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MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: Scot Fullerton
Director, Office VI
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Fine Denier Polyester Staple Fiber from Taiwan: Issues and
Decision Memorandum for the Final Affirmative Determination of
Sales at Less-Than-Fair-Value

I. SUMMARY

The Department of Commerce (Commerce) finds that fine denier polyester staple fiber (fine denier PSF) from Taiwan is, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is April 1, 2016, through March 31, 2017.

After analyzing interested parties' comments, we made certain changes to the margin calculations to Tainan Spinning Co., Ltd. (TSCL), one of the mandatory respondents in this case, other than using updated databases submitted to reflect minor corrections identified at verification. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum.

II. LIST OF ISSUES

- Comment 1: Reported Costs for a Certain Product Control Number (CONNUM)
 - Comment 1(a): Direct Material Costs
 - Comment 1(b): Allocation of Labor and Overhead
 - Comment 1(c): Market Price Methodology for Grades B and C PSF
 - Comment 1(d): Scrap Offset Calculation
- Comment 2: Factoring Agreement
- Comment 3: Packing Cost

III. BACKGROUND

On January 5, 2018, Commerce published the *Preliminary Determination* of sales at less than fair value (LTFV) of fine denier PSF from Taiwan.¹ Between January 8, 2018, and January 19, 2018, Commerce conducted sales and cost verifications of TSCL, in accordance with section 782(i) of the Act. On February 2, 2018, DAK Americas LLC, Nan Ya Plastics Corporation, America, and Auriga Polymers Inc. (the petitioners) requested a public hearing.² The petitioners submitted a case brief on March 12, 2018.³ On March 19, 2018, TSCL submitted its rebuttal brief.⁴ On May 2, 2018, the petitioners withdrew their request for a hearing.⁵

IV. SCOPE OF THE INVESTIGATION

The product covered by this investigation is fine denier polyester staple fiber (fine denier PSF), not carded or combed, measuring less than 3.3 decitex (3 denier) in diameter. The scope covers all fine denier PSF, whether coated or uncoated. The following products are excluded from the scope:

(1) PSF equal to or greater than 3.3 decitex (more than 3 denier, inclusive) currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 5503.20.0045 and 5503.20.0065.

(2) Low-melt PSF defined as a bi-component polyester fiber having a polyester fiber component that melts at a lower temperature than the other polyester fiber component, which is currently classifiable under HTSUS subheading 5503.20.0015.

Fine denier PSF is classifiable under the HTSUS subheading 5503.20.0025. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

¹ See *Fine Denier Polyester Staple Fiber from Taiwan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures* 83 FR 668 (January 5, 2018) (*Preliminary Determination*).

² See Petitioners' Letter "Fine Denier Polyester Fiber from Taiwan – Petitioners' Request for a Hearing."

³ See Petitioners' Case Brief, "Fine Denier Polyester Fiber from Taiwan – Petitioners' Case Brief," dated March 12, 2018 (Case Brief).

⁴ See TSCL's Rebuttal Brief, "Rebuttal Brief of Tainan Spinning Co., Ltd. (TSCL)," dated March 19, 2018 (Rebuttal Brief).

⁵ See Petitioners' Letter "Fine Denier Polyester Fiber from Taiwan – Petitioners' Withdrawal of Request for a Hearing."

V. DISCUSSION OF THE ISSUES

Comment 1: Reported Costs for a Certain Product Control Number (CONNUM)

The petitioners allege that the per-unit cost for one of TSCL's CONNUMs is understated because of multiple distortions resulting from TSCL's reporting methodologies for direct materials, labor and overhead, non-prime products, and scrap.⁶ According to the petitioners, Commerce cannot accept the company's reported costs for this CONNUM, and should correct this understatement by relying instead on the highest non-aberrational per-unit cost of manufacture from TSCL's cost file. The petitioners assert that, in the alternative, Commerce should use a per-unit cost based on the average of other CONNUMs with similar characteristics.

Commerce's Position:

We disagree with the petitioners that TSCL's costs for the CONNUM in question are understated. For the final determination, we have not made the adjustments proposed by the petitioners and are relying on the reported and verified costs. Below, we summarize the parties' comments and present Commerce's position separately as it relates to each of the issues.

Comment 1(a): Direct Material Costs

Petitioners' Comments

- TSCL's methodology for reporting direct materials contributes to an understatement of the per-unit costs for one CONNUM in particular (*i.e.*, the CONNUM produced on the U2 and U3 production lines).
- TSCL states that it used two different bases to calculate material costs: finished goods production quantity for production lines U2 and U3, and chip-specific consumption for production line U4. The use of finished goods quantity in allocating material costs for products produced in the U2 and U3 lines is inconsistent with Commerce's reporting requirements. TSCL should have started with the raw material inputs, not the finished goods production quantity at the end of the production process, to allocate material costs incurred during polymerization. This improper starting point for raw material reporting is distortive, and Commerce could not verify whether the company had correctly allocated the cost of input material between polyester polymer consumed in the U3 line and the polymer chips that were consumed in the U4 line.
- Because TSCL submitted corrections to the quantity of scrap generated at the outset of verification and because the company calculated yield loss only for the spinning stage due to the improper starting point of the cost buildups, there is no way for Commerce to ensure that TSCL correctly reported the production quantity, scrap quantity, or yield loss.

