

**DEPARTMENT OF COMMERCE****Foreign-Trade Zones Board**

[B-47-2018]

**Foreign-Trade Zone (FTZ) 64—  
Jacksonville, Florida, Authorization of  
Production Activity, Bacardi USA, Inc.  
(Kitting of Alcoholic Beverages),  
Jacksonville, Florida**

On July 13, 2018, Bacardi USA, Inc., submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 64E, in Jacksonville, Florida.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (83 FR 34825, July 23, 2018). On November 13, 2018, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: November 13, 2018.

**Elizabeth Whiteman,***Acting Executive Secretary.*

[FR Doc. 2018-25143 Filed 11-16-18; 8:45 am]

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**DEPARTMENT OF COMMERCE****Foreign-Trade Zones Board**

[B-48-2018]

**Foreign-Trade Zone (FTZ) 176—  
Rockford, Illinois; Authorization of  
Production Activity Leading Americas  
Inc. (Wire Harnesses), Hampshire,  
Illinois**

On July 16, 2018, Leading Americas Inc. submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 176—Site 17, in Hampshire, Illinois.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (83 FR 34825, July 23, 2018). On November 13, 2018, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: November 13, 2018.

**Elizabeth Whiteman,***Acting Executive Secretary.*

[FR Doc. 2018-25148 Filed 11-16-18; 8:45 am]

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**DEPARTMENT OF COMMERCE****Foreign-Trade Zones Board**

[S-149-2018]

**Approval of Subzone Status; Digi-Key  
Corporation; Fargo, North Dakota**

On September 26, 2018, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Municipal Airport Authority of the City of Fargo, grantee of FTZ 267, requesting subzone status subject to the existing activation limit of FTZ 267, on behalf of Digi-Key Corporation, in Fargo, North Dakota.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (83 FR 49356, October 1, 2018). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 267A was approved on November 14, 2018, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 267's 1,026-acre activation limit.

Dated: November 14, 2018.

**Elizabeth Whiteman,***Acting Executive Secretary.*

[FR Doc. 2018-25147 Filed 11-16-18; 8:45 am]

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**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-533-885, A-570-097]

**Polyester Textured Yarn From India  
and the People's Republic of China:  
Initiation of Less-Than-Fair-Value  
Investigations**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**DATES:** Applicable November 7, 2018.

**FOR FURTHER INFORMATION CONTACT:** Kate Johnson at (202) 482-4929 (India), or Irene Gorelik at (202) 482-6905 (the People's Republic of China (China)), AD/CVD Operations, Enforcement and Compliance, International Trade

Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:****The Petitions**

On October 18, 2018, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) Petitions concerning imports of polyester textured yarn (yarn) from India and China, filed in proper form on behalf of Unifi Manufacturing, Inc. and Nan Ya Plastics Corporation, America (the petitioners), domestic producers of yarn.<sup>1</sup> The AD Petitions were accompanied by countervailing duty (CVD) Petitions concerning imports of yarn from India and China.<sup>2</sup>

During the period October 22 through November 1, 2018, we requested information from the petitioners pertaining to the scope of the investigations and certain allegations contained within the Petitions.<sup>3</sup> During the period October 26 through November 2, 2018, the petitioners supplemented the record in response to these requests.<sup>4</sup>

<sup>1</sup> See Petitioners' Letter, "Polyester Textured Yarn from the People's Republic of China and India—Petition for the Imposition of Antidumping and Countervailing Duties," dated October 18, 2018 (Petitions).

<sup>2</sup> See Volumes III and V of the Petitions.

<sup>3</sup> See Commerce's Letters, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Polyester Textured Yarn from the People's Republic of China and India: Supplemental Questions," "Petition for the Imposition of Antidumping Duties on Imports of Polyester Textured Yarn from India: Supplemental Questions," and "Petition for the Imposition of Antidumping Duties on Imports of Polyester Textured Yarn from the People's Republic of China: Supplemental Questions," dated October 22, 2018. See also "Petition for the Imposition of Antidumping Duties on Imports of Polyester Textured Yarn from India: Supplemental Questions," dated October 29, 2018, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Polyester Textured Yarn from the People's Republic of China and India: Phone Call with Counsel to the Petitioners," dated October 29, 2018, and "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Polyester Textured Yarn from the People's Republic of China and India: Supplemental Questionnaire Regarding Proposed Scope," dated November 1, 2018.

