



C-570-942  
Sunset Review  
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June 1, 2020

**MEMORANDUM TO:** Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance

**FROM:** James Maeder  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Issues and Decision Memorandum for the Final Results of the Expedited Second Sunset Review of the Countervailing Duty Order on Certain Kitchen Appliance Shelving and Racks from the People's Republic of China

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## I. SUMMARY

We analyzed the substantive response of the domestic interested parties<sup>1</sup> in the expedited second sunset review of the countervailing duty (CVD) order on certain kitchen appliance shelving and racks (kitchen racks) from the People's Republic of China (China). We did not receive a substantive response from the Government of China (GOC) or from any other interested party. As a result, pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department of Commerce (Commerce) conducted an expedited (120-day) sunset review of the *Order*.<sup>2</sup> We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues in this sunset review for which we received a substantive response:

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
2. Net Countervailable Subsidy Rate Likely to Prevail
3. Nature of the Subsidies

## II. BACKGROUND

On September 14, 2009, Commerce published the CVD order on kitchen racks from China.<sup>3</sup> On February 3, 2020, Commerce initiated the second sunset review of the *Order* pursuant to section

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<sup>1</sup> The domestic interested parties are Nashville Wire Products, Inc. and SSW Holding Company, LLC.

<sup>2</sup> See *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Countervailing Duty Order*, 74 FR 46973 (September 14, 2009) (*Order*).

<sup>3</sup> *Id.*

751(c) of the Act.<sup>4</sup> On February 14, 2020, Commerce received a notice of intent to participate from the domestic interested parties within the deadline specified in 19 CFR 351.218(d)(1)(i).<sup>5</sup> The domestic interested parties claimed interested party status under section 771(9)(C) of the Act as producers of the domestic like product.

On March 4, 2020, Commerce received an adequate substantive response to the *Initiation Notice* from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).<sup>6</sup> Commerce received no responses from the GOC or from any other interested parties. In accordance with section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C), because Commerce did not receive a substantive response from the GOC, pursuant to 19 CFR 351.218(e)(1)(ii)(B), or from a respondent party, pursuant to 19 CFR 351.218(e)(1)(ii)(C), we determine that the respondent interested parties did not provide an adequate response to the *Initiation Notice*. On March 24, 2020, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.<sup>7</sup> Therefore, consistent with 19 CFR 351.218 (e)(1)(ii)(B)(2) and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of the *Order*.

### **III. SCOPE OF THE ORDER**

The scope of this order consists of shelving and racks for refrigerators, freezers, combined refrigerator-freezers, other refrigerating or freezing equipment, cooking stoves, ranges, and ovens (“certain kitchen appliance shelving and racks” or “the subject merchandise”). Certain kitchen appliance shelving and racks are defined as shelving, baskets, racks (with or without extension slides, which are carbon or stainless steel hardware devices that are connected to shelving, baskets, or racks to enable sliding), side racks (which are welded wire support structures for oven racks that attach to the interior walls of an oven cavity that does not include support ribs as a design feature), and subframes (which are welded wire support structures that interface with formed support ribs inside an oven cavity to support oven rack assemblies utilizing extension slides) with the following dimensions:

- shelving and racks with dimensions ranging from 3 inches by 5 inches by 0.10 inch to 28 inches by 34 inches by 6 inches; or
- baskets with dimensions ranging from 2 inches by 4 inches by 3 inches to 28 inches by 34 inches by 16 inches; or
- side racks from 6 inches by 8 inches by 0.10 inch to 16 inches by 30 inches by 4 inches; or

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<sup>4</sup> See *Initiation of Five-Year (Sunset) Reviews*, 85 FR 5940 (February 3, 2020) (*Initiation Notice*).

<sup>5</sup> See Domestic Interested Parties’ Letter, “Kitchen Appliance Shelving and Racks from the People’s Republic of China – Domestic Interested Parties’ Notice of Intent to Participate,” dated February 14, 2020.

<sup>6</sup> See Domestic Interested Parties’ Letter, “Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China – Domestic Interested Parties’ Substantive Response,” dated March 4, 2020 (Substantive Response).

<sup>7</sup> See Commerce’s Letter, “Sunset Reviews Initiated on February 3, 2020,” dated March 24, 2020.

- subframes from 6 inches by 10 inches by 0.10 inch to 28 inches by 34 inches by 6 inches.

The subject merchandise is comprised of carbon or stainless steel wire ranging in thickness from 0.050 inch to 0.500 inch and may include sheet metal of either carbon or stainless steel ranging in thickness from 0.020 inch to 0.20 inch. The subject merchandise may be coated or uncoated and may be formed and/or welded. Excluded from the scope of this order is shelving in which the support surface is glass.

