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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-036]

Certain Biaxial Integral Geogrid Products from the People's Republic of China: Final Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (Department) determines that certain biaxial integral geogrid products (geogrids) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final weighted-average dumping margins for the investigation on geogrids from the PRC are listed in the "Final Determination Margins" section of this notice

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

FOR FURTHER INFORMATION CONTACT: Julia Hancock or Susan Pulongbarit, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1394 or (202) 482-4031, respectively.

## SUPPLEMENTARY INFORMATION:

### Background

On August 22, 2016, the Department published its *Preliminary Determination*.<sup>1</sup> We invited interested parties to comment on our *Preliminary Determination* of sales at LTFV. For a list of the parties that filed case and rebuttal briefs, *see* the Issues and Decision Memorandum.<sup>2</sup>

### Period of Investigation

The period of investigation (POI) is July 1, 2015, through December 31, 2015. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, which was January 2016.<sup>3</sup>

### Scope of the Investigation

The products covered by this investigation are geogrids from the People's Republic of China (PRC). Subject geogrids enter the United States through Harmonized Tariff Schedule of the United States (HTSUS) statistical subheading 3926.90.9995, but may also enter through HTSUS subheadings 3920.20.0050 and 3925.90.0000. While HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of this investigation is dispositive.

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<sup>1</sup> *See Certain Biaxial Integral Geogrid Products from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less Than Fair Value, Affirmative Determination of Critical Circumstances, in Part, and Postponement of Final Determination*, 81 FR 56584 (August 22, 2015) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

<sup>2</sup> *See* Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Issues and Decision Memorandum for the Final Determination of the Antidumping Duty Investigation of Certain Biaxial Integral Geogrid Products from the People's Republic of China," dated concurrently with this notice (Issues and Decision Memorandum).

<sup>3</sup> *See* 19 CFR 351.204(b)(1).

No interested party commented on the scope of this investigation. For a complete description of the scope of the investigation, *see* Appendix I to this notice.

#### Analysis of Comments Received

We addressed all issues raised by parties in case and rebuttal briefs in the Issues and Decision Memorandum.<sup>4</sup> Appendix II to this notice includes a list of the issues which the parties raised and to which the Department responded 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>. The Issues and Decision Memorandum is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum is available at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

#### Verification

As provided in section 782(i) of the Act, in September 2016, the Department conducted verification of the information submitted by BOSTD Geosynthetics Qingdao Ltd. (BOSTD) and Taian Modern Plastic Co., Ltd. (Taian Modern) for use in the final determination. We issued our verification reports on November 4, 2016, and November 14, 2016.<sup>5</sup> The Department used

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<sup>4</sup> *See* Issues and Decision Memorandum.

<sup>5</sup> *See* the Department's two memoranda regarding: "Verification of the Sales and Factors Response of Taian Modern Plastic Co., Ltd. (Taian Modern) in the Antidumping Duty Less Than Fair Value Investigation of Certain Biaxial Integral Geogrid Products from the People's Republic of China," dated November 4, 2016 (Taian Modern Verification Report); and "Verification of the Sales and Factors Responses of BOSTD Geosynthetics Qingdao Ltd. (BOSTD) in the Antidumping Investigation of Certain Biaxial Integral Geogrid Products from the People's Republic of China," dated November 15, 2016 (BOSTD Verification Report).

<sup>5</sup> *Id.*

standard verification procedures, including examination of relevant accounting and production records and original source documents provided by respondents.<sup>6</sup>

#### Changes Since the Preliminary Determination

Based on the Department's analysis of the comments received and our findings at verification, we find that BOSTD and Taian Modern failed to cooperate by not acting to the best of their ability in this proceeding and, pursuant to section 776(b) of the Act and 19 CFR 351.308(a), we based BOSTD's and Taian Modern's respective dumping margins on total adverse facts available (AFA). For further discussion, *see* the Issues and Decision Memorandum.

#### Combination Rates

In the *Initiation Notice*,<sup>7</sup> the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation. *Policy Bulletin 05.1* describes this practice.<sup>8</sup> In this case, because neither respondent qualified for a separate rate, combination rates were not calculated.

#### Final Affirmative Determination of Critical Circumstances, In Part

For the *Preliminary Determination*, the Department found that critical circumstances existed with respect to imports of geogrids from the PRC produced or exported by Taian Modern and the PRC-wide entity, but not with respect to imports of geogrids from BOSTD.<sup>9</sup> We are not modifying our final critical circumstances finding for the PRC-wide entity (which now includes Taian Modern and BOSTD). Thus, pursuant to section 735(a)(3) of the Act and 19 CFR

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<sup>6</sup> *Id.*

<sup>7</sup> *See Certain Biaxial Integral Geogrid Products from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 81 FR 7755, 7756 (February 16, 2016) (*Initiation Notice*).

