Notification Regarding Administrative Protective Orders

This notice will serve as a final reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: November 13, 2019.

Jeffrey I. Kessler,
Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by this investigation, 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).

Excluded from the scope of the investigation is bulk continuous filament yarn that: (a) Is polyester synthetic multifilament yarn; (b) has denier size ranges of 900 and above; (c) has turns per meter of 40 and above; and (d) has a maximum shrinkage of 2.5 percent.

The merchandise subject to this investigation is properly classified under subheadings 5402.33.0000 and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Merchandise subject to this investigation may also enter under HTSUS subheading 5402.52.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Changes from the Preliminary Determination
IV. Discussion of the Issues
   A. Reliance

1. Whether Adverse Facts Available (AFA) is Warranted for Reliance
2. Affiliated Party Purchases
3. Technical Services Adjustment
4. Level of Trade (LOT) Adjustment
5. Sales Made Outside the Ordinary Course of Trade
JBFI
6. Whether AFA is Warranted for JBFI
7. Selection of the Appropriate AFA Rate for JBFI
8. Adjustment to Cash Deposit Rates for Export Subsidies
V. Recommendation

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DEPARTMENT OF COMMERCE
International Trade Administration
[C–570–098]

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

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of polyester textured yarn (yarn) from the People’s Republic of China (China).

DATES: Applicable November 19, 2019.

FOR FURTHER INFORMATION CONTACT: Joseph Dowling or Robert Palmer, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1646 or (202) 482–9068, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 3, 2019, Commerce published in the Federal Register the Preliminary Determination. The selected mandatory respondents in this investigation are Fujian Billion Polymerization Fiber Technology Industrial Co., Ltd. (Fujian Billion), Suzhou Shenghong Fiber Co., Ltd. (Shenghong Fiber), and Suzhou Shenghong Garmant Development Co. (Garmant). In the Preliminary Determination, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(b)(4), Commerce aligned the final countervailing duty (CVD) determination with the final antidumping duty (AD) determination. The revised deadline for the final determination of this investigation is now November 13, 2019. On August 22, 2019, Commerce issued its Post-Preliminary Analysis. A summary of the events that occurred since Commerce published the Preliminary Determination, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at http://access.trade.gov and is available to all parties in the Central Records Unit, Room B824 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at http://enforcement.trade.gov/fm/. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Period of Investigation

The period of investigation (POI) is January 1, 2017 through December 31, 2017.

Scope of the Investigation

The products covered by this investigation are yarn from China. For a complete description of the scope of this investigation, see the “Scope of the Investigation” in Appendix I.

Scope Comments

During the course of this investigation and the concurrent AD investigation of yarn from China, and concurrent AD and CVD investigations of yarn from India, certain interested parties commented on the scope of the investigations as it appeared in the Initiation Notice. Commerce addressed
these comments in the Preliminary Determination, wherein Commerce preliminarily modified the scope language as it appeared in the Initiation Notice to exclude bulk continuous filament yarn. No interested parties commented on the preliminary exclusion of bulk continuous filament yarn. Thus, we have made no changes to the scope language from the Preliminary Determination with regard to bulk continuous filament yarn.

On May 2, 2019, the petitioners requested that Commerce add HTSUS 5402.52.00 covering twisted yarn to the scope of the investigation. Specifically, the petitioners requested that Commerce find the petitioners’ request is reasonable, we have revised the scope of this HTSUS subheading, and Commerce finds the petitioners’ request is reasonable, we have revised the scope of the investigations to include HTSUS 5402.52.00. See Appendix I for the final scope of the investigation.

Final Affirmative Determination of Critical Circumstances

In accordance with section 703(e)(1)(B) of the Act, Commerce preliminarily determined that critical circumstances existed for all imports of yarn from China. Based our examination of the data on the record, we continue to determine that critical circumstances exist for all producers/exporters of yarn from China in the final determination. For comments regarding critical circumstances, see Issues and Decisions Memorandum.

