



A-570-016
Administrative Review
POR: 8/1/2018 -7/31/2019
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June 11, 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: Decision Memorandum for the Preliminary Results in the
Antidumping Duty Administrative Review of Certain Passenger
Vehicle and Light Truck Tires from the People's Republic of
China and Rescission, in part; 2018-2019

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order (*AD Order*) on certain passenger vehicle and light truck tires (passenger tires) from the People's Republic of China (China) covering the period of review (POR) August 1, 2018 through July 31, 2019.¹ The mandatory respondents in this review are Qingdao Odyking Tyre Co., Ltd. (Qingdao Odyking) and Shandong Longyue Rubber Co., Ltd. (Shandong Longyue).² We preliminarily determine that Qingdao Odyking and Shandong Longyue are part of the China-wide entity.

Commerce also preliminarily determines that seven other companies have each established their entitlement to a separate rate.³ The rates assigned to each of these companies can be found in the "Preliminary Results of Review" section of the accompanying *Federal Register* notice. Commerce preliminarily determines that one company made no shipments during the POR. Finally, Commerce is rescinding its review of sixteen companies.⁴

If these preliminary results are adopted in our final results of administrative review, Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. We intend to issue final results of this review no later

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84FR 53411 (October 7, 2019) (*Initiation Notice*).

² See Memorandum, "Administrative Review of the Antidumping Duty Order on Passenger Vehicle and Light Truck Tires from the People's Republic of China: Respondent Selection Memorandum," dated March 3, 2020 (Respondent Selection Memorandum).

³ See Attachment IV.

⁴ See Attachment II.



than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221, unless extended.

II. BACKGROUND

On August 2, 2019, Commerce published in the *Federal Register* a notice of opportunity to request an administrative review of the *AD Order* on passenger tires from China for the period August 1, 2018 through July 31, 2019.⁵ Between August 22 and September 3, 2019, Commerce received timely requests for administrative review from multiple companies.⁶

On October 7, 2019, in accordance with 19 CFR 351.221(c)(1)(i), Commerce published in the *Federal Register* a notice of initiation of an administrative review of the *AD Order* on passenger tires from China covering 28 companies.⁷ All relevant review requests for 16 of these companies were timely withdrawn.⁸ Therefore, twelve companies remain subject to this administrative review.⁹

From October 28 to November 13, 2019, thirteen companies filed separate rate applications (SRA) or separate rate certifications (SRC).¹⁰ On November 19, 2019, the United Steel, Paper

⁵ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 84 FR 37834 (August 2, 2019).

⁶ See Attachment I.

⁷ See *Initiation Notice*, 84 FR at 53417.

⁸ See Attachment II.

⁹ See Attachment III.

¹⁰ See Qingdao Odyking's Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China – Separate Rate Certification," dated October 28, 2019 (Qingdao Odyking SRC); see also Qingdao Fullrun Tech Tyre Corp., Ltd.'s Letter, "Passenger Vehicle and Light Truck Tires from China: Separate Rate Application," dated November 6, 2019 (Qingdao Fullrun SRA); Qingdao Powerich Tyre Co., Ltd.'s Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China-Separate Rate Application," dated October 28, 2019 (Qingdao Powerich SRA); Qingdao Sentury Tyre Co., Ltd.'s Letter, "Separate Rate Application in the Administrative Review of the Antidumping Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China," dated November 13, 2019 (Qingdao Sentury SRA); Shandong Linglong Tyre Co., Ltd.'s Letter, "Separate Rate Application for Shandong Linglong Tyre Co., Ltd.: Fourth Antidumping Duty Administrative Review of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China," dated November 12, 2019 (Shandong Linglong SRA); Shandong Province Sanli Tire Manufactured Co., Ltd.'s Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Separate Rate Certification," dated November 6, 2019 (Sanli Tire SRC); Shandong Yongsheng Rubber Group Co., Ltd.'s Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China-Separate Rate Application," dated October 28, 2019 (Shandong Yongsheng SRA); Shouguang Firemax Tyre Co., Ltd.'s Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China-Separate Rate Certification," dated October 28, 2019 (Shouguang Firemax SRC); Cooper (Kunshan) Tyre Co., Ltd.'s Letter, "Passenger Vehicle and Light Truck Tires from The People's Republic of China/CKT Separate Rate Certification," dated November 6, 2019 (Cooper Kunshan SRC); Qingdao Keter International Co., Limited's Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China - Separate Rate Certification," dated October 28, 2019 (Qingdao Keter SRC); Shandong Hengyu Science & Technology Co., Ltd.'s Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China - Separate Rate Certification," dated October 28, 2019 (Shandong Hengyu SRC); Shandong Wanda Boto Tyre Co., Ltd.'s Letter, "Fourth (2018-19) Administrative Review of the Antidumping Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Separate Rate Certification," dated November 6, 2019 (Shandong Wanda SRC); and Zhaoqing Junhong Co., Ltd.'s Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Separate Rate Certification," dated November 6, 2019 (Zhaoqing Junhong SRC).

