

determine that changed circumstances exist to warrant revocation of the order.

**EFFECTIVE DATE:** (October 31, 2007)

**FOR FURTHER INFORMATION CONTACT:**

Douglas Kirby or Myrna Lobo, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3782 or (202) 482-2371, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Department of Commerce (the Department) published the antidumping duty order on CPF from Thailand on July 18, 1995. *See Notice of Antidumping Duty Order and Amended Final Determination: Canned Pineapple Fruit from Thailand*, 60 FR 36775 (July 18, 1995) (*Antidumping Duty Order*). On January 23, 2008, the Department received a request for a changed circumstances review from the Thai Food Processors' Association (TFPA). The TFPA requested that the Department revoke the antidumping duty order because Maui Pineapple Company Ltd. (petitioner) ceased production of CPF on October 31, 2007. On January 25, 2008, we received a letter from petitioner indicating that it had no objection to the changed circumstances review and the revocation of the antidumping duty order. On March 7, 2008, the Department published a notice of initiation and preliminary results of a changed circumstances review and its intent to revoke the antidumping duty order on canned pineapple fruit from Thailand, effective October 31, 2007. *See Initiation and Preliminary Results*.

**Scope of the Order**

The product covered by this order is CPF, defined as pineapple processed and/or prepared into various product forms, including rings, pieces, chunks, tidbits, and crushed pineapple, that is packed and cooked in metal cans with either pineapple juice or sugar syrup added. CPF is currently classifiable under subheadings 2008.20.0010 and 2008.20.0090 of the Harmonized Tariff Schedule of the United States (HTSUS). HTSUS 2008.20.0010 covers CPF packed in a sugar-based syrup; HTSUS 2008.20.0090 covers CPF packed without added sugar (i.e., juice-packed). Although these HTSUS subheadings are provided for convenience and for customs purposes, the written description of the scope is dispositive. There have been no scope rulings for the subject order.

**Final Results of Changed Circumstances Review and Revocation of Order**

Pursuant to sections 751(d)(1) and 782(h)(2) of the Tariff Act of 1930, as amended (the Act), the Department may revoke an antidumping duty order based on a review under section 751(b) of the Act (i.e., a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review.

In the instant review, based on the information provided by the TFPA and the lack of interest on the part of the domestic industry, the Department found preliminarily that, effective October 31, 2007, the sole domestic producer of the subject merchandise, Maui Pineapple Company (Maui), was no longer producing canned pineapple fruit in the United States. *See Initiation and Preliminary Results*. We did not receive any comments regarding our preliminary results. Therefore, the Department is revoking the order on canned pineapple fruit from Thailand, effective October 31, 2007.

**Effective Date of Revocation**

Pursuant to sections 751(c)(3)(A) and 751(c)(6)(A)(iii) of the Act and 19 CFR 351.222(i)(2)(i), the Department will instruct U.S. Customs and Border Protection to terminate the suspension of liquidation of the merchandise subject to this order entered, or withdrawn from warehouse, on or after October 31, 2007. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping duty deposit requirements. The Department will complete any pending administrative reviews of this order and will conduct an administrative review of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review. This notice serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections

751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216.

Dated: April 14, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E8-8574 Filed 4-18-08; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**A-570-912**

**Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Affirmative Preliminary Determination of Critical Circumstances**

**AGENCY:** Import Administration, International Trade Administration, U.S. Department of Commerce.

**EFFECTIVE DATE:** April 21, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Laurel LaCivita or Charles Riggle, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4243 or (202) 482-0650, respectively.

**PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES**

Based on allegations contained in Petitioners'<sup>1</sup> March 11, 2008, amendment to the June 18, 2007, petition, we preliminarily find, pursuant to section 733(e) of the Tariff Act of 1930, as amended ("the Act"), and section 351.206 of the Department of Commerce ("the Department") regulations, that critical circumstances do not exist with regard to imports of certain new pneumatic off-the-road tires ("OTR tires") from the People's Republic of China ("PRC") for the following entities: Guizhou Tyre Co., Ltd. ("GTC"), Guizhou Tyre I/E Corp. ("GTCIE"), Tire Engineering & Distribution Inc. ("TED"), and their affiliates (collectively "Guizhou Tyre"), Hebei Starbright Tyre Co., Ltd. ("Starbright"), Tianjin United Tire and Rubber International Co., Ltd. ("TUTRIC"), Xuzhou Xugong Tyre Co., Ltd. ("Xugong") and the separate-rate companies<sup>2</sup> However, we find that

<sup>1</sup> Titan Tire Corporation, a subsidiary of Titan International, Inc. ("Titan"), and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC ("USW") (collectively, "Petitioners").