<sup>4</sup> See the Petitioners' Letters, "Polyester Textured Yarn from India and the People's Republic of China—Petitioners' Supplement to Volume I Relating to General Issues," (General Issues Supplement), and "Polyester Textured Yarn from India—Petitioners' Supplement for Volume IV Regarding India Antidumping Duties," dated October 26, 2018. See also Polyester Textured Yarn from the People's Republic of China; Petitioners' Supplemental for Volume II Regarding China Antidumping Duties" (China AD Supplemental), dated October 29, 2018, "Polyester Textured Yarn from India—Petitioners' 2nd Supplemental Response for Volume IV Regarding India Antidumping Duties," dated October 30, 2018, "Polyester Textured Yarn from India and the

Continued

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that imports of yarn from India and China are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing yarn in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioners supporting their allegations.

Commerce finds that the petitioners filed the Petitions on behalf of the domestic industry because the petitioners are interested parties as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioners demonstrated sufficient industry support with respect to the initiation of the AD investigations that the petitioners are requesting.<sup>5</sup>

#### Period of Investigations

Because the Petitions were filed on October 18, 2018, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the India investigation is October 1, 2017, through September 30, 2018. Because China is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the POI is April 1, 2018, through September 30, 2018.

#### Scope of the Investigations

The product covered by these investigations is yarn from India and China. For a full description of the scope of these investigations, see the Appendix to this notice.

#### Comments on Scope of the Investigations

During our review of the Petitions, we contacted the petitioners regarding the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the product for which the domestic industry is seeking relief.<sup>6</sup> As a result, the scope of the Petitions was modified to clarify the description of

merchandise covered by the Petitions. The description of the merchandise covered by these investigations, as described in the Appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).<sup>7</sup> Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,<sup>8</sup> all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on November 27, 2018, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on December 7, 2018, which is 10 calendar days from the initial comments deadline.<sup>9</sup>

Commerce requests that any factual information parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

#### Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).<sup>10</sup> An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the

electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

#### Comments on Product Characteristics for AD Questionnaires

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of yarn to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors of production (FOPs) accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any factual information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics, and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe yarn, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on November 27, 2018, which is 20 calendar days from the signature date of this notice.<sup>11</sup> Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on December 7, 2018. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on

People's Republic of China—Petitioners' Supplement to Volume I Relating to General Issues," dated October 31, 2018 (Second General Issues Supplement), and "Polyester Textured Yarn from the People's Republic of China and India—Petitioners' Response to Commerce's Question Regarding Scope Language," dated November 2, 2018.

<sup>5</sup> See the "Determination of Industry Support for the Petition" section, *infra*.

<sup>6</sup> See General Issues Supplement. See also Memorandum, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Polyester Textured Yarn from the People's Republic of China and India: Phone Call with Counsel to the Petitioners," dated October 29, 2018.

<sup>7</sup> See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>8</sup> See 19 CFR 351.102(b)(21) (defining "factual information").

<sup>9</sup> See 19 CFR 351.303(b).

<sup>10</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

<sup>11</sup> See 19 CFR 351.303(b).

the record of each of the AD investigations.

### Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,<sup>12</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>13</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is

“the article subject to an investigation” (i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioners do not offer a definition of the domestic like product distinct from the scope of the Petitions.<sup>14</sup> Based on our analysis of the information submitted on the record, we have determined that yarn, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.<sup>15</sup>

In determining whether the petitioners have standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in the Appendix to this notice. To establish industry support, the petitioners provided their own production of the domestic like product in 2017, as well as the 2017 production of companies that support the Petitions.<sup>16</sup> The petitioners compared the production of the supporters of the Petitions to the estimated total production of the domestic like product for the entire domestic industry.<sup>17</sup> We relied on data provided by the petitioners for purposes of measuring industry support.<sup>18</sup>

Our review of the data provided in the Petitions, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioners have established industry support for the Petition.<sup>19</sup> First, the Petitions established support from

<sup>14</sup> See Volume I of the Petitions, at 11–12; see also General Issues Supplement, at 4–5 and Exhibit GEN-Supp-2.