and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC (*i.e.*, the petitioner), placed rebuttal comments and factual information on the record.¹¹ Between November 6 and 13, 2019, three companies (Shandong Anchi Tyres Co., Ltd. (Shandong Anchi); Shandong Duratti Rubber Corporation Co., Ltd. (Shandong Duratti); and Qingdao Fullrun Tyre Corp., Ltd. (Fullrun Tyre)) each filed no-shipment certifications.¹²

On December 4, 2019, Commerce placed the CBP entry data on the record.¹³ No parties commented on the CBP data. On March 3, 2020, Commerce selected Qingdao Odyking and Shandong Longyue for individual examination as mandatory respondents in this administrative review.¹⁴

On March 4, 2020, Commerce issued a questionnaire to each company.¹⁵ On March 10, 2020, Qingdao Odyking notified Commerce that it was withdrawing from participation as a mandatory respondent in this administrative review.¹⁶ On March 25, 2020, Shandong Longyue notified Commerce that it was unable to respond to the initial questionnaire in this administrative review.¹⁷

On April 15, 2020, the petitioner submitted comments to Commerce for consideration in determining the preliminary results of this administrative review.¹⁸ Between April 20 and 21, 2020, Qingdao Powerich Tyre Co., Ltd. (Qingdao Powerich), Shandong Yongsheng Rubber Group Co., Ltd. (Shandong Yongsheng), and Shandong Linglong Tyre Co., Ltd. (Shandong Linglong) each filed rebuttals to the petitioner's pre-preliminary comments.¹⁹ On April 24, 2020, Qingdao Sentury Tire Co., Ltd. (Qingdao Sentury) requested to be selected as the third

¹¹ See Petitioner's Letter, "Passenger Vehicle and Light Truck Tires from China: Rebuttal Facts," dated November 20, 2019.

¹² See Shandong Anchi's Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: No Sales Certification," dated November 6, 2019 (Shandong Anchi NSC); *see also* Fullrun Tyre's Letter, "Passenger Vehicle and Light Truck Tires from China: No Sales Certification," dated November 6, 2019 (Fullrun Tyre NSC); and Shandong Duratti's Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: No Sales Certification," dated November 13, 2019 (Shandong Duratti NSC).

¹³ See Memorandum, "Antidumping Duty Administrative Review of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: U.S. Customs Entries," dated December 4, 2019 (CBP Entries Memorandum).

¹⁴ See Respondent Selection Memorandum.

¹⁵ See Commerce's Letters, "Antidumping Duty Questionnaire for Qingdao Odyking," dated March 4, 2019; and "Antidumping Duty Questionnaire for Shandong Longyue," dated March 4, 2019.

¹⁶ See Qingdao Odyking's Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China - Withdrawal from Participation as a Mandatory Respondent," dated March 10, 2020 (Qingdao Odyking Withdrawal Letter).

¹⁷ See Shandong Longyue's Letter, "Passenger Vehicle and Light Truck Tires from China: Longyue Notice of Intent Not to Participate," dated March 25, 2019 (Shandong Longyue Withdrawal Letter).

¹⁸ See Petitioner's Letter, "Passenger Vehicle and Light Truck Tires from China-Petitioner's Pre-Preliminary Results Comments," dated April 15, 2020.

¹⁹ See Qingdao Powerich's and Shandong Yongsheng's Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China - Rebuttal Comment on Petitioner's Preliminary Results Comments," dated April 20, 2020; and Shandong Linglong's Letter, "Shandong Linglong Reply Pre-Preliminary Comments in POR 4 of the Antidumping Duty Order on Passenger Vehicle and Light Truck Tires (PVL T) from the People's Republic of China (A-570-016)," dated April 21, 2020.

mandatory respondent.²⁰ Also on April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days, thereby extending the deadline for these results until June 22, 2020.²¹

Finally, on May 5, 2020, Qingdao Fullrun Tyre Tech Corp., Ltd. (Fullrun Tyre Tech) filed a letter to correct and clarify the company's name which was previously reported as Qingdao Fullrun Tech Tyre Corp., Ltd.²²

III. SCOPE OF THE AD ORDER

The scope of this order is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation. Tires covered by this order may be tube-type, tubeless, radial, or non-radial, and they may be intended for sale to original equipment manufacturers or the replacement market.

