

## Public Comment

Interested parties may submit publicly available information to value the FOPs within 15 days after the date of publication of the preliminary determination.<sup>12</sup> Case briefs from interested parties may be submitted no later than 40 days from the publication of this notice. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. Rebuttal briefs limited to issues raised in the initial comments may be filed no later than 45 days after the publication of this notice.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 25 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief. We intend to hold a hearing, if requested, no later than 50 days after the publication of this notice.

## Final Determination

The final determination with respect to this circumvention inquiry will be issued no later than ninety days from the publication of this notice, including the results of the Department's analysis of any written comments.

This affirmative preliminary circumvention determination is published in accordance with section 781(b) of the Act and 19 CFR 351.225.

<sup>12</sup> In accordance with 19 CFR 351.301(c)(1), for the final determination of this circumvention inquiry, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally cannot accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

Dated: April 15, 2008.

**David M. Spooner**,  
Assistant Secretary for Import  
Administration.

## Attachment I

### Certification of Vietnam Quijiang Paper Co., Ltd.

#### Certification to U.S. Customs and Border Protection

1. Vietnam Quijiang Paper Co., Ltd. ("Vietnam Quijiang") hereby certifies that the certain tissue paper products being exported and subject to this certification were not produced from Chinese origin jumbo rolls.

2. By signing this certificate, Vietnam Quijiang also hereby agrees to maintain sufficient documentation supporting the above statement such as country of origin certificates for all jumbo rolls used to process the exported certain tissue paper products. Further, Vietnam Quijiang agrees to submit to verification of the underlying documentation supporting the above statement. Vietnam Quijiang agrees that failure to submit to verification of the documentation supporting these statements will result in immediate revocation of certification rights and that Vietnam Quijiang will be required to post a cash deposit equal to the China-wide entity rate on all entries of certain tissue paper products. In addition, if the Department of Commerce identifies any misrepresentation or inconsistencies regarding the certifications, Vietnam Quijiang recognizes that the matter may be reported to the U.S. Customs and Border Protection by the Department for possible enforcement action.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-913]

#### Notice of Preliminary Negative Determination of Critical Circumstances: Certain New Pneumatic Off-the-Road Tires From the People's Republic of China

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.  
**SUMMARY:** The Department of Commerce (the Department) has preliminarily determined that critical circumstances do not exist with respect to imports of

certain pneumatic off-the-road (OTR) tires from the People's Republic of China (PRC).

**EFFECTIVE DATE:** April 22, 2008.

**FOR FURTHER INFORMATION CONTACT:** Scott Lindsay, 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) 482-0780.

#### SUPPLEMENTARY INFORMATION:

##### Period of Investigation

The period for which we are measuring subsidies, or the period of investigation (P01), is calendar year 2006.

##### Scope of Investigation

The products covered by the scope of this investigation are new pneumatic tires designed for off-the-road (OTR) and off-highway use, subject to exceptions identified below. Certain OTR tires are generally designed, manufactured and offered for sale for use on off-road or off highway surfaces, including but not limited to, agricultural fields, forests, construction sites, factory and warehouse interiors, airport tarmacs, ports and harbors, mines, quarries, gravel yards, and steel mills. The vehicles and equipment for which certain OTR tires are designed for use include, but are not limited to: (1) Agricultural and forestry vehicles and equipment, including agricultural tractors,<sup>1</sup> combine harvesters,<sup>2</sup> agricultural high clearance sprayers,<sup>3</sup> industrial tractors,<sup>4</sup> log-skidders,<sup>5</sup> agricultural implements, highway-towed implements, agricultural logging, and agricultural, industrial, skid-steers/mini-loaders;<sup>6</sup> (2) construction vehicles and equipment, including earthmover articulated dump products, rigid frame

<sup>1</sup> Agricultural tractors are four-wheeled vehicles usually with large rear tires and small front tires that are used to tow farming equipment.

<sup>2</sup> Combine harvesters are used to harvest crops such as corn or wheat.

<sup>3</sup> Agricultural sprayers are used to irrigate agricultural fields.

<sup>4</sup> Industrial tractors are four-wheeled vehicles usually with large rear tires and small front tires that are used to tow industrial equipment.

