



A-570-912
Sunset Review
Public Document
Office III: DK

DATE: December 16, 2013

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

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

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

Summary

We have analyzed the responses of the interested parties in the sunset review of the antidumping duty order covering 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.

Background

On August 1, 2013, the Department of Commerce ("the Department") published the notice of initiation of the sunset review of the antidumping duty order on OTR tires from the PRC, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act").¹ The Department received a notice of intent to participate from Titan Tire Corporation ("Titan") and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC ("USW"). Titan claimed interested party status under section 771(9)(C) of the Act, as a domestic producer of the domestic like product. USW claimed interested party status under section 771(9)(D) of the Act as a certified or recognized union representing workers engaged in manufacturing the domestic like product.

On September 3, 2013, the Department received an adequate substantive response from the domestic interested parties identified above within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). The Department did not receive a substantive response from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR

¹ See *Initiation of Five-Year ("Sunset") Review*, 78 FR 46575 (August 1, 2013).



351.218(e)(1)(ii)(C)(2), the Department is conducting an expedited (120-day) sunset review of the antidumping duty order on OTR tires from the PRC.

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, 2013.² Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day.³ The revised deadline for the final results of this review is now December 16, 2013.

Scope of the Order

The products covered by the order are new pneumatic tires designed for off-the-road 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,⁴ combine harvesters,⁵ agricultural high clearance sprayers,⁶ industrial tractors,⁷ log-skidders,⁸ agricultural implements, highway-towed implements, agricultural logging, and agricultural, industrial, skid-steers/mini-loaders;⁹ (2) construction vehicles and equipment, including earthmover articulated dump products, rigid frame haul trucks,¹⁰ front end loaders,¹¹ dozers,¹² lift trucks, straddle

² 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).

³ See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

⁴ 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.

⁵ Combine harvesters are used to harvest crops such as corn or wheat.

⁶ Agricultural sprayers are used to irrigate agricultural fields

⁷ 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.

⁸ 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.

⁹ 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.

¹⁰ 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.

¹¹ 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.

¹² 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.

carriers,¹³ graders,¹⁴ mobile cranes,¹⁵ 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. 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 order range in size (rim diameter) generally but not exclusively from 8 inches to 54 inches. The tires may be either tube-type¹⁶ 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.

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.

¹³ 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.

¹⁴ 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 on to which asphalt or other paving material will be laid.

¹⁵ *I.e.*, “on-site” mobile cranes designed for off-highway use.

¹⁶ 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).

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).

History of the Order

In July 2008, the Department published its final determination in the antidumping duty investigation of OTR tires from the PRC.¹⁷ The Department subsequently published an amended final determination and antidumping duty order on OTR tires from the PRC in September 2008.¹⁸ Subsequent to the issuance of the order, the final determination was amended following the conclusion of litigation.¹⁹ The company-specific dumping margins from the investigation, as amended, ranged from 5.25 percent to 29.93 percent, with the margin for 45 separate rate companies being 12.91 percent and for the PRC-wide entity being 210.48 percent.²⁰ Those

¹⁷ See *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008).

¹⁸ See *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Notice of Amended Final Affirmative Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 73 FR 51624 (September 4, 2008) ("Amended Final Determination").

¹⁹ See *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Notice of Amended Final Determination of Sales at Less Than Fair Value and Amended Antidumping Duty Order in Accordance With Final Court Decision*, 75 FR 49459 (August 13, 2010) ("Second Amended Final Determination"). In September 2010, the Department issued a redetermination pursuant to a separate remand order of the U.S. Court of International Trade ("CIT"). Although the CIT sustained that remand determination, the case currently remains subject to active litigation. See *GPX Int'l Tire Corp. v. United States*, Consol. Ct. No. 08-00285, Slip Op. 10-112 (Ct. Int'l Trade October 1, 2010); *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*, 75 FR 62504 (October 12, 2010). Because the litigation remains non-final as of the completion of this expedited sunset review, the Department is not considering that remand redetermination as part of its analysis.