<sup>15</sup> For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, see Antidumping Duty Investigation Initiation Checklist: Polyester Textured Yarn from the People’s Republic of China (China AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Polyester Textured Yarn from the People’s Republic of China and India (Attachment II); see also Antidumping Duty Investigation Initiation Checklist: Polyester Textured Yarn from India (India AD Initiation Checklist), at Attachment II. These checklists are dated concurrently with, and hereby adopted by, this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

<sup>16</sup> See Volume I of the Petitions, at 4–5 and Exhibit GEN–2.

<sup>17</sup> *Id.*; see also General Issues Supplement, at Exhibit GEN-Supp-3.

<sup>18</sup> *Id.* For further discussion, see China AD Initiation Checklist, at Attachment II; and India AD Initiation Checklist, at Attachment II.

<sup>19</sup> See China AD Initiation Checklist, at Attachment II; and India AD Initiation Checklist, at Attachment II.

domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (e.g., polling).<sup>20</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.<sup>21</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.<sup>22</sup> Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Commerce finds that the petitioners filed the Petitions on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act, and they have demonstrated sufficient industry support with respect to the AD investigations that they are requesting that Commerce initiate.<sup>23</sup>

### Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>24</sup>

The petitioners contend that the industry’s injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and price depression and suppression; declines in the domestic industry’s production, capacity utilization, and

<sup>20</sup> See section 732(c)(4)(D) of the Act; see also China AD Initiation Checklist, at Attachment II; and India AD Initiation Checklist, at Attachment II.

<sup>21</sup> See China AD Initiation Checklist, at Attachment II; and India AD Initiation Checklist, at Attachment II.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> See Volume I of the Petitions, at 13–14 and Exhibit GEN–8.

<sup>12</sup> See section 771(10) of the Act.

<sup>13</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

U.S. commercial shipments; decline in the domestic industry's financial performance; lost sales and revenues; and closures of U.S. production facilities.<sup>25</sup> We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as cumulation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.<sup>26</sup>

### Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value that are the basis for Commerce's decision to initiate AD investigations of imports of yarn from India and China. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the country-specific AD Initiation Checklists.

### Export Price

For both India and China, the petitioner based export price (EP) on price quotes for yarn produced in, and exported from, India and China and offered for sale in the United States.<sup>27</sup> Where appropriate, the petitioners made deductions from U.S. price for foreign brokerage and handling, foreign inland freight, ocean freight, marine insurance, U.S. inland freight, U.S. brokerage and handling, U.S. customs fees, and unrebated value added tax, consistent with the terms of sale as applicable.<sup>28</sup>

### Normal Value

For India, the petitioners based NV on home market prices obtained through market research for yarn produced in and sold, or offered for sale, in India within the proposed POI.<sup>29</sup> The petitioners calculated net home market prices, adjusted as appropriate for rebates.<sup>30</sup> The petitioners provided information indicating that the prices were below the cost of production (COP) and, therefore, the petitioners also

calculated NV based on constructed value (CV).<sup>31</sup> For further discussion of COP and NV based on CV, see the section "Normal Value Based on Constructed Value" below.<sup>32</sup>

With respect to China, Commerce considers China to be an NME country.<sup>33</sup> In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China as an NME country for purposes of the initiation of this investigation. Accordingly, NV in China is appropriately based on FOPs valued in a surrogate market economy country, in accordance with section 773(c) of the Act.<sup>34</sup>

The petitioners claim that Malaysia is an appropriate surrogate country for China because it is a market economy country that is at a level of economic development comparable to that of China, it is a significant producer of identical merchandise, and data for Malaysia for valuing FOPs are available and reliable.<sup>35</sup> The petitioners provided publicly available information from Malaysia to value all FOPs.<sup>36</sup> Therefore, based on the information provided by the petitioners, we determine that it is appropriate to use Malaysia as the primary surrogate country for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

<sup>31</sup> *Id.*

<sup>32</sup> In accordance with section 773(b)(2) of the Act, for this investigation, Commerce will request information necessary to calculate the CV and cost of production (COP) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product.

