

## Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found to be countervailable, we preliminarily find that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.<sup>8</sup> For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

## Preliminary Results of Review

We preliminarily determine the following net countervailable subsidy rate for the mandatory respondent, Jindal, for the period January 1, 2018 through December 31, 2018:

Manufacturer/exporter	Subsidy rate (percent <i>ad valorem</i> )
Jindal Poly Films Limited .....	11.65

## Assessment Rates

Consistent with section 751(a)(1) of the Act and 19 CFR 351.212(b)(2), upon issuance of the final results, Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review. We intend to issue instructions to CBP 15 days after publication of the final results of this review. For the companies for which this review is rescinded, Commerce will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2018 through December 31, 2018, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

## Cash Deposit Requirements

In accordance with section 751(a)(2)(C) of the Act, Commerce also intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount shown above for Jindal, with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for

consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits at the most recent company specific or all-others rate applicable to the company. These cash deposit requirements, when imposed, shall remain in effect until further notice.

## Disclosure and Public Comment

We will disclose to parties in this review the calculations performed in reaching the preliminary results within five days of publication of these preliminary results.<sup>9</sup> Interested parties may submit written comments (case briefs) on the preliminary results no later than 30 days from the date of publication of this **Federal Register** notice, and rebuttal comments (rebuttal briefs) within five days after the time limit for filing case briefs.<sup>10</sup> Pursuant to 19 CFR 351.309(d)(2), rebuttal briefs must be limited to issues raised in the case briefs. Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>11</sup> All briefs must be filed electronically using ACCESS.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.<sup>12</sup> Hearing requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Issues addressed at the hearing will be limited to those raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined.<sup>13</sup>

An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>14</sup> Parties are reminded that briefs and

hearing requests are to be filed electronically using ACCESS and that electronically filed documents must be received successfully in their entirety by 5 p.m. Eastern Time on the due date. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>15</sup>

Commerce intends to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, no later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h), unless this deadline is extended.

## Notification to Interested Parties

These preliminary results and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: November 17, 2020.

**Joseph A. Laroski Jr.,**

*Deputy Assistant Secretary for Policy and Negotiations.*

## Appendix

### List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Partial Rescission of Administrative Review
- IV. Scope of the Order
- V. Subsidies Valuation Information
- VI. Use of Facts Otherwise Available and Adverse Inferences
- VII. Analysis of Programs
- VIII. Recommendation

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-560-838, A-557-823, A-549-843, A-552-832]

### Polyester Textured Yarn From Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations

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

**DATES:** Applicable November 17, 2020.

### FOR FURTHER INFORMATION CONTACT:

Peter Shaw at (202) 482-0697 (Indonesia); Daniel Alexander at (202) 486-2000 (Malaysia); Peter Zukowski at

<sup>15</sup> *Id.*

<sup>8</sup> See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and, section 771(5A) of the Act regarding specificity.

<sup>9</sup> See 19 CFR 351.224(b).

<sup>10</sup> See 19 CFR 351.309(c)(1)(ii); 351.309(d)(1); and 19 CFR 351.303 (for general filing requirements).

<sup>11</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>12</sup> See 19 CFR 351.310(c).

<sup>13</sup> See 19 CFR 351.310(c).

<sup>14</sup> See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period, 85 FR 41363 (July 10, 2020).

(202) 482-0189 (Thailand); and Margaret Collins at (202) 482-6250 (Vietnam); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### The Petitions

On October 28, 2020, the Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of polyester textured yarn from Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam (Vietnam) filed in proper form on behalf of the petitioners,<sup>1</sup> domestic producers of polyester textured yarn.<sup>2</sup>

On November 2, 2020, Commerce requested supplemental information pertaining to certain aspects of the Petitions in separate supplemental questionnaires.<sup>3</sup> The petitioners filed responses to the supplemental questionnaires on November 5, 2020.<sup>4</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that imports of polyester textured yarn from Indonesia, Malaysia, Thailand, and Vietnam are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the polyester textured yarn industry in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioners supporting their allegations.

Commerce finds that the petitioners filed the Petitions on behalf of the domestic industry, because the petitioners are interested parties, as defined in section 771(9)(C) of the Act.

