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International Trade Administration
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June 30, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh 
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Preliminary Results of the 2013-2014 Antidumping Duty
Administrative Review: Certain Polyester Staple Fiber from the
People's Republic of China

Summary

The Department of Commerce (“the Department”) is conducting an administrative review of the antidumping duty (“AD”) order on certain polyester staple fiber from the People’s Republic of China (“PRC”). The period of review (“POR”) is June 1, 2013, through May 31, 2014. The Department preliminarily determines that Takayasu Industrial (Jiangyin) Co., Ltd. (“Takayasu”) had no shipments of subject merchandise during the POR. We also preliminarily determine that Zhaoqing Tifo New Fibre Co., Ltd. (“Zhaoqing Tifo”) has not established its entitlement to separate rate status, and, therefore, is being treated as part of the PRC-wide entity.

If we adopt these preliminary results in our final results of review, we will instruct U.S. Customs and Border Protection (“CBP”) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. We invite interested parties to comment on these preliminary results. We intend to issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (“Act”).

Case History

On June 1, 2007, the Department published in the *Federal Register* an antidumping duty order on certain polyester staple fiber from the PRC.¹ On June 30, 2014, the Department received a

¹ See *Notice of Antidumping Duty Order: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 30545 (June 1, 2007) (“Order”).



request from Petitioner² to conduct an administrative review of Takayasu and Zhaoqing Tifo.³ On June 30, 2014, Takayasu submitted a review request.⁴ On July 31, 2014, the Department initiated this review based on these review requests.⁵ On August 15, 2014, the Department issued standard AD questionnaires to Takayasu and Zhaoqing Tifo.⁶ On September 5, 2014, Zhaoqing Tifo stated that it would not submit a response to the Department's questionnaire.⁷

On September 3, 2014, Takayasu withdrew its review request, stating that the Department should rescind the review with respect to Takayasu because it only had one sample entry of subject merchandise that did not constitute a sale, and requested that the Department grant Takayasu an indefinite extension of time to respond to the questionnaire.⁸ On September 3, 2014, the Department partially extended the deadline for Takayasu to respond to the Department's questionnaire.⁹ On September 9, 2014, the Department requested that CBP provide entry documentation for Takayasu's one shipment during the POR.

On September 29, 2014, Takayasu submitted a no-shipment letter stating that it only had one entry of subject merchandise into the United States during the POR and that this entry did not constitute a sale for exportation to the United States.¹⁰ On October 17, 2014, the Department placed the CBP entry documentation on the record for Takayasu's shipment.¹¹ On October 28, 2014, Takayasu reiterated its request that the Department rescind the review with respect to Takayasu.¹²

² DAK Americas LLC (hereinafter "Petitioner").

³ See Seventh Administrative Review of Polyester Staple Fiber from the People's Republic of China - Review Request, dated June 30, 2014. The Department notes that "Polyester Staple Fiberfill" is a misidentification of the proceeding. The Department has corrected this reference throughout this memorandum to the name: "Polyester Staple Fiber."

⁴ See Request for Antidumping Administrative Review: Polyester Staple Fiber from the People's Republic of China, dated June 30, 2014.

⁵ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 79 FR 44390 (July 31, 2014) ("Initiation Notice").

⁶ See Request for Information, Antidumping Duty Administrative Review, Takayasu Industrial (Jiangyin) Co., Ltd., Certain Polyester Staple Fiber from the People's Republic of China, dated August 15, 2014; and Request for Information, Antidumping Duty Administrative Review, Zhaoqing Tifo New Fibre Co., Ltd., Certain Polyester Staple Fiber from the People's Republic of China, dated August 15, 2014.

⁷ See Certain Polyester Staple Fiber from the People's Republic of China, dated September 5, 2014.

⁸ See Request for Rescission of Antidumping Administrative Review; Withdrawal of Review Request; Request for Extension to Reply to Questionnaire Responses: Polyester Staple Fiber from the People's Republic of China, dated September 3, 2014.

⁹ See Memorandum to the File, from Javier Barrientos, Senior International Trade Compliance Analyst, Office V, Enforcement and Compliance, regarding Seventh Administrative Review of Polyester Staple Fiber from the People's Republic of China: Extension for Takayasu's Sections A, C & D Original Questionnaire Response, dated September 3, 2014.

¹⁰ See No Shipment Letter for Takayasu Industrial (Jiangyin) Co., Ltd. in the Seventh Annual Administrative Review of the Antidumping Duty Order on Polyester Staple Fiber from the People's Republic of China, dated September 29, 2014.

¹¹ See Memorandum to the File from Javier Barrientos, Senior International Trade Analyst, AD/CVD Operations Office V, Enforcement and Compliance, regarding 2013- 2014 Administrative Review of Polyester Staple Fiber from the People's Republic of China: Placing U.S. Customs and Border Protection Entry Documents on the Record - Takayasu Industrial (Jiangyin) Co., Ltd., October 17, 2014 ("Takayasu's Entry Package").

¹² See Supplemental Request for Rescission of Seventh Antidumping Administrative Review: Polyester Staple Fiber from the People's Republic of China dated October 28, 2014.