<sup>33</sup> See *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017), and accompanying decision memorandum, *China's Status as a Non-Market Economy*, unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).

<sup>34</sup> See China AD Initiation Checklist.

<sup>35</sup> See Volume II of the Petitions, at 6–8 and Exhibit AD–PRC–3.

<sup>36</sup> See Volume II of the Petitions, at 9–11; see also China AD Supplemental at 5–6 and Exhibit AD–PRC–Supp–4–B.

### Factors of Production

Based on their assertion that information regarding the FOPs and volume of inputs consumed by Chinese producers/exporters of yarn was not reasonably available, the petitioners used their own consumption rates for yarn to estimate the Chinese manufacturers' FOPs.<sup>37</sup> The petitioners valued the estimated FOPs using surrogate values from Malaysia reported in Malaysian ringgit and converted to U.S. dollars.<sup>38</sup> The petitioners calculated factory overhead, selling, general and administrative (SG&A) expenses, and profit based on the experience of a Malaysian producer of yarn.<sup>39</sup>

### Normal Value Based on Constructed Value

As noted above, for India, the petitioners obtained home market prices but demonstrated that these prices were below the COP during the POI; therefore, the petitioners also based NV on CV pursuant to section 773(a)(4) of the Act. Pursuant to section 773(e) of the Act, CV consists of the cost of manufacturing (COM), SG&A expenses, financial expenses, profit, and packing expenses.

The petitioners calculated the COM based on two domestic producers' input FOPs and usage rates for raw materials, labor, energy, and packing.<sup>40</sup> The petitioners valued the input FOPs using publicly available data on costs specific to India during the proposed POI. Specifically, the petitioners based the prices for raw material and packing inputs on publicly available import data for India.<sup>41</sup> The petitioners valued labor and energy costs using publicly available sources for India.<sup>42</sup> The petitioners calculated factory overhead, SG&A, financial expenses, and profit for India based on the experience of an Indian producer of yarn.<sup>43</sup>

### Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of yarn from India and China are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for yarn are as follows: (1)

<sup>37</sup> See China AD Initiation Checklist.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> See India AD Initiation Checklist.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>25</sup> *Id.* at 10, 13–26 and Exhibits GEN–6 and GEN–8 through GEN–13; see also General Issues Supplement, at 6–7 and Exhibits GEN–Supp–4 and GEN–Supp–5.

<sup>26</sup> See China AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Polyester Textured Yarn from the People's Republic of China and India (Attachment III); see also India AD Initiation Checklist, at Attachment III.

<sup>27</sup> See China AD Initiation Checklist and India AD Initiation Checklist.

<sup>28</sup> See China AD Initiation Checklist and India AD Initiation Checklist.

<sup>29</sup> See India AD Initiation Checklist.

<sup>30</sup> *Id.*

India—35.14 to 202.93 percent;<sup>44</sup> and (2) China—74.98 and 77.15 percent.<sup>45</sup>

### Initiation of Less-Than-Fair-Value Investigations

Based upon the examination of the Petitions, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of yarn from India and China are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

### Respondent Selection

The petitioners identified 34 producers/exporters as accounting for the majority of exports of yarn to the United States from India.<sup>46</sup> Following standard practice in AD investigations involving market economy countries, in the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of yarn from India during the POI under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the "Scope of the Investigations," in the Appendix.

We also intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO on the record within five business days of publication of this **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted seven calendar days after the placement of the CBP data on the record of the India AD investigation. Parties wishing to submit rebuttal comments should submit those comments five calendar days after the deadline for the initial comments. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at <http://enforcement.trade.gov/apo>.

Comments must be filed electronically using ACCESS. An electronically-filed document must be

received successfully, in its entirety, by Commerce's electronic records system, ACCESS, no later than 5:00 p.m. ET on the dates noted above. We intend to finalize our decisions regarding respondent selection within 20 days of publication of this notice.

