

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

Investigation No. TA-201-78

Fine Denier Polyester Staple Fiber

AGENCY: United States International Trade Commission.

ACTION: Publication of summary of the Commission's report on the investigation.

SUMMARY: Section 202(f)(3) of the Trade Act of 1974 requires that the United States International Trade Commission ("Commission") publish in the *Federal Register* a summary of each report that it submits to the President under section 202(f)(1) of the Trade Act of 1974. Set forth below is a summary of the report that the Commission submitted to the President on August 26, 2024, on investigation No. TA-201-78, *Fine Denier Polyester Staple Fiber*. The Commission conducted the investigation under section 202(b) of the Trade Act of 1974 following receipt of a petition filed on February 28, 2024. The full text of the report (with the exception of confidential business information) will be posted on the Commission's website at <https://www.usitc.gov>.

DATE: August 26, 2024: Transmittal of the Commission's report to the President.

ADDRESSES: United States International Trade Commission, 500 E Street SW, Washington, DC. 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Kristina Lara (202-205-3386), Office of Investigations, U.S. International Trade Commission 500 E Street SW, Washington, DC 20436. The media should contact Jennifer Andberg, Office of External Relations (202-205-3404 or Jennifer.Andberg@usitc.gov). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its website (<https://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Procedural summary: On February 28, 2024, the Commission instituted this investigation under section 202(b) of the Trade Act of 1974 (19 U.S.C. § 2252(b)) to determine whether fine denier polyester staple fiber ("fine denier PSF") is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

The Commission instituted the investigation in response to a petition filed on February 28, 2024, by Fiber Industries LLC d/b/a Darling Fibers, Nan Ya Plastics Corporation, America, and Sun Fiber LLC, producers of fine denier PSF in the United States.

Notice of the institution of the Commission's investigation and of the scheduling of public hearings to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* (89 Fed. Reg. 18435 (March 13, 2024)). The public hearing in connection with the injury phase of the investigation was held on June 4, 2024, in Washington, DC, and the public hearing in connection with the remedy phase of the investigation was held on July 23, 2024, in Washington, DC; all persons who requested the opportunity were permitted to participate. The Commission voted with respect to injury issues on July 9, 2024, and with respect to remedy issues on August 13, 2024.

The Commission submitted its report to the President on August 26, 2024. The report included the Commission's injury determination and remedy recommendations, an explanation of the basis for the determination and remedy recommendations, and a summary of the information obtained in the investigation.

Section 202(f)(3) of the Trade Act of 1974 (19 U.S.C. § 2252(f)(3)) requires that the United States International Trade Commission ("Commission") publish in the *Federal Register* a summary of each report that it submits to the President under section 202(f)(1) of the Trade Act of 1974.

Determination: On the basis of information developed in the subject investigation, the Commission determined pursuant to section 202(b) of the Trade Act of 1974 that fine denier PSF is being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing an article like or directly competitive with the imported article.

Having made an affirmative injury determination pursuant to section 202(b) of the Trade Act of 1974, the Commission was required to make certain additional findings under the implementing statutes of certain free trade agreements ("FTAs") or under statutory provisions related to certain preferential trade programs. Under section 301(a) of the United States-Mexico-Canada ("USMCA") Implementation Act (19 U.S.C. § 4551(a)), the Commission found that imports of fine denier PSF from neither Canada nor Mexico account for a substantial share of total imports or contribute importantly to the serious injury caused by imports. The Commission further found that imports of fine denier PSF from Australia, the U.S.-Dominican Republic – Central America Free Trade Agreement ("CAFTA DR") countries, Colombia, Jordan, South Korea, Panama, Peru, and Singapore, individually, are not a substantial cause of serious injury or threat thereof, under the relevant FTA implementing statutes. See 19 U.S.C. § 2112 note (Jordan); 19 U.S.C. § 3805 note (Australia, Colombia, South Korea, Panama, Peru, Singapore); 19 U.S.C. § 4101 (CAFTA-DR). The Commission also found that the serious injury substantially caused by imports to the domestic industry producing a like or directly

competitive article does not result from the reduction or elimination of any duty provided for under the U.S.-Israel Free Trade Agreement or from duty-free treatment provided for under the Caribbean Basin Economic Recovery Act ("CBERA") provisions of the Caribbean Basin Initiative Trade Program or the Generalized System of Preferences ("GSP") program. See 19 U.S.C. § 2112 note (Israel); 19 U.S.C. § 2703(e) (CBERA); 19 U.S.C. § 2253(e)(6) (GSP).

Remedy recommendations. In order to address the serious injury to the domestic industry producing fine denier PSF and be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition, the Commission recommends several actions.

The Commission unanimously recommends a four-year period of relief. It also unanimously recommends that a quantitative restriction ("QR"), to be set at zero in the first year of relief increasing by one million pounds in each subsequent year over the duration of the safeguard, be imposed on imports of fine denier PSF entered free under bond as articles to be processed for export under the Temporary Importation under Bond (TIB) program. All Commissioners additionally recommend a tariff-rate quota ("TRQ") be imposed on imports of fine denier PSF from all countries covered by their affirmative injury determination.