The merchandise subject to this order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting numbers 8418.99.8050, 8418.99.8060, 7321.90.5000, 7321.90.6090, 8516.90.8000, 8516.90.8010, 7321.90.6040, 8514.90.4000 and 8419.90.9520. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

#### **IV. HISTORY OF THE ORDER**

On July 27, 2009, Commerce published its *Final Determination* in the CVD investigation of kitchen racks from China.<sup>8</sup> Commerce determined that countervailable subsidies within the meaning of section 701 of the Act were being provided by the GOC to Chinese manufacturers, producers, and exporters of subject merchandise. In the investigation, the following programs were found to confer countervailable subsidies to the cooperating mandatory respondent company, Guangdong Wire King., Ltd. (formerly known as Foshan Shunde Wireking Houseware & Hardware) (Wire King):

1. Income Tax Reduction for Foreign-Invested Enterprises (FIEs) Based on Geographic Location
2. Income Tax Reduction for Export-Oriented FIEs
3. Local Income Tax Exemption or Reduction for “Productive” FIEs
4. Exemption from City Construction Tax and Education Tax for FIEs in Guangdong Province
5. Provision of Wire Rod for Less than Adequate Remuneration (LTAR)
6. Provision of Electricity for LTAR

In the *Final Determination*, Commerce also determined that one program (Exemption from Project Consulting Fee for Export-Oriented Industries) was terminated and one program (Income Tax Exemption for Investment in Domestic “Technological Renovation”) did not exist.<sup>9</sup> In addition, Commerce determined that the programs, listed in the “Nature of the Subsidies” section below, were not used or did not provide any benefit during the period of investigation (POI) to Wire King, but it found them countervailable on the basis of total adverse facts available (AFA) with respect to the non-cooperating respondents.<sup>10</sup>

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<sup>8</sup> See *Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 37012 (July 27, 2009) (*Final Determination*), and accompanying Issues and Decision Memorandum (IDM).

<sup>9</sup> See *Final Determination* IDM at 4-9 and 18.

<sup>10</sup> *Id.* at 18-20. Asber Enterprises Co., Ltd. (China) (Asber) was a non-cooperating mandatory respondent. Changzhou Yixiong Metal Products Co., Ltd., Foshan Winleader Metal Products Co., Ltd., Kingsun Enterprises

Commerce found the following *ad valorem* subsidy rates:

<b>Exporter/Producer</b>	<b>Net Subsidy Rate (Percent)</b>
Guangdong Wire King Co., Ltd. (formerly known as Foshan Shunde Wireking Housewares & Hardware) (Wire King)	13.30
Asber Enterprises Co., Ltd. (China)	170.82
Changzhou Yixiong Metal Products Co., Ltd. (Changzhou)	149.91
Foshan Winleader Metal Products Co., Ltd. (Foshan Winleader)	149.91
Kingsun Enterprises Group Co, Ltd. (Kingsun)	149.91
Yuyao Hanjun Metal Work Co./Yuyao Hanjun Metal Products Co., Ltd. (Yuyao Hanjun)	149.91
Zhongshan Iwatani Co., Ltd. (Zhongshan Iwatani)	149.91
All Others	13.30

Following the issuance of Commerce’s *Final Determination*, the ITC found that the U.S. industry was materially injured by reason of imports from China pursuant to section 735(b)(1)(A)(i) of the Act.<sup>11</sup> Subsequently, Commerce published the *Order*.

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Group Co., Ltd., Yuyao Hanjun Metal Work Co./Yuyao Hanjun Metal Products Co., Ltd., and Zhongshan Iwatani Co., Ltd. did not answer our initial quantity and value questionnaire which we were using for respondent selection purposes. Therefore, we calculated a total AFA rate “generally using program-specific rates determined for the cooperating respondent or past cases.” *Id.* at 3-5. Of the 36 programs, one (Two Free, Three Half Program) was subsequently found used by respondent New King Shan (Zhu Hai) Co., Ltd. in the administrative reviews. *See, e.g., Certain Kitchen Appliances Shelving and Racks from the People’s Republic of China: Final Results of the Countervailing Duty Administrative Review*, 77 FR 21744 (April 11, 2012) (*Kitchen Racks ARI Final Results*), and accompanying IDM at 10.

<sup>11</sup> *See Certain Kitchen Appliance Shelving and Racks from China*, USITC Investigation Nos. 701-TA-458 and 731-TA-1154 (Final), USITC Publication 4098 (August 2009).

