

## Insights: Alert

# Final Ruling: U.S. Department of Commerce Confirms Sweeping Country-Wide Import Duties on Certain Southeast Asian Solar Cells and Models

August 29, 2023

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On August 18, 2023, the International Trade Administration (“ITA”) of the U.S. Department of Commerce (“Commerce”) issued a [final](#) “country-wide” circumvention determination in its circumvention inquiry (“Inquiry”) regarding the imposition of anti-dumping and countervailing import duties on certain solar cells and modules from Vietnam, Cambodia, Malaysia, and Thailand.

As [previously reported](#), the Inquiry, which was published by the ITA on April 1, 2022, was initiated at the request of U.S.-based solar manufacturer Auxin Solar, Inc. (Auxin) and concerns the assertion that crystalline silicon (c-Si) photovoltaic cells and modules being “completed in Cambodia, Malaysia, Thailand, or Vietnam using parts and components manufactured in China” are circumventing “U.S. antidumping duty (AD) and countervailing duty (CVD) orders.”

Having now concluded its investigation, Commerce has affirmed its “preliminary findings in most respects.” Specifically, Commerce has retained its “country-wide” circumvention findings, designating “each country as one through which solar cells and modules are being circumvented from China.” While this “does not constitute a ban on import from those countries” it does require “[c]ompanies in these countries” that wish to avoid the new duties to self-certify “that they are not circumventing the AD/CVD orders.

The now confirmed AD/CVD rate that applies is company specific and is governed by existing AD/CVD orders applied to China. Where no company-specific rate exists under the AD/CVD orders, the required cash deposit will be the China-wide rate for AD duties (238.95%) and the All-Others rate for CVD duties (15.28%). Commerce has clarified, however, that any “[s]olar cells” made in Vietnam, Cambodia, Malaysia, and Thailand, “even if made from wafers from China,” that are then “exported to a non-inquiry country” and then “further assembled into modules or other products there,” before being exported to the U.S. “are not subject” to the AD/CVD orders.

One difference from Commerce's preliminary determination is the number of companies it found to be circumventing the AD/CVD orders. Initially, Commerce found that four of eight companies being investigated were “attempting to bypass U.S. duties by doing minor processing in one of the Southeast Asian countries before shipping to the United States.” Now, Commerce has also identified a fifth: New East Solar (Cambodia). But as before, all companies that failed to respond to Commerce's requests for information have been “found to be circumventing” the orders by default.

At this time, due to President Biden's June 6, 2022, [Presidential Proclamation](#), these sweeping AD/CVD “duties will not be collected on any solar module [or] cell imports from these four countries until June 2024, as long as the imports are consumed in the U.S. market within six months.

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