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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-979, C-570-980

Antidumping and Countervailing Duty Orders on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Preliminary Affirmative Determinations of Circumvention With Respect to Cambodia, Malaysia, Thailand, and Vietnam

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that, except as noted below, imports of certain crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells and modules), that were exported from the Kingdom of Cambodia (Cambodia), Malaysia, the Kingdom of Thailand (Thailand), or the Socialist Republic of Vietnam (Vietnam) using parts and components produced in the People's Republic of China (China), as specified below, are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on solar cells and modules from China.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Jose Rivera, Toni Page, and Peter Shaw (Cambodia and Malaysia) and Jeff Pedersen and Paola Aleman Ordaz (Thailand and Vietnam), Offices VII and IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0842, (202) 482-1398, (202) 482-0697, (202) 482-2769, and (202) 482-4031, respectively.

SUPPLEMENTARY INFORMATION:

## Background

On December 7, 2012, Commerce published in the *Federal Register* AD and CVD orders on U.S. imports of solar cells and modules from China.<sup>1</sup> On February 8, 2022, pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226(c), Auxin Solar Inc. (Auxin), a domestic producer of solar modules, alleged that solar cells and modules completed in Cambodia, Malaysia, Thailand, or Vietnam using parts and components manufactured in China are circumventing the *Orders*<sup>2</sup> and, accordingly, should be covered by the scope of the *Orders*.<sup>3</sup> On April 1, 2022, Commerce initiated the requested circumvention inquiries.<sup>4</sup>

On May 12, 2022, Commerce selected two respondents from each of the examined third countries as the mandatory respondents in these circumvention inquiries.<sup>5</sup>

On August 22, 2022, Commerce extended the deadline for issuing the preliminary determinations in these circumvention inquiries by 90 days, until November 28, 2022.<sup>6</sup> On November 14, 2022, Commerce further extended the deadline for issuing the preliminary

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<sup>1</sup> See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 77 FR 73018 (December 7, 2012) (*Solar Cells AD Order*); see also *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) (*Solar Cells CVD Order*) (collectively, *Orders*).

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

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

<sup>4</sup> See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Initiation of Circumvention Inquiry on the Antidumping Duty and Countervailing Duty Orders*, 87 FR 19071 (April 1, 2022) (*Initiation Notice*).

<sup>5</sup> See Memoranda, "Circumvention Inquiry with Respect to Cambodia: Respondent Selection"; "Circumvention Inquiries With Respect to Malaysia: Respondent Selection"; "Circumvention Inquiry With Respect to Thailand: Respondent Selection"; and "Circumvention Inquiry With Respect to the Socialist Republic of Vietnam: Respondent Selection," all dated May 12, 2022.

<sup>6</sup> See Auxin's Letter, "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules from the People's Republic of China: Request for Extension of the Deadline for the Preliminary Determination and the Deadline for Pre-Preliminary Comments," dated August 11, 2022; and Memorandum, "Extension of Preliminary Determinations in Circumvention Inquiries," dated August 22, 2022.

determinations in these circumvention inquiries by three days, until December 1, 2022.<sup>7</sup> For a complete description of the events that followed the initiation of these circumvention inquiries, *see* the Preliminary Decision Memoranda.<sup>8</sup> A list of topics included in the Preliminary Decision Memoranda are included as Appendix I to this notice. The Preliminary Decision Memoranda are public documents and are 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 Preliminary Decision Memoranda can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

#### Scope of the Orders

The products subject to the *Orders* are solar cells and modules. For a full description of the scope of the *Orders*, *see* the Preliminary Decision Memoranda.

#### Merchandise Subject to the Circumvention Inquiries

These circumvention inquiries cover certain solar cells and modules that have been completed in Cambodia, Malaysia, Thailand, or Vietnam, using parts and components from China, as specified below, that are then subsequently exported from Cambodia, Malaysia, Thailand, or Vietnam to the United States (inquiry merchandise).

Specifically, these circumvention inquiries cover: (A) crystalline silicon photovoltaic cells that meet the physical description of crystalline silicon photovoltaic cells in the scope of the underlying *Orders*, subject to the exclusions therein, whether or not partially or fully assembled

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<sup>7</sup> *See* Commerce's Letter, "Second Extension of Preliminary and Final Determinations in Circumvention Inquiries," dated November 14, 2022.

<sup>8</sup> *See* Memoranda, "Preliminary Decision Memorandum for the Circumvention Inquiry With Respect to Cambodia;" "Preliminary Decision Memorandum for the Circumvention Inquiry With Respect to Malaysia"; "Preliminary Decision Memorandum for the Circumvention Inquiry With Respect to Thailand"; and "Preliminary Decision Memorandum for the Circumvention Inquiry With Respect to Vietnam;" all dated concurrently with, and hereby adopted by, this notice (collectively, Preliminary Decision Memoranda).

into other products, that were produced in Cambodia, Malaysia, Thailand, or Vietnam, from wafers produced in China; and (B) modules, laminates, and panels consisting of crystalline silicon photovoltaic cells, subject to the exclusions for certain panels in the scope of the underlying orders, whether or not partially or fully assembled into other products, that were produced in Cambodia, Malaysia, Thailand, or Vietnam from wafers produced in China and where more than two of the following components in the module/laminate/panel were produced in China: (1) silver paste; (2) aluminum frames (3) glass; (4) backsheets; (5) ethylene vinyl acetate sheets; and (6) junction boxes.

