



C-570-913
Sunset Review
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December 16, 2013

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh *CM*
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

RE: Issues and Decision Memorandum for the Final Results of the Expedited Sunset Review of the Countervailing Duty Order on Certain New Pneumatic Off-The-Road Tires from the People's Republic of China

SUMMARY

We have analyzed the responses of interested parties in the expedited sunset review of the countervailing duty (CVD) order on certain new pneumatic off-the-road tires (OTR tires) from the People's Republic of China (PRC). We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum.

History of the Order

On September 4, 2008, the Department of Commerce (the Department) published, in the Federal Register, the CVD order on OTR tires from the PRC.¹ In the Final Determination,² covering the period January 1, 2006, through December 31, 2006, the Department found an estimated net countervailable subsidy rate of 2.45 percent for Guizhou Tire Co, Ltd. (GTC), 14.00 percent for Hebei Starbright Tire Co., Ltd. (Starbright), 6.85 percent for Tianjin United Tire & Rubber International Co., Ltd. (TUTRIC), and 5.62 percent for "all others," based on the following countervailable programs:

1. Government Provision of Rubber for Less Than Adequate Remuneration (LTAR);
2. Government Policy Lending;
3. Government Debt Forgiveness to TUTRIC;

¹ See Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Countervailing Duty Order, 73 FR 51627 (September 4, 2008) (Order).

² See Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Determination of Critical Circumstances, 73 FR 40480 (July 15, 2008) (Final Determination).



4. Government Debt Forgiveness and the Provision of Land to Starbright Pursuant to Its Change in Ownership;
5. Stamp Tax Exemption on Share Transfer under Non-Tradeable Share Reform (NTSR);
6. Tax Subsidies to Foreign Invested Enterprises (FIEs) in Specially Designated Geographic Areas, and Local Income Tax Exemption and Reduction Programs for “Productive” FIEs;
7. Value Added Tax (VAT) and Tariff Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries (GTC and Tutric); and
8. State Key Technology Renovation Project Fund.

Various parties sought judicial review of the Final Determination at the U.S. Court of International Trade (CIT). On April 16, 2013, the Department issued a final redetermination pursuant to the remand order of the CIT. Although the CIT sustained that remand determination, the case currently remains subject to active litigation.³

The Department conducted an administrative review covering the period December 17, 2007 through December 31, 2008. In the final results of review, the Department calculated a net countervailable subsidy rate of 30.87 percent for Starbright.⁴ That rate was based, in part, on the following programs previously found to be countervailable: Government Debt Forgiveness and the Provision of Land to Starbright Pursuant to Its Change in Ownership, Government Policy Lending, Government Provision of Rubber for LTAR.⁵ That rate was also based, in part, on the following new subsidy programs investigated for Starbright in that review: Provision of Nylon Cord and Carbon Black for LTAR, and VAT and Import Duty Exemptions on Imported Material.⁶

On August 30, 2012, the Department implemented a determination at the direction of the U.S. Trade Representative under section 129 of the Uruguay Round Agreements Act regarding the CVD investigation on OTR tires from the PRC.⁷ As a result of this determination the CVD rate for GTC was revised to 2.52 percent, and the “all others” rate was revised to 5.65 percent. The rates for TUTRIC and Starbright remained 6.85 percent and 14 percent respectively.

³ See GPX Int’l Tire Corp. v. United States, Consol. Ct. No. 08-00285, Slip Op. 13-132 (Ct. Int’l Trade October 30, 2013); Certain New Pneumatic Off-the-Road Tires From the People’s Republic of China: Notice of Decision of the Court of International Trade Not in Harmony and Notice of Amended Final Determination, 78 FR 70917 (November 27, 2013). Because the litigation remains non-final as of the completion of this expedited sunset review, the Department is not considering the remand redetermination as part of its analysis.

⁴ See New Pneumatic Off-the-Road from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review, 76 FR 23286 (April 26, 2011) (Final Results).