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 the following prefixes or suffix in their tire size designation, which also appears on the sidewall of the tire:

Prefix designations:

P - Identifies a tire intended primarily for service on passenger cars

LT- Identifies a tire intended primarily for service on light trucks

Suffix letter designations:

LT - Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service.

All tires with a "P" or "LT" prefix, and all tires with an "LT" suffix in their sidewall markings are covered by this investigation regardless of their intended use.

In addition, all tires that lack a "P" or "LT" prefix or suffix in their sidewall markings, as well as all tires that include any other prefix or suffix in their sidewall 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 passenger car section or light truck section of the Tire and Rim Association Yearbook, as updated annually, unless the tire falls within one of the specific exclusions set out below.

²⁰ See Qingdao Sentury's Letter, "Sentury Request to be Selected as Replacement Mandatory Respondent in the Antidumping Duty Order on Passenger Vehicle and Light Truck Tires (PVL T) from the People's Republic of China (A-570-016)," dated April 24, 2020.

²¹ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19," dated April 24, 2020.

²² See Fullrun Tyre Tech's Letter, "Passenger Vehicle and Light Truck Tires from China: Qingdao Fullrun Tyre Tech Letter to Correct Name," dated May 5, 2020.

Passenger vehicle and light truck tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope. Specifically excluded from the scope are the following types of tires:

(1) racing car tires; such tires do not bear the symbol “DOT” on the sidewall and may be marked with “ZR” in size designation;

(2) new pneumatic tires, of rubber, of a size that is not listed in the passenger car section or light truck section of the Tire and Rim Association Yearbook;

(3) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires;

(4) non-pneumatic tires, such as solid rubber tires;

(5) tires designed and marketed exclusively as temporary use spare tires for passenger vehicles which, in addition, exhibit each of the following physical characteristics:

(a) the size designation and load index combination molded on the tire’s sidewall are listed in Table PCT-1B (“T” Type Spare Tires for Temporary Use on Passenger Vehicles) of the Tire and Rim Association Yearbook,

(b) the designation “T” is molded into the tire’s sidewall as part of the size designation, and,

(c) the tire’s speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Yearbook, and the rated speed is 81 MPH or a “M” rating;

(6) tires designed and marketed exclusively for specialty tire (ST) use which, in addition, exhibit each of the following conditions:

(a) the size designation molded on the tire’s sidewall is listed in the ST sections of the Tire and Rim Association Yearbook,

(b) the designation “ST” is molded into the tire’s sidewall as part of the size designation,

(c) the tire incorporates a warning, prominently molded on the sidewall, that the tire is “For Trailer Service Only” or “For Trailer Use Only”,

(d) the load index molded on the tire’s sidewall meets or exceeds those load indexes listed in the Tire and Rim Association Yearbook for the relevant ST tire size, and

(e) either

(i) the tire’s speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Yearbook, and the rated speed does not exceed 81 MPH or an “M” rating; or

- (ii) the tire's speed rating molded on the sidewall is 87 MPH or an "N" rating, and in either case the tire's maximum pressure and maximum load limit are molded on the sidewall and either

(1) both exceed the maximum pressure and maximum load limit for any tire of the same size designation in either the passenger car or light truck section of the Tire and Rim Association Yearbook; or

(2) if the maximum cold inflation pressure molded on the tire is less than any cold inflation pressure listed for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book, the maximum load limit molded on the tire is higher than the maximum load limit listed at that cold inflation pressure for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book;

(7) tires designed and marketed exclusively for off-road use and which, in addition, exhibit each of the following physical characteristics:

(a) the size designation and load index combination molded on the tire's sidewall are listed in the off-the-road, agricultural, industrial or ATV section of the Tire and Rim Association Yearbook,

(b) in addition to any size designation markings, the tire incorporates a warning, prominently molded on the sidewall, that the tire is "Not for Highway Service" or "Not for Highway Use",

(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Yearbook, and the rated speed does not exceed 55 MPH or a "G" rating, and

(d) the tire features a recognizable off-road tread design.

The products covered by this order are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.99.45.10, 4011.99.45.50, 4011.99.85.10, 4011.99.85.50, 8708.70.45.45, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

IV. PARTIAL RESCISSION OF ADMINISTRATIVE REVIEW

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party or parties that requested a review withdraws the request within 90 days of the publication date of the notice of initiation of the requested review. As noted in Appendix II of this memorandum, the companies that withdrew their requests include: (1) Shandong Wanda Boto Tyre Co., Ltd. (Shandong Wanda); (2) Cooper (Kunshan) Tire Co., Ltd. (Cooper Kunshan); (3) Shandong Guofeng Rubber Plastics Co., Ltd. (Shandong Guofeng); (4) Hankook Tire China Co., Ltd. (Hankook Tire); (5) Jiangsu Hankook Tire Co., Ltd. (Jiangsu Hankook); (6) Haohua