If modules, laminates, and panels consisting of crystalline silicon photovoltaic cells do not meet both of the conditions in item (B) above, then these circumvention inquiries do not cover the modules, laminates, and panels, or the crystalline silicon photovoltaic cells within the modules, laminates, and panels, even if those crystalline silicon photovoltaic cells were produced in Cambodia, Malaysia, Thailand, or Vietnam from wafers produced in China. Wafers produced outside of China with polysilicon sourced from China are not considered to be wafers produced in China for purposes of these circumvention inquiries.

#### Methodology

Commerce made these preliminary circumvention findings in accordance with section 781(b) of the Act and 19 CFR 351.226. For a full description of the methodology underlying the preliminary determinations, *see* the Preliminary Decision Memoranda.

### Affirmative Preliminary Determinations of Circumvention

As detailed in the Preliminary Decision Memoranda, with the exception of certain U.S. imports from the exporters identified in Appendix III to this notice, we preliminarily determine that U.S. imports of inquiry merchandise are circumventing the *Orders* on a country-wide basis. As a result, we preliminarily determine that this merchandise is covered by the *Orders*.

We preliminarily determine that solar cells/solar modules exported from, and produced in, Cambodia, Malaysia, or Vietnam by the entities identified in Appendix III to this notice using wafers produced in China exported by specific companies are not circumventing the *Orders*. For a detailed explanation of our determinations with respect to the entities identified in Appendix III, *see* the Preliminary Decision Memoranda.

*See* the “Suspension of Liquidation and Cash Deposit Requirements” section below for details regarding suspension of liquidation and cash deposit requirements. *See* the “Certification” and “Certification Requirements” section below for details regarding the use of certifications.

### Use of Adverse Facts Available

Pursuant to section 776(a) of the Act, if necessary information is not available on the record, or an interested party withholds requested information, fails to provide requested information by the deadline or in the form and manner requested, or significantly impeded a proceeding, Commerce shall use the facts otherwise available in reaching the applicable determination. Moreover, pursuant to section 776(b) of the Act, Commerce may use inferences adverse to the interests of an interested party in selecting from among the facts otherwise available if the party fails to cooperate by acting to the best of its ability to provide requested information.

Commerce requested information from certain companies in each of the examined countries related to the quantity and value (Q&V) of their exports during the inquiry period for purposes of respondent selection. In these Q&V questionnaires, Commerce explained that, if the company to which Commerce issued the questionnaire fails to respond to the questionnaire, or fails to provide the requested information, Commerce may find that the company failed to cooperate by not acting to the best of its ability to comply with the request for information, and may use an inference that is adverse to the company's interests in selecting from the facts otherwise available. Certain companies to which Commerce issued the Q&V questionnaire in the Malaysia, Thailand, and Vietnam inquiries received, but failed to timely respond to, the Q&V questionnaire.<sup>9</sup>

Therefore, we preliminarily find that necessary information is not available on the record and that the companies that failed to timely respond to the Q&V questionnaire withheld requested information, failed to provide requested information by the deadline or in the form and manner requested, and significantly impeded these inquiries. Moreover, we find that these companies failed to cooperate to the best of their abilities to provide the requested Q&V information because they did not provide any response to Commerce's Q&V questionnaire. Consequently, we used adverse inferences with respect to these companies in selecting from among the facts otherwise available on the record, pursuant to sections 776(a) and (b) of the Act. For details regarding the adverse facts available used in our decisions, *see* the Preliminary Decision Memoranda.

Based on the adverse facts available used, we preliminarily determine that the companies listed in Appendix II to this notice exported inquiry merchandise and that U.S. entries of that

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<sup>9</sup> See Appendix II for a list of companies that failed to respond to Commerce's request for Q&V information.

merchandise are circumventing the *Orders*. Additionally, with the exception of the “Applicable Entries” certification, which is described in the “Certification” section below, we are preliminarily precluding the companies listed in Appendix II to this notice<sup>10</sup> from participating in the certification programs that we are establishing for exports of solar cells and modules from Malaysia, Thailand, and Vietnam.

