

Comment 8: Whether Commerce Should Use Tier Two Benchmarks to Measure the Benefit Provided by the Cross-Border Provision of Chinese Solar Glass

Comment 9: Whether Commerce Should Use Tier Two Benchmarks to Measure the Benefit Provided by the Cross-Border Provision of Chinese Silver Paste

Comment 10: Whether Commerce Should Apply Adverse Facts Available (AFA) or Otherwise Countervail Short-Term Loans to TTL

Comment 11: Whether Commerce Should Make Downward Adjustments to TTL's Reported Purchase Prices for Silicon Wafers and Solar Glass

Comment 12: Whether Commerce's Determination That Trina Solar Co., Ltd. (TCZ) and Trina Solar (Suqian) Silicon Materials Co., Ltd. (TSM(SQ)) Are "Authorities" Is Supported by the Record Evidence

Comment 13: Whether Commerce Made an Error in Its Calculation of the Benefit Provided by the Royal Thai Government's (RTG's) Provision of Electricity for LTAR

Comment 14: Whether the Provision of Electricity for LTAR is Countervailable

Comment 15: Whether Commerce Should Have Selected an Additional Mandatory Respondent

Comment 16: Whether Commerce Should Apply AFA to Taihua New Energy (Thailand) Co. Ltd. (Taihua New Energy)

Comment 17: Whether Commerce Should Initiate an Investigation Into Whether Producers in Malaysia Benefited From the Cross-Border Provision of Silicon Wafers for LTAR

#### X. Recommendation

[FR Doc. 2025-07138 Filed 4-24-25; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-557-831]

#### Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From Malaysia: Final Affirmative Countervailing Duty Determination

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from Malaysia. The period of investigation is January 1, 2023, through December 31, 2023.

**DATES:** Applicable April 25, 2025.

**FOR FURTHER INFORMATION CONTACT:** Preston Cox, AD/CVD Operations, Office VI, Enforcement and Compliance,

International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-8630.

#### SUPPLEMENTARY INFORMATION:

##### Background

On October 4, 2024, Commerce published the *Preliminary Determination*, in which we also postponed the final determination until April 18, 2025.<sup>1</sup> Commerce invited interested parties to comment on the *Preliminary Determination*.<sup>2</sup> On November 7, 2024, Commerce published the *Amended Preliminary Determination*.<sup>3</sup> On November 25, 2024, we published the *Correction to the Amended Preliminary Determination* to correct text in the "Amended Cash Deposits and Suspension of Liquidation" section of the Amended Preliminary Determination.<sup>4</sup>

A summary of the events that occurred since the *Preliminary Determination* may be found in the Issues and Decision Memorandum.<sup>5</sup> The Issues and Decision Memorandum is a public document and is on file electronically 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>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

##### Scope of the Investigation

The product covered by this investigation is solar cells from Malaysia. For a complete description of

<sup>1</sup> See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Malaysia: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 89 FR 80861 (October 4, 2024) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

<sup>2</sup> See *Preliminary Determination*, 89 FR 80863.

<sup>3</sup> See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Malaysia: Amended Preliminary Determination of Countervailing Duty Investigation*, 89 FR 88232 (November 7, 2024) (*Amended Preliminary Determination*), and accompanying Amended Preliminary Decision Memorandum (PDM).

<sup>4</sup> See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Malaysia: Amended Preliminary Determination of Countervailing Duty Investigation; Correction*, 89 FR 92893 (November 11, 2024) (*Correction to the Amended Preliminary Determination*).

<sup>5</sup> See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Countervailing Duty Investigation of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Malaysia," dated concurrently with this notice (Issues and Decision Memorandum).

the scope of this investigation, see Appendix I.

##### Scope Comments

In the Preliminary Scope Memorandum, we set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope) in scope-specific case or other written comments on scope issues.<sup>6</sup> Between December 27, 2024, and January 3, 2025, Commerce received a scope case brief and a rebuttal brief from JA Solar USA Inc. and JA Solar Vietnam Company Limited (collectively, JA Solar) and the American Alliance for Solar Manufacturing Trade Committee (Petitioner), respectively.<sup>7</sup> For a summary of the product coverage comments and rebuttal responses submitted to the record for this final determination, and accompanying discussion and analysis of all comments timely received, see the Final Scope Memorandum.<sup>8</sup> In the Final Scope Memorandum, Commerce determined that it is modifying the scope language as it appeared in the *Initiation Notice*. See Appendix I.