Orient International Trade Ltd. (Haohua Orient); (7) Qingdao Lakesea Tyre Co., Ltd. (Qingdao Lakesea); (8) Riversun Industry Limited (Riversun Industry); (9) Safe & Well (HK) International Trading Limited (Safe & Well); (10) Windforce Tyre Co., Limited. (Windforce Tyre); (11) Qingdao Keter International Co., Limited (Qingdao Keter); (12) Shandong Hengyu Science & Technology Co., Ltd. (Shandong Hengyu); (12) Shandong New Continent Tire Co., Ltd. (New Continent); (14) Pirelli Tyre Co., Ltd. (Pirelli Tyre); (15) Triangle Tyre Co., Ltd. (Triangle Tyre); and (16) Zhaoqing Junhong Co. Ltd. (Zhaoqing Junhong).²³

Each company withdrew its request for an administrative review within 90 days of the publication date of the notice of initiation. No other parties requested an administrative review of the *AD Order* with respect to these entities. Therefore, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding this review of the *AD Order* on passenger tires from China with respect to the aforementioned parties.²⁴

V. DISCUSSION OF THE METHODOLOGY

Preliminary Determination of No Shipments

As discussed in the “Background” section, the following companies timely filed no-shipment certifications; (1) Shandong Anchi, (2) Fullrun Tyre, and (3) Shandong Duratti. With respect to Shandong Duratti, in order to examine its claim, Commerce sent an inquiry to CBP requesting that CBP inform Commerce if it had any information contrary to its no-shipment claim.²⁵ On May 28, 2020, CBP confirmed the no-shipment claim of Shandong Duratti.²⁶ Based on the record evidence thus far, we preliminarily determine that Shandong Duratti had no shipments during the POR. We find that it is appropriate not to rescind this review, in part, with respect to Shandong Duratti, and to complete the review, issuing appropriate instructions to CBP based on the final results of the review.²⁷

CBP information on the record indicated that Shandong Anchi and Fullrun Tyre had entries during the POR.²⁸ We requested entry information from CBP on May 13, 2020.²⁹ On May 22, 2020, we placed the entry information received from CBP on the record and gave parties an opportunity to comment.³⁰ On May 29, 2020, Shandong Anchi and Fullrun Tyre filed comments in response to the entry information requesting that Commerce obtain complete entry packages

²³ See Attachment II.

²⁴ *Id.*

²⁵ See CBP Instructions, “No shipments inquiry for certain passenger vehicle and light truck tires from China produced and/or exported by Shandong Duratti Rubber,” dated May 12, 2020.

²⁶ See Memorandum, “No shipment inquiry with respect to Shandong Duratti Rubber Corporation Co., Ltd. during the period 08/01/2018 through 07/31/2019,” dated May 28, 2020.

²⁷ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-65695 (October 24, 2011).

²⁸ See CBP Entries Memorandum at Attachment 1.

²⁹ See Memorandum, “Request for Entry Summary Packages,” dated May 13, 2020.

³⁰ See Memoranda, “Antidumping Duty Administrative Review of Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China: U.S. Customs Entries for Qingdao Fullrun Tyre Corp., Ltd.,” dated May 22, 2020; and “Antidumping Duty Administrative Review of Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China: U.S. Customs Entries for Shandong Anchi Tyres Co., Ltd.,” dated May 22, 2020.

and place them on the record.³¹ Per Shandong Anchi's and Fullrun Tyre's request, we will obtain complete entry packages from CBP to place on the record and give parties an opportunity to comment after the preliminary results. For these preliminary results, we find that Shandong Anchi and Fullrun Tyre had shipments during the POR.

Non-Market Economy (NME) Country

Commerce considers China to be an NME country.³² In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Further, as part of this administrative review, Commerce has received no request to reconsider its determination that China is an NME. Therefore, we continue to treat China as an NME country for purposes of these preliminary results.

Separate Rate Determination

In a proceeding involving an NME country, Commerce maintains a rebuttable presumption that all companies within the country are subject to government control, and, therefore, should be assessed a single weighted-average dumping margin.³³ In the *Initiation Notice*, Commerce notified parties of the application process by which exporters or exporter/producer combinations may obtain separate rate status in an NME proceeding.³⁴ Commerce's policy is to assign all exporters of subject merchandise that are in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.³⁵ Commerce analyzes whether each entity exporting the merchandise under consideration is sufficiently independent under a test established in *Sparklers*³⁶ and further developed in *Silicon Carbide*.³⁷ According to this separate rate test, Commerce will assign a separate rate in NME proceedings if a respondent can demonstrate the absence of both *de jure* and *de facto* government control over its export activities. If Commerce determines that a company is wholly foreign-owned, the separate rate analysis is not necessary to determine whether that company is independent from government control and, therefore, eligible for a separate rate.

