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Investigation
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DATE: June 27, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Affirmative
Determination: Countervailing Duty Investigation of Truck and
Bus Tires from the People's Republic of China; and the
Preliminary Affirmative Determination of Critical Circumstances,
in Part

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to exporters and producers of truck and bus tires from the People's Republic of China (PRC), as provided in section 703 of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

A. Initiation and Case History

On January 29, 2016, the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC (USW) (USW or the petitioner) filed the countervailing duty (CVD) petition regarding truck and bus tires from the PRC.¹ Supplements to the CVD Petition are described in the Initiation Checklist.² On February 18, 2016, the Department initiated a CVD investigation of truck and bus tires from the PRC.³ On March 24, 2016, the Department postponed its preliminary determination until June 27, 2016.⁴

¹ See "Petition for the Imposition of Countervailing Duties on Imports of Truck and Bus Tires from the People's Republic of China" dated January 29, 2016 (alleging countervailable subsidies at Volume III (CVD Petition)).

² See "Countervailing Duty Investigation Initiation Checklist: Truck and Bus Tires from People's Republic of China" (February 18, 2016) (Initiation Checklist).

³ See *Truck and Bus Tires from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 81 FR 9428 (February 25, 2016) (*Initiation Notice*).

⁴ See *Truck and Bus Tires from the People's Republic of China: Postponement of Preliminary Determination of Countervailing Duty Investigation*, 81 FR 18573 (March 31, 2016).



We stated in the *Initiation Notice* that we intended to base our selection of mandatory respondents on U.S. Customs and Border Protection (CBP) entry data for the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.⁵ We released the CBP entry data under administrative protective order (APO) on February 26, 2016.⁶ We received comments from the petitioner,⁷ and from China Manufacturers Alliance (CMA).⁸ Section 777A(e)(1) of the Act directs the Department to determine an individual countervailable subsidy rate for each known exporter/producer of subject merchandise. The Department, however, may limit its examination to a reasonable number of exporters/producers under section 777A(e)(2) of the Act and 19 CFR 351.204(c)(2) if it determines that it is not practicable to determine individual countervailable subsidy rates because of the large number of exporters/producers involved in the investigation.

After careful consideration, the Department determined that, in this investigation, it was not practicable to examine all of the exporters/producers of truck and bus tires from the PRC because of the large number of identified exporters and producers relative to the resources available at the Department to conduct this investigation.⁹ Based upon CBP entry data, on March 31, 2016, the Department selected the two largest exporters/producers accounting for the largest volume of subject merchandise exported to the United States from the PRC during the POI, which in alphabetical order are: Double Coin Holdings Ltd. (Double Coin) and Guizhou Tyre I/E Corp. (GTCIE).¹⁰ On April 1, 2016, we issued the CVD questionnaire to the Government of the People's Republic of China (GOC), requesting that it forward this questionnaire to the selected mandatory respondents.¹¹ Double Coin reported its affiliates and cross-owned companies, as requested in the CVD questionnaire, on April 15, 2016.¹² On that date, GTCIE also reported its affiliates and cross-owned companies, explaining that Guizhou Tyre Co., Ltd. (GTC) is the producer of subject merchandise; the full name of GTCIE is Guizhou Tyre Import and Export Co., Ltd.; and, that GTCIE is the affiliated trading company through which GTC exports.¹³

On April 8, 2016, Chongqing Hankook Tire Co., Ltd. and Jiangsu Hankook Tire Co., Ltd. (collectively, Hankook) requested that Hankook be investigated as a voluntary respondent in accordance with Section 782(a) of the Act.¹⁴ Hankook subsequently withdrew this request.¹⁵

⁵ See *Initiation Notice*, 81 FR at 9431.

⁶ See Department Memorandum, "Countervailing Duty Investigation: *Truck and Bus Tires from the People's Republic of China*, Release of U.S. Customs and Border Protection Data," February 26, 2016.

⁷ See Letter from the USW, "Petitioner's Respondent Selection Comments," March 4, 2016.

⁸ See Letter from CMA, "Comments on CBP Data," March 4, 2016.

⁹ See Memorandum, "Countervailing Duty Investigation of Truck and Bus Tires from The People's Republic of China: Respondent Selection," March 31, 2016, at 3-4.

¹⁰ *Id.* at 6.

¹¹ See Letter from the Department, "Countervailing Duty Investigation of Truck and Bus Tires from the People's Republic of China: Countervailing Duty Questionnaire," April 1, 2016 (Initial Questionnaire).

¹² See Letter from Double Coin Holdings Ltd., "*Affiliation Response of Double Coin*," April 15, 2016 (*Double Coin Affiliation Response*).

¹³ See Letter from Guizhou Tyre Co., Ltd. (GTC), "*Guizhou Tyre Affiliation Response*," April 15, 2016 (*Guizhou Affiliation Response*).

¹⁴ See Letter from Hankook, "Request for Voluntary Respondent Treatment," April 8, 2016.

¹⁵ See Letter from Hankook, "Withdrawal of Request for Voluntary Respondent Treatment," May 5, 2016.

In its affiliation response, Double Coin identified six companies with which it was cross-owned that either produced subject merchandise, transacted with a toll operator for tire production, or supplied inputs primarily dedicated to the production of subject merchandise, and for whom it would be submitting full responses to the initial questionnaire, as instructed. The cross-owned companies identified by Double Coin in its affiliation response are: Double Coin Group (Jiangsu) Tyre Co., Ltd. (hereafter, Jiangsu Tyre); Double Coin Group (Chongqing) Tyre Co., Ltd. (Chongqing Tyre); Double Coin Group Shanghai Donghai Tyre Co. Ltd. (Donghai Tyre); Double Coin Group (Xinjiang) Kunlun Tyre Co., Ltd. (Kunlun Tyre); Xinjiang Kunlun Engineering Co., Ltd. (Kunlun Engineering); Double Coin Group Shanghai Supply & Marketing Co., Ltd. (Shanghai Supply).¹⁶

The affiliation response filed on behalf of GTC and GTCIE identified the companies as a cross-owned producer and exporter and the two companies for which full responses to the initial questionnaire would be provided (collectively, Guizhou Tyre).¹⁷

Between April 15, 2016, and June 23, 2016, we received timely responses from the GOC and the company respondents to our initial questionnaire and our supplemental questionnaires.¹⁸

On May 26, 2016, the petitioner timely filed a new subsidy allegation.¹⁹ We have not yet analyzed this allegation to determine whether the petitioner has satisfied the statutory requirements for initiation. We will do so after this preliminary determination. The petitioner and GTC filed information regarding benchmarks for calculating subsidy benefits on May 31, 2016.²⁰ The petitioner filed rebuttal benchmark comments on June 10, 2016.²¹ On June 7, 2016, the petitioner timely filed allegations that critical circumstances exist with respect to imports of subject merchandise from the PRC.²² We requested shipment data from Double Coin and Guizhou Tyre on June 9, 2016;²³ the data was submitted on June 22, 2016.²⁴

¹⁶ See *Double Coin Affiliation Response*.

¹⁷ See *Guizhou Affiliation Response*.

¹⁸ For purposes of this preliminary determination, we have not analyzed the information provided by Double Coin and Guizhou Tyre in the supplemental questionnaire responses they filed on June 23, 2016. We will examine this information, and verify it as appropriate, for the final determination.

¹⁹ See Letter from USW, “Petitioner’s Equity Infusion Allegation,” May 26, 2016.

²⁰ See Letter from USW, “Petitioner’s Benchmark Information,” May 31, 2016 (Petitioner’s Benchmark Submission); see also Letter from Guizhou Tyre Co., Ltd., “*Guizhou Tyre First Supplemental Response*,” May 31, 2016 (*Guizhou Supplemental Response*).

²¹ See Letter from USW, “Petitioner’s Rebuttal Benchmark and Factual Information,” June 10, 2016.

²² See Letter from USW, “Petitioner’s Critical Circumstances Allegation,” June 7, 2016 (Critical Circumstances Allegation).

²³ See Letters to Double Coin Holdings Ltd. and Guizhou Tyre Co., Ltd., “*Critical Circumstances Supplemental Questionnaire*,” June 9, 2016 (*Critical Circumstances Questionnaires*).

²⁴ See Letter from Double Coin Holdings, Ltd., “*Double Coin’s Monthly Shipment Data*,” (*Double Coin Shipment Data*) and Letter from Guizhou Tyre Co., Ltd., “*Submission of Critical Circumstances Data*,” June 22, 2016 (*Guizhou Tyre Shipment Data*).

On June 20, 2016, the petitioner filed comments in advance of this preliminary determination.²⁵ To the extent practicable, we have considered these comments in making this preliminary determination.

B. Postponement of Preliminary Determination

On March 24, 2016, based on a request from the petitioner, the Department postponed the deadline for the preliminary determination until no later than 130 days after the initiation of the investigation. The Department postponed the preliminary determination until June 27, 2016, in accordance with sections 703(c)(1) and (2) of the Act and 19 CFR 351.205(f)(1).²⁶

C. Period of Investigation

The period of investigation (POI) is January 1, 2015, through December 31, 2015. This period corresponds to the most recently completed calendar year, in accordance with 19 CFR 351.204(b)(2).

III. SCOPE COMMENTS

As stated in the *Initiation Notice*, we set aside a period of time for parties to raise issues regarding product coverage, and we stated that all such comments must be filed within 20 calendar days of publication of the *Initiation Notice*.²⁷

We received comments concerning the scope of the AD and CVD investigations of truck and bus tires from the PRC from Tyres International.²⁸ The petitioner submitted rebuttal comments.²⁹ We intend to issue our preliminary decision regarding the scope of the AD and CVD investigations in the preliminary determination of the companion AD investigation, the deadline for which is August 26, 2016. We will incorporate the scope decisions from the AD investigations into the scope of the final CVD determination after considering any relevant comments submitted in case and rebuttal briefs.

IV. SCOPE OF THE INVESTIGATION

The product covered by this investigation is truck and bus tire from the People's Republic of China. Truck and bus tires are new pneumatic tires, of rubber, with a truck or bus size designation. Truck and bus tires covered by this investigation may be tube-type, tubeless, radial, or non-radial.

²⁵ See Letter from USW, "Petitioner's Pre-Preliminary Comments," June 20, 2016.

²⁶ See *Truck and Bus Tires from the People's Republic of China: Postponement of Preliminary Determination of Countervailing Duty Investigation*, 81 FR 18573 (March 31, 2016).

²⁷ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997); see also *Initiation Notice*.

²⁸ See Letter from Tyres International, "Tyres International Scope Comments" (March 9, 2016).

²⁹ See Letter from USW, "Petitioner's Rebuttal Scope Comments," March 21, 2016.

Subject tires have, at the time of importation, the symbol “DOT” on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have one of the following suffixes in their tire size designation, which also appear on the sidewall of the tire:

TR – Identifies tires for service on trucks or buses to differentiate them from similarly sized passenger car and light truck tires;

MH – Identifies tires for mobile homes; and

HC – Identifies a 17.5 inch rim diameter code for use on low platform trailers.

All tires with a “TR,” “MH,” or “HC” suffix in their size designations are covered by this investigation regardless of their intended use.

In addition, all tires that lack one of the above suffix markings are included in the scope, regardless of their intended use, as long as the tire is of a size that is among the numerical size designations listed in the “Truck-Bus” section of the Tire and Rim Association Year Book, as updated annually, unless the tire falls within one of the specific exclusions set out below.

Truck and bus tires, whether or not mounted on wheels or rims, are included in the scope. However, if a subject tire is imported mounted on a wheel or rim, only the tire is covered by the scope. Subject merchandise includes truck and bus tires produced in the subject country whether mounted on wheels or rims in the subject country or in a third country. Truck and bus tires are covered whether or not they are accompanied by other parts, e.g., a wheel, rim, axle parts, bolts, nuts, etc. Truck and bus tires that enter attached to a vehicle are not covered by the scope.

Specifically excluded from the scope of this investigation are the following types of tires: (1) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires; and (2) non-pneumatic tires, such as solid rubber tires.

The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.20.1015 and 4011.20.5020. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.99.4520, 4011.99.4590, 4011.99.8520, 4011.99.8590, 8708.70.4530, 8708.70.6030, and 8708.70.6060. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

V. CRITICAL CIRCUMSTANCES

As noted above, on June 7, the petitioner, pursuant to 19 CFR 351.206(c)(1), alleged that critical circumstances exist with respect to imports of the subject merchandise.³⁰ In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, the Department must issue a

³⁰ See Critical Circumstances Allegation.

preliminary finding whether there is a reasonable basis to believe or suspect that critical circumstances exist by no later than the date of the preliminary determination.

Legal Framework

Section 703(e)(1) of the Act provides that the Department, upon receipt of a timely allegation of critical circumstances, will determine whether there is a reasonable basis to believe or suspect that: (A) the alleged countervailing subsidy is inconsistent with the WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement), and (B) there have been massive imports of the subject merchandise over a relatively short period.

Critical Circumstances Allegation

In support of its allegation, the petitioner contends that subsidy programs that are contingent upon export performance are inconsistent with the Subsidies Agreement and, if such programs have been alleged, the first prong of section 703(e)(1) of the Act is satisfied.³¹ The petitioner states that in this investigation, the Department initiated on a number of programs that are contingent upon export performance, many of which have been found to be countervailable in previous CVD proceedings. These programs include: (1) Discounted Loans for Export-Oriented Enterprises; (2) Export Seller's Credits; (3) Export Buyer's Credits; (4) Export Credit Insurance subsidies; (5) Export Credit Guarantees; (6) the Famous Brands Program; (7) Export Loan Interest Subsidies; (8) Export Interest Subsidy Funds for Enterprises Located in Guangdong and Zhejiang Province; and (9) Funds for "Outward Expansion" of Industries in Guangdong Province.³²

The petitioner provided U.S. Census Bureau data obtained from the ITC's DataWeb, which they contend shows an increase in imports of subject merchandise between the "base period" before the filing of the petition, November 2015 through January 2016, and the "comparison period" following the petition filing, February 2016 through April 2016. Further, according to the petitioner, the increase was concentrated in the last two months of the comparison period, March and April 2016. The petitioner notes that the increase in imports shown by these data is slightly below than the 15 percent threshold "normally applied by the Department."³³ However, according to the petitioner, the rapid acceleration in imports demonstrated by the March and April 2016 data indicates that more recent data would demonstrate that the 15 percent threshold has been met, if not exceeded. To determine whether imports have continued to increase after April 2016, in the absence of U.S. Census Bureau data for April 2016, which is not yet available, the petitioner provided data from Automated Manifest System (AMS data) for a four-month base period (October 2015 through January 2016) and the corresponding four-month comparison period (February 2016 through April 2016), which, according the petitioner, demonstrate that imports have increased by 94 percent, by volume.

