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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: Final Affirmative Determination of Sales at Less-Than-Fair Value, and Final Affirmative Determination of Critical Circumstances

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

SUMMARY: The Department of Commerce (the Department) determines that imports of certain amorphous silica fabric (silica fabric) from the People's Republic of China (the PRC) are being, or are likely to be, sold in the United States at less than fair value (LTFV). In addition, we determine that critical circumstances exist with respect to imports of the subject merchandise. The period of investigation (POI) is July 1, 2015, through December 31, 2015. The final dumping margins for this investigation 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: Scott Hoefke or Fred Baker, 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) 482-4947 or (202) 482-2924, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Determination* in the LTFV investigation of silica fabric from the PRC on September 1, 2016.¹

A summary of the events that occurred since the Department published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.² 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/>.

Scope of the Investigation

The product covered by this investigation is woven industrial grade amorphous silica fabric from the PRC. For a complete description of the scope of this investigation, see the "Scope of the Investigation," in Appendix I. Since the *Preliminary Determination*, no party commented on the scope of the investigation. The scope in Appendix I reflects the final unmodified scope language as it appeared in the *Preliminary Determination*.

¹ See *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*, 81 FR 60341 (September 1, 2016) (*Preliminary Determination*).

² See Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Antidumping Duty Investigation of Amorphous Silica Fabric from the People's Republic of China: Issues and Decision Memorandum for the Final Determination of Sales at Less-Than-Fair-Value" (Issues and Decision Memorandum), dated concurrently with this determination and hereby adopted by this notice.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in September and October 2016, we conducted verification of the sales and factors of production information submitted by ACIT (Pinghu) Inc. (ACIT), and its U.S. affiliate, ACIT USA Inc. (ACIT USA). We issued a verification report on November 16, 2016.³ We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by ACIT and ACIT USA.⁴

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of these issues is attached to this notice as Appendix II.

Changes to the Dumping Margin Calculations Since the Preliminary Determination

Based on the Department's analysis of the comments received and findings at verification, we made certain changes to our dumping margin calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Final Affirmative Determination of Critical Circumstances

In accordance with section 735(a)(3) of the Act and 19 CFR 351.206, we continue to find that critical circumstances exist with respect to imports of silica fabric from ACIT, Nanjing Tianyuan Fiberglass Material Co., Ltd. (Nanjing Tianyuan), and the PRC-wide entity.⁵

³ See Memorandum to the File: "Verification of the Questionnaire Responses of ACIT (Pinghu) Inc. in the Antidumping Investigation of Certain Amorphous Silica Fabric from the People's Republic of China," dated November 16, 2016.

⁴ See Memorandum to the File: "CEP Verification of the Questionnaire Responses of ACIT (USA) Inc. in the Antidumping Investigation of Certain Amorphous Silica Fabric from the People's Republic of China," dated November 22, 2016.

⁵ See *Preliminary Determination*; *see also* Issues and Decision Memorandum at Comment 2.

Use of Adverse Facts Available

For the reasons discussed in the *Preliminary Determination*, we continue to find that the PRC-wide entity and Nanjing Tianyuan failed to cooperate to the best of their ability.⁶

Additionally, we find for the final determination that ACIT failed to cooperate to the best of its ability.⁷ Accordingly, pursuant to sections 776(a)(2)(A), (B), (C), and (D) and section 776(b) of the Act, we have assigned to ACIT, Nanjing Tianyuan, and the PRC-wide entity, the dumping margins in the table below, which are based on total adverse facts available.⁸

Combination Rates

In the *Initiation Notice*,⁹ the Department stated that it would calculate combination rates for PRC respondents that are eligible for separate rate in this investigation.¹⁰ Accordingly, we have assigned combination rates to ACIT and Nanjing Tianyuan.

Final Determination

The Department determines, as provided in section 735 of the Act, that the following estimated weighted-average dumping margins exist for the period July 1, 2015, through December 31, 2015:

Exporter	Producer	Margin (percent)	Cash Deposit (Percent)
ACIT (Pinghu) Inc.	ACIT (Pinghu) Inc.	162.47	151.93

⁶ See *Preliminary Determination*, and accompanying Preliminary Decision Memorandum at 13-18.