Commerce also finds that the petitioners demonstrated sufficient industry support for the initiation of the requested AD investigations.<sup>5</sup>

##### Periods of Investigation

Because the Petitions were filed on October 28, 2020, the period of investigation (POI) for the Indonesia, Malaysia, and Thailand investigations is October 1, 2019 through September 30, 2020, pursuant to 19 CFR 351.204(b)(1). Because Vietnam is a non-market economy (NME) country, the POI is April 1, 2020 through September 30, 2020.<sup>6</sup>

##### Scope of the Investigations

The product covered by these investigations is polyester textured yarn from Indonesia, Malaysia, Thailand, and Vietnam. For a full description of the scope of these investigations, *see* the appendix to this notice.

##### Comments on the Scope of the Investigations

On November 2 and 9, 2020, Commerce requested further information from the petitioners regarding the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.<sup>7</sup> On November 5, 2020, the petitioners revised the scope.<sup>8</sup> The description of merchandise covered by these investigations, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).<sup>9</sup> Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,<sup>10</sup> all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on December 7, 2020, which is 20 calendar days from

the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on December 17, 2020, which is ten calendar days from the initial comment deadline.

Commerce requests that any factual information parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the record of each of the AD investigations.

##### Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.<sup>11</sup> An electronically filed document must be received successfully in its entirety by the time and date it is due.

##### Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of polyester textured yarn to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant costs of production accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics, and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products.

<sup>1</sup> Unifi Manufacturing, Inc. and Nan Ya Plastics Corporation, America (collectively, the petitioners).

<sup>2</sup> *See* Petitioners' Letter, "Polyester Textured Yarn from Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam—Petition for the Imposition of Antidumping Duties," dated October 28, 2020 (the Petitions).

<sup>3</sup> *See* Commerce's Letters, "Petitions for the Imposition of Antidumping Duties on Polyester Textured Yarn from Indonesia, Malaysia, Thailand, and Vietnam: Supplemental Questions," dated November 2, 2020 (General Issues Supplemental); and Country-Specific Supplemental Questionnaires: Indonesia Supplemental, Malaysia Supplemental, Thailand Supplemental, and Vietnam Supplemental, dated November 2, 2020.

<sup>4</sup> *See* Petitioners' Country-Specific Supplemental Responses, dated November 5, 2020; *see also* Petitioners' Letter, "Polyester Textured Yarn from Indonesia, Malaysia, Thailand, and Vietnam—Petitioners' Amendment to Volume I Related to General and Injury Sections," November 5, 2020 (General Issues Supplement).

<sup>5</sup> *See infra*, section on "Determination of Industry Support for the Petitions."

<sup>6</sup> *See* 19 CFR 351.204(b)(1).

<sup>7</sup> *See* General Issues Supplemental at 2–3; *see also* Memorandum, "Phone Call with Counsel to the Petitioners," dated November 9, 2020, at 1.

<sup>8</sup> *See* General Issues Supplement at 3.

<sup>9</sup> *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>10</sup> *See* 19 CFR 351.102(b)(21) (defining "factual information").

<sup>11</sup> *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance: Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at [https://access.trade.gov/help/Handbook\\_on\\_Electronic\\_Filing\\_Procedures.pdf](https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf).

In other words, although there may be some physical product characteristics utilized by manufacturers to describe polyester textured yarn, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on December 7, 2020, which is 20 calendar days from the signature date of this notice. Any rebuttal comments must be filed by 5:00 p.m. ET on December 17, 2020. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the AD investigations.

#### Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also

determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,<sup>12</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>13</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioners do not offer a definition of the domestic like product distinct from the scope of the investigations.<sup>14</sup> Based on our analysis of the information submitted on the record, we have determined that polyester textured yarn, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.<sup>15</sup>

In determining whether the petitioners have standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in the appendix to this notice. To establish industry support, the petitioners provided the 2019 production of the domestic like product for the U.S.

<sup>12</sup> See section 771(10) of the Act.

<sup>13</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F. 2d 240 (Fed. Cir. 1989)).

<sup>14</sup> See Volume I of the Petitions at 11–13 and Exhibit GEN–2 (containing *Polyester Textured Yarn from China and India*, Inv. Nos. 701–TA–612–613 and 731–TA–1429–1430 (Final), USITC Pub. 5007 (January 2020) at 4–8).