Since the issuance of the *Order*, Commerce has completed three administrative reviews,<sup>12</sup> five scope rulings,<sup>13</sup> and an expedited sunset review.<sup>14</sup>

In the *First Sunset Review*, we found that revocation of the *Order* would be likely to lead to continuation or recurrence of countervailable subsidies.<sup>15</sup> In addition, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the *Order* would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>16</sup> Thus, Commerce published the notice of continuation of the *Order*.<sup>17</sup>

Since the *First Sunset Review*, Commerce implemented the *Section 129 Determination*,<sup>18</sup> regarding public bodies and input specificity. The net subsidy rates determined in the CVD investigation was unchanged by this segment of the proceeding.<sup>19</sup> The *Order* remains in effect for all producers and exporters of kitchen racks from China.

## V. LEGAL FRAMEWORK

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

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<sup>12</sup> See *Kitchen Racks AR1 Final Results IDM*; see also *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China; 2010; Final Results of the Countervailing Duty Administrative Review*, 78 FR 21594 (April 11, 2013) (*Kitchen Racks AR2 Final Results*), and accompanying IDM; and *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 14668 (March 17, 2014) (*Kitchen Racks AR3 Final Results*), and accompanying IDM.

<sup>13</sup> See Memorandum, "Final Scope Ruling: Antidumping and Countervailing Duty Orders on Certain Kitchen Appliance Shelving and Racks from the People's Republic of China," dated April 1, 2010; see also Memorandum, "Final Scope Ruling: Antidumping and Countervailing Duty Orders on Certain Kitchen Appliance Shelving and Racks from the People's Republic of China," dated June 8, 2011; Memorandum, "Final Scope Ruling: Antidumping and Countervailing Duty Orders on Certain Kitchen Appliance Shelving and Racks from the People's Republic of China," dated April 22, 2013; Memorandum, "Final Scope Ruling: Antidumping and Countervailing Duty Order on Certain Kitchen Appliance Shelving and Racks from the People's Republic of China," dated December 19, 2013; and Memorandum, "Antidumping and Countervailing Duty Orders on Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Scope Ruling for the Scope Request from Thermo Fisher Scientific LLC," dated February 8, 2018.

<sup>14</sup> See *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Results of Expedited Sunset Review of the Countervailing Duty Order*, 79 FR 73029 (December 9, 2014) (*First Sunset Review*), and accompanying IDM.

<sup>15</sup> *Id.*

<sup>16</sup> See *Certain Kitchen Appliance Shelving and Racks from China: Determination*, USITC Investigation Nos. 701-TA-458 and 731-TA-1154 (Review), USITC Publication 4520 (February 2015).

<sup>17</sup> See *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Continuation of Antidumping Duty Order and Countervailing Duty Order*, 80 FR 12983 (March 12, 2015).

<sup>18</sup> See *Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act*, 81 FR 37180 (June 9, 2016) (*Section 129 Determination*).

<sup>19</sup> *Id.*, 81 FR at 37181.

gave rise to the net countervailable subsidy have occurred that are likely to affect the net countervailable subsidy.

Pursuant to section 752(b)(3) of the Act, Commerce shall provide the ITC with the net countervailable subsidy likely to prevail if the order were revoked. In addition, consistent with section 752(a)(6) of the Act, Commerce shall provide the ITC with information concerning the nature of the subsidies and whether they are subsidies described in Article 3 or Article 6.1 of the 1994 World Trade Organization Agreement on Subsidies and Countervailing Measures (ASCM).

## **VI. DISCUSSION OF THE ISSUES**

### **1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy**

#### Domestic Interested Parties' Comments<sup>20</sup>

The domestic interested parties argue that revocation of the *Order* would lead to a continuation or recurrence of subsidization of kitchen racks from China because the subsidies to the industry are numerous and longstanding and show no indication of termination. They assert that the producers of kitchen racks in China continue to benefit from the wide variety of subsidy programs available to the industry. The domestic interested parties also note that several new programs have been found to be countervailable since the original CVD investigation. Moreover, they also argue that, while the *Order* has had the effect of reducing the use of subsidies for at least one Chinese kitchen racks producer, it has by no means caused the GOC to eliminate subsidy programs as a whole or reverse the course of subsidization of the kitchen racks industry in China that has existed for many years. Therefore, the domestic interested parties maintain that Commerce should determine that revocation of the *Order* would lead to continued and increased subsidies.