On October 31, 2014, Takayasu requested that the Department grant Takayasu another extension of time to respond to the questionnaire.¹³ On October 31, 2014, the Department granted Takayasu's extension request, in part.¹⁴ On November 13, 2014, the Department temporarily suspended the requirement for Takayasu to respond to the Department's questionnaire given that the Department required additional time to analyze Takayasu's rescission request, no shipment certification, and information placed on the record by the Department.¹⁵ On April 20, 2015, at the request of the Department, Takayasu submitted a separate rate certification.

Scope of the Order

The merchandise subject to the order is synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The subject merchandise may be coated, usually with a silicon or other finish, or not coated. Polyester staple fiber is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture.

The following products are excluded from the scope of the order: (1) polyester staple fiber of less than 3.3 decitex (less than 3 denier) currently classifiable in the Harmonized Tariff Schedule of the United States ("HTSUS") at 5503.20.0025 and known to the industry as polyester staple fiber for spinning and generally used in woven and knit applications to produce textile and apparel products; (2) polyester staple fiber of 10 to 18 denier that are cut to lengths of 6 to 8 inches and that are generally used in the manufacture of carpeting; and (3) low-melt polyester staple fiber defined as a bi-component fiber with an outer, non-polyester sheath that melts at a significantly lower temperature than its inner polyester core (classified at HTSUS 5503.20.0015).

Certain polyester staple fiber is classifiable under the HTSUS numbers 5503.20.0045 and 5503.20.0065. Although the HTSUS numbers are provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

DISCUSSION OF THE METHODOLOGY

Non-Market Economy Status

In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is a non-market economy ("NME") country shall remain in effect until revoked by the Department.

¹³ See Takayasu Extension Request for Questionnaire Responses in Seventh Annual Administrative Review of the Antidumping Duty Order on Polyester Staple Fiber from the People's Republic of China dated October 31, 2014.

¹⁴ See Memorandum to the File, through Scot T. Fullerton, Program Manager, Office V, Enforcement and Compliance, from Steven Hampton, International Trade Compliance Analyst, Office V, regarding 2013-2014 Antidumping Administrative Review of Certain Polyester Staple Fiber from the People's Republic of China: Third Extension of Takayasu's Sections A, C & D Questionnaire Responses, dated October 31, 2014.

¹⁵ See Memorandum to the File, through Scot T. Fullerton, Program Manager, Office V, Enforcement and Compliance, from Steven Hampton, International Trade Compliance Analyst, Office V, regarding 2013-2014 Antidumping Administrative Review of Certain Polyester Staple Fiber from the People's Republic of China: Temporary Suspension of Takayasu's Sections A, C & D Questionnaire Responses, dated November 13, 2014.

The Department considers the PRC to be an NME country.¹⁶ Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

PRC-wide Entity

Zhaoqing Tifo did not respond to our AD questionnaire and failed to establish that it is entitled to a separate rate. In light of this fact, and consistent with the Department's current practice regarding conditional review of the PRC-wide entity,¹⁷ we preliminarily determine that Zhaoqing Tifo remains part of the PRC-wide entity. Under this practice, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity, the entity is not under review and the entity's rate is not subject to change. Therefore, if our determination is unchanged in the final results, Zhaoqing Tifo's entries will be liquidated at the rate previously established for the PRC-wide entity.

Preliminary Determination of No Shipments

As discussed in the Case History section above, Takayasu filed a no shipment certification claiming that its only entry during the POR was a sample shipment that does not constitute a reviewable sale. On September 9, 2014, the Department sent an inquiry to CBP to determine whether CBP's entry information is consistent with the documentation Takayasu submitted along with its no shipment certification. On October 17, 2014, the Department placed the entry package it received from CBP on the record of this proceeding.¹⁸ The information in the CBP entry package matched what Takayasu had submitted and further substantiated its claim that the entry in question was a sample shipment that lacked consideration, *i.e.*, no commercial transaction statement on the invoice.¹⁹

As we find that Takayasu's single entry constitutes a sample shipment that lacked consideration, we preliminarily determine that Takayasu did not have any reviewable transactions during the POR. In addition, the Department finds that, consistent with the Department's assessment practice in NME cases, it is appropriate not to rescind the review in part in this circumstance but, rather, to complete the review with respect to Takayasu and issue appropriate instructions to CBP based on the final results of the review.²⁰ We preliminarily determine, therefore, to instruct CBP to liquidate Takayasu's sample entry without regard to antidumping duties.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, the Department will issue the final results of this administrative review within 120 days of publication of these

¹⁶ See, e.g., *Certain Polyester Staple Fiber from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review; 2012-2013*, 79 FR 43395 (July 25, 2014) unchanged in *Certain Polyester Staple Fiber from the People's Republic of China: Final Results of the Antidumping Duty Administrative Review; 2012-2013*, 80 FR 4542 (January 28, 2015).

¹⁷ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65970 (November 4, 2013).

¹⁸ See Takayasu Entry Package.

¹⁹ *Id.*

²⁰ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