U.S. entries of inquiry merchandise made on or after April 1, 2022, that are ineligible for certification based on the failure of the companies in Appendix II to cooperate, or for other reasons, shall remain subject to suspension of liquidation until final assessment instructions on those entries are issued, whether by automatic liquidation instructions, or by instructions pursuant to the final results of an administrative review.<sup>11</sup> Interested parties that wish to have their suspended non-“Applicable Entries,” if any, reviewed, and their ineligibility for the certification program re-evaluated, should request an administrative review of the relevant suspended entries during the next anniversary month of these *Orders* (*i.e.*, December 2022 for the *Solar Cells AD Order* and December 2023 for the *Solar Cells CVD Order*).<sup>12</sup>

#### Suspension of Liquidation and Cash Deposit Requirements

On June 6, 2022, the President of the United States signed Proclamation 10414, “Declaration of Emergency and Authorization for Temporary Extensions of Time and Duty-Free Importation of Solar Cells and Modules from Southeast Asia” (the Proclamation). In the Proclamation, the President directed the Secretary of Commerce (the Secretary) to.

consider taking appropriate action under section 1318(a) of title 19, United States Code, to permit, until 24 months after the date of this proclamation or until the emergency declared herein has terminated, whichever occurs first, under such

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<sup>10</sup> *Id.*

<sup>11</sup> Commerce continues to consider the process by which companies may demonstrate eligibility for the certification program in future segments of the solar cells proceedings. Commerce encourages interested parties to provide comments on this topic in their case briefs.

<sup>12</sup> *See* 19 CFR 351.213(b).

regulations and under such conditions as the Secretary may prescribe, the importation, free of the collection of duties and estimated duties, if applicable, under sections 1671, 1673, 1675, and 1677j of title 19, United States Code, {(sections 701, 731, 751 and 781 of the Act)} of certain solar cells and modules exported from the Kingdom of Cambodia, Malaysia, the Kingdom of Thailand, and the Socialist Republic of Vietnam, and that are not already subject to an antidumping or countervailing duty order as of the date of this proclamation ... .

On September 12, 2022, Commerce added Part 362 to its regulations to implement the Proclamation. Pursuant to 19 CFR 362.103(b)(1)(i), Commerce will direct U.S. Customs and Border Protection (CBP) to discontinue the suspension of liquidation and collection of cash deposits that were ordered based on Commerce’s initiation of these circumvention inquiries. In addition, pursuant to 19 CFR 362.103(b)(1)(ii) and (iii), Commerce will not direct CBP to suspend liquidation, and require cash deposits, of estimated ADs and CVDs based on these affirmative preliminary determinations of circumvention on, any “Applicable Entries.” However, Commerce will direct CBP to suspend liquidation, and collect cash deposits, of estimated ADs and CVDs based on these affirmative preliminary determinations of circumvention on, imports of “Southeast Asian-Completed cells and modules” that are not “Applicable Entries.”

Pursuant to 19 CFR 362.102, ‘Southeast Asian-Completed Cells and Modules’ are:

crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells and modules), which are completed in the Kingdom of Cambodia, Malaysia, the Kingdom of Thailand, or the Socialist Republic of Vietnam using parts and components manufactured in the People’s Republic of China, and subsequently exported from Cambodia, Malaysia, Thailand, or Vietnam to the United States. These are cells and modules subject to the Solar Circumvention Inquiries. Southeast Asian-Completed Cells and Modules does not mean solar cells and modules that, on June 6, 2022, the date Proclamation 10414 was signed, were already subject to Certain Solar Orders.<sup>13</sup>

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<sup>13</sup> “Certain Solar Orders” refers to the following orders: (1) *Solar Cells AD Order*; (2) *Solar Cells CVD Order*; and (3) *Certain Crystalline Silicon Photovoltaic Products from Taiwan: Antidumping Duty Order*, 80 FR 8596 (February 18, 2015).

“Applicable Entries means the entries of Southeast Asian-Completed Cells and Modules that are entered into the United States, or withdrawn from warehouse, for consumption before the Date of Termination and, for entries that enter after November 15, 2022, are used in the United States by the Utilization Expiration Date.”<sup>14</sup> The “Date of Termination” is “June 6, 2024, or the date the emergency described in Presidential Proclamation 10414 has been terminated, whichever occurs first.”<sup>15</sup> The “Utilization Expiration Date” is “the date 180 days after the Date of Termination.”<sup>16</sup> “Utilization and utilized means the Southeast Asian-Completed Cells and Modules will be used or installed in the United States. Merchandise which remains in inventory or a warehouse in the United States, is resold to another party, is subsequently exported, or is destroyed after importation is not considered utilized for purposes of” the provisions in Part 362 of the regulations.<sup>17</sup>

Therefore, based on these affirmative preliminary determinations of circumvention, Commerce intends to direct CBP to suspend liquidation of, and collect cash deposits of the applicable estimated ADs and CVDs on, U.S. imports of Southeast Asian-Completed solar cells and solar modules that are not “Applicable Entries” that were entered, or withdrawn from warehouse, for consumption on or after April 1, 2022, the date of publication of initiation of these circumvention inquiries in the *Federal Register*,<sup>18</sup> but prior to the Date of Termination of the Proclamation. Specifically, with the exception of the entries for which the importer and exporter have met the requirements of the relevant certifications described in the “Certified Entries” section of this notice below, Commerce will direct CBP to implement the following

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<sup>14</sup> See 19 CFR 362.102.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> See *Initiation Notice*.