#### Commerce's Position

In determining the likelihood of continuation or recurrence of a countervailable subsidy, section 752(b)(1) of the Act directs Commerce to consider the net countervailable subsidy determined in the investigation and subsequent reviews and whether there have been any changes in a program found to be countervailable that are likely to affect that net countervailable subsidy. According to the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), Commerce will consider the net countervailable subsidies in effect after the issuance of an order and whether the relevant subsidy programs have been continued, modified, or eliminated.<sup>21</sup> The SAA further states that continuation of a program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies.<sup>22</sup> The continued existence of programs that have not been used, and have not been terminated without residual benefits or replaced, is also probative of the likelihood of continuation or recurrence of a

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<sup>20</sup> See Substantive Response at 14-16.

<sup>21</sup> See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc 103-316, vol. 1 (1994) at 888 (SAA).

<sup>22</sup> *Id.*

countervailable subsidy.<sup>23</sup> Where a subsidy program is found to exist, Commerce normally will determine that revocation of the CVD order is likely to lead to continuation or recurrence of a countervailable subsidy regardless of the level of subsidization.<sup>24</sup>

Consistent with prior determinations, two conditions must be met in order for a subsidy program not to be included in determining the likelihood of continued or recurring subsidization: (1) the program must be terminated; and (2) any benefit stream must be fully allocated.<sup>25</sup> In order to determine whether a program has been terminated, we will consider the legal method by which the government eliminated the program and whether the government is likely to reinstate the program.<sup>26</sup> Commerce normally expects a program to be terminated by means of the same legal mechanism used to institute it.<sup>27</sup> Where a subsidy is not bestowed pursuant to a statute, regulation, or decree, Commerce may find no likelihood of continued or recurring subsidization if the subsidy in question was a one-time, company-specific occurrence and was not granted as part of a broader, government program.<sup>28</sup>

As explained above, Commerce has completed three administrative reviews of the *Order* since it went into effect. In these reviews, Commerce found that producers of kitchen racks from China continued to receive countervailable subsidies from programs identified in the investigation. Consequently, there is no record information indicating any changes in these programs determined to be countervailable subsidies and to confer benefits in the *Final Determination*. Moreover, we have not conducted any administrative reviews during this sunset review period. In addition, the GOC has not provided further information concerning any program during any prior sunset review of the *Order* and no party submitted evidence to demonstrate that the countervailable programs have expired or been terminated.

## 2. Net Countervailable Subsidy Rate Likely to Prevail

### Domestic Interested Parties' Comments<sup>29</sup>

The domestic interested parties cite to the SAA and the *Sunset Policy Bulletin*<sup>30</sup> and note that Commerce normally will select the rate from the original investigation because that is the only

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<sup>23</sup> See, e.g., *Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil: Final Results of Full Sunset Review of Countervailing Duty Order*, 75 FR 75455 (December 3, 2010), and accompanying IDM at Comment 1.

<sup>24</sup> *Id.*

<sup>25</sup> See *Certain Pasta from Italy: Final Results of the Expedited Fourth Sunset Review of the Countervailing Duty Order*, 83 FR 62839 (December 6, 2019), and accompanying IDM at 11; see also *Preliminary Results of Full Sunset Review: Certain Corrosion-Resistant Carbon Steel Flat Products from France*, 71 FR 30875 (May 31, 2006), and accompanying Preliminary Decision Memorandum (PDM) at 5-7, unchanged in *Corrosion-Resistant Carbon Steel Flat Products from France: Final Results of Full Sunset Review*, 71 FR 58584 (October 4, 2006).

<sup>26</sup> See, e.g., *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Full Third Sunset Review of Countervailing Duty Order*, 76 FR 70411 (November 14, 2011), and accompanying IDM at Comment 1.

<sup>27</sup> See, e.g., *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from India*, 66 FR 49635 (September 28, 2001), and accompanying IDM at Comment 7.

<sup>28</sup> See, e.g., *Stainless Steel Plate in Coils from Belgium: Final Results of Full Sunset Review and Revocation of the Countervailing Duty Order*, 76 FR 25666 (May 5, 2011), and accompanying IDM at Comment 1.

<sup>29</sup> See Substantive Response at 16-18.