³¹ See Shandong Anchi's and Fullrun Tyre's Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Response to No Sales CBP Data," dated May 29, 2020.

³² See *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017) (*Aluminum Foil Preliminary Determination*), and a accompanying Preliminary Decision Memorandum (PDM) (citing Memorandum, "China's Status as a Non-Market Economy," dated October 26, 2017); unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018) (*Aluminum Foil Final Determination*).

³³ See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR at 55039, 55040 (September 24, 2008).

³⁴ See *Initiation Notice*, 84 FR at 53412.

³⁵ See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (*Sparklers*).

³⁶ *Id.*

³⁷ See *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*).

Commerce continues to evaluate its practice with regard to the separate rates analysis in light of the *Diamond Sawblades* proceeding, and its determinations therein.³⁸ In particular, in litigation involving the *Diamond Sawblades* from China proceeding, the U.S. Court of International Trade (CIT) found Commerce’s existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity had significant ownership in the respondent exporter.³⁹ Following the CIT’s reasoning, in recent proceedings, we have concluded that where a government holds a majority ownership share, directly or indirectly, in the respondent exporter, the majority holding *per se* means that the government exercises, or has the potential to exercise, control over the company’s operations generally.⁴⁰ This may include control over, for example, the selection of management, a key factor in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with normal business practices, we would expect any majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the company, including the selection of management and the profitability of the company. Accordingly, we have considered the level of government ownership in our separate rates analysis where necessary.

Separate Rate Applications and Certifications

As noted in the “Background” section, thirteen companies subject to this administrative review timely submitted SRAs or SRCs.⁴¹ In addition, as noted in the “Partial Rescission of

³⁸ See *Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People’s Republic of China* (May 6, 2013) (*Diamond Sawblades*); see also *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F. Supp. 2d 1343 (CIT2012) (*Advanced Technology I*), affirmed in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 938 F. Supp. 2d 1342 (CIT2013), *aff’d* Case No. 2014-1154 (Fed. Cir. 2014) (*Advanced Technology II*). This remand redetermination is on the Enforcement and Compliance website at <http://enforcement.trade.gov/remands/12-147.pdf>; and *Diamond Sawblades and Parts Thereof from the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013), and accompanying PDM at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014), and accompanying Issues and Decision Memorandum at Comment 1.

³⁹ See, e.g., *Advanced Technology I*, 885 F. Supp. 2d at 1349 (“The CIT remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it.”); and at 1351 (“Further substantial evidence of record does not support the inference that SASAC’s {state-owned assets supervision and administration commission} ‘management’ of its ‘state-owned assets’ is restricted to the kind of passive-investor de jure ‘separation’ that Commerce concludes.”) (footnotes omitted); and at 1355 (“The point here is that ‘governmental control’ in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a ‘degree’ of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to ‘day-to-day decisions of export operations,’ including terms, financing, and inputs into finished product for export.”); and at 1357 (“AT&M itself identifies its ‘controlling shareholder’ as CISRI {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control over nomination.”) (footnotes omitted).

⁴⁰ See *Carbon and Certain Alloy Steel Wire Rod from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances, in Part*, 79 FR 53169 (September 8, 2014), and accompanying PDM at 5-9; unchanged in *Carbon and Certain Alloy Steel Wire Rod from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 79 FR 68860 (November 19, 2014).

⁴¹ See Qingdao Odyking SRC; Qingdao Fullrun SRA; Qingdao Powerich SRA; Qingdao Sentury SRA; Shandong Linglong SRA; Sanli Tire SRC; Shandong Yongsheng SRA; Shouguang Firemax SRC; Cooper Kunshan SRC; Qingdao Keter SRC; Shandong Hengyu SRC; Shandong Wanda SRC; and Zhaoqing Junhong SRC.

Administrative Review” section, five companies that filed SRAs/SRCs (Shandong Boto, Cooper Kunshan, Qingdao Keter, Shandong Hengyu, and Zhaoqing Junhong) each subsequently withdrew its request for review. We have not analyzed the SRAs/SRCs submitted by these five companies.

Shandong Longyue, Qingdao Odyking, Shandong Anchi, and Fullrun Tyre

In the *Initiation Notice*, Commerce stated that: “{f}or exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.”⁴² Qingdao Odyking and Shandong Longyue were selected for individual examination as mandatory respondents in this administrative review.⁴³ Although Qingdao Odyking submitted an SRC, it notified Commerce that it would not participate in this administrative review and failed to respond to Commerce’s questionnaire by the established deadline.⁴⁴ Accordingly, we preliminarily determine that Qingdao Odyking is not eligible for separate rate status and should be considered to be a part of the China-wide entity.

