product comparison criteria currently being used in this case.

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time for completion of the final results of this review until March 5, 2008, which is 180 days after the date on which notice of the preliminary results was published in the **Federal Register**.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777 (i)(1) of the Act.

Dated: December 11, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–24375 Filed 12–14–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty–Free Entry of Scientific Instrument

Pursuant to Section 6(c) of the Educational, Scientific andCultural Materials Importation Act of 1966 (Pub. L. 89–651, asamended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), weinvite comments on the question of whether instruments ofequivalent scientific value, for the purposes for which theinstruments shown below are intended to be used, are beingmanufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of theregulations and be filed within 20 days with the Statutory ImportPrograms Staff, U.S. Department of Commerce, Room 2104, 14th and Constitution Avenue NW, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 2104, at the above address.

Docket Number: 07–070. Applicant: State University of New York at Binghamton, 4400 Vestal Parkway East, Binghamton, NY 13902. Instrument: Scanning Acoustic Microscope. Manufacturer: Klaus Pintsch, Inc., Germany. Intended Use: The instrument is intended to be used as a research tool for professors and graduate student level researchers. The research is to advance the science and engineering behind modern electronics packaging practices and to develop new packaging paradigms. Research is underway in all areas of packaging, solders, board and package construction, chip joining, roll to roll manufacturing and even fabricating active devices on flexible substrates. The instrument provides a nondestructive means to see into packages and examine the bonding layers and interfaces. Having a spatial resolution of .5 micron or less is a critical parameter because it is one of the factors that determines the minimum feature size that can be detected and imaged. Application accepted by Commissioner of Customs: November 7, 2007.

Dated: December 7, 2007.

Faye Robinson,

Director, Statutory Import Programs Staff, Import Administration.

[FR Doc. E7–24278 Filed 12–14–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty–Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific andCultural Materials Importation Act of 1966 (Pub. L. 89–651, asamended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before January 7, 2008. Address written comments to Statutory Import Programs Staff, Room 2104, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. at the U.S. Department of Commerce in Room 2104.

Docket Number: 07–068. Applicant: University of Utah, 201 S. President's Circle, Salt Lake City, UT 84112. Instrument: Electron Microscope, Model Nova NanoSEM 430. Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument is intended to be used for the imaging of nanoparticles as well as chemical characterization of a wide variety of materials. The instrument will also be used to measure the size and chemical composition of nanoparticles and nanostructures and to create nanostructures using electron beam lithography. The objectives of the experiments will be to characterize the size and shapes of nanoparticles, nantubes and nanowires and determine the chemical composition of clays and other mineralogical samples. Application accepted by Commissioner of Customs: November 13, 2007.

Docket Number: 07–069. Applicant: The Children's Hospital, 1056 E. 19th Ave., Denver, CO 80218. Instrument: Electron Microscope, Model H–7650. Manufacturer: Hitachi High–Technologies Corporation, Japan. Intended Use: The instrument will be used in the anatomical pathology laboratory to evaluate various human tissues, aiding in diagnostic interpretations. Application accepted by Commissioner of Customs: November 6, 2007.

Dated: December 7, 2007.

Faye Robinson,

Director, Statutory Import Programs Staff.

[FR Doc. E7–24277 Filed 12–14–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–913]

Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain new pneumatic off-the-road tires (OTR tires) from the People's Republic of China (PRC). For information on the estimated subsidy rates, *see* the ''Suspension of Liquidation'' section of this notice. Interested parties are invited to comment on this preliminary determination. *See* ''Disclosure and Public Comment'' section below for procedures on filing comments.

EFFECTIVE DATE: December 17, 2007.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley, Jun Jack Zhao, or Nicholas Czajkowski, 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) 482–3148, (202) 482–1396, and (202) 482–1395, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The following events have occurred since the publication of the Department's notice of initiation in the **Federal Register**. *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*).

On August 17, 2007, the Department selected, as mandatory respondents, the three largest Chinese producers/exporters of OTR tires that could reasonably be examined: Guizhou Tire Co., Ltd. (Guizhou Tire), Hebei Starbright Tire Co., Ltd. (Starbright), and Tianjin United Tire & Rubber International Co., Ltd. (TUTRIC). *See* Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, ''Respondent Selection'' (August 17, 2007). This memorandum is on file in the Department's Central Records Unit in Room B–099 of the main Department building (CRU). On that same day, we issued a countervailing duty (CVD) questionnaire to the Government of the People's Republic of China (GOC), requesting the GOC forward the company sections of the questionnaire to the mandatory respondents.

On August 27, 2007, the International Trade Commission (ITC) issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized imports of OTR tires from China. *See Certain Off-the-Road Tires From China*, Investigation Nos. 701–TA–448 and 731–TA–1117 (Preliminary), 72 FR 50699 (September 4, 2007).

On September 17, 2007, we published a postponement of the preliminary determination of this investigation until December 7, 2007. *See Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 72 FR 52859 (September 17, 2007).

On August 20, 2007, Aeolus Tyre Co., Ltd. (Aeolus) submitted a request to be a voluntary respondent in this investigation; on September 20, 2007, Aeolus renewed its request to be a conditional voluntary respondent. Aeolus' request was conditioned on certain eventualities, such as being selected as a respondent in the accompanying antidumping investigation, which it was not. On September 24, 2007, petitioners submitted comments to the Department arguing we should reject Aeolus's request to be a voluntary respondent. On October 3, Aeolus withdrew its request.

On October 5, 2007, we initiated an investigation of several new subsidy allegations. *See* Memorandum to the File, ''Countervailing Duty Investigation on Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Initiation Analysis for New Subsidy Allegations'' (October 5, 2007). The allegations were submitted on August 24 by Titan Tire Corporation and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy Allied Industrial and Service Workers International Union, AFL–CIO–CLC (collectively, petitioners) and on September 5 by Bridgestone Americas Holding, Inc. and its subsidiary, Bridgestone Firestone North America Tire, LLC (collectively, Bridgestone), a U.S. domestic producer of OTR tires.[1] Petitioners submitted additional information supporting their new allegations on September 5; Bridgestone submitted additional information supporting its new allegation on September 19 and October 1. On September 21 and September 26, the GOC, Starbright and TUTRIC submitted comments on these new subsidy allegations. On October 5, we issued questionnaires concerning these new allegations to the GOC and the mandatory respondents.

On October 15, 2007, we received responses to our initial questionnaire from the GOC, Guizhou Tire, Starbright, and TUTRIC. On October 19 and 22, Bridgestone submitted comments regarding the questionnaire responses from the GOC, Guizhou Tire, Starbright, and TUTRIC; also on October 22 and 23, petitioners submitted comments regarding the questionnaire responses from the GOC, Guizhou Tire, Starbright, and TUTRIC. On October 29, we received responses to our questionnaires concerning the new subsidy allegations from the GOC, Guizhou Tire, Starbright, and TUTRIC. On November 1, 2 and 5, Bridgestone submitted comments regarding the new subsidy allegation questionnaire responses from the GOC, Guizhou Tire, Starbright, and TUTRIC; and on November 2 and 5, petitioners submitted comments regarding the new subsidy allegation questionnaire responses from the GOC, Guizhou Tire, Starbright, and TUTRIC. Supplemental questionnaires regarding all these submissions were issued to Guizhou Tire, Starbright, and TUTRIC on November 9, and to the GOC on November 14. We received responses on November 27, 2007.

