

time of the conviction, may be revoked. *Id.*

BIS received notice of Pina's conviction for violating 18 U.S.C. 554. As provided in Section 766.25 of the Export Administration Regulations ("EAR" or the "Regulations"), BIS provided notice and opportunity for Pina to make a written submission to BIS. 15 CFR 766.25.² BIS has not received a written submission from Pina.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Pina's export privileges under the Regulations for a period of eight years from the date of Pina's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Pina had an interest at the time of her conviction.³

Accordingly, it is hereby *ordered*:

First, from the date of this Order until February 2, 2029, Maria Guadalupe Pina, with a last known address of 807 Guadalupe St., Laredo, TX 78040, and when acting for or on her behalf, her successors, assigns, employees, agents or representatives ("the Denied Person"), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to Section 1760(e) of ECRA and Sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Pina by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Pina may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Pina and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until February 2, 2029.

John Sonderman,

Director, Office of Export Enforcement.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-038, C-570-039]

Certain Amorphous Silica Fabric From the People's Republic of China: Final Affirmative Determinations of Circumvention

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that imports of amorphous silica fabric (ASF) with 70 to 90 percent silica content (70-90 percent ASF) from the People's Republic of China (China) are circumventing the antidumping (AD) and countervailing duty (CVD) orders on certain amorphous silica fabric from China.

DATES: Applicable February 3, 2023.

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold, AD/CVD Operations Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1121.

SUPPLEMENTARY INFORMATION:

Background

On September 6, 2022, Commerce published the preliminary affirmative determinations of circumvention of the AD and CVD orders¹ on certain amorphous silica fabric by imports of 70-90 percent ASF from China.² In the *Preliminary Determinations*, Commerce extended the deadline for the final determinations of these circumvention inquiries to December 2, 2022.³ On November 22, 2022, Commerce further extended the deadline for the final determinations of these circumvention

¹ See *Certain Amorphous Silica Fabric from the People's Republic of China: Antidumping Duty Order*, 82 FR 14314 (March 17, 2017); and *Certain Amorphous Silica Fabric from the People's Republic of China: Countervailing Duty Order*, 82 FR 14316 (March 17, 2017) (collectively, *Orders*).

² See *Certain Amorphous Silica Fabric from the People's Republic of China: Preliminary Affirmative Determinations of Circumvention*, 87 FR 54458 (September 6, 2022) (*Preliminary Determinations*), and accompanying Preliminary Decision Memorandum (PDM).

³ *Id.* at 54460.

² The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730-774 (2022).

³ The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

inquiries to January 31, 2022.⁴ On September 8, 2022, Auburn Manufacturing, Inc. (AMI), the petitioner in the AD and CVD investigations (the petitioner), submitted comments on the *Preliminary Determinations*,⁵ and on September 27, 2022, submitted a case brief.⁶ No other party commented on the *Preliminary Determinations*. We conducted these circumvention inquiries in accordance with section 781(c) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.225(i).⁷

Scope of the Orders

The product subject to the *Orders* is ASF with a minimum silica content of 90 percent by weight, from China. A full description of the scope of the *Orders* is contained in the Issues and Decision Memorandum.⁸

Scope of the Circumvention Inquiries

These circumvention inquiries cover 70–90 percent ASF produced in China and exported to the United States.⁹

Methodology

Commerce is conducting these circumvention inquiries in accordance with section 781(c) of the Act and 19 CFR 351.225(i). For a full description of the methodology underlying Commerce's final determinations, see the Issues and Decision Memorandum.

⁴ See Memorandum, "Extension of Circumvention Final Rulings," dated November 22, 2022.

⁵ See Petitioner's Letter "AMI Comments on Importer Certification," dated September 8, 2022.

⁶ See Petitioner's Letter, "AMI Case Brief," dated September 27, 2022.

⁷ See *Certain Amorphous Silica Fabric Between 70 and 90 Percent Silica, from the People's Republic of China: Initiation of Circumvention Inquiry of Antidumping and Countervailing Duty Orders—70–90 Percent Amorphous Silica Fabric*, 86 FR 67022 (November 24, 2021) (*Initiation Notice*), and accompanying Initiation Decision Memorandum. Although Commerce recently revised its circumvention regulations, under 19 CFR 351.226, the new circumvention regulations apply to circumvention inquiries for which a circumvention request is filed on or after November 4, 2021. See *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*, 86 FR 52300 (September 20, 2021) ("amendments to § 351.226 . . . apply to circumvention inquiries for which a circumvention request is filed . . . on or after November 4, 2021"). Because the petitioner filed its request on August 20, 2021, before the effective date of the new regulations, these circumvention inquiries are being conducted according to the circumvention regulations, 19 CFR 351.226, in effect prior to November 4, 2021. *Id.*

⁸ See Memorandum, "Certain Amorphous Silica Fabric from the People's Republic of China: Issues and Decision Memorandum for Final Affirmative Determination of Circumvention," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁹ See *Initiation Notice* and Initiation Decision Memorandum; see also *Preliminary Determinations*, 87 FR at 54458–59 and PDM at 7.

The Issues and Decision Memorandum is a public document and on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in these inquiries are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as an appendix. We have not made any changes to the *Preliminary Determinations* based on our analysis of the comments received.

Final Affirmative Determinations

As detailed in the Issues and Decision Memorandum, we determine that 70–90 percent ASF produced in China and exported to the United States is circumventing the *Orders* on certain amorphous silica fabric from China. Therefore, we determine that it is appropriate to include this merchandise within the scope of the *Orders* on certain amorphous silica fabric from China and to instruct U.S. Customs and Border Protection (CBP) to continue to suspend entries of 70–90 percent ASF produced in China and exported to the United States.

Continued Suspension of Liquidation

In accordance with 19 CFR 351.225(l)(3), based on the final determinations in these circumvention inquiries, Commerce will direct CBP to continue to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of 70–90 percent ASF produced in China and exported to the United States, and entered, or withdrawn from warehouse, for consumption on or after November 24, 2021, the date of publication of the *Initiation Notice*. The suspension of liquidation will remain in effect until further notice. As we explained in the *Preliminary Determinations*,¹⁰ Commerce intends to instruct CBP to require AD and CVD cash deposits at the applicable rate for each unliquidated entry of the subject 70–90 percent ASF.

ASF with 70 percent or less silica content is not subject to these circumvention inquiries.¹¹ Commerce

required cash deposits on all entries of 70–90 percent ASF but did not implement a certification process at the preliminary stage.¹² We received comments from the petitioner on the issue of establishing a certification process. For the final determinations, we will not implement a certification process,¹³ and we will require cash deposits on 70–90 Percent ASF produced in China and exported to the United States.¹⁴

Administrative Protective Order

This notice will serve as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

These final affirmative determinations of circumvention are being issued and published in accordance with section 781(c) of the Act and 19 CFR 351.225(i).

Dated: January 27, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. Scope of the Circumvention Inquiries
- V. Discussion of the Issues

Comment 1: Whether Commerce Should Continue to Apply Adverse Facts Available and Continue to Find that 70–90 Percent ASF Constitutes Articles "Altered in Form or Appearance in Minor Respects"

Comment 2: Whether Commerce Should Establish a Certification Procedure to Enforce these Circumvention Determinations

VI. Recommendation

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¹² See *Preliminary Determinations*, 87 FR at 54458–59.

¹³ See Issues and Decision Memorandum at Comment 2.

¹⁴ *Id.*

¹⁰ See *Preliminary Determinations*, 87 FR at 54458–59.

¹¹ See *Initiation Notice*, 86 FR at 67022; see also *Preliminary Determinations*, 87 FR at 54458–59.