<sup>15</sup> For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, see Antidumping Duty Investigation Initiation Checklists: Polyester Textured Yarn from Indonesia, Malaysia, Thailand, and Vietnam, dated November 17, 2020 (Country-Specific AD Initiation Checklists), at Attachment II, Analysis of Industry Support for the Antidumping Duty Petitions Covering Polyester Textured Yarn from Indonesia, Malaysia, Thailand, and Vietnam (Attachment II). These checklists are dated concurrently with this notice and on file electronically via ACCESS.

producers that support the Petitions and compared this to the estimated production for the entire U.S. polyester textured yarn industry.<sup>16</sup> We relied on data provided by the petitioners for purposes of measuring industry support.<sup>17</sup>

Our review of the data provided in the Petitions and other information readily available to Commerce indicates that the petitioners have established industry support for the Petitions.<sup>18</sup> First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (e.g., polling).<sup>19</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.<sup>20</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.<sup>21</sup> Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.<sup>22</sup>

#### Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the subject merchandise sold at LTFV. In addition, the petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>23</sup>

The petitioners contend that the industry’s injured condition is illustrated by a significant and

<sup>16</sup> See Volume I of the Petitions at 4–5 and Exhibit GEN–3.

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

<sup>18</sup> See Attachment II of the Country-Specific AD Initiation Checklists.

<sup>19</sup> *Id.*; see also section 732(c)(4)(D) of the Act.

<sup>20</sup> See Attachment II of the Country-Specific AD Initiation Checklists.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> See Volume I of the Petitions at 14–15 and Exhibit GEN–9.

increasing volume of subject imports; declining market share; underselling and price depression and suppression; decreasing production, U.S. shipments, and capacity utilization rates; a decline in financial performance, including declining profitability, operating income, and operating profit to net sales ratio; and lost sales and revenues.<sup>24</sup> We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.<sup>25</sup>

#### **Allegations of Sales at LTFV**

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate AD investigations of imports of polyester textured yarn from Indonesia, Malaysia, Thailand, and Vietnam. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the Country-Specific AD Initiation Checklists.

#### **U.S. Price**

For Indonesia, Malaysia, and Thailand, the petitioners based export price (EP) on pricing information for sales of, or sales offers for, polyester textured yarn produced in and exported from each country.<sup>26</sup> For Vietnam, the petitioners based EP on the average unit value (AUV) of publicly-available import data.<sup>27</sup> The petitioners made certain adjustments to U.S. price to calculate a net ex-factory U.S. price.<sup>28</sup>

#### **Normal Value<sup>29</sup>**

For Indonesia and Thailand, the petitioners based NV on home market price quotes obtained through market research for polyester textured yarn produced in and sold, or offered for

sale, in each country within the applicable time period.<sup>30</sup> For Malaysia, the petitioners provided information indicating that the price quote was below the COP and, therefore, the petitioners calculated NV based on constructed value (CV).<sup>31</sup> For further discussion of CV, see the section “Normal Value Based on Constructed Value.”

Commerce considers Vietnam to be an NME country.<sup>32</sup> In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat Vietnam as an NME country for purposes of the initiation of this investigation. Accordingly, NV in Vietnam is appropriately based on factors of production (FOPs) valued in a surrogate market economy country, in accordance with section 773(c) of the Act.<sup>33</sup>

The petitioners state that India is an appropriate surrogate country for Vietnam because India is a market economy country that is at a level of economic development comparable to that of Vietnam and it is a significant producer of comparable merchandise.<sup>34</sup> The petitioners provided publicly available information from India to value all FOPs.<sup>35</sup> Based on the information provided by the petitioners, we determine that it is appropriate to use India as a surrogate country for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

#### **Normal Value Based on Constructed Value**

As noted above, the petitioners provided information indicating that the price charged for polyester textured yarn produced in and sold, or offered for sale, in Malaysia was below the COP. Accordingly, the petitioners based NV on CV.<sup>36</sup> Pursuant to section 773(e) of

the Act, the petitioners calculated CV as the sum of the cost of manufacturing, selling, general, and administrative (SG&A) expenses, financial expenses, and profit.<sup>37</sup>

