

March 21, 2022

VIA ELECTRONIC FILING

The Honorable Gina M. Raimondo
Secretary of Commerce
Attention: Enforcement and Compliance
APO/Dockets Unit, Room 18022
U.S. Department of Commerce
14th Street and Constitution Avenue, NW
Washington, DC 20230

Case Nos: A-570-979, C-570-980
Anti-Circumvention Inquiries:
CIRC-from Malaysia 2022
CIRC-from Thailand 2022
CIRC-from Vietnam 2022
CIRC-from Cambodia 2022
Total No. of Pages: 146
AD/CVD Operations Offices IV and VII
PUBLIC DOCUMENT

Re: Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules from the People's Republic of China: Post-Petition Surge of Imported Solar Cells and Modules Covered by Auxin's Circumvention Petition

Dear Secretary Raimondo:

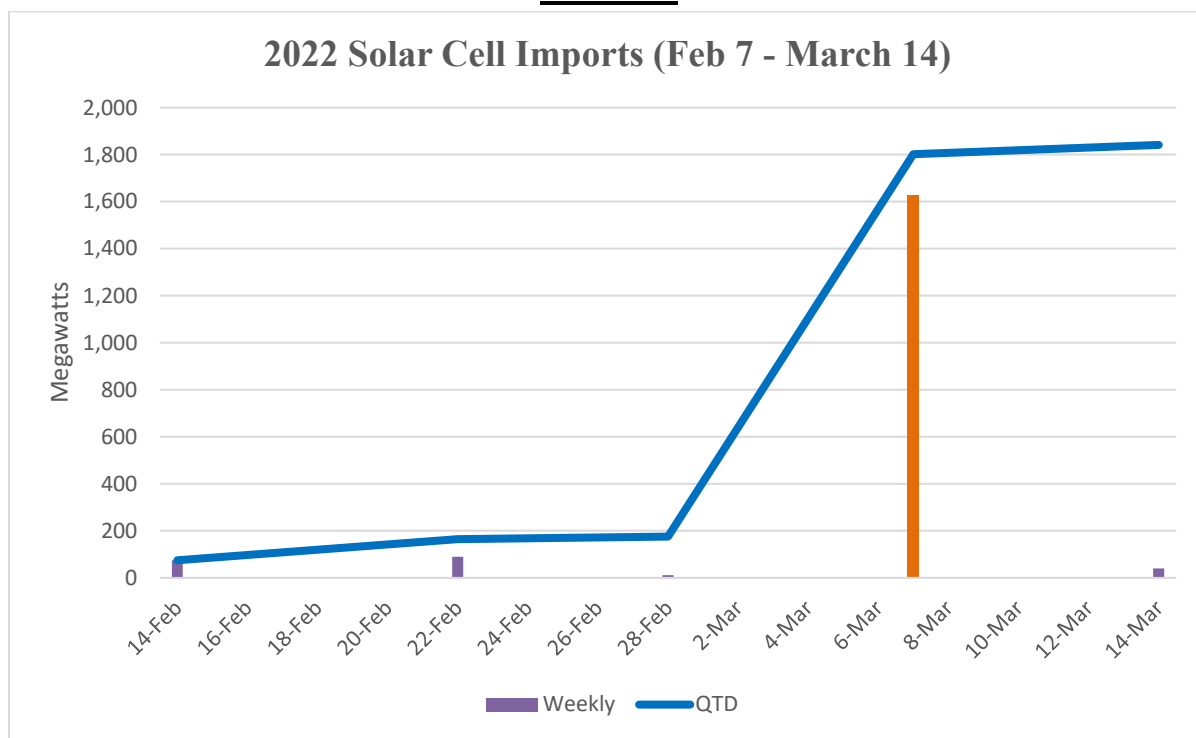
On behalf of Auxin Solar, Inc. ("Auxin"), we hereby submit information highly relevant to Auxin's anti-circumvention petition concerning circumvention of the antidumping ("AD") and countervailing duty ("CVD") orders on Chinese CSPV cells and modules by producers in Malaysia, Thailand, Vietnam, and Cambodia.¹ As discussed below, evidence demonstrates that an enormous volume of imported CSPV cells and modules covered by Auxin's request is surging into the United States in the days before the deadline for Commerce to initiate circumvention inquiries.² This flood of imports is a naked attempt by these exporters to double-down on their

¹ Letter from Auxin Solar, Inc., "Request for an Anti-circumvention Ruling Pursuant to Section 781(b) of the Tariff Act of 1930, as Amended," (Feb. 8, 2022) ("*Auxin Petition*").