⁵ See New Pneumatic Off-the-Road from the People’s Republic of China: Preliminary Results of Countervailing Duty Administrative Review, 75 FR 64268, 64273-75 (October 19, 2010), unchanged in Final Results.

⁶ See id.

⁷ See Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: Certain New Pneumatic Off-the-Road Tires; Circular Welded Carbon Quality Steel Pipe; Laminated Woven Sacks; and Light-Walled Rectangular Pipe and Tube From the People’s Republic of China, 77 FR 52683 (August 30, 2012).

Background

On August 1, 2013, the Department initiated the first sunset review of the Order pursuant to section 751(c)(2) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218(c).⁸ Titan Tire Corporation (Titan), a domestic interested party, filed a timely notice of intent to participate on August 16, 2013, in accordance with 19 CFR 351.218(d)(1). On September 3, 2013, the Department received a substantive response from Titan, in accordance with 19 CFR 351.218(d)(3)(i).⁹ The Department did not receive a response from the Government of the PRC (GOC) nor any Chinese producers or exporters.

In accordance with 19 CFR 351.218(e)(1)(ii)(C)(2), when there are inadequate responses from respondent interested parties, we “normally will conduct an expedited sunset review and, not later than 120 days after the date of publication in the Federal Register of the notice of initiation, issue final results of review based on the facts available in accordance with 19 CFR 351.308(f) (see section 751(c)(3)(B) of the Act and 19 CFR 351.221(c)(5)(ii)).” Consistent with Department regulations and practice, we determine that in the absence of responses from the GOC and other respondent interested parties (i.e., producers and exporters), the Department is conducting an expedited (120-day) sunset review of the Order.

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.¹⁰ Therefore, all deadlines in this segment of the proceeding have been extended by 16 days.

Scope of the Order

The products covered by the scope of the Order are new pneumatic tires designed for off-the-road (OTR) and off-highway use, subject to exceptions identified below. Certain OTR tires are generally designed, manufactured and offered for sale for use on off-road or off-highway surfaces, including but not limited to, agricultural fields, forests, construction sites, factory and warehouse interiors, airport tarmacs, ports and harbors, mines, quarries, gravel yards, and steel mills. The vehicles and equipment for which certain OTR tires are designed for use include, but are not limited to: (1) agricultural and forestry vehicles and equipment, including agricultural tractors,¹¹ combine harvesters,¹² agricultural high clearance sprayers,¹³ industrial tractors,¹⁴ log-

⁸ See Initiation of Five-Year (“Sunset”) Review, 78 FR 46575 (August 1, 2013).

⁹ See Letter to the Department, “Sunset Review (1st Review) pursuant to Section 751(c) of the Tariff Act of 1930 of the countervailing duty order on New Pneumatic Off-The-Road Tires from China(C-570-913): Substantive Response to Notice of Initiation,” September 3, 2013 (Titan Response).

¹⁰ See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Deadlines Affected by the Shutdown of the Federal Government,” October 18, 2013.

¹¹ Agricultural tractors are dual-axle vehicles that typically are designed to pull farming equipment in the field and that may have front tires of a different size than the rear tires.

¹² Combine harvesters are used to harvest crops such as corn or wheat.

¹³ Agricultural sprayers are used to irrigate agricultural fields.

¹⁴ Industrial tractors are dual-axle vehicles that typically are designed to pull industrial equipment and that may have front tires of a different size than the rear tires.

