November 6, 2013

DOC Case Nos. A-570-979 and C-570-980
Total Pages: 16
Investigation
AD/CVD Operations, Office 4
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The Honorable Penny S. Pritzker
Secretary of Commerce
Attn: Import Administration
APO/Dockets Unit, Room 1870
U.S. Department of Commerce
14th Street and Constitution Ave., NW
Washington, D.C. 20230

Re: Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, From the People's Republic of China: Request to Assess Duties on Imports from Shunfeng Photovoltaic International Ltd. and Related Entities at the PRC-Wide and All Others Rate

Dear Secretary Pritzker:

On behalf of SolarWorld Industries America Inc. ("SolarWorld"), Petitioner in the above-captioned investigations, we respectfully request the U.S. Department of Commerce ("the Department") to instruct U.S. Customs and Border Protection ("CBP") to assess antidumping and countervailing duties on all entries of crystalline silicon photovoltaic cells, whether or not assembled into modules ("solar cells and modules"), imported into the United States by Shunfeng Photovoltaic International
Ltd. ("Shunfeng") or related entities at the PRC-wide rate of 249.96 percent and the All Others rate of 15.24 percent.

Following its investigation in the above-captioned proceedings, the Department issued affirmative final antidumping and countervailing duty determinations on October 17, 2012, and published antidumping and countervailing duty orders on December 7, 2012. In its orders, the Department instructed CBP to assess antidumping and countervailing duties against mandatory respondent Wuxi Suntech Power Co., Ltd. and its affiliates (collectively "Suntech") at separate rates of 29.14 percent and 14.78 percent, respectively.

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Publicly available information now indicates that Suntech has ceased to exist as an independent entity and is thus no longer entitled to these separate rates. In March of this year, Suntech was forced into bankruptcy proceedings after defaulting on U.S. bond payments.\(^5\) This month, Shunfeng, a mid-size solar manufacturer in China, announced that it won a bid to purchase the main unit of Suntech's assets, *i.e.*, Wuxi Suntech Power Co.\(^6\) Reports indicate that Shunfeng has paid a deposit of CNY500 million ($82 million) to acquire Suntech, and is expected to pay an additional CNY2.5 billion (or $410 million).\(^7\)

In light of this acquisition, solar cells and modules produced by the former Suntech entity will now be imported into the United States by Shunfeng. While Shunfeng participated in the original investigation,\(^8\) it did not submit an application for a separate rate. Antidumping duties on imports of Chinese solar cells and modules from Shunfeng, therefore, are assessed at the PRC-wide rate of 249.96 percent,\(^9\) while countervailing duties are assessed at the All Others rate of 15.24 percent.

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\(^6\) Id.

\(^7\) Id.

\(^8\) See Letter from Baker & McKenzie LLP to Sec'y of Commerce, re: *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China; Entry of Appearance* (Dec. 2, 2011); Letter from Baker & McKenzie to Sec'y of Commerce, re: *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China* (Nov. 29, 2011).

\(^9\) See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China*, 77 Fed. Reg. 73,018, 73,021 (Dep't Commerce Dec. 7, 2012) (amended final deter. of sales at less than fair value, and antidumping duty order).
percent. Given the recent asset acquisition, the PRC-wide and All Others rates now also apply to solar cells and modules manufactured by the former Suntech entity and imported by Shunfeng. Shunfeng is not entitled to Suntech's separate rates absent a request for a changed circumstances review, a full investigation, and a final determination by the Department. Indeed, based on publicly available information about the nature and structure of the transaction, in particular that Suntech's assets were purchased out of bankruptcy, it is unlikely that Shunfeng would be entitled to Suntech's separate rates.