⁷ See Issues and Decision Memorandum at Comment 1.

⁸ See Issues and Decision Memorandum.

⁹ 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*).

¹⁰ 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," dated April 5, 2005 (Policy Bulletin 05.1), available on the Department's Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>, which describes this practice.

Nanjing Tianyuan Fiberglass Material Co., Ltd.	Nanjing Tianyuan Fiberglass Material Co., Ltd.	162.47	151.71
PRC-Wide Entity		162.47	151.93

Continuation of Suspension of Liquidation

In accordance with section 735(c)(4)(A) of the Act, for the final determination, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of silica fabric from the PRC as described in the “Scope of the Investigation” section which were entered, or withdrawn from warehouse, for consumption 90 days prior to the date of publication in the *Federal Register* of the affirmative *Preliminary Determination*, pursuant to section 733(e)(2) of the Act.

Further, pursuant to section 735(c)(1)(B)(ii) of the Act, the Department will instruct CBP to require a cash deposit¹¹ 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.

Consistent with our practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we will instruct CBP to require a cash deposit equal to the amount by which the normal value exceeds the export price or constructed export price, adjusted where appropriate for export subsidies and estimated domestic subsidy pass-through.¹² In the companion CVD proceeding, the Department found for ACIT an export subsidy of 10.54

¹¹ 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).

¹² See sections 772(c)(1)(C) and 777A(f) of the Act, respectively. Unlike in administrative reviews, the Department makes an adjustment for export subsidies in an LTFV investigation not in the calculation of the weighted-average dumping margin, but in the cash deposit instructions issued to U.S. Customs and Border Protection. See *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

percent *ad valorem* and for Nanjing Tianyuan an export subsidy of 10.76 percent *ad valorem*.¹³ 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.¹⁴ Thus, we will offset the PRC-wide rate of 162.47 by the countervailing duty rate attributable to export subsidies of ACIT (*i.e.*, 10.54 percent) to calculate the cash deposit rate.¹⁵ These adjustments are reflected in the final column of the rate chart, above. Furthermore, we are not adjusting the final determination for estimated domestic subsidy pass-through because the respondents failed to substantiate a cost-to-price-link.¹⁶ In the event that a countervailing duty order is issued and suspension of liquidation continues in the companion countervailing duty investigation on silica fabric from the PRC, the Department will continue to instruct CBP to require cash deposits adjusted by the amount of export subsidies, as appropriate.

Disclosure

Because all final dumping margins are based on total AFA, no disclosure of calculations is necessary for this final determination.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of our final affirmative determination of sales at LTFV and final affirmative determination of critical circumstances. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final

¹³ See *Countervailing Duty Investigation of Certain Amorphous Silica Fabric From the People's Republic of China: Final Affirmative Determination*, and accompanying Issues and Decision Memorandum. The final determination in this companion CVD proceeding is being released concurrently with this final determination.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ See *Preliminary Determination*, and accompanying Preliminary Decision Memorandum.

determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of silica fabric from the PRC no later than 45 days after our final determination. 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 entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders

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

We are issuing and publishing this determination in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

/S/ Paul Piquado

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

January 17, 2017

Date

Appendix I

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.¹⁷

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.

¹⁷ Areal shrinkage is expressed as the following percentage:

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

Appendix II: List of Topics in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope of the Investigation
- V. Application of Total Adverse Facts Available with Regard to ACIT
- VI. Selection of Adverse Facts Available (AFA) Rate
- VII. Discussion of the Issues

ACIT:

- Comment 1: Adverse Facts Available
- Comment 2: Critical Circumstances
- Comment 3: Calculation Error
- Comment 4: Surrogate Country
- Comment 5: Surrogate Value Selection

New Fire:

- Comment 6: Rejection of Extension Request

Jiuding:

- Comment 7: Jiuding Separate Rate

VIII. Recommendation

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