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N047472

January 9, 2009

CLA-2-85:OT:RR:E:NC:N1:112

CATEGORY: Classification

TARIFF NO.: 8501.31.8000

Mr. Jeffrey M. Young Moore & Van Allen, PLLC P.O. Box 13706 Research Triangle Park, NC 27709

RE: The tariff classification of a Trinasolar TSM-175D solar module from China

Dear Mr. Young:

In your letter dated December 19, 2008, on behalf of GES USA Inc., you requested a tariff classification ruling.

The merchandise concerned is referred to as a Trinasolar TSM-175D solar module. This device consists of 72 interconnected monocrystalline silicon cells. These types of cells are known as photovoltaic cells. The 72 photovoltaic cells will be connected electrically and mounted in a photovoltaic module. In addition to the photovoltaic cells, these modules will incorporate by-pass diodes. The by-pass diodes allow current to pass around "shaded cells" and thereby reduce voltage loss. When a module becomes shaded, its by-pass diode becomes forward biased and begins to conduct current through itself. The diode also holds the entire shaded module or group of cells to a small negative voltage of approximately -0.7 volts, thus limiting the reduction in array output.

These modules will not be connected to any other device when imported from China. Once imported, this module will be connected to several other modules to create a solar panel which will produce direct current electricity from the sun. The maximum output of these modules will be 175 watts.

You suggested that the Trinasolar TSM-175D solar module is classifiable under subheading 8541.40.6020 of the Harmonized Tariff Schedule of the United States (HTSUS). Subheading 8541.40.6020 provides for "Diodes, transistors and similar semiconductor devices; photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules...: Photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels...: Other diodes: Other: Solar cells: Assembled into modules or made up into panels." However, Explanatory Note (EN) 85.41 (B) (i) states that heading 8541 does not cover panels or modules equipped with elements, however simple, i.e. diodes to control the direction of the current. As such, since the Trinasolar TSM-175D solar module does contain diodes, classification under subheading HTSUS 8541.40.6020 is inapplicable.

The applicable subheading for the Trinasolar TSM-175D solar module will be 8501.31.8000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Electric motors and generators: Other DC motors; DC generators: Of an output not exceeding 750 W: Generators." The rate of duty will be 2.5%.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on World Wide Web at <http://www.usitc.gov/tata/hts/>.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding heading 8541, please contact National Import Specialist Linda Hackett at (646) 733-3015. If you

have any other questions regarding this ruling, please contact National Import Specialist Steve Pollichino at (646) 733-3008.

Sincerely, Robert B. Swierupski Director National Commodity Specialist Division