<sup>2</sup> Aeolus Tyre Co., Ltd. ("Aeolus"), Double Coin Holdings Ltd. (formerly known as Shanghai Tyre & Rubber Co., Ltd.) ("Double Coin"), Double

critical circumstances do exist with respect to the PRC entity.

### Background

Petitioners filed a timely allegation of critical circumstances on March 11, 2007, in accordance with section 733(e)(1) of the Act and section 351.206(c)(1) of the Department's regulations. On March 18, 2008, the Department requested that the mandatory respondents, Guizhou Tyre, Starbright, TUTRIC and Xugong report their shipments of subject merchandise to the United States on a monthly basis for the period December 2006 through December 2007. On March 28, 2008, the mandatory respondents each provided the requested information. However, Guizhou Tyre and Xugong provided shipment quantities on a per-tire basis and Starbright and TUTRIC provided shipment quantities on a per-kilogram basis. Consequently, on March 28, 2008, we requested that Guizhou Tyre and Xugong provide shipment quantities on a per-kilogram basis, and that Starbright and TUTRIC provide shipment quantities on a per-tire basis. On April 1 and 2, 2008, all four mandatory respondents provided the requested information.

### Period of Investigation

The period of investigation ("POI") is October 1, 2006, through March 31, 2007. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (June 18, 2007).

### Scope of Investigation

The products covered by the scope of the investigation are new pneumatic tires designed for off-the-road and off-highway use, subject to exceptions identified below. Certain OTR tires are generally designed, manufactured and offered for sale for use on off-road or

Happiness Tyre Industries Corp., Ltd. ("Double Happiness"), Qingdao Free Trade Zone Full-World International Trading Co., Ltd. ("Full-World"), Jiangsu Feichi Co., Ltd. ("Feichi"), KS Holding Limited/KS Resources Limited ("KS Holding"), Laizhou Xiongying Rubber Industry Co., Ltd. ("Xiongying"), Oriental Tyre Technology Limited ("Oriental"), Qingdao Etyre International Trade Co., Ltd. ("Etyre"), Qingdao Hengda Tyres Co., Ltd. ("Hengda"), Qingdao Milestone Tyre Co., Ltd. ("Milestone"), Qingdao Qihang Tyre Co., Ltd. ("Qihang"), Qingdao Qizhou Rubber Co., Ltd. ("Qizhou"), Qingdao Sinorient International Ltd. ("Sinorient"), Shandong Huitong Tyre Co., Ltd. ("Huitong"), Shandong Jinyu Tyre Co., Ltd. ("Jinyu"), Shandong Taishan Tyre Co., Ltd. ("Taishan"), Shandong Wanda Boto Tyre Co., Ltd. ("Wanda Boto"), Shandong Xingyuan International Trading Co., Ltd. ("Xingyuan"), Techking Tires Limited ("Techking"), Triangle Tyre Co., Ltd. ("Triangle Tyre"), Wendeng City Sanfeng Tyre Co., Ltd. ("Sanfeng"), and Zhaoyuan Leo Rubber Co., Ltd. ("Leo").

off-highway surfaces, including but not limited to, agricultural fields, forests, construction sites, factory and warehouse interiors, airport tarmacs, ports and harbors, mines, quarries, gravel yards, and steel mills. The vehicles and equipment for which certain OTR tires are designed for use include, but are not limited to: (1) agricultural and forestry vehicles and equipment, including agricultural tractors,<sup>3</sup> combine harvesters,<sup>4</sup> agricultural high clearance sprayers,<sup>5</sup> industrial tractors,<sup>6</sup> log-skidders,<sup>7</sup> agricultural implements, highway-towed implements, agricultural logging, and agricultural, industrial, skid-steers/mini-loaders;<sup>8</sup> (2) construction vehicles and equipment, including earthmover articulated dump products, rigid frame haul trucks,<sup>9</sup> front end loaders,<sup>10</sup> dozers,<sup>11</sup> lift trucks, straddle carriers,<sup>12</sup> graders,<sup>13</sup> mobile cranes, compactors; and (3) industrial vehicles and equipment, including smooth floor, industrial, mining, counterbalanced lift trucks, industrial and mining vehicles other than smooth floor, skid-steers/mini-loaders, and smooth floor off-the-road counterbalanced lift trucks.<sup>14</sup> The

