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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-038]

Antidumping Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value, Preliminary Affirmative Determination of Critical Circumstances, and Postponement of Final Determination

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that certain amorphous silica fabric (silica fabric) from the People's Republic of China (the PRC) is being, or is likely to be, sold in the United States at less-than-fair value (LTFV). The period of investigation is July 1, 2015, through December 31, 2015. The estimated weighted-average dumping margins are shown in the "Preliminary Determination" section of this notice. We invite interested parties to comment on this preliminary determination.

DATES: Effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Scott Hoefke or Fred Baker, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-4947 and (202) 482-2924, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this LTFV investigation on February 23, 2016.¹ For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum that is dated concurrently with this determination and is hereby adopted by this notice.² A list of topics included in the Preliminary Decision Memorandum is included as Appendix I to this notice. The Preliminary 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 <https://access.trade.gov>, and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and electronic version of Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is silica fabric from the PRC. For a complete description of the scope of this investigation, *see* Appendix II.

Scope Comments

In accordance with the preamble to the Department's regulations,³ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, "scope").⁴

¹ *See Certain Amorphous Silica Fabric From the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 81 FR 8913 (February 23, 2016) (*Initiation Notice*).

² *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance "Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China," (Preliminary Decision Memorandum) dated concurrently with this notice.

³ *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

We received comments from one interested party on March 13, 2016. However, since these comments were untimely filed, we rejected them from the record. We received no other comments on scope since publication of the *Initiation Notice*, other than rebuttal comments filed by petitioner on March 17, 2016, with respect to the untimely filed March 7, 2016, comments. The Department is preliminarily not modifying the scope language as it appeared in the *Initiation Notice*.

Methodology

The Department conducted this investigation in accordance with section 731 of the Tariff Act of 1930, as amended (the Act). We calculated constructed export prices in accordance with section 772 of the Act. Because the PRC is a non-market economy within the meaning of section 771(18) of the Act, we calculated normal value (NV) in accordance with section 773(c) of the Act. For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum.

Affirmative Preliminary Determination of Critical Circumstances

On July 13, 2016, Petitioner filed a timely critical circumstances allegation, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206, alleging that critical circumstances exist with respect to imports of silica fabric from the PRC.⁵ We preliminarily determine that critical circumstances exist for ACIT (Pinghu) Inc. (ACIT), Nanjing Tianyuan Fiberglass Material Co., Ltd. (Nanjing Tianyuan), and the PRC-wide entity. For a full description of the methodology and results of our analysis, please see the Preliminary Decision Memorandum.

⁴ See *Initiation Notice*, 81 FR at 8913.

⁵ See Letter from Auburn Manufacturing, Inc. (Petitioner), dated July 13, 2016.

Combination Rates

In the *Initiation Notice*, the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation.⁶ Policy Bulletin 05.1 describes this practice.⁷

Preliminary Determination

The preliminary weighted-average antidumping margins are as follows:

Exporter	Producer	Weighted-Average Margin
ACIT (Pinghu) Inc.	ACIT (Pinghu) Inc.	162.47 percent
Nanjing Tianyuan Fiberglass Material Co., Ltd.	Nanjing Tianyuan Fiberglass Material Co., Ltd.	162.47 percent
PRC-Wide Rate		162.47 percent

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of silica fabric from the PRC as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of investigation was published. As described above, we preliminarily find that critical circumstances exist for imports produced or exported by all

⁶ See *Initiation Notice*, 81 FR at 8917.

⁷ See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries," (April 5, 2005) (Policy Bulletin 05.1), available on the Department's Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

exporters of subject merchandise from the PRC. Therefore, in accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice. Accordingly, for ACIT, Nanjing Tianyuan, and the PRC-wide entity, in accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice. We will also instruct CBP, pursuant to section 733 (d)(1)(B) of the Act and 19 CFR 351.205(d), to require a cash deposit equal to the margins indicated in the chart above.⁸ As described in the Preliminary Decision Memorandum, in this preliminary determination, no adjustments pursuant to section 777A(f) and 772(c)(1)(C) of the Act are being made for cash deposit purposes. The suspension of liquidation will remain in effect until further notice.

Disclosure and Public Comment

We will disclose to interested parties the calculations performed in this proceeding within five days of the date of announcement of this preliminary determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this proceeding.⁹ Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹⁰

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument;

⁸ See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

⁹ See 19 CFR 351.309 (b)(2)(c)(i).

¹⁰ See 19 CFR 351.309, *see also* 19 CFR 351.303 (for general filing requirements).

and (3) a table of authorities.¹¹ This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing must do so in writing within 30 days after the publication of this preliminary determination in the **Federal Register**.¹² Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date, time, and location to be determined. Parties will be notified of the date, time, and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.¹³ Electronically-filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time on the due dates established above.¹⁴

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination by the Department, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination by the Department, a request for such postponement is made by the petitioner. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final antidumping determination be accompanied

¹¹ See 19 CFR 351.309(c)(2) and (d)(2).

¹² See 19 CFR 351.310(c).

¹³ See 19 CFR 351.303(b)(2)(i).