² The current deadline for Commerce to initiate based on the *Auxin Petition* is March 25, 2022. See Commerce Memorandum, "Extension of Time to Determine Whether to Initiate Anti-
(footnote continued on next page)

circumventing behavior and to stockpile solar cells and modules in an effort to continue avoiding AD/CVD liability. Specifically, the most recent Commodity Status Report from U.S. Customs and Border Protection (“CBP”) shows a recent surge of imported CSPV cells — including 1.6GW *in one week*.³

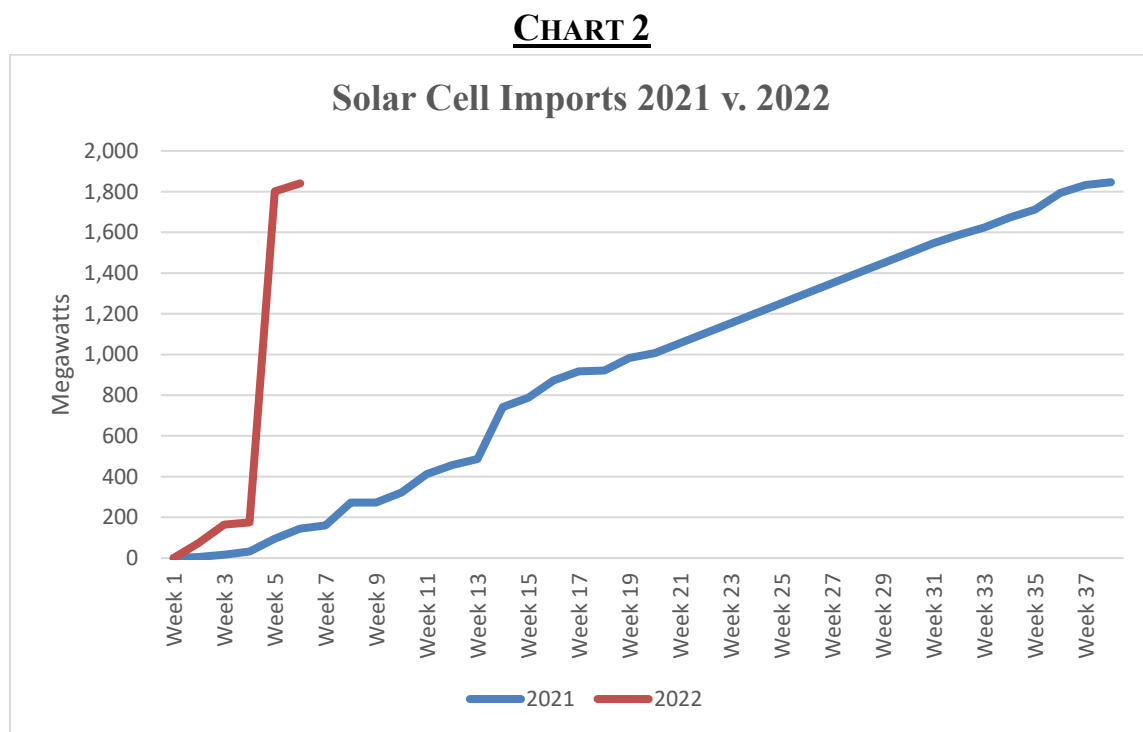
CHART 1



Circumvention Inquiry” (Mar. 9, 2022). Given the adequacy of the *Auxin Petition* in its own right, this submission of factual information in no way alters this schedule, which is mandated by Commerce’s regulation at 19 C.F.R. § 351.226(d).

