

11 March 2024

(24-2202)

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Committee on Safeguards

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**NOTIFICATION UNDER ARTICLE 12.1(A) OF THE AGREEMENT ON
SAFEGUARDS ON INITIATION OF AN INVESTIGATION AND
THE REASONS FOR IT**

UNITED STATES

Fine Denier Polyester Staple Fiber

The following communication, dated and received on 11 March 2024, is being circulated at the request of the delegation of the United States.

Pursuant to Article 12.1(a) of the WTO Agreement on Safeguards (Safeguards Agreement), the United States notifies that a safeguard investigation has been initiated as follows:

1. Specify the date when the investigation was initiated

The U.S. International Trade Commission (Commission) initiated the investigation on February 28, 2024.

A copy of the notice of institution of the investigation, which includes the scheduling of public hearings and the applicable rules of procedure, is attached.*

The Commission has determined that this investigation is "extraordinarily complicated" within the meaning of 19 U.S.C. § 2252(b)(2)(B) and will make its serious injury determination by July 9, 2024. If the determination is affirmative or the Commission is equally divided, the Commission will submit its report to the President within 180 days of the date on which the petition was properly filed, August 26, 2024.

2. Specify the product subject to the investigation

The product covered by this investigation is fine denier polyester staple fiber (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 not covered by this investigation: (1) PSF equal to or greater than 3.3 decitex (more than 3 denier, inclusive) currently imported under Harmonized Tariff System of the United States (HTSUS) statistical reporting numbers 5503.20.0045 and 5503.20.0065; and (2) Low-melt PSF defined as a bicomponent polyester fiber having a polyester fiber component that melts at a lower temperature than the other polyester fiber component, which is currently imported under HTSUS statistical reporting number 5503.20.0015.

* The notice of institution of the investigation has been submitted electronically, and is available from the WTO Secretariat. To consult it, please contact Ms Anne Richards of the Rules Division (anne.richards@wto.org).

For customs purposes, the fine denier PSF covered by the investigation is provided for under HTSUS subheading 5503.20.0025. These HTSUS numbers are provided for convenience and the written description of the scope is dispositive.

3. Provide the reasons for the initiation of the investigation

i. Was the investigation initiated pursuant to a petition from the domestic industry?

Yes, the investigation was initiated pursuant to a petition filed by Fiber Industries LLC d/b/a Darling Fibers, Nan Ya Plastics Corp, America, and Sun Fiber LLC, producers of fine denier PSF in the United States. The Commission deemed the petition to have been properly filed on February 28, 2024.

ii. Evidence on the basis of which the investigation was initiated.

Increased Import Quantities

The petition¹ alleges that imports have increased, both in absolute terms and relative to U.S. production and consumption. According to the petition, fine denier PSF imports increased from 195.2 million pounds in 2019 to 282.3 million pounds in 2023, an increase of 44.6 percent. The ratio of imports to domestic production increased steadily over the same period.

Serious Injury or Threat of Serious Injury to the Domestic Industry

The petition alleges that imports are a substantial cause of serious injury because:

- The substantial increase in imports' share of the U.S. market has resulted in plunging domestic production and the significant closures and idling of U.S. production facilities;
- The displacement of U.S. producer sales by low-priced imports led to severe reductions in the domestic industry's capacity utilization;
- The financial performance of the domestic industry fell from 2019 to 2023; and
- The loss of U.S. market share over the past five years has had a negative effect on the domestic industry's employment.

With regards to threat of serious injury to the domestic industry, the petition alleges that the domestic industry suffered significant market share losses, deteriorating financial performance, low and declining capacity utilization, and suppressed investment and employment as evidence of threat of serious injury to the domestic industry.

Unforeseen Developments

The petition does not make reference to any unforeseen developments.

More detailed information regarding all of the above is contained in the petition, which can be found at <https://edis.usitc.gov>.

iii. Evidence, if any, of critical circumstances where delay would could damage which it would be difficult to repair.

The petitioner did not allege critical circumstances in the petition.

4. Provide a point of contact for the investigation and identify the preferred means for corresponding.

The point of contact for the investigation is:

Kristina Lara
Office of Investigations
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436
Tel: (202-205-3386)

¹ Much of the serious injury data is confidential business information. However, the United States has included relevant data and information regarding serious injury or threat of serious injury where possible.

The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

5. Provide the deadlines and procedures for importers, exporters and other interested parties to present evidence and their views, including (i) deadlines and procedures for Members and exporters to identify themselves as interested parties, if so required, to participate in the investigation, and (ii) the date of an intended public hearing as provided for in Article 3.1.

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission not later than 21 days after publication of the notice of institution in the Federal Register. The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

The Secretary will make confidential business information gathered in this investigation available to authorized applicants representing interested parties under the administrative protective order issued in the investigation, provided that the application is made not later than 21 days after the publication of the notice of institution in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive confidential business information under the administrative protective order.

Each party who is an interested party may submit a prehearing brief to the Commission. The deadline for filing prehearing briefs on serious injury is May 28, 2024; that for filing prehearing briefs on remedy is July 16, 2024.

The Commission has scheduled separate hearings in connection with the serious injury and remedy phases of this investigation. The hearing on serious injury will be held on June 4, 2024, at the U.S. International Trade Commission Building, 500 E Street, SW, Washington, DC.

In the event that the Commission makes an affirmative serious injury determination or is equally divided on the question of serious injury in this investigation, a hearing on the question of remedy will be held on July 23, 2024.

Requests to appear at the hearings should be filed in writing with the Secretary to the Commission on or before May 24, 2024 for the serious injury hearing, and July 17, 2024 for the remedy hearing.

All parties and nonparties desiring to appear at the hearings and make oral presentations should participate in prehearing conferences to be held on May 31, 2024 for the serious injury hearing and July 19, 2024 for the remedy hearing, if deemed necessary.

Parties may file written testimony in connection with their presentation at the hearing. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearings. Parties must submit any request to present a portion of their hearing testimony in camera no later than 7 business days prior to the date of the respective hearings.

The deadline for filing posthearing briefs for the serious injury phase of the investigation is June 11, 2024; the deadline for filing posthearing briefs for the remedy phase of the investigation, if any, is July 29, 2024.

In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the consideration of serious injury on or before June 11, 2024, and pertinent to the consideration of remedy on or before July 29, 2024.

The attached notice of institution provides further information regarding deadlines and procedures applicable to this investigation.

The Commission's Handbook on E-Filing, available on the Commission's website at https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf, elaborates upon the Commission's rules with respect to electronic filing.