Commissioners Johanson and Schmidlein recommend a TRQ with an in-quota volume level of 145,000,000 pounds (inclusive of any imports of the article under HTS statistical reporting number 9813.00.0520), with an in-quota tariff rate of 15 percent ad valorem and an out-of-quota tariff rate of 40 percent ad valorem. They recommend that the in-quota tariff rate decrease by 1 percentage point and the out-of-quota tariff rate decrease by 2 percentage points, in each subsequent year of the four-year relief period. Commissioners Johanson and Schmidlein recommend that any imports of the article under HTS statistical reporting number 9813.00.0520 entered after the tariff-rate quota has filled for the year would be subject to the over-quota duty rate.

Chair Karpel recommends a TRQ with an in-quota volume level of 114,820,000 pounds, with an in-quota tariff rate of 15 percent ad valorem and an out-of-quota tariff rate of 45 percent ad valorem. Chair Karpel recommends that the in-quota and out-of-quota tariff rates decrease by 1 percentage point in each subsequent year of the four-year relief period. Chair Karpel recommends that the TRQ's in-quota volume level is inclusive of any imports of fine denier polyester staple fiber under HTS subheading 9813.00.05.

Commissioner Kearns recommends a TRQ with an in-quota volume level of 110,000,000 pounds (inclusive of any imports of the article under HTS statistical reporting number 9813.00.0520, with the exception of imports from countries that were not covered by the Commission's injury determination), with an in-quota tariff rate of 22 percent ad valorem in the first year, reduced to 20 percent ad valorem in the second and third years, and reduced to 18 percent ad valorem in the fourth year. Commissioner Kearns recommends an out-of-quota tariff rate of 50 percent ad valorem, reduced by three percentage points in each subsequent year of the four-year relief period. Commissioner Kearns recommends that fine denier PSF imported under HTS statistical

reporting number 9813.00.0520, with the exception of TIB entries from the FTA and trade preference countries that were not covered by the Commission’s injury determination, be subject to the in-quota and out-of-quota tariff rates.

Having made negative findings with respect to imports from Canada and Mexico under section 302 of the USMCA Implementation Act, and having made findings that imports from Australia, the CAFTA-DR countries, Colombia, Israel, Jordan, Panama, Peru, Singapore, South Korea, and the beneficiary countries under the Caribbean Basin Economic Recovery Act were not a substantial cause of the serious injury experienced by the domestic industry, the Commission recommends that the President exclude such countries from any form of the TRQ.

All Commissioners recommend that the QR imposed on imports of fine denier PSF entered under TIB under HTS statistical reporting number 9813.00.0520 apply to imports from all countries for which they recommend application of the TRQ. Chair Karpel and Commissioner Schmidtlein recommend that the QR also apply to imports from South Korea. Commissioner Kearns recommends that the QR be applied to all countries, including South Korea.

Summary of Commissioners’ Recommended Actions on Fine Denier PSF				
	Year 1	Year 2	Year 3	Year 4
QR: Fine denier PSF entries under HTS statistical reporting number 9813.00.0520				
QR Level (pounds)				
All Commissioners	zero	1 million	2 million	3 million
Tariff Rate Quota				
In-Quota Volume Level (thousands of pounds)				
Johanson and Schmidtlein	145,000	145,000	145,000	145,000
Karpel	114,820	114,820	114,820	114,820
Kearns	110,000	110,000	110,000	110,000
In-Quota Tariff Rate (<i>ad valorem</i>)				
Karpel, Johanson, and Schmidtlein	15	14	13	12
Kearns	22	20	20	18
Out-of-Quota Tariff Rate (<i>ad valorem</i>)				
Johanson and Schmidtlein	40	38	36	34
Karpel	45	44	43	42
Kearns	50	47	44	41

The Commission further recommends that the President authorize the establishment of an exclusion process to allow for importation of covered imports without application of the remedy measures in the case of a demonstrated lack of production in the United States for a particularized fine denier polyester staple fiber product or in the case of a critical short supply of a particularized fine denier polyester staple fiber product from domestic sources.

Chair Karpel, Commissioner Johanson, and Commissioner Schmittlein recommend that the President consider programs to assist downstream users of fine denier PSF and to mitigate the potential impact of the remedy on such users.

Chair Karpel and Commissioner Schmittlein recommend that the President submit to Congress, pursuant to his authority under section 203(a)(3)(H), a legislative proposal that would permanently preclude the importation of fine denier PSF under TIB to avoid payment of cash deposits and assessed antidumping and countervailing duties that would otherwise apply to the product.

Commissioner Kearns recommends that the President submit to Congress a legislative proposal to permanently preclude the ability to avoid payment of any antidumping or countervailing duty through the TIB provision provided for in HTS subheading 9813.00.0520.

Commissioner Kearns also recommends that the President submit to Congress a legislative proposal to distribute TRQ revenue generated by this action to downstream users of the article, to the extent necessary to reduce injury to domestic manufacturers of downstream products.

Availability of the public version of the report. The public version of the Commission's report containing the Commission's injury determination, its remedy recommendations, an explanation of the basis for its injury determination and remedy recommendations, and a summary of the information obtained in the investigation is contained in *Fine Denier Polyester Staple Fiber*, Inv. No. 201-TA-78, USITC Publication 5536 (August 2024).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: August 27, 2024