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Comment F.5: The Purchase of Hebei Tire's Assets Was for Fair Market Value

Comment F.6: Whether Starbright Purchased "Substantially All" of Hebei Tire's Assets

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## VI. Recommendation

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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: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances**

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

**EFFECTIVE DATE:** July 15, 2008.

**SUMMARY:** On February 20, 2008, the Department of Commerce (the "Department") published its preliminary determination of sales at less than fair value ("LTFV") in the antidumping investigation of certain new pneumatic off-the-road tires ("OTR tires") from the People's Republic of China ("PRC"). The period of investigation ("POI") is October 1, 2006, to March 31, 2007. We invited interested parties to comment on our preliminary determination of sales at LTFV and the post-preliminary determinations. Based on our analysis of the comments we received, we have made changes to our calculations for the mandatory respondents. We determine that OTR tires from the PRC are being, or are likely to be, sold in the United States at LTFV as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Final Determination Margins" section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Lilit Astvatsatrian 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) 482-6412 or (202) 482-0650, respectively.

**SUPPLEMENTARY INFORMATION:****Case History**

The Department published its preliminary determination of sales at LTFV on February 20, 2008. *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*"). The Department issued a ministerial error allegation memorandum, in which it agreed to correct several ministerial errors for the final determination. *See* Memorandum entitled "Preliminary Determination of Antidumping Duty Investigation on Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Allegations of Ministerial Errors," dated March 28, 2008 ("Ministerial Error Memo"). On April 21, 2008, the Department published an affirmative preliminary determination of critical circumstances. *See Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Affirmative Preliminary Determination of Critical Circumstances*, 73 FR 21312, (April 21, 2008), ("Affirmative Preliminary Determination of Critical Circumstances").

Between March 25 and April 25, 2008, the Department conducted verifications of Starbright,<sup>1</sup> Tianjin United Tire & Rubber International Co., Ltd. ("TUTRIC"),<sup>2</sup> Xugong,<sup>3</sup> and Guizhou Tyre Co., Ltd. ("Guizhou Tyre").<sup>4</sup> *See* the "Verification" section below for additional information.

On May 14, 2008, the Department issued a memorandum regarding the scope of both the AD and CVD Investigations on OTR Tires from the PRC, addressing the scope comments submitted by multiple interested parties. *See Preliminary Determination: Comments on the Scope of the Investigations ("Preliminary Scope Determination")*.

The Department issued a post-preliminary determination on May 19, 2008, in which it applied a new targeted dumping methodology. *See* Memorandum entitled "Post-Preliminary Determinations on Targeted

<sup>1</sup> *See* Verification of the Factors Response of Hebei Starbright Co., Ltd. in the Antidumping Duty Investigation of Certain New Pneumatic Off-The-Road Tires from the People's Republic of China, dated May 5, 2008 ("Starbright Verification Report"); and Verification of Constructed Export Sales ("CEP") for Hebei Starbright Tire Co., Ltd. ("Starbright") at GPX International Tire Corporation ("GPX7rdquo;), dated May 15, 2008 ("Starbright CEP Verification Report").

<sup>2</sup> *See* Verification of the Sales and Factors Response of TUTRIC in the Antidumping Investigation of Certain New Pneumatic Off-The-Road Tires from the People's Republic of China, dated May 2, 2008 ("TUTRIC Verification Report").

<sup>3</sup> *See* Verification of the Sales and Factors Response of Xuzhou Xugong Tyres Co., Ltd. in the Antidumping Duty Investigation of Certain New Pneumatic Off-The-Road Tires from the People's Republic of China dated May 12, 2008 ("Xugong Verification Report").

<sup>4</sup> *See* Verification of the Sales and Factors Response of Guizhou Tyre in the Antidumping Investigation of Certain New Pneumatic Off-The-Road Tires from the People's Republic of China dated May 9, 2008 ("Guizhou Tyre Verification Report").

Dumping,” dated May 19, 2008 (“Targeted Dumping Determination”).

On May 19, 2008, the Department also preliminarily granted separate-rate status to two separate rate applicants, Qingdao Aonuo Tyre Co., Ltd. (“Aonuo”) and Kenda Rubber (China) Co., Ltd. (“Kenda China”). See Memorandum entitled “Preliminary Determination of Separate-Rate Status of Qingdao Aonuo Tyre Co., Ltd. and Kenda Rubber (China) Co., Ltd. in the Antidumping Investigation of Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China,” dated May 19, 2008.