cash deposit requirements for U.S. entries of “Southeast Asian-Completed cells and modules” that are not “Applicable Entries”: (1) for exporters of the solar cells or solar modules that have a company-specific cash deposit rate under the *Solar Cells AD Order* and/or *Solar Cells CVD Order*, the cash deposit rate will be the company-specific AD and/or CVD cash deposit rate established for that company in the most recently-completed segment of the solar cells proceedings; (2) for exporters of the solar cells or solar modules that do not have a company-specific cash deposit rate under the *Solar Cells AD Order* and/or *Solar Cells CVD Order*, the cash deposit rate will be the company-specific cash deposit rate established under the *Solar Cells AD Order* and/or *Solar Cells CVD Order* for the company that exported the wafers to the producer/exporter in the relevant third country (*i.e.*, Cambodia, Malaysia, Thailand or Vietnam) that were incorporated in the imported solar cells or solar modules; and (3) if neither the exporter of the solar cells or solar modules nor the exporter of the wafers described in item (2) above has a company-specific cash deposit rate, the AD cash deposit rate will be the China-wide rate (238.95 percent), and the CVD cash deposit rate will be the “All-Others” rate (15.24 percent). Commerce has established the following third-country case numbers in the Automated Commercial Environment (ACE) for such entries: Cambodia A-555-902-000/C-555-903-000; Malaysia A-557-988-000/C-557-989-000; Thailand A-549-988-000/C-549-989-000; and Vietnam A-552-988-000/C-552-989-000. If the exporter of the wafers described in the cash deposit requirements above has its own company-specific cash deposit rate under the *Orders*, the importer, producer, or exporter of inquiry merchandise containing those wafers may file a request in ACCESS on the record of the applicable proceeding segment that Commerce establish a case number in ACE for the *Orders* for the applicable third-country that is specific to the

Chinese wafer exporter. CBP may also submit such a request to Commerce through the ACE AD/CVD Portal Inquiry System.

Entries on or After Termination of the Proclamation

Upon termination of the Proclamation, Commerce will issue instructions to CBP that are described in 19 CFR 362.103(b)(2). Moreover, given the instant preliminary country-wide affirmative determinations of circumvention with respect to Cambodia, Malaysia, Thailand, and Vietnam, and the fact that the “Date of Termination” is currently June 6, 2024, pursuant to 19 CFR 362.103(b)(3), Commerce intends to issue an instruction to CBP in which it: (1) informs CBP that the Date of Termination is June 6, 2024; and (2) with the exception of the entries for which the importer and exporter have met the requirements of the relevant certifications described in the “Certified Entries” section of this notice below, directs CBP to begin suspension of liquidation, and require a cash deposit of estimated ADs and CVDs, at the applicable rate described below, for each unliquidated entry of inquiry merchandise entered, or withdrawn from warehouse, for consumption on or after the Date of Termination of the Proclamation. The applicable cash deposit rates are as follows: (1) for exporters of inquiry merchandise that have a company-specific cash deposit rate under the *Solar Cells AD Order* and/or *Solar Cells CVD Order*, the cash deposit rate will be the company-specific AD and/or CVD cash deposit rate established for that company in the most recently completed segment of the solar cells proceedings; (2) for exporters of inquiry merchandise that do not have a company-specific cash deposit rate under the *Solar Cells AD Order* and/or *Solar Cells CVD Order*, the cash deposit rate will be the company-specific cash deposit rate established under the *Solar Cells AD Order* and/or *Solar Cells CVD Order* for the company that exported the wafers to the producer/exporter in the relevant third country (*i.e.*, Cambodia, Malaysia, Thailand or Vietnam) that were incorporated in

the imported inquiry merchandise; and (3) if neither the exporter of the inquiry merchandise, nor the exporter of the wafers described in item (2) above has a company-specific cash deposit rate, the AD cash deposit rate will be the China-wide rate (238.95 percent), and the CVD cash deposit rate will be the “All-Others” rate (15.24 percent). As noted above, Commerce has established the following third-country case numbers in ACE for such entries: Cambodia A-555-902-000/C-555-903-000; Malaysia A-557-988-000/C-557-989-000; Thailand A-549-988-000/C-549-989-000; and Vietnam A-552-988-000/C-552-989-000. Other third-country case numbers may be established following the process described above.

### Certified Entries

Entries prior to the Date of Termination for which the importer and exporter have met the certification requirements described below and in Appendix IV, V,<sup>19</sup> or VI to this notice, and entries on or after the Date for Termination for which the importer and exporter have met the certification requirements described below and in Appendix V<sup>20</sup> or VI to this notice, will not be subject to suspension of liquidation, or the cash deposit requirements described above. Failure to comply with the applicable requisite certification requirements may result in the merchandise being subject to ADs and CVDs.

### Certifications

In order to administer these preliminary country-wide affirmative determinations of circumvention, and the preliminary company-specific negative determinations of circumvention,

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<sup>19</sup> The certification in Appendix V is specific to Bovie Solar Technology Co., Ltd. Issuance of similar certifications with respect to Hanwha Q CELLS Malaysia Sdn. Bhd., Jinko Solar Technology Sdn. Bhd./Jinko Solar (Malaysia) Sdn. Bhd., and New East Solar (Cambodia) Co., Ltd. is predicated upon the public disclosure of the names of their wafer exporters to Commerce by no later than 14 days after the publication date of this notice in the *Federal Register*. If such disclosure is made, Commerce will place the additional certification(s) on ACCESS within 30 days of publication of this notice in the *Federal Register*.