skidders,¹⁵ agricultural implements, highway-towed implements, agricultural logging, and agricultural, industrial, skid-steers/mini-loaders;¹⁶ (2) construction vehicles and equipment, including earthmover articulated dump products, rigid frame haul trucks,¹⁷ front end loaders,¹⁸ dozers,¹⁹ lift trucks, straddle carriers,²⁰ graders,²¹ mobile cranes,²² compactors; and (3) industrial vehicles and equipment, including smooth floor, industrial, mining, counterbalanced lift trucks, industrial and mining vehicles other than smooth floor, skid-steers/mini-loaders, and smooth floor off-the-road counterbalanced lift trucks.²³ The foregoing list of vehicles and equipment generally have in common that they are used for hauling, towing, lifting, and/or loading a wide variety of equipment and materials in agricultural, construction and industrial settings. Such vehicles and equipment, and the descriptions contained in the footnotes are illustrative of the types of vehicles and equipment that use certain OTR tires, but are not necessarily all-inclusive. While the physical characteristics of certain OTR tires will vary depending on the specific applications and conditions for which the tires are designed (e.g., tread pattern and depth), all of the tires within the scope have in common that they are designed for off-road and off-highway use. Except as discussed below, OTR tires included in the scope of the proceeding range in size (rim diameter) generally but not exclusively from 8 inches to 54 inches. The tires may be either tube-type²⁴ or tubeless, radial or non-radial, and intended for sale either to original equipment manufacturers or the replacement market. The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.20.10.25, 4011.20.10.35, 4011.20.50.30, 4011.20.50.50, 4011.61.00.00, 4011.62.00.00, 4011.63.00.00, 4011.69.00.00, 4011.92.00.00, 4011.93.40.00, 4011.93.80.00, 4011.94.40.00, and 4011.94.80.00. While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

¹⁵ A log-skidder has a grappling lift arm that is used to grasp, lift and move trees that have been cut down to a truck or trailer for transport to a mill or other destination.

¹⁶ Skid-steer loaders are four-wheel drive vehicles with the left-side drive wheels independent of the right-side drive wheels and lift arms that lie alongside the driver with the major pivot points behind the driver's shoulders. Skid-steer loaders are used in agricultural, construction and industrial settings.

¹⁷ Haul trucks, which may be either rigid frame or articulated (i.e., able to bend in the middle) are typically used in mines, quarries and construction sites to haul soil, aggregate, mined ore, or debris.

¹⁸ Front loaders have lift arms in front of the vehicle. They can scrape material from one location to another, carry material in their buckets, or load material into a truck or trailer.

¹⁹ A dozer is a large four-wheeled vehicle with a dozer blade that is used to push large quantities of soil, sand, rubble, etc., typically around construction sites. They can also be used to perform "rough grading" in road construction.

²⁰ A straddle carrier is a rigid frame, engine-powered machine that is used to load and offload containers from container vessels and load them onto (or off of) tractor trailers.

²¹ A grader is a vehicle with a large blade used to create a flat surface. Graders are typically used to perform "finish grading." Graders are commonly used in maintenance of unpaved roads and road construction to prepare the base course onto which asphalt or other paving material will be laid.

²² I.e., "on-site" mobile cranes designed for off-highway use.

²³ A counterbalanced lift truck is a rigid framed, engine-powered machine with lift arms that has additional weight incorporated into the back of the machine to offset or counterbalance the weight of loads that it lifts so as to prevent the vehicle from overturning. An example of a counterbalanced lift truck is a counterbalanced fork lift truck. Counterbalanced lift trucks may be designed for use on smooth floor surfaces, such as a factory or warehouse, or other surfaces, such as construction sites, mines, etc.

²⁴ While tube-type tires are subject to the scope of this proceeding, tubes and flaps are not subject merchandise and therefore are not covered by the scope of this proceeding, regardless of the manner in which they are sold (e.g., sold with or separately from subject merchandise).

Specifically excluded from the scope are new pneumatic tires designed, manufactured and offered for sale primarily for on-highway or on-road use, including passenger cars, race cars, station wagons, sport utility vehicles, minivans, mobile homes, motorcycles, bicycles, on-road or on-highway trailers, light trucks, and trucks and buses. Such tires generally have in common that the symbol “DOT” must appear on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Such excluded tires may also have the following designations that are used by the Tire and Rim Association:

Prefix letter designations:

- P - Identifies a tire intended primarily for service on passenger cars;
- LT - Identifies a tire intended primarily for service on light trucks; and,
- ST - Identifies a special tire for trailers in highway service.