<sup>3</sup> An agricultural tractor is a four-wheeled vehicle usually with large rear tires and small front tires that is used to tow farming equipment.

<sup>4</sup> A combine harvester is used to harvest crops such as corn or wheat.

<sup>5</sup> An agricultural sprayer is used to irrigate agricultural fields.

<sup>6</sup> An industrial tractor is a four-wheeled vehicle usually with large rear tires and small front tires that is used to tow industrial equipment.

<sup>7</sup> A log skidder has a grappling lift arm that is used to grasp, lift and move trees that have been cut down to a truck or trailer for transport to a mill or other destination.

<sup>8</sup> A skid-steer loader is a four-wheel drive vehicle with the left-side drive wheels independent of the right-side drive wheels and lift arms that lie alongside the driver with the major pivot points behind the driver's shoulders. Skid-steer loaders are used in agricultural, construction and industrial settings.

<sup>9</sup> A haul truck, which may be either rigid frame or articulated (*i.e.*, able to bend in the middle) is typically used in mines, quarries and construction sites to haul soil, aggregate, mined ore, or debris.

<sup>10</sup> A front loader has lift arms in front of the vehicle. It can scrape material from one location to another, carry material in its bucket or load material into a truck or trailer.

<sup>11</sup> A dozer is a large four-wheeled vehicle with a dozer blade that is used to push large quantities of soil, sand, rubble, etc., typically around construction sites. They can also be used to perform "rough grading" in road construction.

<sup>12</sup> A straddle carrier is a rigid frame, engine-powered machine that is used to load and offload containers from container vessels and load them onto (or off of) tractor trailers.

<sup>13</sup> A grader is a vehicle with a large blade used to create a flat surface. Graders are typically used to perform "finish grading." Graders are commonly used in maintenance of unpaved roads and road construction to prepare the base course onto which asphalt or other paving material will be laid.

<sup>14</sup> A counterbalanced lift truck is a rigid frame, engine-powered machine with lift arms that has

foregoing list of vehicles and equipment generally have in common that they are used for hauling, towing, lifting, and/or loading a wide variety of equipment and materials in agricultural, construction and industrial settings. The foregoing descriptions are illustrative of the types of vehicles and equipment that use certain OTR tires, but are not necessarily all-inclusive. While the physical characteristics of certain OTR tires will vary depending on the specific applications and conditions for which the tires are designed (e.g., tread pattern and depth), all of the tires within the scope have in common that they are designed for off-road and off-highway use. Except as discussed below, OTR tires included in the scope of the petitions range in size (rim diameter) generally but not exclusively from 8 inches to 54 inches. The tires may be either tube-type or tubeless, radial or non-radial, and intended for sale either to original equipment manufacturers or the replacement market. The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States ("HTSUS") subheadings: 4011.20.10.25, 4011.20.10.35, 4011.20.50.30, 4011.20.50.50, 4011.61.00.00, 4011.62.00.00, 4011.63.00.00, 4011.69.00.00, 4011.92.00.00, 4011.93.40.00, 4011.93.80.00, 4011.94.40.00, and 4011.94.80.00. While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

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

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

Prefix letter designations:

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

Suffix letter designations:

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

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

### Critical Circumstances

On March 11, 2008, Petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to the antidumping investigation of OTR tires from the PRC. Because Petitioners submitted critical circumstances allegations more than 30 days before the scheduled date of the final determination but later than 20 days before the preliminary determination, the Department must issue a preliminary determination of critical circumstances within 30 days of Petitioners' submitted allegation.<sup>15</sup> Section 733(e)(1) of the Act provides

that, upon receipt of a timely allegation of critical circumstances, the Department will determine whether there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been "massive," 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, section 351.206(h)(2) of the Department's regulations provides that, "In general, unless the imports during the relatively short period" . . . have increased by at least 15 percent over the imports during an immediately preceding period of comparable duration, the Secretary will not consider the imports massive."