<sup>30</sup> See *Policies Regarding the Conduct of Five Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (*Sunset Policy Bulletin*).

calculated rate that reflects the behavior of exporters and foreign governments without the discipline of the order or a suspension agreement in place. They argue that, consistent with the SAA and the *Sunset Policy Bulletin*, Commerce should rely upon the net rates of subsidization from the original investigation, taking into account all new subsidy programs that have been identified since the original investigation, as well as the termination of certain programs. For companies not subject to an administrative review, Commerce should rely on the rates set out in the *Order*. The domestic interested parties further note that Wire King was the only company that underwent an administrative review. They claim that, in the first administrative review, Commerce determined that Wire King benefitted from several new subsidy programs and calculated a higher net subsidy rate for this company. They assert that Commerce should rely on this higher margin as the net subsidy margin likely to prevail with respect to Wire King. Specifically, the domestic interested parties recommend that Commerce should rely upon the net margins of subsidization, as follows:

<b>Producers/Exporters</b>	<b>Net Subsidy Rate (percent)</b>
Guangdong Wire King Co., Ltd. (formerly known as Foshan Shunde Wireking Housewares & Hardware)	21.48
Asber Enterprises Co., Ltd. (China)	170.82
Changzhou Yixiong Metal Products Co., Ltd.	149.91
Foshan Winleader Metal Products Co., Ltd.	149.91
Kingsun Enterprises Group Co, Ltd.	149.91
Yuyao Hanjun Metal Work Co./Yuyao Hanjun Metal Products Co., Ltd.	149.91
Zhongshan Iwatani Co., Ltd.	149.91
All Others	13.30

### Commerce's Position

Consistent with the SAA and legislative history, Commerce normally will provide the ITC with the net countervailable subsidy rates that were determined in the investigation. These are the rates likely to prevail if a CVD order is revoked because these are the only calculated rates that reflect the behavior of exporters and foreign governments without the discipline of the order in place.<sup>31</sup> Section 752(b)(1)(B) of the Act provides, however, that Commerce also shall consider “whether any change in the program which gave rise to the net countervailable subsidy” determination in the investigation has occurred that is likely to affect the net countervailable subsidy rate. Therefore, although the SAA provides that Commerce normally will select a rate from the investigation, this rate may not be the most appropriate if the rate was derived (in whole or in part) from countervailable subsidy programs found in subsequent reviews to have been terminated, there has been a program-wide change, or the rate does not include a program or programs found to be countervailable in subsequent reviews.<sup>32</sup>

<sup>31</sup> See SAA at 890; see also Uruguay Round Implementation Bill, H.R. Rep. No. 103-826 (1994) at 64.

<sup>32</sup> See, e.g., *Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Final Results of Expedited Second Sunset Review*, 75 FR 62101 (October 7, 2010), and accompanying IDM at Comment 2.

Where Commerce has conducted an administrative review of a CVD order and determined to increase the net countervailable subsidy rate for any reason, including as a result of the application of facts available, Commerce may adjust the net countervailable subsidy rate determined in the original investigation to reflect the increase in the rate.<sup>33</sup> Further, for companies not specifically investigated or for companies that did not begin shipping until after the CVD order was issued, Commerce normally will provide an adjusted all-others rate, which has been adjusted from the investigation for programs subsequently found to be countervailable, as the rate likely to prevail.<sup>34</sup> In this instance, Commerce has completed three administrative reviews in which several additional subsidy programs were found to be countervailable.<sup>35</sup> As a result, we adjusted the rate for each of the companies and the “all others” to reflect the programs that were subsequently found to be countervailable. Therefore, in providing to the ITC the subsidy rates likely to prevail if the *Order* were revoked, we added to the net countervailable subsidy rates determined in the original investigation the countervailable subsidy rates from the additional subsidy programs found to be countervailable during the first through the third administrative reviews. These additional programs are:

1. Two Free, Three Half Program
2. Provision of Steel Strip for LTAR
3. Shunde Famous Brands
4. International Market Exploration Fund
5. Foshan Shunde Export Rebate
6. Zhuhai Export Trade Grant
7. Guangdong Supporting Fund
8. Zhuhai Farmer Training Subsidy Program
9. Tax Rebates for Electromechanical High-Tech Products
10. Clean Production Promotion Program
11. Gaoxin District Energy Efficient Company Award

Consistent with section 752(b)(3) of the Act, Commerce will provide to the ITC the net countervailable subsidy rates that are likely to prevail if the *Order* were revoked. As noted earlier, the *Section 129 Determination* did not result in any change to the rates under the *Order*. The net countervailable subsidy rates which Commerce determines are likely to prevail upon revocation of the *Order* are provided in the “Final Results of Review” section of this memorandum.

### 3. Nature of the Subsidies

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

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<sup>33</sup> See *Sunset Policy Bulletin*, 63 FR at 18876 (III.B.3(d)).

<sup>34</sup> See *Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China: Final Results of the Expediated Sunset Review of the Countervailing Duty Order*, 78 FR 77101 (December 20, 2013), and accompanying IDM at 8.