##### Verification

In accordance with section 782(i) of the Act, Commerce conducted verification of the information of the information relied upon in making its final determination in this investigation. Specifically, Commerce conducted on-site verifications of the information and data on subsidies reported by the Government of Malaysia; Hanwha Q CELLS Malaysia Sdn. Bhd. (Hanwha Q CELLS); and Jinko Solar Technology Sdn. Bhd. (JST) and its cross-owned affiliates, Jinko Solar (Malaysia) Sdn. Bhd. (JSM) and Omega Solar Sdn. Bhd. (Omega) (collectively, Jinko Solar). We used standard verification procedures, including an examination of relevant sales and accounting records, and original source documents provided by Hanwha Q Cells and Jinko Solar.

##### Analysis of Subsidy Programs and Comments Received

All issues raised in the case and rebuttal briefs submitted by interested

<sup>6</sup> See Memorandum, "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Cambodia, Malaysia, and Thailand: Preliminary Scope Decision Memorandum," dated November 27, 2024. (Preliminary Scope Decision Memorandum).

<sup>7</sup> See JA Solar's Letter, "Scope Case Brief," dated December 27, 2024; and Petitioner's Letter "Rebuttal Scope Brief," dated January 3, 2025.

<sup>8</sup> See Memorandum, "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Final Scope Decision Memorandum," dated concurrently with this notice (Final Scope Decision Memorandum).

parties are discussed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as Appendix II.

**Changes Since the Preliminary Determination**

We have made certain changes to the preliminary calculations for Hanwha Q Cells and Jinko Solar since the *Preliminary Determination*. For a discussion of these changes, see the Issues and Decision Memorandum.

**Methodology**

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found to be countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.<sup>9</sup> For a full description of the methodology underlying our final determination, see the Issues and Decision Memorandum. In making this final determination, Commerce relied on facts otherwise available, including with an adverse inference (AFA), pursuant to sections 776(a) and (b) of the Act. For a full

discussion of our application of AFA, see the Issues and Decision Memorandum section entitled, “Use of Facts Otherwise Available and Application of Adverse Inferences.”

**Use of Adverse Facts Available**

As discussed in the *Preliminary Determination*, Commerce assigned a countervailable subsidy rate on the basis of AFA, pursuant to sections 776(a) and (b) of the Act, to four companies (*i.e.*, Baojia New Energy, Pax Union Resources SDN BHD, and SunMax Energy SDN BHD (collectively, the non-responsive companies) that were non-responsive to the quantity and value questionnaire.<sup>10</sup> There is no new information on the record that would cause us to revisit our decision in the *Preliminary Determination*. Accordingly, for the reasons explained in the *Preliminary Determination*, and consistent with Commerce’s practice, as AFA, continue to base the CVD subsidy rate for the non-responsive companies on facts otherwise available in our final determination.

**All-Others Rate**

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated an individual estimated countervailable

subsidy rate for the two mandatory respondents, Hanwha Q Cells and Jinko Solar. Section 705(c)(5)(A)(i) of the Act states that, for companies not individually investigated, Commerce will determine an all-others rate equal to the weighted-average countervailable subsidy rates established for exporters and/or producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act. For this final determination, we calculated individual estimated countervailable subsidy rates for Hanwha Q Cells and Jinko Solar that are not zero, *de minimis*, or based entirely on facts otherwise available. Therefore, we calculated the all-others rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents Hanwha Q Cells and Jinko Solar using each company’s publicly ranged sales value for their exports to the United States of subject merchandise, in accordance with section 705(c)(5)(A)(i) of the Act.

**Final Determination**

Commerce determines that the following countervailable subsidy rates exist:

Company	Subsidy rate (percent <i>ad valorem</i> )
Hanwha Q CELLS Malaysia Sdn. Bhd .....	14.64
Jinko Solar Technology Sdn. Bhd.; Jinko Solar (Malaysia) Sdn. Bhd.; and Omega Solar Sdn. Bhd .....	38.38
Baojia New Energy .....	* 168.80
Pax Union Resources SDN BHD .....	* 168.80
SunMax Energy SDN BHD .....	* 168.80
All Others .....	32.49

\* Rate based on facts available with adverse inferences.