Suffix letter designations:

- TR - Identifies a tire for service on trucks, buses, and other vehicles with rims having specified rim diameter of nominal plus 0.156” or plus 0.250”;
- MH - Identifies tires for Mobile Homes;
- HC - Identifies a heavy duty tire designated for use on “HC” 15” tapered rims used on trucks, buses, and other vehicles. This suffix is intended to differentiate among tires for light trucks, and other vehicles or other services, which use a similar designation.
- Example: 8R17.5 LT, 8R17.5 HC;
- LT - Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service; and
- MC - Identifies tires and rims for motorcycles.

The following types of tires are also excluded from the scope: pneumatic tires that are not new, including recycled or retreaded tires and used tires; non-pneumatic tires, including solid rubber tires; tires of a kind designed for use on aircraft, all-terrain vehicles, and vehicles for turf, lawn and garden, golf and trailer applications. Also excluded from the scope are radial and bias tires of a kind designed for use in mining and construction vehicles and equipment that have a rim diameter equal to or exceeding 39 inches. Such tires may be distinguished from other tires of similar size by the number of plies that the construction and mining tires contain (minimum of 16) and the weight of such tires (minimum 1500 pounds).

DISCUSSION OF THE ISSUES

In accordance with section 751(c)(1) of the Act, the Department is conducting this review to determine whether revocation of the Order would be likely to lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that in making this determination the Department shall consider: 1) the net countervailable subsidy determined in the investigation and any subsequent reviews, and 2) whether any changes in the programs which gave rise to the net countervailable subsidy have occurred that are likely to affect the net countervailable subsidy.

Pursuant to section 752(b)(3) of the Act, the Department shall provide to the ITC the net countervailable subsidy likely to prevail if the order were revoked. In addition, consistent with section 752(a)(6) of the Act, the Department shall provide to the ITC information concerning the nature of the subsidy and whether the subsidy described is in Article 3 or Article 6.1 of the

1994 World Trade Organization Agreement on Subsidies and Countervailing Measures (“ASCM”).

Below we address the substantive response of the domestic interested party.

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy

Domestic Interested Party’s Comments

Titan argues that subsidization of OTR Tires from the PRC would likely continue or recur if the Department revoked the Order because, “None of the countervailable programs found in the original investigation was found to be terminated or no longer available in the one completed administrative review of this order,” and because “. . .the benefit of many non-recurring subsidies found in the investigation will continue beyond this sunset review.”²⁵

Department’s Position

Section 752(b)(1) of the Act directs the Department in determining the likelihood of continuation or recurrence of a countervailable subsidy to consider the net countervailable subsidy determined in the investigation and subsequent reviews, and whether there has been any change in a program found to be countervailable that is likely to affect that net countervailable subsidy. According to the Statement of Administrative Action (“SAA”), the Department will consider the net countervailable subsidies in effect after the issuance of the order and whether the relevant subsidy programs have been continued, modified, or eliminated.²⁶ The SAA adds that continuation of a program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies.²⁷ Additionally, the presence of programs that have not been used, but also have not been terminated without residual benefits or replacement programs, is also probative of the likelihood of continuation or recurrence of a countervailable subsidy.²⁸ Where a subsidy program is found to exist, the Department will normally determine that revocation of the CVD order is likely to lead to continuation or recurrence of a countervailable subsidy regardless of the level of subsidization.²⁹

As the Department has stated in other sunset determinations, two conditions must be met in order for a subsidy program not to be included in determining the likelihood of continued or recurring subsidization: (1) the program must be terminated; and (2) any benefit stream must be fully allocated.³⁰ The Department has further stated that, in order to determine whether a

²⁵ See Titan Response, at 10-11.

