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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

C-570-039

Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China: Final Affirmative Determination

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

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of certain amorphous silica fabric (silica fabric) from the People's Republic of China (the PRC). For information on the estimated subsidy rates, *see* the "*Final Determination and Suspension of Liquidation*" section of this notice.

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

FOR FURTHER INFORMATION CONTACT: Emily Maloof or John Corrigan, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-5649 or (202) 482-7438, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Determination* on July 5, 2016.¹ A summary of the events that occurred since the Department published the *Preliminary Determination*, as

¹ *See Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China: Preliminary Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 81

well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum² 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 Department of 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 Issues and Decision Memorandum and the electronic version are identical in content.

Period of Investigation

The period of investigation for which we are measuring subsidies is January 1, 2015, through December 31, 2015.

Scope Comments

The Department set aside a period of time for parties to address scope issues.³ We received no scope comments.⁴ In the *Preliminary Determination*, we did not modify the scope language from what appeared in the *Initiation Notice*.⁵ No interested party submitted scope

FR 43579 (July 5, 2016) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (Preliminary Decision Memorandum).

² See Memorandum to Paul Piquado, from Gary Taverman, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China," dated concurrently with this determination and hereby adopted by this notice (Issues and Decision Memorandum).

³ See *Certain Amorphous Silica Fabric from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 81 FR 8909 (February 23, 2016) (*Initiation Notice*).

⁴ On March 13, 2016, the Department received a letter dated March 7, 2016, from Lewco Specialty Products, Inc. We rejected this letter as improperly filed and removed it from the record of this proceeding. See Memorandum to the File, "Re: Request to Take Action on Certain Barcodes," dated March 18, 2016.

⁵ See *Initiation Notice*, 81 FR at 8912-13.

comments in case or rebuttal briefs. Therefore, the scope of this investigation remains unchanged for this final determination.

Scope of the Investigation

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

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs submitted by the parties, are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix I.

Use of Adverse Facts Available (AFA)

In making its findings, the Department relied, in part, on facts available. For mandatory respondent Nanjing Tianyuan Fiberglass Material Co., Ltd. (Nanjing Tianyuan), we are basing certain countervailing duty (CVD) rates on facts otherwise available, pursuant to sections 776(a)(2)(C) and (D) of the Tariff Act of 1930, as amended (the Act). Further, because Nanjing Tianyuan did not cooperate to the best of its ability in this investigation by not providing necessary information requested by the Department, we determine that an adverse inference in selecting from the facts available is warranted with respect to certain countervailable subsidy programs, pursuant to section 776(b) of the Act. The Department has, therefore, relied, in part, on AFA in calculating Nanjing Tianyuan's subsidy rates.

Regarding ACIT (Pinghu) Inc. and ACIT (Shanghai) Inc. (collectively, ACIT),⁶ we determine that the application of AFA is warranted with regard to the Government of the PRC's (GOC's) provision of Export Buyer's Credits and thus determine, as AFA, that ACIT benefitted from the Export Buyer's Credit program.

In addition, the Department has applied a total AFA rate to the 48 companies that failed to respond to the Department's quantity and value questionnaire.⁷

For further information on the Department's application of adverse facts available, as summarized above, *see* the section titled "Use of Facts Otherwise Available and Adverse Inferences," in the Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, and minor corrections presented at verification, we made certain changes to ACIT's and Nanjing Tianyuan's subsidy rate calculations since the *Preliminary Determination*. For a discussion of these changes, *see* the Issues and Decision Memorandum and the Final Calculation Memoranda.⁸

Final Determination and Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated an individual rate for each producer/exporter of the subject merchandise individually investigated, *i.e.* ACIT and Nanjing Tianyuan. In accordance with section 705(c)(5)(A) of the Act, for companies not individually investigated, we apply an "all-others" rate, which is normally calculated by

⁶ *See Preliminary Determination* and accompanying Preliminary Determination Memorandum at 11 (finding ACIT (Pinghu) Inc. and ACIT (Shanghai) Inc. to be cross-owned).

⁷ *See Preliminary Determination* at 81 FR 43579-43582.

⁸ *See* Issues and Decision Memorandum; *see also* Memorandum to the File, "Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China: ACIT (Pinghu) Inc. and ACIT (Shanghai) Inc. Final Analysis Memorandum," dated January 17, 2017 (ACIT's Final Calculation Memorandum); *see also* Memorandum to the File, "Nanjing Tianyuan Fiberglass Material Co., Ltd. Final Analysis Memorandum," dated January 17, 2017 (Nanjing Tianyuan's Final Calculation Memorandum).

weighting the subsidy rates of the individual companies selected as mandatory respondents by those companies' exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the "all-others" rate excludes zero and *de minimis* rates calculated for the exporters and producers individually investigated as well as rates based entirely on facts otherwise available. Where the rates for the individually investigated companies are all zero or *de minimis*, or determined entirely using facts otherwise available, section 705(c)(5)(A)(ii) of the Act instructs the Department to establish an "all-others" rate using "any reasonable method." Where the countervailable subsidy rates for all of the individually investigated respondents are zero or *de minimis* or are based on total AFA, the Department's practice, pursuant to 705(c)(5)(A)(ii), is to calculate the all others rate based on a simple average of the zero or *de minimis* margins and the margins based on total AFA.