#### **Factors of Production**

Because information regarding the volume of inputs consumed by Vietnamese producers/exporters was not reasonably available, the petitioners used their own product-specific consumption rates as a surrogate to value Vietnamese manufacturers' FOPs.<sup>38</sup> Additionally, the petitioners calculated factory overhead; SG&A expenses; and profit based on the experience of an Indian producer of comparable merchandise.<sup>39</sup>

#### **Fair Value Comparisons**

Based on the data provided by the petitioners, there is reason to believe that imports of polyester textured yarn from Indonesia, Malaysia, Thailand, and Vietnam are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP, as applicable, to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for polyester textured yarn for each of the countries covered by this initiation are as follows: (1) Indonesia—26.07 percent; (2) Malaysia—75.13 percent; (3) Thailand—56.80 percent; and (4) Vietnam—54.13 percent.<sup>40</sup>

#### **Initiation of LTFV Investigations**

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of polyester textured yarn from Indonesia, Malaysia, Thailand, and Vietnam are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

#### **Respondent Selection**

In the Petitions, the petitioners named 11 companies in Indonesia, five companies in Malaysia, and 12 companies in Thailand<sup>41</sup> as producers/exporters of polyester textured yarn. Following the standard practice in AD investigations involving market

<sup>24</sup> See Volume I of the Petitions at 15–28 and Exhibits GEN–7 and GEN–10 through GEN–13.

<sup>25</sup> See Country-Specific AD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping Duty Petitions Covering Polyester Textured Yarn from Indonesia, Malaysia, Thailand, and Vietnam.

<sup>26</sup> See Country-Specific AD Initiation Checklists.

<sup>27</sup> See Vietnam AD Initiation Checklist.

<sup>28</sup> See Country-Specific AD Initiation Checklists.

<sup>29</sup> In accordance with section 505(a) of the Trade Preferences Extension Act of 2015 (TPEA), amending section 773(b)(2) of the Act, for these investigations, Commerce will request information necessary to calculate the constructed value and cost of production (COP) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. Commerce no longer requires a COP allegation to conduct this analysis.

<sup>30</sup> See Country-Specific AD Initiation Checklists.

<sup>31</sup> See Malaysia AD Initiation Checklist.

<sup>32</sup> See, e.g., *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results, and Final Results of No Shipments of the Antidumping Duty Administrative Review; 2016–2017*, 84 FR 18007 (April 29, 2019).

<sup>33</sup> See Vietnam AD Checklist.

<sup>34</sup> See Volume V of the Petition at 4–6 and Exhibits AD–VN–2 through AD–VN–4.

<sup>35</sup> See Volume V of the Petition at 4–6 and Exhibits AD–VN–2 through AD–VN–4.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> See Vietnam AD Initiation Checklist.

<sup>39</sup> *Id.*

<sup>40</sup> See Country-Specific Initiation Checklists for details of calculations.

<sup>41</sup> See Volume I of the Petitions at 26 and Exhibit GEN–6.

economy countries, in the event Commerce determines that the number of exporters or producers in any individual case is large such that Commerce cannot individually examine each company based upon its resources, where appropriate, Commerce intends to select mandatory respondents in that case based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the "Scope of the Investigations," in the appendix.

On November 12, 2020, Commerce released CBP data on imports of polyester textured yarn from Indonesia, Malaysia, and Thailand under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data must do so within three business days of the publication date of the notice of initiation of these investigations.<sup>42</sup> Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety via ACCESS by 5:00 p.m. ET on the specific deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at <http://enforcement.trade.gov/apo>.

With respect to Vietnam, the petitioners named nine companies as producers/exporters of polyester textured yarn in the Petitions. In accordance with our standard practice for respondent selection in AD investigations involving NME countries, Commerce selects respondents based on quantity and value (Q&V) questionnaires in cases where it has determined that the number of companies is large and it cannot individually examine each company based upon its resources. Therefore, considering the number of Vietnamese producers and exporters identified in the Petitions, Commerce will solicit Q&V information that can serve as a basis for selecting exporters for individual examination in the event that Commerce decides to limit the number of respondents individually examined pursuant to section 777A(c)(2) of the Act. Given that there are nine producers and exporters identified in the Petitions,

Commerce has determined that it will issue Q&V questionnaires to each potential respondent for which the petitioners have provided a complete address.