In our initial questionnaire, we asked for information concerning alleged subsidies received during the period 1993 through the POI (based on our finding in accordance with section 351.524(d)(2) that the average useful life (AUL) of assets used in producing OTR Tires was 14 years). In our supplemental questionnaires, we limited our inquiry to subsidies received during or after 2001, pursuant to a recent preliminary determination that December 11, 2001 (the date on which the PRC became a WTO member) was the uniform date from which the Department will identify and measure subsidies for purposes of the CVD law.[2] However, given that the final determination regarding this uniform date will not be issued before March 18, 2008, the Department, on November 21, informed the GOC and the three OTR tire respondents that information was required for all non-recurring subsidies received during the AUL. The deadline for submitting information concerning pre-2001 subsidies is currently December 12, 2007.

On November 14, 2007, the Department initiated an investigation of an additional new subsidy allegation pertaining only to Guizhou Tire, pursuant to information submitted by petitioners on October 23 and additional information on November 2. *See Countervailing Duty Investigation of Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Initiation Analysis for New Subsidy Allegation* (November 14, 2007). On that same day, November 14, we also issued a questionnaire concerning this allegation to the GOC and Guizhou Tire. The deadline for responding to this questionnaire is currently December 10, 2007. We intend to issue an interim analysis describing our preliminary findings with respect to this program before the final determination so that parties will have the opportunity to comment on our findings before the final determination.

On November 9, 2007, petitioners submitted comments on loan benchmarks. On November 28, 29 and 30, respectively, Bridgestone, petitioners and the GOC submitted pre-preliminary comments. On December 4, Starbright and TUTRIC submitted pre-preliminary comments. On December 5, Starbright submitted additional pre-preliminary comments.

Scope of the Investigation

The products covered by the scope of this investigation are new pneumatic

[1] Since Bridgestone is a U.S. producer, it meets the definition of interested party as set forth in section 771(9) of the Tariff Act of 1930, as amended (the Act).

[2] *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances; and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 72 FR 63875, 63880 (November 13, 2007) (*CWP Preliminary*)

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,[3] combine harvesters,[4] agricultural high clearance sprayers,[5] industrial tractors,[6] log-skidders,[7] agricultural implements, highway-towed implements, agricultural logging, and agricultural, industrial, skid-steers/mini-loaders; [8] (2) construction vehicles and equipment, including earthmover articulated dump products, rigid frame haul trucks,[9] front endloaders,[10] dozers,[11] lift trucks, straddle carriers,[12] graders,[13] 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.[14] 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. 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:

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 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).

Scope Comments

In accordance with the preamble to the Department's regulations, in our *Initiation Notice* we set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*) and *Initiation Notice*, 72 FR at 41222. On August 20, 2007, the following parties submitted comments concerning both the scope of this investigation and the identical scope of the companion antidumping duty

[3] Agricultural tractors are four-wheeled vehicles usually with large rear tires and small front tires that are used to tow farming equipment.

[4] Combine harvesters are used to harvest crops such as corn or wheat.

[5] Agricultural sprayers are used to irrigate agricultural fields

[6] Industrial tractors are four-wheeled vehicles usually with large rear tires and small front tires that are used to tow industrial equipment.

[7] 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.

[8] 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.

[9] 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.

[10] 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.

[11] 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.

[12] 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.

[13] 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.

[14] 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.*

investigation: Petitioners, Bridgestone, Carlisle Tire and Wheel Company, Guizhou Tire, and Valmont Industries, Inc. On August 21, comments on the scope were submitted to both records by Agri-Fab, Inc. On August 27, rebuttal comments were filed on both records by petitioners, Bridgestone, and Guizhou Tire. The Department will address the issues raised by these parties with regard to both investigations in the preliminary determination of the antidumping duty investigation currently scheduled for February 5, 2008.

Application of the Countervailing Duty Law to Imports from the PRC

On October 25, 2007, the Department published *Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) and the accompanying *Issues and Decision Memorandum* (*CFS Final*). In that determination, the Department found that ''given the substantial differences between the Soviet-style economies and the PRC's economy in recent years, the Department's previous decision not to apply the CVD law to these Soviet-style economies does not act as a bar to proceeding with a CVD investigation involving products from China.'' *See CFS Final* at Comment 6. This decision was also affirmed in three recent preliminary determinations. *See CWP Preliminary*, 72 FR at 63880, *Laminated Woven Sacks from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances; and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 72 FR 67893 (December 3, 2007) (*LWS Preliminary*), and *Light-walled Rectangular Pipe and Tube from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 72 FR 67703 (November 30, 2007).

For the reasons stated in *CWP Preliminary*, we are using the date of December 11, 2001, the date on which the PRC became a member of the WTO, as the date from which the Department will identify and measure subsidies in the PRC for purposes of this preliminary determination. *Id.* As explained in *CWP Preliminary*, prior to December 11, 2001, there were many changes in the PRC's economy. Many of the obligations undertaken by the PRC pursuant to its accession to the WTO were in line with the PRC's objective of economic reform. *See*, *e.g.*, Report of the Working Party on the Accession of China, WT/ACC/CHN/49 (October 1, 2001) at paragraph 4 (found at *www.wto.org*). Taken together, these changes permit the Department to determine whether the GOC has bestowed a countervailable subsidy on Chinese producers. *See CFS Final* at Comments 1 and 6. Finally, the GOC acknowledged the changing nature of its economy insofar as its accession protocol contemplates the application of the CVD law to the PRC, even while it remains a non-market economy (NME). *See* Protocol of Accession of the People's Republic of China, WT/L/432 (November 23, 2001) at section 15(b) (found at *www.wto.org*); *see*, *also*, *CFS Final* at Comment 1. Therefore, for this preliminary determination, we have selected the date of December 11, 2001, as the date from which we will measure countervailable subsidies in the PRC.

Period of Investigation

The period for which we are measuring subsidies, or the POI, is calendar year 2006.

Subsidies Valuation Information

Allocation Period

The allocation period for non-recurring subsidies is normally the AUL as described in 19 CFR 351.524(d)(2). The AUL applicable to the OTR tire industry is 14 years according to the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System. No party in this proceeding has disputed this allocation period.

Cross-Ownership

The Department's regulations at section 351.525(b)(6)(vi) state that cross-ownership exists between corporations if one corporation can use or direct the individual assets of the other corporation(s) in essentially the same way it uses its own. This section of the Department's regulations states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations. Section 351.525(b)(6)(iii) of the Department's regulations states that ''if the firm that received the subsidy is a holding company, including a parent company with its own operations, the Secretary will attribute the subsidy to the consolidated sales of the holding company and its subsidiaries.'' The Court of International Trade (CIT) has upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits. *See Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d. 593, 604 (CIT 2001).

Guizhou Tire reported that it is affiliated with numerous companies. Of these, according to Guizhou Tire, two are involved in the production or sale of subject merchandise: Guizhou Advance Rubber Co., Ltd. (Guizhou Rubber), a producer of subject merchandise, and Guizhou Tire I&E Corp. (GTCIE), which serves as Guizhou Tire's export department for OTR tires.[15] Guizhou Tire owns 98.75 percent of Guizhou Rubber and 100 percent of GTCIE. Therefore, pursuant to 19 CFR 351.525(b)(6)(vi), we preliminarily determine that Guizhou Tire is cross-owned with Guizhou Rubber, and, pursuant to 19 CFR 351.525(b)(6)(ii), we are attributing the subsidies received by Guizhou Tire and Guizhou Rubber to the combined sales of Guizhou Tire and Guizhou Rubber. Pursuant to 19 CFR 351.525(c), we are cumulating the benefits from subsidies provided to GTCIE with benefits from subsidies provided to Guizhou Tire. Both Guizhou Rubber and GTCIE have provided responses to the Department's questionnaires.