Pursuant to section 705(c)(5)(A)(i) of the Act, we have calculated the "all-others" rate using the subsidy rates of the two individually investigated respondents. However, we have not calculated the "all-others" rate by weight-averaging the rates because doing so risks disclosure of proprietary information. Therefore, and consistent with the Department's practice, for the "all-others" rate, we calculated a simple average of the two mandatory respondents' subsidy rates.⁹

Exporter/Producer	Subsidy Rate (Percent)
ACIT (Pinghu) Inc. and ACIT (Shanghai) Inc.	48.94
Nanjing Tianyuan Fiberglass Material Co., Ltd.	79.90
Acmetex Co., Ltd.,* Beijing Great Pack Materials, Co. Ltd.,*	165.39

⁹ See, e.g., *Countervailing Duty Investigation of Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Preliminary Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 80 FR 5089 (January 30, 2015), unchanged in *Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 80 FR 64745 (October 24, 2015).

Beijing Landingji Engineering Tech Co., Ltd.,*
Changshu Yaoxing Fiberglass Insulation Products Co., Ltd.,*
Changzhou Kingze Composite Materials Co., Ltd.,*
Changzhou Utek Composite Co.,*
Chengdu Chang Yuan Shun Co., Ltd.,*
China Beihai Fiberglass Co., Ltd.,*
China Yangzhou Guo Tai Fiberglass Co., Ltd.,*
Chongqing Polycomp International Corp.,*
Chongqing Yangkai Import & Export Trade Co., Ltd.,*
Cixi Sunrise Sealing Material Co., Ltd.,*
Fujian Minshan Fire-Fighting Co., Ltd.,*
Grand Fiberglass Co., Ltd.*
Haining Jieta Fiberglass Fabric Co., Ltd.,*
Hebei Yuniu Fiberglass Manufacturing Co., Ltd.,*
Hebei Yuyin Trade Co., Ltd.,*
Hengshui Aohong International Trading Co., Ltd.,*
Hitex Insulation (Ningbo) Co., Ltd.,*
Mowco Industry Limited,*
Nanjing Debeili New Materials Co., Ltd.,*
Ningbo Fitow High Strength Composites Co., Ltd.,*
Ningbo Universal Star Industry & Trade Limited,*
Ningguo BST Thermal Protection Products Co., Ltd.,*
Qingdao Feelongda Industry & Trade Co., Ltd.,*
Qingdao Shishuo Industry Co., Ltd.,*
Rugao City Ouhua Composite Material Co., Ltd.,*
Rugao Nebola Fiberglass Co., Ltd.,*
Shanghai Bonthe Insulative Material Co., Ltd.,*
Shanghai Horse Construction Co., Ltd.,*
Shanghai Liankun Electronics Material Co., Ltd.,*
Shanghai Suita Environmental Protection Technology Co., Ltd.,*
Shangqui Huanyu Fiberglass Co., Ltd.,*
Shengzhou Top-Tech New Material Co., Ltd.,*
Shenzhen Songxin Silicone Products Co., Ltd.,*
Taixing Chuanda Plastic Co., Ltd.,*
Taixing Vichen Composite Material Co., Ltd.,*
TaiZhou Xinxing Fiberglass Products Co., Ltd.,*
Tenglong Sealing Products Manufactory Yuyao,*
Texaspro (China) Company,*
Wallean Industries Co., Ltd.,*
Wuxi First Special-Type Fiberglass Co., Ltd.,*

Wuxi Xingxiao Hi-Tech Material Co., Ltd.,*	
Yuyao Feida Insulation Sealing Factory, *	
Yuyao Tianyi Special Carbon Fiber Co., Ltd.,*	
Zibo Irvine Trading Co., Ltd.,*	
Zibo Yao Xing Fire-Resistant and Heat-Preservation Material Co., Ltd.,*	
Zibo Yuntai Furnace Technology Co., Ltd.*	
All-Others	64.42

* Non-cooperative company to which an AFA rate is being applied. *See* Issues and Decision Memorandum and Preliminary Decision Memorandum for additional information.

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of merchandise under consideration from the PRC that were entered or withdrawn from warehouse, for consumption, on or after July 5, 2016, the date of publication of the *Preliminary Determination* in the *Federal Register*.

In accordance with section 703(d) of the Act, we later issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after November 2, 2016, but to continue the suspension of liquidation of all entries between July 5, 2016, and November 1, 2016.

If the U.S. International Trade Commission (the ITC) issues a final affirmative injury determination, we will issue a CVD order, will reinstate the suspension of liquidation under section 706(a) of the Act, and will require a cash deposit of estimated CVDs for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of 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.

ITC 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-proprietary 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.

Return or Destruction of Proprietary Information

In the event the ITC issues a final negative injury determination, this notice serves 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 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 violation subject to sanction.

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

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

January 17, 2017

Date

Appendix I
List of Topics Discussed in the Issues and Decision Memorandum

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- Comment 16: Whether the Department Should Find that ACIT and Nanjing Tianyuan Benefitted from Export Seller's Credits Because the GOC Failed to Provide Evidence of Non-Use at Verification
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- Comment 20: Whether the Department Should Apply AFA to the Government Provision of Land for LTAR in Special Economic Zones
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- Comment 22: Whether the Department's Investigation of Uninitiated Programs is Unlawful
- Comment 23: Whether the Department's CVD Rates Should Reflect an Adjustment for Programs that Have Been Terminated

XI. Recommendation

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 (SiO_2) 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 (SiO_2) 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.¹⁰

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.

¹⁰ Areal shrinkage is expressed as the following percentage:

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

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