Verification

As provided in section 782(l) of the Act, in July 2019, we conducted

5 See Preliminary Determination, 84 FR at 19041.
6 Unifi Manufacturing, Inc., and Nan Ya Plastics Corporation, America, collectively, the petitioners.
7 See Petitioners’ Comments, “Request to Include HTSUS Subheading 5402.52 in the Scope of These Investigations,” dated May 2, 2019 (Petitioners’ Comments).
8 See Petitioners’ Comments.
9 See Preliminary Determination PDM at 6.
11 See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, minor corrections presented at verification, and our verification findings, we made certain changes to Fujian Billion’s subsidy rate calculations. Commerce has also revised the adverse facts available (AFA) rate and the all-others rate. For a discussion of these changes, see the Issues and Decision Memorandum.

Final Determination

In accordance with section 705(c)(i)(B)(i) of the Act, we calculated a rate for Fujian Billion, a producer/exporter of subject merchandise selected for individual examination in this investigation. Commerce assigned rates based entirely on facts otherwise available with adverse inferences pursuant to section 776 of the Act to Shenghong Fiber and Garment.

Section 705(c)(5)(A) of the Act provides that in the final determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and de minimis rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce preliminarily assigned rates based entirely on facts available for Shenghong Fiber and its cross-owned affiliates, and Garment. Therefore, the only rate that is not zero, de minimis, or based entirely on facts otherwise available is the rate calculated for Fujian Billion. Consequently, the rate calculated for Fujian Billion is also assigned as the rate for all other producers and exporters.

Commerce determines that the following estimated countervailable subsidy rates exist:
Disclosure

We intend to disclose to parties in this proceeding the calculations performed for this final determination within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our Preliminary Determination and pursuant to section 703(d)(1)(B) and (d)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the “Scope of the Investigation” section entered, or withdrawn from warehouse, for consumption on February 2, 2019, which is 90 days before the date of publication of the Preliminary Determination in the Federal Register. In accordance with section 703(d) of the Act, we issued instructions to CBP to continue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after August 31, 2019, but to continue the suspension of liquidation of all entries from February 2, 2019 through August 30, 2019.

If the U.S. International Trade Commission (ITC) issues a final affirmative determination, we will issue a CVD order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietory information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Notification Regarding Administrative Protective Orders

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: November 13, 2019.

Jeffrey I. Kessler,
Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by this investigation, 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).

Excluded from the scope of this investigation is bulk continuous filament yarn that: (a) Is polyester synthetic multifilament yarn; (b) has denier size ranges of 900 and above; (c) has turns per meter of 40 and above; and (d) has a maximum shrinkage of 2.5 percent. The merchandise subject to this investigation is properly classified under subheadings 5402.33.3000 and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Merchandise subject to this investigation may also enter under HTSUS subheading 5402.52.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Use of Facts Otherwise Available and Adverse Inferences
IV. Subsidies Valuation
V. Analysis of Programs
VI. Analysis of Comments

General Issues

Comment 1: Whether it is Unlawful to Investigate Uninitiated Programs

Comment 2: Whether it is Appropriate to Collect Cash Deposits on Entries Subject to Preliminary Affirmative Critical Circumstances

Comment 3: Whether Commerce Must Consider 301 Duties in a Critical Circumstances Determination

Program-Specific Issues

Comment 4: Export Buyer’s Credit (EBC) Program

4a. Whether to Continue to Apply AFA to EBC Program

4b. The Appropriate AFA Rate for the EBC Program

Comment 5: Provision of Monoethylene Glycol (MEG) and Purified Terephthalic Acid (PTA) for Less Than Adequate Renumeration (LTAR)

5a. Whether MEG and PTA Producers are Authorities

5b. Whether MEG and PTA are Specific to the Polyester Textured Yarn Industry

5c. Whether Commerce used the Correct Benchmark to Determine Renumeration for MEG and PTA

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Company | Subsidy rate (percent)
---|---
Huahui Import and Export Co., Ltd. | 32.18
Suzhou Shenghong Fiber Co., Ltd. | 473.09
Suzhou Shenghong Garment Development Co | 472.51
All Others | 32.18

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12 As discussed in the PDM, Commerce has found the following companies to be cross-owned with Fujian Billion: (1) Billion Development (Hong Kong) Limited and (2) Billion Industrial Investment Limited.