Shandong Longyue did not submit an SRA or an SRC. Accordingly, we preliminarily determine that Shandong Longyue is not eligible for separate rate status and should be considered to be a part of the China-wide entity.

As noted in the “Preliminary Determination of No Shipments” section, we preliminarily find that Shandong Anchi and Fullrun Tyre had shipments during the POR. Shandong Anchi and Fullrun Tyre did not submit an SRA or an SRC. Accordingly, we preliminarily determine that neither Shandong Anchi nor Fullrun Tyre is eligible for separate rate status and each should be considered to be a part of the China-wide entity.

1. Absence of *De Jure* Control

Commerce considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter’s business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.⁴⁵

The evidence placed on the record of the instant administrative review by each of the companies identified in the “Separate Rate Applications and Certifications,” section demonstrates an absence of *de jure* government control under the criteria identified in *Silicon Carbide and Sparklers*.

⁴² See *Initiation Notice*, 84 FR at 53413.

⁴³ See Respondent Selection Memorandum.

⁴⁴ See Qingdao Odyking SRC; see also Qingdao Odyking Withdrawal Letter.

⁴⁵ See *Sparklers*, 56 FR at 20589.

2. Absence of *De Facto* Control

Typically, Commerce considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.⁴⁶ Commerce determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude Commerce from granting a separate rate.

The evidence placed on the record of the instant administrative review by: (1) Qingdao Fullrun; (2) Qingdao Powerich; (3) Qingdao Sentury; (4) Shandong Linglong; (5) Sanli Tire; (6) Shandong Yongsheng; and (7) Shouguang Firemax demonstrates an absence of *de facto* government control of each company under the criteria identified in *Silicon Carbide* and *Sparklers*.⁴⁷ Accordingly, Commerce has preliminarily determined that these seven companies have demonstrated that they are eligible for a separate rate.

Separate Rate for Eligible, Non-Selected Companies

The statute and Commerce's regulations do not directly address the establishment of a rate to be applied to companies not selected for individual examination where Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Commerce's practice in cases involving limited selection based on exporters or producers accounting for the largest volumes of trade has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in an investigation. Section 735(c)(5)(A) of the Act instructs that we are not to calculate an all-others rate using any rates that are zero, *de minimis*, or based entirely on facts available.

In accordance with the statute, Commerce will normally assign to separate rate entities that were not individually examined a rate equal to the weighted average of the rates calculated for the individually examined respondents, excluding any rates that are zero, *de minimis*, or based entirely on facts available.⁴⁸ Where the rates for the individually examined companies are all zero, *de minimis*, or based entirely on facts available, section 735(c)(5)(B) of the Act also provides that Commerce may use "any reasonable method" to establish the rate for separate rate entities, which may include averaging the dumping margins for individually examined

⁴⁶ See *Silicon Carbide*, 59 FR at 22586-87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

⁴⁷ See Qingdao Fullrun SRA; Qingdao Powerich SRA; Qingdao Sentury SRA; Shandong Linglong SRA; Sanli Tire SRC; Shandong Yongsheng SRA; and Shouguang Firemax SRC.

⁴⁸ See, e.g., *Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007).

respondents.⁴⁹ The SAA states that the “expected method under ‘any reasonable method’ is that we will weight-average the rates that are zero, *de minimis*, and based entirely on facts available.”⁵⁰

Commerce has determined that the mandatory respondents in this administrative review are part of the China-wide entity, which is not under review. Thus, there is no POR-specific margin information available for Commerce to consider in assigning a margin for the eligible, non-individually examined separate rate companies. In the absence of any calculated or assigned rates in this segment, including zero or *de minimis* rates or rates based on facts available, to determine a rate for the seven separate rate companies, we have reached back to a previously completed review to obtain a non-punitive separate rate margin.⁵¹ Commerce finds that retaining the separate rate from a prior review is non-punitive and represents a reliable rate which Commerce can assign to eligible, non-individually examined exporters. Accordingly, consistent with our practice,⁵² we are preliminarily assigning a rate of 0.00 percent to the seven separate rate companies in these preliminary results.

VI. RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.

Agree

Disagree

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

⁴⁹ See section 735(c)(5)(B) of the Act.

⁵⁰ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, vol. I (1994) (SAA), at 873.

⁵¹ See *Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 22396 (April 22, 2020).

⁵² See, e.g., *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review; 2015-2016*, 81 FR 78789 (November 9, 2016), and a accompanying PDM at 10-11, unchanged in *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 11431 (February 23, 2017).

