



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-580-893

Fine Denier Polyester Staple Fiber from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that fine denier polyester staple fiber (fine denier PSF) from the Republic of Korea (Korea) are being, or is likely to be sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2016, through March 31, 2017.

FOR FURTHER INFORMATION CONTACT: Karine Gziryan or Celeste Chen, 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) 482-4081 or (202) 482-0890, respectively.

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

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(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 October 24, 2017, the Department postponed the preliminary determination of this investigation and the revised deadline is now December 18, 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 included 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 <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 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 polyester staple fiber from Korea. 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

¹ *See Fine Denier Polyester Staple Fiber from the People's Republic of China, India, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 82 FR 29023 (June 27, 2017) (*Initiation Notice*).

² *See Fine Denier Polyester Staple Fiber from the People's Republic of China, India, the Republic of Korea, and Taiwan: Postponement of Preliminary Determinations in Less-Than-Fair-Value Investigations*, 82 FR 49178 (October 24, 2017).

³ *See* Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair Value Investigation of Fine Denier Polyester Staple Fiber from the Republic of Korea," 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*.

Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.⁶ The Department is preliminarily modifying the scope language as it appeared in the *Initiation Notice*. *See* the revised scope in Appendix I to this notice.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. The Department has calculated export prices in accordance with section 772(a) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. Furthermore, pursuant to section 776(a) and (b) of the Act, the Department has preliminarily relied upon facts otherwise available, with adverse inferences, for Huvis Corporation (Huvis) and Down Nara, Co. Ltd. (Down Nara) which did not respond to the Department's questionnaire.⁷ For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

In accordance with section 735(d)(1)(A)(i) of the Act, the Department determined weighted-average dumping margins for each of the producers/exporters of the subject merchandise individually investigated. Pursuant to sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act, the Department shall determine an estimated all-others rate for all exporters and

⁶ *See* Memorandum, "Fine Denier Polyester Staple Fiber from the Republic of Korea: Scope Comments Decision Memorandum for the Preliminary Determination" (Preliminary Scope Decision Memorandum), dated December 8, 2017.

⁷ Toray Chemical Korea Inc. (TCK), Huvis, and Down Nara are the mandatory respondents in this investigation. *See* Huvis Corporation's Letter, "Fine Denier Polyester Staple Fiber from the Republic of Korea: Notice of Intent Not to Participate," dated August 10, 2017 (Huvis Notice of Intent).

producers not individually examined equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. Where the rates for the individually investigated companies are all zero or *de minimis*, or determined entirely using facts otherwise available, section 735(c)(5)(B) of the Act instructs the Department to establish “any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated.” The Department has preliminarily determined the estimated weighted-average dumping margins for the two non-responsive companies, Huvis and Down Nara, under section 776 of the Act and determined that the estimated weighted-average dumping margin for TCK is zero. Pursuant to section 735(c)(5)(B) of the Act, we calculated the “all-others” rate as a simple average of the zero percent dumping margin and the two dumping margins based totally on AFA. For a full description of the methodology underlying the Department’s analysis, *see* the Preliminary Decision Memorandum.

Preliminary Determination

The Department preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/Producer	Estimated Weighted-Average Dumping Margin (percent)
Toray Chemical Korea Inc.	<i>de minimis</i>
Huvis Corporation	45.23
Down Nara, Co., Ltd.	45.23
All-Others	30.15

Consistent with section 733(b)(3) of the Act, the Department disregards *de minimis* rates and preliminarily determines that the individually examined respondent with a *de minimis* rate did not sell subject merchandise at LTFV.

Suspension of Liquidation

In accordance with section 733(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 Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping

margin established for that producer of the subject merchandise, except as explained below; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Because the estimated weighted-average dumping margin for TCK is zero, entries of shipments of subject merchandise produced and exported by TCK will not be subject to suspension of liquidation or cash deposit requirements. In such situations, the Department applies the exclusion to the provisional measures to the producer/exporter combination that was examined in the investigation. Accordingly, the Department is directing CBP not to suspend liquidation of entries of subject merchandise produced and exported by TCK. Entries of shipments of subject merchandise from TCK in any other producer/exporter combination, or by third parties that sourced subject merchandise from the excluded producer/exporter combination, are subject to the provisional measures at the all others rate.

Should the final estimated weighted-average dumping margin be zero or *de minimis* for subject merchandise exported and produced by TCK, entries of shipments of subject merchandise from this producer/exporter combination will be excluded from the potential antidumping duty order. Such exclusions are not applicable to merchandise exported to the United States by TCK in any other producer/exporter combinations or by third parties that sourced subject merchandise from the excluded producer/exporter combinations.

Disclosure

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

Verification

As provided in section 782(i) of the Act, the Department intends to verify TCK 's 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 final verification report is issued in this proceeding, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline for case briefs.⁸ 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 for a hearing 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.

⁸ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

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, 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, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of the Department's regulations requires that a request by exporters for postponement of the final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On November 13, 2017, pursuant to 19 CFR 351.210(e), TCK requested that the Department postpone the final determination and that provisional measures be extended to a period not to exceed six months.⁹ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) our preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, the Department is 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.¹⁰

International Trade Commission Notification

⁹ See Petitioner's Letter, "Fine Denier Polyester Staple Fiber from India, the People's Republic of China, the Republic of Korea, and Taiwan – Petitioners' Request to Postpone the Antidumping Duty Preliminary Determinations," dated October 13, 2017.

¹⁰ See also 19 CFR 351.210(e).

In accordance with section 733(f) of the Act, the Department will notify the International Trade Commission (ITC) of its preliminary 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 whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) 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: December 18, 2017

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is fine denier polyester staple fiber (fine denier PSF), not carded, combed, or pre-opened, 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 bi-component polyester fiber having a polyester fiber component that melts at a lower temperature than the other polyester fiber component, which is currently classifiable 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 this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

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