

Alert | International Trade



August 2023

Department of Commerce Issues Final Determinations on Circumvention Inquiries of Solar Cells and Modules Produced in China

On Aug. 18, 2023, the U.S. Department of Commerce (Commerce) **announced** its final determinations regarding the circumvention inquiries of the antidumping (AD) and countervailing duty (CVD) orders on solar cells and modules from the People’s Republic of China (China). As a result of Commerce’s “country-wide” circumvention findings as relates to Cambodia, Malaysia, Thailand, and Vietnam, solar cells and modules imported to the United States from those four countries will be subject to AD/CVD duties as of June 6, 2024, after President Biden’s moratorium expires. This decision stems from the circumvention inquiries initiated by Commerce in April 2022 following a petition by Auxin Solar, Inc.

Commerce determined that solar cells and modules produced from wafers made in China with third-country polysilicon are covered under the final determinations. However, third-country wafers made from Chinese polysilicon are not covered under the findings.

Consequently, companies in Cambodia, Malaysia, Thailand, and Vietnam have the opportunity to certify that they are not involved in circumventing the AD/CVD orders. Doing so would exempt them from the potential application of AD/CVD duties. Until June 6, 2024, certification is available to all companies producing Southeast Asian solar cells and modules. After June 6, 2024, certification is available for entries made by eligible companies where the solar modules either do not use Chinese wafers or are produced using Chinese wafers but no more than two of the following inputs used to manufacture the solar modules were produced in China:

- Silver paste
- Aluminum frames
- Glass
- Backsheets
- Ethylene-vinyl acetate
- Junction boxes

Certification is only available if the solar cells are “used or installed” within 180 days of the expiration of the President’s moratorium, Dec. 3, 2024.

Authors

This GT Alert was prepared by:

- [Laura Siegel Rabinowitz](#) | +1 212.801.9201 | rabinowitzl@gtlaw.com
- [Stephanie Vélez ‡](#) | +1 202.530.8524 | velezs@gtlaw.com

‡ Admitted in Colombia. Not admitted in Washington, D.C.

Albany. Amsterdam. Atlanta. Austin. Berlin.↖ Boston. Charlotte. Chicago. Dallas. Delaware. Denver. Fort Lauderdale. 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 Diego. San Francisco. Seoul.∞ Shanghai. Silicon Valley. Singapore.⊖ 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 Singapore office is operated by Greenberg Traurig Singapore LLP which is licensed as a foreign law practice in Singapore. ^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. ©2023 Greenberg Traurig, LLP. All rights reserved.*