<sup>20</sup> This is subject to the caveat noted above with respect to the public disclosure of the names of certain wafer exporters.

and to implement the Proclamation, Commerce has established the following types of certifications: (1) importer and exporter certifications that specific entries meet the regulatory definition of “Applicable Entries” (*see* Appendix IV to this notice); (2) importer and exporter certifications that specific entries are not subject to suspension of liquidation or the collection of cash deposits based on the preliminary negative circumvention determinations with respect to the exporters listed in Appendix III in combination with certain wafer exporters (*see* Appendix V to this notice);<sup>21</sup> and (3) importer and exporter certifications that specific entries of solar cells or solar modules from Cambodia, Malaysia, Thailand, or Vietnam are not subject to suspension of liquidation or the collection of cash deposits pursuant to these preliminary country-wide affirmative determinations of circumvention because the merchandise meets the component content requirements described in the certification (*see* Appendix VI to this notice). The non-cooperative companies listed in Appendix II are not eligible to use the certification described in items (2) or (3) above for the relevant inquiry country.<sup>22</sup>

Importers and exporters that claim that: (1) an entry of “Southeast Asian-Completed cells and modules” is an “Applicable Entry”; (2) an entry of solar cells or solar modules is not subject to suspension of liquidation or the collection of cash deposits based on the preliminary negative circumvention determination with respect to one of the companies listed in Appendix III; or (3) the entry of solar cells or solar modules is not subject to suspension of liquidation or

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<sup>21</sup> The certification in Appendix V is specific to Boviet Solar Technology Co., Ltd. Issuance of similar certifications with respect to Hanwha Q CELLS Malaysia Sdn. Bhd., Jinko Solar Technology Sdn. Bhd./Jinko Solar (Malaysia) Sdn. Bhd., and New East Solar (Cambodia) Co., Ltd. is predicated upon the public disclosure of the names of their wafer exporters to Commerce by no later than 14 days after the publication date of this notice in the *Federal Register*. If such disclosure is made, Commerce will place the additional certification(s) on ACCESS within 30 days of publication of this notice in the *Federal Register*.

<sup>22</sup> *See* Preliminary Decision Memoranda at “Use of Facts Available with an Adverse Inference”; and, *e.g.*, *Anti-circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order*, 63 FR 18364, 18366 (April 15, 1998), unchanged in *Anti-Circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 63 FR 54672, 54675-76 (October 13, 1998).

the collection of cash deposits based on the inputs used to manufacture such merchandise, must complete the applicable certification and meet the certification and documentation requirements described below, as well as the requirements identified in the applicable certification.

### Certification Requirements

Importers are required to complete and maintain the applicable importer certification, and maintain a copy of the applicable exporter certification, and retain all supporting documentation for both certifications. With the exception of the entries described below, the importer certification must be completed, signed, and dated by the time the entry summary is filed for the relevant entry. The importer, or the importer's agent, must submit both the importer's certification and the exporter's certification to CBP as part of the entry process by uploading them into the document imaging system (DIS) in ACE. Where the importer uses a broker to facilitate the entry process, it should obtain the entry summary number from the broker. Agents of the importer, such as brokers, however, are not permitted to certify on behalf of the importer.

Exporters are required to complete and maintain the applicable exporter certification and provide the importer with a copy of that certification and all supporting documentation (*e.g.*, invoice, purchase order, production records, *etc.*). With the exception of the entries described below, the exporter certification must be completed, signed, and dated by the time of shipment of the relevant entries. The exporter certification should be completed by the party selling the solar cells or solar modules that were manufactured in Cambodia, Malaysia, Thailand, or Vietnam to the United States.

Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. Importers and exporters are required to maintain the certifications and supporting documentation for 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.

For all solar cells or solar modules from Cambodia, Malaysia, Thailand, or Vietnam that were entered, or withdrawn from warehouse, for consumption during the period April 1, 2022, (the date of initiation of these circumvention inquiries) through the date of publication of the preliminary determinations in the *Federal Register*, where the entry has not been liquidated (and entries for which liquidation has not become final), the relevant certification should be completed and signed as soon as practicable, but not later than 45 days after the date of publication of these preliminary determinations in the *Federal Register*. For such entries, importers, and exporters each have the option to complete a blanket certification covering multiple entries, individual certifications for each entry, or a combination thereof. The exporter must provide the importer with a copy of the exporter certification within 45 days of the date of publication of these preliminary determinations in the *Federal Register*.

For unliquidated entries (and entries for which liquidation has not become final) of solar cells and solar modules that were declared as non-AD/CVD type entries (*e.g.*, type 01) and entered, or withdrawn from warehouse, for consumption in the United States during the period April 1, 2022 (the date of initiation of these circumvention inquiries) through the date of publication of the preliminary determinations in the *Federal Register*, for which none of the above certifications may be made, importers must file a Post Summary Correction with CBP, in accordance with CBP's regulations, regarding conversion of such entries from non-AD/CVD type entries to AD/CVD type entries (*e.g.*, type 01 to type 03). Importers should report those AD/CVD type entries using the following third-country case numbers: Cambodia A-555-902-000/C-555-903-000; Malaysia A-557-988-000/C-557-989-000; Thailand A-549-988-000/C-549-

989-000; and Vietnam A-552-988-000/C-552-989-000. Other third-country case numbers may be established following the process described above. The importer should pay cash deposits on those entries consistent with the regulations governing post summary corrections that require payment of additional duties.