Moreover, Shunfeng's asset purchase also raises additional concerns about the involvement of the Chinese government in the asset purchase and the provision of government subsidies. In fact, available information indicates a strong likelihood of government involvement, given Shunfeng's relatively small size and revenues. Indeed, reports indicate that Shunfeng's revenue in the first six months of this year was only approximately $68 million. Yet, as mentioned previously, Shunfeng has paid a deposit of CNY500 million ($82 million) to acquire Suntech, and is expected to pay another CNY2.5 billion ($410 million) upon completion of the acquisition. Moreover, Shunfeng also announced that it will pay an additional $25 million to

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Wuxi Guolian Development Corp., a local government-controlled investment company, will absorb Suntech’s losses of up to CNY20 million ($3.3 million) between March and October of this year, and will also provide funds to upgrade Suntech’s facilities over the next two years.¹⁴

In light of the foregoing, SolarWorld respectfully requests the Department to instruct CBP to ensure that, going forward, all entries of solar cells and modules imported into the United States by Shunfeng or related entities, including those manufactured by the former Suntech entity, are assessed antidumping duties at the PRC-wide rate of 249.96 percent and countervailing duties at the All Others rate of 15.24 percent.

Should you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,

Timothy C. Brightbill, Esq.
Robert E. DeFrancesco, Esq.

WILEY REIN LLP
1776 K Street, N.W.
Washington, D.C. 20006

Counsel to SolarWorld Industries America Inc.

¹⁴ Id.
I, Timothy C. Brightbill, with Wiley Rein LLP, counsel or representative to SolarWorld Industries America, Inc., certify that I have read the attached submission of Request to Assess Duties on Imports from Shunfeng Photovoltaic International Ltd. and Related Entities at the PRC-Wide Rate, dated November 6, 2013, pursuant to the investigations on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China, AD and CVD Case Nos. A-570-979 and C-570-980. In my capacity as an adviser, counsel, preparer or reviewer of this submission, I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. § 1001), imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the Department may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that I am filing a copy of this signed certification with this submission to the U.S. Department of Commerce and that I will retain the original for a five-year period commencing with the filing of this document. The original will be available for inspection by U.S. Department of Commerce officials.

Timothy C. Brightbill

Date: November 6, 2013
CERTIFICATE OF SERVICE

PUBLIC SERVICE

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People’s Republic Of China
A-570-979
Investigation

I certify that a copy of this document was served on the following parties, via first-class mail, or international air mail where indicated (*), on November 6, 2013.

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EXHIBIT 1
Shunfeng Photovoltaic to Buy Suntech's Main China Assets for $492 Mln

BEIJING--One of China’s largest solar-panel makers is selling its core assets in China for 3 billion yuan ($492 million) to a smaller peer as it attempts to pay back creditors after defaulting on billions of dollars in debt earlier this year.

Shunfeng Photovoltaic International Ltd. (1165.HK), a mid-sized solar company, said Sunday in a statement that it won a bid to acquire the main Chinese unit of Suntech Power Holdings Co. (STP), once the world’s largest solar-panel supplier.

The unit, known as Wuxi Suntech Power Co., owns more than two gigawatts of solar panel manufacturing capacity, intellectual property and a research and development unit, people familiar with the matter have said.

Suntech, which has struggled due to the global overcapacity of solar panels and falling prices, defaulted on $541 million in U.S. convertible bonds in March, which triggered cross defaults on its Chinese debt and put Wuxi Suntech into bankruptcy proceedings in China. Including the bonds, Suntech holds more than $2.3 billion in mostly Chinese debt.

Shunfeng has said that it paid a CNY500 million deposit to acquire Wuxi Suntech. Shunfeng said Sunday that it would pay an additional CNY2.5 billion within a month after the deal is approved by Shunfeng’s shareholders and the local court overseeing the restructuring of Wuxi Suntech.

Shunfeng also said it would pay an additional $25 million to a local government-controlled investment company, Wuxi Guolian Development Group Co., based in Suntech’s hometown of Wuxi. The payout will come from the Wuxi Suntech unit within three months after the acquisition, it said. Guolian has been helping to oversee Suntech’s restructuring, according to people familiar with the matter, and pledged to invest $150 million in Suntech last week. Suntech’s latest chief executive, who assumed the role in September, is also a former Guolian official.