We invited interested parties to comment on the *Preliminary Determination, Affirmative Preliminary Determination of Critical Circumstances*, and the post-preliminary scope, targeted dumping, and separate rate determinations. On May 22, 2008, multiple interested parties filed case briefs with respect to the scope of the AD and concurrent countervailing duty (CVD) proceeding. On May 27, 2008, many of these same parties filed rebuttal comments regarding the scope of these two proceedings. In addition, on May 27, 2008, multiple interested parties filed case briefs with respect to issues specific to the AD proceeding. These same parties filed rebuttal briefs on June 2, 2008. The Department held two hearings on June 12, 2008, one solely related to the scope of the AD and CVD proceedings and the second to address issues related solely to the AD investigation.

#### Verification

As provided in section 782(i) of the Act, we verified the information submitted by Starbright, Guizhou Tyre, TUTRIC, and Xugong for use in our final determination. See the Department’s verification reports on the record of this investigation in the Central Records Unit (“CRU”), Room 1117 of the main Department building, with respect to these entities. For all verified companies, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by respondents.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the “Investigation of Certain New Pneumatic Off-The-Road Tires from the People’s Republic of China: Issues and Decision Memorandum,” dated concurrently with this notice and,

which is hereby adopted by this notice (“Issues and Decision Memorandum”). A list of the issues which parties raised and to which we respond in the Issues and Decision Memorandum is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file in the CRU, and is accessible on the Web at [ia.ita.doc.gov/frn](http://ia.ita.doc.gov/frn). The paper copy and electronic version of the memorandum are identical in content.

#### Changes Since the Preliminary Determination

Based on our analysis of information on the record of this investigation, we have made changes to the margin calculations for the final determination for all mandatory respondents.

#### General Issues

- We have updated the wholesale price index adjustor for the POI, which modified the inflated values for steam, water, electricity, brokerage and handling, marine insurance, and truck freight rate. See “Certain New Pneumatic Off-The-Road Tires from the People’s Republic of China: Surrogate Value Memorandum,” dated July 7, 2008 (“Final SV Memo”).
- We have corrected linking errors in the inflator adjustments for marine insurance and Essar Steel’s brokerage and handling. See Final SV Memo.
- We corrected an averaging error in the calculation of the surrogate value for water. See Final SV Memo.
- We corrected the rail rate used in the company-specific rail freight to be based on metric ton. See Analysis Memorandum for the Final Determination: Xuzhou Xugong Tyres Co., Ltd. (“Xugong”), dated July 7, 2008 (“Xugong Final Analysis Memo”) and Analysis Memorandum for the Final Determination: Guizhou Tyre and its affiliates, dated July 7, 2008 (“Guizhou Tyre Final Analysis Memo”).
- We have updated the PRC labor wage rate. See Final SV Memo.
- We have used the following four financial statements to calculate the surrogate financial ratios: CEAT Limited (“Ceat”); Falcon Tyres Ltd. (“Falcon”); Goodyear India Limited (“Goodyear”); and TVS Srichakra (“TVS”). See Comments 17.A and 17.B in the Issues and Decision Memo dated concurrently with this notice.
- We have valued steam using the natural gas price reported in a May

2005 publication of *Financial Express*. We have inflated the resulting steam value by applying the appropriate WPI inflator.

- We have made the following changes to the surrogate financial ratio calculations:
  - *CEAT*: 1) We treated a) Sale of Scrap and b) Miscellaneous income as SG&A; and 2) we excluded Rebates and Discounts from the surrogate ratio calculations. See Final SV Memo, and Issues and Decision Memorandum at Comments 18.B and 18.C.
  - *Falcon*: 1) We treated a) Sale of Scrap and b) Miscellaneous income as SG&A; and 2) we excluded Discount from the surrogate ratio calculations. See Final SV Memo and Issues and Decision Memorandum at Comments 18.B and 18.C.
  - *Goodyear*: 1) We treated a) Scrap Sale, b) One time settlement from vendor(s), and c) Unidentified Miscellaneous Income as SG&A; 2) we excluded Target Plus Export Incentives from the surrogate ratio calculations; 3) we treated Retirement Gratuities as direct labor; and 4) we included Purchase of Finished Goods in the denominator of Goodyear’s SG&A and profit ratio calculations. See Final SV Memo, and Ministerial Error Memorandum, and Issues and Decision Memorandum at Comments 18.B and 18.G.
  - *TVS*: 1) We treated a) Miscellaneous Sales and b) Miscellaneous Income as part of SG&A; and 2) we treated Gratuity as direct labor. See Final SV Memo and Issues and Decision Memorandum at Comment 18.B and 18.G.
- We have revised the calculation of U.S. price for Guizhou Tyre and Starbright to include a deduction for warehousing expenses based on the average days subject merchandise is in inventory. See Final SV Memo, Guizhou Tyre Final Analysis Memo, and Starbright Final Analysis Memo.