⁶ As discussed in Comment 1(b) below, because some of the information pertaining to TSCL's labor and overhead allocation methodology is not susceptible to public summary, we have summarized and addressed those portions of that argument in full in our cost calculation memorandum. *See* Memorandum to Neal M. Halper, Cost of Production and Constructed Value Calculation Adjustments for the Final Determination – Tainan Spinning Co. Ltd., dated concurrently with this memorandum (TSCL Final Cost Memorandum).

TSCL's Comments

- Commerce instructs respondents to use their normal books and records as the starting point for reporting.
- In TSCL's production process, polyethylene terephthalic acid (PTA) and monoethylene glycol (MEG) are introduced in the polymerization stage to produce polyester polymer and polymer chips, which then go through spinning to produce polyester cables. All polyester cables from the spinning stage are then transferred to the fiber stage to produce PSF. Therefore, TSCL's reporting methodology fully captures the PTA and MEG input costs.
- All products from the U2 and U3 lines are classified in the same CONNUM and consumed the same source of polyester polymer, and mathematically the result of allocating based on finished goods quantities or based on the specific type of polyester polymer/chip is the same.
- The differences in yield rates among the three production lines are caused by the nature of the continuous versus the batch spinning lines. Lines U2 and U3 are continuous lines with a production capacity of 5,000 MT per month, while the U4 batch spinning line has a capacity of around 200 MT.
- As the record demonstrates, the cost of the polyester polymer consumed in the U3 spinning stage is the same as the cost of the polyester polymer that is consumed in the production of chips that are input in the U4 line.

Commerce's Position:

We disagree with the petitioners that TSCL's reporting methodology for direct materials results in an understatement of the per-unit costs for the CONNUM at issue. TSCL operates three production lines to produce PSF - two are continuous lines (U2 and U3) and one (U4) is a batch spinning line which consumes polymer chips as inputs.⁷ There are three major stages in the production of PSF – polymerization, spinning, and fiber. In TSCL's U3 line, some of the polyester polymer produced during the polymerization stage is used to produce polymer chips which are then consumed in the U4 batch spinning line. TSCL also uses purchased specialty chips in its U4 production line to produce specialty fibers.⁸

The petitioners maintain that, to calculate material cost for products produced on the U2 and U3 lines, TSCL should have started with the raw material inputs, rather than using the finished goods production quantity at the end of the production process to allocate material costs incurred during polymerization. We do not agree with the petitioners' characterization of TSCL's direct material reporting as it relates to PSF manufactured on the U2 and U3 production lines. PTA and MEG inputs are introduced in the polymerization stage, and the resulting polyester polymer then goes through the spinning stage to produce polyester cables.⁹ All of the polyester cables are introduced into the fiber stage of production to produce PSF.¹⁰ As such, TSCL's reporting methodology for the U2 and U3 lines fully captures the cost of the input raw materials. TSCL's methodology (*i.e.*, allocating total input cost over finished production) ensures a fully yielded

⁷ See TSCL's September 18, 2017 section D response (section D response) at 4.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

per-unit material cost. During the cost verification, Commerce verified that TSCL's reported costs captured all PTA and MEG input costs as recorded in the company's normal accounting records.¹¹ We also verified the company's reported production quantities over which the PTA and MEG input costs were allocated.¹² Additionally, because all products produced on the U2 and U3 lines are classified within a single CONNUM and consumed the same source of polyester polymer, the resulting per-unit material cost would be the same even if calculated based on the chip-specific consumption of materials as suggested by the petitioners.

We disagree with the petitioners that, because of TSCL's raw material reporting methodologies, Commerce was unable to ensure that the company had correctly allocated the cost of PTA and MEG between polyester polymer used for continuous spinning in the U3 line and the polyester polymer used to produce chips consumed in the U4 batch spinning line. The record demonstrates that TSCL maintains direct cost centers that are specific to each production line and production stage.¹³ After the intermediate products (*e.g.*, polyester polymer, polyester cables) complete each stage, their costs are transferred to the direct cost center corresponding to the next production step.¹⁴ For the U3 line, the cost of the polyester polymer made from the PTA and MEG inputs is either transferred to the U3 spinning stage cost center or to the cost center related to the production of chips that are introduced in the U4 batch spinning line.¹⁵ As Commerce confirmed during its review of TSCL's accounting records during verification, whether the polyester polymer is consumed in the U3 spinning stage or consumed to make polyester chips, the transfer is valued in the company's normal books and records at the same unit cost.¹⁶