**Disclosure**

Commerce will disclose to the parties in a proceeding the calculations performed in connection with a final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final determination in the **Federal Register**, in accordance with 19 CFR 351.224(b).

**Suspension of Liquidation**

We will instruct U.S. Customs and Border Protection (CBP) to start or continue to suspend liquidation of all appropriate entries of subject merchandise, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for

consumption as described below. As a result of our *Preliminary Determination* and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed CBP to collect cash deposits and suspend liquidation of entries of solar cells from Malaysia that were entered, or withdrawn from warehouse, for consumption on or after October 4, 2024, the date of the publication of the *Preliminary Determination* in the **Federal Register**.<sup>11</sup>

In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation of all entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after February 1, 2025, but to continue the suspension of liquidation of all

entries of solar cells on or before January 31, 2025.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited, or securities posted, as a result of the suspension of liquidation will be refunded or canceled.

<sup>9</sup> See sections 771(5)(B) and (D) of the Act regarding financial contribution; see also section

771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

<sup>10</sup> See *Preliminary Determination*, 89 FR 82978.

<sup>11</sup> See *Preliminary Determination*, 89 FR 82978.

## ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our final affirmative determination that countervailable subsidies are being provided to producers and exporters of solar cells from Malaysia. Because the final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of solar cells from Malaysia no later than 45 days after our final determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a CVD order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Suspension Liquidation" section.

## Administrative Protective Order

In the event that ITC issues a final negative injury determination, this notice will serve as the final reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO, in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is violation which is subject to sanction.

## Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: April 18, 2025.

### Christopher Abbott,

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

## Appendix I

### Scope of the Investigation

The merchandise covered by this investigation 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 investigation 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 investigations.

Excluded from the scope of the investigation 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 investigation 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 investigation 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 investigation 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 8 mm 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; (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 investigation: 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 square centimeters (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 twoport rectangular connector.

Additionally excluded from the scope of this investigation 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 8 mm diameter male barrel connector.

Also excluded from the scope of this investigation 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 twoport connector; and (I) include exposed positive and negative terminals at opposite ends of the panel, not enclosed in a junction box.

Further excluded from the scope of the investigation are:

1. Off grid rigid CSPV panels with a glass cover, with the following characteristics: (A) a total power output of 200 watts or less per panel, (B) a maximum surface area of 10,500 cm<sup>2</sup> per panel, (C) do not include a built-in inverter, (D) must include a permanently connected wire that terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure, (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

2. Off-grid small portable crystalline silicon photovoltaic panels, with or without a glass cover, with the following characteristics: (A) a total power output of 200 watts or less per panel, (B) a maximum surface area of 16,000 cm<sup>2</sup> per panel, (C) no built-in inverter, (D) an integrated handle or a handle attached to the package for ease of carry, (E) one or more integrated kickstands for easy installation or angle adjustment, and (F) a wire either permanently connected or attached to the package terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure.

Also excluded from the scope of the investigation are:

1. Off grid rigid CSPV panels with a glass cover, with the following characteristics: (A) a total power output of 200 watts or less per panel, (B) a maximum surface area of 10,500 cm<sup>2</sup> per panel, (C) do not include a built-in inverter, (D) must include a permanently connected wire that terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure, (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

2. Small off-grid panels with glass cover, with the following characteristics: (A) surface area from 3,450 mm<sup>2</sup> to 33,782 mm<sup>2</sup>, (B) with one black wire and one red wire (each of type 22AWG or 28 AWG not more than 350 mm in length when measured from panel extrusion), (C) not exceeding 10 volts, (D) not exceeding 1.1 amps, (E) not exceeding 6 watts, and (F) for the purposes of this

exclusion, no panel shall contain an internal battery or external computer peripheral ports.