³¹ *Id.* at 3.

³² *Id.*

³³ *Id.* at 5.

Analysis

Section 703(e)(1) of the Act: Whether the Alleged Countervailable Subsidy is Inconsistent With the Subsidies Agreement

To determine whether an alleged countervailable subsidy is inconsistent with the Subsidies Agreement, in accordance with section 703(e)(1)(A) of the Act and 19 CFR 351.206(i), the Department considered the evidence currently on the record of this investigation. Specifically, and as discussed below in the section, “Analysis of Programs,” the Department preliminarily determines that the respondent companies (*i.e.*, Double Coin and Guizhou Tyre) received countervailable subsidies under the program “Export Seller’s Credits from State-Owned Banks.”

Based on the record evidence available to the Department at this time, the Department has a reasonable basis to believe or suspect that the subsidy program identified above is inconsistent with the Subsidies Agreement.

Section 703(e)(1)(B) of the Act: Whether There Have Been Massive Imports of the Subject Merchandise Over a Relatively Short Period

In determining whether there have been “massive imports” over a “relatively short period,” pursuant to section 703(e)(1)(B) of the Act, the Department normally compares the import volumes of the subject merchandise for at least the three-month period immediately preceding the filing of the petition (*i.e.*, the base period) to a comparable period of at least three months following the filing of the petition (*i.e.*, the comparison period). As provided by 19 CFR 351.206(h)(1), the Department normally will examine: (i) the volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, the Department will not consider imports to be massive unless imports during the “relatively short period” (*i.e.*, comparison period) have increased by at least 15 percent compared to imports during an “immediately preceding period of comparable duration” (*i.e.*, base period).³⁴ As provided in 19 CFR 351.206(i), a “relatively short period” is defined as normally being the period beginning on the date the proceeding commences (*i.e.*, the date the petition is filed) and ending at least three months later. As discussed in more detail below, for consideration of this allegation, we relied on a three-month comparison period (*i.e.*, February through April 2016) and a three-month base period (*i.e.*, November 2015 through January 2016).

Double Coin and Guizhou Tyre

On June 9, 2016, we issued a questionnaire to Double Coin and Guizhou Tyre regarding the petitioner’s Critical Circumstances Allegation.³⁵ The companies submitted their data on June 22, 2016.³⁶ In determining whether there were massive imports from Double Coin and Guizhou Tyre, we examined their reported shipment data for the period November 2015 through April 2016. Because these shipment data are business proprietary, our analysis can be found in a

³⁴ See 19 CFR 351.206(h)(2).

³⁵ See *Critical Circumstances Supplemental Questionnaires*.

³⁶ See *Double Coin Shipment Data*, and *Guizhou Tyre Shipment Data*.

memorandum issued concurrently with this preliminary determination.³⁷ Our analysis of the shipment data submitted by Double Coin leads us to conclude that there was not a massive increase in shipments of subject merchandise to the United States by Double Coin. Our analysis of the shipment data submitted by Guizhou Tyre leads us to conclude that there was a massive increase in shipments of subject merchandise to the United States by Guizhou Tyre.

All Other Exporters

With regard to whether imports of subject merchandise by the “all other” producer/exports of subject merchandise from the PRC, we preliminarily determine that because there is evidence of countervailable subsidies that are inconsistent with the Subsidies Agreement, an analysis is warranted of whether there was a massive increase of shipments by all other companies, in accordance with section 703(e)(1)(B) of the Act and 19 CFR 351.206(h). Therefore, we analyzed, in accordance with 351.206(i), monthly shipment data for the period November 2015 through April 2016, using shipment data from the U.S. Census Bureau, adjusted to remove shipments reported by Double Coin and Guizhou Tyre. We have not relied on the AMS data provided by the petitioner because the petitioner has not demonstrated that U.S. Census Bureau data, which is among the data sources on which the Department normally relies for this analysis,³⁸ are inherently flawed or unreliable; neither has the petitioner provided information about the underlying source of the AMS data or the method of its collection that would enable us to consider the AMS data inherently reliable or more reliable than the U.S. Census Bureau data.

Because of the proprietary nature of company-specific shipment data and the resulting adjustment to the U.S. Census Bureau data, our analysis is found in the Preliminary Critical Circumstances Memorandum. Our analysis of this adjusted shipment data leads us to conclude that there was not a massive increase in shipments by “all other” companies, in accordance with section 703(e)(1)(B) of the Act and 19 CFR 351.206(h).³⁹ Accordingly, we preliminarily find that critical circumstances do not exist with regard to imports of subject merchandise from “all other” producers/exporters of subject merchandise from the PRC.

VI. INJURY TEST

Because the PRC is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry. On March 14, 2016, the ITC preliminarily determined that there was a reasonable

³⁷ See Department Memorandum, Countervailing Duty Investigation of Truck and Bus Tires from the People’s Republic of China: Preliminary Analysis of Critical Circumstances (Preliminary Critical Circumstances Memorandum), dated concurrently with this preliminary determination.

³⁸ See, e.g., *Certain New Pneumatic Off-The-Road Tires from India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination With Final Antidumping Determination*, 81 FR 39903 (June 20, 2016), and accompanying Issues and Decision Memorandum, at “V. CRITICAL CIRCUMSTANCES.”

³⁹ *Id.*

indication that an industry in the United States is materially injured or threatened with material injury by imports of truck and bus tires from the PRC.⁴⁰

VII. USE OF FACTS OTHERWISE AVAILABLE AND APPLICATION OF ADVERSE INFERENCES

Section 776(a) of the Act provides that the Department shall, subject to section 782(d) of the Act, use the “facts otherwise available” if: (1) necessary information is not on the record; or (2) an interested party or any other person withholds information that has been requested; fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; significantly impedes a proceeding; or provides information that cannot be verified as provided by section 782(i) of the Act. Section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and CVD law, including amendments to section 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act.⁴¹ The amendments to the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this investigation.⁴²

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. For purposes of this preliminary determination, as discussed below, we have relied on adverse inferences due to the GOC’s lack of response to the initial questionnaire regarding the alleged provision of inputs, land use rights, and electricity. However, we will continue to gather additional information regarding these programs following this preliminary determination.

A. Suppliers of Inputs are “Authorities”

As discussed below in the section “Programs Preliminarily Determined to be Countervailable,” the Department is investigating the provision of four inputs for less than adequate remuneration (LTAR): carbon black, nylon cord, synthetic rubber and butadiene, and natural rubber. We requested information from the GOC regarding the specific companies that produced the input products that Double Coin and GTC, and their respective cross-owned companies, purchased

⁴⁰ See *Truck and Bus Tires from China*, 81 FR 14888 (March 18, 2016).

⁴¹ See Pub. L. No. 114-27, 129 Stat. 362 (June 29, 2015). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC. See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015).

⁴² *Id.*, 80 FR at 46794-95. The 2015 amendments are found at <https://www.congress.gov/bill/114thcongress/house-bill/1295/text/pl>.

during the POI. Specifically, we sought information from the GOC that would allow us to determine whether the producers are “authorities” within the meaning of section 771(B) of the Act.⁴³

We asked the GOC, “{p}lease coordinate immediately with the company respondents to obtain a complete list of each company’s input suppliers.”⁴⁴ Between them, Double Coin and GTC identified 101 suppliers. The GOC identified only 65 suppliers; not all of the suppliers identified by the GOC were on the supplier lists prepared by the Double Coin and GTC. The GOC identified seven of these suppliers as being under the management or control of the GOC. The GOC reported that 24 of the suppliers were private companies. Thus, there remain 70 companies that the respondents identified as their input suppliers and about which the GOC provided no information on the record for us to analyze for purposes of determining whether they are under the management or control of the GOC.

Regarding the suppliers that the GOC identified as private companies, we asked the GOC to provide information about the involvement of the Chinese Communist Party (CCP) in those companies, including whether individuals in management positions are CCP members, in order to evaluate whether the privately-owned suppliers are “authorities” with the meaning of section 771(B) of the Act. While the GOC provided a long narrative explanation of the role of the CCP, when asked to identify any owners, members of the board of directors, or managers of the input suppliers who were government or CCP officials during the POI, the GOC explained that there is “no central informational database to search for the requested information.”⁴⁵ The GOC concluded its response to this question by stating “{i}f the Department insists on the necessity of this information, the Department should collect this information through the respondents, via their suppliers directly.”⁴⁶ Furthermore, the Department requested the GOC to provide the articles of incorporation, capital verification reports, business licenses and tax registration, again in order to analyze whether these suppliers meet the meaning of section 771(B) of the Act. However, in response to the request for these documents, the GOC provided only the ownership structure and basic business registration information; these do not provide the same level of detailed information as contained in the requested documents.

With regard to the ownership of the 70 suppliers that the respondents identified and for whom the GOC provided no information, as well as the 24 suppliers that the GOC identified as private companies but for whom the GOC did not provide the requested information regarding CCP involvement, we preliminarily determine that the GOC has the necessary information that was requested of it, and thus, that the Department must rely on “facts otherwise available” in issuing our preliminary determination, pursuant to section 776(a)(2)(A) of the Act. Moreover, we preliminarily find that the GOC did not act to the best of its ability to comply with our request for information. Consequently, we find that an adverse inference is warranted in the application of facts available pursuant to section 776(b) of the Act. For the 70 suppliers of carbon black,

⁴³ See Initial Questionnaire, at section II, E (pp. 9-19).

⁴⁴ *Id.* at 9.

⁴⁵ See e.g., Letter from the GOC, “*The GOC’s Response to Section II of the CVD Questionnaire (Part 2—Program-Specific Questions)*,” May 19, 2016 (*GOC Program-Specific Response*), at 92.

⁴⁶ *Id.*, e.g., at 93.

nylon cord, synthetic rubber and butadiene, and natural rubber, about which the GOC provided no ownership information, we are finding that the GOC failed to provide information to show the ownership of these suppliers. For the 24 privately-owned suppliers, we are finding that the GOC failed to provide for which the GOC failed to identify whether members of the board of directors, owners or senior managers were CCP officials. Thus, as AFA, we are finding that these suppliers are “authorities,” within the meaning of section 771(B) of the Act.

B. Provision of Electricity for LTAR

As discussed below under the section “Programs Preliminarily Found to be Countervailable,” the Department is investigating whether the GOC provided electricity for LTAR. The GOC did not provide complete responses to the Department’s questions regarding the alleged provision of electricity for LTAR. These questions requested information to determine whether the provision of electricity constituted a financial contribution within the meaning of section 771(5)(D) of the Act, whether such a provision provided a benefit within the meaning of section 771(5)(E) of the Act, and whether such a provision was specific within the meaning of section 771(5A) of the Act. In the Department’s initial questionnaire, for each province in which a respondent is located, the Department asked the GOC to provide a detailed explanation of: (1) how increases in the cost elements in the price proposals led to retail price increases for electricity; (2) how increases in labor costs, capital expenses and transmission, and distribution costs are factored into the price proposals for increases in electricity rates; and (3) how the cost element increases in the price proposals and the final price increases were allocated across the province and across tariff end-user categories. We asked the GOC to provide the original provincial price proposals for the applicable tariff schedule for each province in which a mandatory respondent or any reported “cross-owned” company is located for applicable tariff schedules that were in effect during the POI. Instead of providing the requested documents, the GOC stated that “these proposals are drafted by the provincial governments and submitted to the {National Development and Reform Commission} NDRC. They are working documents for the NDRC’s review only. The GOC is therefore unable provide them with this response.”⁴⁷ In response to our questions regarding how electricity cost increases are reflected in retail price increases, the GOC explained how price increases should theoretically be formulated but did not explain the actual process that led to the price increases.⁴⁸ In addition, the GOC provided no province-specific information in response to these questions in its initial questionnaire response.⁴⁹

The requested price proposals are part of the GOC’s electricity price adjustment process and, thus, are crucial to the Department’s analysis of how prices are set within the PRC. Absent this information, we are unable to rely on the information provided by the GOC. Thus, the GOC has not provided a complete response to our requests for information regarding this program. Accordingly, and consistent with prior cases in which the GOC provided a similar response,⁵⁰ we find that the GOC’s answers are inadequate and do not provide the necessary information

⁴⁷ *Id.* at 178-179.

⁴⁸ *Id.* at 179 and Exhibit E.29.

⁴⁹ *Id.* at 177-184 and Exhibits E.29, E.30, and E.31.

⁵⁰ *See, e.g., OTR Tires Final Determination* and accompanying IDM at 24 and *PVLT from the PRC Preliminary Determination* and accompanying PDM at 24.

required by the Department to analyze the provision of electricity in the PRC. The GOC did not provide the requested price proposal documents or explain how price increases were formulated. As a result, we must rely on the facts otherwise available, pursuant to sections 776(a)(1) and 776(a)(2)(A) of the Act.

We find that the GOC failed to cooperate by not acting to the best of its ability to comply with the Department's request for information. While the GOC acknowledged the existence of the provincial price proposals, the GOC withheld them without explaining why it could not submit such documents on the record of this proceeding, particularly as the Department permits parties to submit information under an APO for limited disclosure if it is business proprietary in nature. Moreover, while the GOC provided electricity data for all provinces, municipalities and autonomous regions, this information is not germane to an analysis of how and why the prices of the tariff schedules in effect during the POI were drafted and implemented. The GOC also did not ask for additional time to gather and provide such information, nor did the GOC provide any other documents that would have answered the Department's questions. Therefore, because the GOC failed to cooperate by not acting to the best of its ability in responding to the Department's request for this information, an adverse inference under section 776(b) of the Act is warranted in the application of facts available. Without the requested information, we cannot make a finding with respect to financial contribution or specificity because the details required to analyze the GOC's electricity price adjustment process are contained in the missing price proposals. In drawing an adverse inference, we find that the GOC's provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D) of the Act and is specific within the meaning of section 771(5A) of the Act. We are also relying on an adverse inference in selecting the benchmark for determining the existence and amount of the benefit. The benchmark rates we selected are derived from information from the record of this investigation and are the highest electricity rates on this record for the applicable rate and user categories.⁵¹

C. Provision of Land Use Rights for LTAR

As discussed below in the section "Programs Preliminarily Determined to be Countervailable," the Department is investigating the provision of four land-use rights programs for less than adequate remuneration: Land-Use Rights to Truck and Bus Tire Producers; Land-Use Rights to State-Owned Enterprises (SOEs); Land-Use Rights to Foreign-Invested Enterprises (FIEs); and Land-Use Rights in Industrial and Other Special Economic Zones (SEZs). We requested information from the GOC regarding these four programs.