²⁶ See SAA, H. Doc. No. 316, 103d Cong., 2d Session, Vol. 1 (1994) at 888.

²⁷ See *id.*

²⁸ See, e.g., Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil: Final Results of Full Sunset Review of Countervailing Duty Order, 75 FR 75455 (December 3, 2010) and accompanying Issues and Decision Memorandum at Comment 1.

²⁹ See *id.*

³⁰ See, e.g., Preliminary Results of Full Sunset Review: Certain Corrosion-Resistant Carbon Steel Flat Products from France, 71 FR 30875 (May 31, 2006) and accompanying Issues and Decision Memorandum at 5-7, unchanged in Corrosion-Resistant Carbon Steel Flat Products From France: Final Results of Full Sunset Review, 71 FR 58584 (October 4, 2006).

program has been terminated, the Department will consider the legal method by which the government eliminated the program and whether the government is likely to reinstate the program.³¹ The Department normally expects a program to be terminated by means of the same legal mechanism used to institute it.³² Where a subsidy is not bestowed pursuant to a statute, regulation or decree, the Department may find no likelihood of continued or recurring subsidization if the subsidy in question was a one-time, company-specific occurrence that was not part of a broader government program.³³

As indicated above, there have been no administrative reviews or other intervening segments of this proceeding since issuance of the Order in which any countervailable program has been found to be terminated. Moreover, neither the GOC nor other respondent interested parties participated in this review. There is no other information indicating any changes in the programs found to be countervailable. Based on the facts on the record, the Department determines that there is a likelihood of continuation or recurrence of countervailable subsidies because the record in this proceeding indicates that the subsidy programs found countervailable during the investigation and subsequent administrative review continue to exist and be used.

2. Net Countervailable Subsidy Likely to Prevail

Domestic Interested Party's Comments

Titan notes that, to determine the rate that is likely to prevail should the order be revoked, the SAA instructs that the Department “normally will select the rate from the investigation, because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order or suspension agreement in place.”³⁴ Titan further noted that the Department expanded on when the rate from the investigation will be selected in the Policies Regarding Conduct of Five Year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders, where is stated:

(a) Where the Department has conducted an administrative review of the order, or suspension agreement, as applicable, and found that a program was terminated with no residual benefits and no likelihood of reinstatement, the Department normally will adjust the net countervailable subsidy rate determined in the original investigation to reflect the change. If, in an investigation, the Department found that a program had been terminated with no residual benefits subsequent to the period of investigation, the Department normally will consider this information in determining the net countervailable subsidy.

³¹ See, e.g., Fresh and Chilled Atlantic Salmon From Norway: Final Results of Full Third Sunset Review of Countervailing Duty Order, 76 FR 70411 (November 14, 2011) and accompanying Issues and Decision Memorandum at Comment 1.

³² See, e.g., Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from India, 66 FR 49635 (September 28, 2001) and accompanying Issues and Decision Memorandum at Comment 7.

³³ See, e.g., Stainless Steel Plate in Coils from Belgium: Final Results of Full Sunset Review and Revocation of the Countervailing Duty Order, 76 FR 25666 (May 5, 2011) and accompanying Issues and Decision Memorandum at Comment 1.

³⁴ See SAA at 890-91.

(b) The Department normally will not make adjustments to the net countervailable subsidy rate for programs that still exist, but were modified subsequent to the order, or suspension agreement, as applicable, to eliminate exports to the United States (or subject merchandise) from eligibility.³⁵

Thus, Titan argues that the Department should determine that the rate found in the investigation would be likely to prevail for companies which have not been subject of a subsequent administrative review. Titan argues that where in a “subsequent administrative review the Department discovers a new subsidy program or otherwise increases the countervailing duty rate, it is appropriate to determine the new higher rate would be likely to prevail,” and, therefore, the Department should determine that the rate calculated in the first administrative review for Starbright would “likely prevail.”³⁶

Therefore the Department should find that for GTC, TUTRIC and “all other” companies, the rate found in the investigation would likely prevail. For Starbright the Department should determine that the higher rate calculated in the first administrative review, where two new subsidy programs were discovered, should prevail.