Comment 6: Provision of Electricity for LTAR
   6.a. Whether the Provision of Electricity is Countertradable
   6.b. Whether the Record Supports Applying AFA to Find Electricity for LTAR
Comment 7: Whether the GOC Provided Countertradable Policy Loans During the POI

Company-Specific Issues
Comment 8: Whether Application of AFA for Shenghong Fiber is Warranted
Comment 9: Whether Commerce's Calculation of the AFA Rate is Unreasonable
Comment 10: Calculation of Fujian Billion’s Benefit of Electricity for Research and Development (R&D) Expenses
Comment 12: Calculation of the Benefit for Fujian Billion’s Import Tariff and Value Added Tax (VAT) Exemptions on Imported Equipment

VII. Recommendation

The selected mandatory respondents in this investigation are JBF Industries Limited (JBF) and Reliance Industries Limited (Reliance). In the Preliminary Determination, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce aligned the final countervailing duty (CVD) determination with the final antidumping duty (AD) determination. The revised deadline for the final determination of this investigation is now November 13, 2019. A summary of the events that occurred since Commerce published the Preliminary Determination, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum issued concurrently with this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at http://access.trade.gov and is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at http://enforcement.trade.gov/frn/.
The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Period of Investigation

The period of investigation (POI) is April 1, 2017 through March 31, 2018.

Scope of the Investigation

The product covered by this investigation is polyester textured yarn from India. For a full description of the scope of this investigation, see the “Scope of the Investigation” in Appendix I.

Scope Comments

During the course of this investigation and the concurrent AD investigation of yarn from India, and concurrent AD and CVD investigations of yarn from China, certain interested parties commented on the scope of the investigation as it appeared in the Initiation Notice. Commerce addressed these comments in the Preliminary Determination, wherein Commerce preliminarily modified the scope language as it appeared in the Initiation Notice to exclude bulk continuous filament yarn. No interested parties commented on the preliminary exclusion of bulk continuous filament yarn. Thus, we have made no changes to the scope language from the Preliminary Determination with regard to bulk continuous filament yarn.

On May 2, 2019, the petitioners requested that Commerce include an additional Harmonized Tariff Schedule of the United States (HTCUS) subheading in the scope language. Specifically, the petitioners requested that Commerce add HTCUS 5402.52.00 covering twisted yarn to the scope of the investigations. As no interested parties rebutted the petitioners’ request to add this HTCUS subheading, and Commerce finds that the petitioners’ request is reasonable, we have revised the scope of the investigations to include HTCUS 5402.52.00. See Appendix I for the final scope of the investigation.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in July 2019, we conducted verification of the questionnaire responses submitted by JBF, Reliance, and the Government of India (GOI). We used standard verification procedures, including an examination of relevant

6 See Preliminary Determination at 19037.
7 Unifi Manufacturing, Inc., and Nan Ya Plastics Corporation, America are collectively the petitioners. See Petitioner’s Comments, “Request to Include HTCUS Subheading 5402.52 in the Scope of These Investigations,” dated May 2, 2019 (Petitioners’ Scope Request).
8 See Petitioners’ Comments, “Request to Include HTCUS Subheading 5402.52 in the Scope of These Investigations,” dated May 2, 2019 (Petitioners’ Scope Request).

DEPARTMENT OF COMMERCE

International Trade Administration

Polyester Textured Yarn From India: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of polyester textured yarn (yarn) from India.

DATES: Applicable November 19, 2019.

FOR FURTHER INFORMATION CONTACT: Janae Martin or Jesus Saenz, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0238 or (202) 482–8184, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 3, 2019, Commerce published in the Federal Register the Preliminary Determination. On June 12, 2019, Commerce also published the Amended Preliminary Determination in the Federal Register. On August 22, 2019, Commerce issued its Post-Preliminary Analysis. The selected mandatory respondents in this investigation are JBF Industries Limited (JBF) and Reliance Industries Limited (Reliance). In the Preliminary Determination, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce aligned the final countervailing duty (CVD) determination with the final antidumping duty (AD) determination. The revised deadline for the final determination of this investigation is now November 13, 2019.