³ See U.S. Customs and Border Protection, “Commodity Status Report” (Mar. 14, 2022), available at <https://www.cbp.gov/sites/default/files/assets/documents/2022-Mar/Quota%20Status%20Report%20MAR%2014%202022.pdf>. See also **Attachment 1** for cumulative import volumes during this period.

The significance of this recent surge in solar imports is shown in Chart 2, below, which shows that it took **38 weeks** in 2021 to reach the same level of imports that was reached in the previous five weeks.⁴



This surge in imports corresponds almost exactly with the date Auxin filed its petition (February 8, 2022) and the initial thirty-day deadline for Commerce to initiate (March 10, 2020).

Moreover, country-specific shipment data, which cover both cells and modules, demonstrate that imports from Malaysia, Thailand, Vietnam, and Cambodia account for an enormous volume of

⁴ Chart 2 represents the weeks associated with the safeguard quota, which resets each year on February 7 and is represented by Week 1 in the Chart. See **Attachment 1** for 2021 and 2022 cumulative import volumes represented in Chart 2.

imports during this period.⁵ Commerce should not tolerate such blatant attempts to evade duty liability.⁶

Good cause exists to accept the import data contained in this submission. *First*, Commerce has previously accepted new information that further supports a request for anti-circumvention inquiries by the requestor.⁷ This is consistent with Commerce’s explanation in implementing its new regulations that it “is imperative that Commerce have all the information which it needs to initiate a circumvention inquiry before it initiates.”⁸

Second, Commerce’s regulations anticipate that it may be necessary to “begin suspension of liquidation and require a cash deposit of estimated duties....for each unliquidated entry... prior to the date of publication of the notice of initiation of the inquiry.”⁹ The import data contained in this submission demonstrates that retroactive relief is required to address the

⁵ See **Attachment 1**.

⁶ Commerce has “recognize{d} that circumvention seriously undermines the effectiveness of the remedies provided by the antidumping and countervailing duty proceedings and frustrates the purposes for which these laws were enacted.” 19 C.F.R. § 351.226(a).

⁷ See *Aluminum Extrusions from the People’s Republic of China: Initiation of Anti-Circumvention and Scope Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 84 Fed. Reg. 19,757 (May 6, 2019) (“Air Master submitted supplements to its request in October and December 2018. Separately, Commerce issued a supplemental questionnaire to Air Master on February 11, 2019.”); *Diamond Sawblades and Parts Thereof from the People’s Republic of China: Initiation of Anti-Circumvention Inquiry*, 82 Fed. Reg. 57,709 (Dec. 7, 2017) (referencing a “supplemental submission regarding request for circumvention ruling pursuant to section 781(b)” that contained new factual information and was not in response to a questionnaire).

⁸ *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*, 86 Fed. Reg. 52,300, 52,340 (Sept. 20, 2021).

⁹ 19 C.F.R. § 351.226(l)(2)(iii)(A).

injurious impact of this surge of unfairly traded imports that has already entered the United States. Accordingly, Commerce should accept the information contained in this submission because it is relevant to Commerce's initiation and necessary for a determination of retroactive suspension of liquidation.

Third, Commerce's previous rejection of new factual information provided by NextEra Energy Constructors, LLC, and Florida Power & Light Company ("NextEra") was based on (1) NextEra's failure to provide a written explanation identifying the subsection of 19 C.F.R. § 351.102(b)(21) under which the information was being submitted, and (2) was grounded in 19 C.F.R. § 351.226(f)(2), which describes the timing for the submission of factual information by "an interested party other than the requestor," and for any rebuttal factual information submitted by the requestor.¹⁰ As such, Commerce's rationale for rejecting NextEra's submission (and Auxin's rebuttal to that submission) does not address factual information submitted by a requestor that provides further evidence of the alleged circumventing behavior and demonstrates the urgent need for Commerce to initiate the requested circumvention inquiries.¹¹

¹⁰ See Letter from Commerce to NextEra (Mar. 4, 2022).

¹¹ The information contained in **Attachment 1** is factual information within the meaning of 19 C.F.R. § 351.102(b)(21)(ii) (*i.e.*, "Evidence, including statements of fact, documents, and data submitted either in support of allegations, or, to rebut, clarify, or correct such evidence submitted by any other interested party.").