Department’s Position

The Department normally will provide the ITC the net countervailable subsidy that was determined in the investigation as the subsidy rate likely to prevail if the order is revoked because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place.³⁷ Section 752(b)(1)(B) of the Act provides, however, that the Department will consider whether any change in the program which gave rise to the net countervailable subsidy determination in the investigation or subsequent reviews has occurred that is likely to affect the net countervailable subsidy. Therefore, although the SAA and House Report provide that the Department normally will select a rate from the investigation, this rate may not be the most appropriate if, for example, the rate was derived (in whole or part) from subsidy programs which were found in subsequent reviews to be terminated, there has been a program-wide change, or the rate ignores a program found to be countervailable in a subsequent administrative review.³⁸

Consistent with the SAA and our practice, the Department has started with the rates found in the investigation, as revised by the section 129 proceeding, in finding that countervailable subsidies would be likely to continue or recur in the event that the Order were revoked for the eight programs determined to be countervailable in the investigation for GTC, TUTRIC and

³⁵ See Policies Regarding Conduct of Five Year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871, 18875-76 (April 16, 1998).

³⁶ See Titan Response at 13.

³⁷ See SAA at 890, and House Report, H.R. Rep. No. 103-826 (1994) (“House Report”) at 64.

³⁸ See, e.g., Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Final Results of Expedited Second Sunset Review, 75 FR 6210 1 (October 7, 2010) and accompanying Issues and Decision Memorandum at Comment 2.

the “all others” rates.³⁹ For Starbright, the Department has started with the rate found in the investigation, as revised by the section 129 proceeding, and adjusted that rate to include the two programs determined to be countervailable in the subsequent administrative review of Starbright to determine the rate.⁴⁰

3. Nature of the Subsidy

Consistent with section 752(a)(6) of the Act, the Department is providing the following information to the ITC concerning the nature of the subsidies and whether the subsidies are subsidies as described in Article 3 or Article 6.1 of the WTO ASCM. We note that Article 6.1 of the ASCM expired effective January 1, 2000.

The following programs do not fall within the meaning of Article 3.1 of the SCM Agreement. However, they could be subsidies described in Article 6.1 of the SCM Agreement if the amount of the subsidy exceeds five percent, as measured in accordance with Annex IV of the SCM Agreement. They also could fall within the meaning of Article 6.1 if they constitute debt forgiveness or are subsidies to cover operating losses sustained by an industry or enterprise. However, there is insufficient information on the record of this review in order for the Department to make such a determination. We are, however, providing the ITC with the following program descriptions.

1. Government Provision of Rubber for LTAR

The GOC, through certain SOEs, provides domestic tire producers with natural and synthetic rubber at prices at LTAR.

2. Government Policy Lending

The GOC, in conjunction with particular provinces (Guizhou and Hebei) and municipalities (Guiyang), provides preferential loans to tire producers through state-owned and controlled banks.

³⁹ See, e.g., Circular Welded Carbon Quality Steel Pipe From the People’s Republic of China: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order, 78 FR 60849 (October 2, 2013) and accompanying Issues and Decision Memorandum at Issue 2 (reporting revised rates from section 129 proceeding as subsidy rates likely to prevail). The programs found to be countervailable in the Final Determination are: (1) Government Provision of Rubber for LTAR; (2) Government Policy Lending; (3) Government Debt Forgiveness to TUTRIC; (4) Government Debt Forgiveness and the Provision of Land to Starbright Pursuant to Its Change in Ownership; (5) Stamp Tax Exemption on Share Transfer under NTSR; (6) Tax Subsidies to FIEs in Specially Designated Geographic Areas, and Local Income Tax Exemption and Reduction Programs for “Productive” FIEs; (7) VAT and Tariff Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries; and (8) State Key Technology Renovation Project Fund.