TUTRIC also reported numerous affiliations. Of these, one is a state-owned parent company, described by TUTRIC as a ''holding company,'' and another is a supplier of carbon black, Dolphin Carbon Black (DCB), an input consumed in the production of tires. TUTRIC reports that the input supplier is also a subsidiary of the holding company. The others are either located outside the PRC or not involved in the production or sale of subject merchandise.[16] Our analysis indicates that the holding company and the input supplier are essentially the same entity and that this entity controls TUTRIC. (The details of this analysis are business proprietary and are discussed in the Memorandum to Thomas Gilgunn, Program Manager, AD/CVD Operations,

[15] A third company is involved in domestic distribution.

[16] TUTRIC also claims affiliation with Starbright, one of the other two respondents in this case, based on both companies having a relationship with GPX International Tire Co. (GPX). Starbright also makes this claim. GPX is the sole owner of Starbright, and the nature of its relationship with TUTRIC is business proprietary. The Department, however, preliminarily determines that neither TUTRIC's relationship with GPX or Starbright rises to the level of cross-ownership. TUTRIC does not share board members or officers with these companies, for example, and the facts otherwise do not demonstrate that TUTRIC and either of these companies could ''use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets.'' 19 CFR 351.525(b)(6)(vi).

Office 6, from Mark Hoadley, Case Analyst, ''TUTRIC's Cross-Ownership'' (December 7, 2007).) As such, pursuant to 19 CFR 351.525(b)(6)(vi), we preliminarily determine that TUTRIC is cross-owned with its parent/holding company, and, pursuant to 19 CFR 351.525(b)(6)(iii), we are attributing the subsidies received by its parent/holding company to the combined sales of TUTRIC and the parent/holding company (hereinafter, DCB).

Denominator

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, the Department considered the basis for respondents' receipt of benefits under each program at issue. We have preliminarily found that TUTRIC's, Guizhou Tire's, and Starbright's receipt of benefits under the programs found countervailable was not tied to export performance or to the production of a particular product. As such, for subsidies received by TUTRIC, Guizhou Tire, or Starbright, we are using that company's sales (and those of its cross-owned affiliates where applicable) of all products as the denominator in our calculations. *See* 19 CFR 351.525(b)(3).

As discussed in the ''Cross-Ownership'' section above, Guizhou Tire is cross-owned with Guizhou Rubber, a producer of subject merchandise that received benefits that were not tied to export performance or to the production of a particular product. As such, for benefits received by Guizhou Rubber, we are using total sales of all products by Guizhou Tire and its cross-owned producer of subject merchandise (less any internal sales between Guizhou Tire and its cross-owned producer) as the denominator in our calculations. *See* 19 CFR 351.525(b)(6)(iv).

Also as discussed in the ''Cross-Ownership'' section above, we have preliminarily found that TUTRIC is cross-owned with a parent company that received subsidies that were not tied to export performance or to the production of a particular product. As such, for benefits received by TUTRIC's cross-owned parent company, we are using total sales of all products by TUTRIC and its cross-owned parent company (less any internal sales between TUTRIC and its cross-owned parent company) as the denominators in our calculations. *See* 19 CFR 351.525(b)(6)(iii).

Change In Ownership

Starbright states that it was created in 2006 when it purchased substantially all the assets of Hebei Tire Co., Ltd. (Hebei Tire). Starbright claims that it is unable to provide information concerning subsidies received by Hebei Tire before the purchase, but that Hebei Tire had never been a (foreign invested enterprise) (FIE) and had not been an SOE since 2000. Starbright also claims it purchased Hebei Tire at arm's length and for fair market value, and responded to the Department's standard change-in-ownership appendix. In doing so, it claims the sale was at arm's length, as it had no relationship with Hebei Tire and no relationship with the GOC. It also provides a reconciliation between the assets it purchased and their assessed value, thus, according to Starbright, demonstrating they were purchased at fair market value. Starbright also provides a reconciliation between the debt it paid off on behalf of Hebei Tire and the lending section of Hebei Tire's balance sheet at the approximate time of sale.

Petitioners and Bridgestone have stated their concerns with the failure of Starbright and the GOC to provide information concerning past non-recurring subsidies received by Hebei Tire that might continue to be benefitting Starbright. In particular, these parties are concerned that Hebei Tire may have benefitted from debt forgiveness provided by Hebei Province prior to the sale of the company to Starbright, one of the new subsidy allegations on which the Department initiated an investigation on October 5. In addition, according to petitioners and Bridgestone, it is clear from the record that Hebei Tire had loans from state-owned commercial banks and acquired land-use rights from the GOC, two more potential sources of non-recurring subsidies.

The Department determines that additional information is needed before a full evaluation of this change in ownership can be made. Among other things, further information is required to determine whether Hebei Tire was an SOE or was otherwise related to or controlled by the GOC at the time of sale, as this impacts the application of our change in ownership methodology. This determination involves examining particular PRC entities and their relationship to the government that the Department has not yet examined within the context of a CVD investigation. Furthermore, regardless of Hebei Tire's relationship to the GOC, the Department needs additional information on exactly what happened before the transaction with respect to Hebei Tire and what role the GOC played in this transaction, and all of its elements. As such, the Department intends, following this preliminary determination, to issue additional questionnaires to provide Starbright and the GOC an additional opportunity to provide that information. We intend to issue an interim analysis describing our preliminary findings with respect to this program before the final determination so that parties will have the opportunity to comment on our findings before the final determination.

Loan Benchmarks

Summary: The Department is investigating loans received by respondents from Chinese banks, including state-owned commercial banks (SOCBs), which are alleged to have been granted on a preferential, non-commercial basis. Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the ''difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market.'' Normally, the Department uses comparable commercial loans reported by the company for benchmarking purposes. *See* 19 CFR 351.505(a)(2)(i). However, the Department does not treat loans from government banks as commercial if they were provided pursuant to a government program. *See* 19 CFR 351.505(a)(2)(ii). Because the loans provided to the respondents by SOCBs are under the Government Policy Lending program, as explained below, these loans are the very loans for which we require a suitable benchmark. Additionally, if respondents received any loans from foreign banks, these would be unsuitable for use as benchmarks because, as explained in detail in *CFS Final*, the GOC's intervention in the banking sector creates significant distortions, restricting and influencing even foreign banks within the PRC. *See CFS Final* at Comments 8 and 10.

If the firm did not have any comparable commercial loans during the period, the Department's regulations provide that we ''may use a national interest rate for comparable commercial loans.'' *See* 19 CFR 351.505(a)(3)(ii). However, the Chinese national interest rates are not reliable as benchmarks for these loans because of the pervasiveness of the GOC's intervention in the banking sector. Loans provided by Chinese banks reflect significant government intervention and do not reflect the rates that would be found in a functioning market. *See CFS Final* at Comment 10.

The statute directs that the benefit is normally measured by comparison to a ''loan that the recipient could actually obtain on the market.'' *See* section

771(5)(E)(ii) of the Act. Thus, the benchmark should be a market-based benchmark, yet, there is not a functioning market for loans within the PRC. Therefore, because of the special difficulties inherent in using a Chinese benchmark for loans, the Department is selecting a market-based benchmark interest rate based on the inflation-adjusted interest rates of countries with similar per capita gross income (GNI) to the PRC, using the same regression-based methodology that we employed in *CFS Final*. *See CFS Final* at Comment 10.