The petitioners also allege that because of the changes submitted at verification related to scrap, and because of the company's reporting methodologies in general, Commerce was unable to ensure that TSCL had correctly reported its scrap and finished goods production quantities or yield loss rates. According to the petitioners, there appears to be a discrepancy when comparing the calculated yield loss (*i.e.*, the input quantity of raw materials less the output quantity of finished goods) and the revised scrap quantity presented at verification. However, the calculated yield loss figure submitted in support of the petitioners' contention does not account for the change in work-in-process (WIP) inventory quantities.¹⁷ If the WIP quantities are considered in deriving the overall yield loss figure, the result is comparable to the revised quantity of scrap generated.¹⁸ Moreover, as discussed in further detail at Comment 1(d) below, Commerce

¹¹ See Memorandum to the File, Verification of the Cost Response of Tainan Spinning Co. Ltd. in the Less-Than-Fair-Value Investigation of Fine Denier Polyester Staple Fiber from Taiwan, February 27, 2018 (TSCL Cost Verification Report) at 18-20.

¹² See TSCL Cost Verification Report at 16.

¹³ See TSCL's section D response at Exhibit D-8.

¹⁴ *Id.* at 13.

¹⁵ *Id.* at Exhibit D-1 (production process/cost center flowchart).

¹⁶ See Cost Verification Exhibit (CVE) 15 at 25 (Finished Goods Inventory Report for the U3 polymerization cost center showing the transfer of polyester polymer, the intermediate product, to the different cost centers at the same unit cost).

¹⁷ See Petitioners' Case Brief at 9 (footnote 28).

¹⁸ The overall yield loss calculation is: (material input quantities + beginning work-in-process inventories - closing work-in-process inventories) - finished goods production quantities. See, *e.g.*, CVE 9 (Average Yield Loss Rate) at 1.

verified TSCL's scrap and finished goods quantities, as well as the consumption quantities of the PTA and MEG inputs.¹⁹

For the foregoing reasons, we do not find that TSCL's methodology for reporting direct materials results in an understatement of the per-unit costs for the CONNUM at issue, as the petitioners allege.

Comment 1(b): Allocation of Labor and Overhead

Petitioners' Comments

- TSCL explains that it used production capacity (for direct labor and fixed overhead) and utility consumption (for variable overhead) to allocate costs incurred at the spinning stage to its three production lines, then to the products produced within those lines based on *equivalent production quantities*. TSCL also explains that it allocated direct labor and overhead at the fiber stage of production based on *finished goods production quantities*.
- The key factor between these conflicting measurements appears to be the "conversion ratio" for each product. The cost buildup worksheets obtained at verification show that TSCL used a consistent conversion ratio of 1.00 for all products produced in the U2 and U3 production lines.
- This means that there was no yield loss during the production process. In addition, TSCL determined the conversion ratios using standard output volumes, but given the product characteristics of PSF produced on these two lines, there should be some corresponding variances in output quantities and the corresponding conversion ratios.
- Commerce confirmed at verification that there are differences in output volumes among products manufactured on the U2 and U3.
- For the final determination, Commerce should reject TSCL's misreported conversion ratios and adjust the cost for the affected CONNUM to correct these inaccuracies.

TSCL's Comments

- A conversion ratio of 1.00 assigned to all products produced in the U2 and U3 lines does not indicate that zero yield loss was achieved.
- Even if differing conversion ratios were assigned to the products produced in the U2 and U3 lines to reflect variances in output volume, any resulting differences in the conversion costs allocated to those products would not matter because they are all classified in the same CONNUM and weight-averaged together. This conclusion was made by Commerce in its cost verification report.

Background

In this memorandum, we address the public arguments summarized above related to TSCL's conversion cost allocation methodology. Because certain information in the petitioners' case brief relating to this issue is business proprietary, we have addressed the business proprietary portions of their arguments relating to conversion costs in the TSCL Final Cost Memorandum.

¹⁹ See TSCL Cost Verification Report at 16 and 21-22.

Commerce's Position:

We disagree with the petitioners that the conversion ratios TSCL used to allocate labor and overhead result in inaccuracies in the reported costs for the CONNUM at issue. TSCL operates three production lines to produce PSF - two are continuous lines (U2 and U3) and one (U4) is a batch spinning line.²⁰ When responding to our questionnaire, TSCL relied on a two-step methodology to allocate conversion costs incurred at the spinning stage.²¹ In the first step, TSCL used production capacity (for direct labor and fixed overhead) and utility consumption (for variable overhead) to allocate these costs to the different production lines. In the second step, TSCL allocated the resulting cost pools to the products within each line based on equivalent production quantities, as follows. First, TSCL calculated a product-specific "conversion ratio." To calculate the ratios, TSCL identified the optimal standard output quantity (*i.e.* the maximum possible efficiency) for any of its PSF products and divided that figure by the product-specific standard output volume for each product. For products included in the "optimal" group which require the least processing time to produce a given quantity of finished product, the conversion ratio will be exactly 1.00 (*e.g.*, 200 grams per minute, divided by 200 grams per minute = 1.00), while products with efficiencies lower than the optimal output will have conversion ratios of greater than 1.00 (*e.g.*, 200 grams per minute, divided by 175 or 150 grams per minute = 1.14 or 1.33).²² TSCL then multiplied these conversion ratios by the product-specific actual production quantity to derive weighted (or "equivalent") production quantities that were used as the allocation basis for the spinning stage conversion costs derived in step 1 above.²³ Under this methodology, products with lower efficiencies (and resulting higher conversion ratios) that require more processing time are allocated a greater proportional share of spinning stage labor and overhead. Unlike the products manufactured on U4, which are classified into several different CONNUMs, all products produced on the U2 and U3 lines are classified into a single CONNUM for reporting purposes. TSCL therefore used a conversion ratio of 1.00 for all products manufactured on the U2 and U3 lines regardless of any differences in processing efficiencies among them.²⁴

According to the petitioners, TSCL provided conflicting descriptions on the record related to the allocation of labor and overhead, explaining on the one hand that it relied on "equivalent production quantities" while also stating that it used "finished goods production quantities."²⁵ However, the allocation methodology described above (*i.e.*, incorporating equivalent production quantities) relates only to the spinning stage of PSF production.²⁶ To allocate conversion costs at the fiber stage, TSCL instead relied on finished goods production quantities.²⁷ As such, we do

²⁰ See TSCL's section D response at 4.

²¹ The three main steps in manufacturing PSF are: polymerization, spinning, and fiber. The allocation methodology discussed here relates to costs incurred at the spinning stage only.

²² These are merely examples; we do not disclose here any of TSCL's business proprietary information.

²³ While equivalent/weighted quantities were used to allocate spinning stage conversion costs to the different products, for purposes of deriving the reported per-unit costs in the cost file, TSCL divided by the actual production quantity of each product (not the equivalent quantities).

²⁴ For the U2/U3 products, because the conversion ratio is set to "1.00," the weighted or equivalent quantities will be the same as the actual finished goods production quantities.

²⁵ See Petitioners' Case Brief at 10.

²⁶ See TSCL's section D response at 21 and at Exhibit D-20-1.

²⁷ See TSCL's section D response at 22 and at Exhibit D-20-1.

not find that TSCL's descriptions of its cost allocation methodologies are in conflict or that these measurements are inconsistent for our purposes.

We disagree with the petitioners that a conversion ratio of 1.00 assumes zero yield loss for a given product. As described above, the conversion ratios were developed by TSCL to measure relative differences in processing efficiencies among products as a means of allocating labor and overhead costs incurred at the spinning stage of PSF production. These ratios are not related to TSCL's processing yields, which are a measure of the raw material input quantity required to produce a given quantity of finished goods.²⁸

We also disagree that assigning a conversion ratio of 1.00 to all U2 and U3 products results in a distortion of the CONNUM-specific costs as alleged. The petitioners are correct that there are differences among the standard output volumes/processing efficiencies for U2 and U3 products. This is also true for products manufactured in TSCL's U4 batch spinning line. However, the U4 products, unlike those produced in the U2 and U3 lines, are classified into several different CONNUMs.²⁹ Under sections 773(f)(1)(A) and 773(a)(6)(C)(ii) and (iii) of the Act, Commerce requires that a respondent's costs reflect meaningful cost differences attributable to different physical characteristics.³⁰ To that end, as described above, TSCL relied on the different product-specific processing efficiencies and related conversion ratios for the U4 products in order to allocate spinning stage conversion costs on a CONNUM-specific basis. These distinctions, however, are not relevant with respect to the U2 and U3 production lines. Because all PSF manufactured on these production lines is classified within a single CONNUM, it was not necessary to derive costs that vary from product to product, and TSCL simply used a constant ratio of 1.00 for all products originating from those lines. Any differences in product-specific standard output volumes (and the related conversion ratios) for the U2 and U3 lines would have no effect on the final per-unit conversion costs for that one CONNUM because of product weight averaging within the CONNUM.

Commerce examined the various elements of TSCL's methodology for allocating labor and overhead costs at the cost verification. Specifically, in addition to verifying that TSCL had reported the total pool of labor and overhead costs associated with the production of PSF, Commerce tested the product-specific standard output volumes used to derive the conversion ratios, as well as the product-specific actual production quantities to which the conversion ratios were applied.³¹ Further, through our review during verification of TSCL's CONNUM-specific cost buildup worksheets, we confirmed that all products produced in the U2 and U3 production lines were classified in the same CONNUM for reporting purposes.³²

In sum, we do not find that TSCL's reported per-unit costs for the CONNUM at issue suffer from inaccuracies stemming from its use of conversion ratios to allocate labor and overhead at the spinning stage.