²⁰ See *Amended Final Determination* and *Second Amended Final Determination*.

margins were calculated in accordance with the Department's 2006 announced change in practice not to use the zeroing methodology in antidumping duty investigations using average-to-average comparisons.²¹

In August 2012, the Department implemented a determination at the direction of the U.S. Trade Representative under section 129 of the Uruguay Round Agreements Act ("URAA") regarding the antidumping duty investigation of OTR tires from the PRC.²² As a result of this determination the dumping margins from the investigation were modified as follows:²³

Exporters/Producers	Weighted-Average Margin (percent)
Guizhou Tyre Co., Ltd./Guizhou Advance Rubber	5.10
Guizhou Tyre Co., Ltd./Guizhou Tyre Co., Ltd.	5.10
Hebei Starbright Co., Ltd./GPX International Tire Corporation, Ltd. / Hebei Starbright Co., Ltd.	29.93
Tianjin United Tire Rubber International Co., Ltd. ("TUTRIC")	8.39
Xuzhou Xugong Tyres Co., Ltd.	9.92
Aeolus Tyre Co., Ltd.	12.83
Double Coin Holdings Ltd.	12.83
Double Coin Holdings Ltd. /Double Coin Group Rugao Tyre Co., Ltd.	12.83
Double Coin Holdings Ltd. /Double Coin Group Shanghai Donghai Tyre Co., Ltd.	12.83
Double Happiness Tyre Industries Corp., Ltd.	12.83
Jiangsu Feichi Co., Ltd.	12.83
Kenda Rubber (China) Co., Ltd./Kenda Global Holding Co., Ltd. (Cayman Islands) / Kenda Rubber (China) Co., Ltd.	12.83
KS Holding Limited / Oriental Tyre Technology Ltd.	12.83
KS Holding Limited / Shandong Taishan Tyre Co., Ltd.	12.83
KS Holding Limited / Xu Zhou Xugong Tyres Co., Ltd.	12.83
Laizhou Xiongying Rubber Industry Co., Ltd.	12.83
Oriental Tyre Technology Limited / Midland Off the Road Tire Co., Ltd.	12.83
Oriental Tyre Technology Limited / Midland Specialty Tire Co., Ltd.	12.83
Oriental Tyre Technology Limited / Xuzhou Hanbang Tyres Co., Ltd.	12.83
Qingdao Aonuo Tyre Co., Ltd.	12.83
Qingdao Etyre International Trade Co., Ltd. / Shandong Xingda Tyre Co. Ltd.	12.83
Qingdao Etyre International Trade Co., Ltd. / Shandong Xingyuan International Trade Co. Ltd.	12.83
Qingdao Etyre International Trade Co., Ltd. / Shandong Xingyuan	

²¹ See *Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin During an Antidumping Duty Investigation: Final Modification*, 71 FR 77722 (December 27, 2006) ("Final Modification for Investigations").

²² 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) ("Section 129 Determination").

²³ *Id.*, 77 FR at 52686.

Rubber Co. Ltd.	12.83
Qingdao Free Trade Zone Full-World International Trading Co., Ltd. / Qingdao Eastern Industrial Group Co., Ltd.	12.83
Qingdao Free Trade Zone Full-World International Trading Co., Ltd. / Qingdao Qihang Tyre Co., Ltd.	12.83
Qingdao Free Trade Zone Full-World International Trading Co., Ltd. / Qingdao Shuanghe Tyre Co., Ltd.	12.83
Qingdao Free Trade Zone Full-World International Trading Co., Ltd. / Qingdao Yellowsea Tyre Factory	12.83
Qingdao Free Trade Zone Full-World International Trading Co., Ltd. / Shandong Zhentai Tyre Co., Ltd.	12.83
Qingdao Hengda Tyres Co., Ltd.	12.83
Qingdao Milestone Tyre Co., Ltd. / Qingdao Shuanghe Tyre Co., Ltd.	12.83
Qingdao Milestone Tyre Co., Ltd. / Shandong Zhentai Tyre Co., Ltd.	12.83
Qingdao Milestone Tyre Co., Ltd. / Shifeng Double-Star Tire Co., Ltd.	12.83
Qingdao Milestone Tyre Co., Ltd. / Weifang Longtai Tyre Co., Ltd.	12.83
Qingdao Qihang Tyre Co., Ltd.	12.83
Qingdao Qizhou Rubber Co., Ltd.	12.83
Qingdao Sinorient International Ltd. / Qingdao Hengda Tyres Co., Ltd.	12.83
Qingdao Sinorient International Ltd. / Shifeng Double-Star Tire Co., Ltd.	12.83
Qingdao Sinorient International Ltd. / Tengzhou Broncho Tyre Co., Ltd.	12.83
Shandong Huitong Tyre Co., Ltd.	12.83
Shandong Jinyu Tyre Co., Ltd.	12.83
Shandong Taishan Tyre Co., Ltd.	12.83
Shandong Wanda Boto Tyre Co., Ltd.	12.83
Shandong Xingyuan International Trading Co., Ltd. / Shandong Xingda Tyre Co., Ltd.	12.83
Shandong Xingyuan International Trading Co., Ltd. / Xingyuan Tyre Group Co., Ltd.	12.83
Techking Tires Limited / Shandong Xingda Tyre Co. Ltd.	12.83
Techking Tires Limited / Shandong Xingyuan International Trade Co. Ltd.	12.83
Techking Tires Limited / Shandong Xingyuan Rubber Co. Ltd.	12.83
Triangle Tyre Co., Ltd.	12.83
Wendeng Sanfeng Tyre Co., Ltd.	12.83
Zhaoyuan Leo Rubber Co., Ltd.	12.83
PRC-Entity Rate	210.48

