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Circumvention Inquiries  
Malaysia 2022, Thailand 2022,  
Cambodia 2022, Vietnam 2022  
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May 2, 2022

**MEMORANDUM TO:** All Interested Parties

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AD/CVD Operations, Office VII

**SUBJECT:** Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China

**RE:** Circumvention Inquiries With Respect to Cambodia, Malaysia, Thailand, and Vietnam – Potential Certification Requirements

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This memorandum concerns the above-referenced circumvention inquiries that the Department of Commerce (Commerce) initiated with respect to the antidumping (AD) and countervailing duty (CVD) orders on crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells and modules), from the People's Republic of China (China). Commerce is providing all interested parties with an opportunity to comment on, and provide factual information regarding, any certification requirements that may be put in place in the event of affirmative preliminary or final determinations in these inquiries.

On February 8, 2022, Auxin Solar Inc. (Auxin) requested that Commerce initiate country-wide inquiries into whether solar cells and modules, that are completed/assembled in Cambodia, Malaysia, Thailand, or Vietnam using parts and components from China are circumventing the AD and CVD orders on solar cells and modules from China.<sup>1</sup> Specifically, Auxin alleged that

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<sup>1</sup> See Auxin's Letter, "Auxin Solar's Request for an Anti-Circumvention Ruling Pursuant to Section 781(b) of the Tariff Act of 1930, As Amended," dated February 8, 2022 (Circumvention Request); see also *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 77 FR 73018 (December 7, 2012); 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) (collectively, the *Orders*).



certain solar cells and module processors located in Cambodia, Malaysia, Thailand, and Vietnam were circumventing the *Orders* by using silicon wafers, silver paste, silane, solar glass, aluminum frames, junction boxes, ethylene vinyl acetate (EVA), backsheets, and other materials from China to produce solar cells and modules that were shipped to the United States. Pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.226(d), Commerce initiated country-wide circumvention inquiries covering Cambodia, Malaysia, Thailand, and Vietnam on March 25, 2022.<sup>2</sup>

In numerous prior circumvention inquiries where Commerce made affirmative circumvention determinations, it established certification procedures for exporters and/or importers regarding the source of the materials used in the products allegedly circumventing the order(s). In such cases, Commerce excluded from the certification process, companies for which it made a determination that the company did not cooperate to the best of its ability in the circumvention inquiry and companies that were unable to trace the input from the subject country to the actual merchandise that the company shipped to the United States. All other companies, including individually investigated companies found not to be circumventing the order(s), companies individually investigated that were found to be circumventing the order(s), and companies not individually investigated, were eligible to participate in the certification process. Imports found not to comply with the certification requirements were subject to the order(s) and applicable cash deposits. Imports that satisfy the certification requirements were considered not subject to the order(s).

Unlike prior circumvention inquiries that typically involve one significant input from the country subject to the order that is under consideration and completion/assembly of the product in only one third country, the solar cells and modules under investigation here may be completed/assembled in multiple third-countries under investigation using numerous inputs from China. For example, the manufacturing process requires that polysilicon be refined, and formed into ingots, which are then sliced into wafers. The wafers are then subsequently doped and converted into solar cells, which are then assembled together with numerous other materials into modules.<sup>3</sup> These various segments of the production process may take place in different countries. Wafers produced outside of China with polysilicon sourced from China are not subject to these circumvention inquiries.

In these inquiries, if Chinese-origin wafers are used in the completion of solar cells or modules in Vietnam, Thailand, Cambodia and/or Malaysia and were supplied by a Chinese manufacturer with a company-specific rate, for such imports, Commerce intends, in the event of an affirmative preliminary or final determination, that the cash deposit rate for the relevant imports from the third country will be equal to that Chinese manufacturer's and/or exporter's company-specific rate(s). If not, then Commerce intends to instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of the entry and collect cash deposits at the rates applicable to the *Orders*.

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<sup>2</sup> See Memorandum, "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules from the People's Republic of China: Initiation of Circumvention Inquiries," dated March 25, 2022.

<sup>3</sup> See Circumvention Request at 14-22.

Commerce is seeking input from all interested parties regarding the potential certification requirements. We also seek input from all interested parties as to the cash deposit rate issue identified above and the practicality of establishing a certification process that allows importers and exporters to certify as to the identity(ies) of the Chinese producer(s) that supplied the inputs, rather than – as Commerce has done in past cases – only allowing certifications as to whether the inputs originated from the subject country.

We hereby provide interested parties to this proceeding the opportunity to comment and provide factual information on the aforementioned information by 5:00 PM Eastern Time on May 9, 2022.