¹⁴ See 19 CFR 351.303(b)(1).

by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On August 8, 2016, pursuant to 19 CFR 351.210(b)(2)(ii), Petitioner and ACIT requested that the Department postpone its final determination. On August 9, 2016, Nanjing Tianyuan also requested that the Department postpone its final determination. In their respective requests for postponement, ACIT and Nanjing Tianyuan also requested that the Department extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months.

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because (1) our preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.¹⁵

International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we will notify the International Trade Commission (ITC) of our preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

¹⁵ See 19 CFR 351.210(e).

This determination is issued and published in accordance with sections 733(f) and 777(i)(I) of the Act and 19 CFR 351.205(c).

Dated: August 24, 2016.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Preliminary Determination of Critical Circumstances
- V. Scope of the Investigation
- VI. Discussion of the Methodology
 - A. Non-Market Economy Country
 - B. Surrogate Country and Surrogate Value Comments
 - C. Separate Rates
 - D. The PRC-wide Entity
 - E. Application of Facts Available and Adverse Inferences
 - F. Date of Sale
 - G. Comparisons to Fair Value
- VII. Currency Conversion
- VIII. Adjustment under Section 777A(F) of the Act
- IX. Adjustment for Countervailable Subsidies
- X. Disclosure and Public Comment
- XI. Verification
- XII. Conclusion

Appendix II

Scope of the Investigation

The product covered by this investigation is woven (whether from yarns or rovings) industrial grade amorphous silica fabric, which contains a minimum of 90 percent silica (SiO₂) by nominal weight, and a nominal width in excess of 8 inches. The investigation covers industrial grade amorphous silica fabric regardless of other materials contained in the fabric, regardless of whether in roll form or cut-to-length, regardless of weight, width (except as noted above), or length. The investigation covers industrial grade amorphous silica fabric regardless of whether the product is approved by a standards testing body (such as being Factory Mutual (FM) Approved), or regardless of whether it meets any governmental specification.

Industrial grade amorphous silica fabric may be produced in various colors. The investigation covers industrial grade amorphous silica fabric regardless of whether the fabric is colored. Industrial grade amorphous silica fabric may be coated or treated with materials that include, but are not limited to, oils, vermiculite, acrylic latex compound, silicone, aluminized polyester (Mylar®) film, pressure-sensitive adhesive, or other coatings and treatments. The investigation covers industrial grade amorphous silica fabric regardless of whether the fabric is coated or treated, and regardless of coating or treatment weight as a percentage of total product weight. Industrial grade amorphous silica fabric may be heat-cleaned. The investigation covers industrial grade amorphous silica fabric regardless of whether the fabric is heat-cleaned.

Industrial grade amorphous silica fabric may be imported in rolls or may be cut-to-length and then further fabricated to make welding curtains, welding blankets, welding pads, fire blankets, fire pads, or fire screens. Regardless of the name, all industrial grade amorphous silica fabric that has been further cut-to-length or cut-to-width or further finished by finishing the edges and/or adding grommets, is included within the scope of this investigation.

Subject merchandise also includes (1) any industrial grade amorphous silica fabric that has been converted into industrial grade amorphous silica fabric in China from fiberglass cloth produced in a third country; and (2) any industrial grade amorphous silica fabric that has been further processed in a third country prior to export to the United States, including but not limited to treating, coating, slitting, cutting to length, cutting to width, finishing the edges, adding grommets, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope industrial grade amorphous silica fabric.

Excluded from the scope of the investigation is amorphous silica fabric that is subjected to controlled shrinkage, which is also called “pre-shrunk” or “aerospace grade” amorphous silica fabric. In order to be excluded as a pre-shrunk or aerospace grade amorphous silica fabric, the amorphous silica fabric must meet the following exclusion criteria: (1) the amorphous silica fabric must contain a minimum of 98 percent silica (SiO₂) by nominal weight; (2) the amorphous silica fabric must have an areal shrinkage of 4 percent or less; (3) the amorphous silica fabric must contain no coatings or treatments; and (4) the amorphous silica fabric must be white in color. For purposes of this scope, “areal shrinkage” refers to the extent to which a

specimen of amorphous silica fabric shrinks while subjected to heating at 1800 degrees F for 30 minutes.¹⁶

Also excluded from the scope are amorphous silica fabric rope and tubing (or sleeving). Amorphous silica fabric rope is a knitted or braided product made from amorphous silica yarns. Silica tubing (or sleeving) is braided into a hollow sleeve from amorphous silica yarns.

The subject imports are normally classified in subheadings 7019.59.4021, 7019.59.4096, 7019.59.9021, and 7019.59.9096 of the Harmonized Tariff Schedule of the United States (HTSUS), but may also enter under HTSUS subheadings 7019.40.4030, 7019.40.4060, 7019.40.9030, 7019.40.9060, 7019.51.9010, 7019.51.9090, 7019.52.9010, 7019.52.9021, 7019.52.9096 and 7019.90.1000. HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

¹⁶ Areal shrinkage is expressed as the following percentage:

$$((\text{Fired Area, cm}^2 - \text{Initial Area, cm}^2) / \text{Initial Area, cm}^2) \times 100 = \text{Areal Shrinkage, \%}$$

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