Those revised margins were likewise calculated consistent with the *Final Modification for Investigations*.

Since the issuance of the order, the Department has completed three administrative reviews and one new shipper review of the order; finding above *de minimis* margins in each administrative

review.²⁴ The Department calculated a final margin of 28.97 percent in final results of the 2008-2009 review which applied to the sole mandatory respondent, Hebei Starbright Tire Co., Ltd., and the five separate rate respondents: Hangzhou Zhongce Rubber Co., Ltd.; KS Holding Limited/KS Resources Limited; Laizhou Xiongying Rubber Industry Co., Ltd.; Qingdao Taifa Group Co., Ltd.; and Weihai Zhongwei Rubber Co., Ltd.²⁵ The Department calculated a final margin of 11.07 percent in the final results of the 2009-2010 review which covered only TUTRIC.²⁶ The Department calculated a final margin of 112.41 percent in the final results of the 2010-2011 review which, after partial rescission, covered only Hangzhou Zhongce Rubber Co., Ltd.²⁷ In the final results of the new shipper review covering Trelleborg Wheel Systems (Xingtai) China Co., Ltd., the Department calculated a final margin of zero percent.²⁸

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department is conducting this sunset review to determine whether revocation of the antidumping duty order would be likely to lead to a continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making this determination, the Department shall consider both the weighted-average dumping margins determined in the investigation and subsequent reviews, and the volume of imports of the subject merchandise for the periods before and the periods after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the International Trade Commission (“ITC”) the magnitude of the margins of dumping likely to prevail if the order were revoked.

In the *Final Modification for Reviews*, the Department announced it was modifying its practice in sunset reviews such that it will not rely on weighted-average dumping margins that were calculated using the methodology found to be World Trade Organization (“WTO”)-inconsistent, *i.e.*, zeroing/the denial of offsets.²⁹ The Department stated that “only in the most extraordinary circumstances” would it rely on margins other than those calculated and published in prior determinations.³⁰ The Department further stated that apart from the “most extraordinary

²⁴ See *Certain New Pneumatic Off-the-Road Tires From the People’s Republic of China: Final Results of the 2008–2009 Antidumping Duty Administrative Review*, 76 FR 22871 (April 25, 2011); *Certain New Pneumatic Off-the-Road Tires From the People’s Republic of China: Final Results of the 2009–2010 Antidumping Duty Administrative Review and Final Rescission, in Part*, 77 FR 14495 (March 12, 2012); *Certain New Pneumatic Off-the-Road Tires From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part; 2010–2011*, 78 FR 22513 (April 16, 2013); and *Certain New Pneumatic Off-the-Road Tires From the People’s Republic of China: Final Results of Antidumping Duty New Shipper Review; 2011–2012*, 78 FR 33341 (June 4, 2013).

²⁵ See *Certain New Pneumatic Off-the-Road Tires From the People’s Republic of China: Final Results of the 2008–2009 Antidumping Duty Administrative Review*, 76 FR 22871 (April 25, 2011).

²⁶ See *Certain New Pneumatic Off-the-Road Tires From the People’s Republic of China: Final Results of the 2009–2010 Antidumping Duty Administrative Review and Final Rescission, in Part*, 77 FR 14495 (March 12, 2012).

