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February 27, 2017

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Senior Director, Office I
Antidumping and Countervailing Duty Operations

SUBJECT: Certain Polyester Staple Fiber from the People's Republic of China: Decision Memorandum for the Preliminary Results of the 2015-2016 Antidumping Duty Administrative Review

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SUMMARY

The Department of Commerce (the Department) is conducting the 9th administrative review of the antidumping duty (AD) order on certain polyester staple fiber (PSF) from the People's Republic of China (PRC) covering the period June 1, 2015, through May 31, 2016.[1] The Department preliminarily determines that the sole mandatory respondent, Hangzhou Huachuang Co., Ltd. (Hangzhou Huachuang), that remains under review did not demonstrate that it is entitled to a separate rate. Accordingly, we consider Hangzhou Huachuang to be part of the PRC-Wide Entity.

If we adopt these preliminary results in the final results of the review, we will instruct U.S. Customs and Border Protection (CBP) to assess ADs on all appropriate entries of subject merchandise during the period of review (POR). We invite interested parties to comment on these preliminary results. We expect 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 (the Act).

<u>Background</u>

On June 30, 2016, the Department received a request from Petitioner[2] to conduct an administrative review of Cixi Sansheng Chemical Fiber Co. (Cixi Sansheng) and Hangzhou

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[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 53121 (August 11, 2016) (*Initiation Notice*).
[2] DAK Americas, LLC (Petitioner).

Huachuang.[3] No other party requested an administrative review. On August 11, 2016, the Department published in the *Federal Register* the notice of initiation of the 9th administrative review of the AD order on PSF from the PRC.[4]

On August 30, 2016, the Department issued the AD questionnaire to Cixi Sansheng and Hangzhou Huachuang.[5] On September 20, 2016, Petitioner timely withdrew its request for review with respect to Cixi Sansheng and, thus, the sole company remaining under review is Hangzhou Huachuang.[6] Additionally, on September 26, 2016, the Department suspended its request for Cixi Sansheng to respond to the AD questionnaire due to Petitioner's withdrawal of its request for review of Cixi Sansheng.[7]

For the AD questionnaire issued to Hangzhou Huachuang, for which the Department confirmed delivery, Hanghzou Huachuang did not respond to the questionnaire within the specified deadlines, request and extension of time to respond to the questionnaire, or otherwise communicate with the Department.[8]

Scope of the Order

The product covered by the order is certain polyester staple fiber. The product is currently classified under the Harmonized Tariff Schedule of the United States (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 scope of the order remains dispositive.[9]

DISCUSSION OF THE METHODOLOGY

Partial Rescission

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation.

As noted above, on September 20, 2016, Petitioner withdrew its request for review on Cixi Sansheng.[10] Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90

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[3] *See* Petitioner submission dated June 30, 2016.
[4] *See Initiation Notice*, 81 FR at 53121.
[5] *See* the Department's respective questionnaires to Cixi Shansheng and Hangzhou Huachuag, dated August 30, 2016.
[6] *See* Petitioners' withdrawal of request on Cixi Sansheng, dated September 20, 2016.
[7] *See* Memorandum to the File from Courtney Canales, International Trade Compliance Analyst, "2015-2016 Antidumping Administrative Review of Certain Polyester Staple Fiber from the People's Republic of China: Suspension of Cixi Sansheng's Sections A, C & D Questionnaire Responses," dated September 26, 2016.
[8] *See* Memorandum to the File from Julia Hancock, Senior International Trade Compliance Analyst, "Tracking of Questionnaire to Hangzhou Huachuang Co., Ltd.," dated September 7, 2016. In this memorandum, the Department confirmed that the AD questionnaire issued to Hangzhou Huachuang was delivered *via* Federal Express.
[9] For a full description of the scope of the *Order*, *see* the accompanying *Federal Register* notice dated concurrently with this memorandum.
[10] *See* Petitioner's withdrawal of request on Cixi Sansheng, dated September 20, 2016.

days of the date of publication of the notice of initiation. Petitioner's withdrawal of the review request was submitted within the deadline set forth under 19 CFR 351.213(d)(1) and no other party requested a review of Cixi Sansheng. Accordingly, the Department is rescinding this review, in part, with respect to Cixi Sansheng, in accordance with 19 CFR 351.213(d)(1).

NME Country 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. The Department considers the PRC to be an NME country.[11] Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

Separate Rates

Pursuant to section 771(18)(C)(i) of the Act, a designation of a country as an NME remains in effect until it is revoked by the Department. Accordingly, there is a rebuttable presumption that all companies within an NME are subject to government control, and thus, should be assessed a single AD rate.[12] In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.[13] It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in *Sparklers*,[14] as amplified by *Silicon Carbide*.[15] However, if the Department determines that a company is wholly foreign-owned by individuals or companies located in a market economy (ME), then a separate rate analysis is not necessary to determine whether it is independent from government control.[16]

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11 For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

12 *See 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).

13 *See Initiation Notice*.

14 *See Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (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 (May 2, 1994) (*Silicon Carbide*), and 19 CFR 351.107(d).

15 *See Silicon Carbide*, 59 FR at 22586.

16 *See, e.g.*, *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 9278, 9284 (February 20, 2008), unchanged in *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sale at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008).

As noted above, Hangzhou Huachuang did not respond to the AD questionnaire, and therefore, did not demonstrate that it was entitled to a separate rate. Accordingly, we consider this company to be part of the PRC-Wide Entity. Because no review was requested of the PRC-Wide entity, the pre-existing PRC-Wide rate of 44.30 percent will apply to entries of Hangshou Huachuang's subject merchandise into the United States during the POR.[17]

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

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Agree Disagree

2/27/2017

X Ronald K. Lorentzen

Signed by: RONALD LORENTZEN