²⁸ See, e.g., TSCL's section D response at Exhibit D-11.

²⁹ See TSCL's section D response at Exhibit D-20-1 and D-20-2.

³⁰ See, e.g., *Carbon and Alloy Steel Wire Rod from the Republic of Korea: Final Affirmative Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 83 FR 13228 (March 28, 2018) and accompanying Issues and Decision Memorandum at Comment 1.

³¹ See TSCL Cost Verification Report at 22-25.

³² *Id.* at 20.

Comment 1(c): Market Price Methodology for Grades B and C PSF

Petitioners' Comments

- The methodology in TSCL's normal books and records of assigning costs to non-prime (*i.e.*, grades B and C) products during the last quarter of the POI based on market values improperly reduces the reported costs allocable to grade A PSF.
- The record suggests that TSCL may have misreported the sales and/or production quantities of non-prime PSF products.

TSCL's Comments

- TSCL implemented a market price-based methodology in its normal books and records during the last quarter of the POI, but it did not rely on this methodology for reporting to Commerce.
- The petitioners' argument regarding the alleged misreporting of non-prime PSF sales and production quantities is based on an estimate that was calculated incorrectly.

Commerce's Position:

We disagree with the petitioners that the reported costs for grade A PSF products are understated due to the methodology employed by TSCL during the last quarter of the POI. Until the end of 2016, TSCL's cost accounting records did not distinguish among the different grades of finished products.³³ In January 2017, TSCL began valuing grades B and C PSF manufactured on its U2 and U3 production lines based on the market prices for these products as maintained by its sales department. Under this methodology, the quantities of grades B and/or C PSF produced during the month are multiplied by the corresponding market prices to determine the total manufacturing costs assigned to grades B or C merchandise, and the remaining manufacturing costs are allocated to the grade A PSF quantities.³⁴ The petitioners conclude that, based on the per-unit prices that are reported for non-prime PSF in TSCL's home market sales file, the costs allocated to these products under this methodology are overstated, resulting in an understatement of costs to the grade A products.

However, TSCL did not rely on the market price-based valuation methodology to report the costs for PSF produced during the last quarter of the POI. Rather, the company calculated its reported CONNUM-specific per-unit costs for the POI without regard to grade distinctions, consistent with the methodology in effect in TSCL's normal accounting records for the first nine months of the POI.³⁵ The reporting methodology employed by TSCL (*i.e.*, the allocation of full costs to products regardless of grade) is also consistent with Commerce's normal practice related to the

³³ See TSCL's section D response at 13; *see also* TSCL Cost Verification Report at 6.

³⁴ *Id.*

³⁵ See TSCL Cost Verification Report at 6. *See also* CVE 15 at 3-27 (cost buildups for the largest CONNUM). The CONNUM worksheets show the total PSF production quantity, which includes non-prime merchandise, and demonstrate the allocation of the total POI costs in TSCL's normal accounting records to the various products without regard to grade.

costing of prime versus non-prime merchandise.³⁶ Where non-prime products may be used in the same applications as the prime merchandise, as is the case for TSCL's grades B and C PSF products, Commerce normally finds it appropriate to value the non-prime products in the same manner as their prime counterparts.³⁷

We also disagree with the petitioners that TSCL has likely misreported its sales quantities and/or production quantities for non-prime PSF products. The petitioners calculated an estimate of the POI quantity of PSF reclassified from grade A to either grades B or C based on a schedule submitted by TSCL showing the grade reclassifications made during the first quarter of 2017.³⁸ The petitioners compared this estimate, which they state was calculated as the quantity reclassified during the first quarter of 2017 times four, to the POI quantity of non-prime products reported in TSCL's home market sales file. The petitioners conclude that the discrepancy between the two figures suggests that the company may have misreported either or both figures. However, in deriving the estimated annualized quantity of reclassified non-prime merchandise, the petitioners incorrectly used the quantity for a single month. If the correct quarterly quantity were used, the resulting estimated POI quantity of reclassifications from prime to non-prime would be comparable to the reported non-prime home market sales quantity.³⁹ Commerce fully verified TSCL's reported sales and production quantities for both prime and non-prime PSF during the sales and cost verifications.⁴⁰

Comment 1(d): Scrap Offset Calculation

Petitioners' Comments

- TSCL's revision to the scrap offset calculation (specifically, to the quantity of scrap generated) at the start of the cost verification is not minor.
- TSCL failed to recalculate the POI average scrap sales value in the scrap offset calculation to incorporate the revised quantity of scrap generated derived from its production records.
- There is a discrepancy between the scrap quantity generated and the scrap quantity sold, and TSCL did not provide evidence to support either of these quantities.
- TSCL also did not support the reported POI average sales value used in the scrap offset calculation and the use of this unsubstantiated sales value results in an understatement of costs.