<sup>5</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>6</sup> Skid-steer loaders are four-wheel drive vehicles with the left-side drive wheels independent of the right-side drive wheels and lift arms that lie alongside the driver with the major pivot points behind the driver's shoulders. Skid-steer loaders are used in agricultural, construction and industrial settings.

haul trucks,<sup>7</sup> front endloaders,<sup>8</sup> dozers,<sup>9</sup> lift trucks, straddle carriers,<sup>10</sup> graders,<sup>11</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>12</sup> The foregoing list of vehicles and equipment generally have in common that they are used for hauling, towing, lifting, and/or loading a wide variety of equipment and materials in agricultural, construction and industrial settings. 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. Specifically excluded from the scope are new pneumatic tires designed, manufactured and offered for sale primarily for on-highway or on-road use, including

<sup>7</sup> Haul trucks, which may be either rigid frame or articulated (i.e., able to bend in the middle) are typically used in mines, quarries and construction sites to haul soil, aggregate, mined ore, or debris.

<sup>8</sup> Front loaders have 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>9</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>10</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>11</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>12</sup> A counterbalanced lift truck is a rigid frame, engine-powered machine with lift arms that has 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.

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. 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.

### Case History

This investigation was initiated on August 7, 2007. See *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 72 FR 44122 (August 7, 2007) (*Initiation Notice*). The preliminary determination was published on December 17, 2007. See *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 72 FR 71360 (December 17, 2007) (*Preliminary Determination*). On March 11, 2008, Titan Tire Corporation and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy Allied Industrial and Service Workers International Union, AFL-CIO-CLC (Petitioners) alleged that critical circumstances exist with respect to imports of OTR tires from the PRC. See Petitioners' March 11, 2008 submission (*Allegation of Critical Circumstances*). On March 28, 2008, GPX/Hebei Starbright Tire Co., Ltd. (Starbright), Tianjin United Tire & Rubber International Co., Ltd. (TUTRIC), and Guizhou Tyre Co., Ltd. (Guizhou), the respondents, timely submitted data for the requested time period. Pursuant to the Department's supplementary request for their data in quantity of tires, Starbright and TUTRIC provided additional data on April 2, 2008.

### Comments of the Parties

In their *Allegation of Critical Circumstances*, Petitioners contend there have been massive imports of subject tires since the filing of the petition, which have been exported by Starbright, TUTRIC, and Guizhou. Petitioners provide U.S. Customs and Border Protection Automated Manifest entry data of OTR tires for each of the three respondents. Petitioners argue that these data demonstrate that Starbright's,

TUTRIC's, and Guizhou's imports increased more than the fifteen percent required to be considered "massive" under section 351.206(h)(2) of the Department's regulations. See *Allegation of Critical Circumstances*, Attachment 1.

In addition, Petitioners allege that there is a reasonable basis to believe or suspect that alleged subsidies in this investigation are inconsistent with the WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement). See *Allegation of Critical Circumstances* at 5–6. With regard to the subsidy programs, Petitioners allege that a number of the subsidies under investigation are contingent on export performance or import substitution.<sup>13</sup> Petitioners note that while none of these programs were found to provide a countervailable benefit in the preliminary determination, a critical circumstances determination need only be based on "alleged" countervailable subsidies (not necessarily preliminarily countervailable) that are inconsistent with the Subsidies Agreement. In addition, Petitioners argue that even if the Department only considers the preliminarily countervailed subsidies in making its preliminary critical circumstances determination, the Department still should consider their allegation in the final critical circumstances determination.<sup>14</sup>

### Analysis

Section 703(e)(1) of the Tariff Act of 1930, as amended ("the Act"), provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A) the alleged countervailable subsidy is inconsistent with the Subsidies Agreement, and (B) there have been massive imports of the subject merchandise over a relatively short period.

In determining whether an alleged countervailable subsidy is inconsistent with the Subsidies Agreement, the Department limits its critical circumstances findings to those

<sup>13</sup> Specifically, Petitioners cite the foreign currency retention scheme, preferential tax policies for export-oriented FIEs, income tax refund for reinvestment of FIE profits in export-oriented enterprises, tax benefits for FIEs in encouraged industries that purchase domestic origin machinery, and VAT export rebates. In addition, with respect to the *Provision of Land for Less Than Adequate Remuneration to SOEs*, we noted in the *Preliminary Determination* that business proprietary information indicated that local authorities may have based their approval of Hebei Tire's asset sale in part on the export performance of Starbright (see Section B of the *Preliminary Determination*).

<sup>14</sup> The final critical circumstances finding may be affirmative, even if the preliminary critical circumstances finding is negative. See section 705(a)(2) of the Act.

subsidies contingent on export performance or use of domestic over imported goods (*i.e.*, those prohibited under Article 3 of the Subsidies Agreement).<sup>15</sup>

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, the Department will not consider imports to be massive unless imports during the "relatively short period" ("comparison period") have increased by at least 15 percent compared to imports during an "immediately preceding period of comparable duration" ("base period"). See 19 CFR 351.206(h)(2).