#### Company-Specific Changes Since the Preliminary Determination

Xugong: See Xugong Final Analysis Memo.  
 Guizhou Tyre: See Guizhou Tyre Final Analysis Memo.  
 Starbright: See Analysis Memorandum for the Final Determination: Hebei Starbright Co., Ltd., dated July 7, 2008.  
 TUTRIC: See Analysis Memorandum for the Final Determination: Tianjin United Tire & Rubber International

Co., Ltd., dated July 7, 2008.

### 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 certain exceptions. In the *Preliminary Determination*, we stated that we had received comments on the scope of the investigation from a number of parties and that all comments raised by the parties would be addressed in a post-preliminary scope determination. On May 14, 2008, the Department issued a memorandum regarding the scope of both the AD and CVD Investigations on OTR Tires from the PRC, addressing the scope comments submitted by multiple interested parties. See *Preliminary Scope Determination*.

In the *Preliminary Scope Determination*, we made certain modifications to the scope of the investigation and invited interested parties to comment on these modifications. Interested parties submitted comments on the *Preliminary Scope Determination* on May 22, 2008 and rebuttal comments on May 27, 2008. Based on these comments, we have made certain clarifications to the scope of the investigation. These clarifications, as well as a complete description of all products covered by the scope of this investigation, and a list of excluded products, are reflected in the *Final Scope of the Investigation* which is appended to this notice at Appendix I. All comments submitted on the *Preliminary Scope Determination* are addressed in the *Scope Comments* section of the Issues and Decision.

### Targeted Dumping

We have analyzed the case and rebuttal briefs with respect to targeted dumping issues submitted for the record in this investigation. As a result of our analysis, we made certain changes in the targeted dumping test we applied for purposes of the final determination. These changes result in a finding of targeted dumping for Xugong, but not for Guizhou Tyre, Starbright, and TUTRIC. For further discussion, see Comments 23.A through 23.H in the Issues and Decision Memorandum. As indicated below, for Guizhou Tyre, Starbright, and TUTRIC, we continue to find overall dumping margins above *de minimis*. See Guizhou Tyre Final Analysis Memo, Starbright Final Analysis Memo, and TUTRIC Final Analysis Memo, respectively. Further, as indicated below, we find that Xugong's overall margin is zero. See Xugong Final Analysis Memo.

### Surrogate Country

In the *Preliminary Determination*, we stated that we had selected India as the appropriate surrogate country to use in this investigation for the following reasons: (1) it is a significant producer of comparable merchandise; (2) it is at a similar level of economic development comparable to that of the PRC; and (3) we have reliable data from India that we can use to value the factors of production. See *Preliminary Determination*. For the final determination, we received no comments and made no changes to our findings with respect to the selection of a surrogate country.

### Separate Rates

In proceedings involving non-market-economy ("NME") countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an investigation 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. See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*"), as amplified by *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*"), and 19 CFR 351.107(d).

In the *Preliminary Determination*, we found that Starbright, Guizhou Tyre, TUTRIC, Xugong and 23 separate rate-applicants demonstrated their eligibility for separate-rate status (collectively, "Separate-Rate Recipients"). On May 19, 2008, as discussed above, we granted separate-rate status to two additional applicants, Aonuo and Kenda China; thus, they are now part of the pool of Separate-Rate Recipients. For the final determination, we continue to find that the evidence placed on the record of this investigation by Starbright, Guizhou Tyre, TUTRIC, Xugong and the remaining Separate Rate Recipients demonstrate both a *de jure* and *de facto* absence of government control, with respect to their respective exports of the merchandise under investigation, and, thus are eligible for separate rate status.

Additionally, based on comments received from certain Separate Rate Recipients, and a review of the record, we found that the combination rates or

the spelling of names for certain exporters were not properly included in the *Preliminary Determination*. Because these errors pertain to the identification of the proper separate rates recipients for this investigation, the Department is making these corrections effective as of February 20, 2008, the date of the *Preliminary Determination*. The companies whose names have been corrected are identified with an "=" in the "*Final Determination Margins*" section, below. Any liquidation instructions for the provisional measures period will reflect these corrections.

### Use of Facts Available

Section 776(a)(2) of the Act, provides that, if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that if an interested party "promptly after receiving a request from {the Department} for information, notifies {the Department} that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information," the Department may modify the requirements to avoid imposing an unreasonable burden on that party.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information deemed "deficient" under section 782(d) if: (1) the information is submitted by the

established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Furthermore, section 776(b) of the Act states that if the Department “finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission ..., in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.” *See also Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act (URAA)*, H.R. Rep. No. 103-316, Vol. 1 at 870 (1994).