TSCL's Comments

³⁶ See, e.g., *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 42075 (September 6, 2017), and accompanying Issues and Decision Memorandum at Comment 18.

³⁷ *Id.*; see also TSCL's section D response at 16.

³⁸ See TSCL's section D response at Exhibit D-10.

³⁹ *Id.* (showing the quantity of PSF reclassified from prime to non-prime for the first quarter of 2017); see also TSCL's "TSCLHM04" sales file (where PRIMEH=2), submitted on March 7, 2018.

⁴⁰ See TSCL Cost Verification Report at 16; see also Memorandum, "Verification of the Sales Responses of Tainan Spinning Co., Ltd.," dated February 28, 2018 (TSCL Sales Verification Report), at 13.

- A revision to the quantity of scrap generated does not require a recalculation of the “average sales value” that is used in the scrap offset calculation.
- Commerce fully verified all the components of the reported scrap offset.

Commerce’s Position:

We disagree with the petitioners’ first assertion that the changes to the scrap offset calculation do not qualify as minor. At the commencement of the cost verification, TSCL identified a correction to the reported quantity of scrap generated during the POI, along with a revised offset calculation incorporating the revised scrap production quantity.⁴¹ Commerce reviewed the various changes identified by TSCL while preparing for verification, and accepted these changes as minor corrections.⁴² Correcting the scrap offset to reflect the revised quantity of scrap generated has a very small effect on the company’s total reported cost of manufacturing and on the CONNUM-specific per-unit costs. Consistent with our decision at verification to accept the corrections to the cost data that were identified by TSCL on the first day of verification, we find that the change to the scrap generation quantity is clearly minor in nature.

Additionally, we do not agree with the petitioners that TSCL should have recalculated the average scrap sales value, which was derived from the sales ledger, based on the production records that were the source for the revised scrap production quantity. To determine the total value of its revised scrap offset, TSCL first identified the quantity of scrap generated from its production records, then assigned a value to the quantity generated based on the average per-unit sales value of scrap (*i.e.*, scrap revenue divided by scrap quantity sold) derived from a different source, its scrap sales sub-ledger.⁴³ The scrap generation and scrap sales quantities are separate components of this calculation that are independent of one another, and a revision to the quantity of scrap generated does not require a recalculation of the average sales value to which it is applied.⁴⁴

Further, we do not find that TSCL failed to substantiate the elements of its scrap offset calculation as alleged. In its supplemental section D response, TSCL provided supporting documentation related to its scrap sales during the POI, including sample sales invoices and a reconciliation of total scrap revenue used in the calculation of the average sales value to the related sub-ledger accounts.⁴⁵ During the cost verification, we examined TSCL’s scrap production records, tying the scrap production quantities in those documents to the revised scrap generation quantity presented by the company as part of its minor corrections.⁴⁶ Additionally,

⁴¹ See TSCL Cost Verification Report at 2. See also CVE 1 at 1.

⁴² *Id.*

⁴³ See TSCL’s section D response at Exhibit D-19 and TSCL’s November 14, 2017 section D supplemental response at Exhibit 3SE-1-1 (supplemental section D response) (showing the average scrap sales value); see also CVE 1 (Minor Corrections) and CVE 12 (Scrap Recovery).

⁴⁴ Commerce’s normal practice is to allow for a scrap offset related to the quantity of scrap generated. See, e.g., *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Federal Republic of Germany: Final Determination of Sales at Less Than Fair Value*, 82 FR 16360 (April 4, 2017) and accompanying Issues and Decision Memorandum at Comment 18. Normally, as is the case with TSCL’s calculation, the value assigned to the quantity of scrap generated is based on scrap sales during the relevant period.

⁴⁵ See TSCL’s supplemental section D response at Exhibits 3SE-2a and 3SE-2-b.

⁴⁶ See TSCL Cost Verification Report at 21-22; see also CVE 12 at 70-97 (scrap production records).

we tested the components of the reported POI average sales value (*i.e.*, sales revenue and sales quantity) by reviewing TSCL's scrap sales sub-ledger and scrap inventory ledger and examining selected scrap sales invoices.⁴⁷ Therefore, for the reasons discussed above, we are satisfied that the record is accurate regarding TSCL's reported scrap offset calculation and that it does not result in an understatement of costs as alleged by the petitioners.