ATTACHMENT I

Requests for Review

1. Shandong Wanda Boto Tyre Co., Ltd.⁵³
2. Cooper (Kunshan) Tire Co., Ltd.⁵⁴
3. Shandong Duratti Rubber Corporation Co., Ltd.⁵⁵
4. Haohua Orient International Trade Ltd.⁵⁶
5. Qingdao Lakesea Tyre Co., Ltd.⁵⁷
6. Riversun Industry Limited
7. Safe & Well (HK) International Trading Limited⁵⁸
8. Windforce Tyre Co., Limited⁵⁹
9. Shandong Anchi Tyres Co., Ltd.⁶⁰
10. Shandong New Continent Tire Co., Ltd.⁶¹
11. Qingdao Sentury Tire Co. Ltd.⁶²
12. Shandong Linglong Tyre Co., Ltd.⁶³
13. Hankook Tire China Co., Ltd.⁶⁴
14. Jiangsu Hankook Tire Co., Ltd.⁶⁵
15. Shandong Guofeng Rubber Plastics Co., Ltd.⁶⁶
16. Qingdao Keter International Co. Limited⁶⁷
17. Qingdao Odyking Tyre Co., Ltd.⁶⁸

⁵³ See Shandong Wanda's Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Request for Review – 2018-2019 Review Period," dated September 3, 2020.

⁵⁴ See Cooper Kunshan's Letter, "Passenger Vehicle and Light Truck Tires from The People's Republic of China/Request for Fourth Administrative Review of CKT," dated August 22, 2020.

⁵⁵ See Shangdong Duratti's, Haohua Orient's, Qingdao Lakesea's, Riversun Industry's, Safe & Well's, Windforce Tyre's, and Shangdong Anchi's Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Request for Administrative Review," dated September 3, 2019.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ See New Continent's, Qingdao Sentury's, and Shangdong Linglong's Letter, "GDLSK Respondent Request for Administrative Review of the Antidumping Duty Order on Passenger Vehicle and Light Truck Tires (PVLT) from the People's Republic of China (A-570-016)," dated September 3, 2020.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ See Hankook Tire's and Jiangsu Hankook's Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China, Case No. A-570-016: Request for Administrative Review," dated August 26, 2019.

⁶⁵ *Id.*

⁶⁶ See Shangdong Guofeng Rubber's Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Request for Review – 2018-2019 Review Period," dated September 3, 2019.

⁶⁷ See Qingdao Keter International Co., Limited's, Qingdao Odyking Tyre Co., Ltd.'s, Qingdao Powerich Tyre Co., Ltd.'s, Shandong Hengyu Science & Technology Co., Ltd.'s, Shandong Yongsheng Rubber Group Co., Ltd.'s, and Shouguang Firemax's Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China – Request for Administrative Review," dated August 30, 2019.

⁶⁸ *Id.*

18. Qingdao Powerich Tyre Co., Ltd.⁶⁹
19. Shandong Hengyu Science & Technology Co., Ltd.⁷⁰
20. Shandong Yongsheng Rubber Group Co., Ltd.⁷¹
21. Shouguang Firemax Tyre Co., Ltd.⁷²
22. Triangle Tyre Co., Ltd.⁷³
23. Zhaoqing Junhong Co. Ltd.⁷⁴
24. Qingdao Fullrun Tyre Tech Corp., Ltd.⁷⁵
25. Shandong Province Sanli Tire Manufactured Co., Ltd.⁷⁶
26. Shandong Longyue Rubber Co., Ltd., DBA ZODO Tire Co., Ltd.⁷⁷
27. Qingdao Fullrun Tyre Corp., Ltd.⁷⁸
28. Pirelli Tyre Co., Ltd.⁷⁹

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ See Triangle Tyre's Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Request for Administrative Review," dated August 30, 2019.

⁷⁴ See Zhaoqing Junhong Co. Ltd.'s, Qingdao Fullrun Tech Tyre Corp., Ltd.'s, Shandong Province Sanli Tire Manufactured Co., Ltd.'s, Shandong Longyue Rubber Co., Ltd., DBA ZODO Tire Co., Ltd.'s, and Qingdao Fullrun Tyre's Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Request for Administrative Review," dated September 3, 2019.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ See Pirelli Tyre's Letter, "Pirelli's Request for AD Review Passenger Vehicle and Light Truck (PVL) Tires from China," dated September 3, 2019.