Section 351.206(i) of the Department's regulations defines "relatively short period" as generally the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later. This section provides further that, if the Department "finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely," the Department may consider a period of not less than three months from that earlier time.

In determining whether the above statutory criteria have been satisfied, we examined the following information: (1) the evidence presented in Petitioners' March 11, 2008, submission; (2) evidence obtained since the initiation of the less-than-fair-value ("LTFV") investigation (*i.e.*, import statistics released by the U.S. Census Bureau); and (3) the International Trade Commission's ("ITC") preliminary material injury determination.<sup>16</sup>

In determining whether a history of dumping and material injury exists, the

Department generally considers current or previous antidumping duty orders on subject merchandise from the country in question in the United States and current orders in any other country with regard to imports of subject merchandise. Petitioners made no statement concerning a history of dumping with respect to OTR tires from the PRC. We are not aware of any other antidumping order in the United States or in any country on OTR tires from the PRC. Therefore, the Department finds no history of injurious dumping of OTR tires from the PRC pursuant to section 733(e)(1)(A)(i) of the Act.

In determining whether an importer knew, or should have known, that the exporter was selling subject merchandise at LTFV, the Department must rely on the facts before it at the time the determination is made. The Department normally considers margins of 25 percent or more for export price ("EP") sales and 15 percent or more for constructed export price ("CEP") sales sufficient to impute importer knowledge of sales at LTFV.<sup>17</sup> For the mandatory respondents in this investigation, our preliminary determination found margins of 16.35 percent for Guizhou Tyre, 19.73 percent for Starbright, 10.98 percent for TUTRIC, and 51.81 percent for Xugong. The separate-rate companies received a margin of 24.75 percent based on the calculated weighted-average margins of Guizhou Tyre, Starbright, TUTRIC and Xugong. The PRC entity received a margin of 210.48 percent.<sup>18</sup> Based on these margins, the Department preliminarily finds that an importer knew, or should have known, that Guizhou Tyre, Starbright, Xugong, the separate-rate companies and the PRC entity were selling subject merchandise at LTFV.<sup>19</sup> TUTRIC's preliminary margin did not

<sup>17</sup> See, *e.g.*, *Carbon and Alloy Steel Wire Rod From Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Notice of Preliminary Determination of Critical Circumstances*, 67 FR 6224, 6225 (February 11, 2002) (unchanged in the final determination).

<sup>18</sup> See *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 9278 (February 20, 2008) ("Preliminary Determination").

<sup>19</sup> In this investigation, Guizhou Tyre reported making both CEP and EP sales, and Starbright reported making only CEP sales. We based our analysis for TUTRIC and Xugong on EP sales. Because CEP sales constitute the vast majority of Guizhou Tyre's total U.S. sales by quantity, we find that it is appropriate to base our finding of knowledge of dumping on whether Guizhou Tyre's margin exceeds 15 percent. See *Notice of Final Determination of Sales at Less Than Fair Value and Final Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the Republic of Korea*, 71 FR 29310 (May 22, 2006), and accompanying Issues and Decision Memorandum at Comment 9.

<sup>15</sup> See Section 351.206(c)(2)(ii) of the Department's regulations.

<sup>16</sup> See *Investigation Nos. 701-TA-448 and 731-TA-1117 (Preliminary), Certain Off-the-Road Tires From China*, 72 FR 50699, (September 4, 2007) ("ITC Preliminary Determination").

meet the threshold for imputing knowledge of dumping.

In determining whether an importer knew or should have known that there was likely to be material injury caused by reason of such imports, the Department normally will look to the preliminary injury determination of the ITC. If the ITC finds a reasonable indication of present material to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that material injury is likely by reason of such imports.<sup>20</sup> In the present case, the ITC preliminarily found a reasonable indication that an industry in the United States is materially injured by imports of OTR tires from the PRC.<sup>21</sup>

Based on the ITC's preliminary determination of material injury and the preliminary dumping margins for Guizhou Tyre, Starbright, Xugong, the separate-rate companies and the PRC entity, the Department preliminarily finds that there is a reasonable basis to believe or suspect that the importers knew, or should have known, that there was likely to be material injury by means of sales of subject merchandise at LTFV of subject merchandise from these respondents.