Comment 2: Factoring Agreement

Petitioners' Comments

- Commerce should adjust TSCL's reported U.S. selling expenses to account for its inconsistent statements and incomplete documentation regarding sales of its accounts receivables under a factoring agreement.
- TSCL provided little information regarding the payments that it received under the factoring agreement.⁴⁸ Lacking a reconciliation of those payments, it is not clear how much TSCL received, or whether it received payments, for all of its U.S. sales of subject merchandise.
- For the first time, at verification, TSCL revealed that the U.S. customer pays TSCL under the factoring agreement by transferring funds to the customer's own bank account.⁴⁹ This does not make sense because it is not possible for the U.S. customer to make payments to TSCL by recording an internal transfer to its own account.
- The ownership of this bank account that was disclosed at verification confirms that TSCL's U.S. sales are part of a complicated and undisclosed arrangement. The customer's payment to a bank account held by itself does not make sense and "raises serious questions as to whether {TSCL} reported its U.S. sales prices, selling expenses, commissions, terms of sales and terms of payment accurately and completely." Thus, TSCL's reported U.S. sales data are not reliable.
- The record does not disclose whether, or how, TSCL's sales agent was involved in the factoring arrangement.
- Given the significant discrepancy, first disclosed at verification, that the U.S. customer makes sales payments to its own bank account under the factoring agreement, Commerce should: 1) deny the commission offset for U.S. sales; 2) assign the highest credit expense reported for any sale to all U.S. sales; 3) adjust international freight expenses to account for the evidence calling into question whether this expense includes U.S. inland freight charges as reported; and 4) increase the reported bank charges using, as partial facts available, a particular factoring charge (which has business proprietary information (BPI)).⁵⁰

⁴⁷ See TSCL Cost Verification Report at 21-22; *see also* CVE 12 at 5-37 (scrap invoices and scrap sales sub-ledger).

⁴⁸ See Memorandum, "Proprietary Information for the Final Determination of the Antidumping Duty Investigation of Fine Denier Polyester Staple Fiber from Taiwan," dated concurrently with this memorandum (BPI Memorandum), at Note 1 for an additional allegation by the petitioners involving proprietary information regarding the factoring agreement.

⁴⁹ See TSCL Sales Verification Report.

⁵⁰ The petitioners further allege that the record evidence contradicts TSCL's reported terms of sale and TSCL's assertion that the reported international freight expenses include U.S. inland freight expenses. Specifically, shipping documentation shows itemized charges for ocean freight and marine insurance but not for U.S. inland freight.

TSCL's Comments

- TSCL fully reported its U.S. selling expenses.
- The owner of the bank account at issue was identified and documented in a supplemental questionnaire response. Under the factoring arrangement, TSCL was instructed to inform its U.S. customer to make payments directly to the bank account in question.
- Commerce verified the factoring arrangement and documentation obtained at verification which confirms that TSCL received payments for the sales value and paid a factoring fee.

Commerce's Position:

We disagree with the petitioners. The petitioners' argument is based on the following statement in the verification report:

The sales manager in charge of U.S. sales stated that TSCL had no control over the [***] bank account held by its U.S. customer. In examining sales records of U.S. sales, we noted no discrepancy with this statement.

The petitioners consider the statement that the bank account is held by the U.S. customer to constitute a significant discrepancy, first disclosed at verification, because it was not previously reported that the U.S. customer held the account and, if true, this unexplained internal payment to itself raises questions regarding the operations of the factoring arrangement, associated expenses, and payment amounts for sales. However, record evidence shows that the statement the bank account is "held by its U.S. customer" is a misstatement rather than a significant discrepancy. As explained below, documentation provided before verification, and documentation obtained at verification, shows the bank account is not held by the U.S. customer. The documentation supports the information reported by TSCL prior to verification.

Specifically, in TSCL's December 4, 2017 SQR, it reported the owner of the bank account, and the party under the factoring agreement who directed that payments be made to the account. TSCL provided documentation in the SQR to support this information.⁵¹ These documents show that TSCL's U.S. customer did not make internal transfers to its own account.

Furthermore, the documentation obtained at verification supports the information that TSCL reported regarding the account.⁵² We examined TSCL's factoring arrangement at verification, including associated factoring charges and payments received by TSCL under the arrangement.⁵³ We did not find any discrepancies.⁵⁴ Thus, with the exception of one statement, regarding the bank account being held by the U.S. customer, all of the other record evidence supports the information that TSCL reported regarding the holder of the account in question. Although we stated in the verification report that "{i}n examining sales records of U.S. sales, we noted no discrepancy with this statement" it is clear that the statement was conveying the fact that TSCL had no control over the account, and there is no evidence contradicting this statement.

⁵¹ See TSCL December 4, 2017 SQR, at 4SE-13; *see also* BPI Memorandum at Note 2.

⁵² See TSCL Sales Verification Report, at SVE-30-33; *see also* BPI Memorandum at Note 3.

⁵³ See TSCL Sales Verification Report, at 23 and SVE-30-33.

⁵⁴ See BPI Memorandum at Note 4 and TSCL Sales Verification Report at 23.