<sup>8</sup> *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>.

<sup>9</sup> *See Preliminary Determination*, and accompanying Preliminary Decision Memorandum at 7-10.

351.206, we find that critical circumstances exist with respect to all exports of subject merchandise in this investigation. For further discussion, *see* the Issues and Decision Memorandum at Comments 1, 9 and 13.

#### PRC-Wide Entity

In this final determination, as discussed above, we are applying a rate based entirely on adverse facts available to the PRC-wide entity (which now includes the two mandatory respondents). Additionally, as explained in the *Preliminary Determination*, the Department did not receive timely responses to its Q&V questionnaire or separate rate applications from the PRC exporters and/or producers of subject merchandise that were named in the petition and to which the Department issued Q&V questionnaires.<sup>10</sup> As these non-responsive PRC companies did not demonstrate that they are eligible for separate rate status, the Department continues to consider them to be part of the PRC-wide entity.

#### PRC-Wide Rate

For the final determination, we assigned as the AFA rate for the PRC-wide entity the highest dumping margin from the petition, *i.e.*, 372.81 percent. In selecting this AFA rate for the PRC-wide entity, the Department's practice is to select a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.<sup>11</sup> Specifically, it is the Department's practice to select, as an AFA rate, the higher of: (a) the highest dumping margin alleged in the petition; or, (b) the

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<sup>10</sup> See *Preliminary Determination*, and accompanying Preliminary Decision Memorandum at 16-17 (Separate Rate).

<sup>11</sup> See, *e.g.*, *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethylcellulose from Finland*, 69 FR 77216 (December 27, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose from Finland*, 70 FR 28279 (May 17, 2005).

highest calculated dumping margin of any respondent in the investigation.<sup>12</sup> There are no calculated margins for any respondents in this investigation. Therefore, as AFA, the Department has assigned to the PRC-wide entity the rate of 372.81 percent, which is the highest dumping margin alleged in the petition. The dumping margin for the PRC-wide entity applies to all entries of the merchandise under investigation.<sup>13</sup>

Final Determination

The Department determines that the estimated final weighted-average dumping margins are as follows:

Exporter	Producer	Weighted-Average Margin (percent)
PRC-Wide Entity <sup>14</sup>		372.81

Disclosure

Because our final determination is based entirely on AFA, there are no calculations to disclose.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of geogrids from the PRC as described in the “Scope of the Investigation” section, which were entered, or withdrawn from warehouse, for consumption on or after August 22, 2016, the

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<sup>12</sup> See, e.g., *Certain Stilbenic Optical Brightening Agents from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 77 FR 17436, 17438 (March 26, 2012); *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from the People’s Republic of China*, 65 FR 34660 (May 31, 2000), and accompanying Issues and Decision Memorandum.

<sup>13</sup> For a detailed discussion, see Issues and Decision Memorandum.

<sup>14</sup> As discussed above, the PRC-wide entity includes BOSTD and Taian Modern.

date of publication in the *Federal Register* of the *Preliminary Determination*. For entries made by Taian Modern and the PRC-wide entity, in accordance with section 735(c)(4)(A) of the Act, because we continue to find that critical circumstances exist, we will instruct CBP to continue to suspend liquidation of all appropriate entries of geogrids from the PRC which were entered, or withdrawn from warehouse, for consumption on or after May 24, 2016, which is 90 days prior to the date of publication in the *Federal Register* of the *Preliminary Determination*. Provisional measures were not imposed retrospectively for BOSTD because of the Department's preliminary negative critical circumstances determination with respect to it. However, the final affirmative critical circumstances determination now applies to BOSTD as it is now being treated as part of the PRC-wide entity. Accordingly, pursuant to section 735(c)(4)(C) of the Act, the Department will instruct CBP to suspend liquidation of all entries of geogrids from the PRC from BOSTD, which were entered, or withdrawn from warehouse, for consumption on or after 90-days prior to the date of publication of this final determination in the *Federal Register*.

Further, pursuant to section 735(c)(1)(B)(ii) of the Act, the Department will instruct CBP to require a cash deposit<sup>15</sup> equal to the amount by which the normal value exceeds U.S. price, adjusted where appropriate for export subsidies and estimated domestic subsidy pass-through. For all combinations of PRC exporters/producers of merchandise under consideration, the cash deposit rate will be equal to the dumping margin established for the PRC-wide entity.