Additionally excluded from the scope of the investigation are:

1. Off grid rigid CSPV panels with a glass cover, with the following characteristics: (A) a total power output of 175 watts or less per panel, (B) a maximum surface area of 9,000 cm<sup>2</sup> per panel, (C) do not include a built-in inverter, (D) must include a permanently connected wire that terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure; (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

2. Off grid CSPV panels without a glass cover, with the following characteristics, (A) a total power output of 220 watts or less per panel, (B) a maximum surface area of 16,000 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 encased in a laminated material without stitching.

Also excluded from the scope of this investigation are off-grid CSPV panels in rigid form, with or without a glass cover, permanently attached to an aluminum extrusion that is an integral component of an automation device that controls natural light, whether or not assembled into a fully completed automation device that controls natural light, with the following characteristics:

1. a total power output of 20 watts or less per panel;

2. a maximum surface area of 1,000 cm<sup>2</sup> per panel;

3. does not include a built-in inverter for powering third party devices.

Modules, laminates, and panels produced in a third-country from cells produced in a subject country are covered by the investigations; however, modules, laminates, and panels produced in a subject country from cells produced in a third-country are not covered by the investigations.

Also excluded from the scope of this investigation are all products covered by the scope of the antidumping and countervailing duty orders on *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); and *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).

Merchandise covered by the investigation is currently classified in the Harmonized Tariff System of the United States (HTSUS) under subheadings 8541.42.0010 and 8541.43.0010. Imports of the subject merchandise may enter under HTSUS 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, and 8507.20.8091. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of the investigations is dispositive.

## Appendix II

### List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Use of Facts Otherwise Available and Adverse Inferences
- IV. Subsidies Valuation Information
- V. Analysis of Programs
- VI. Discussion of the Issues
  - Comment 1: Whether Commerce has the Legal Authority Under the WTO Rules and U.S. Law To Investigate Transnational Subsidies
  - Comment 2: Whether Commerce's Determination on Policy Lending From Chinese Banks for BRI Capacity Cooperation Projects Is Based on Substantial Evidence and Is in Accordance With the Law
  - Comment 3: Whether Commerce's Decision To Countervail the Cross-Border Provision of Chinese Origin Inputs for LTAR Is Based on Substantial Evidence and in Accordance With Law
  - Comment 4: Whether Commerce Should Use UN Comtrade Export Data as the Benchmark for Solar Glass
  - Comment 5: Whether Commerce Should Use HS 7115.90 As the Benchmark for the Silver Paste for LTAR Program
  - Comment 6: Whether the Exemption of Import Duties and Sales Taxes for Raw Materials Through Licensed Manufacturing, Warehouses (LMWs) Countervailable
  - Comment 7: Whether Commerce the Exemption on Import Duties and Sales Taxes for Imported Raw Materials, Spare Parts/Accessories, and Machinery Through Free Trade Zones (FTZs) Countervailable
  - Comment 8: Whether the Import Duty and Sales Tax Exemptions Program Through Licensed Manufacturing Warehouse Should Be Considered an Export Subsidy
  - Comment 9: Whether the Electricity for LTAR Program Is Countervailable
  - Comment 10: Whether Singapore's Electricity Rates Are an Appropriate Benchmark
  - Comment 11: Whether Commerce Should Revise Hanwha Q CELLS Benefit Calculation for Provision of Electricity for LTAR
  - Comment 12: Whether Commerce Should Find the Provision of Land to Hanwha Countervailable
  - Comment 13: Whether Commerce Should Reconsider Its Land Benchmark
  - Comment 14: Whether Commerce Should Find the GOM's Loan to Hanwha Q CELLS Countervailable
  - Comment 15: Whether Commerce Should Remove Three Purchases of Imported Machinery From the Calculation of Hanwha's Benefits From the Import Duty

and Sales Tax Exemptions for Machinery, Equipment, and Spare Parts Program

Comment 16: Whether Jinko Solar Failed To Disclose Financing From a Chinese State-Owned Bank

Comment 17: Whether Commerce Should Find Jinko Solar's Trade and Other Payables Accounts Countervailable

Comment 18: Whether Commerce Should Correct Certain Errors in Its Post-Preliminary Analysis

Comment 19: Whether Commerce Correctly Included Sales Tax in the Solar Glass Benchmark

Comment 20: Whether Commerce Incorrectly Included a Non-Existent Entity in Its List of Non-Responsive Companies

#### VII. Recommendation

[FR Doc. 2025-07136 Filed 4-24-25; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-552-841]

#### **Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the Socialist Republic of Vietnam: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part**

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) determines that crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the Socialist Republic of Vietnam (Vietnam) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is October 1, 2023, through March 31, 2024.

