

B. If an exporter of panels/modules not containing subject solar cells produced in the PRC is located in the PRC, both the importer and the exporter must maintain the following exporter certification certifying that the panels/modules do not contain solar cells produced in the PRC as well as documentation supporting the certification:

Exporter Certification

I hereby certify that I am an official of (insert name of company exporting solar panels/modules), that I have knowledge of the facts regarding the exportation of the solar panels/modules or other products containing solar panels/modules identified below, and that these solar panels/modules do not contain solar cells produced in the People's Republic of China. By signing this certificate, I also hereby certify that (insert name of company exporting solar panels/modules) maintains sufficient documentation supporting this certification for all solar cells used to produce the solar panels/modules identified below. I am aware that records pertaining to this certification may be subject to verification by Department of Commerce officials and I consent to verification with respect to this certification and these records. I understand that this certification should be completed at the time of shipment. I also understand that failure to maintain the required certification or failure to substantiate the claim that the panels/ modules do not contain solar cells

produced in the People's Republic of China will result in suspension of all unliquidated entries for which these requirements were not met and the requirement that the importer post an AD cash deposit or, where applicable, a bond, on those entries equal to the PRC-wide rate in effect at the time of the entry and a CVD cash deposit, or where applicable, a bond rate equal to the all-others rate in effect at the time of the entry.

The exports covered by this certification are (insert invoice numbers, purchase order numbers, export documentation, etc. to identify the exports covered by the certification).

Name of Company Official

Title

Date

4. The importer and PRC-exporter certifications and supporting documentation must be maintained by the parties described above but will only be provided to U.S. Customs and Border Protection (CBP) by the importer at the request of CBP. These documents should not be provided by the importer as part of the entry document package, unless specifically requested by CBP.

5. The importer certification must be completed, signed, and dated at the time of the entry of the panels/modules. The exporter certification must be completed, signed, and dated at the time of shipment of the relevant entries.

6. CBP may accept the above certifications (and if required by CBP, supporting documentation) to establish that the merchandise is not covered by the scope of this order. If the importer does not provide the aforementioned required certification or documentation at CBP's request, CBP is instructed to suspend all unliquidated entries for which the certification or documentation requirements were not provided, and require the posting of a cash deposit or bond on those entries equal to the all others rate in effect at the time of entry.

7. If the imported panel/module contains some subject solar cells produced in the PRC but the importer is unable or unwilling to identify the total value of the panel/module that is subject merchandise, CBP is instructed to require the posting of a cash deposit or bond equal to the all

others rate in effect at the time of the entry on the total entered value of the panel/module.

8. For imports of crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China, CBP shall resume suspension of liquidation of entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after 12/06/2012 (the date on which the International Trade Commission published its final determination in the Federal Register, see 77 FR 72884). Effective 12/06/2012, CBP shall require a cash deposit equal to the subsidy rates in effect at the time of entry.

Manufactured and/or exported by: All Others

Case Number: C-570-980-000

Subsidy Rate: 15.24 percent

Manufactured and/or exported by: Wuxi Suntech Power Co., Ltd

Case Number: C-570-980-001

Subsidy Rate: 14.78

Manufactured and/or exported by: Luoyang Suntech Power Co., Ltd.

Case Number: C-570-980-002

Subsidy Rate: 14.78

Manufactured and/or exported by: Suntech Power Co., Ltd.

Case Number: C-570-980-003

Subsidy Rate: 14.78

Manufactured and/or exported by: Yangzhou Rietech Renewal Energy Co., Ltd.

Case Number: C-570-980-004

Subsidy Rate: 14.78

Manufactured and/or exported by: Zhenjiang Huantai Silicon Science & Technology Co., Ltd.

Case Number: C-570-980-005

Subsidy Rate: 14.78

Manufactured and/or exported by: Kuttler Automation Systems (Suzhou) Co., Ltd.

Case Number: C-570-980-006

Subsidy Rate: 14.78

Manufactured and/or exported by: Changzhou Trina Solar Energy Co., Ltd.

Message Date: 12/11/2012

Message Number: 2346303

Page 6 of 9

Case Number: C-570-980-007

Subsidy Rate: 15.97

Manufactured and/or exported by: Trina Solar (Changzhou) Science and Technology Co., Ltd.

