

October 28, 2021

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Administrative Review for the POR:
01/01/2019 – 12/31/2019
AD/CVD Operations, E&C Office VII
PUBLIC DOCUMENT

The Honorable Gina M. Raimondo
Secretary of Commerce
International Trade Administration
Attn: Enforcement and Compliance
APO/Dockets Unit, Room 18022
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

Re: *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the People's Republic of China: Rebuttal Factual Information on the U.S. Department of the Treasury's Currency Undervaluation Assessment*

Dear Secretary Raimondo:

On behalf of the American Alliance for Solar Manufacturing (the "Alliance"), we hereby submit to the U.S. Department of Commerce (the "Department") the attached rebuttal factual information in response to the U.S. Department of the Treasury's ("Treasury") assessment regarding currency undervaluation in the above-captioned administrative review.¹ The Alliance is submitting the new factual information contained in this filing under 19 C.F.R. § 351.102(b)(21)(v) (*i.e.*, "Evidence, including statements of fact, documents, and data, other than factual information described in paragraphs (b)(21)(i)–(iv) of this section, in addition to *evidence*

¹ Letter from Patricia Pollard, Acting Deputy Assistant Sec'y, Int'l Monetary Policy, Dep't of the Treasury, to James Maeder, Deputy Assistant Sec'y for AD/CVD Operations, Dep't Commerce (Oct. 18, 2021) ("Treasury Currency Assessment Letter").

submitted by any other interested party to rebut, clarify, or correct such evidence”).² This submission is timely filed pursuant to the Department’s memorandum dated October 18, 2021.³

In its assessment letter to the Department, Treasury stated: “Regarding the determination under 19 C.F.R. 351.528(a)(2), Treasury assesses that in 2019 China did not undertake ‘government action on the exchange rate’ that contributed to the undervaluation of the {renminbi (“RMB”)}. ”⁴ As the Alliance provided in its new subsidy allegations, however, Treasury previously determined that “China undertook ‘government action on the exchange rate’ that contributed to the undervaluation of the RMB in 2019, with this determination taking into consideration the government’s degree of transparency regarding actions that could alter the exchange rate.”⁵ Thus, Treasury’s assessment covering 2019 in the current review is a reversal of its previous assessment covering 2019 in the *Twist Ties from the People’s Republic of China* proceeding.⁶

At **Exhibit CURR-1**, the Alliance has provided Treasury’s response to a supplemental questionnaire from the Department in *Twist Ties from the People’s Republic of China*. In this submission, Treasury stated that the “Government of China’s actions on the exchange rate had the

² 19 C.F.R. § 351.102(b)(21)(v) (emphasis added).

³ See Memorandum from Robert Copyak, Senior Int’l Trade Compliance Analyst, AD/CVD Operations, Off. VII, Enf’t & Compliance, to the File, re: *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the People’s Republic of China—Countervailing Duty Administrative Review; 2019: Extension of Deadline for the Comments on Department of the Treasury Submission* (Oct. 18, 2021).

⁴ See Treasury Currency Assessment Letter at 2.

⁵ See Letter from Wiley Rein LLP to Sec’y Commerce, re: *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the People’s Republic of China: New Subsidy Allegations* (July 19, 2021) at Exhibit NSA-1, p. 2.

⁶ *Id.* at Exhibit NSA-1.

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effect of undervaluing the RMB vis-à-vis the U.S. dollar by about 5 percent in 2019.”⁷ The Alliance is submitting this information in Treasury’s supplemental questionnaire response to rebut, clarify, or correct the conclusions in the Treasury Currency Assessment Letter in the current administrative review.

* * *

If you have any questions regarding this submission, please do not hesitate to contact us.

Respectfully submitted,

/s/ Timothy C. Brightbill

Timothy C. Brightbill, Esq.

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⁷ See Letter from Andy Baukol, Principal Deputy Assistant Sec’y for Int’l Monetary Policy, Dep’t of the Treasury, to Elizabeth Eastwood, Program Manager, Off. II, AD/CVD Operations, Dep’t Commerce (Dec. 11, 2020) at 2, attached at **Exhibit CURR-1**.