Our review of the GOC's initial questionnaire response shows that the GOC did not respond fully to certain sections regarding these programs. Specifically, we asked the GOC to identify all instances in which it provided land or land-use rights to the mandatory respondents during the

⁵¹ See Department Memorandum, "Countervailing Duty Investigation of Truck and Bus Tires from the People's Republic of China: Double Coin Holdings Ltd.; Calculations for the Preliminary Determination," dated concurrently with this memorandum (Double Coin Preliminary Calculation Memorandum); *see also*, Memorandum, "Countervailing Duty Investigation of Truck and Bus Tires from the People's Republic of China: Guizhou Tyre Import and Export Co., Ltd. and Guizhou Tyre Co., Ltd.; Calculations for the Preliminary Determination," dated concurrently with this memorandum (Guizhou Tyre's Preliminary Calculation Memorandum) (collectively, "Preliminary Calculation Memoranda").

AUL.⁵² Rather than responding directly to this question, the GOC instead referred the Department to the respondents' questionnaire responses.⁵³ Similarly, the Department asked the GOC to identify the instances in which land or land-use rights were provided in industrial and other economic zones. In response, the GOC referred the Department to its previous answer regarding the instances in which the GOC provided land or land-use rights to the mandatory respondents,⁵⁴ *i.e.*, the GOC again directed us to the respondents' questionnaire responses. Next, in response to our request to explain the basis upon which the land or land-use rights were provided (*i.e.*, status or activity) to the mandatory respondents, the GOC's response was not definitive, stating only that it "believes" these land or land-use rights provisions were not contingent upon the firm's status or activity.⁵⁵ The Department asked a similar question regarding the basis for providing land or land-use rights in industrial and other economic zones, to which the GOC again responded by referring to the previous answer,⁵⁶ indicating only that it "believes" these land or land-use rights are not contingent upon status or activity.

The information requested regarding the provision of land and land-use rights to the mandatory respondents and the basis for which they were provided is crucial for our analysis to determine whether an alleged program is a financial contribution and specific. This type of information has been provided and verified in previous investigations.⁵⁷ Thus, we preliminarily find that the information requested, but not provided, was available to the GOC.

Further, the GOC's statement that it "believes" the provision of land or land-use rights is not contingent upon status or activities, without providing any supporting evidence to corroborate this statement, is concerning. Given that the Department has found the provision of land and land-use rights to be countervailable in previous PRC CVD investigations, in numerous cases, including recent tires proceedings,⁵⁸ on the basis of status/activity, the Department finds unpersuasive the GOC's response that it "believes," that none of the land-use rights reported by respondents in this investigation were not contingent upon status or activities. Moreover, the GOC provided no other evidence to demonstrate the basis for its "belief."

Given that the GOC has provided information regarding the provision of land and land-use rights in previous proceedings, we preliminarily determine that the GOC has the necessary information that was requested of it and, thus, that the Department must rely on "facts otherwise available" in issuing its preliminary determination, pursuant to section 776(a)(2)(A) of the Act. Moreover, because the GOC failed to provide information it is able to provide, we preliminarily find that

⁵² See *GOC Program-Specific Response* at 173.

⁵³ *Id.*

⁵⁴ *Id.* at 176.

⁵⁵ *Id.* at 174.

⁵⁶ *Id.* at 176-177.

⁵⁷ See *e.g.*, *OTR Tires PDM* at page 10 ("we examined these companies' land-use rights agreements and discussed the agreements with the relevant government authorities").

⁵⁸ See *e.g.*, *Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Preliminary Affirmative Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination With Final Antidumping Duty Determination* 79 FR 71093 (December 1, 2014) (*PVLT from the PRC Preliminary Determination*) and accompanying PDM at pages 29-30 (Provision of Land-Use Rights for FIEs for LTAR).

the GOC did not act to the best of its ability to comply with our request for information. Consequently, we find that an adverse inference is warranted in the application of facts available pursuant to section 776(b) of the Act. In drawing an adverse inference, we find that the GOC's provision of land-use rights constitutes a financial contribution within the meaning of section 771(5)(D) of the Act and is specific within the meaning of section 771(5A) of the Act.

VIII. APPLICATION OF THE COUNTERVAILING DUTY LAW TO IMPORTS FROM THE PRC

On October 25, 2007, the Department published its final determination on coated free sheet paper from the PRC.⁵⁹ In *CFS from the PRC*, the Department found that:

... given the substantial difference between the Soviet-style economies and China's economy in recent years, the Department's previous decision not to apply the CVD law to the Soviet-style economies does not act as a bar to proceeding with a CVD investigation involving products from China.⁶⁰

The Department affirmed its decision to apply the CVD law to the PRC in numerous subsequent determinations.⁶¹ Furthermore, on March 31, 2012, Public Law 112-99 was enacted which confirms that the Department has the authority to apply the CVD law to countries designated as non-market economies under section 771(18) of the Act, such as the PRC.⁶² The effective date provision of the enacted legislation makes clear that this provision applies to this proceeding.⁶³

IX. SUBSIDIES VALUATION

A. Allocation Period

The Department normally allocates the benefits from non-recurring subsidies over the AUL of renewable physical assets used in the production of subject merchandise.⁶⁴ The Department finds the AUL in this proceeding to be 14 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System.⁶⁵ The

⁵⁹ See *Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS from the PRC*), and accompanying Issues and Decision Memorandum (CFS IDM) at Comment 6.

⁶⁰ *Id.*

⁶¹ See, e.g., *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008) and accompanying Issues and Decision Memorandum at Comment 1.

⁶² Section 1(a) is the relevant provision of Public Law 112-99 and is codified at section 701(f) of the Act.

⁶³ See Public Law 112-99, 126 Stat. 265 §1(b).

⁶⁴ See 19 CFR 351.524(b).

⁶⁵ See U.S. Internal Revenue Service Publication 946 (2015), "How to Depreciate Property" at Table B-2: Table of Class Lives and Recovery Periods.

Department notified the respondents of the AUL in the Initial Questionnaire and requested data accordingly.⁶⁶ No party in this proceeding disputed this allocation period.

Furthermore, for non-recurring subsidies, we applied the “0.5 percent test,” as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for the year in which the assistance was approved. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than over the AUL.

B. Attribution of Subsidies

In accordance with 19 CFR 351.525(b)(6)(i), the Department normally attributes a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provide additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of the Department’s regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The preamble to the Department’s regulations further clarifies the Department’s cross-ownership standard. According to the preamble, relationships captured by the cross-ownership definition include those where:

{T}he interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a “golden share” may also result in cross-ownership.⁶⁷

⁶⁶ The Department’s questionnaire incorrectly identified the AUL as 13 years; in our supplemental questionnaires to the respondent companies, we identified the correct 14-year AUL and requested information for programs that provide non-recurring benefits for the correct AUL.

⁶⁷ See *Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998).

Thus, the Department's regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists. The U.S. Court of International Trade upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.⁶⁸

Double Coin

As mentioned above, Double Coin identified the following cross-owned companies as companies that either produced subject merchandise, transacted with a toll operator for tire production, or supplied inputs primarily dedicated to the production of downstream products: Jiangsu Tyre; Chongqing Tyre; Donghai Tyre; Kunlun Tyre; Kunlun Engineering; Shanghai Supply. Double Coin is a majority shareholder in each of these six companies such that Double Coin can control these companies' assets as its own. As such, we preliminarily determine that Double Coin is cross-owned with these six companies. Double Coin identified Donghai Tyre as company that transacted with a toll operator for tire production. As such, we are treating Donghai Tire as a cross-owned producer of subject merchandise. Because Double Coin identified Jiangsu Tyre, Chongqing Tyre, Donghai Tyre, and Kunlun Tyre as producers of subject merchandise, we are attributing any subsidy received by Double Coin or these four companies to the combined sales of all five companies, net of intercompany transactions, pursuant to 19 CFR 351.525(b)(6)(ii). Hereinafter, we refer to these five companies as the "Double Coin tire producers."

Shanghai Supply was identified as an input supplier. As such, we are attributing any subsidies received by Shanghai Supply to the combined sales of the Double Coin tire producers and Shanghai Supply, net of intercompany transactions, pursuant to 19 CFR 351.525(b)(6)(iv).

With regard to Kunlun Engineering, Double Coin reported that this company is not a producer of subject merchandise; a holding company or parent company; a producer of an input that is primarily dedicated to the production of the downstream product; or an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent.⁶⁹ Therefore, we preliminarily determine that there would be no basis under 19 CFR 351.525(b)(6)(ii) –(v) for attributing subsidies received by Kunlun Engineering to the Double Coin tire producers.

Double Coin also identified Shanghai Huayi (Group) Company (Shanghai Huayi) as its parent company. Double Coin reported that Shanghai Huayi is the majority owner of Double Coin and is 100-percent owned by the Shanghai State-Owned Assets Supervision and Administration Council (SASAC). Shanghai Huayi itself is a holding company with no productive operations of its own, and it serves only the purpose of holding the government's ownership interests in various commercial assets. Double Coin holds all tire production assets within the Shanghai Huayi group through its immediate operations or its subsidiaries.⁷⁰ Consistent with *OCTG from*

⁶⁸ See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

⁶⁹ See Letter from Double Coin Holdings Ltd., "Supplemental Affiliation Questionnaire Response of Double Coin Holdings Ltd.," May 19, 2016 (*Double Coin Supplemental Affiliation Response*), at 9.

⁷⁰ See *Double Coin Affiliation Response* at 4.

China,⁷¹ in light of the GOC's direct ownership of Shanghai Huayi, and Shanghai Huayi's function as a manager of state assets with no operations of its own, we preliminarily determine that Shanghai Huayi acted as a government agency, and there is no basis for treating it as a holding or parent company under 19 CFR 351.525(b)(6)(iii). As such, we have not required a full questionnaire response from Shanghai Huayi. Moreover, for purposes of the preliminary determination, there is no indication that Shanghai Huayi, as a holding company, served as the conduit for the transfer of a subsidy from the GOC to Double Coin, as contemplated by 19 CFR 351.525(b)(6)(iii).

There are several other companies that Double Coin identified in its affiliation response that we are continuing to examine, for purposes of the final determination, to determine whether they meet the threshold of cross-ownership provided in 19 CFR 351.525(b)(6)(vi), and whether these companies received subsidies that are attributable to Double Coin under 19 CFR 351.525(b)(6)(ii), (iv), or (v).⁷² We are also continuing to examine, for purposes of the final determination, whether an unaffiliated export trading company identified by Double Coin as an exporter of subject merchandise produced by Double Coin, received subsidies that are attributable to Double Coin's exports of subject merchandise pursuant to 19 CFR 351.525(c).⁷³

Guizhou Tyre

Guizhou Tyre, in its affiliation response, identified GTCIE as an exporter that is cross-owned with producer GTC the producer of subject merchandise. As the Department found in *OTR Tires*,⁷⁴ GTCIE is 100 percent-owned by GTC. In its affiliation response, Guizhou Tyre stated that "Guizhou Tyre's structure and affiliations have not changed in any significant way since the original {off-the-road tires} investigation."⁷⁵ GTC reported that GTCIE is solely an exporter that did not produce subject merchandise; GTCIE is the only company that exported subject merchandise produced by GTC; and, all of the subject merchandise exported by GTCIE is produced by GTC.⁷⁶ Because GTCIE is a trading company, for purposes of this preliminary determination, in accordance with 19 CFR 351.525(c), we are cumulating subsidies received by GTCIE with subsidies received by GTC. As noted above, we refer to GTC and GTCIE as "Guizhou Tyre."

⁷¹ See *Certain Oil Country Tubular Goods From the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Negative Critical Circumstances Determination*, 74 FR 64045 (December 7, 2009) (*OCTG from China*) and accompanying Issues and Decision Memorandum at Comment 40.

⁷² See Letter to Double Coin Holdings, Ltd., *Supplemental Affiliation Questionnaire*, May 6, 2016; see also Letter to Double Coin Holdings, Ltd., *Supplemental Questionnaire*, June 10, 2016.

⁷³ See *Double Coin Supplemental Affiliation Response* at 3.

⁷⁴ See *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 72 FR 71360, 71363 (December 17, 2007) (*OTR Tires Preliminary Determination*), unchanged in *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 40480 (July 15, 2008) (*OTR Tires Final Determination*) (collectively, *OTR Tires*).

⁷⁵ See *Guizhou Affiliation Response* at 4.

⁷⁶ *Id.* at 2.

Guizhou Tyre also identified Guizhou Dalishi Tyre Co., Ltd. (GDC) as a direct subsidiary that produced subject merchandise during the period 2006 through 2010.⁷⁷ GTC owns a majority interest in GDC; therefore, GDC satisfies the definition of cross-ownership provided in 19 CFR 351.525(b)(6)(vi). Because GDC produced subject merchandise during the period 2006 through 2010, we are addressing it under 19 CFR 351.525(b)(6)(ii). As such, we are attributing any non-recurring subsidies received by either GTC or GDC during this period to the combined sales of both companies, for purposes of conducting the “0.5 percent test” provided under 19 CFR 351.524(b), and determining whether to allocate such subsidies over the AUL.

