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DEPARTMENT OF COMMERCE

International Trade Administration

C-533-876

Fine Denier Polyester Staple Fiber from India: Preliminary Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of fine denier polyester staple fiber (fine denier PSF) from India. The period of investigation is January 1, 2016, through December 31, 2016 .

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

FOR FURTHER INFORMATION CONTACT: Trisha Tran or Eli Lovely, AD/CVD

Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4852 or (202) 482-1593, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). The Department published the notice of initiation of this investigation on June 27, 2017.¹ On August 8, 2017, the Department postponed the preliminary

¹ See *Fine Denier Polyester Staple Fiber from India and the People's Republic of China: Initiation of Countervailing Duty Investigations*, 82 FR 29028 (June 27, 2017) (*Initiation Notice*).

determination of this investigation and the revised deadline is now October 30, 2017.² For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II 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 <http://access.trade.gov>, and 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 Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is fine denier PSF from India. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to the Department's regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, (*i.e.*, scope).⁵

Certain interested parties commented on the scope of the investigation as it appeared in the

² *See Fine Denier Polyester Staple Fiber from the People's Republic of China and India: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 82 FR 37048 (August 8, 2017).

³ *See* Memorandum, "Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from India," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁵ *See Initiation Notice*.

Initiation Notice, as well as additional language proposed by the Department.⁶ The Department intends to issue its preliminary decision regarding comments concerning the scope of the antidumping duty (AD) and countervailing duty (CVD) investigations in the preliminary determination of the companion AD investigation.

Methodology

The Department is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, the Department preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁷

The Department notes that, in making these findings, it relied, in part, on facts available and, because it finds that one or more respondents did not act to the best of their ability to respond to the Department’s requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.⁸ For further information, *see* “Use of Facts Otherwise Available and Adverse Inferences” in the Preliminary Decision Memorandum.

⁶ Letter from from David C. Poole Company Inc., “Fine Denier Polyester Staple Fiber from the People’s Republic of China, India, the Republic of Korea, Taiwan, and Vietnam; Scope Comments,” dated July 10, 2017; Letter from Suominen Corporation, “Fine Denier Polyester Staple Fiber from the People’s Republic of China, India, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam,” dated July 10, 2017; Letter from Consolidated Fibers, Inc., “Fine Denier Polyester Staple Fiber from the People’s Republic of China, India, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam – Scope Comments,” dated July 10, 2017; Letter from Reliance, “Fine Denier Polyester Staple Fiber from the People’s Republic of China, India, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Reliance Industries, Ltd.’s Comments Regarding the Scope of the Investigation,” dated July 10, 2017; Letter from the petitioners, “Fine Denier Polyester Staple Fiber from the People’s Republic of China, India, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam - Petitioners’ Scope Comments,” dated July 12, 2017; Letter from the petitioners, “Fine Denier Polyester Staple Fiber from the People’s Republic of China, India, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam – Petitioners’ Rebuttal Scope Comments to the Importers’ Scope Exclusion Requests,” dated July 12, 2017.

⁷ *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.

⁸ *See* sections 776(a) and (b) of the Act.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, the Department 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, the Department calculated individual estimated countervailable subsidy rates for Bombay Dyeing & Manufacturing Company Limited (Bombay Dyeing) and Reliance Limited Industries (Reliance) that are not zero, *de minimis*, or based entirely on facts otherwise available. The Department calculated the all-others' rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.⁹

Preliminary Determination

The Department preliminarily determines that the following estimated countervailable subsidy rates exist:

⁹ With two respondents under examination, the Department normally calculates (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. The Department then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data was available, the Department based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, please *see* the All-Others' Rate Calculation Memorandum.

Company	Subsidy Rate
Bombay Dyeing & Manufacturing Company Limited	7.18 percent
Reliance Industries Limited	9.86 percent
All-Others	9.37 percent

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, the Department will direct 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 or after the date of publication of this notice in the *Federal Register*. Further, pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

The Department intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, the Department intends to verify the information relied upon in making its final determination.

Public Comment

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 investigation. 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 Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, 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, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

In accordance with section 703(f) of the Act, the Department will notify the International Trade Commission (ITC) of its determination. If the 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 the final determination.

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

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

Dated: October 30, 2017

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is fine denier polyester staple fiber (fine denier PSF), not carded or combed, measuring less than 3.3 decitex (3 denier) in diameter. The scope covers all fine denier PSF, whether coated or uncoated. The following products are excluded from the scope:

- (1) PSF equal to or greater than 3.3 decitex (more than 3 denier, inclusive) currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 5503.20.0045 and 5503.20.0065.

- (2) Low-melt PSF defined as a bicomponent fiber with a polyester core and an outer, polyester sheath that melts at a significantly lower temperature than its inner polyester core currently classified under HTSUS subheading 5503.20.0015.

Fine denier PSF is classifiable under the HTSUS subheading 5503.20.0025. 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 Preliminary Decision Memorandum

- I. Summary
 - II. Background
 - III. Scope Comments
 - IV. Scope of the Investigation
 - V. Injury Test
 - VI. Subsidies Valuation
 - VII. Benchmarks and Discount Rates
 - VIII. Use of Facts Otherwise Available and Adverse Inferences
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