Pursuant to section 351.206(h) of the Department's regulations, in general, we will not consider imports to be massive unless imports have increased by at least 15 percent during a relatively "short period." The Department normally considers a "relatively short period" as the period beginning on the date the proceeding begins and ending at least three months later.<sup>22</sup> The Department normally compares the import volumes of the subject merchandise for at least three months 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"). According to the regulations, "if the Secretary finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, then the Secretary may consider a time period of not less than three months from that earlier time." Imports normally will be considered massive when imports during the comparison period have

increased by 15 percent or more compared to imports during the base period.<sup>23</sup>

Petitioners based their allegation of critical circumstances in this investigation on the increase in imports of OTR tires that began with the filing of the antidumping duty petition on June 18, 2007, and continued through the preliminary determination on February 5, 2008. The Department's practice is to rely upon the longest period for which information is available from the month that the petition was filed through the date of the preliminary determination.<sup>24</sup> We have chosen a period of six months as reflective of the "relatively short period" commanded by the statute for determining whether imports have been massive.<sup>25</sup> In applying the six-month period, we used a base period of July 2007 through December 2007 and a comparison period of December 2006 through May 2007. The Department requested that the respondents in this investigation provide monthly shipment data for the period December 2006 through December 2007.

On March 28, April 1 and April 2, 2008, the Department received company-specific data from all four mandatory respondents. We selected kilograms as the appropriate measurement by which to conduct this analysis. When we compared these companies' import data during the base period with the comparison period, we found that the volume of imports of OTR tires from the mandatory respondents did not increase over the base period by 15 percent and, thus, based upon section 351.206(h) of the Department's regulations, we did not find them to be massive.<sup>26</sup>

We did not request the monthly shipment information necessary to determine if there were massive imports for the separate-rate companies. To measure whether massive imports existed for purposes of critical circumstances, we relied on the experience of the mandatory respondents. As explained above, we

compared the weighted-average import data during the base and comparison periods for all mandatory respondents, and determined that the increase in volume did not exceed 15 percent for any of the mandatory respondents. Therefore, based upon section 351.206(h) of the Department's regulations, we do not find the imports of the separate-rate companies to be massive.

Because the PRC entity did not respond to our antidumping questionnaire, we were unable to obtain shipment data from the PRC entity for purposes of our critical-circumstances analysis and there is, therefore, no verifiable information on the record with respect to its export volumes. Section 776(a)(2) of the Act provides that:

If – an interested party or any other person – (A) withholds information that has been requested by the administering authority or the Commission under this title, (B) fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding under this title, or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority and the Commission shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.

The statute requires that certain conditions be met before the Department may resort to the facts otherwise available. When the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. Because the PRC entity did not respond to the Department's request for information, we used facts available, in accordance with section 776(a) of the Act, in determining whether there were massive imports of merchandise produced by the PRC entity.

Section 776(b) of the Act provides that if the Department finds that the respondent "has failed to cooperate by not acting to the best of its ability to comply with a request for information . . . {the Department} may use an inference that is adverse to the interests of that party in selecting from among the

<sup>23</sup> See section 351.206(c)(2) of the Department's regulations.

<sup>24</sup> See *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 68 FR 66800, 66809 (November 28, 2003) (unchanged in the final determination).

<sup>25</sup> See section 733(e)(1)(B) of the Act.

<sup>26</sup> See Memorandum, "Less-than-Fair-Value Investigation of Certain New Pneumatic Off-The-Road Tires ("OTR Tires") from the People's Republic of China ("PRC"), Affirmative Preliminary Determination of Critical Circumstance," dated concurrently with this notice.

<sup>20</sup> See, e.g., *Final Determination of Sales at Less Than Fair Value: Certain Cut-To-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 61964 (November 20, 1997).

<sup>21</sup> See ITC Preliminary Determination.