The petitioners identified 51 producers/exporters as accounting for the majority of exports of yarn to the United States from China.<sup>47</sup> In accordance with our standard practice for respondent selection in AD cases involving NME countries, we intend to issue quantity and value (Q&V) questionnaires to producers/exporters of merchandise subject to this investigation. In the event Commerce determines that it cannot individually examine each company, where appropriate, Commerce intends to select mandatory respondents based on the responses received to its Q&V questionnaires. Commerce will request Q&V information from known exporters and producers identified with complete contact information in the Petition.

Exporters and producers of yarn from China that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from the Enforcement and Compliance website, at <http://trade.gov/enforcement/news.asp>. Responses to the Q&V questionnaire must be submitted by the relevant Chinese exporters/producers no later than 5:00 p.m. ET on November 21, 2018, which is two weeks from the signature date of this notice. All Q&V questionnaire responses must be filed electronically *via* ACCESS.

### Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.<sup>48</sup> The specific requirements for submitting a separate-rate application in this investigation are provided in the application itself, which is available on Commerce's website at <http://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate-rate application will be due 30 days after publication of this initiation notice.<sup>49</sup> Exporters and producers who submit a separate-rate application and have been

<sup>47</sup> *Id.*

<sup>48</sup> See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation Involving Non-Market Economy Countries (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

<sup>49</sup> Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.

selected as mandatory respondents will only be eligible for consideration for separate-rate status if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from China submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V questionnaire response will not receive separate-rate consideration.

### Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.<sup>50</sup>

### Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the Governments of India and China *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

### ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

### Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of yarn from India and/or China are materially injuring or threatening

<sup>50</sup> See Policy Bulletin 05.1 at 6 {emphasis added}.

<sup>44</sup> See India AD Initiation Checklist.

<sup>45</sup> See China AD Initiation Checklist.

<sup>46</sup> See Second General Issues Supplement, at Exhibit GEN-SUPP-5.

material injury to a U.S. industry.<sup>51</sup> A negative ITC determination for any country will result in the investigation being terminated with respect to that country.<sup>52</sup> Otherwise, the investigations will proceed according to statutory and regulatory time limits.

### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). 19 CFR 351.301(b) requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>53</sup> and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.<sup>54</sup> Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

### Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of CV under section 773(e) of the Act.<sup>55</sup> Section 773(e) of the Act states that “if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.” When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists

under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent’s initial Section D questionnaire response.

### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these investigations.

### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>56</sup> Parties must use the certification formats provided in 19 CFR 351.303(g).<sup>57</sup> Commerce intends to

reject factual submissions if the submitting party does not comply with the applicable certification requirements.

### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed at 19 CFR 351.103(d)). Instructions for filing such applications may be found on Commerce’s website at <http://enforcement.trade.gov/apo>.

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: November 7, 2018.

**P. Lee Smith,**

*Deputy Assistant Secretary for Policy and Negotiations.*

### Appendix

#### Scope of the Investigations

The merchandise covered by these investigations, polyester textured yarn, is synthetic multifilament yarn that is manufactured from polyester (polyethylene terephthalate). Polyester textured yarn is produced through a texturing process, which imparts special properties to the filaments of the yarn, including stretch, bulk, strength, moisture absorption, insulation, and the appearance of a natural fiber. This scope includes all forms of polyester textured yarn, regardless of surface texture or appearance, yarn density and thickness (as measured in denier), number of filaments, number of plies, finish (luster), cross section, color, dye method, texturing method, or packing method (such as spindles, tubes, or beams).

The merchandise subject to these investigations is properly classified under subheadings 5402.33.3000 and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

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*Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

<sup>51</sup> See section 733(a) of the Act.

<sup>52</sup> *Id.*

<sup>53</sup> See 19 CFR 351.301(b).

<sup>54</sup> See 19 CFR 351.301(b)(2).

<sup>55</sup> See Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

<sup>56</sup> See section 782(b) of the Act.

<sup>57</sup> See also *Certification of Factual Information to Import Administration During Antidumping and*