If it is determined that an importer and/or exporter has not met the certification and/or related documentation requirements for certain entries, Commerce intends to instruct CBP to suspend, pursuant to these preliminary country-wide affirmative determinations of circumvention and the *Orders*,<sup>23</sup> all unliquidated entries for which these requirements were not met and require the importer to post applicable AD and CVD cash deposits equal to the rates noted above.

Interested parties may comment on these certification requirements, and on the certification language contained in the appendices to this notice in their case briefs.

#### Verification

As provided in 19 CFR 351.226(f)(3), Commerce intends to verify the information relied upon in making its final determinations.

#### Public Comment

Case briefs or other written comments for a particular country should be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report for that country is issued. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline for case briefs.<sup>24</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in these circumvention inquiries are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Note

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<sup>23</sup> See *Orders*.

<sup>24</sup> See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>25</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing for a particular country, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice in the *Federal Register*. Requests should contain: (1) the requesting party's name, address, and telephone number; (2) the number of individuals from the requesting party that will attend the hearing and whether any of those individuals is a foreign national; and (3) a list of the issues that the party intends to discuss at the hearing. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date of the hearing.

#### U.S. International Trade Commission Notification

Commerce, consistent with section 781(e) of the Act, will notify the U.S. International Trade Commission (ITC) of these preliminary determinations to include the merchandise subject to these circumvention inquiries within the *Orders*. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning Commerce's proposed inclusion of the inquiry merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days from the date of notification by Commerce to provide written advice.

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<sup>25</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

Notification to Interested Parties

These determinations are issued and published in accordance with section 781(b) of the Act and 19 CFR 351.226(g)(1).

Dated: December 1, 2022

*/S/ Lisa W. Wang*

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Lisa W. Wang  
Assistant Secretary  
for Enforcement and Compliance

### Appendices

Appendix Number	Appendix Name
I	List of Topics Discussed in the Preliminary Decision Memoranda
II	List of Companies to Which Commerce Applied AFA
III	List of Companies Preliminarily Found Not to be Circumventing
IV	Certification for “Applicable Entries”
V	Certification for Entries of Inquiry Merchandise from Companies Preliminarily Found Not to Be Circumventing
VI	Certification Regarding Chinese Components

## Appendix I

### List of Topics Discussed in the Preliminary Decision Memoranda

#### Cambodia

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. Merchandise Subject to Circumvention Inquiry
- V. Period of the Circumvention Inquiry
- VI. Non-Market Economy Methodology for Valuing Material Inputs from China
- VII. Statutory and Regulatory Framework for the Circumvention Inquiry
- VIII. Statutory Analysis for the Circumvention Inquiry
- IX. Summary of Statutory Analysis
- X. Verification
- XI. Certification Process and Country-Wide Affirmation Determination of Circumvention
- XII. Presidential Proclamation
- XIII. Recommendation

#### Malaysia and Thailand

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. Merchandise Subject to Circumvention Inquiry
- V. Period of the Circumvention Inquiry
- VI. Non-Market Economy Methodology for Valuing Material Inputs from China
- VII. Statutory and Regulatory Framework for the Circumvention Inquiry
- VIII. Use of Facts Available with Adverse Inferences
- IX. Statutory Analysis for the Circumvention Inquiry
- X. Summary of Statutory Analysis
- XI. Verification
- XII. Certification Process and Country-Wide Affirmation Determination of Circumvention
- XIII. Presidential Proclamation
- XIV. Recommendation

#### Vietnam

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. Merchandise Subject to Circumvention Inquiry
- V. Period of the Circumvention Inquiry
- VI. Non-Market Economy Methodology for Valuing Material Inputs from China

- VII. Non-Market Economy Methodology for Valuing the Process of Assembly or Completion in Vietnam
- VIII. Statutory and Regulatory Framework for the Circumvention Inquiry
- IX. Use of Facts Available with Adverse Inferences
- X. Statutory Analysis for the Circumvention Inquiry
- XI. Summary of Statutory Analysis
- XII. Verification
- XIII. Certification Process and Country-Wide Affirmation Determination of Circumvention
- XIV. Presidential Proclamation
- XV. Recommendation

## Appendix II

### List of Companies to Which Commerce Applied AFA

#### Malaysia

1. AMC Cincaria Sdn Bhd
2. Flextronic Shah Alam Sdn. Bhd.
3. Funing Precision Component Co., Ltd.
4. Samsung Sds Malaysia Sdn. Bhd.
5. Vina Solar Technology Co., Ltd.

#### Thailand

1. Celestica (Thailand) Limited
2. Green Solar Thailand Co., Ltd.
3. Lightup Creation CO., Ltd.
4. Thai Master Frame Co., Ltd.
5. Three Arrows (Thailand) Co., Ltd.
6. Yuan Feng New Energy
7. Solar PPM.
8. Sunshine Electrical Energy Co., Ltd.