EXHIBIT LIST		
Exhibit No.	Exhibit	Security
CURR-1	Letter from Andy Baukol, Principal Deputy Assistant Sec'y for Int'l Monetary Policy, Dep't of the Treasury, to Elizabeth Eastwood, Program Manager, Off. II, AD/CVD Operations, Dep't Commerce (Dec. 11, 2020)	Public

COMPANY CERTIFICATION

I, Andrew Munro, General Counsel, currently employed by Q CELLS North America, certify that I prepared or otherwise supervised the preparation of the attached submission of, *Rebuttal Factual Information on the U.S. Department of the Treasury's Currency Undervaluation Assessment*, due or filed on October 28, 2021, pursuant to the 01/01/19 – 12/31/19 Administrative Review Under the Countervailing Duty Order on *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China*, (Case No. C-570-980). I certify that the public information and any business proprietary information of The American Alliance for Solar Manufacturing 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: _____




Andrew Munro

Date: October 28, 2021

REPRESENTATIVE CERTIFICATION

I, Timothy C. Brightbill, with Wiley Rein LLP, counsel to the American Alliance for Solar Manufacturing, certify that I have read the attached submission, *Rebuttal Factual Information on the U.S. Department of the Treasury's Currency Undervaluation Assessment*, due or filed on October 28, 2021, pursuant to the 01/01/19 – 12/31/19 Administrative Review Under the Countervailing Duty Order on *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China*, (Case No. C-570-980). In my capacity as counsel for this submission, 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: 
Timothy C. Brightbill

Date: October 28, 2021

CERTIFICATE OF SERVICE

PUBLIC SERVICE

***Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules,
from the People's Republic of China***

C-570-980

Administrative Review POR: 01/01/2019 – 12/31/2019

I certify that a copy of this public submission was served on the following parties, via electronic service, on October 28, 2021.

/s/ Paul A. Devamithran

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EXHIBIT CURR-1



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

C-570-132
Investigation
Public Document

December 11, 2020

Elizabeth Eastwood
Program Manager, Office II Antidumping and Countervailing Duty Operations
Department of Commerce

Dear Program Manager Eastwood:

Please find enclosed the Department of the Treasury's responses to the Department of Commerce's supplemental questionnaire sent on November 24, 2020 with respect to Treasury's evaluation and conclusion of currency undervaluation in the countervailing duty investigation of twist ties from the People's Republic of China. Treasury's evaluation and conclusion of currency undervaluation in this investigation was submitted to Commerce on November 9, 2020.

Sincerely,

Andy Baukol
Principal Deputy Assistant Secretary for International Monetary Policy

Enclosure

Responses to Questions Regarding the Treasury Report

1. We are seeking further details regarding Treasury’s assessment that the RMB was undervalued in 2019. In your letter, you explained that it was because: (1) there was a gap between China’s 2019 current account surplus and what its medium-term current account deficit should be; (2) there are market distortions resulting from government involvement in its domestic economy affecting China’s external position; and (3) China’s REER was decreasing. With these in mind:

a. Please explain what material you drew on to show that China’s government involvement in its domestic economy translated into greater external balances.

For Treasury’s November 9 submission to Commerce (the “November 9 Submission”), Treasury relied on a large amount of publicly available information about China’s economic and financial system, including data sets, journal articles, and IMF reports. This data comprised information about China’s social safety net, fiscal policy, and other policy areas. After analyzing that public information, Treasury was able to determine that, during the period of investigation, China had in place *inter alia* the following policies relating to the domestic economy (i.e., policies other than “actions on the exchange rate”):

- China deploys fiscal policies that support the industrial sector and state-owned enterprises (SOEs), including fiscal expenditures that are channeled toward property development, infrastructure projects, and industrial subsidies. Policy distortions favoring the industrial sector and SOEs reduce the amount of discretionary spending available to support domestic consumption in China, contributing to external surpluses.
- Furthermore, distortions in China’s credit policies also result in the misallocation of financial resources toward the industrial sector and SOEs over private sector firms and the service sector, even though the latter accounts for a greater share of household employment. Such suppression of private and service sector firms further depresses domestic consumption and contributes to external surpluses.
- Finally, China has a relatively weak social safety net and spends less on social welfare programs compared to other emerging market economies, leading households to accumulate excess precautionary savings. These savings come at the expense of greater domestic consumption and contribute to external surpluses.

b. Please explain why China’s declining REER relative to 2015 was a sign of undervaluation in 2019.

Publicly available economic data suggest that China remains a fast-growing emerging market economy with rising productivity. China’s real GDP growth rate exceeded 6% per annum from 2015 to 2019, and, as discussed in the response to 1c below, its

productivity growth was higher than that of many of China's major trading partners.¹ Based on Treasury's experience and general economic principles, these economic fundamentals suggest that, during the period of investigation, rising productivity in China would lead to an appreciating REER. China's 2019 REER was close to 6 percent below its 2015 level.² Treasury assesses this divergence in China's REER from what would otherwise be expected of a fast-growing emerging market economy with rising productivity as the product of undervaluation.

c. Please explain why you believe that productivity in China was on the rise by 2019 and what kind of productivity measure you were using to make this conclusion.