Guizhou Tyre identified Guiyang Industry Investment (Group) Co., Ltd. (GIIC) as the investment arm of the Guiyang SASAC that holds 25.2 percent of GTC’s shares. The remaining shares are publicly traded on the Shenzhen Stock Exchange.⁷⁸ GIIC is a wholly government-owned asset management company for Guiyang SASAC. GIIC holds the state shares for many other companies, itself is a holding company that is not involved in production or sales and does not have any of its own production facilities.⁷⁹ With the minority shareholding in GTC, we preliminarily determine that GIIC does not meet the definition of cross-ownership provided in 19 CFR 351.525(b)(6). In addition, consistent with *OCTG from China*,⁸⁰ in light of the GOC’s direct ownership of GIIC (through Guiyang SASAC), and GIIC’s function as a state asset management company with no operations of its own, we preliminarily determine that GIIC acted as a government agency, and there is no basis for treating it as a holding or parent company under 19 CFR 351.525(b)(6)(iii).⁸¹ As such, we have not required a full questionnaire response from GIIC. Moreover, for purposes of the preliminary determination, there is no indication that GIIC, as a holding company, served as the conduit for the transfer of a subsidy from the GOC to GTC, as contemplated by 19 CFR 351.525(b)(6)(iii).

There are several other companies that Guizhou Tyre identified in its affiliation response that we are continuing to examine, for purposes of the final determination, to determine whether they meet the threshold of cross-ownership provided in 19 CFR 351.525(b)(6)(vi), and whether these companies received subsidies that are attributable to GTC under 19 CFR 351.525(b)(6)(ii), (iv), or (v).⁸²

⁷⁷ *Id.* at 8.

⁷⁸ *Id.* at 5.

⁷⁹ *Id.* at 6.

⁸⁰ See *OCTG from China*, and accompanying Issues and Decision Memorandum at Comment 40.

⁸¹ In *OTR Tires*, the Department relied on this shareholding by a SASAC to determine that GTC is a state-owned enterprise. See *OTR Tires Preliminary Determination*, 72 FR 71360, 71366. The facts remain that the next largest shareholder holds such a small percentage of shares that no other shareholder is in a position to challenge the Guiyang SASAC.

⁸² See Letter to GTC, *Supplemental Questionnaire*, June 10, 2016.

C. Denominators

In accordance with 19 CFR 351.525(b)(1)-(5), the Department considers the basis for the respondent's receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondent's export or total sales. The denominators we used to calculate the countervailable subsidy rate for the various subsidy programs described below are explained in further detail in the preliminary calculations memoranda prepared for this preliminary determination.⁸³

X. INTEREST RATE BENCHMARKS, DISCOUNT RATES, INPUT, ELECTRICITY, AND LAND BENCHMARKS

We are examining loans received by the respondents from Chinese policy banks and state-owned commercial banks (SOCBs). We are also examining non-recurring, allocable subsidies.⁸⁴ The derivation of the benchmark interest rates and discount rates used to measure the benefit from these subsidies are discussed below.

A. Short-Term RMB-Denominated Loans

Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the "difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market." Normally, the Department uses comparable commercial loans reported by the company as a benchmark.⁸⁵ If the firm did not have any comparable commercial loans during the period, the Department's regulations provide that we "may use a national average interest rate for comparable commercial loans."⁸⁶ As noted above, section 771(5)(E)(ii) of the Act indicates that the benchmark should be a market-based rate.

For the reasons explained in *CFS from the PRC*,⁸⁷ loans provided by Chinese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market. Because of this, any loans received by the respondents from private Chinese or foreign-owned banks would be unsuitable for use as benchmarks under 19 CFR 351.505(a)(2)(i). Similarly, we cannot use a national interest rate for commercial loans as envisaged by 19 CFR 351.505(a)(3)(ii). There is no new information on the record of this investigation that would lead us to deviate from our prior determinations regarding government intervention in the PRC's banking sector.⁸⁸ Therefore, because of the special difficulties inherent in using a Chinese benchmark for loans, the Department is selecting an external market-based benchmark interest rate.⁸⁹ The use of an external benchmark is consistent with the Department's practice.⁹⁰

⁸³ See Preliminary Calculation Memoranda.

⁸⁴ See 19 CFR 351.524(b)(1).

⁸⁵ See 19 CFR 351.505(a)(3)(i).

⁸⁶ See 19 CFR 351.505(a)(3)(ii).

⁸⁷ See *CFS from the PRC*, and CFS IDM at Comment 10.

⁸⁸ See the section titled "Policy Loans to Tire Producers," below.

⁸⁹ See World Bank Country Classification <http://econ.worldbank.org/>; see also Letter from USW, Petitioner's Benchmark Factual Information (May 31, 2016) at Exhibit 1, Memorandum to Robert Bolling, Program Manager,

We first developed in, *CFS from the PRC*,⁹¹ and more recently updated in *Thermal Paper from the PRC*,⁹² the methodology used to calculate the external benchmark. Under that methodology, we first determine which countries are similar to the PRC in terms of gross national income, based on the World Bank's classification of countries as: low income; lower-middle income; upper-middle income; and high income. For 2001 through 2009, the PRC fell in the lower-middle income category.⁹³ Beginning with 2010, however, the PRC is in the upper-middle income category and remained there for 2011 to 2014.⁹⁴ Accordingly, as explained below, we are using the interest rates of lower-middle income countries to construct the benchmark and discount rates for the years 2001-2009, and the interest rates of upper-middle income countries to construct the benchmark and discount rates for the years 2010-2014.⁹⁵ As explained in *CFS from the PRC*,⁹⁶ by pooling countries in this manner, we capture the broad inverse relationship between income and interest rates.

After identifying the appropriate interest rates, the next step in constructing the benchmark is to incorporate an important factor in the interest rate formation - the strength of governance as reflected in the quality of the countries' institutions. The strength of governance has been built into the analysis by using a regression analysis that relates the interest rates to governance indicators.

In each year from 2001-2009, and 2011-2014, the results of the regression-based analysis reflected the intended, common sense result: stronger institutions meant relatively lower real interest rates, while weaker institutions meant relatively higher real interest rates. For 2010, however, the regression does not yield that outcome for the PRC's income group. This contrary result for a single year does not lead the Department to reject the strength of governance as a determinant of interest rates. Therefore, we continue to rely on the regression-based analysis used since *CFS from the PRC* to compute the benchmark for the years from 2001-2009, and 2011- 2014. For the 2010 benchmark, we are using an average of the interest rates of the upper-middle income countries.

AD/CVD Operations, Office IV, "Preliminary Determination Analysis for Powermatch Import & Export Co., Ltd. (Sichuan)" (April 1, 2016).

⁹⁰ See *Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products from Canada*, 67 FR 15545 (April 2, 2002), and accompanying Issues and Decision Memorandum at "Analysis of Programs, Provincial Stumpage Programs Determined to Confer Subsidies, Benefit."

⁹¹ See *CFS from the PRC*, and CFS IDM at Comment 10.

⁹² See *Lightweight Thermal Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008) (*Thermal Paper from the PRC*), and accompanying Issues and Decision Memorandum at 8-10.

⁹³ See World Bank Country Classification <http://econ.worldbank.org/>; see also Department Memorandum regarding "Countervailing Duty Investigation of Truck and Bus Tires from the People's Republic of China: Interest Rate Benchmark Memorandum" (Interest Rate Benchmark Memorandum), dated concurrently with, this preliminary determination.

⁹⁴ See World Bank Country Classification.

⁹⁵ Data is not yet available for 2015. For the preliminary determination, we have used the 2014 interest rate benchmarks to calculate benefits from loans granted during 2015.

⁹⁶ See *CFS from the PRC*, CFS IDM at Comment 10.

Many of the countries in the World Bank's upper-middle and lower-middle income categories reported lending and inflation rates to the International Monetary Fund, and they are included in that agency's international financial statistics (IFS). With the exceptions noted below, we used the interest and inflation rates reported in the IFS for the countries identified as "upper-middle income" by the World Bank for 2010 - 2014, and "lower-middle income" for 2001 -2009.⁹⁷

First, we did not include those economies that the Department considers to be non-market economies for antidumping purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to IFS for those years. Third, we removed any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments.⁹⁸ Finally, for each year the Department calculated an inflation-adjusted short-term benchmark rate and excluded any countries with aberrational or negative real interest rates for the year in question.⁹⁹ Because the resulting rates are net of inflation, we adjusted the benchmark rates to include an inflation component before comparing them to the interest rates on loans issued to the respondents by SOCBs.¹⁰⁰

B. Long-Term RMB-Denominated Loans

The lending rates reported in the IFS represent short-and medium-term lending, and there are not sufficient publicly available long-term interest rate data upon which to base a robust benchmark for long-term loans. To address this problem, the Department developed an adjustment to the short-and medium-term rates to convert them to long-term rates using Bloomberg U.S. corporate BB-rated bond rates.¹⁰¹

In *Citric Acid from the PRC Final Determination*, this methodology was revised by switching from a long-term markup based on the ratio of the rates of BB-rated bonds to applying a spread which is calculated as the difference between the two-year BB bond rate and the n-year BB bond rate, where 'n' equals or approximates the number of years of the term of the loan in question.¹⁰² Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.¹⁰³

⁹⁷ See Interest Rate Benchmark Memorandum.

⁹⁸ For example, in certain years, Jordan reported a deposit rate, not a lending rate, and Ecuador and Timor L'Este reported dollar-denominated rates; therefore, such rates have been excluded.

⁹⁹ For example, we excluded Brazil from the 2010 and 2011 benchmarks because the country's real interest rates were 34.95 percent and 37.25 percent, respectively. See Interest Rate Benchmark Memorandum.

¹⁰⁰ See Interest Rate Benchmark Memorandum for the adjusted benchmark rates including an inflation component.

¹⁰¹ See *Light-Walled Rectangular Pipe and Tube from the People's Republic of China: Final Affirmative Countervailing Duty Investigation Determination*, 73 FR 35642 (June 24, 2008), and accompanying Issues and Decision Memorandum at 8.

¹⁰² See *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 16836 (April 13, 2009) (*Citric Acid from the PRC Final Determination*), and accompanying Issues and Decision Memorandum at Comment 14.

¹⁰³ See Interest Rate Benchmark Memorandum for the resulting inflation adjusted benchmark lending rates.

C. Foreign Currency-Denominated Loans

To calculate benchmark interest rates for foreign currency-denominated loans, the Department is following the methodology developed over a number of successive PRC proceedings. For U.S. dollar short-term loans, the Department used as a benchmark the one-year dollar London Interbank Offering Rate (LIBOR), plus the average spread between LIBOR and the one-year corporate bond rates for companies with a BB rating. Likewise, for any short-term loans denominated in other foreign currencies, we used as a benchmark the one-year LIBOR for the given currency plus the average spread between the LIBOR rate and the one-year corporate bond rate for companies with a BB rating.

For any long-term foreign currency-denominated loans, the Department added the applicable short-term LIBOR rate to a spread which is calculated as the difference between the one-year BB bond rate and the n-year BB bond rate, where 'n' equals or approximates the number of years of the term of the loan in question.¹⁰⁴

D. Discount Rates

Consistent with 19 CFR 351.524(d)(3)(i)(A), we are using as the discount rate the long-term interest rate calculated according to the methodology described above for the year in which the government provided non-recurring subsidies.¹⁰⁵

E. Provision of Inputs for LTAR

The basis for identifying comparative benchmarks for determining whether a government good or service is provided for LTAR is set forth in 19 CFR 351.511(a)(2). These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (Tier 1); (2) world market prices that would be available to purchasers in the country under investigation (Tier 2); or (3) an assessment of whether the government price is consistent with market principles (Tier 3).

In order to determine the appropriate benchmark with which to measure the benefits of inputs provided at LTAR under 19 CFR 351.511, the Department asked the GOC several questions concerning the structure of the industries for carbon black, nylon cord, synthetic rubber and butadiene, and natural rubber. In response, the GOC provided the requested information regarding the number of domestic producers of each input, the number of such producers in which the GOC maintains and ownership or management interest, the total volume of production of each input, the volume and value of imports, exports and domestic consumption, and the rate of import tariffs in effect.¹⁰⁶ For each of the inputs, we have analyzed this information to determine whether domestic prices for the input in question can be used as the Tier 1 benchmark provided in 19 CFR 351.511(a)(2)(i):

¹⁰⁴ See Interest Rate Benchmark Memorandum.

¹⁰⁵ *Id.*

¹⁰⁶ See *GOC Program - Specific Response*, at 95-98, 127-130, and 159-165.

{the Department} will normally seek to measure the adequacy of remuneration by comparing the government price to a market-determined price for the good . . . resulting from actual transactions in the country in question. Such a price could include prices stemming from actual transactions between private parties, {or} actual imports. . . In choosing such transactions or sales, {the Department} will consider product similarity; quantities sold {or} imported; and any other factors affecting comparability.

For all of the inputs, as discussed above in the section, “Use of Facts Otherwise Available and Application of Adverse Inferences,” we preliminarily determine that Double Coin’s and GTC’s suppliers are “authorities.” Therefore, prices from their suppliers do not constitute market-determined prices. Below we analyze the information provided and the selection of a benchmark for each input.

1. *Carbon Black*

The GOC reported that of the 57 carbon black producers in operation during the POI, the GOC maintains an ownership or management interest in five.¹⁰⁷ According to data provided by the GOC, these five producers account for 31.02 percent¹⁰⁸ of domestic carbon black production during the POI. This level of GOC-controlled production is substantial. The data provided by the GOC also show that the volume of imports as a percentage of domestic production and consumption (2.17 and 2.61 percent, respectively), is insignificant. The record evidence also shows that the GOC has various policy plans in place to support the tire industry, including the development of carbon black. *Article 19 of the Notice of the Ministry and Information and Technology on Issuing the Tire Industry Policy (2010)* contains such language “encourage the development of . . . special black carbon and other raw materials.” Likewise *Article 38 of the Notice* indicates the State should “fully play the role of the tax rate on industrial development, tariff items and tax rate of tire products and tire inputs for the purpose of development of the tire and tire related industries.” Based on these facts together, we may reasonably conclude that domestic prices in the PRC for carbon black are distorted such that they cannot be used as a Tier 1 benchmark. For the same reasons, we preliminarily determine that import prices into the PRC cannot serve as a Tier 1 benchmark.¹⁰⁹ Thus, to measure the adequacy of remuneration for the provision of carbon black, we are relying on world market prices as the Tier 2 benchmark provided for in 19 CFR 351.511(a)(2)(ii).