The use of an external benchmark is consistent with the Department's practice. For example, in *Softwood Lumber*, the Department used U.S. timber prices to measure the benefit for government provided timber in Canada. *See Final Results of the Countervailing Duty Investigation of Certain Softwood Lumber Products from Canada*, 67 FR 15545 (April 2, 2002), and accompanying *Issues and Decision Memorandum*, 34 (*Softwood Lumber*). In the current proceeding, the Department preliminarily finds that the GOC's predominant role in the banking sector results in significant distortions that render the lending rates in the PRC unsuitable as market benchmarks. Therefore, as in *Softwood Lumber*, where domestic prices are not reliable, we have resorted to prices outside the PRC.

Discussion: In our analysis of the PRC as a non-market economy in the antidumping duty investigation of *Certain Lined Paper Products from the PRC*, the Department found that the PRC's banking sector does not operate on a commercial basis and is subject to significant distortions, primarily arising out of the continued dominant role of the government in the sector. *See* ''The People's Republic of China (PRC) Status as a Non-Market Economy,'' May 15, 2006 (*May 15 Memorandum*); and ''China's Status as a Non-Market Economy,'' August 30, 2006 (*August 30 Memorandum*), both of which are referenced in the *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China*, 71 FR 53079 (September 8, 2006), and as placed on the record of this investigation in a memorandum to the file titled ''*Loan Benchmark Information*'' (December 7, 2007) (*Loan Benchmark Information Memorandum*) on file in the Department's CRU. This finding was further elaborated in *CFS Final*. *See CFS Final* at Comment 10. In that case, the Department found that the GOC still dominates the domestic Chinese banking sector and prevents banks from operating on a fully commercial basis. We continue to find that these distortions are present in the PRC banking sector and, therefore, preliminarily determine that the interest rates of the domestic Chinese banking sector do not provide a suitable basis for benchmarking the loans provided to respondents in this proceeding.

Moreover, while foreign-owned banks do operate in the PRC, they are subject to the same restrictions as the SOCBs. Further, their share of assets and lending is negligible compared with the SOCBs. Therefore, as discussed in greater detail in *CFS Final*, because of the market-distorting effects of the GOC in the PRC banking sector, foreign bank lending does not provide a suitable benchmark. *See CFS Final* at Comment 10.

We now turn to the issue of choosing an external benchmark. Selecting an appropriate external interest rate benchmark is particularly important in this case because, unlike prices for certain commodities and traded goods, lending rates vary significantly across the world. Nevertheless, as discussed in *CFS Final*, there is a broad inverse relationship between income levels and lending rates. In other words, countries with lower per capita GNI tend to have higher interest rates than countries with higher per capita GNI, a fact demonstrated by the lending rates across countries reported in *International Financial Statistics* (IFS). *See www.imfstatistics.org*, placed on the record of this investigation in *Loan Benchmark Information Memorandum*. The Department has therefore preliminarily determined that it is appropriate to compute a benchmark interest rate based on the inflation-adjusted interest rates of countries with similar per capita GNI to the PRC, using the same regression-based methodology that we employed in *CFS Final*. As explained in *CFS Final* at Comment 10, this pool of countries captures the broad inverse relationship between income and interest rates. We determined which countries are similar to the PRC in terms of per capita GNI, based on the World Bank's classification of countries as: low income; lower-middle income; upper-middle income; and high income. The PRC falls in the lower-middle income category, a group that includes 55 countries as of July 2007. *See www.worldbank.org*, search engine term ''lower middle income,'' placed on the record of this investigation in *Loan Benchmark Information Memorandum*.

Many of these countries reported short-term lending and inflation rates to IFS. With the exceptions noted below, we used this data set to develop an inflation-adjusted market benchmark lending rate for short-term RMB loans. *See http://www.imfstatistics.org*, placed on the record of this investigation in *Loan Benchmark Information Memorandum*. We did not include those economies that the Department considered to be non-market economies for AD purposes for any part of 2006: the PRC, Armenia, Azerbaijan, Belarus, Georgia, Moldova, Turkmenistan, and Ukraine. The benchmark necessarily also excludes any economy that did not report lending and inflation rates to IFS for 2005 or 2006. Finally, the Department also excluded three aberrational countries: Angola, with an inflation-adjusted 2005 rate of 44.72 percent; the Dominican Republic, with an inflation-adjusted 2004 rate of -18.83 percent; and Samoa, with an inflation-adjusted 2004 rate of -5.11 percent. As also discussed in *CFS Final*, this regression provides the most suitable market-based benchmark to measure the benefit from the Government Policy Lending program, because it takes into account a key factor involved in interest rate formation, that of the quality of a country's institutions, that is not directly tied to state-imposed distortions in the banking sector discussed above. *See www.worldbank.org/wbi/governance*, placed on the record of this investigation in *Loan Benchmark Information Memorandum*. Consistent with the regression model employed in *CFS Final*, the Department calculated an inflation-adjusted benchmark rate of 7.42 percent for 2006, 8.76 percent for 2005, 8.53 percent for 2004, and 9.96 percent for 2003. Because these are inflation-adjusted benchmarks, it is also necessary to adjust the interest paid by respondents on its RMB loans for inflation. This was done using the PRC inflation figure as reported to IFS. *See http://www.imfstatistics.org*, placed on the record of this investigation in *Loan Benchmark Information Memorandum*. The Department then compared its benchmarks with respondents' inflation-adjusted interest rate to determine whether a benefit existed for the loans received by respondents on which principal was outstanding or interest was paid during the POI.

The lending rates reported in IFS represent short-term lending, and there is not sufficient publicly available long-term interest rate data upon which to base a robust benchmark for long-term loans. To identify and measure any benefit from long-term loans, the Department developed a ratio of short-term and long-term lending. The

Department then applied this ratio to the benchmark short-term lending figure (discussed above) to impute a long-term lending rate. Specifically, the Department computed a ratio of the average one-year and five-year interest rates on interest rate swaps reported by the Federal Reserve for 2005. That is, if the long-term swap rate were 25 percent higher than the short-term swap rate, the Department would inflate the average short-term lending rate by 25 percent to arrive at a long-term interest rate benchmark. This methodology is appropriate because the ratio between short-term and long-term interest rate swap rates offers an estimate of the market consensus premium that borrowers would pay on a long-term loan over a short-term loan. *See CFS Final* at Comment 11.

Benchmarks for Foreign Currency-Denominated Loans: For foreign currency-denominated loans, the Department was unable to locate sufficient data on short-term lending rates for the countries in the basket of ''lower middle-income countries'' used for its benchmark for RMB loans. As a result, for purposes of this preliminary determination, to determine the benefit from countervailable foreign currency-denominated loans, the Department used as a benchmark the one-year dollar interest rates for the London Interbank Offering Rate (LIBOR), plus the average spread between LIBOR and the one-year corporate bond rates for companies with a BB rating. Bloomberg provides data on average corporate bond rates for companies with a range from A-rated to B-rated. *See* Bloomberg data, placed on the record of this investigation in *Loan Benchmark Information Memorandum*. For this preliminary determination, we have determined that BB-rated bonds, which are the highest non-investment-grade and near the middle of the overall range, are the most appropriate basis for calculating the spread over LIBOR. Several of the countries in the basket report bond rates, but not all of these countries report corporate bond rates and none report corporate bond rates for firms in the industrial sector. The Department therefore relied on corporate bond rates for the industrial sector in the United States and the eurozone, because the market for dollars and euros is international in scope.