ATTACHMENT II

Withdrawal Requests

1. Shandong Wanda Boto Tyre Co., Ltd.⁸⁰
2. Cooper (Kunshan) Tire Co., Ltd.⁸¹
3. Shandong Guofeng Rubber Plastics Co., Ltd.⁸²
4. Hankook Tire China Co., Ltd.⁸³
5. Jiangsu Hankook Tire Co., Ltd.⁸⁴
6. Haohua Orient International Trade Ltd.⁸⁵
7. Qingdao Lakesea Tyre Co., Ltd.⁸⁶
8. Riversun Industry Limited,⁸⁷
9. Safe & Well (HK) International Trading Limited⁸⁸
10. Windforce Tyre Co., Limited⁸⁹
11. Qingdao Keter International Co. Limited.⁹⁰
12. Shandong Hengyu Science & Technology Co., Ltd.⁹¹
13. Shandong New Continent Tire Co., Ltd.⁹²
14. Pirelli Tyre Co., Ltd.⁹³

⁸⁰ See Shandong Wanda's Letter, "Passenger Vehicle and Light Truck Tires from People's Republic of China: Withdrawal of Request for Administrative Review," dated January 6, 2020; *see also* ITG Voma Corporation's (ITG Voma) Letter, "Passenger Vehicle and Light Truck Tires from People's Republic of China: Withdrawal of Request for Administrative Review," dated January 6, 2020. ITG Voma requested the withdrawal of Shandong Wanda from the administrative review.

⁸¹ See Cooper Tire & Rubber Company and Cooper Kunshan's Letter, "Passenger Vehicle and Light Truck Tires from The People's Republic of China: Withdrawal of Request for 18-19 Administrative Review of CKT," dated December 23, 2019.

⁸² See Shandong Guofeng's Letter, "Passenger Vehicle and Light Truck Tires from People's Republic of China: Withdrawal of Request for Administrative Review," dated November 1, 2019; *see also* ITG Voma's Letter, "Passenger Vehicle and Light Truck Tires from People's Republic of China: Withdrawal of Request for Administrative Review," dated November 1, 2019. ITG Voma requested the withdrawal of Shandong Guofeng from the administrative review.

⁸³ See Hankook Tire's and Jiangsu Hankook's Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China. Case No. 4-570-016: Withdrawal of Request for Administrative Review," dated October 30, 2019.

⁸⁴ *Id.*

⁸⁵ See Haohua Orient's, Qingdao Lakesea's, Riversun Industry's, Safe & Well's, and Windforce Tyre's Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China-Withdrawal of Request for Review," dated October 9, 2019.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ See Qingdao Keter's and Shandong Hengyu's Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China – Withdrawal of Request for Administrative Review," dated January 2, 2020.

⁹¹ *Id.*

⁹² See New Continent's Letter, "Shandong New Continent Tire Co., Ltd. Withdrawal of Review Request in POR 4 of the Antidumping Duty Order on Passenger Vehicle and Light Truck Tires (PVLТ) From the People's Republic of China (A-570-016)," dated December 10, 2019.

⁹³ See Pirelli Tyre's Letter, "Pirelli's Withdrawal of Request for POR 4 AD Review Passenger Vehicle and Light Truck Tires from China," dated November 5, 2019.

15. Triangle Tyre Co., Ltd.⁹⁴

16. Zhaoqing Junhong Co. Ltd.⁹⁵

⁹⁴ See Triangle Tyre's Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China – Withdrawal of Triangle Tyre Request for the Forth Administrative Review," dated October 28, 2019.

⁹⁵ See Zhaoqing Junhong's Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China Withdrawal of Request for Review," dated January 6, 2020.

ATTACHMENT III

Companies Subject to this Review

1. Qingdao Odyking Tyre Co., Ltd.
2. Shandong Longyue Rubber Co., Ltd., DBA ZODO Tire Co., Ltd.
3. Qingdao Sentury Tire Co., Ltd.
4. Qingdao Fullrun Tyre Corp., Ltd.
5. Qingdao Fullrun Tyre Tech Corp., Ltd.
6. Shandong Anchi Tyres Co., Ltd.
7. Shandong Linglong Tyre Co., Ltd.
8. Shandong Yongsheng Rubber Group Co., Ltd.
9. Qingdao Powerich Tyre Co., Ltd.
10. Shandong Province Sanli Tire Manufactured Co., Ltd.
11. Shouguang Firemax Tyre Co., Ltd.
12. Shandong Duratti Rubber Corporation Co., Ltd.

ATTACHMENT IV

Companies Eligible for Separate Rate Status

1. Qingdao Sentury Tire Co., Ltd.
2. Qingdao Fullrun Tech Tyre Corp., Ltd.
3. Shandong Linglong Tyre Co., Ltd.
4. Shandong Yongsheng Rubber Group Co., Ltd.
5. Qingdao Powerich Tyre Co., Ltd.
6. Shandong Province Sanli Tire Manufactured Co., Ltd.
7. Shouguang Firemax Tyre Co., Ltd.