#### Vietnam

1. Cong Ty Co Phan Cong Nghe Nang (Global Energy)
2. GCL System Integration Technology
3. Green Wing Solar Technology Co., Ltd.
4. HT Solar Vietnam Limited Company
5. Irex Energy Joint Stock Company
6. S-Solar Viet Nam Company Limited
7. Venergy Solar Industry Company
8. Vietnam Sunergy Joint Stock Company
9. Red Sun Energy Co., Ltd

### **Appendix III**

#### **List of Companies Preliminarily Found Not to be Circumventing**

##### **Cambodia**

1. New East Solar (Cambodia) Co., Ltd.

##### **Malaysia**

1. Hanwha Q CELLS Malaysia Sdn. Bhd.
2. Jinko Solar Technology Sdn. Bhd./ Jinko Solar (Malaysia) Sdn. Bhd.

##### **Vietnam**

1. Boviet Solar Technology Co., Ltd.

## Appendix IV

### CERTIFICATION FOR “APPLICABLE ENTRIES” UNDER 19 CFR PART 362

#### 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 {SELECT ONE OF THE FOLLOWING COUNTRIES: KINGDOM OF CAMBODIA, MALAYSIA, THE KINGDOM OF THAILAND, OR THE SOCIALIST REPUBLIC OF VIETNAM } 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).

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

1. Were produced in {SELECT ONE OF THE FOLLOWING COUNTRIES: KINGDOM OF CAMBODIA, MALAYSIA, THE KINGDOM OF THAILAND, OR THE

SOCIALIST REPUBLIC OF VIETNAM} using parts and components manufactured in the People's Republic of China;

2. Were exported to the United States from {SELECT ONE OF THE FOLLOWING COUNTRIES: KINGDOM OF CAMBODIA, MALAYSIA, THE KINGDOM OF THAILAND, OR THE SOCIALIST REPUBLIC OF VIETNAM} without further assembly in another country;
3. Are not covered by: (a) the antidumping duty or countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China; or (b) the antidumping duty order on certain crystalline silicon photovoltaic products from Taiwan;
4. Were entered into the United States, or were withdrawn from warehouse, for consumption before 06/06/2024, or before the date the emergency described in Presidential Proclamation 10414 is terminated, whichever occurs first; and
5. If entered, or withdrawn from warehouse, after November 15, 2022, the solar cells and/or solar modules will be utilized in the United States by no later than 180 days after the earlier of 06/06/2024, or the date the emergency described in Presidential Proclamation 10414 is terminated. Utilized means the solar cells or solar modules will be used or installed in the United States. Solar cells or solar modules which remain in inventory or in a warehouse in the United States, are resold to another party, are subsequently exported, or are destroyed after importation are not considered utilized.

G) 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:

Foreign Seller's Address:

Foreign Seller's Invoice #:

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

Producer:

Producer's Address:

H) 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.

I) 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.

J) I understand that {NAME OF IMPORTING COMPANY} is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (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.

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

L) 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 not "Applicable Entries." I understand that such a finding may 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.

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

N) 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 14<sup>th</sup> 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*.

O) I am aware that U.S. law (including, but not limited to, 18 U.S.C. section 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**

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 FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES}, located at {ADDRESS OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES};

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:

1. Were produced in {SELECT ONE OF THE FOLLOWING COUNTRIES: KINGDOM OF CAMBODIA, MALAYSIA, THE KINGDOM OF THAILAND, OR THE SOCIALIST REPUBLIC OF VIETNAM} using parts and components manufactured in the People's Republic of China;
2. Were exported to the United States from {SELECT ONE OF THE FOLLOWING COUNTRIES: KINGDOM OF CAMBODIA, MALAYSIA, THE KINGDOM OF THAILAND, OR THE SOCIALIST REPUBLIC OF VIETNAM} without further assembly in another country; and
3. Are not covered by: (a) the antidumping duty or countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the

People's Republic of China; or (b) the antidumping duty order on certain crystalline silicon photovoltaic products from Taiwan.

E) 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:

Producer Name:

Producer's Address:

Invoice # of the Producer's Invoice to the Foreign Seller (if the foreign seller and the producer are the same party, report "NA" here):

F) I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} 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, customer 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.

G) I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} 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 the U.S. Department of Commerce (Commerce) with a copy of this certification, and any supporting documents, upon the request of either agency.

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

I) 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 was not entered into the United States in "Applicable Entries." I understand that such a finding may 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.

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

K) 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 14<sup>th</sup> 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*.

L) I am aware that U.S. law (including, but not limited to, 18 U.S.C. section 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

## Appendix V

### **CERTIFICATION FOR ENTRIES OF INQUIRY MERCHANDISE FROM COMPANIES PRELIMINARILY FOUND NOT TO BE CIRCUMVENTING**

**COMPANY NAME:** Boviet Solar Technology Co., Ltd.

#### **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 Vietnam 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).