Case Number: C-570-980-008

Subsidy Rate: 15.97

Manufactured and/or exported by: Shenzhen Suntech Power Co., Ltd.

Case Number: C-570-980-009

Subsidy Rate: 14.78

Manufactured and/or exported by: Wuxi Sunshine Power Co., Ltd.

Case Number: C-570-980-010

Subsidy Rate: 14.78

Manufactured and/or exported by: Wuxi University Science Park International Incubator Co., Ltd.

Case Number: C-570-980-011

Subsidy Rate: 14.78

Manufactured and/or exported by: Yangzhou Suntech Power Co., Ltd.

Case Number: C-570-980-012

Subsidy Rate: 14.78

Manufactured and/or exported by: Zhenjiang Rietech New Energy Science & Technology Co., Ltd.

Case Number: C-570-980-013

Subsidy Rate: 14.78

9. Effective 12/06/2012, CBP shall no longer accept the posting of a bond in lieu of a cash deposit, and shall require a cash deposit only, equal to the subsidy rates for the manufacturers and/or exporters listed in paragraph 8, commensurate with the subsidy rates established for the final determination.

10. On June 11, 2012, Commerce provided CBP with a list of third countries and corresponding third-country countervailing duty case numbers for merchandise from those countries that are covered by the scope of this order. See message number 2163303, dated June 11, 2012. For entries of modules, laminates, and panels produced in a third country from subject solar cells that

were produced in the PRC, CBP shall resume the suspension of liquidation of, and require a cash deposit for, such merchandise in accordance with paragraph 9 of this message.

11. As noted in message number 2163303, the list of third countries provided to CBP is not exhaustive, as additional countries and corresponding case numbers may be added based on patterns of trade. If CBP becomes aware of entries of modules, laminates, or panels within the scope of this order that were exported from a third-country that was not assigned a case number and/or third-country that is not in the ACE case reference file, CBP should notify Commerce immediately about such entries. If importers are attempting to import modules, laminates, or panels within the scope of this order that were exported from a third-country without a third-country case number related to this order, importers should contact the port of entry immediately. CBP headquarters should notify Commerce immediately about such imports.

As of the date of this message, third-country company-specific case numbers for this order have not been established, other than the case numbers pertaining to third-country "all others." Importers of subject solar panels/modules that were exported from third countries who attempt to enter the panels/modules at a company-specific cash deposit rate listed in the company-details table appended to this message, which has not been established for the third-country in the ACE case reference file, should contact the port of entry immediately. CBP headquarters should notify Commerce immediately about such imports.

12. If there are any questions by the importing public regarding this message, please contact the Call Center for the Office of AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce at (202) 482-0984. CBP ports should submit their inquiries through authorized CBP channels only. (This message was generated by O6:GC.)

13. There are no restrictions on the release of this information.

Michael B. Walsh

Company Details

*Party Indicator Value:

I = Importer, M = Manufacturer, E = Exporter, S = Sold To Party

Case #	Rate	Party Indicator*	Party ID	Party Name
C-570-980-000	15.24	M		All Others
C-570-980-001	14.78	M		Wuxi Suntech Power Co., Ltd
C-570-980-002	14.78	M		Luoyang Suntech Power Co., Ltd.
C-570-980-003	14.78	M		Suntech Power Co., Ltd.
C-570-980-004	14.78	M		Yangzhou Rietech Renewal Energy Co., Ltd.
C-570-980-005	14.78	M		Zhenjiang Huantai Silicon Science & Technology Co., Ltd.
C-570-980-006	14.78	M		Kuttler Automation Systems (Suzhou) Co., Ltd.
C-570-980-007	15.97	M		Changzhou Trina Solar Energy Co., Ltd.
C-570-980-008	15.97	M		Trina Solar (Changzhou) Science and Technology Co., Ltd.
C-570-980-009	14.78	M		Shenzhen Suntech Power Co., Ltd.
C-570-980-010	14.78	M		Wuxi Sunshine Power Co., Ltd.
C-570-980-011	14.78	M		Wuxi University Science Park International Incubator Co., Ltd.
C-570-980-012	14.78	M		Yangzhou Suntech Power Co., Ltd.
C-570-980-013	14.78	M		Zhenjiang Rietech New Energy Science & Technology Co., Ltd.