

Billing Code 3290-F2

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Suspension of the Safeguard Action on Imports of Certain Crystalline Silicon Photovoltaic Cells (Whether or Not Partially or Fully Assembled Into Other Products) Originating in Canada and Modification of the Harmonized Tariff Schedule of the United States

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Pursuant to authority delegated by the President on July 8, 2022, the U.S. Trade Representative reached an agreement with Canada limiting the export from Canada and the import into the United States of certain crystalline silicon photovoltaic cells (whether or not partially or fully assembled into other products) (CSPV products). The U.S. Trade Representative, in consultation with the Secretaries of Commerce and Energy, has determined that the agreement will ensure that imports of CSPV products originating in Canada do not undermine the effectiveness of the President's safeguard action proclaimed on imports of CSPV products. The U.S. Trade Representative is modifying the Harmonized Tariff Schedule of the United States (HTSUS) to suspend application of the safeguard measure to imports of CSPV products originating in Canada.

DATES: The suspension of the application of the safeguard measure to imports of CSPV products originating in Canada and technical changes is applicable as of February 1, 2022.

FOR FURTHER INFORMATION CONTACT: For questions concerning the agreement, contact Michael T. Gagain, Office of General Counsel, at

Michael.T.Gagain@ustr.eop.gov or 202-395-9529, or Victor Mroczka, Office of WTO and Multilateral Affairs, at vmroczka@ustr.eop.gov or (202) 395-9450.

SUPPLEMENTARY INFORMATION:

I. The Safeguard Measure on CSPV Products

On January 23, 2018, the President, pursuant to section 203 of the Trade Act of 1974 (Trade Act) (19 U.S.C. 2253), issued Proclamation 9693, which imposed a safeguard measure on imports of CSPV products in the form of a tariff-rate quota on imports of solar cells not partially or fully assembled into other products, and an increase in duties on imports of modules. *See* 83 FR 3541 (Jan. 25, 2018). The measure took effect on February 7, 2018, for an initial period of four years. On February 4, 2022, the President, pursuant to section 203(e) of the Trade Act (19 U.S.C. 2253(e)), issued Proclamation 10339, which extended the safeguard measure on imports of CSPV products for an additional four years, a period which ends on February 6, 2026. *See* 87 FR 7357 (Feb. 9, 2022).

In Proclamation 10339, the President instructed the U.S. Trade Representative to enter into negotiations with Canada pursuant to section 203(f) of the Trade Act (19 U.S.C. 2253(f)). The proclamation provides that if the U.S. Trade Representative concludes an agreement with Canada, and the U.S. Trade Representative, in consultation with the Secretaries of Commerce and Energy, determines that imports from Canada do not undermine the effectiveness of the action extended through Proclamation 10339, then the U.S. Trade Representative is authorized to publish a *Federal Register* notice to revise the HTSUS as appropriate, with respect to imports from Canada. *See* 87 FR at 7360.

II. The Agreement with Canada and Suspension of the Safeguard Action on Imports of CSPV Products Originating in Canada

On July 8, 2022, pursuant to the authority delegated by the President under section 203(f) of the Trade Act through Proclamation 10339, the U.S. Trade Representative reached an agreement with Canada limiting the export from Canada and the import into the United States of CSPV products. The text of the agreement is available at https://ustr.gov/sites/default/files/US-CA%20Solar%20Agreement_Signed_English_070822.pdf. The U.S. Trade Representative, in consultation with the Secretaries of Commerce and Energy, has determined that this agreement will ensure that imports of CSPV products originating in Canada do not undermine the effectiveness of the safeguard action extended by the President through Proclamation 10339. Accordingly, and pursuant to Proclamation 10339 and section 203(f) of the Trade Act, the U.S. Trade Representative is hereby modifying Note 18 of subchapter III of chapter 99 of the HTSUS (Note 18) to suspend application of the safeguard action on imports of CSPV products to imports of such products originating in Canada. The Annex to this notice modifies the HTSUS to reflect the suspension in application of the safeguard action to imports of CSPV products originating in Canada.

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General Counsel
Office of the United States Trade Representative.

ANNEX

Modification of the Harmonized Tariff Schedule of the United States

Effective with respect to unliquidated entries of goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on February 1, 2022, and with respect to unliquidated entries of goods that were admitted into a U.S. foreign trade zone under “privileged foreign status” as defined in 19 CFR 146.41, prior to 12:01 a.m. eastern daylight time on February 1, 2022, upon the entry for consumption of such FTZ goods on or after 12:01 a.m. eastern daylight time on February 1, 2022, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is hereby modified as follows:

1. The superior text to subheadings 9903.45.21 and 9903.45.22 is modified by adding at the end thereof “, except as provided in heading 9903.45.27”.
2. The article description of heading 9903.45.25 is modified by adding at the end thereof the phrase “, except as provided in heading 9903.45.27”.
3. The following new heading is inserted in numerical sequence in such subchapter, with the material inserted in the columns titled “Heading/Subheading”, “Article Description”, “Rates of Duty 1-General”, and “Rates of Duty 1-Special”, respectively:

“9903.45.27 : Crystalline silicon photovoltaic cells, as : : :
: defined in note 18(c) to this subchapter, : : :
: and modules as defined in note 18(g) to this : : :
: subchapter, all the foregoing when the : : :
: product and originating good of Canada..... : No change : No change” :

4. U.S. note 18 is modified by deleting from subdivisions (a) and (b) thereof the number “9903.45.25” and by inserting in lieu thereof “9903.45.27”.
5. U.S. note 18 is further modified by adding at the end thereof the following subdivision:
“(i) Heading 9903.45.27 applies to the specified goods when they meet the requirements of general note 11 to the tariff schedule as goods of Canada under the United States-Mexico Canada Agreement and are products of Canada for purposes of 19 CFR Part 102.”
6. U.S. note 18(c)(i) is modified by inserting after “9903.45.22” the phrase “and heading 9903.45.27”; subdivision (c)(ii) of such note is modified by inserting after “and 9903.45.22” the phrase “and heading 9903.45.27”; and subdivision (c)(iii) of such note is modified by deleting “Subheading 9903.45.25” and by inserting in lieu thereof “Headings 9903.45.25 and 9903.45.27”.
7. U.S. note 18 is further modified by deleting from subdivision (g) the phrase “heading 9903.45.25” and by inserting in lieu thereof “headings 9903.45.25 and 9903.45.27”.