On November 9, 2007, petitioners filed comments on the calculation of the loan benchmark. They suggested two changes to the methodology. First, they argue that the use of a GDP deflator would be a more appropriate adjustment for inflation than the use of the CPI. Second, they argue that there is more appropriate information than the ratio between one- and five-year interest rate swap rates to use in converting short-term interest rates to long-term interest rates. For purposes of this preliminary determination, we have decided not to make any adjustments to our benchmark rate methodology; however, we invite interested parties to comment on these proposals and will consider all comments on the benchmark in our final determination.

SOE Status of Guizhou Tire and TUTRIC

Guizhou Tire has repeatedly noted what it perceives as the Department's failure to provide a definition of an SOE, implying that its SOE status is in doubt. However, as it states on page 5 of its October 15 questionnaire response, 33.39 percent of its total shares outstanding are ''state-owned.'' Not only are 33.39 percent of its shares state-owned by Guiyang State Asset Investment Management Company (GAMC), but the next largest shareholder owns only one percent. Thus, no other shareholder is in a position to challenge GAMC's dominance. In addition, public information indicates GAMC's self-described purpose is to play the role of an owner of SOEs. *See* November 28 Bridgestone comments, Exhibit 6. Finally, we note Guizhou Tire received benefits under the State Key Technologies Renovation Project Fund. According to the GOC, only SOEs were eligible for this program. *See* September 24, 2007 GOC questionnaire response in the CVD investigation of laminated woven sacks, page 29 (''only state-owned enterprises and state-holding enterprises are eligible for this program''), a public version of which has been placed on the record of this investigation. Thus, the GOC considers Guizhou Tire to be an SOE. With regard to TUTRIC, based on the information on the record, the Department is treating TUTRIC as both an SOE and FIE. *See*, *e.g.*, October 15 TUTRIC questionnaire response, page 9.

Analysis of Programs

Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

I. Programs Preliminarily Determined To Be Countervailable

A. Government Policy Lending

We initiated an investigation of policy loans[17] to the tire industry based on references in the current (*i.e.*, the eleventh) five-year plan of Guiyang municipality to a radial tire project for Guizhou Tire, and references to the auto parts and tire industries in the five-year plans, and similar or related planning documents (*e.g.*, ''catalogues'' of industries designated for development), of Hebei Province, Tianjin, and the central government. In response to our questionnaires, additional information was placed on the record of this investigation by the GOC and Guizhou Tire indicating that the tire industry has been targeted by the GOC, provincial, and/or municipal governments for preferential lending.

Of particular importance, this information indicates the targeting of tire producers by the provinces and certain municipalities relevant to this investigation: Guizhou, Hebei, and Tianjin. As the GOC has explained, provincial and municipality goals and objectives are in conformity with the central policy goals and objectives. Specifically, the central-level plans set goals regarding macroeconomic policies and ''provide a vision for economic development, market and regulatory activities, social administration, and the provision of public services.'' *See* October 29 GOC questionnaire response, pages 13 and 19. The GOC explained that the provincial and municipal five-year plans are drafted based on the goals and objectives of the central-level plans. *Id.* at 21–22. In other words, local governments (*i.e.*, provinces and municipalities) must align their policies with stated central government policies and carry out those polices to the extent that such measures affect their locality. As such, central-level plans should be considered a central government policy or program that local governments adopt and implement through their own five-year plans. *See*, *also*, *CFS Amended Preliminary*, 72 FR at 17492.

For example, the tenth Guizhou five-year plan (2001–2005) provided by the GOC singled out Guizhou Tire for technology renovation for two meridian (*i.e.*, radial) tire lines (OTR tires can be radial tires, as well as ''bias ply'' tires). *See* October 29 GOC questionnaire response, Exhibit GOC–NEW–4–6. The tenth five-year plan also states that ''policy bank loans and loans from abroad should continue to be allocated according to the plans.'' *Id.* In addition, business proprietary information provided in Guizhou Tire's supplemental response indicates Guizhou Tire's importance in earlier five-year plans. *See* Memorandum to Thomas Gilgunn, Program Manager, AD/CVD Operations, Office 6, from Nicholas Czajkowski, Case Analyst,

[17] The Department initiated on Policy Lending to the Chinese Tire Industry and Preferential Loans to SOEs.

''Calculation Memorandum for Guizhou Tire'' (December 7, 2007) (*Guizhou Tire Calculation Memorandum*).

Regarding Hebei Province, the *Hebei Province Science and Technology 11th Five-year Plan & 2020 Long-Term Target*, lists automobile parts and the rubber industry as ''key projects,'' and the *Guidelines for the Implementation of Hebei Province Science and Technology 11th Five-year Plan* directs commercial banks to support ''key projects.'' *See* Bridgestone's September 19 new subsidy allegations, Exhibits 18 and 17, respectively. The ninth Hebei five-year plan also mentions that the ''automobile and components'' industry will, among other industries, be ''developed greatly and stronger,'' *see* October 29 GOC questionnaire response, Exhibit GOC–NEW–4–8, and the tenth five-year plan states that ''auto parts,'' among other industries, ''shall be supported,'' id. at Exhibit GOC–NEW–4–9.

Regarding Tianjin, the eleventh five-year plan states that the ''fine chemical industry {of} tyre . . . will be actively developed,'' among other industries. *Id.* at Exhibit GOC–NEW–4–11. Moreover, the *Tianjin Municipal Directory Catalogue for the Priority Development of High- and New Tech Industries*, published in 2002, which claims that its purpose is to ''guide social funds,'' states, at paragraph 67, that ''the recent industrialization focuses include: Manufacturing Equipment for heavy-duty, light truck and car radial tires.'' *See* Bridgestone's September 5 New Subsidy Allegations at Exhibit 38. The Department noted in our investigation of CFS from the PRC that the NDRC equates ''social funds'' with loans, among other things. *See* Memorandum to Susan H. Kuhbach, Director, AD/CVD Operations, Office 1, from Lawrence Norton, Senior International Economist, ''Government of the People's Republic of China Verification Report: Policy Lending'' (August 20, 2007), a public version of which has been placed on the record of this investigation.

Therefore, the Department preliminarily determines that the loans received by all three respondents and their cross-owned affiliates from SOCBs were made pursuant to a GOC policy to provide loans to the tire industry. The record indicates Guizhou Tire has been a key target for economic development by Guizhou province and Guiyang municipality since at least the eighth five-year plan. Furthermore, according to the translated excerpts provided by the GOC, the number of such specifically targeted enterprises is limited. For example, the GOC translated section 6 of the tenth Guizhou five-year plan, ''Traditional industry shall be improved through high technology.'' This section mentions only three other companies besides Guizhou Tire. In addition to making clear the importance of Guizhou Tire in the economic development of the province, the plan also is clear that loans are one means of development. Furthermore, the tenth Guizhou plan states explicitly, as noted above, the general directive that ''policy loans'' should be allocated according to the plans.

In contrast to the Guizhou province and Guiyang municipalities plans, the plans for Hebei Province and Tianjin do not mention, insofar as the GOC provided translations, particular enterprises or particular projects. They do, however, refer to particular industries targeted for development. As discussed above, Hebei Province refers to the auto parts and rubber industries,[18] and Tianjin refers to the tire industry (and, at least in one case, to heavy duty tires). Also as discussed above, each of these provinces provides direction in documents implementing their five-year plans for the use of loans to ''guide'' and ''assist'' targeted industries.