²⁷ See *Certain New Pneumatic Off-the-Road Tires From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part; 2010–2011*, 78 FR 22513 (April 16, 2013).

²⁸ See *Certain New Pneumatic Off-the-Road Tires From the People’s Republic of China: Final Results of Antidumping Duty New Shipper Review; 2011–2012*, 78 FR 33341 (June 4, 2013).

²⁹ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012) (“*Final Modification for Reviews*”).

³⁰ *Id.*, 77 FR at 8103.

circumstances,” it would “limit its reliance to margins determined or applied during the five-year sunset period that were not determined in a manner found to be WTO-inconsistent” and that it “may also rely on past dumping margins that were not affected by the WTO-inconsistent methodology, such as dumping margins recalculated pursuant to section 129 proceedings, dumping margins determined based on the use of total adverse facts available, and dumping margins where no offsets were denied because all comparison results were positive.”³¹

Below we address the comments of the interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

Domestic interested parties argue that the continuation of dumping with the discipline of an order in place is strong evidence that dumping would continue if the discipline of the order were removed. Further, they argue that the uninterrupted history of continued and increased dumping, as confirmed by multiple reviews, is highly probative of the likelihood of the continuation of dumping at the same or greater margins if the order were revoked.

While noting that the volume of imports of certain OTR tires can be difficult to ascertain because significant volumes of non-subject tires are captured under the HTSUS codes under which OTR tires are imported, domestic interested parties nonetheless provide statistics to support their claim that the general trend in the volume of imports is one that fell steeply following the imposition of the order and has remained below the volume of imports preceding the order. Thus, domestic interested parties assert that the decline in import volumes coexistent with the continued dumping margins the Department has found in administrative reviews of this order provides a strong indication that exporters cannot sell at pre-order volumes without dumping. Therefore, dumping would likely continue if the order were revoked.

Department’s Position

In accordance with the guidance provided in the legislative history accompanying the URAA, specifically the Statement of Administrative Action (“SAA”), H.R. Doc. 103-316, vol. 1 (1994),³² the House Report, H. Rep. No. 103-826, pt. 1 (1994) (“House Report”),³³ and the Senate Report, S. Rep. No. 103-412 (1994) (“Senate Report”), the Department’s determinations of likelihood will be made on an order-wide basis.³⁴ In addition, the Department normally will determine that revocation of an order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of an order and import volumes for the subject merchandise

³¹ *Id.*

³² Reprinted in 1994 U.S.C.C.A.N. 4040 (1994).

³³ Reprinted in 1994 U.S.C.C.A.N. 3773 (1994).

³⁴ See SAA at 879 and House Report at 56.

declined significantly.³⁵ With respect to the level of dumping, as noted above, in accordance with the *Final Modification for Reviews* the Department will not rely on weighted average dumping margins that were calculated using the WTO-inconsistent methodology. In considering import volumes, pursuant to section 752(c)(1)(B) of the Act, the Department will consider the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping order.

Although the three administrative reviews were completed prior to implementation of the *Final Modification for Reviews*, in which the Department announced a change in practice no longer to use the zeroing methodology in antidumping duty administrative reviews using average-to-average comparisons, our review of the import statistics provided by domestic interested parties confirms that imports of OTR tires from the PRC declined significantly after issuance of the order and have not returned to pre-order levels. The level of imports of OTR tires fell from 2.4 million tires annually in 2007 to 1.0 million in 2008.³⁶ Subsequently, imports ranged from a low of approximately 900,000 OTR tires in 2009 to a high of approximately 1.3 million in 2011, while remaining significantly below pre-order levels in each of the five years following imposition of the order. Imports of subject merchandise in 2012 were only 1.2 million OTR tires, or 48.6 percent of the volume imported in 2007.³⁷ Given the significant decline in import volumes since the issuance of the order, the Department determines that dumping would be likely to continue or recur if the order were revoked.

2. Magnitude of the Margin Likely to Prevail

Interested Party Comments

Domestic interested parties assert that the Department's general practice in sunset reviews is to report the margins from the investigation to the ITC as the magnitude of margins likely to prevail in the absence of the order. Therefore, domestic interested parties argue that the Department should follow its normal practice and, for those companies that received a specific rate in the original investigation, the Department should select the margins found in the investigation, as modified in the *Section 129 Determination*. For all other companies, which did not receive a separate rate in the original investigation, including companies that did not start shipping until after the order was issued, the Department should select the entity-wide rate from the investigation of 201.48 percent.