⁴⁰ See, e.g., Certain Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Expedited Five-Year (“Sunset”) Review of the Countervailing Duty Order, 77 FR 27438 (May 10, 2012) and accompanying Issues and Decision Memorandum at Issue 2. The two additional programs in the Final Results are: (1) Provision of Nylon Cord and Carbon Black for LTAR; and (2) VAT Import Duty Exemptions on Imported Material.

3. Government Debt Forgiveness to TUTRIC

TUTRIC failed to make payments, or only made partial payments, on certain renegotiated loans to State Owned Commercial Banks (SOCBs), and there was no evidence on the record that these SOCBs expected repayment from TUTRIC.

4. Government Debt Forgiveness and the Provision of Land to Starbright Pursuant to Its Change in Ownership

In 2006 Starbright purchased the assets of Hebei Tire Co., Ltd. The Department determined this transaction did not extinguish any non-recurring subsidies provided to Hebei Tire prior to the transaction. Specifically, state-owned banks forgave loans to Hebei Tire, and loan guarantees to Hebei Tire were a form of debt forgiveness. This loan forgiveness to Hebei Tire constituted a countervailable subsidy, which was not extinguished when Starbright bought the assets of Hebei Tire. Starbright received granted land use rights as a provision of state-owned enterprise (SOE) reform, which constituted the provision of a good or service for LTAR. Starbright also assumed leases of land from local villages as part of its purchase of Hebei Tire, which was part of government program to reform SOEs. This leased land was provided at LTAR.

5. Stamp Tax Exemption on Share Transfers under NTSR

Contrary to normal practice, neither a GOC controlled asset management company, nor GTC's other shareholders paid a stamp tax to the PRC tax authority when bonus shares were transferred to GTC, providing GTC with a countervailable subsidy.

6. Tax Subsidies to FIEs in Specially Designated Geographic Areas, and Local Income Tax Exemption and Reduction Programs for "Productive" FIEs

Two tax programs "Tax Subsidies to FIE's in Specially Designated Geographic Areas," and "Local Income Tax Exemption and Reduction Programs for 'Productive' FIE's" allow FIEs located in special designated locations to pay income tax at reduced rates.

7. VAT and Tariff Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries

FIEs and certain domestic enterprises are exempted from paying import tariffs and VAT payments on imported equipment provided that these goods are not for resale.

8. State Key Technology Renovation Project Fund

This program is set up to promote technological renovations and improvements in key industries. Companies receive payments in the form of "project investment facility" grants covering two years' worth of interest payments on loans to fund improvement projects, or up to three years for enterprises located in the northeast, central, or western areas of the country.

9. Provision of Nylon Cord and Carbon Black at LTAR

Producers of nylon cord and carbon black in the PRC are owned or otherwise controlled by the GOC, and the tire industry is the predominant user of these two products. The GOC, through these producers, provides nylon cord and carbon black to tire producers at LTAR.

10. VAT Import Duty Exemptions on Imported Material

Tire producers receive an exemption on VAT and import duties on imported rubber extended to material not used to produce exported products.

FINAL RESULTS OF REVIEW

The Department finds that revocation of the Order would be likely to lead to continuation or recurrence of countervailable subsidies at the rates listed below:

Manufacturers/Exporters	Net Countervailable Subsidy Rates
Guizhou Tire Co., Ltd.	2.52%
Hebei Starbright Co., Ltd.	35.13%
Tianjin United Tire and Rubber International Co., Ltd.	6.85%
All Others	5.65%

RECOMMENDATION

Based on our analysis of the substantive responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of this review in the Federal Register, and notify the ITC of our findings.

AGREE

DISAGREE

Ronald K Lorentzen

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

December 16, 2013

Date