¹⁰⁷ *Id.* at 95.

¹⁰⁸ See Memorandum to the File, “Analysis of Market Distortion in the Markets for Carbon Black, Nylon Cord, Synthetic Rubber and Butadiene, and Natural Rubber,” dated concurrently with this preliminary determination (Market Distortion Analysis).

¹⁰⁹ See, e.g., *Countervailing Duty Investigation of Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People’s Republic of China*, 75 FR 59212 (September 27, 2010), and accompanying Issues and Decision Memorandum, at 22 and Comment 14.

2. *Nylon Cord*

The GOC reported that, of the 60 nylon cord producers in operation during the POI, the GOC maintained an ownership or management interest in four.¹¹⁰ According to data provided by the GOC, these producers account for 7.08 percent of domestic production, and there are low levels of imports.¹¹¹ We preliminarily determine that this level of GOC involvement in the production of nylon cord is not substantial, and does not support a conclusion that the market is distorted. Thus, under Tier 1, we are permitted to rely on prices resulting from actual transactions. Because we have deemed the respondents' suppliers to be "authorities," such that prices from the suppliers do not meet the requirements for a Tier 1 benchmark, we look to "actual imports." However, neither respondent reported imports of nylon cord during the POI. Thus, to measure the adequacy of remuneration for the provision of nylon cord, we are relying on PRC import prices as the Tier 1 benchmark provided for in 19 CFR 351.511(a)(2)(i).¹¹²

3. *Synthetic Rubber and Butadiene*

4. *Natural Rubber*

According to data provided by the GOC, during the POI, state-owned producers accounted for over 51 percent of the natural rubber, and 32 percent of the synthetic rubber produced in the country.¹¹³ Overall, GOC-controlled producers accounted for nearly 35 percent of the total rubber production in the country during the POI. This level of GOC-controlled production is substantial. However, the data provided by the GOC also show that the volume of imports was significant. Specifically, the PRC imported nearly as much rubber (natural and synthetic) as it produced during the POI. Given the relatively low rubber exports during the year, we find that the PRC imports accounted for approximately 50 percent of the rubber consumed in the country during the POI.¹¹⁴ Thus, given the large penetration of imports of rubber in the PRC market and the lack of other evidence on the record to show that GOC-controlled companies or government agencies through other methods had control of, or otherwise distorted, these markets during the POI, we do not find government distortion of the PRC rubber market.¹¹⁵

As a Tier 1 benchmark, as set forth in 19 CFR 351.511(a)(2)(i), we are permitted to rely on prices resulting from actual transactions within the country of investigation. Because we have deemed the respondents' suppliers to be "authorities," such that prices from the suppliers do not meet the requirements for a Tier 1 benchmark, we look to actual import prices. Both respondents reported imports of natural rubber and synthetic rubber during the POI. The Department finds these import purchases to be an appropriate basis for calculating Tier 1 benchmark prices for natural and synthetic rubber. As such, we have used each company's monthly weighted-average prices of imports of natural and synthetic rubber as benchmarks.

¹¹⁰ See *GOC Program - Specific Response* at 127.

¹¹¹ See *Market Distortion Analysis*.

¹¹² See *Preliminary Calculation Memoranda*.

¹¹³ See *Market Distortion Analysis*.

¹¹⁴ *Id.*

¹¹⁵ We make this finding based solely on the facts of this particular case. In other cases, even if there are similar levels of import penetration and SOE production as here, we may consider other indicators of market distortion in determining whether domestic prices can serve as an appropriate benchmark.

F. Provision of Electricity for LTAR

As discussed above in the section, “Use of Facts Otherwise Available and Application of Adverse Inferences,” we are relying on AFA to select the highest electricity rates that are on the record of this investigation as our benchmark for measuring the adequacy of remuneration.

G. Provision of Land-Use Rights for LTAR

As explained in detail in previous investigations, the Department cannot rely on the use of Tier 1 and Tier 2 benchmarks to assess the benefits from the provision of land for LTAR in the PRC.¹¹⁶

For this investigation, the petitioner submitted the same Thailand benchmark information, *i.e.*, “Asian Marketview Reports” by CB Richard Ellis (CBRE), that we relied upon in calculating land benchmarks in the CVD investigation of *Solar Cells from the PRC*.¹¹⁷ We initially selected this information in the *Laminated Woven Sacks* investigation after considering a number of factors, including national income levels, population density, and producers’ perceptions that Thailand is a reasonable alternative to the PRC as a location for production in the region.¹¹⁸ We find that these benchmarks are suitable for this preliminary determination, adjusted accordingly for inflation, to measure any benefit received by the respondent companies through the provision of land by the government during the AUL of this investigation.

XI. ANALYSIS OF PROGRAMS

Based upon our analysis of the record and the responses to our questionnaires, we preliminarily determine the following:

¹¹⁶ See, *e.g.*, *Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 80 FR 34888 (June 18, 2015) (*PVLT from the PRC Final Determination*) and accompanying IDM at 10-11; see also *Laminated Woven Sacks From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances, In Part; and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*, 72 FR 67893, 67906-08 (December 3, 2007), unchanged in *Laminated Woven Sacks From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination, in Part, of Critical Circumstances*, 73 FR 35639 (June 24, 2008) (*Laminated Woven Sacks*).

¹¹⁷ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788 (October 17, 2012) (*Solar Cells from the PRC*), and accompanying IDM at 6 and Comment 11.

¹¹⁸ The complete history of our reliance on this benchmark is discussed in *Solar Cells from the PRC* at 6 and Comment 11. In that discussion, we reviewed our analysis from the *Laminated Woven Sacks* investigation and concluded the CBRE data were still a valid land benchmark.

A. Programs Preliminarily Determined to be Countervailable

1. Government Policy Lending

The petitioner alleged that the GOC subsidizes producers of truck and bus tires through preferential loans at interest rates that are considerably lower than market rates.¹¹⁹ According to the petitioner, the GOC provides for such preferential lending through the *Tire Industry Policy*¹²⁰ and certain provincial and local government policies because the tire industry is an “encouraged” industry.

The Double Coin tire producers and GTC reported having loans outstanding from SOCBs in the PRC during the POI.¹²¹ The Department preliminarily finds that these loans are countervailable. The information on the record indicates the GOC placed great emphasis on targeting the tire industry, including producers of truck and bus tires, for development in recent years. The *Tire Industry Policy* calls specifically for the use of loans in implementing the GOC’s plan for the tire industry: “{t}he works such as investment management, land supply, environment evaluation, energy-saving evaluation, security permission, credit financing and power that are carried out by relevant departments on items including tire industry production construction and technology development should be based on this tire industry policy.”¹²² Additionally, the “Catalogue of Chinese New and High-Tech Export Products” of 2006 specifically lists “{n}ew pneumatic radial tire{s} of a kind used on buses or lorries (of rubber, cross-section width ≥ 24 inch),” as products encouraged for export.¹²³ The petitioner also provided the GOC’s revised *Guidance Catalogue for the Industrial Structure Adjustment*, which states that the production of certain tires, such as “{h}igh-performance radial tire (including tubeless truck tire...),” is also identified in the encouraged category.¹²⁴ Projects listed in the “encouraged” category in this catalogue qualify for preferential treatment from the government, including receiving priority in the allocation of credit by state-owned banks and lenders.¹²⁵

Certain tire inputs, including synthetic rubber, are also among the “Encouraged Category” of projects listed in the “Catalogue for the Guidance of Foreign Investment Industries (Amended in

¹¹⁹ See Initiation Checklist at 7-8.

¹²⁰ See CVD Petition Exhibit III-11, “Notice of the Ministry of Industry and Information Technology on Issuing the Tire Industry Policy (Gong Chan Ye Zeng Ce {2010} No.2) Appendix: Tire Industry Policy(September 15, 2010)(*Tire Industry Policy*).

¹²¹ See Letter from Double Coin Holdings Ltd., “*Double Coin’s CVD Questionnaire Response (Part 2—Program-Specific Questions*,” May 19, 2016 (*Double Coin Program-Specific Response*) at 9 and Exhibits B-1, B-2, B-3, and B-4; see also Letter from Guizhou Tyre Co., Ltd., “*Guizhou Tyre Program-Specific Response*,” May 20, 2016 (*Guizhou Program-Specific Response*) at 10-12 and Exhibit P.B.1.

¹²² See CVD Petition Exhibit III-11 at 1.

¹²³ *Id.* at Exhibit III-13, “Notice of the Ministry of Science and Technology, the Ministry of Finance and the State Administration of Taxation and the General Administration of Customs on Issuing the Catalogue of Chinese New and High-tech Export Products (2006)(No. 16 {2006} of the Ministry of Science and Technology)(January 9, 2006).

¹²⁴ *Id.* at Exhibit III-14, “Ministry of Commerce of the People’s Republic of China, Department of Mechanic, Electronic and Hi-tech Industry (National Mechanic and Electronic Import and Export Office)(November 26, 2004)(*Guidance Catalogue for the Industrial Structure Adjustment*).

¹²⁵ *Id.*

2011),”¹²⁶ a key component of the “Decision of the State Council on Promulgating the Interim Provisions on Promoting Industrial Structure Adjustment (No.40{2005}Guo Fa),”¹²⁷ which contains a list of encouraged projects the GOC develops through loans and other forms of assistance, and which the Department relied upon in prior specificity determinations.¹²⁸

The Department found government policy lending to be countervailable in previous investigations.¹²⁹ These prior investigations covered light-truck and passenger tires, and off-the-road tires. The government lending program identifies, through a government circular, the production of “meridian tyres” (*i.e.* radial tires) as a national priority under the GOC 10th Five-Year Plan and states that “we should...reasonably direct the contribution of public funds...so as to...guarantee the realization of the target...”¹³⁰ We found that the government lending program targets “radial tires,” not off-the-road tires nor light-truck and passenger tires specifically.¹³¹ The scope of this investigation includes radial tires.

Therefore, given the evidence demonstrating the GOC’s objective of developing the tire sector, and encouraging producers of truck and bus tires in particular, through preferential loans, we preliminarily determine there is a program of preferential policy lending specific to the producers of truck and bus tires within the meaning of 771(5A)(D)(i) of the Act. We also preliminarily find that loans from SOCBs under this program constitute financial contributions, pursuant to sections 771(5)(B)(i) and 771(5)(D)(i) of the Act, because SOCBs are “authorities.”¹³² The loans provided a benefit equal to the difference between what recipients paid on their loans and the amount they would have paid on comparable commercial loans.¹³³ To calculate the benefit from this program, we used loan interest rate benchmarks discussed above under the “Interest Rate Benchmarks, Discount Rates, Input and Land Benchmarks” section.¹³⁴

We calculated the benefits for all government policy loans that the Double Coin tire producers had outstanding during the POI; we divided the total benefits by the sales of all of the Double Coin tire producers, pursuant to 19 CFR 351.524(b)(6)(ii). We attributed to the Double Coin tire producers the benefits from any loans outstanding to Shanghai Supply, pursuant to 19 CFR 351.525(b)(6)(iv) by dividing such benefits by the total sales of the Double Coin tire producers plus the total sales of Shanghai Supply, net of intercompany sales. We added the resulting rates together to arrive at a countervailable subsidy rate for the Double Coin tire producers of 3.21 percent *ad valorem*.

¹²⁶ *Id.* at Exhibit III-15, “Order of the National Development and Reform Commission of the People’s Republic of China on Revising Certain Provisions of “Guidance Catalogue for the Industrial Structure Adjustment (2011 Version)” No 21 (February 16, 2013).”

¹²⁷ *Id.* at Exhibit III-16, “Decision of the State Council on Promulgating and Implementing “Temporary Provisions on Promoting Industrial Structure Adjustment” No. 40 (2005) of the State Council.”

¹²⁸ See *PVLT from the PRC Final Determination*, and accompanying Issues and Decision Memorandum, at 31.

¹²⁹ *Id.*, at 31-32 ; *OTR Tires Final Determination* and accompanying IDM at 11.

¹³⁰ See *OTR Tires Final Determination* and accompanying IDM at 11; see also *PVLT from the PRC Final Determination*, and accompanying Issues and Decision Memorandum, at 32.

¹³¹ See *OTR Tires Final Determination* and accompanying IDM at 11; see also *PVLT from the PRC Final Determination*, and accompanying Issues and Decision Memorandum, at 32.

¹³² See, e.g., *OTR Tires Final Determination* and accompanying IDM at Comment E2.

¹³³ See section 771(5)(e)(ii) of the Act.

¹³⁴ See 19 CFR 351.505(c).

For GTC, we calculated the benefits from all loans outstanding during the POI, and we divided this benefit by GTC's total sales during the POI.¹³⁵ On this basis, we preliminarily determine a subsidy rate of 4.52 percent *ad valorem* for Guizhou Tyre.

2. Export Seller's Credits from State-Owned Banks

Double Coin and GTC reported receiving loans that were outstanding during the POI under the Export Seller's Credit from the Export-Import Bank of China (EXIM Bank).¹³⁶ The GOC confirmed that Double Coin and GTC utilized export seller's credits from the EXIM Bank during the POI.¹³⁷ In *Citric Acid from the PRC Final Determination*, *Citric Acid from the PRC First Review*, *Citric Acid from the PRC Second Review*, the Department found that loans under this program conferred a countervailable subsidy.¹³⁸

Therefore, consistent with the *Citric Acid* findings, we find that loans provided by the GOC under this program constitute financial contributions under section 771(5)(D)(i) of the Act. Because receipt of loans under this program is tied to actual or anticipated exportation or export earnings and, therefore, this program is specific pursuant to sections 771(5A)(B) of the Act. The loans also provide a benefit under 771(5)(E)(ii) of the Act in the amount of the difference between the amounts the recipient paid and would have paid on comparable commercial loans.

To calculate the benefit under this program, we compared the amount of interest the companies paid on the outstanding loans to the amount of interest the company would have paid on a comparable commercial loan.¹³⁹ In conducting this comparison, we used the interest rates described in the "Interest Rate Benchmarks, Discount Rates, Input, Electricity, and Land Benchmarks" section above. We divided the total benefit amount by the each company's appropriate export sales denominator during the POR. On this basis, we find that the Double Coin tire producers received a countervailable subsidy of 0.40 percent *ad valorem* and Guizhou Tyre received a countervailable subsidy of 0.41 percent *ad valorem*.

