

**Alert | Energy Project Finance & Development/
International Trade**



September 2022

Commerce Issues Final Rule on AD/CVD Grace Period

The Department of Commerce (DOC) has issued the final rule implementing the two-year moratorium on anti-dumping or countervailing duties (AD/CVD) for solar panels and cells from Cambodia, Malaysia, Thailand, and Vietnam in accordance with the June 6, 2022, Presidential Proclamation ([Declaration of Emergency and Authorization for Temporary Extensions of Time and Duty-Free Importation of Solar Cells and Modules from Southeast Asia](#); [See GT Alert, Biden Uses Emergency Powers to Pause New Solar Import Tariffs—Frequently Asked Questions](#)), which provided for the two year moratorium on those tariffs.

The Sept. 16, 2022, DOC final rule provides that in the event there is an affirmative preliminary or final determination in the AD/CVD circumvention inquiries, cash deposits will not be collected, liquidations will not be suspended, and AD/CV duty assessments will not be applied until June 6, 2024 (“Date of Termination”). The waiver applies to entries of merchandise after the date of the final rule and to shipments already entered and that may be subject to the AD/CVD duties should there be an affirmative preliminary or final determination.

Note that pursuant to the Presidential Proclamation the grace period could be ended earlier than June 6, 2024, should the commerce secretary declare “the emergency...has terminated” and “the United States has access to a sufficient supply of solar modules to assist in meeting our electricity generation needs.” The final rule adds another requirement: The solar cells must now be used or installed within 180 days of the termination date. Tariffs may be reinstated following this period, but importers of solar cells and modules will not be subject to retroactive payments of tariffs on imports during the suspension period.

The rule provides certainty to importers of solar cells and modules as they await the results of the preliminary determination in the DOC investigation, expected by Nov. 28, 2022, and the final determination in the spring of 2023. As described in the [previous GT Alert on this topic](#), the DOC began an inquiry into whether imports of solar cells and modules from Cambodia, Malaysia, Thailand, and Vietnam are circumventing the antidumping and countervailing duties orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from China. The DOC is considering whether the scope of the existing antidumping and countervailing orders against China includes those solar cells and modules completed in those four countries using Chinese parts and components.

Authors

This GT Alert was prepared by:

- [Laura Siegel Rabinowitz](#) | +1 212.801.9201 | rabinowitzl@gtlaw.com
- [Jeffrey A. Chester](#) | +1 310.586.7743 | chesterj@gtlaw.com
- [John Eliason](#) | +1 202.331.3188 | eliasonj@gtlaw.com

Albany. Amsterdam. Atlanta. Austin. Boston. Charlotte. Chicago. Dallas. Delaware. Denver. Fort Lauderdale. Germany.†
Houston. Las Vegas. London.* Long Island. Los Angeles. Mexico City.+ Miami. Milan.‡ Minneapolis. New Jersey. New York.
Northern Virginia. Orange County. Orlando. Philadelphia. Phoenix. Portland. Sacramento. Salt Lake City. San Francisco.
Seoul.∞ Shanghai. Silicon Valley. Tallahassee. Tampa. Tel Aviv.^ Tokyo.* Warsaw.~ Washington, D.C.. West Palm Beach.
Westchester County.

*This Greenberg Traurig Alert is issued for informational purposes only and is not intended to be construed or used as general legal advice nor as a solicitation of any type. Please contact the author(s) or your Greenberg Traurig contact if you have questions regarding the currency of this information. The hiring of a lawyer is an important decision. Before you decide, ask for written information about the lawyer's legal qualifications and experience. Greenberg Traurig is a service mark and trade name of Greenberg Traurig, LLP and Greenberg Traurig, P.A. †Greenberg Traurig's Berlin office is operated by Greenberg Traurig Germany, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. *Operates as a separate UK registered legal entity. +Greenberg Traurig's Mexico City office is operated by Greenberg Traurig, S.C., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ‡Greenberg Traurig's Milan office is operated by Greenberg Traurig Santa Maria, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ∞Operates as Greenberg Traurig LLP Foreign Legal Consultant Office. ^Greenberg Traurig's Tel Aviv office is a branch of Greenberg Traurig, P.A., Florida, USA. ‡Greenberg Traurig's Tokyo Office is operated by GT Tokyo Horitsu Jimusho and Greenberg Traurig Gaikokuhojimbengoshi Jimusho, affiliates of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ~Greenberg Traurig's Warsaw office is operated by GREENBERG TRAUIG Nowakowska-Zimoch Wysokiński sp.k., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. Certain partners in GREENBERG TRAUIG Nowakowska-Zimoch Wysokiński sp.k. are also shareholders in Greenberg Traurig, P.A. Images in this advertisement do not depict Greenberg Traurig attorneys, clients, staff or facilities. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. ©2022 Greenberg Traurig, LLP. All rights reserved.*