In addition, Commerce will post the Q&V questionnaire along with filing instructions on Enforcement and Compliance's website at <https://www.trade.gov/ec-adcvd-case-announcements>. Producers/exporters of polyester textured yarn from Vietnam that do not receive Q&V questionnaires may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Enforcement and Compliance's website. In accordance with the standard practice for respondent selection in AD cases involving NME countries, in the event Commerce decides to limit the number of respondents individually investigated, Commerce intends to base respondent selection on the responses to the Q&V questionnaire that it receives.

Responses to the Q&V questionnaire must be submitted by the relevant Vietnamese producers/exporters no later than 5:00 p.m. ET on December 1, 2020. All Q&V questionnaire responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above. Commerce intends to finalize its decisions regarding respondent selection within 20 days of publication of this notice.

#### Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.<sup>43</sup> The specific requirements for submitting a separate-rate application in a Vietnam investigation are outlined in detail in the application itself, which is available on Commerce's website at <http://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate-rate application will be due 30 days after publication of this initiation notice.<sup>44</sup> Exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire as

mandatory respondents. Commerce requires that companies from Vietnam submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.

#### Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.<sup>45</sup>

#### Distribution of Copies of the AD Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the AD Petitions have been provided to the governments of Indonesia, Malaysia, Thailand, and Vietnam via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the AD Petitions to each exporter named in the AD Petitions, as provided under 19 CFR 351.203(c)(2).

#### ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

#### Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the AD Petitions were filed, whether there is a reasonable indication that imports of polyester textured yarn from Indonesia, Malaysia, Thailand, and/or Vietnam are materially injuring, or

<sup>42</sup> See country-specific Memoranda, "Antidumping Duty Investigation of Polyester Textured Yarn: Release of Customs Data from U.S. Customs and Border Protection," dated November 12, 2020.

<sup>43</sup> See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving NME Countries (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

<sup>44</sup> Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.

<sup>45</sup> See Policy Bulletin 05.1 at 6 (emphasis added).

threatening material injury to, a U.S. industry.<sup>46</sup> A negative ITC determination for any country will result in the investigation being terminated with respect to that country.<sup>47</sup> Otherwise, these AD investigations will proceed according to statutory and regulatory time limits.

### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>48</sup> and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.<sup>49</sup> Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

### Particular Market Situation Allegation

Section 504 of the TPEA amended the Act by adding the concept of a particular market situation (PMS) for purposes of CV under section 773(e) of the Act.<sup>50</sup> Section 773(e) of the Act states that “if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.” When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v).

If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial section D questionnaire response.

### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; Commerce will grant untimely-filed requests for the extension of time limits only in limited cases where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these investigations.

### Certification Requirements

Any party submitting factual information in an AD or countervailing duty proceeding must certify to the accuracy and completeness of that information.<sup>51</sup> Parties must use the certification formats provided in 19 CFR

351.303(g).<sup>52</sup> Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed at 19 CFR 351.103(d)). Note that Commerce has temporarily modified certain portions of its requirements for serving documents containing business proprietary information, until further notice.<sup>53</sup>

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: November 17, 2020.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

### Appendix—Scope of the Investigations

The merchandise covered by these investigations, polyester textured yarn, is synthetic multifilament yarn that is manufactured from polyester (polyethylene terephthalate). Polyester textured yarn is produced through a texturing process, which imparts special properties to the filaments of the yarn, including stretch, bulk, strength, moisture absorption, insulation, and the appearance of a natural fiber. This scope includes all forms of polyester textured yarn, regardless of surface texture or appearance, yarn density and thickness (as measured in denier), number of filaments, number of plies, finish (luster), cross section, color, dye method, texturing method, or packaging method (such as spindles, tubes, or beams).

The merchandise subject to these investigations is properly classified under subheadings 5402.33.3000 and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

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<sup>52</sup> See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

<sup>53</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

<sup>46</sup> See section 733(a) of the Act.

<sup>47</sup> *Id.*

<sup>48</sup> See 19 CFR 351.301(b).

<sup>49</sup> See 19 CFR 351.301(b)(2).

<sup>50</sup> See TPEA, Public Law 114–27, 129 Stat. 362 (2015).

<sup>51</sup> See section 782(b) of the Act.