<sup>35</sup> See *First Sunset* IDM at 9.

### *Article 3*

In this sunset review, there are programs that fall under Article 3 of the ASCM, which states that the following subsidies shall be prohibited: (a) subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance, and (b) subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods.

#### *(1) Income Tax Reduction for Export-Oriented FIEs*

Under this program, FIEs pay a reduced income tax to the GOC based on their export performance.<sup>36</sup>

#### *(2) Local Income Tax Exemption or Reduction for “Productive” FIEs*

Provincial governments provide an exemption or reduction in local income taxes specifically to “productive” FIEs. Commerce determined that the exemption afforded by this program was contingent on the respondent’s export performance.<sup>37</sup>

#### *(3) International Market Exploration Fund*

Companies receive assistance under this program (also known as the International Market Development Fund Grants for Small and Medium Sized Enterprises). Commerce determined that the grant is specific because the grant is contingent upon export performance.<sup>38</sup>

#### *(4) Foshan Shunde Export Rebate*

A respondent received a countervailable subsidy under this program. Commerce determined that the grant was specific because the receipt of the grant was contingent upon export performance.<sup>39</sup>

#### *(5) Zhuhai Export Trade Grant*

This program came into effect in November 2008 with the purpose of maintaining the stable development of international trade. Commerce determined that the grant was specific because the receipt of the grant was contingent upon export performance.<sup>40</sup>

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<sup>36</sup> See *Final Determination* IDM at “B. Income Tax Reduction for Export-Oriented FIEs.”

<sup>37</sup> *Id.* at “C. Local Income Tax Exemption or Reduction for ‘Productive’ FIEs.”

<sup>38</sup> See *Kitchen Racks ARI Final Results* IDM at “E. International Market Exploration Fund.”

<sup>39</sup> *Id.* at “F. Foshan Shunde Export Rebate.”

<sup>40</sup> *Id.* at “G. Zhuhai Export Trade Grant.”

*(6) Tax Rebates for Electromechanical High-Tech Products*

Under this program, enterprises can receive a tax rebate based on exports of electromechanical high-tech products. Commerce determined that the grant was specific because the receipt of the grant was related to exports based on the application of AFA.<sup>41</sup>

**Article 6.1**

The following subsidy programs do not fall within the meaning of Article 3 of the ASCM, but may be subsidies as described in Article 6.1 of the ASCM if the amount of the subsidy exceeds five percent, as measured in accordance with Annex IV of the ASCM. The subsidies may also fall within the meaning of Article 6.1 if they constitute debt forgiveness, are grants to cover debt repayment, or are subsidies to cover operating losses sustained by an industry or enterprise. However, there is insufficient information on the record to make such a determination. We are, in any case, providing the ITC with the following program descriptions:

*(1) Income Tax Reduction for FIEs Based on Geographic Location*

FIEs located in a coastal economic development zone benefit from the reduced income tax rate. The incentive was found to be geographically specific.<sup>42</sup>

*(2) Exemption from City Construction Tax and Education Tax for FIEs in Guangdong Province*

Pursuant to the “Circular on Temporarily Not Collecting City Maintenance and Construction Tax and Education Fee Surcharge for FIEs and Foreign Enterprises,” the local tax authorities exempt all FIEs and foreign enterprises from the city maintenance and construction tax, and the education fee surcharge. Commerce found the benefits under the program to be *de jure* specific to FIEs.<sup>43</sup>

*(3) Provision of Wire Rod for LTAR*

The GOC provided wire rod for LTAR. In the investigation, and as revisited in the *Section 129 Determination*, the program was found to be specific to a limited number of industries.<sup>44</sup>

*(4) Provision of Electricity for LTAR*

The GOC provided electricity for LTAR. Because the GOC failed to provide information concerning this program, Commerce, as AFA, determined that the program confers a financial contribution and is specific.<sup>45</sup>

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<sup>41</sup> See *Kitchen Racks AR2 Final Results IDM* at “9. Tax Rebates for Electromechanical High-Tech Products.”

<sup>42</sup> See *Final Determination IDM* at “A. Income Tax Reduction for FIEs Based on Geographic Location.”

<sup>43</sup> *Id.* at “D. Exemption from City Construction Tax and Education Tax for FIEs in Guangdong Province.”

<sup>44</sup> *Id.* at “E. Provision of Wire Rod for Less Than Adequate Remuneration”; see also *Kitchen Racks AR1 Final Results IDM* at “K. Provision of Wire Rod for LTAR.”