<sup>22</sup> See section 351.206(i) of the Department's regulations.

facts otherwise available.” We have determined that, in not responding to the Department’s questionnaires, the PRC entity has not acted to the best of its ability and an adverse inference is warranted.<sup>27</sup> Thus, we have made an adverse inference that there were massive imports from the PRC entity over a relatively short period.

In this case, the HTS numbers listed in the scope of the investigation include both subject merchandise and non-subject merchandise, and thus, we were not able to distinguish the amounts of shipments accounted for by the mandatory and separate rate respondents from the amount of shipments accounted for by the PRC-wide entity with respect to subject merchandise.<sup>28</sup> Accordingly, we were not able to use the U.S. Census Bureau data to corroborate our adverse inference. However, as the SAA states, “The fact that corroboration may not be practicable in a given circumstance will not prevent the agencies from applying an adverse inference under subsection (b).”<sup>29</sup>

We will issue a final determination concerning critical circumstances for all exporters of subject merchandise from the PRC when we issue our final determination in this investigation, which will be not later than July 7, 2008, the first business day after the statutory deadline of July 4, 2008.

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than three days after the publication of the preliminary determination of critical circumstances in this proceeding. Rebuttal briefs limited to issues raised in the aforementioned case briefs will be due no later than two days after the deadline date for case briefs.

### Suspension of Liquidation

With respect to the PRC entity, we will direct CBP to suspend liquidation of all unliquidated entries of OTR tires from the PRC that were entered, or withdrawn from warehouse, for consumption on or after November 22, 2007, which is 90 days prior to February 20, 2008, the date of publication in the **Federal Register** of our preliminary determination in this investigation. With respect to the mandatory

respondents, Guizhou Tyre, Starbright, TUTRIC and Xugong, and the separate-rate companies, in accordance with section 733(d) of the Act, we will make no changes to our instructions to CBP with respect to the suspension of liquidation of all entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after February 20, 2008.

This determination is issued and published in accordance with Sections 733(f) and 777(i)(1) of the Act.

Dated: April 11, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E8-8575 Filed 4-18-08; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-580-816)

#### Corrosion-Resistant Carbon Steel Flat Products from Korea: Extension of Time Limits for the Final Results of Antidumping Duty New Shipper Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** April 21, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Victoria Cho or George McMahon, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5075 and (202) 482-1167, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

On January 23, 2008, the Department published the preliminary results of the new shipper review of the antidumping duty order on certain corrosion-resistant carbon steel products (CORE) from the Republic of Korea. See *Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Preliminary Results of Antidumping Duty New Shipper Review*, 73 FR 3925 (January 23, 2008). The final results are currently due no later than April 14, 2008.

#### Extension of Time Limit of Preliminary Results

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the final results of a new shipper review

within 90 days after the date on which the preliminary results were issued. However, if the Department concludes that the case is extraordinarily complicated, it may extend the 90-day period to 150 days. Interested parties raised several complex issues pertaining to Haewon MSC Co., Ltd.’s cost of production and financial ratios that require a significant amount of analysis by the Department. Given the complex issues raised by the parties in their comments on our preliminary results, and in accordance with section 751(a)(2)(B)(iv) of the Act, we are extending the time period for issuing the final results of review to 150 days after the publication of the preliminary results. Therefore, as that day falls on a Saturday, the final results are now due no later than June 23, 2008, the next business day.

This extension is issued and published in accordance with sections 751(a)(2)(B)(iv) and 777(i)(1) of the Act and 19 CFR 351.214(i)(2).

Dated: April 9, 2008.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

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**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[Application No. 88-10A16]

#### Export Trade Certificate of Review

**ACTION:** Notice of application (#88-10A16) to amend the Export Trade Certificate of Review Issued to Wood Machinery Manufacturers of America.

**SUMMARY:** Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review. This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

**FOR FURTHER INFORMATION CONTACT:**

Jeffrey Anspacher, Director, Export Trading Company Affairs, International Trade Administration, (202) 482-5131 (this is not a toll-free number) or E-mail at [oetca@ita.doc.gov](mailto:oetca@ita.doc.gov).

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in

<sup>27</sup> See Preliminary Determination.

<sup>28</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Japan, Part II*, 64 FR 30574, 30585 (June 8, 1999).

<sup>29</sup> See Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Session, Vol. 1 (1994) at 870.