¹³⁵ GTC reported that "all of GTC's and GTCIE's loans are recorded in GTC's accounting system . . .

None of the loans that were outstanding during the POI were recorded in GTCIE's accounts." See *Guizhou Program-Specific Response* at 10.

¹³⁶ See *Double Coin Program-Specific Response* at 13, Exhibit B-1 and B-5; see also *Guizhou Program-Specific Response* at 15, Exhibit P.B.1 and P.B.2.

¹³⁷ See *GOC Program-Specific Response* at 13.

¹³⁸ See *Citric Acid from the PRC Final Determination* and accompanying IDM at "Policy Lending;" *Citric Acid from the PRC First Review*, and accompanying IDM at "Export Seller's Credit for High- and New-Technology Products;" *Citric Acid from the PRC Second Review* and accompanying IDM at "Export Seller's Credit for High- and New-Technology Products."

¹³⁹ See 19 CFR 351.505(a).

3. *Provision of Carbon Black for LTAR*
4. *Provision of Nylon Cord for LTAR*
5. *Provision of Natural Rubber for LTAR*
6. *Provision of Synthetic Rubber and Butadiene for LTAR*

As discussed in the Initiation Checklist, the Department is investigating four alleged input subsidy programs: *Provision of Carbon Black for LTAR*; *Provision of Nylon Cord for LTAR*; *Provision of Natural Rubber for LTAR*; and *Provision of Synthetic Rubber and Butadiene for LTAR*.¹⁴⁰ Both GTC and Double Coin have reported that they (and in the case of Double Coin, the cross-owned tire producers, and the cross-owned input supplier, Shanghai Supply) purchased all four inputs during the POI and have provided supporting documentation.

As described above in the “Use of Facts Otherwise Available and Application of Adverse Inferences” section, the GOC failed to cooperate to the best of its ability in responding to our requests for information regarding the specific companies that produced the inputs that the respondents purchased during the POI. Therefore, we preliminarily determine as AFA that the producers of carbon black, nylon cord, natural rubber, and synthetic rubber and butadiene purchased by both respondents are “authorities” within the meaning of section 771(5)(B) of the Act and, as such, that the provision of carbon black, nylon cord, natural rubber, and synthetic rubber and butadiene constitutes a financial contribution under section 771(5)(D)(iii) of the Act.

Information placed on the record by the petitioner shows that the GOC encourages the production of these four inputs, often for the direct benefit of the tires industry. For example, the GOC’s *Tire Industry Policy* encourages the development of “high tenacity nylon cord,” “special carbon black,” and “white carbon black.”¹⁴¹ Additionally, record information shows that the recipients of these inputs are limited in number. Specifically, the record indicates that about 90 percent of carbon black is consumed for the production of rubber products, and that 67.5 percent of that rubber is consumed in the production of tires.¹⁴² Further, the petitioner has provided evidence that the tire industry is the primary consumer of nylon cord,¹⁴³ natural rubber¹⁴⁴ and synthetic rubber/butadiene in the country.¹⁴⁵ Accordingly, we preliminarily determine that the recipients of carbon black, nylon cord, natural rubber and synthetic rubber and butadiene for LTAR are limited in number, within the meaning of section 771(5A)(D)(iii)(I) of the Act.

¹⁴⁰ See Initiation Checklist at 14-17.

¹⁴¹ See CVD Petition at Exhibit III-11, Articles 18 and 19.

¹⁴² *Id.* at Exhibit III-102 (“Chinese carbon black industry is in the rising stage at present. Currently, 89.5% of the total outputs of Chinese domestic carbon black are used for rubber products and 67.5% of the total outputs of the rubber products are used for manufacturing tires.”)

¹⁴³ *Id.* at Exhibit III-115 (“Nylon tire cord is a kind of fabric as skeleton structure to strength.....it has a major impact on the quality of automobile tires”) and Exhibit III-117 (indicating that the tire industry accounted for the majority of nylon industrial yarn applications in the PRC).

¹⁴⁴ *Id.* at Exhibit III-30 (“{D}emand in emerging economies, particularly China, as the majority of natural rubber is used for tire production”).

¹⁴⁵ *Id.* (“Tires were the single largest application segment for SBR market accounting for 73.5 percent of global consumption in 2013.”)

As discussed in the “Benchmarks and Discount Rates” section, the Department is selecting benchmark prices for these four inputs, based on 19 CFR 351.511(a)(2). As discussed above, we are applying Tier 1 benchmark prices (*i.e.*, prices resulting from actual transactions from within the country) for nylon cord, natural rubber, and synthetic rubber and butadiene. Specifically, for natural and synthetic rubber/butadiene prices, we are relying on actual import prices paid by the companies during the POI. For nylon cord prices we are relying on Chinese import prices during the POI.¹⁴⁶ For carbon black benchmark prices, we are applying Tier 2 (*i.e.*, world market prices) to measure the benefits under this program.¹⁴⁷

Regarding delivery charges, where necessary, we included ocean freight and inland freight charges that would be incurred to deliver carbon black, nylon cord, natural rubber and synthetic rubber and butadiene to the respondents’ production facilities. Further, where appropriate, we added import duties as reported by the GOC, and the value-added tax (VAT) applicable to import prices of carbon black, nylon cord, natural rubber, and synthetic rubber and butadiene into the PRC, also as reported by the GOC.¹⁴⁸ In calculating VAT, we applied the applicable VAT rate to the benchmark after first adding amounts for any ocean freight and/or import duties. We compared these monthly benchmark prices to the respondents’ reported purchase prices for individual domestic transactions, including VAT and any delivery charges.

Based on this comparison, we preliminarily determine that carbon black, nylon cord, natural rubber, and synthetic rubber and butadiene were provided for LTAR and that a benefit exists for each respondent in the amount of the difference between the benchmark prices and the prices each respondent paid. As discussed in the “Subsidies Valuation” section above, and in the Preliminary Calculation Memoranda,¹⁴⁹ we divided the total benefits for each respondent by the appropriate total sales denominator. We divided the benefits provided to Shanghai Supply by the combined sales of Shanghai Supply and the Double Coin tire producers, net of intercompany sales, and we added the resulting subsidy rate to the rate calculated for the Double Coin tire producers.

On this basis, for the provision of carbon black for LTAR, we preliminarily determine a countervailable subsidy rate of 6.20 percent *ad valorem* for the Double Coin tire producers and 3.93 percent *ad valorem* for Guizhou Tyre. For the provision of nylon cord for LTAR, we preliminarily determine a countervailable subsidy rate of 1.37 percent *ad valorem* for the Double Coin tire producers and 4.03 percent *ad valorem* for Guizhou Tyre. For the provision of natural rubber for LTAR, we preliminarily determine a countervailable subsidy rate of 0.04 percent *ad valorem* for the Double Coin tire producers and 0.01 percent *ad valorem* for Guizhou Tyre. For the provision of synthetic rubber and butadiene, we preliminarily determine a countervailable subsidy rate of 3.08 percent *ad valorem* for the Double Coin tire producers and 6.43 percent *ad valorem* for Guizhou Tyre.

¹⁴⁶ See Preliminary Calculation Memoranda.

¹⁴⁷ *Id.*

¹⁴⁸ See *GOC Program-Specific Response* at pages 99 and 130; see also 19 CFR 351.511(a)(2)(iv).

¹⁴⁹ See Preliminary Calculation Memoranda.

7. *Provision of Electricity for LTAR*

The Department is examining whether the GOC provided Double Coin and/or Guizhou Tyre with electricity for LTAR during the POI. We determine that this program confers a countervailable subsidy. As discussed in “Use of Facts Otherwise Available and Adverse Inference,” we are basing our finding on the government’s provision of electricity, in part, on AFA. We determine that the GOC’s provision of electricity is a financial contribution in the form of the provision of a good or service under section 771(5)(D)(iii) of the Act, and that it is specific within the meaning of section 771(5A)(D) of the Act.

In a CVD proceeding, the Department requires information from both the government of the country whose merchandise is under investigation and the foreign producers and exporters. When the government fails to provide requested information concerning alleged subsidy programs, the Department, as AFA, may find that a financial contribution exists under the alleged program and that the program is specific.¹⁵⁰ However, where possible, the Department will rely on the responsive producer’s or exporter’s records to determine the existence and amount of the benefit, to the extent that those records are useable and verifiable.

The Double Coin tire producers and GTC provided data on the electricity the companies consumed and the electricity rates paid during the POI.¹⁵¹ To determine the existence and the amount of any benefit from this program, we relied on the respondents’ reported electricity consumption volumes and electricity rates.¹⁵² We compared the rates paid by the respondents for their electricity to the highest rates that they could have paid in the PRC during the POI.

To calculate the benchmark,¹⁵³ we selected the highest non-seasonal provincial rates in the PRC during the POI for each applicable user category (*e.g.*, “large industrial user,” and “normal industrial and commercial user”), voltage class (*e.g.*, 1-10kv, 35-110kv), time periods (general, high peak, peak, normal, and valley), and basic fee (*e.g.*, “base charge/maximum demand”) as provided by the GOC.¹⁵⁴ This benchmark reflects an adverse inference, which we drew as a result of the GOC’s failure to act to the best of its ability in providing requested information about its provision of electricity in this investigation. We calculated benchmark electricity payments by multiplying consumption volumes by the benchmark electricity rate corresponding to the user category, voltage class, and time period (*i.e.* peak, normal, and valley), where applicable. We then compared the calculated benchmark payments to the actual electricity payments made by the company during the POI. Where the benchmark payments exceeded the payments made by the company, a benefit was conferred. Based on this comparison, we find that electricity was provided for LTAR to the Double Coin tire producers and to GTC.

¹⁵⁰ See, *e.g.*, *Hardwood and Decorative Plywood from the People’s Republic of China: Final Affirmative Countervailing Duty Determination; 2011*, 78 FR 58283 (September 23, 2013), and accompanying Issues and Decision Memorandum at Comment 3, “Provision of Electricity.”

¹⁵¹ See *Double Coin Program-Specific Response* at 58 and Exhibits E-34a, E-34b, E-34c, E-35a, E-35b, E-36a, E-36b, E-36c, E-37, E-38, E-40a, E-40b, E-40c, E-40d, E-40e, E-40f, and E-41a; see also *Guizhou Program-Specific Response* at 43-46 and Exhibits P.E.11 and P.E.12.

¹⁵² See section 771(5)(e)(iv) of the Act and 19 CFR 351.511.

¹⁵³ See 19 CFR 351.511(a)(2).

¹⁵⁴ See *Guizhou Program-Specific Response* at Exhibits 30 and 31.

To calculate the countervailable subsidy rates for the POI, we summed each individual company's benefits and divided the amount by the appropriate sales denominator for the POI. On this basis, we determine that the Double Coin tire producers received a countervailable subsidy of 1.00 percent *ad valorem* and Guizhou Tyre received a countervailable subsidy of 1.91 percent *ad valorem*.¹⁵⁵

8. *Provision of Land-Use Rights to Truck and Bus Tire Producers for LTAR*
9. *Provision of Land-Use Rights in Industrial and Other Special Economic Zones for LTAR*

As discussed in the Initiation Checklist, the Department is investigating four alleged land-use rights subsidy programs: *Provision of Land-Use Rights to Truck and Bus Tire Producers for LTAR*; *Provision of Land-Use Rights for SOEs for LTAR*; *Provision of Land-Use Rights for FIEs for LTAR*; and *Provision of Land-Use Rights in Industrial and Other Special Economic Zones for LTAR*.¹⁵⁶ Both GTC and Double Coin have reported purchasing land use-rights during the AUL and have provided supporting documentation.

The “Notice of the Ministry of Industry and Information Technology on Issuing the Tire Industry Policy (Gong Chan Ye Zheng Ce {2010} (No. 2))” indicates that relevant entities are encouraged to consider the *Tire Industry Policy* when making “land allocation” decisions.¹⁵⁷ Therefore, consistent with previous investigations,¹⁵⁸ for purposes of this preliminary determination, we have included under *Provision of Land-Use Rights to Truck and Bus Tire Producers for LTAR* program, all land-use rights purchased by respondents after September 15, 2010, regardless of the status of the company (*i.e.*, SOE, FIE) or whether the land was in a special zone.

The petitioner has provided information indicating that both GTC and Double Coin may be located in industrialized or other special economic zones.¹⁵⁹ GTC's and Double Coin's questionnaire responses indicate that both respondents were provided land use rights in these zones during the AUL. The Department notes that in certain instances, the respondents have indicated that certain parcels of land are not located in an industrial and/or economic zone, however, the address of the land indicates that the land is in such a zone. For purposes of this preliminary determination, we have included these land parcels in our calculation of the *Provision of Land-Use Rights in Industrial and Other Special Economic Zones for LTAR* program.¹⁶⁰ The Department will request additional information regarding land use rights in these industrial and economic zones following this preliminary determination.

As discussed above in the section, “Use of Facts Otherwise Available and Application of Adverse Inferences,” we are basing our finding on the government's provision of land-use rights

¹⁵⁵ See Preliminary Calculation Memoranda.

¹⁵⁶ See Initiation Checklist at 17-20.

¹⁵⁷ *Id.* at Exhibit III-11.

¹⁵⁸ See *e.g.*, *PVLT from the PRC Preliminary Determination* and accompanying PDM at 44.

¹⁵⁹ *Id.* at Exhibits III-22 and III-159.

¹⁶⁰ See Preliminary Calculation Memoranda.

on AFA. We determine that the GOC's provision of land-use rights is a financial contribution in the form of the provision of a good or service under section 771(5)(D)(iii) of the Act, and that it is specific within the meaning of section 771(5A)(D) of the Act.

To determine the benefit pursuant to section 771(5)(E)(iv) of the Act and 19 CFR 351.511, we first compared the price actually paid by the mandatory respondents (and their cross-owned companies) for land use rights to the Thailand industrial land benchmarks discussed above under the "Benchmarks and Discount Rates" section above, to the price actually paid for the land to derive the total benefit for each year in which a land-use right was purchased. We next conducted the "0.5 percent test" of 19 CFR 351.524(b)(2) for each year in which there was a purchase of land-use rights by dividing the total benefit by the appropriate sales denominator. When we found that the benefits were greater than 0.5 percent of relevant sales, we allocated the total benefit amounts across the terms of the land-use agreement, using the standard allocation formula of 19 CFR 351.524(d). On this basis, we calculated determined the benefit amount attributable to the POI. We divided this amount by the appropriate total sales denominator, as discussed in the "Subsidies Valuation Information" section above.