<sup>45</sup> See *Final Determination IDM* at “F. Government Provision of Electricity for Less than Adequate Remuneration.”

(5) *Shunde Famous Brands*

The purpose of this program was to increase the popularity and competitiveness of product brands. The GOC stated that the government authority responsible for administering this program was the Shunde Economic and Trade Bureau. Commerce determined that the grants under this program are *de facto* specific based on the limited number of users.<sup>46</sup>

(6) *Guangdong Supporting Fund*

According to the GOC, the Guangdong Supporting Fund program was established in 2009 with the purpose of helping enterprises affected by economic crisis and to maintain employment. Commerce determined that the grant under this program is limited to specific industries, and is, thus, *de jure* specific.<sup>47</sup>

(7) *Zhuhai Farmer Training Subsidy Program*

This program was established to promote the hiring and training of migrant rural workers. Commerce determined that the GOC failed to act to the best of its ability in providing information concerning the distribution of assistance under this program, which is necessary for a specificity determination. Thus, as AFA, Commerce found this program to be *de facto* specific.<sup>48</sup>

(8) *Provision of Steel Strip for LTAR*

The GOC provided steel strip for LTAR to respondents. The GOC did not provide requested information on the owners of the steel strip purchased by the respondents. As a result, Commerce determined that the steel strip purchased by the respondents confers a financial contribution in the form of a government provision of a good and that the respondents received a benefit to the extent that the price they paid for steel strip was for LTAR. Commerce determined that “steel consuming industries” are limited in number, and hence, the subsidy is specific.<sup>49</sup>

(9) *Clean Production Promotion Program*

A respondent reported receiving grants to support green production/products. These grants were based on the GOC’s “Circular on Distributing Work Scheme for Clean Production of Key Enterprises in Zhuhai City” and the “Circular on Promulgating the Ninth List of Clean Production Enterprises in Guangdong.” Commerce found that the grants conferred a countervailable subsidy and were specific based on AFA because the GOC did not respond to our questionnaire.<sup>50</sup>

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<sup>46</sup> See *Kitchen Racks AR1 Final Results* IDM at “D. Shunde Famous Brands.”

<sup>47</sup> *Id.* at “H. Guangdong Supporting Famous Brands.”

<sup>48</sup> *Id.* at “I. Zhuhai Farmer Training Subsidy Program.”

<sup>49</sup> *Id.* at “L. Provision of Steel Strip for LTAR.”

<sup>50</sup> See *Kitchen Racks AR2 Final Results* IDM at “10. Clean Production Promotion Program.”

*(10) Gaoxin District Energy Efficient Company Award*

This grant was given by Gaoxin District based on an enterprise's prior designation as a "green producer" by the Guangdong provincial government. Commerce found that the grant conferred a countervailable subsidy and was specific based on the facts available because the GOC did not respond to our questionnaire.<sup>51</sup>

*(11) Two Free, Three Half Program*

Productive FIEs received tax benefits under this program, either an exemption or reduction in income tax paid. Commerce found the program *de jure* specific, as it is limited as a matter of law to certain enterprises (*i.e.*, productive FIEs).<sup>52</sup>

***Programs Not Used***

Commerce determined that the following programs were not used by the mandatory investigation respondent, Wire King, but found the programs to be countervailable on the basis of AFA for non-cooperating companies.<sup>53</sup>

1. Income Tax Credits for Purchases of Domestically Produced Equipment by FIEs
2. Income Tax Refund for Reinvestment of Profits in Export-Oriented Enterprises
3. Preferential Tax subsidies for Research and Development at FIEs
4. Income Tax Credits for Purchases of Domestically Produced Equipment by Domestically Owned Companies
5. Income Tax Rebate for 'Superior Industrial Enterprises' in Zhongshan<sup>54</sup>
6. Accelerated Depreciation for New Technological Transformation Projects 'Superior Industrial Enterprises' in Zhongshan<sup>55</sup>
7. Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax
8. Exemption from Real Estate Tax and Dyke Maintaining Fee for FIEs in Guangdong Province
9. Reduction in Urban Infrastructure Fee for Industrial Enterprises in Industrial Zones<sup>56</sup>

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<sup>51</sup> See *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Countervailing Duty Administrative Review; 2011*, 78 FR 63166 (October 23, 2013), and accompanying PDM at "Use of Facts Otherwise Available and Adverse Inferences," unchanged in *Kitchen Racks AR3 Final Results IDM* at "VII. Use of Facts Otherwise Available and Adverse Inferences."

<sup>52</sup> See *Kitchen Racks AR1 Final Results IDM* at "A. Two Free, Three Half Program."