**DATES:** Applicable April 25, 2025.

**FOR FURTHER INFORMATION CONTACT:** Laurel LaCivita or Deborah Cohen, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4243 or (202) 482-4521, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On December 4, 2024, Commerce published the *Preliminary Determination* in the **Federal Register** and invited interested parties to

comment.<sup>1</sup> On January 2, 2025, Commerce published the *Amended Preliminary Determination*.<sup>2</sup> A summary of the events that occurred since Commerce published the *Preliminary Determination*, may be found in the Issues and Decision Memorandum.<sup>3</sup>

The Issues and Decision Memorandum is a public document and is on file electronically 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>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

#### **Scope of the Investigation**

The products covered by this investigation are solar cells from Vietnam. For a complete description of the scope of this investigation, see Appendix I.

#### **Scope Comments**

During the course of this investigation, Commerce received scope comments from parties. Commerce issued Preliminary Scope Decision Memoranda to address these comments and set aside a period of time for parties to address scope issues in scope-specific case and rebuttal briefs.<sup>4</sup> We received

<sup>1</sup> See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules From the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, and Postponement of Final Determination and Extension of Provisional Measures*, 89 FR 96219 (December 4, 2024) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM); see also *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the Socialist Republic of Vietnam: Amended Preliminary Determination of Less-Than-Fair-Value Investigation*, 90 FR 85 (January 2, 2025).

<sup>2</sup> See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the Socialist Republic of Vietnam: Amended Preliminary Determination of Less-Than-Fair-Value Investigation*, 90 FR 85 (January 2, 2025), and accompanying memorandum, "Ministerial Error Allegations Regarding the Preliminary Determination," dated December 23, 2024.

<sup>3</sup> See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the Socialist Republic of Vietnam and Final Affirmative Determination of Critical Circumstances, in Part," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

<sup>4</sup> See Memorandum, "Memoranda, "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Cambodia, Malaysia, and Thailand: Preliminary Scope Decision Memorandum," dated November 27, 2024, and

comments from interested parties on the Preliminary Scope Decision Memoranda, which we address in the Final Scope Decision Memorandum.<sup>5</sup> We made no changes to the scope of the investigation from the scope published in the *Preliminary Determination*, as noted in Appendix I to this notice.

#### **Verification**

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), Commerce conducted verification of the information relied upon in making its final determination in this investigation. Specifically, between November 12 and 24, 2024, Commerce conducted on-site verifications of the sales and factors of production information submitted by JA Solar Vietnam Co. Ltd (JA Solar) and Jinko Solar (Vietnam) Industries Company Limited (Jinko).<sup>6</sup> We used standard verification procedures, including an examination of relevant accounting records and original source documents provided by JA Solar and Jinko.

#### **Analysis of Comments Received**

All issues raised in the case and rebuttal briefs submitted by interested parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as Appendix II.

#### **Changes Since the Preliminary Determination**

Based on our review and analysis of the information received during verification and comments received from interested parties for this final determination, we made certain changes to the estimated weighted-average dumping margins for JA Solar and Jinko. For a discussion of these changes, see the Issues and Decision Memorandum.

#### **Final Affirmative Determination of Critical Circumstances, in Part**

In accordance with section 735(a)(3)(B) of the Act, and 19 CFR

"Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from Vietnam," dated November 27, 2024 (collectively, Preliminary Scope Decision Memoranda).

<sup>5</sup> See Memorandum, "Memorandum, "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Final Scope Decision Memorandum," dated concurrently with this notice (Final Scope Decision Memorandum).

<sup>6</sup> See Memoranda, "Verification of the Sales and Factors of Production Questionnaire Responses of JA Solar Vietnam Co. Ltd (JAVN) and JA Solar USA, Inc. (JA Solar US) (collectively, JA Solar)," dated February 24, 2025, and "Verification of Jinko Solar (Vietnam) Industries Co. Ltd.," dated February 24, 2025.