Treasury used total factor productivity (TFP) as the metric for evaluating productivity in China. Publicly available data suggest that TFP in China continued to rise during the period of investigation. While the rate of China's TFP growth decelerated in the years following the global financial crisis of 2007-2009, possibly due to capital misallocation, TFP growth remains positive. According to estimates compiled by The Conference Board using official Chinese growth statistics, China's TFP grew by 2.8 percent per year on average from 2015-2019, higher than many of China's major trading partners.³

2. Regarding your findings on the Chinese government's role in undervaluing its exchange rate:

a. Please elaborate on whether Treasury believes that all of China's undervaluation was attributable to government activity and, if so, why.

Treasury made two findings in its November 9 Submission. First, Treasury assessed that the RMB was undervalued in 2019. Second, Treasury assessed that the Government of China's actions on the exchange rate had the effect of undervaluing the RMB vis-à-vis the U.S. dollar by about 5 percent in 2019.

b. You stated that it was not possible to assess the depth of China's government intervention due to exchanges in foreign reserves because such information was not transparently provided. However, on page 1, you note that data reported by China suggested that China did not use foreign exchange intervention to achieve or sustain currency undervaluation in 2019. Please reconcile these statements.

This question appears to presume that there is an inconsistency between these statements that needs to be reconciled, but these statements are consistent with one another. China is an outlier among Asian economies by refusing to disclose its intervention in foreign exchange markets. China's non-disclosure of foreign exchange intervention data forces Treasury to estimate its intervention activity through a range of proxy measures. These

¹ See Gross domestic product, constant prices, percent change for China in the International Monetary Fund's World Economic Outlook (October 2020) database, available at: <https://www.imf.org/en/Publications/WEO/weo-database/2020/October>.

² See BIS broad real effective exchange rate index for China, available at: <https://www.bis.org/statistics/eer.htm>. Based on data available as of November 5, 2020.

³ The Conference Board Total Economy Database™ (Original Version), July 2020, available at: <https://conference-board.org/data/economydatabase/total-economy-database-productivity>.

proxy measures are based on data reported by the Government of China, but some of this data is incomplete or substantially lagged. In addition, these proxy measures may not capture the effects of the full range of tools available to the Government of China to manage the exchange rate. As noted in the November 9 Submission, the Government of China is not transparent regarding, *inter alia*, the goals or policy objectives of its exchange rate regime, the relationship between the central bank and foreign exchange activities of state-owned banks and other SOEs, and its activities in the offshore RMB market, including the activities of state-owned banks in this market.

During the period of investigation, the proxies for intervention, based on the incomplete data reported by China and without further analysis, suggested that, at a surface level, the Government of China did not appear to intervene significantly in foreign exchange markets to achieve or sustain undervaluation of the RMB. After undertaking further analysis of the multidimensional actions of the Government of China on the exchange rate, and the Government of China's opacity when undertaking such actions, Treasury assessed that the proxies for intervention did not adequately capture the full scope of the Government of China's actions on the exchange rate during the period of investigation.

c. You provide a series of explanations about potential means, other than government coordinated foreign reserve transactions, by which the Government of China could have affected its currency undervaluation in 2019. Please provide additional insight on these other mechanisms and their relative degrees of influence on currency valuation and include third-party sources that explain these influences more comprehensively.

Treasury's November 9 Submission highlighted several potential means, other than government coordinated foreign reserve transactions, by which the Government of China could have affected the valuation of the RMB in 2019. The People's Bank of China ("PBOC") has referred to these policies as active exchange rate policy tools. The Government of China's lack of transparency about these mechanisms and incomplete and opaque data reporting, however, make it difficult to provide precise estimates of the impact of individual exchange rate actions on currency valuation. To quantify the precise impact of individual exchange rate actions on the valuation of the RMB, Treasury would need to have information that the Government of China refuses to report at all or to report completely and accurately.

These other mechanisms, highlighted in the November 9 Submission, include the PBOC's management of the RMB through a range of tools, including the setting of the daily fix that serves as the midpoint for the daily trading band. The PBOC provides very limited transparency regarding its objectives and actions in setting the daily fix. The PBOC also provides little information concerning its direct interventions in foreign exchange markets, influence over the interest rates of RMB-denominated assets that trade offshore, changes to the reserve requirement for foreign exchange derivatives trading, and direction of the timing and volume of forward swap and sales purchases by China's state-owned banks.

Furthermore, the Government of China provides very limited transparency regarding other key features of its exchange rate management regime, including the goals or policy objectives of that regime, the relationship between the central bank and foreign exchange activities of state-owned banks and other state-owned enterprises, and activities in the offshore RMB market, including the activities of state-owned banks in this market.

3. Please elaborate, including with any additional evidence, on your conclusion that there was some degree of undervaluation on a bilateral basis during 2019.

There is no new or additional relevant information since Treasury's November 9 Submission. We thus have nothing further to add beyond what was laid out in the November 9 Submission and in these supplemental responses.