Comment 6: Provision of Electricity for LTAR
   6.a. Whether the Provision of Electricity is Countertradable
   6.b. Whether the Record Supports Applying AFA to Find Electricity for LTAR

Comment 7: Whether the GOC Provided Countertradable Policy Loans During the POI

Comment 8: Whether Application of AFA for Shenghong Fiber is Warranted

Comment 9: Whether Commerce’s Calculation of the AFA Rate is Unreasonable

Comment 10: Calculation of Fujian Billion’s Benefit of Electricity for LTAR

Comment 11: Calculation of Fujian Billion’s Benefit for Tax Deduction for Research and Development (R&D) Expenses

Comment 12: Calculation of the Benefit for Fujian Billion’s Import Tariff and Value Added Tax (VAT) Exemptions on Imported Equipment

VII. Recommendation

The selected mandatory respondents in this investigation are JBF Industries Limited (JBF) and Reliance Industries Limited (Reliance). In the Preliminary Determination, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce aligned the final countervailing duty (CVD) determination with the final antidumping duty (AD) determination. The revised deadline for the final determination of this investigation is now November 13, 2019. A summary of the events that occurred since Commerce published the Preliminary Determination, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum issued concurrently with this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at http://access.trade.gov and is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at http://enforcement.trade.gov/frn/. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Period of Investigation

The period of investigation (POI) is April 1, 2017 through March 31, 2018.

Scope of the Investigation

The product covered by this investigation is polyester textured yarn from India. For a full description of the scope of this investigation, see the “Scope of the Investigation” in Appendix I.

Appendix I

3 See Polyester Textured Yarn from India: Amended Preliminary Determination of Countervailing Duty Determination, 84 FR 27240 (June 12, 2019) (Amended Preliminary Determination).
4 See Memorandum, “Post-Preliminary Analysis of Countervailing Duty Investigation of Polyester Textured Yarn from India,” dated August 22, 2019 (Post-Preliminary Analysis).
5 See Memorandum, “Issues and Decision Memorandum for the Final Affirmative Determination of the Countervailing Duty Investigation of Polyester Textured Yarn from India,” dated concurrently with this determination and hereby adopted by this notice (Issues and Decision Memorandum).

Scope Comments

During the course of this investigation and the concurrent AD investigation of yarn from India, and concurrent AD and CVD investigations of yarn from China, certain interested parties commented on the scope of the investigation as it appeared in the Initiation Notice. Commerce addressed these comments in the Preliminary Determination, wherein Commerce preliminarily modified the scope language as it appeared in the Initiation Notice to exclude bulk continuous filament yarn. No interested parties commented on the preliminary exclusion of bulk continuous filament yarn. Thus, we have made no changes to the scope language from the Preliminary Determination with regard to bulk continuous filament yarn.

On May 2, 2019, the petitioners requested that Commerce include an additional Harmonized Tariff Schedule of the United States (HTCUS) subheading in the scope language. Specifically, the petitioners requested that Commerce add HTCUS 5402.52.00 covering twisted yarn to the scope of the investigations. As no interested parties rebutted the petitioners’ request to add this HTCUS subheading, and Commerce finds that the petitioners’ request is reasonable, we have revised the scope of the investigations to include HTCUS 5402.52.00. See Appendix I for the final scope of the investigation.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in July 2019, we conducted verification of the questionnaire responses submitted by JBF, Reliance, and the Government of India (GOI). We used standard verification procedures, including an examination of relevant

6 See Preliminary Determination at 19037.
7 Unifi Manufacturing, Inc., and Nan Ya Plastics Corporation, America are collectively the petitioners. See Petitioner’s Comments, “Request to Include HTCUS Subheading 5402.52 in the Scope of These Investigations,” dated May 2, 2019 (Petitioners’ Scope Request).
8 See Petitioners’ Comments, “Request to Include HTCUS Subheading 5402.52 in the Scope of These Investigations,” dated May 2, 2019 (Petitioners’ Scope Request).