<sup>53</sup> See *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 74 FR 683, 686-7 (January 7, 2009) (*Preliminary Determination*), unchanged in *Final Determination IDM* at "Use of Facts Otherwise Available and Adverse Facts Available." The Two Free, Three Half Program was also included in these programs in the investigation. Because it was subsequently used by respondents in the reviews, it is not included in this list and instead is described above.

<sup>54</sup> This program is only included in Asber's AFA rate. See *Preliminary Determination*, 74 FR at 687, unchanged in *Final Determination IDM* at "Use Facts Otherwise Available and Adverse Facts Available."

<sup>55</sup> *Id.* This program is only included in Asber's AFA rate.

<sup>56</sup> *Id.*

10. Exemption from the Tax on Investments in Fixed Assets for ‘Superior Industrial Enterprises’ in Zhongshan<sup>57</sup>
11. Import Tariff and Value Added Tax (VAT) Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
12. VAT Rebates for FIEs Purchasing Domestically Produced Equipment
13. Import Tariff Exemption for the Encouragement of Investment by Taiwanese Compatriots
14. Import Tariff Refunds and Exemptions for FIEs in Guangdong
15. Import Tariff and VAT Refunds and Exemptions for FIEs in Zhejiang
16. Preferential Loans and Interest Rate Subsidies in Guangdong Province
17. Funds for “Outward Expansion” of Industries in Guangdong Province
18. Direct Grants – Guangdong
19. Grants to Promote Exports from Zhejiang Province
20. Land-Related Subsidies to Companies Located in Specific regions of Guangdong
21. Preferential Land-Use Charges for Newly Established, Industrial Projects in Zhongshan’s Industrial Zones<sup>58</sup>
22. Reduction of Land Price at the Township Level for Newly Established Industrial Projects in Zhongshan’s Industrial Zones<sup>59</sup>
23. Land Related Subsidies to Companies Located in Specific Regions of Zhejiang
24. Provision of Nickel for LTAR

Commerce has determined that the following programs were not used by the mandatory respondents in the first administrative review but found the programs to be countervailable on the basis of AFA for non-cooperating companies.<sup>60</sup>

1. Government Provision of Water for LTAR to Companies Located in Development Zones in Guangdong Province
2. Exemption from District and Township Level Highway Construction Fees for Enterprises Located in Industrial Cluster Zones
3. Exemptions from or Reductions in Educational Supplementary Fees and Embankment Defense Fees for Enterprises Located in Industrial Cluster Zones
4. Special Subsidy from the Technology Development Fund to Encourage Technology Innovation
5. Special Subsidy from the Technology Development Fund to Encourage Technology Development
6. Subsidies to Encourage Enterprises in Industrial Cluster Zones to Hire Post-Doctoral Workers
7. Land Purchase Grant Subsidy to Enterprises Located in Industrial Cluster Zones and Encouraged Enterprises
8. Exemption from Accommodating Facilities Fees for High-Tech and Large-Scale FIEs
9. Income Tax Deduction for Technology Development Expenses of FIEs

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<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> See *Kitchen Racks AR1 Final Results*, 77 FR at 21745-46 (citing *Kitchen Racks AR1 Preliminary Results*, 76 FR at 62366).

- 10. Exemption from Land Development Fees for Enterprises Located in Industrial Cluster Zones
- 11. Reduction in Farmland Development Fees for Enterprises Located in Industrial Zones

**VII. FINAL RESULTS OF REVIEW**

As a result of this sunset review, Commerce finds that revocation of the *Order* would be likely to lead to a continuation or recurrence of countervailable subsidies at the rates listed below:

<b>Producers/Exporters</b>	<b>Net Subsidy Rate (percent)</b>
Guangdong Wire King Co., Ltd. (formerly known as Foshan Shunde Wireking Housewares & Hardware).	19.13
Asber Enterprises Co., Ltd. (China)	175.03
Changzhou Yixiong Metal Products Co., Ltd.	154.12
Foshan Winleader Metal Products Co., Ltd.	154.12
Kingsun Enterprises Group Co, Ltd.	154.12
Yuyao Hanjun Metal Work Co./Yuyao Hanjun Metal Products Co., Ltd.	154.12
Zhongshan Iwatani Co., Ltd.	154.12
All Others	17.51

**VIII. RECOMMENDATION**

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

\_\_\_\_\_  
 Agree Disagree

6/1/2020

X   
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Signed by: JEFFREY KESSLER  
 Jeffrey I. Kessler  
 Assistant Secretary  
 for Enforcement and Compliance