Department's Position

The Department will normally provide to the ITC the company-specific margin from the investigation for each company.³⁸ For companies not investigated specifically or that did not begin shipping until after the order was issued, the Department normally will provide a margin

³⁵ See SAA at 889 and 890, House Report at 63-64, and Senate Report at 52.

³⁶ See Domestic interested party submission "*Sunset Review (1st Review) pursuant to Section 751(c) of the Tariff Act of 1930 of the antidumping duty order on New Pneumatic Off-The-Road Tires from China (A-570-912): Substantive Response to Notice of Initiation*" at 12-14 and Exhibit 2 (September 3, 2013).

³⁷ *Id.*

³⁸ See *Eveready Battery Co., Inc. v. United States*, 77 F. Supp. 2d 1327, 1333 (Ct. Int'l Trade 1999) ("*Eveready Battery*") and SAA at 890.

based on the “All Others” rate from the investigation.³⁹ However, for countries which the Department considers to be a non-market economy under section 771(18)(A) of the Act, the Department does not have an all-others rate. Thus, in non-market economy cases, instead of an all-others rate, the Department uses an established country-wide rate, which it applies to all imports from exporters that have not established their eligibility for a separate rate.⁴⁰

The Department prefers to select a margin from the investigation because it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place.⁴¹ Under certain circumstances, however, the Department may select a more recently calculated margin to report to the ITC.⁴²

The Department has determined that the weighted-average antidumping duty margins established in the investigation final determination, as modified in the *Section 129 Determination*, represent the magnitude of the margins of dumping likely to prevail if the order were revoked.⁴³ We further determine that these margins were not affected by the denial of offsets in accordance with the *Final Modification for Investigations*. Specifically, the rates for the respondents were calculated without zeroing because the investigation was conducted after the Department ceased zeroing in investigations when making average-to-average comparisons. Furthermore, the final antidumping duty margin for the PRC-wide entity was based on total adverse facts available and did not involve the denial of offsets. Accordingly, we find it appropriate to provide the ITC with the rates from the investigation, as modified in the *Section 129 Determination*, because these rates best reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place.

Final Results of Expedited Sunset Review

We determine that revocation of the antidumping duty order on OTR tires from the PRC would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

³⁹ See section 752(c)(3) of the Act; see also, e.g., *Internal-Combustion Forklift Trucks from Japan: Final Results of the Expedited Sunset Review of the Antidumping Order*, 70 FR 58373 (October 6, 2005), and accompanying Issues and Decision Memorandum at “Magnitude of the Margin Likely to Prevail.”

⁴⁰ See *Bristol Metals L.P. v. United States*, 703 F. Supp. 2d 1370, 1378 (Ct. Int’l Trade 2010) (citation omitted); see also *Amanda Foods (Vietnam) Ltd. v. United States*, 647 F. Supp. 2d 1368, 1379 (Ct. Int’l Trade 2009) (citation omitted).

⁴¹ See *Eveready Battery*, 77 F. Supp. 2d at 1333; see also SAA at 890.

⁴² See *Corrosion-Resistant Carbon Steel Flat Products From Germany and the Republic of Korea: Final Results of Full Sunset Reviews*, 77 FR 72827 (December 6, 2012), and accompanying Issues and Decision Memorandum at Comment 2; see also SAA at 890-891.

⁴³ 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 Antidumping Duty Order*, 78 FR 61335, 61336 n.4 (October 3, 2013) (reporting revised margins from a section 129 determination as the magnitude of the margins likely to prevail).