Section 351.206(i) of the Department's regulations defines "relatively short period" as normally being the period beginning on the date the proceeding commences (*i.e.*, the date the petition is filed) and ending at least three months later. However, if the Department finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, then the Department may consider a period of not less than three months from that earlier time. See 19 CFR 351.206(i).

In our preliminary determination, the subsidies found countervailable were not determined to be contingent on export performance or import substitution.<sup>16</sup> See *Preliminary Determination*. Thus, pursuant to section 703(e)(1)(A) of the Act, the first requirement needed to affirmatively find critical circumstances has not been met, and the Department need not reach the issue of massive imports.

However, at the time of the preliminary determination, there were four programs for which additional information was required before the Department could make any finding

regarding their countervailability. These programs do not appear to be contingent on export performance or import substitution. However, if in the final determination the Department finds that any of these four programs, or any of the previously alleged subsidy programs, are countervailable and are contingent on export performance or import substitution, the Department will revisit the issue of massive imports as necessary.

In the event that the Department needs to determine whether there have been massive imports, we have collected the following information: (1) The evidence presented in the Petitioners' March 11, 2008 submission; (2) Respondents' monthly shipment data for November 2006 to November 2007; and (3) U.S. import data for the subject merchandise for 2004–2007, as reported by the International Trade Commission (ITC) (<http://dataweb.usitc.gov>). The ITC data relied on in this analysis do not necessarily exclude those products not falling within the scope of this proceeding (*i.e.*, OTR tires for light and medium trucks/buses or with a rim diameter equal to or exceeding 39 inches).

#### Conclusion

Given the analysis above, we preliminarily determine critical circumstances do not exist for imports of OTR tires from the PRC. We will make a final determination concerning critical circumstances for OTR tires from the PRC when we make our final countervailable subsidy determination in this investigation, no later than July 7, 2008.

#### International Trade Commission Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. This determination is issued and published pursuant to sections 703(f) and 777(i)(1) of the Act.

Dated: April 11, 2008.

**David M. Spooner,**  
Assistant Secretary for Import Administration.

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**BILLING CODE 3510–DS–M**

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

[Docket Number: 070927542–8456–02]

#### Voting Equipment Evaluations Phase II

**AGENCY:** National Institute of Standards and Technology, United States Department of Commerce.

**ACTION:** Notice; Reopening of submission period.

**SUMMARY:** The National Institute of Standards and Technology (NIST), United States Department of Commerce, is reopening for 30 days the period for submitting requests and executed letters of understanding from voting equipment manufacturers. NIST is reopening this submission period based on requests received from the manufacturers for an extension of the submission period.

**DATE:** Submissions must be received no later than May 22, 2008. Submissions received between March 18, 2008 and the date of publication of this notice are deemed to be timely.

**ADDRESSES:** Requests to participate and executed letters of understanding must be submitted to Mr. Allan Eustis, Information Technology Laboratory, National Institute of Standards and Technology, Mail Stop 8970, Gaithersburg, MD 20899–8970; telephone number (301) 975–5099.

**FOR FURTHER INFORMATION CONTACT:** Mr. Allan Eustis, Information Technology Laboratory, National Institute of Standards and Technology, Mail Stop 2970, Gaithersburg, MD 20899–2970; telephone number (301) 975–5099.

**SUPPLEMENTARY INFORMATION:** In the *Federal Register* of November 19, 2007 (72 FR 65012), NIST solicited interest in Phase II of the benchmark research for voting equipment certified or submitted for certification to the 2005 Voluntary Voting System Guidelines. Interested parties were given until March 18, 2007 to submit executed letters of understanding.

A manufacturer of voting systems submitted a written request for extension due to the current workload for all election manufacturers in the 2008 state primary season leading up to the Presidential election. There was not sufficient time to ascertain details of the Phase II research and respond to the request for an executed letter of understanding. To be responsive to these concerns, and to ensure that the voting system manufacturers have sufficient time to respond to the request, NIST is allowing submission for an additional 30 days.

<sup>15</sup> See, e.g., *Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination Carbon and Certain Alloy Steel Wire Rod from Germany*, 67 FR 55808, 55809 (August 30, 2002).

<sup>16</sup> The programs preliminarily determined to provide a countervailable benefit are *Government Policy Lending, Provision of Land for Less Than Adequate Remuneration to SOEs, Tax Subsidies to FIEs in Specifically Designated Geographic Areas, Local Income Tax Exemption and Reduction Programs for "Productive" PIEs, VAT and Tariff Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries, the State Key Technologies Renovation Project Fund, and Provision of Natural and Synthetic Rubber by SOEs for Less Than Adequate Remuneration*.