On this basis, we preliminarily determine the Double Coin tire producers received land-use rights under the *Provision of Land-Use Rights in Industrial and Other Special Economic Zones for LTAR*, at a countervailable subsidy rate of 1.69 percent *ad valorem*. We preliminarily determine that Guizhou Tyre's land-use rights were provided under *Provision of Land-Use Rights to Truck and Bus Tire Producers for LTAR*; further we preliminarily determine that Guizhou Tyre received a countervailable subsidy rate of 1.73 percent *ad valorem*.

10. Income Tax Reductions for High- and New- Technology Enterprises

The Department previously found that this program provides countervailable subsidies.¹⁶¹ In *Aluminum Extrusions from the PRC First Review*, the GOC reported that this program was established on January 1, 2008. Pursuant to Article 28.2 of the Enterprise Income Tax Law (EITL) of the PRC, the government provides for the reduction of the corporate income tax rate from 25 percent to 15 percent for enterprises that are recognized as a High or New Technology Enterprise (HNTE).¹⁶² The conditions to be met by an enterprise to be recognized as an HNTE are set forth in Article 93 of the Regulation on the Implementation of the Enterprise Income Tax Law.¹⁶³ Article 28.2 of the EITL authorizes a reduced income tax rate of 15 percent for HNTEs.

¹⁶¹ See *Citric Acid from the PRC First Review*, and accompanying Issues and Decision Memorandum at "Reduced Income Tax Rate for High or New Technology Enterprises;" *Citric Acid from the PRC Second Review*, and accompanying Issues and Decision Memorandum at "Reduced Income Tax Rate for High or New Technology Enterprises;" *Citric Acid from the PRC Third Review*, and accompanying Issues and Decision Memorandum at "Reduced Income Tax Rate for High or New Technology Enterprises;" see also *Aluminum Extrusions From the People's Republic of China: Final Results, and Partial Rescission of Countervailing Duty Administrative Review*; 2013, 80 FR 77325 (December 14, 2015) and accompanying Issues and Decision Memorandum at "Preferential Tax Policies for High or New Technology Enterprises" (*Aluminum Extrusions from the PRC Third Review Final*).

¹⁶² See *Aluminum Extrusions From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2010 and 2011*, 79 FR 106 (January 2, 2014), and accompanying Issues and Decision Memorandum, at "Preferential Tax Program for High or New Technology Enterprises" (*Aluminum Extrusions from the PRC First Review Final*).

¹⁶³ *Id.*

The criteria and procedures for identifying eligible HTNEs are provided in the Measures on Recognition of High and New Technology Enterprises (GUOKEFAHUO (2008) No. 172) (Measures on Recognition of HNTes) and the Guidance on Administration of Recognizing High and New Technology Enterprises (GUOKEFA HUO (2008) No.362). Article 8 of the Measures on Recognition of HNTes provides that the science and technology administrative departments of each province, autonomous region, and municipality directly under the central government, or cities under separate state planning shall collaborate with the finance and taxation departments at the same level to recognize HTNEs in their respective jurisdictions.¹⁶⁴ The GOC reported that the program is administered by the State Administration of Taxation (SAT) and is implemented by the SAT branches at the local level within their respective jurisdictions and that exemption is claimed on line 28 of the Statement of Tax Preferences Table, which is an appendix to the corporate tax return.¹⁶⁵ The annex of the Measures on Recognition of HNTes lists eight high- and new-technology areas selected for the State's "primary support": 1) Electronics and Information Technology; 2) Biology and New Medicine Technology; 3) Aerospace Industry; 4) New Materials Technology; 5) High-tech Service Industry; 6) New Energy and Energy-Saving Technology; 7) Resources and Environmental Technology; and 8) High-tech Transformation of Traditional Industries.¹⁶⁶

In the GOC's Initial Response, the GOC stated that there were no changes to this program during the POI.¹⁶⁷ The GOC reported that "the income tax rate applicable to {qualifying companies} can be reduced by 10 percentage points to 15% instead of the normal income tax rate of 25%."¹⁶⁸ There is no new information on the record that would warrant reconsideration of our prior determinations. Therefore, consistent with *Citric Acid from the PRC First Review*, *Citric Acid from the PRC Second Review*, *Citric Acid from the PRC Third Review*, and *Aluminum Extrusions from the PRC Third Review*, we continue to find that this program provides a countervailable subsidy.

Consistent with *Citric Acid from the PRC First Review*, *Citric Acid from the PRC Second Review*, *Citric Acid from the PRC Third Review*, and *Aluminum Extrusions from the PRC Third Review*, we find that the reduced income tax rate paid by Double Coin's cross-owned tire producer Jiangsu, and by GTC represents a financial contribution under section 771(5)(D)(ii) of

¹⁶⁴ See *Citric Acid from the PRC First Review*, and accompanying Issues and Decision Memorandum at "Reduced Income Tax Rate for High or New Technology Enterprises;" *Citric Acid from the PRC Second Review*, and Accompanying Issues and Decision Memorandum at "Reduced Income Tax Rate for High or New Technology Enterprises;" *Citric Acid from the PRC Third Review*, and accompanying Issues and Decision Memorandum at "Reduced Income Tax Rate for High or New Technology Enterprises;" and *Aluminum Extrusions from the PRC Third Review Final* and accompanying Issues and Decision Memorandum at "Preferential Tax Policies for High or New Technology Enterprises," and *Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review*; 2013, 80 FR 77318 (December 14, 2015) (*Citric Acid from the PRC Fourth Review*); and accompanying Issues and Decision Memorandum at "Reduced Income Tax Rate for High or New Technology Enterprises."

¹⁶⁵ See *Citric Acid from the PRC First Review*, *Citric Acid from the PRC Second Review*, *Citric Acid from the PRC Third Review* and accompanying Issues and Decision Memoranda at "Reduced Income Tax Rate for High or New Technology Enterprises."

¹⁶⁶ *Id.*

¹⁶⁷ See *GOC Program-Specific Response*, at 35.

¹⁶⁸ *Id.* at 35-43.

the Act in the form of revenue foregone by the GOC, and provides a benefit to the recipient in the amount of the tax savings.¹⁶⁹

We also determine, consistent with *Citric Acid from the PRC First Review*, *Citric Acid from the PRC Second Review*, *Citric Acid from the PRC Third Review*, and *Aluminum Extrusions from the PRC Third Review*, that the reduction afforded by this program is limited as a matter of law to certain new and high technology companies selected by the government pursuant to legal guidelines specified in the *Measures on Recognition of HNTes* and, hence, is specific under section 771(5A)(D)(i) of the Act. Both the number of targeted industries (eight) and the narrowness of the identified project areas under those industries support a finding that the legislation expressly limits access to the program to a specific group of enterprises or industries.

Double Coin reported that Jiangsu received tax savings under this program in the amount indicated on income tax returns filed during the POI.¹⁷⁰ In addition, Guizhou Tyre reported that GTC received tax savings under this program in the amount indicated on income tax returns filed during the POI.¹⁷¹

To calculate the benefit, we compared the income tax that Jiangsu and GTC would have paid in the absence of the program, at the rate of 25 percent, to the income tax that the companies actually paid at the reduced rate of 15 percent. We treated the income tax savings as a recurring benefit, consistent with section 771(5)(E) of the Act and 19 CFR 351.524(c)(1). To calculate the countervailable subsidy rate, we divided the benefit by the total sales of the relevant cross-owned affiliates, in accordance with 19 CFR 351.525(b)(3), according to the methodology described in the “Attribution of Subsidies” section, above.

On this basis, we calculated a countervailable subsidy of 0.06 percent, *ad valorem* for the Double Coin tire producers, and a countervailable subsidy rate of 0.22 percent *ad valorem* for Guizhou Tyre.

11. Enterprise Income Tax Law, Research and Development Program

Under Article 30 of the Enterprise Income Tax Law of the PRC, which became effective January 1, 2008, companies may deduct from their taxable income R&D expenses incurred in the development of new technologies, products, or processes.¹⁷² Article 95 of the Regulations on the Implementation of Enterprise Income Tax Law of the PRC (Decree 512 of the State Council, 2007) provides that, if eligible research expenditures do not “form part of the intangible assets value,” an additional 50 percent deduction from taxable income may be taken on top of the normal deduction for the actual accrual amount.¹⁷³ Where these expenditures form the value of

¹⁶⁹ See section 771(5)(D)(ii) of the Act, section 771(5)(E) of the Act, and 19 CFR 351.509(a)(1).

¹⁷⁰ See *Double Coin Program-Specific Response* at 19 and Exhibit C-1.

¹⁷¹ See *Guizhou Program-Specific Response* at 19 Exhibit P.C.1.

¹⁷² See *GOC Program-Specific Response*, at 45.

¹⁷³ *Id.*

certain intangible assets, the expenditures may be amortized based on 150 percent of the intangible assets' costs.¹⁷⁴

Article 4 of the “Circular of the State Administration of Taxation on Printing and Issuing the Administrative Measures for the Pre-tax Deduction of Enterprises’ Expenditures for Research and Development (for Trial Implementation)” (Circular 116) states that enterprises engaged in hi-tech R&D may deduct certain expenditures, as listed in the “Hi-tech Sectors with Primary Support of the State Support and the Guideline of the Latest Key Priority Developmental Areas in the High Technology Industry (2007).”¹⁷⁵

Double Coin reported that it and its cross-owned tire producer Jiangsu used this program during the POI.¹⁷⁶ In addition, GTC reported using this program during the POI.¹⁷⁷

We find that this program constitutes a countervailable subsidy. This income tax deduction is a financial contribution within the meaning of section 771(5)(D)(ii) of the Act in the form of revenue foregone by the government, and it provides a benefit to the recipient in the amount of the tax savings, pursuant to section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We also find that the income tax deduction afforded by this program is limited as a matter of law to certain enterprises, *i.e.*, those with R&D in eligible high-technology sectors and, thus, is specific under section 771(5A)(D)(i) of the Act.

To calculate the benefit from this program to Double Coin, Jiangsu, and GTC, we treated the tax deduction as a recurring benefit, consistent with 19 CFR 351.524(c)(1). To compute the amount of the tax savings, we calculated the amount of tax each respondent would have paid absent the tax deductions at the tax rate that would otherwise apply (*i.e.*, 15 percent as allowed under the program, Income Tax Reductions for High- and New- Technology Enterprises, discussed above). We then divided the tax savings by the appropriate total sales denominator for each respondent.

On this basis, we calculated a countervailable subsidy of 0.01 percent *ad valorem* for the Double Coin tire producers, and a countervailable subsidy of 0.10 percent *ad valorem* for Guizhou Tyre.

12. VAT Exemptions for Imported Equipment

Enacted in 1997, the Circular of the State Council on Adjusting Tax Policies on Imported Equipment (Guofa No. 37) (Circular 37) exempts both FIEs and certain domestic enterprises from VAT assessed on imported equipment used in their production as long as the equipment does not fall into prescribed lists of non-eligible items.¹⁷⁸ The National Development and Reform Commission (NDRC) and the General Administration of Customs are the government agencies responsible for administering this program. Qualified enterprises receive a certificate

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ See *Double Coin Program-Specific Response* at 26 and Exhibit C-2.

¹⁷⁷ See *Guizhou Program-Specific Response* at 24 and Exhibit P.C.3.

¹⁷⁸ See *GOC Program-Specific Response* at 59 and 71, as well as a list of certain domestic enterprises in Exhibit II.D.2.

either from the NDRC or one of its provincial branches. To receive the exemptions, a qualified enterprise presents the certificate to the customs officials upon importation of the equipment. The objective of the program is to encourage foreign investment and to introduce foreign advanced technology equipment and industry technology upgrades.¹⁷⁹ The Department previously found this program to be countervailable.¹⁸⁰ Double Coin reported that Double Coin and its cross-owned tire producers Jiangsu Tyre, Chongqing Tyre, and Kunlun Tyre received VAT exemptions under this program for imported equipment prior to the POI.¹⁸¹ Additionally, Guizhou Tyre reported that GTC received VAT exemptions under this program during the POI.¹⁸² We determine that the VAT exemptions received under the program constitute a financial contribution in the form of revenue foregone by the GOC, which provides a benefit to the recipients in the amount of the VAT savings.¹⁸³ As described above, only FIEs and “certain domestic enterprises” are eligible to receive import duty exemptions under this program; the “certain enterprises” are identified in the Catalog of Non-Duty-Exemptible Article of Importation for Foreign Invested Projects and the Catalog of Non-Duty-Exemptible Article of Importation for Domestic Invested Projects.¹⁸⁴ As such, we further determine that the VAT exemptions under this program are *de jure* specific under section 771(5A)(D)(i) of the Act because the program is limited to specific enterprises.¹⁸⁵

Normally, we treat exemptions from indirect taxes, such as VAT, as recurring benefits, consistent with 19 CFR 351.524(c)(1), and allocate these benefits to the year in which they were received. However, when an indirect tax exemption is provided for, or tied to, the capital structure or capital assets of a firm, the Department may treat it as a non-recurring benefit and allocate the benefit over the AUL.¹⁸⁶ Therefore, because these exemptions are for capital equipment, we have examined the import duty exemptions that Double Coin, Jiangsu Tyre, Chongqing Tyre, Kunlun Tyre, and GTC received under the program during the POI and the preceding 13 years.

To calculate the amount of VAT exempted under the program, we multiplied the value of the imported equipment (inclusive of import duties) by the VAT rate that would have been levied absent the program. Our derivation of VAT in this calculation is consistent with the Department’s approach in prior cases.¹⁸⁷ We then summed the amount of VAT exemptions

¹⁷⁹ *Id.*

¹⁸⁰ See, e.g., *Citric Acid from the PRC Final Determination*, and accompanying IDM at “H. VAT and Duty Exemptions on Imported Equipment.”

¹⁸¹ See *Double Coin Program-Specific Response* at 34 and Exhibit P.D.5.