Because the record evidence shows that details regarding the factoring arrangement were correctly reported by TSCL, there is no evidence of undisclosed arrangements associated with factoring, and the amounts paid to TSCL for accounts receivables under the arrangement were verified, we have not made any of the adjustments specified by the petitioners.

Comment 3: Packing Cost

Petitioners' Comments

- TSCL reported a smaller packing cost in the U.S. sales database than the amount subtracted to derive the cost of manufacturing (COM), net of packing costs. This either incorrectly inflated the U.S. sales price or incorrectly decreased the COM.⁵⁵
- Commerce should correct this error by assigning to the variable PACKU the per-unit packing cost used in calculating COM.

TSCL's Comments

- The petitioners are incorrect when they claim that the smaller packing cost in the U.S. sales database incorrectly inflated the U.S. sales price or incorrectly decreased the COM.
- In calculating COM, TSCL subtracted total packing costs for all finished goods, regardless of the ultimate destination of the goods, including packing costs for exports to third countries.⁵⁶ The U.S. packing costs are less than the packing costs used in the COM calculation because TSCL excluded packing costs for exports to third countries in calculating per-unit U.S. packing costs.

Commerce's Position:

We agree with TSCL. COM includes the direct material, direct labor, variable manufacturing overhead, and fixed manufacturing overhead costs incurred to produce the merchandise. The record shows that TSCL appropriately subtracted all packing costs, including the additional costs incurred to pack merchandise sold to third-countries, from the costs it used to determine the COM of subject merchandise (costs net of all packing costs).⁵⁷ Further, the record shows that TSCL appropriately excluded packing costs for third-country sales from the packing costs reported in its U.S. sales database.⁵⁸ The fact that the two above packing costs differ is not an error. Commerce's questionnaire instructed TSCL to "{r}eport the unit cost of packing the subject merchandise for shipment to the United States" in its U.S. sales database.⁵⁹ The petitioners have provided no basis for including third-country packing costs in the packing costs reported for U.S. sales. Furthermore, it is not clear how this smaller U.S. packing cost incorrectly inflated U.S. sales prices given that packing costs are not subtracted from U.S. sales prices in calculating net U.S. prices for comparison purposes involving export price sales. Therefore, for the final determination, we have not made the adjustment suggested by the petitioners.

⁵⁵ See TSCL's March 8, 2018, home market and U.S. sales databases and TSCL November 14, 2017 Supplemental Section D Response (TSCL November 14, 2017 SQR), at 3SE-4-a-2-4.

⁵⁶ See Rebuttal Brief, at 13.

⁵⁷ See TSCL Sales Verification Report, at SVE-1 and *id.*

⁵⁸ See TSCL Cost Verification Report at MEC-3 and TSCL Sales Verification Report at SVE-1.

⁵⁹ See TSCL's September 13, 2018, section C response, at C-36.

Comment 4: Application of Partial Facts Available

Petitioners' Comments

- The record is missing necessary information regarding TSCL's U.S. sales, its packing costs, and contains numerous cost issues. TSCL had multiple opportunities to provide complete and accurate information to Commerce but failed to do so as evidenced by the fact that it provided new, inaccurate, incomplete or contradictory information at verification.
- The information that TSCL provided at verification was untimely (*i.e.*, provided at verification for the first time), unverifiable, incomplete, beyond use, and cannot be used without undue difficulties. The fact that TSCL provided contradictory information at verification demonstrates that it failed to act to the best of its ability to provide information requested by Commerce.
- Therefore, Commerce should apply the facts available (FA) suggested in the comments above to calculate a final dumping margin for TSCL.

Respondent did not comment.

Commerce's Position:

We disagree with the petitioners. Sections 776(a)(1) and (2) of the Act provide that Commerce shall apply "facts otherwise available" if, necessary information is not on the record or an interested party: (A) withholds information requested by Commerce, (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, as provided by section 782(i) of the Act.

We find that FA is not warranted because record evidence indicates that TSCL provided the necessary information requested by Commerce and this information was verified. Specifically, TSCL provided full responses to Commerce's questionnaire and supplemental questionnaires within the established deadlines. As explained in Commerce's positions to the comments above, we do not find the information provided by TSCL in its responses to the questionnaire or supplemental questionnaires to be inaccurate or incomplete. Nor was the information provided by TSCL unverifiable. TSCL participated in two verifications (sales and cost of production verifications) during which Commerce fully verified TSCL's questionnaire and supplemental questionnaire responses. Finally, we disagree with the petitioners that there was untimely information on the record. Specifically, we stated in Comment 2 above that we did not find any discrepancies in the verification and no new information was disclosed during the verification that would be considered untimely. Therefore, TSCL did not provide new, inaccurate or incomplete information at verification. Hence, we have determined that the application of partial FA is unwarranted.

VI. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final determination of this investigation and the final weighted-average dumping margins in the *Federal Register*.



Agree

Disagree

5/23/2018

X



Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance