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**Public Document**  
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MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Import Administration

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

SUBJECT: Decision Memorandum for Preliminary Results and Rescission in  
Part of the 2011-2012 Antidumping Duty Administrative Review:  
Certain Polyester Staple Fiber from the People's Republic of China

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## SUMMARY

The Department of Commerce (“the Department”) is conducting an administrative review of the antidumping duty order on certain polyester staple fiber from the People’s Republic of China (“PRC”). The period of review (“POR”) is June 1, 2011, through May 31, 2012.

## BACKGROUND

On June 1, 2007, the Department published in the *Federal Register* an antidumping duty order on certain polyester staple fiber from the PRC.<sup>1</sup> On June 29, 2012, the Department received a request from Zhaoqing Tifo New Fiber Co., Ltd. (“Zhaoqing Tifo”) to conduct an administrative review of Zhaoqing Tifo.<sup>2</sup> On June 29, 2012, the Department received a request from Petitioner<sup>3</sup> to conduct an administrative review of Far Eastern Industries (Shanghai) Ltd. and Far Eastern Polychem Industries (“Far Eastern”) and Huvis Sichuan Chemical Fiber Corp., and Huvis Sichuan Polyester Fiber Ltd. (“Huvis Sichuan”).<sup>4</sup> On June 30, 2012, the Department received a

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

<sup>2</sup> See Letter from Zhaoqing Tifo regarding Certain Polyester Staple Fiber from the People's Republic of China Request for Annual Administrative Review dated June 29, 2012.

<sup>3</sup> The petitioner is DAK Americas LLC (hereinafter referred to as “Petitioner”).

<sup>4</sup> See Letter from Petitioner regarding Polyester Staple Fiber from the People’s Republic of China – Request for Fourth {sic} (2011 -2012) Annual Administrative Review, dated June 29, 2011 {sic}. The Department notes that this is the Fifth Administrative Review of Polyester Staple Fiber from the PRC and that Petitioner’s submission was incorrectly dated June 29, 2011, but was submitted to the Department on June 29, 2012.



request from Jiaxing Fuda Chemical Fibre Factory (“Jiaxing Fuda”) to conduct an administrative review.<sup>5</sup> On July 2, 2012, Petitioner submitted a review request that was nearly identical to the request it submitted on June 29, 2012.<sup>6</sup> In this request, Petitioner also requested a review of Far Eastern and Huvis Sichuan, and corrected an error it made in its previous submission (*i.e.*, the date on the first page). On July 2, 2012, the Department received requests from Hangzhou Best Chemical Fibre Co., Ltd. (“Hangzhou Best”), Hangzhou Sanxin Paper Co., Ltd. (“Hangzhou Sanxin Paper”), Hangzhou Huachuang Co., Ltd. (“Hangzhou Huachuang”), Nantong Luolai Chemical Fiber Co., Ltd. (“Nantong Luolai”), and Nanyang Textile Co., Ltd. (“Nanyang Textile”), to conduct an administrative review.<sup>7</sup>

On July 31, 2012, the Department published a notice of initiation of an administrative review of certain polyester staple fiber from the PRC covering the period June 1, 2011, through May 31, 2012, for nine companies.<sup>8</sup>

On August 1, 2012, Jiaxing Fuda withdrew its review request.<sup>9</sup>

On September 28, 2012, Hangzhou Best, Hangzhou Sanxin, Hangzhou Huachuang, Nantong Luolai, and Nanyang Textile withdrew their review requests.<sup>10</sup>

On September 28, 2012, Zhaoqing Tifo submitted its separate rate certification.<sup>11</sup>

On October 2, 2012, the Department released U.S. Customs & Border Protection data under an administrative protective order (“APO”) to all interested parties that obtained access to information covered by the APO. Because of the large number of exporters for which an administrative review had been initiated, the Department had decided that it would limit its

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<sup>5</sup> See Letter from Jiaxing Fuda regarding Jiaxing Fuda Chemical Fibre Factory: Request for Administrative Review of the Antidumping Duty Order on Certain Polyester Staple Fiber from the People’s Republic of China: Period: 06/01/11-5/31/12 (Case No: A-570-905) dated June 30, 2012.

<sup>6</sup> See Letter from Petitioner regarding Polyester Staple Fiber from the People’s Republic of China – Request for Fourth {sic} (2011 -2012) Annual Administrative Review, dated July 2, 2012. The Department notes that this is the Fifth Administrative Review of Polyester Staple Fiber from the PRC.

<sup>7</sup> See Letter from Hangzhou Best, Hangzhou Sanxin, Hangzhou Huachuang, Nantong Luolai, and Nanyang Textile regarding Certain Polyester Staple Fiber from the People’s Republic of China Request for Annual Administrative Review dated July 2, 2012.

<sup>8</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 77 FR 45338 (July 31, 2012) (“*Initiation Notice*”).

<sup>9</sup> See Letter from Jiaxing Fuda regarding Jiaxing Fuda Chemical Fibre Factory: Withdrawal of Request for Administrative Review of the Antidumping Duty Order on Certain Polyester Staple Fiber from the People’s Republic of China (“PRC”): Period -- 06/01/11-5/31/12 (Case No: A-570-905).

<sup>10</sup> See Letter from Hangzhou Best, Hangzhou Sanxin, Hangzhou Huachuang, Nantong Luolai, and Nanyang Textile regarding Certain Polyester Staple Fiber from the People’s Republic of China Withdrawal of Request for Review, dated September 28, 2012.

<sup>11</sup> See Letter from Zhaoqing Tifo regarding Certain Polyester Staple Fiber from the People’s Republic of China: Zhaoqing Tifo Separate Rate Certification, dated September 28, 2012.

examination of respondents, and invited comments regarding respondent selection.<sup>12</sup> The Department received no comments on respondent selection, and no interested party submitted a no shipments certification.

On October 31, 2012, Zhaoqing Tifo timely withdrew its review request.<sup>13</sup> Also on October 31, 2012, the Department tolled all administrative deadlines by two days.<sup>14</sup>

## 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.

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<sup>12</sup> See Memorandum to All Interested Parties regarding 2011 -2012 Administrative Review of the Antidumping Duty Order of Certain Polyester Staple Fiber from the PRC: CBP Data for Respondent Selection, dated October 2, 2012.

<sup>13</sup> See Letter from Zhaoqing Tifo regarding Certain Polyester Staple Fiber from the People's Republic of China Withdrawal of Request for Review, dated October 31, 2012.

<sup>14</sup> As explained in the memorandum from the Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 29, through October 30, 2012. Thus, all deadlines in this segment of the proceeding have been extended by two days. See Memorandum for the Record, from Paul Piquado, Assistant Secretary for Import Administration regarding Tolling Administrative Deadlines as a Result of the Government Closure During Hurricane Sandy, dated October 31, 2012.

## DISCUSSION OF THE METHODOLOGY

### Rescission in Part of This Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. Jiaxing Fuda, Hangzhou Best, Hangzhou Sanxin, Hangzhou Huachuang, Nantong Luolai, Nanyang Textile, and Zhaoqing Tifo have all filed timely withdrawals of their review requests and no other party has requested a review of these companies. Therefore, the Department is rescinding this administrative review for these companies.

### Separate Rates

In proceedings involving NME countries, it is the Department's practice to begin with a rebuttable presumption that all exporters within the country are subject to government control and thus should be assessed at a single antidumping duty rate.<sup>15</sup> It is the Department's policy to assign all exporters of merchandise subject to review in an NME country this single rate unless an exporter can affirmatively demonstrate that it is sufficiently independent so as to be entitled to a separate rate.<sup>16</sup> Exporters can demonstrate this independence through demonstrating the absence of both *de jure* and *de facto* government control over export activities.<sup>17</sup> The Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991) ("*Sparklers*"), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China*, 59 FR 22585, 22586-87 (May 2, 1994) ("*Silicon Carbide*"). However, if the Department determines that an exporter is wholly foreign-owned or located in a market economy ("ME"), then a separate rate analysis is not necessary to determine whether that exporter is free of government control and eligible for a separate rate.

Far Eastern and Huvis Sichuan are under review. Far Eastern does not have a separate rate and did not submit a separate rate application. Therefore, because Far Eastern did not demonstrate its eligibility for a separate rate, the Department preliminarily finds that it continues to be a part of the PRC-wide entity. Huvis Sichuan had previously qualified for, and received, a separate rate but did not submit a separate rate certification in this review. Therefore, because Huvis Sichuan did not demonstrate its continued eligibility for a separate rate, the Department preliminarily finds that it is part of the PRC-wide entity.

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<sup>15</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006); *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303, 29307 (May 22, 2006) ("*Diamond Sawblades*").

<sup>16</sup> See, e.g., *Diamond Sawblades*, 71 FR at 29307.

<sup>17</sup> *Id.*