As part of the deal, Shunfeng said it would absorb Wuxi Suntech’s losses of up to CNY20 million a month between March 20 and Oct. 31. It will also provide funds for upgrading Wuxi Suntech’s facilities within two years.

Suntech didn’t immediately respond to emails seeking comment.

Shunfeng is a smaller operation when compared with Suntech. Last year, it shipped 206 megawatts of solar equipment compared with Suntech’s 1.8 gigawatts, according to their annual reports.

It isn’t clear whether U.S. bond holders will see any proceeds from this sale. Chinese creditors, who are owed at least $1.75 billion, will likely be first in line to recover their investments.

Last month, a group of U.S. bond holders with about $1.5 million in Suntech bonds petitioned a New York court to put Suntech into Chapter 7 bankruptcy in the U.S.

Suntech said last week it would contest the move.

Write to Wayne Ma at Wayne.ma@wsj.com

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Write to Wayne Ma at Wayne.ma@wsj.com
EXHIBIT 2
Chinese Solar Co. Pays $492M For Suntech Assets

By Keith Goldberg

Law360, New York (November 04, 2013, 1:33 PM ET) -- Midsize solar manufacturer Shunfeng Photovoltaic International Ltd. said Friday that it's agreed to buy the assets of the bankrupt main unit of Suntech Power Holdings Co. for 3 billion Chinese yuan ($492 million), one week after Chinese regulators reportedly gave the company the thumbs-up to pursue the deal.

In a statement filed with the Hong Kong stock exchange, Shunfeng said it had reached the deal with the main Chinese subsidiary of Suntech, known as Wuxi Suntech Power Co., which holds assets such as intellectual property and more than two gigawatts of solar-panel manufacturing capacity, as well as the company's administrator.

As part of the deal, Shunfeng said it would also suck up Wuxi Suntech losses up to 20 million yuan per month between March 20 and Oct. 31. The company said it would also make a $25 million payment to a local government-controlled company, Wuxi Guolian Development Group Co. within three months of the deal's completion.

"With Wuxi Suntech's production capacity and technology in production of solar cells and modules, the board believes that the acquisition represents an opportunity to expand its market position in an industry that presents growth opportunities and favorable government policies and the group believes it is well positioned to capture such growth in demand for clean energy," Shunfeng said in the statement.

Wuxi slipped into bankruptcy proceedings in China in March after defaulting on obligations to more than half a dozen creditors, according to court documents. The company at the time said it would not oppose the bankruptcy petition—filed by eight unnamed Chinese banks—which a state-owned newspaper reported as including the Industrial & Commercial Bank of China Ltd. and the Agricultural Bank of China.

The bankruptcy filing came just one week after Suntech defaulted on $541 million in obligations to convertible bond holders, touching off a string of missed payments on other loans, including debt from the International Finance Corp., as well as other Chinese lenders.

Shunfeng is a much smaller company than Suntech, citing in a six-month report issued in August that its revenue for the first six months of 2013 totaled 416 million Chinese yuan, or about $68 million.

In that report, Shunfeng also said that Suntech had conditionally agreed to sell its 99 percent equity interest in subsidiary Suntech (Hami) Solar Power Generation Co. Ltd. to Shunfeng at a consideration of 3.9 million Chinese Yuan, or $650,889. That acquisition was completed in June, according to the report.

Meanwhile, Suntech said last week it intends to challenge the petition for involuntary bankruptcy filed against it by a group of U.S. bondholders in New York bankruptcy court.
The four bondholders, who collectively hold more than $1.5 million in Suntech bonds, filed an involuntary Chapter 7 petition in the Southern District of New York on Oct. 14. Suntech has until Wednesday to file its response.

--Additional reporting by Karlee Weinmann, Stephanie Russell-Kraft and Jeff Sistrunk. Editing by John Quinn.

Related Articles

Suntech Will Contest Involuntary Ch. 7 Filing in NY Court
US Bondholders Attempt To Force Suntech Into Ch. 7
Chinese Solar Co. Gets Approval On Bid For Suntech Assets
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