Auxin respectfully requests that Commerce accept this factual information and promptly initiate anti-circumvention inquiries to address ongoing and illegal circumvention.

Respectfully submitted,

/s/ Thomas M. Beline

Thomas M. Beline

Jack A. Levy

Myles S. Getlan

Chase J. Dunn

Gillian Rice, *International Trade Specialist*

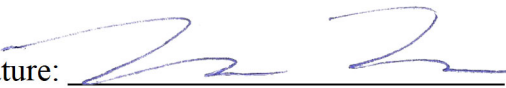
Carly Shiever, *International Trade Specialist*

CASSIDY LEVY KENT (USA) LLP

Counsel for Auxin Solar, Inc.

COMPANY CERTIFICATION

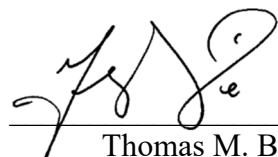
I, Mamun Rashid, Chief Executive Officer, currently employed by Auxin Solar, certify that I prepared or otherwise supervised the preparation of the attached submission of “Post-Petition Surge of Imported Solar Cells and Modules Covered by Auxin’s Circumvention Petition,” filed on March 21, 2022, pursuant to the antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules from the People’s Republic of China ((A-570-979, C-570-980) (Anti-Circumvention Inquiry Concerning Malaysia, Thailand, Vietnam, and Cambodia)). I certify that the public information and any business proprietary information of Auxin contained in this submission is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. I am also 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 U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: 
Mamun Rashid

Date: March 21, 2022

REPRESENTATIVE CERTIFICATION

I, Thomas M. Beline, with Cassidy Levy Kent (USA) LLP, counsel to Auxin Solar, Inc., certify that I have read the attached submission of “Post-Petition Surge of Imported Solar Cells and Modules Covered by Auxin’s Circumvention Petition” filed on March 21, 2022 pursuant to the antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules from the People’s Republic of China ((A-570-979, C-570-980) (Anti-Circumvention Inquiry Concerning Malaysia, Thailand, Vietnam, and Cambodia)). In my capacity as counsel, 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 U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature:  _____
Thomas M. Beline

Date: March 21, 2022

**U.S. DEPARTMENT OF COMMERCE
PUBLIC CERTIFICATE OF SERVICE**

I hereby certify that on March 21, 2022, a copy of the foregoing submission is being served, via electronic mail, on the following parties:

Jonathan Thomas Stoel, Esq.
Hogan Lovells US LLP
555 Thirteenth Street, NW
Washington, DC 20004
jonathan.stoel@hoganlovells.com

John M. Gurley
Arent Fox LLP
1717 K Street
Washington, DC 20006
john.gurley@afslaw.com

/s/ Gillian Rice
Gillian Rice
International Trade Specialist
CASSIDY LEVY KENT (USA) LLP



Confirmation of Electronic Submission

Case & Segment Info:

Bar Code: **4223340**

Case Number: A-570-979

Case Title: Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules From People Republic of China

Case Segment: CIRC - Anti Circumvention Inquiry

Segment Begin Date:

Segment End Date:

Segment Specific Information: from Cambodia 2022

Document Info:

Security Classification: Public Document

Document Type: Letter

Filed On Behalf Of (collective entity): Auxin Solar, Inc.

Manual Submission: No

Comments:

Barcode:	Document Title - Document (Page Count):
4223340-01	2022-03-21 Auxin Letter re Post-Petition Surge of Imports - 2022-03-21 Auxin Letter re Post-Petition Surge of Imports - TO FILE Cambodia.pdf (146)

Submitter Info:

Filed By: tbeline@cassidylevy.com

Firm/Organization Name: Cassidy Levy Kent (USA) LLP

Filed Date-Time Stamp: 3/21/2022 10:23:15 AM

NOTE:

E-File Similar Submission: Use this feature to generate a new barcode for a new submission.

Add More Files: Use this feature to retain the same barcode for all parts of the submission.