As we stated in the *Preliminary Determination*, consistent with our practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct CBP to require a cash deposit equal to the amount by which the normal value exceeds the export price or constructed export price, less the amount of the countervailing duty

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<sup>15</sup> 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).

determined to constitute an export subsidy.<sup>16</sup> In this LTFV investigation, for the PRC-wide entity, which received an AFA rate, pursuant to section 776(b) of the Act, the Department has adjusted the PRC-wide entity's AD cash deposit rate by the lowest export subsidy rate determined for any party in the companion CVD proceeding.<sup>17</sup> Here, that rate is zero and, thus, no adjustment is necessary for the PRC-wide rate.<sup>18</sup> Furthermore, the Department did not adjust the final determination AD cash deposit rates for estimated domestic subsidy pass-through because respondents provided no reliable, accurate information to support an adjustment, pursuant to section 777A(f) of the Act.<sup>19</sup>

#### International Trade Commission Notification

In accordance with section 735(d) of the Act, we notified the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. As the Department's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of geogrids for sale from the PRC, or sales (or the likelihood of sales) for importation, of geogrids from the PRC. If the ITC determines that such injury does not exist, this proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise

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<sup>16</sup> See *Preliminary Determination*, 81 FR at 56585-6.

<sup>17</sup> See, e.g., *Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value; Preliminary Affirmative Determination of Critical Circumstances; In Part and Postponement of Final Determination*, 80 FR 4250 (January 27, 2015), and accompanying Issues and Decision Memorandum at 35.

<sup>18</sup> See *Countervailing Duty Investigation of Certain Biaxial Integral Geogrid Products from the People's Republic of China: Final Affirmative Determination and Final Determination of Critical Circumstances, in Part*, dated concurrently with this notice.

<sup>19</sup> See Issues and Decision Memorandum at Comments 1 and 9 for further discussion of our findings to apply total AFA to BOSTD and Taian Modern.

entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Return or Destruction of Proprietary Information

This notice also serves as a reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of propriety 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 terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: January 4, 2017

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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

## Appendix I- Scope of the Investigation

The products covered by the scope are certain biaxial integral geogrid products. Biaxial integral geogrid products are a polymer grid or mesh material (whether or not finished, slit, cut-to-length, attached to woven or non-woven fabric or sheet material, or packaged) in which four-sided openings in the form of squares, rectangles, rhomboids, diamonds, or other four-sided figures predominate. The products covered have integral strands that have been stretched to induce molecular orientation into the material (as evidenced by the strands being thinner in width toward the middle between the junctions than at the junctions themselves) constituting the sides of the openings and integral junctions where the strands intersect. The scope includes products in which four-sided figures predominate whether or not they also contain additional strands intersecting the four-sided figures and whether or not the inside corners of the four-sided figures are rounded off or not sharp angles. As used herein, the term “integral” refers to strands and junctions that are homogenous with each other. The products covered have a tensile strength of greater than 5 kilonewtons per meter (“kN/m”) according to American Society for Testing and Materials (“ASTM”) Standard Test Method D6637/D6637M in any direction and average overall flexural stiffness of more than 100,000 milligram-centimeter according to the ASTM D7748/D7748M Standard Test Method for Flexural Rigidity of Geogrids, Geotextiles and Related Products, or other equivalent test method standards.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise further processed in a third country, including by trimming, slitting, coating, cutting, punching holes, stretching, attaching to woven or non-woven fabric or sheet material, or any other finishing, packaging, or other further processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the biaxial integral geogrid.

The products subject to the scope are currently classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) under the following subheading: 3926.90.9995. Subject merchandise may also enter under subheadings 3920.20.0050 and 3925.90.0000. The HTSUS subheadings set forth above are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

## Appendix II – Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope of the Investigation
- V. Changes Since the Preliminary Determination
- VI. Application of Adverse Facts Available
- VII. Affirmative Finding of Critical Circumstances
- VIII. List of Comments
- IX. Discussion of the Issues

### Company-Specific Issues

#### BOSTD

Comment 1: Application of Total Adverse Facts Available (AFA) to BOSTD

Comment 2: Moot Arguments for BOSTD

#### Taian Modern

Comment 3: Application of Total AFA to Taian Modern

Comment 4: Moot Arguments for Taian Modern

#### General Issues

Comment 5: Selection of AFA Rate to PRC-Wide Entity

Comment 6: Critical Circumstances

Comment 7: Moot Arguments for General Issues

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