For this final determination, in accordance with sections 773(c)(3)(A) and (B) of the Act and section 776(a)(2)(A), (B) and (D) and 776(b) of the Act, we have determined that the use of adverse facts available (“AFA”) is warranted for the PRC entity, as discussed below.

#### The PRC-Wide Rate

Because we begin with the presumption that all companies within an NME country are subject to government control and because only the companies listed under the “Final Determination Margins” section below have overcome that presumption, we are applying a single antidumping rate - the PRC-wide rate - to all other exporters of subject merchandise from the PRC. *See, e.g., Synthetic Indigo from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000). The PRC-wide rate applies to all entries of subject merchandise except for entries from the respondents identified as receiving a separate rate in the “Final Determination Margins” section below. In the *Preliminary Determination*, the Department found that the PRC-wide entity did not respond to our requests for information because record evidence

indicates there were more exporters of OTR tires from the PRC during the POI than those that responded to the Q&V questionnaire or the full antidumping questionnaire. Therefore, in the *Preliminary Determination* we treated these PRC producers/exporters as part of the PRC-wide entity because they did not demonstrate that they operate free of government control over their export activities. No additional information was placed on the record with respect to these entities after the *Preliminary Determination*. In addition, because the PRC-wide entity has not provided the Department with the requested information; pursuant to section 776(a)(2)(A) and (C) of the Act, the Department continues to find that the use of facts available is appropriate to determine the PRC-wide rate. Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000). *See also, SAA* at 870. We have determined that, because the PRC-wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department finds that, in selecting from among the facts otherwise available, an adverse inference is warranted.

#### Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. We have interpreted “corroborate” to mean that we will, to the extent practicable, examine the reliability and relevance of the information submitted. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil*, 65 FR 5554, 5568 (February 4, 2000); *see, e.g., Tapered Roller Bearings and Parts Thereof,*

*Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996).

At the *Preliminary Determination*, in accordance with section 776(c) of the Act, we corroborated our adverse facts available (“AFA”) margin by comparing the U.S. prices and normal values from the petition to the U.S. price and normal values for the respondents. *See Memorandum “Corroboration of the PRC-Wide Facts Available Rate for the Preliminary Determination,”* dated February 5, 2008. Similarly, for the final determination, we have also compared the U.S. prices and normal values from the petition to the U.S. prices and normal values for the respondents. We found that the U.S. prices and normal values used to calculate the petition margin were within the range of net U.S. prices and normal values, respectively, used in our margin calculations for the mandatory respondents in this investigation.

Because no parties commented on the selection of the PRC-wide rate, we continue to find that the margin of 210.48 percent has probative value. Accordingly, we find that the rate of 210.48 percent is corroborated within the meaning of section 776(c) of the Act.

#### Critical Circumstances

In the *Preliminary Determination*, we found that critical circumstances exist for the PRC entity, however, we did not find that critical circumstances exist with respect to the mandatory respondents or the Separate Rate Recipients. We continue to find that critical circumstances exist for the PRC entity, and we continue to find that critical circumstances do not exist for the mandatory respondents or the remaining Separate Rate Recipients. *See Issues and Decision Memorandum at Comment 24.*

#### Final Determination Margins

We determine that the following percentage weighted-average margins exist for the POI:

## OTR TIRES FROM THE PRC

Exporter	Producer	Weighted-Average Margin (Percent)
Guizhou Tyre Co., Ltd.* .....	Guizhou Advance Rubber .....	4.08
Guizhou Tyre Co., Ltd.* .....	Guizhou Tyre Co., Ltd. ....	4.08
Hebei Starbright Co., Ltd./GPX International Tire Corporation, Ltd. ^ .....	Hebei Starbright Co., Ltd. ....	19.15
Tianjin United Tire & Rubber International Co., Ltd. ("TUTRIC")* .....	Tianjin United Tire & Rubber International Co., Ltd. ("TUTRIC").	8.09
Xuzhou Xugong Tyres Co., Ltd. * = .....	Xuzhou Xugong Tyres Co., Ltd. = .....	0.00
Aeolus Tyre Co., Ltd. * .....	Aeolus Tyre Co., Ltd. ....	9.48
Double Coin Holdings Ltd. * .....	Double Coin Holdings Ltd. ....	9.48
Double Coin Holdings Ltd. * .....	Double Coin Group Rugao Tyre Co., Ltd. ....	9.48
Double Coin Holdings Ltd. * .....	Double Coin Group Shanghai Donghai Tyre Co., Ltd..	9.48
Double Happiness Tyre Industries Corp., Ltd. * .....	Double Happiness Tyre Industries Corp., Ltd. ....	9.48
Jiangsu Feichi Co., Ltd. * .....	Jiangsu Feichi Co., Ltd. ....	9.48
Kenda Rubber (China) Co., Ltd./Kenda Global Holding Co., Ltd (Cayman Islands).	Kenda Rubber (China) Co., Ltd. ....	9.48
KS Holding Limited ^ .....	Oriental Tyre Technology Ltd. ....	9.48
KS Holding Limited ^ .....	Shandong Taishan Tyre Co., Ltd. ....	9.48
KS Holding Limited ^ .....	Xu Zhou Xugong Tyres Co., Ltd. ....	9.48
Laizhou Xiongying Rubber Industry Co., Ltd. * .....	Laizhou Xiongying Rubber Industry Co., Ltd. ....	9.48
Oriental Tyre Technology Limited + .....	Midland Off the Road Tire Co., Ltd. ....	9.48
Oriental Tyre Technology Limited + .....	Midland Specialty Tire Co., Ltd. ....	9.48
Oriental Tyre Technology Limited + .....	Xuzhou Hanbang Tyres Co., Ltd. ....	9.48
Qingdao Aonuo Tyre Co., Ltd. ....	Qingdao Aonuo Tyre Co., Ltd. ....	9.48
Qingdao Etyre International Trade Co., Ltd. * .....	Shandong Xingda Tyre Co., Ltd. ....	9.48
Qingdao Etyre International Trade Co., Ltd. * .....	Shandong Xingyuan International Trade Co. Ltd. ...	9.48
Qingdao Etyre International Trade Co., Ltd. * .....	Shandong Xingyuan Rubber Co. Ltd. ....	9.48
Qingdao Free Trade Zone Full-World International Trading Co., Ltd. * .....	Qingdao Eastern Industrial Group Co., Ltd. ....	9.48
Qingdao Free Trade Zone Full-World International Trading Co., Ltd. * .....	Qingdao Qihang Tyre Co., Ltd. ....	9.48
Qingdao Free Trade Zone Full-World International Trading Co., Ltd. * .....	Qingdao Shuanghe Tyre Co., Ltd. ....	9.48
Qingdao Free Trade Zone Full-World International Trading Co., Ltd. * .....	Qingdao Yellowsea Tyre Factory .....	9.48
Qingdao Free Trade Zone Full-World International Trading Co., Ltd. * .....	Shandong Zhentai Tyre Co., Ltd. ....	9.48
Qingdao Hengda Tyres Co., Ltd. * .....	Qingdao Hengda Tyres Co., Ltd. ....	9.48
Qingdao Milestone Tyre Co., Ltd.* .....	Qingdao Shuanghe Tyre Co., Ltd. ....	9.48
Qingdao Milestone Tyre Co., Ltd.* .....	Shandong Zhentai Tyre Co., Ltd. ....	9.48
Qingdao Milestone Tyre Co., Ltd.* .....	Shifeng Double-Star Tire Co., Ltd. ....	9.48
Qingdao Milestone Tyre Co., Ltd.* .....	Weifang Qihang Tyre Co., Ltd. ....	9.48
Qingdao Qihang Tyre Co., Ltd. * .....	Qingdao Qihang Tyre Co., Ltd. ....	9.48
Qingdao Qizhou Rubber Co., Ltd. * .....	Qingdao Qizhou Rubber Co., Ltd. ....	9.48
Qingdao Sinorient International Ltd. * .....	Qingdao Hengda Tyres Co., Ltd. ....	9.48
Qingdao Sinorient International Ltd. * .....	Shifeng Double-Star Tire Co., Ltd. ....	9.48
Qingdao Sinorient International Ltd. * .....	Tengzhou Broncho Tyre Co., Ltd.= .....	9.48
Shandong Huitong Tyre Co., Ltd. * .....	Shandong Huitong Tyre Co., Ltd. ....	9.48
Shandong Jinyu Tyre Co., Ltd. * .....	Shandong Jinyu Tyre Co., Ltd. ....	9.48
Shandong Taishan Tyre Co., Ltd. *= .....	Shandong Taishan Tyre Co., Ltd. = .....	9.48
Shandong Wanda Boto Tyre Co., Ltd.* .....	Shandong Wanda Boto Tyre Co., Ltd. ....	9.48
Shandong Xingyuan International Trading Co., Ltd. * .....	Shandong Xingda Tyre Co., Ltd. ....	9.48
Shandong Xingyuan International Trading Co., Ltd. * .....	Xingyuan Tyre Group Co., Ltd. ....	9.48
Techking Tires Limited *= .....	Shandong Xingda Tyre Co., Ltd. ....	9.48
Techking Tires Limited *= .....	Shandong Xingyuan International Trade Co. Ltd. ...	9.48
Techking Tires Limited *= .....	Shandong Xingyuan Rubber Co. Ltd. ....	9.48
Triangle Tyre Co., Ltd. * .....	Triangle Tyre Co., Ltd. ....	9.48
Wendeng Sanfeng Tyre Co., Ltd.* .....	Wendeng Sanfeng Tyre Co., Ltd. ....	9.48
Zhaoyuan Leo Rubber Co., Ltd. * .....	Zhaoyuan Leo Rubber Co., Ltd. ....	9.48
PRC-Entity .....	.....	210.48

**Disclosure**

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

**Continuation of Suspension of Liquidation**

In accordance with section 735(c)(1)(B) of the Act, we are directing

U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all imports of subject merchandise entered or withdrawn from warehouse, for consumption on or after the following dates: (1) for Starbright, TUTRIC, Guizhou Tyre and the separate rate companies, on or after February 20, 2008, the date of publication of the *Preliminary Determination* in the **Federal Register**, (2) for the PRC-wide

entity, on or after November 22, 2007, which is 90 days prior to the publication of the *Preliminary Determination* (consistent with our finding that critical circumstances exist for the PRC-wide entity). We will instruct CBP to continue to require a cash deposit or the posting of a bond for all companies based on the estimated weighted-average dumping margins shown above. The suspension of

liquidation instructions will remain in effect until further notice.

Because the Department found that the weighted-average dumping margin for subject merchandise produced and exported by Xugong is zero, we are instructing CBP to terminate suspension of liquidation of all imports of subject merchandise produced and exported by Xugong, entered, or withdrawn from warehouse, for consumption on or after February 20, 2008, the date of publication of the *Preliminary Determination*. CBP shall refund any cash deposit and release any bond or other security previously posted in connection with merchandise produced and exported by Xugong. These suspension of liquidation instructions will remain in effect until further notice.

### ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (“ITC”) of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

### Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order (“APO”) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: July 7, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

### Appendix I

#### Scope of the Proceeding Antidumping and Countervailing Duty Investigations On Off-The-Road Tires from the PRC

The products covered by the scope 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>5</sup> combine harvesters,<sup>6</sup> agricultural high clearance sprayers,<sup>7</sup> industrial tractors,<sup>8</sup> log-skidders,<sup>9</sup> agricultural implements, highway-towed implements, agricultural logging, and agricultural, industrial, skid-steers/mini-loaders;<sup>10</sup> (2) construction vehicles and equipment, including earthmover articulated dump products, rigid frame haul trucks,<sup>11</sup> front end loaders,<sup>12</sup> dozers,<sup>13</sup> lift trucks, straddle

<sup>5</sup> Agricultural tractors are dual-axle vehicles that typically are designed to pull farming equipment in the field and that may have front tires of a different size than the rear tires.

<sup>6</sup> Combine harvesters are used to harvest crops such as corn or wheat.

<sup>7</sup> Agricultural sprayers are used to irrigate agricultural fields

<sup>8</sup> Industrial tractors are dual-axle vehicles that typically are designed to pull industrial equipment and that may have front tires of a different size than the rear tires.

<sup>9</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>10</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.

<sup>11</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>12</sup> Front loaders have lift arms in front of the vehicle. They can scrape material from one location to another, carry material in their buckets, or load material into a truck or trailer.

<sup>13</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.

carriers,<sup>14</sup> graders,<sup>15</sup> mobile cranes,<sup>16</sup> 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>17</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. Such vehicles and equipment, and the descriptions contained in the footnotes 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 proceeding range in size (rim diameter) generally but not exclusively from 8 inches to 54 inches. The tires may be either tube-type<sup>18</sup> 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,

<sup>14</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>15</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>16</sup> *i.e.*, “on-site” mobile cranes designed for off-highway use.

<sup>17</sup> A counterbalanced lift truck is a rigid framed, 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.*

<sup>18</sup> While tube-type tires are subject to the scope of this proceeding, tubes and flaps are not subject merchandise and therefore are not covered by the scope of this proceeding, regardless of the manner in which they are sold (*e.g.* sold with or separately from subject merchandise).

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:

*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 tires 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 designed for use on aircraft, all-terrain vehicles, and vehicles for turf, lawn and garden, golf and trailer applications. Also excluded from the scope are radial and bias tires of a kind designed for use

in 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).

## Appendix II

### I. General Issues

*Comment 1:* Whether the Department Should Apply Market-Economy Calculation Methodologies in this Investigation

*Comment 2:* Whether the Dual Application of the Non-Market Economy AD Methodology and the Market-Economy CVD Methodology Results in Double Remedies

*Comment 3:* Treatment of Corrections from Verifications

*Comment 4:* Ministerial Error Corrections

*Comment 5:* Wage Rate Methodology

*Comment 6:* Adjustment for Un-refunded Value Added Taxes

*Comment 7:* Treatment of Respondents' Packing Labor

#### *General Surrogate Value Issues*

*Comment 8:* Standard for Accepting Respondents' Proposed HTS Categories

*Comment 9:* Treatment of Aberrational Data in Certain Surrogate Values

*Comment 10:* Reliability of *Infodrive India Data*

*Comment 11:* Surrogate Value Source for Steam

*Comment 12:* Natural Rubber Surrogate Value

*Comment 13:* Steam Coal Surrogate Value

*Comment 14:* Carbon Black Surrogate Value

*Comment 15:* Surrogate Value Source for Electricity

*Comment 16:* Use of Electricity-Specific Inflation Index

#### *Surrogate Financial Statements*

*Comment 17:* Selection of Surrogate Financial Statements

*Comment 17.A:* Use of Financial Statements of Surrogate Companies That May Have Received Government Subsidies

*Comment 17.B:* Use of TVS's Financial Statement

*Comment 18:* Calculation of Surrogate Financial Ratios

*Comment 18.A:* Treatment of Rental Receipts in TVS's Financial Statement

*Comment 18.B:* Treatment of "Miscellaneous Income" in Goodyear's Financial Statements

*Comment 18.C:* Treatment of Discounts and Rebates in the SG&A Ratio

Calculation based on CEAT's Financial Statement

*Comment 18.D:* Offset for Interest Revenue in Goodyear's Financial Statement

*Comment 18.E:* Treatment of "Less transfer from revaluation reserve" in Falcon's Financial Statement

*Comment 18.F:* Treatment of "Conversion Charges" in CEAT, Falcon, and Goodyear's Financial Statements

*Comment 18.G:* Treatment of "Labor Costs" in CEAT, Falcon, Goodyear and TVS's Financial Statements

*Comment 18.H:* Treatment of Non-Production-Related Energy and Utility Consumption

### II. Scope Issues

*Comment 19:* Imported Wheel Mounted Tires Certifications

*Comment 20:* OTR Agricultural Tires, Including for Highway-Towed Implements

*Comment 21:* Tubes and Flaps

*Comment 22:* Earthmoving, Mining, and Construction Tires

### III. Targeted Dumping Issues

*Comment 23:* Targeted Dumping

*Comment 23.A:* Whether the Department Should Reject the Targeted Dumping Allegation Filed by Bridgestone

*Comment 23.B:* Whether the Targeted Dumping Test Used by the Department is Flawed and Should be Replaced

*Comment 23.C:* Whether the Department Should Use the "P/2 Test" to Test for Targeted Dumping

*Comment 23.D:* Whether the Department Should Use the "T-Test" to Test for Targeted Dumping

*Comment 23.E:* If the Department Continues to Use its *Nails* Test, Whether it Should Permit Certain Margins to be Offset with Negative Margins

*Comment 23.F:* Treatment of Xugong's Sales

*Comment 23.G:* Programming Errors

*Comment 23.H:* Changes based on *TD Methodology*

### IV. Critical Circumstances

*Comment 24:* Critical Circumstances

### V. Issues Specific to Guizhou Tyre

*Comment 25:* Guizhou Tyre's Eligibility for a Separate Rate

*Comment 26:* Treatment of Guizhou Tyre's Guangzhou Warehouse Expenses

*Comment 27:* Treatment of Guizhou Tyre's Reported Manufacturing

Overhead Materials

*Comment 28:* Calculation of Guizhou Tyre's Domestic Movement Expenses

*Comment 29:* Treatment of Guizhou Tyre's Demurrage Charge

*Comment 30:* Distance from Guizhou Tyre's Factory to the Guangzhou Warehouse

*Comment 31:* Appropriate Unit of Measure for Guizhou Tyre's Reported Water Consumption

*Comment 32:* Treatment of Guizhou Tyre's Unreported Labor Hours Discovered at Verification

*Comment 33:* Classification of Guizhou Tyre's Sales Made to a Certain U.S. Customer

*Comment 34:* Byproduct Offset for Guizhou Tyre

*Comment 35:* Treatment of Guizhou Tyre's International Freight Costs

*Comment 36:* Appropriate Classification for Certain Guizhou Tyre Material Inputs

*Comment 37:* Calculation of Value of Guizhou Tyre's Carbon Black

*Comment 38:* Treatment of Guizhou Tyre's Sales Made Through TED

*Comment 39:* Whether to Include Licenses and Taxes in Guizhou Tyre's Indirect Selling Expense Ratio

