

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-583-853]

**Certain Crystalline Silicon Photovoltaic Products From Taiwan: Notice of Court Decision Not in Harmony With the Final Results of the Antidumping Duty Administrative Review, 2014-2016; and Notice of Amended Final Results of the Antidumping Duty Administrative Review, 2014-2016**

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

**SUMMARY:** On May 22, 2019, the United States Court of International Trade (CIT) issued its final judgment sustaining the final results of redetermination pertaining to the first antidumping duty (AD) administrative review of certain crystalline silicon photovoltaic products from Taiwan. The Department of Commerce (Commerce) is notifying the public that the final judgment in this case is not in harmony with the final results of the AD administrative review, and that Commerce is amending the final results with respect to the weighted-average dumping margins assigned to Sino-American Silicon Products Inc. (SAS) and Solartech Energy Corp. (Solartech) (collectively, SAS-Solartech), and the non-selected companies.

**DATES:** Applicable June 1, 2019.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:****Background**

On July 7, 2017, the Department published the *Final Results*.<sup>1</sup> Subsequently, SAS-Solartech, the respondent in the underlying proceeding, filed suit at the CIT to challenge certain aspects of the *Final Results*. On November 13, 2018, the CIT remanded the *Final Results* to Commerce, concluding that it was unreasonable for Commerce to have ignored the record evidence regarding SAS sales shipped through U.S. Foreign Trade Zones (FTZs) destined for sale in Mexico, and that the inclusion of such sales as sales to the United States was unreasonable and not supported by

substantial evidence.<sup>2</sup> On February 15, 2019, Commerce issued its *Remand Results*, in which, consistent with the *Remand Order*, certain sales by SAS that were admitted to U.S. FTZs in transit to Mexico were excluded from the margin calculation for SAS-Solartech.<sup>3</sup>

On May 22, 2019, the CIT sustained Commerce's *Remand Results*, and entered final judgment.<sup>4</sup>

**Timken Notice**

In its decision in *Timken*,<sup>5</sup> as clarified by *Diamond Sawblades*,<sup>6</sup> the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not “in harmony” with a Commerce determination, and must suspend liquidation of entries pending a “conclusive” court decision. The CIT's May 22, 2019, judgment sustaining Commerce's *Remand Results* constitutes a final decision of that court that is not in harmony with Commerce's *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Commerce will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal, or if appealed, pending a final and conclusive court decision.

**Amended Final Results**

Because there is now a final court decision, Commerce is amending its *Final Results* with respect to SAS-Solartech's weighted-average dumping margin. Additionally, because the rate for the non-selected companies was based, in part, on SAS-Solartech's weighted-average dumping margin, Commerce is amending the rate for the non-selected companies. The revised weighted-average dumping margins for SAS-Solartech and the non-selected companies for the July 31, 2014, through January 31, 2016, period of review are as follows:

<sup>2</sup> See *SolarWorld Americas, Inc. v. United States*, 353 F. Supp. 3d 1315, 1323 (CIT 2018) (*Remand Order*).

<sup>3</sup> See *Final Results of Redetermination Pursuant to Court Order, SolarWorld Americas, Inc. v. United States*, Consol. Court No. 17-00208 (February 15, 2019) (*Remand Results*).

<sup>4</sup> See *SolarWorld Americas, Inc. v. United States*, Slip Op. 19-63, Consol. Court No. 17-00208 (CIT 2019).

<sup>5</sup> See *Timken Co. v. United States*, 893 F. 2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>6</sup> See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F. 3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

<sup>1</sup> See *Certain Crystalline Silicon Photovoltaic Products from Taiwan: Final Results of Antidumping Duty Administrative Review, 2014-2016*, 82 FR 31555 (July 7, 2017) (*Final Results*).

Exporter	Weighted-average dumping margin (%)
Sino-American Silicon Products Inc./Solartech Energy Corp .....	1.52
AU Optronics Corporation .....	3.78
EEPV CORP .....	3.78
E-TON Solar Tech. Co., Ltd .....	3.78
Gintech Energy Corporation .....	3.78
Inventec Energy Corporation .....	3.78
Inventec Solar Energy Corporation .....	3.78
Kyocera Mexicana S.A. de C.V ..	3.78
Sunengine Corporation Ltd .....	3.78
TSEC Corporation .....	3.78
Win Win Precision Technology Co., Ltd .....	3.78

In the event the CIT's ruling is not appealed or, if appealed, is upheld by a final and conclusive court decision, Commerce will instruct U.S. Customs and Border Protection to assess antidumping duties on unliquidated entries of subject merchandise based on the revised rates calculated by Commerce in the *Remand Results*, and listed above.

**Cash Deposit Requirements**

Because the cash deposit rate for the companies listed above, with the exception of E-TON Solar Tech. Co., Ltd., Inventec Energy Corporation, and Sunengine Corporation Ltd., have been superseded by cash deposit rates calculated in intervening administrative reviews of the antidumping duty order on solar cells from Taiwan,<sup>7</sup> we will not alter the cash deposit rate currently in effect for these respondents based on these amended final results. Effective June 1, 2019, the cash deposit rate applicable to entries of subject merchandise exported by E-TON Solar Tech. Co., Ltd., Inventec Energy Corporation, and Sunengine Corporation Ltd. is 3.78 percent.

This notice is issued and published in accordance with sections 516A(e), 751(a)(1) and 777(i)(1) of the Act.

Dated: June 3, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

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<sup>7</sup> See *Certain Crystalline Silicon Photovoltaic Products from Taiwan: Final Results of Antidumping Duty Administrative Review, 2016-2017*, 83 FR 30401 (June 28, 2018).