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

1. Sold to the United States by Boviet Solar Technology Co., Ltd.

2. Exported to the United States by Boviet Solar Technology Co., Ltd.
3. Produced in Vietnam by Boviet Solar Technology Co., Ltd., using wafers manufactured in the People's Republic of China that were exported to Vietnam by Ningbo Kyanite International Trade Co., Ltd.

G) The U.S. Department of Commerce (Commerce) found that solar cells and/or solar modules produced by Boviet Solar Technology Co., Ltd., using wafers manufactured in China that were exported by the wafer supplier listed in item F above, and exported by Boviet Solar Technology Co., Ltd. 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 14<sup>th</sup> 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. section 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 PRELIMINARILY FOUND NOT TO BE CIRCUMVENTING**

**COMPANY NAME:** Boviet Solar Technology Co., Ltd.

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 Boviet Solar Technology Co., Ltd., located at B5, B6, Song Khe Industrial Zone, Noi Hoang District Bac Giang Province, Vietnam;

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 Boviet Solar Technology Co., Ltd.
2. Exported to the United States by Boviet Solar Technology Co., Ltd.
3. Produced in Vietnam by Boviet Solar Technology Co., Ltd. using wafers manufactured in the People's Republic of China (China) that were exported to Vietnam by Ningbo Kyanite International Trade Co., Ltd.

E) The U.S. Department of Commerce (Commerce) found that solar cells and/or solar modules produced by Boviet Solar Technology Co., Ltd., using wafers manufactured in China that were exported by the wafer supplier listed in item D above, and exported by Boviet Solar Technology Co., Ltd. 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 Boviet Solar Technology Co., Ltd. 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, customer 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 Boviet Solar Technology Co., Ltd. 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 14<sup>th</sup> 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. section 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

## Appendix VI

### CERTIFICATION REGARDING CHINESE COMPONENTS

#### 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 {COUNTRY} 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).

F) If the imported products covered by this certification are solar cells that are not in solar modules or products that contain solar cells that are not in a solar module, then the importer certifies that the solar cells produced in {COUNTRY} that are covered by this certification were not manufactured using wafers produced in China, regardless of whether sourced directly from a Chinese producer or from a downstream supplier.

G) If the imported products covered by this certification are solar modules or products that contain solar modules, then the importer certifies that the solar modules produced in {COUNTRY} that are covered by this certification were not manufactured using wafers produced in China, regardless of whether sourced directly from a Chinese producer or from a downstream supplier, **or** the solar modules produced in {COUNTRY} that are covered by this certification were manufactured using wafers produced in China but **no more than two** of the following inputs that were used to manufacture the solar modules were produced in China, regardless of whether sourced directly from a Chinese producer or from a Chinese downstream supplier:

- a. Silver Paste
- b. Aluminum Frames
- c. Glass
- d. Backsheets
- e. Ethylene-Vinyl Acetate
- f. Junction Boxes

H) The solar cells and/or solar modules covered by this certification are not covered by: (a) the antidumping duty or countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China; or (b) the antidumping duty order on certain crystalline silicon photovoltaic products from Taiwan.

I) 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:

Foreign Seller's Address:

Foreign Seller's Invoice #:

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

Producer:

Producer's Address:

J) 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.

K) 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.

L) I understand that {NAME OF IMPORTING COMPANY} is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (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.

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

N) 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.

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

P) 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 14<sup>th</sup> 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*.

Q) I am aware that U.S. law (including, but not limited to, 18 U.S.C. section 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**

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 FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES}, located at {ADDRESS OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES};

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) If the exported products covered by this certification are solar cells that are not in solar modules or products that contains solar cells that are not in a solar module, then the seller certifies that the solar cells produced in {COUNTRY} that are covered by this certification were not manufactured using wafers produced in China, regardless of whether sourced directly from a Chinese producer or from a downstream supplier.

E) If the exported products covered by this certification are solar modules or products that contain solar modules, then the seller certifies that the solar modules produced in {COUNTRY} that are covered by this certification were not manufactured using wafers produced in China, regardless of whether sourced directly from a Chinese producer or from a downstream supplier, **or** the solar modules produced in {COUNTRY} that are covered by this certification were manufactured using wafers produced in China but **no more than two** of the following inputs that were used to manufacture the solar modules were produced in China, regardless of whether sourced directly from a Chinese producer or from a Chinese downstream supplier:

- a. Silver Paste
- b. Aluminum Frames
- c. Glass
- d. Backsheets
- e. Ethylene-Vinyl Acetate
- f. Junction Boxes

F) The solar cells and/or solar modules covered by this certification are not covered by: (a) the antidumping duty or countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China; or (b) the antidumping duty order on certain crystalline silicon photovoltaic products from Taiwan.

G) 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:

Producer Name:

Producer's Address:

Invoice # of the Producer's Invoice to the Foreign Seller (if the foreign seller and the producer are the same party, report "NA" here):

H) I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} 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, customer 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.

I) I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} 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 the U.S. Department of Commerce (Commerce) with a copy of this certification, and any supporting documents, upon the request of either agency.

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

K) 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.

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

M) 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 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 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*.

N) I am aware that U.S. law (including, but not limited to, 18 U.S.C. section 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