Thus, for the reasons discussed above, we preliminarily determine that this loan program is *de jure* specific pursuant to section 771(5A)(D)(i) of the Act. We also determine the program provides direct financial contributions by the GOC (*i.e.*, government policy banks and SOCBs) pursuant to section 771(5)(D)(i) the Act. *See CFS Final* at Comment 8. Finally, this program provides benefits to the recipients equal to the difference between what the recipients paid on loans from government-owned banks and the amount they would have paid on comparable commercial loans, pursuant to section 771(5)(E)(ii) of the Act.

Two of the respondents, as well as their cross-owned affiliates, report long-term loans from state-owned banks outstanding during the POI. Except for TUTRIC and DCB, the reported loans were all disbursed after December 11, 2001, the date the Department has preliminarily determined to be the date from which the Department will identify and measure subsidies in the PRC. TUTRIC's and DCB's long-term loans ''date back to the 1980s and 1990s,'' before December 11, 2001. It is apparent, however, that the original terms and conditions of these loans have altered over time. Based on the Department's analysis of the information provided by TUTRIC and the GOC, we preliminarily determine that TUTRIC's treatment of these loans, and the GOC's ongoing acceptance of this treatment, has created new and recurring subsidies conferring benefits since 2001 and during the POI. Most of the details about these loans are business proprietary; for a more complete discussion see Memorandum to Thomas Gilgunn, Program Manager, AD/CVD Operations, Office 6, from Jack Zhao, Case Analyst, ''Calculation Analysis for TUTRIC'' (December 7, 2007) (*TUTRIC Calculation Memorandum*). For purposes of this preliminary determination, we are treating these as new loans received during the POI. We intend to continue seeking additional documentation regarding these loans which we will consider for the final determination. In addition to these long-term loans, two of the respondents and their cross-owned affiliates had short-term loans, disbursed in 2005 and 2006 with balances outstanding during the POI.

To calculate the benefit, for all companies including TUTRIC, we used the interest rates described in the ''Loan Benchmark'' section above and the methodology described in 19 CFR 351.505(c)(1) and (2). We divided the benefit to each company by the appropriate sales denominator to calculate subsidy rates of 1.49, 0.45, 3.40 percent *ad valorem* for Guizhou Tire, Starbright, and TUTRIC, respectively.

B. Provision of Land for Less Than Adequate Remuneration to SOEs

Petitioners allege that the GOC offers free land to SOEs in key strategic sectors. Petitioners also note that the Department concluded in the *August 30 Memorandum* (referred to above in our discussion of loan benchmarking) that SOEs own a significant amount of land-use rights that they receive free of charge. As explained above, both Guizhou Tire and TUTRIC are SOEs.

Petitioners also allege that the GOC has a policy of providing land-use rights to certain FIEs on a preferential basis. According to petitioners, FIEs that are either product export enterprises or technologically advanced enterprises are entitled to caps on the land-use fees that can be charged to them, and in some cases are exempt from such fees altogether.

Guizhou Tire and its cross-owned affiliates (throughout this section

[18] The radial tire project discussed in the Guiyang municipality plan is discussed within the context of identifying automobile parts as a key industry. *See* the Bridgestone October 1 submission. Thus, given the parallels among the central and provincial five-year plans, it appears the GOC and provincial and municipal governments consider radial tires, which include OTR tires, to be part of the automobile parts industry.

collectively referred to as Guizhou Tire) reported details concerning three tracts of land used in the production and sale of subject merchandise. Among many other questions the Department asked concerning these three tracts of land, we asked whether the relevant land-use rights are considered either granted land-use rights or allocated land-use rights. *See* November 27 Guizhou Tire supplemental questionnaire response, page 29. Guizhou Tire did not answer this question. Based on the information the Department has collected in other cases concerning PRC land-use rights (*e.g.*, the *August 30 Memorandum*), answers given in response to this question by the two other respondents, and the business-proprietary details given by Guizhou Tire regarding its three land-use agreements, we conclude that Guizhou Tire was likely provided with allocated land-use rights for one of its three tracts (''tract number 3''). Business proprietary information also indicates that these rights were essentially conferred after December 11, 2001. *See* Memorandum to Thomas Gilgunn, Program Manager, Office of AD/CVD Enforcement 6, from Mark Hoadley, Case Analyst, ''Analysis of Land-Use Rights for OTR Tires Respondents,'' December 7, 2007 (*Land Analysis Memorandum*).

As discussed in the *LWS Preliminary*, there are two main types of land-use rights in China: ''granted'' (sometimes referred to as ''conveyed'') and ''allocated.'' The GOC transfers allocated land-use rights to state entities for a nominal one-time charge and annual fee. These allocated land-use rights do not expire, may not be leased or mortgaged, and can be transferred (or shared for commercial purposes) legally only if they are first converted to granted land-use rights, *i.e.*, those rights transferred to private entities as described below. *See August 30 Memorandum* at 43, citing to Ho, Samuel P.S., and Lin, George C.S., ''Emerging Land Markets in Rural and Urban China: Policies and Practices'' (The China Quarterly, 2003), 687–8, stating that ''(a)llocation is used to dispense land use right to state-owned or non profit users without time limits and conveyance is used to transfer land-use rights to commercial users for a fixed period . . . state units are able to obtain land use rights at costs that are much lower than those paid by commercial users and with no time limit.'' Allocated land-use rights are substantially different from granted land-use rights, which were the type of land-use rights at issue in the *LWS Preliminary*. Granted land-use rights can be purchased by private entities directly from the government on the ''primary market'' or from other granted land-use rights holders on the ''secondary'' market. Granted land-use rights can be transferred or mortgaged and require a large up-front fee, but carry no annual fees aside from taxes. *See August 30 Memorandum* at 43–44. Therefore, the information on the record indicates that allocated land-use rights, which can only be transferred to state entities and which are subject to significantly different terms than granted land-use rights, are specific to SOEs pursuant to section 771(5A)(D)(i) of the Act.

Accordingly, the Department preliminarily determines that certain land-use rights of Guizhou Tire, provided after December 11, 2001, are countervailable. The allocated land rights provided to Guizhou Tire are available only to SOEs and thus are specific under section 771(5A)(D)(i) of the Act. We further determine that the GOC's provision of land rights is a financial contribution within the meaning of section 771(5)(D)(iii).

Finally, the Department has determined that the provision of these rights provided a benefit pursuant to 19 CFR 351.511(a). Pursuant to section 771(5)(E)(iv) of the Act, a benefit is conferred when the government provides a good or service for less than adequate remuneration. Section 771(5)(E) of the Act further states that ''the adequacy of remuneration shall be determined in relation to prevailing market conditions for the good or service being provided in the country which is subject to the investigation or review. Prevailing market conditions include price, quality, availability, marketability, transportation, and other conditions of sale.'' Section 351.511(a)(2) of the Department's regulations sets forth the basis for identifying comparative benchmarks for determining whether a government good or service is provided for less than adequate remuneration. These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation; (2) world market prices that would be available to purchasers in the country under investigation; or (3) an assessment of whether the government price is consistent with market principles.