*Comment 40:* Treatment of Guizhou Tyre's Billing Adjustment for Tubes and Flaps

#### VI. Issues Specific to Xugong

*Comment 41:* Treatment of Xugong and Its Chinese Affiliates as a Single Entity

*Comment 42:* Treatment of Xugong's Sales to API

*Comment 43:* Use of Xugong's Upstream Inputs

*Comment 43.A:* Rejection of Armour Rubber's Upstream Inputs

*Comment 43.B:* Adjustments of Xugong's Upstream Inputs

*Comment 44:* Valuation of Xugong's FOPs from Intermediate Inputs Database

*Comment 45:* Valuation of Xugong's FOPs from Upstream Inputs Database

*Comment 46:* Treatment of Sales with Improperly Reported Tread Code

*Comment 47:* Treatment of Xugong's Factor as Wood Tar or Pine Oil

#### VII. Issues Common to Starbright and TUTRIC

*Comment 48.A:* Whether TUTRIC and GPX are Affiliated

*Comment 48.B:* Whether TUTRIC and Starbright Should be Collapsed

*Comment 49:* Surrogate Value Sources for Scrap Rubber, Reclaimed Rubber, Rubber Powder and Wire

*Comment 50:* The Application of AFA for Sales of Tires Greater Than 39 Inches for Starbright and TUTRIC

#### VIII. Issues Specific to Starbright

*Comment 51:* Start-Up Adjustment for Starbright

*Comment 52:* Starbright Argues that the Department Should Adjust Normal Value for a CEP Offset and Differences in Circumstances of Sale

*Comment 53:* Investigation of Starbright's Sales Below Cost Should

the Department Determines that Starbright Warrants MOE Treatment

*Comment 54:* Treatment of Unreported Sales of Subject Merchandise

*Comment 55:* Reliability of Starbright's Reported U.S. Sales Prices

*Comment 56:* Treatment of Starbright's Early Payment Discounts

*Comment 57:* Treatment of Tangu Warehouse Expenses as an Adjustment to U.S. Price

*Comment 58:* Minor Correction to Freight-In Expenses

*Comment 59:* The Nature of WARR2U

*Comment 60:* Expenses Included in U.S. Duty

*Comment 61:* U.S. Warehousing Expenses

*Comment 62:* Dutiable Assists

*Comment 63:* Direct Labor Hours

*Comment 64:* Starbright's Indirect Labor Hours

*Comment 65:* Ministerial Errors With Respect to U.S. Credit Expenses

*Comment 66:* Marine Insurance

*Comment 67:* Correct Names for Certain Separate Rates Parties for Customs Instructions

*Comment 68:* Time Period for Measuring Starbright's U.S. Indirect Selling Expenses

*Comment 69:* Inclusion of Post-POI Credit Notes in the Section C Database

*Comment 70:* Purchases of Market-Economy Inputs from PRC Trading Companies as Market Economy Purchases

*Comment 71:* Allocation Methodology for U.S. Indirect Selling Expenses

*Comment 72:* Expenses Excluded from the Calculation of ISE

*Comment 73:* Starbright's U.S. Inland Freight Expense

*Comment 74:* The Adequacy of Starbright's Reported Material Consumption Standards, Variance Calculations and FOP Consumption Rate

*Comment 75:* Market-Economy Methodology for Starbright

*Comment 76:* Time Period For Determining ICC For Starbright's Retail Stores

*Comment 77:* TUTRIC's Eligibility for a Separate Rate

*Comment 78:* TUTRIC's Sales to GPX Delivered to the Tangu Warehouse

*Comment 79:* Sales and FOPs for Tubes and Flaps for TUTRIC

*Comment 80:* Treatment of Indirect Labor Hours for TUTRIC

*Comment 81:* Additional Calculation Errors With Respect to TUTRIC

*Comment 82:* The Adequacy of TUTRIC's Reported Material Consumption Standards, Variance

Calculations and FOP Consumption Rate

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-840]

#### Certain Frozen Warmwater Shrimp From India: Final Results and Partial Rescission of Antidumping Duty Administrative Review

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

**SUMMARY:** On March 6, 2008, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain frozen warmwater shrimp (shrimp) from India. This review covers 201 producers/exporters of the subject merchandise to the United States. The period of review (POR) is February 1, 2006, through January 31, 2007. We are rescinding the review with respect to four companies because these companies had no reportable shipments of subject merchandise during the POR.

Based on our analysis of the comments received, we have made certain changes in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of Review."

**DATES:** *Effective Date:* July 15, 2008.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Eastwood, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-3874.

#### SUPPLEMENTARY INFORMATION:

##### Background

This review covers 201 producers/exporters.<sup>1</sup> The respondents which the Department selected for individual review are Devi Sea Foods Limited (Devi) and Falcon Marine Exports Limited (Falcon). The respondents which were not selected for individual review are listed in the "Final Results of Review" section of this notice.

<sup>1</sup> This figure does not include those companies for which the Department is rescinding the administrative review.