

## Global Project Finance Alert

### Commerce Department Imposes Preliminary Tariffs on Chinese Photovoltaic Cells

March 21, 2012

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On March 20, 2012, the Department of Commerce (“DOC”) announced that it has reached a preliminary determination in its countervailing duty (“CVD”) investigation of imports of crystalline silicon photovoltaic (PV) cells and modules from China. Commerce found that China has subsidized the PV cells and modules manufacturers to an extent that warranted imposition of countervailing duties. Preliminary tariffs rates ranging from 2.90 to 4.73 percent have been assigned to all Chinese producers and exporters of PV cells and modules, with most companies being assessed a rate of 3.61 percent. Based on an earlier finding of “critical circumstances” with respect to these imports, the CVDs may be imposed retroactively going back 90 days prior to the date that this determination is officially published. The duties will be enforced by the U.S. Customs and Border Protection through collection of a cash deposit in the applicable amount.

In an important development, DOC clarified the scope of the ongoing CVD and separate anti-dumping (“AD”) investigations, announcing that they cover both (i) imports of PV cells produced in China and (ii) imports of modules manufactured from such cells, whether produced in or outside of China. However, the scope does not include any modules (whether or not produced in China) if their component cells have been produced in a third country. Interested parties are invited to provide their comments to DOC regarding the scope clarification.

The final DOC determination in the CVD case is currently scheduled for June 4, 2012, but may be extended by approximately three months. The preliminary determination in the companion AD investigation is scheduled for May 17, 2012.

The U.S. International Trade Commission (“ITC”) will also now begin to separately conduct a full investigation of whether the Chinese solar cells and modules have caused or are likely to cause material injury to domestic producers of PV cells and modules. Regardless of the AD and CVD findings of the DOC, no AD or CVD orders may be issued unless the ITC finds that the imports are causing injury to domestic producers. Purchasers and importers of PV cells and modules will receive questionnaires from the ITC and may wish to otherwise participate in the process.

The full text of the press release discussing the determination can be found [here](#).

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#### CONTACT INFORMATION

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