The Department Cannot Apply a First Tier Benchmark

As a general matter, the most direct means of determining whether a government obtained adequate remuneration is normally through a comparison with private transactions for a comparable good or service, in this case, the sale of land-use rights, in the country. Thus, the preferred benchmark in the hierarchy is an observed market price for the good, in the country under investigation, from a private supplier (or, in some cases, from a competitive government auction) located either within the country, or outside the country (the latter transaction would be in the form of an import, and therefore not applicable to provision of land-use rights). This is because such prices generally would be expected to reflect most closely the commercial environment of the purchaser under investigation. However, a particular problem can arise in applying this standard when the government is the sole supplier of the good or service in the country or within the area where the respondent is located. In these situations, there may be no alternative market prices available in the country (*e.g.*, private prices, competitively-bid prices, import prices, or other types of market reference prices). Moreover, a first tier benchmark is not appropriate where the government accounts for a significant or overwhelming portion of the sales of the good in question or where the government's presence in the market is likely to have produced significant distortions in the price formation of the good. *See Countervailing Duties, Final Rule, Preamble*, 63 FR 65347, 65378 (November 25, 1998) (''Where it is reasonable to conclude that actual transaction prices are significantly distorted as a result of the government's involvement in the market, we will resort to the next alternative in the hierarchy''). In such cases, the ''commercial environment of the purchaser'' is distorted by the overwhelming presence of the government and cannot give rise to a price that is sufficiently free from the effects of government actions. The use of such an internal benchmark would be akin to comparing the benchmark to itself, *i.e.*, such a benchmark would reflect the distortions of the government presence. *See Softwood Lumber*, 67 FR 15545 and accompanying Issues and Decision Memorandum, at 34.

In our analysis of the PRC as a non-market economy in the recent investigation of *Certain Lined Paper Products from the PRC*, we found that real property rights in China remain poorly defined and weakly enforced, with a great divergence between *de jure* reforms and *de facto* implementation of these reforms. *See August 30 Memorandum* at 46. In arriving at this conclusion, the Department also

discussed the extent of government involvement in the PRC land market. This was also the focus of our preliminary determination with regard to a benchmark for land-use rights provided for less than adequate remuneration in the *LWS Preliminary*. In that case, we noted that the government, either at the national or local level, is the ultimate owner of all land in China, and we examined whether the GOC exercises control over the supply side of the land market in China as a whole so as to distort prices in the primary and secondary markets. We preliminarily determined that, given the pervasive intervention of the GOC in the land market in China, the Department cannot rely on prices, private or otherwise, from this market for purposes of a first tier benchmark. *See LWS Preliminary*. Given this recent preliminary determination that covers the same POI as this proceeding and on the basis of the evidence on this record, we continue to find in this proceeding that there are no usable first tier in-country benchmarks to measure the benefit from the transfer of land-use rights during the POI. Our preliminary determination with respect to internal prices for industrial land-use rights necessarily reflects the evidence on the record at this time. We will carefully review and consider all additional information timely submitted on the record during the course of this proceeding regarding the primary and secondary markets, including auctions, tenders and listings, as well as agricultural land conversions and other land assessment, pricing and transfer procedures.

The Department Cannot Apply a Second Tier Benchmark

The second tier benchmark, according to the regulations, relies on world market prices that would be available to the purchasers in the country in question, though not necessarily reflecting prices of actual transactions involving that particular producer. *See* 19 CFR 351(a)(2)(iii). In selecting a world market price under this second approach, the Department will examine the facts on the record regarding the nature and scope of the market for that good to determine if that market price would be available to an in-country purchaser. As discussed in the Preamble, the Department will consider whether the market conditions in the country are such that it is reasonable to conclude that a purchaser in the country could obtain the good or service on the world market. *See Preamble*, 63 FR at 65378. As with the use of import prices discussed above under the first tier benchmark analysis and as discussed in the *LWS Preliminary*, we preliminarily conclude that land, an in situ property, does not lend itself to be considered under this tier.

The Department Is Using a Benchmark from Outside China

Since we are not able to conduct our analysis under the second tier of the regulations, consistent with the hierarchy, we next consider whether the government pricing of land-use rights is consistent with market principles. This approach is also set forth in section 351.511(a)(2)(iii) of the Department's regulations and is explained further in the Preamble:

> {W}here the government is the sole provider of a good or service, and there are no world market prices available or accessible to the purchaser, we will assess whether the government price was set in accordance with market principles through an analysis of such factors as the government's price-setting philosophy, costs (including rates of return sufficient to ensure future operations), or possible price discrimination. In our experience, these types of analysis may be necessary for such goods or services as electricity, land leases or water, and the circumstances of each may vary widely.

See Preamble, 63 FR at 65378. The regulations do not specify how the Department is to conduct such a market principle analysis. By its very nature, this analysis depends upon available information concerning the market sector at issue and, therefore, must be developed on a case-by-case basis. Consistent with the *LWS Preliminary*, we preliminarily determine in the instant case that due to the weak definitions and protection of property rights, the overwhelming presence of government involvement in the land-use rights market, as well as the documented deviation from the authorized methods of pricing and allocating land, the purchase of land-use rights in China is not conducted in accordance with market principles.

Given this finding, we looked for an appropriate basis to determine the extent to which land-use rights are provided for less than adequate remuneration. Consistent with the *LWS Preliminary*, we have preliminarily determined that this analysis is best achieved by comparing the prices for land-use rights in China with comparable market-based prices in a country at a comparable level of economic development that is in a reasonably proximate region to China. In the *LWS Preliminary*, we concluded that the most appropriate benchmark for respondents' land-use rights was the sales of certain industrial land plots in industrial estates, parks and zones in Thailand. In that recent case, we relied on prices from a real estate market report on Asian industrial property that was prepared outside the context of any Department proceeding by an independent and internationally recognized real estate agency with a long-established presence in Asia. *See* attachments 5, at 3, and 3, at 3, of the *Land Benchmark Memorandum* (collectively, the Asian Industrial Property Reports). In relying on a land benchmark from Thailand, we noted that China and Thailand have similar levels of per capita GNI, namely, $2010 and $2990, respectively; *see* attachment 6 of the *Land Benchmark Memo*, and that population density in China and Thailand are roughly comparable, with 141 persons per square kilometer (k^2) in China and 127/k^2 in Thailand, *id*. at attachment 6. Additionally, we noted that producers consider a number of markets, including Thailand, as an option for diversifying production bases in Asia beyond China. Therefore, the same producers may compare prices across borders when deciding what land to buy. In that case, we cited to a number of sources which named Thailand as an alternative production base to China. *See* Asian Industrial Property Reports; *see*, *also*, ''Japan firms rate Vietnam best alternative to China,'' Nikkei Weekly, April 10, 2006, ''FY2005 Survey of Japanese Firms' International Operations,'' Japan External Trade Organization, March 2006 at 1, and ''JETRO Releases its Latest Survey of Japanese Manufacturers in ASEAN and India.''

Given the recent *LWS Preliminary* that covers the same POI as in this proceeding and on the basis of the evidence on this record, we continue to preliminarily determine that the ''indicative land values'' for land in Thai industrial zones, estates and parks outlined in the Asian Industrial Property Reports present a reasonable and comparable benchmark for the value of the land at issue in this investigation. However, as discussed above, there are two main types of land-use rights in China: ''granted'' and ''allocated.'' Granted land-use rights, which were the types of land-use right at issue in *LWS Preliminary*, require a large up-front fee, but carry no annual fees aside from taxes. Such land-use rights can be transferred or mortgaged, and are akin to an outright purchase of land. In contrast, allocated land-use rights are transferred to state entities, do not expire, may not be leased or mortgaged and are subject to an annual fee. Allocated land-use, therefore, more

closely resembles a lease or rental arrangement than a one-time purchase.