¹⁸² See *Guizhou Program-Specific Response* Tyre IQR at 32.

¹⁸³ See sections 771(5)(D)(ii) and 771(5)(E) of the Act; see also 19 CFR 351.510(a)(1). The VAT portion of this program was abolished beginning January 1, 2009 pursuant to the Announcement of Ministry of Finance, General Administration of Customs and State Administration of Taxation on resumption of VAT on imported equipment and related goods.

¹⁸⁴ See *GOC Program-Specific Response* at Exhibit I.D.1 and I.D.2.

¹⁸⁵ See *CFS from the PRC* and CFS IDM at Comment 16; see also *OTR Tires Final Determination*, at “C. VAT and Import Duty Exemptions on Imported Material.”

¹⁸⁶ See 19 CFR 351.524(c)(2)(iii) and (d)(1).

¹⁸⁷ See e.g., *Circular Welded Carbon Quality Steel Line Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 70961 (November 24, 2008), and accompanying IDM at Comment 8 (“

received in each year. Next, we conducted the “0.5 percent test” provided in 19 CFR 351.524(b)(2). For the Double Coin tires producers, for each year, we divided the companies’ total exemptions by the total sales of all of the Double Coin tire producers, less inter-company sales. For GTC, for each year, we divided the company’s total exemptions by GTC’s total sales in the relevant year. Pursuant to 19 CFR 351.524(b)(2), we expensed the grant amounts to the year of receipt for those years in which the grant amount was less than 0.5 percent of the relevant total sales. For the Double Coin tire producers, none of the grant amounts passed the “0.5 percent test.” Therefore, none of the benefits were allocated over time, and we preliminarily find that the Double Coin tire producers received no benefits during the POI. For GTC, for the years in which the grant amount for the company was greater than 0.5 percent of its sales, we allocated the benefit over the AUL using the methodology described under 19 CFR 351.524(d) to determine the amount of the benefit attributable to the POI. To calculate the subsidy rate, we then divided the POI benefits for GTC by GTC’s total sales during the POI. On this basis, we preliminarily determine that Guizhou Tyre received a countervailable subsidy of 0.06 percent *ad valorem* during the POI.

Additionally, the GOC reported that, pursuant to the “Announcement of Ministry of Finance, China Customs, and State Administration of Taxation,” No. 43 (2008), the import duty exemption was terminated.¹⁸⁸ Under 19 CFR 351.526(a)(1) and (2), the Department may take a program-wide change to a subsidy program into account in establishing the cash deposit rate if it determines that subsequent to the POI, but before the preliminary determination, a program-wide change occurred and the Department is able to measure the change in the amount of countervailable subsidies provided under the program in question. However, in *Wind Towers from the PRC*, we determined that a program-wide change has not occurred.¹⁸⁹ Under 19 CFR 351.526(d)(1), the Department will only adjust the cash deposit rate of a terminated program if there are no residual benefits. Because this program provides import tariff exemptions that we treat as non-recurring subsidies pursuant to 19 CFR 351.524(c)(2)(iii), there continue to be residual benefits. Therefore, we are not adjusting the cash deposit rate. This decision is consistent with the Department’s approach to this program in prior PRC proceedings.¹⁹⁰

13. State Key Technology Renovation Fund Program

The State Key Technology Renovation Project Fund Program (Key Technology Program) was created pursuant to State Circular Guojingmao Touzi No. 886 (Circular No. 886) and was issued by the former State Economic and Trade Commission (SETC).¹⁹¹ Under the Key Technology

... we agree with Petitioners that VAT is levied on the value of the product inclusive of delivery charges and import duties”).

¹⁸⁸ See *GOC Program-Specific Response* at 59 and Exhibit II.D.4.

¹⁸⁹ See *Utility Scale Wind Towers From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 75978 (December 26, 2012) (*Wind Towers from the PRC*) and accompanying IDM at 19 and 20.

¹⁹⁰ See, e.g., *Drill Pipe From the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011), and accompanying IDM at “Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries.”

¹⁹¹ *Id.* at 2.

Program, companies can apply for grants to cover the cost of financing specific technological renovation projects.

Pursuant to Article 4 of Circular No. 886, the recipients of these funds are mainly selected from large-sized state-owned enterprises and large-sized state holding enterprises among the 512 key enterprises, 120 pilot enterprise groups and the leading enterprises in industries. To be considered for funding, the enterprise files an application that is reviewed at various levels of government, with final approval given by the State Council.

The GOC has further reported that the Key Technology Program has not operated since 2003, although the implementing regulations remain in effect.¹⁹² This is due to institutional reform in the government. The implementing agency, the SETC, was dissolved and the program was not taken over by another agency.¹⁹³ The GOC and Guizhou Tyre have reported that GTC received benefits under the Key Technology Program, before the program ceased operation in 2003, to assist in GTC's development of a production line.¹⁹⁴

We preliminarily determine that the Key Technology Program provides countervailable subsidies to GTC within the meaning of section 771(5) of the Act. We find that these grants are a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act, providing a benefit in the amount of the grant.¹⁹⁵ We further preliminarily determine that the grants provided under this program are limited as a matter of law to certain enterprises, *i.e.*, large-sized state-owned enterprises and large-sized state holding enterprises among the 512 key enterprises, 120 pilot enterprise groups and the leading enterprises in industries, and, hence, are specific under section 771(5A)(D)(i) of the Act.

According to the GOC, the program supports state key technological renovation projects through project investment or loan interest grants. Therefore, consistent with 19 CFR 351.524(c)(1), we are treating the grants received under this program as “non-recurring.”

To determine whether the benefits of these grants are allocable to the POI, we first conducted the “0.5 percent test” for each grant.¹⁹⁶ We divided the total amount of grants approved in each year by GTC's total sales in that year. As a result, we found that a grant provided in one year was greater than 0.5 percent of GTC's sales and it is properly allocated over the AUL. To calculate the countervailable subsidy rate, we divided the benefits allocated to the POI by GTC's total sales during the POI. On this basis, we preliminarily determine the countervailable subsidy rate to be 0.03 percent *ad valorem* for Guizhou Tyre.

B. Programs Preliminarily Determined to be Not Used

1. Preferential Loans to SOEs

¹⁹² *Id.* at 3.

¹⁹³ See *Guizhou Program-Specific Response* at 3.

¹⁹⁴ *Id.* at 4, and *GOC Program-Specific Response* at 3.

¹⁹⁵ See 19 CFR 351.504(a).

¹⁹⁶ See 19 CFR 351.524(b)(2).

2. Discounted Loans for Export-Oriented Enterprises
3. Export Credit Guarantees
4. Income Tax Reduction for Advanced Technology for FIEs
5. Income Tax Credits on Purchases of Domestically-Produced Equipment by FIEs
6. VAT Refunds for FIEs on Purchases of Chinese-Made Equipment
7. VAT Exemptions and Deductions for Central Regions
8. Land Use Rights for FIEs for LTAR
9. Export Interest Subsidy Funds for Enterprises Located in in Guangdong and Zhejiang Provinces
10. Funds for “Outward Expansion” of Industries in Guangdong Province
11. Direct Government Grants to Guizhou Tire (GTC)
12. Direct Government Grants to Aeolus
13. Direct Government Grants to Qingdao Doublestar
14. Direct Government Grants to Sailun

C. Programs Preliminarily Determined to Provide no Benefit During the POI

1. Export Buyer’s Credit from State-Owned Banks

Both Double Coin and Guizhou Tyre reported that their customers did not use the financing available under this program.¹⁹⁷

2. Export Credit Insurance Subsidies (from Sinosure & PICC)

The petitioner alleged that tire producers benefited from subsidized export credit insurance. Specifically, they argue that export credit insurance for Chinese tire producers and exporters provides a countervailable subsidy under U.S. law where the premium rates charged by the programs are inadequate to cover the programs’ long-term costs and losses, and that these subsidies are specific because the insurance is contingent upon export performance.¹⁹⁸

Double Coin and Guizhou Tyre both reported that they had export credit insurance policies in place during the POI. However, neither Double Coin nor Guizhou Tyre made claims during the POI.¹⁹⁹ Therefore, we preliminarily determine this program to be not used during the POI.

3. Import Duty Exemptions for Imported Equipment
4. Famous Brands Program
5. Special Fund for Energy-Saving Technology Reform
6. The Clean Production Technology Fund
7. Export Loan Interest Subsidies

¹⁹⁷ See Letter from Double Coin, “*Factual Information Related to U.S. Customers’ Utilization of Export Buyer’s Credit Program*,” May 31, 2016; see also *Guizhou Program-Specific Response* at 17 and Exhibit P.B.4.

¹⁹⁸ See Petition, at III-34.

¹⁹⁹ See *Double Coin Program-Specific Response*, at 121 see also *Guizhou Program-Specific Response*, at 12.

Double Coin and Guizhou Tyre reported receiving benefits during the AUL under Import Duty Exemptions for Imported Equipment, the Famous Brands Program, Special Fund for Energy-Saving Technology Reform, The Clean Production Technology Fund, and Export Loan Interest Subsidies.²⁰⁰ However, these benefits either do not pass the “0.5 percent test” provided in 19 CFR 351.524(b)(2), and they are allocated to the year of receipt, or they are less than 0.005 percent *ad valorem* during the POI, and they are not measurable. Thus, they provide no benefits during the POI.

D. Programs for Which More Information is Required

We intend to seek further information and issue an post-preliminary analysis describing our preliminary findings with respect to the programs below before the final determination so that parties will have the opportunity to comment on our findings before the final determination.

1. Provision of Land Use Rights to SOEs for LTAR

The petitioner alleges that the GOC provides land use-rights to SOEs for LTAR.²⁰¹ As discussed in previous investigations, the Department has found that there are two types of land-use rights in the PRC: “granted” and “allocated.”²⁰² The GOC transfers allocated land-use rights to SOEs for a nominal one-time charge and annual fee. Granted land-use rights can be purchased by private entities directly from the government on the “primary market” or from other granted land-use rights holders on the “secondary” market. Granted land-use rights can be transferred or mortgaged and require a large up-front fee, but carry no annual fees aside from taxes. The Department has found the provision of allocated land-use grants to be countervailable on the basis that allocated land-use rights are only available to SOEs,²⁰³ and as such, they specific under section 771(5A)(D)(i) of the Act. However, the Department has found that granted land-use rights are countervailable only if there is a further indication of specificity.²⁰⁴

The record shows that granted land-use rights are currently the predominant means of providing land-use rights in the country.²⁰⁵ Information provided by the GOC and respondent companies is not clear with respect to whether the parcels of land provided to the respondents or their cross-owned companies were provided as “granted” or “allocated” land use rights. We intend to seek further information from the GOC regarding the provision of land use rights to determine whether they provided countervailable subsidies to the mandatory respondents during the POI.

2. Direct Government Grants to Double Coin

²⁰⁰ See *Double Coin Program-Specific Response* at 3-6; see also *Guizhou Program-Specific Response* at 7-9.

²⁰¹ See CVD Petition at III-84-III-87.

²⁰² See e.g., *OTR Tires Preliminary Determination*, 72 FR 71360, 71368.

²⁰³ See e.g., *Id.*

²⁰⁴ For example in *Citric Acid from the PRC*, the Department found a company received a 57 year granted land-use rights provision, rather than the standard 50 year provision. In that case, we found the additional seven years of this provision of land-use rights to be specific under 771(5A)(D)(i) of the Act. See *Citric Acid from the PRC Final Determination*), and accompanying Issues and Decision Memorandum at 24.

²⁰⁵ See *GOC Program-Specific Response* at 174 (“Granted land use rights are the norm”).

Double Coin reported that it and its cross-owned tire producers received various direct grants. We intend to seek further information from the GOC regarding the programs under which these grants were provided, in order to determine whether they provided countervailable subsidies to the Double Coin tire producers during the POI.

3. *Other Subsidies*

Guizhou Tyre reported “certain government grants,” that were provided other than under the named programs we are investigating, prior to or during the POI.²⁰⁶ We intend to seek further information from the GOC about these grants in order to determine whether they provided countervailable subsidies to Guizhou Tyre during the POI.

XII. CALCULATION OF THE ALL-OTHERS RATE

Sections 703(d) and 705(c)(5)(A) of the Act state that for companies not individually investigated, we will determine an all-others rate by weighting the individual company subsidy rate of each of the companies investigated by each company’s exports of subject merchandise to the United States, excluding any zero, *de minimis*, or facts available rates. In this investigation, the preliminary subsidy rates calculated for the two mandatory respondents are above *de minimis* and neither was determined based entirely on facts otherwise available pursuant to section 776 of the Act. However, calculating the all-others rate by using the respondents’ actual weighted-average rates risks disclosure of proprietary information. In the absence of public ranged values for each respondent’s exports of subject merchandise to the United States, for this preliminary determination, we calculated the rate applicable to all other exporters using the simple average of the countervailable subsidy rates found for the two mandatory respondents. Thus, we have calculated the all-others rate of 20.22 percent *ad valorem*. We will seek the necessary public export data for purposes of the final determination.

XIII. ITC NOTIFICATION

In accordance with section 703(f) of the Act, we will notify the International Trade Commission (ITC) of our determination. In addition, we are making all non-privileged and non-proprietary information relating to this investigation available to the ITC. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publicly or under an APO, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

²⁰⁶ See *Guizhou Program-Specific Response*, at 45 and Exhibit P.F.1.

XIV. DISCLOSURE AND PUBLIC COMMENT

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.²⁰⁷ Case briefs may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the last verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for case briefs.

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.²⁰⁸ This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*.²⁰⁹ Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date, time, and location to be determined. Parties will be notified of the date, time, and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.²¹⁰ Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time, on the due dates established above.²¹¹

XV. VERIFICATION

As provided in section 782(i)(1) of the Act, we intend to verify the factual information submitted by the GOC, Double Coin, and Guizhou Tyre prior to the final determination.

²⁰⁷ See 19 CFR 351.224(b).

²⁰⁸ See 19 CFR 351.309(c)(2) and (d)(2).

²⁰⁹ See 19 CFR 351.310(c).

²¹⁰ See 19 CFR 351.303(b)(2)(i).

²¹¹ See 19 CFR 351.303(b)(1).


XVI. CONCLUSION

We recommend that you approve the preliminary determination described above.



Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

27 JUNE 2016
Date