Exporters/Producers	Weighted-Average Margin (percent)
Guizhou Tyre Co., Ltd./Guizhou Advance Rubber	5.10
Guizhou Tyre Co., Ltd./Guizhou Tyre Co., Ltd.	5.10
Hebei Starbright Co., Ltd./GPX International Tire Corporation, Ltd. / Hebei Starbright Co., Ltd.	29.93
Tianjin United Tire Rubber International Co., Ltd. ("TUTRIC")	8.39
Xuzhou Xugong Tyres Co., Ltd.	9.92
Aeolus Tyre Co., Ltd.	12.83
Double Coin Holdings Ltd.	12.83
Double Coin Holdings Ltd. /Double Coin Group Rugao Tyre Co., Ltd.	12.83
Double Coin Holdings Ltd. /Double Coin Group Shanghai Donghai Tyre Co., Ltd.	12.83
Double Happiness Tyre Industries Corp., Ltd.	12.83
Jiangsu Feichi Co., Ltd.	12.83
Kenda Rubber (China) Co., Ltd./Kenda Global Holding Co., Ltd. (Cayman Islands) / Kenda Rubber (China) Co., Ltd.	12.83
KS Holding Limited / Oriental Tyre Technology Ltd.	12.83
KS Holding Limited / Shandong Taishan Tyre Co., Ltd.	12.83
KS Holding Limited / Xu Zhou Xugong Tyres Co., Ltd.	12.83
Laizhou Xiongying Rubber Industry Co., Ltd.	12.83
Oriental Tyre Technology Limited / Midland Off the Road Tire Co., Ltd.	12.83
Oriental Tyre Technology Limited / Midland Specialty Tire Co., Ltd.	12.83
Oriental Tyre Technology Limited / Xuzhou Hanbang Tyres Co., Ltd.	12.83
Qingdao Aonuo Tyre Co., Ltd.	12.83
Qingdao Etyre International Trade Co., Ltd. / Shandong Xingda Tyre Co. Ltd.	12.83
Qingdao Etyre International Trade Co., Ltd. / Shandong Xingyuan International Trade Co. Ltd.	12.83
Qingdao Etyre International Trade Co., Ltd. / Shandong Xingyuan Rubber Co. Ltd.	12.83
Qingdao Free Trade Zone Full-World International Trading Co., Ltd. / Qingdao Eastern Industrial Group Co., Ltd.	12.83
Qingdao Free Trade Zone Full-World International Trading Co., Ltd. / Qingdao Qihang Tyre Co., Ltd.	12.83
Qingdao Free Trade Zone Full-World International Trading Co., Ltd. / Qingdao Shuanghe Tyre Co., Ltd.	12.83
Qingdao Free Trade Zone Full-World International Trading Co., Ltd. / Qingdao Yellowsea Tyre Factory	12.83
Qingdao Free Trade Zone Full-World International Trading Co., Ltd. / Shandong Zhentai Tyre Co., Ltd.	12.83
Qingdao Hengda Tyres Co., Ltd.	12.83
Qingdao Milestone Tyre Co., Ltd. / Qingdao Shuanghe Tyre Co., Ltd.	12.83

Qingdao Milestone Tyre Co., Ltd. / Shandong Zhentai Tyre Co., Ltd.	12.83
Qingdao Milestone Tyre Co., Ltd. / Shifeng Double-Star Tire Co., Ltd.	12.83
Qingdao Milestone Tyre Co., Ltd. / Weifang Longtai Tyre Co., Ltd.	12.83
Qingdao Qihang Tyre Co., Ltd.	12.83
Qingdao Qizhou Rubber Co., Ltd.	12.83
Qingdao Sinorient International Ltd. / Qingdao Hengda Tyres Co., Ltd.	12.83
Qingdao Sinorient International Ltd. / Shifeng Double-Star Tire Co., Ltd.	12.83
Qingdao Sinorient International Ltd. / Tengzhou Broncho Tyre Co., Ltd.	12.83
Shandong Huitong Tyre Co., Ltd.	12.83
Shandong Jinyu Tyre Co., Ltd.	12.83
Shandong Taishan Tyre Co., Ltd.	12.83
Shandong Wanda Boto Tyre Co., Ltd.	12.83
Shandong Xingyuan International Trading Co., Ltd. / Shangdong Xingda Tyre Co., Ltd.	12.83
Shandong Xingyuan International Trading Co., Ltd. / Xingyuan Tyre Group Co., Ltd.	12.83
Techking Tires Limited / Shandong Xingda Tyre Co. Ltd.	12.83
Techking Tires Limited / Shandong Xingyuan International Trade Co. Ltd.	12.83
Techking Tires Limited / Shandong Xingyuan Rubber Co. Ltd.	12.83
Triangle Tyre Co., Ltd.	12.83
Wendeng Sanfeng Tyre Co., Ltd.	12.83
Zhaoyuan Leo Rubber Co., Ltd.	12.83
PRC-Entity Rate	210.48

Recommendation

Based on our analysis of the substantive response received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of 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