Because the land-use rights at issue in the instant investigation are allocated land-use rights, we looked for an appropriate basis to determine a benchmark for the market-value annual rent on industrial land. As stated above, we continue to find that the ''indicative land values'' outlined in the Asian Industrial Property Reports present a reasonable and comparable benchmark for the value, *i.e.*, an outright purchase price, of the land at issue in this investigation. In order to assess the appropriate *rental value* of such land, we looked for an appropriate ''property yield'' for commercial land in Thailand, *i.e.*, the annual cash flow from rent that a land owner in Thailand should expect to earn. We found that the same source that compiled the Asian Industrial Property Reports, also prepares market reports on ''property yields'' and real estate investment trusts (REITs) in Asia and Thailand. The reported property yields in Thailand range from 3 to 11 percent, and are related to a variety of real estate holdings from housing to factories. However, none is specific to industrial land. *See* Thailand Investment MarketView, Q3 2007 at 3, a public version of which has been placed on the record of this investigation. REITs are trusts that are dedicated to owning and/or operating income-producing real estate. Dividends from REITs are based on the income, often rent, generated from the real estate holdings. REITs in Thailand hold a variety of commercial real estate, including real estate dedicated to industrial production and manufacturing. *Id.* at 2. Although these REITs portfolios also hold non-industrial real estate, we note that there is a wide range of returns and, furthermore, there is nothing on the record to indicate that industrial land would yield a higher or lower income than other types of real estate property in Thailand. We therefore preliminarily determine that the dividend yields from such REITs provide a reasonable basis to estimate property yields for industrial land in Thailand. The average dividend yield of REITs in Thailand in the period contemporaneous with the one-time purchase benchmark established in the LWS preliminary is 7.4 percent, which is also consistent with the spread in property yields discussed above. *See* REITs Around Asia at 2, a public version of which has been placed on the record of this investigation.

In order to calculate an annual rent, we multiplied this annual yield percentage by the up-front purchase price per square foot (psf) established in the *LWS Preliminary* to arrive at an annual psf rental rate. In order to calculate the benefit, we first multiplied the benchmark rental rate (adjusted to the POI) by the total area of the countervailable land. We then made adjustments for fees paid by Guizhou Tire to derive the total POI benefit. We divided the 2006 benefit by the appropriate sales denominator to calculate a subsidy rate of 0.11 percent *ad valorem* for Guizhou Tire.

As discussed above, we have considered certain economic and demographic factors in arriving at this conclusion. However, we also note that other factors may inform this decision, including the availability of data on prices, investment flows, availability of land, and industry density in a certain region. We intend to continue to explore this issue and invite comments from the parties.

While TUTRIC reported that it received granted land-use rights, the details of its narrative and supporting documentation indicate it received the benefits of allocated rights. In particular, it pays a yearly fee not typically associated with granted rights. In fact, according to the *August 30 Memorandum* at 43, granted rights ''require a large up-front fee but carry no annual fees aside from taxes.'' According to TUTRIC's November 27 supplemental response (bottom of page 17), the annual fee paid by TUTRIC is not a tax, but a ''price'' which is periodically changed by the local administration (*e.g.*, according to TUTRIC, the land authority increased the price in 2007). It also states in Exhibit 11 of its October 15 questionnaire response that it records its yearly fee in its financial records as ''land-use fees.'' While TUTRIC also reported paying an up-front fee in the mid-1980s, which is not inconsistent with either allocated or granted rights, the business proprietary breakdown of this fee indicates it might be more accurately characterized as an ''expropriation'' fee (as TUTRIC explains in its November 27 supplemental response, its land was originally farm land, which the city agreed to ''zone'' for industrial use on TUTRIC's behalf). *See Land Analysis Memorandum.*

DCB also acquired land-use rights fitting the description of allocated rights (DCB did not state whether its rights were allocated or granted). According to DCB, its land was originally provided free of charge, but today it pays an annual fee. Moreover, the business proprietary details of the land-use documents provided in Exhibit 14 of its November 27 questionnaire response closely fit the description given in the *August 30 Memorandum* of allocated rights. *See Land Analysis Memorandum.*

While Starbright is not an SOE, its response indicates that it may have been awarded allocated land. These land transactions appear to be part of Starbright's 2006 CIO. We also note that business proprietary information indicates local authorities may have based their approval of Hebei Tire's asset sale in part on the export performance of Starbright. *See Land Analysis Memorandum.*

The Department preliminarily determines that additional information is needed to evaluate the land-use rights of both TUTRIC and Starbright. Specifically, for TUTRIC and DCB, further information is required regarding the details of their transactions (for example, TUTRIC provided summaries of several land-use documents, instead of the documents themselves). For Starbright, as discussed in the ''Change in Ownership'' section above, further information is required regarding Hebei Tire and its asset sale to Starbright. We intend to issue an interim analysis describing our preliminary findings with respect to this program before the final determination so that parties will have the opportunity to comment on our findings before the final determination.

C. Tax Subsidies to FIEs in Specially Designated Geographic Areas

Petitioners allege that FIEs located in special designated locations (*e.g.*, new-technology and high-technology zones, special economic zones, and economic and technological development zones) pay income tax at reduced rates. Under this program, such zones have reduced income tax rates for FIEs (*e.g.*, from 30 to 24 percent) pursuant to Article 7 of the FIE Tax Law. According to the GOC, for FIEs established in a coastal economic development zone, a special economic zone, or an economic technology development zone, the applicable corporate income tax rate is 15 percent or 24 percent, depending on the zone.

The GOC reports on page 46 of its October 15 questionnaire response that TUTRIC is located in a coastal economic development zone, and the applicable tax rate for TUTRIC during the POI was 24 percent. TUTRIC's 2006 tax return shows that the income tax rate was reduced from 30 percent to 24 percent. TUTRIC's parent company, as well as Guizhou Tire and its cross-owned affiliates, reported that they did not use this program. Starbright is an FIE, but did not benefit under this program during the POI. The 2005 income tax

returns (filed in 2006) submitted by these companies confirm that these companies did not claim a lower tax rate during the POI.

We preliminarily determine that the exemption or reduction in the income tax paid by FIEs in specially designated geographic areas under this program confers a countervailable subsidy. The exemption/reduction is a financial contribution in the form of revenue forgone by the GOC and it provides a benefit to the recipients in the amount of the tax savings. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We also preliminarily determine that the exemption/reduction is limited to enterprises located in designated geographical regions and, hence, is specific under section 771(5A)(D)(iv) of the Act. The Department also found this program to be countervailable in the CFS and LWS investigations. *See CFS Amended Preliminary*, 72 FR at 17494 (and confirmed in *CFS Final*, 72 FR 60645), and *LWS Preliminary*, 72 FR 67893.

To calculate the benefit from this program to TUTRIC, we treated the income tax exemption claimed by TUTRIC as a recurring benefit, consistent with 19 CFR 351.524(c)(1). To compute the amount of tax savings, we compared the tax rate paid to the rate that would have been paid by TUTRIC otherwise (24 versus 30 percent) and multiplied the difference by TUTRIC's taxable income. In accordance with 19 CFR 351.525(b)(6)(i), we attributed the benefit received to the total sales of TUTRIC. Additional information on this calculation is provided in the calculation analysis memorandum for TUTRIC. *See TUTRIC Calculation Memorandum*. On this basis, we preliminarily determine a countervailable subsidy of 0.13 percent *ad valorem* for TUTRIC for this program.

D. Local Income Tax Exemption and Reduction Programs for ''Productive'' FIEs

Petitioners allege that pursuant to Article 9 of the FIE Tax Law and Article 71 of Decree 85 of the Council of 1991, local provinces can establish eligibility criteria and administer the application process for local income tax reductions or exemptions for FIEs, effectively extending the tax exemptions or reductions that are allowed to FIEs by the national Two Free, Three Half program.

In its questionnaire response, TUTRIC stated it received benefits under this program and its tax return filed during the POI confirms it benefitted from this program. In addition, the GOC reports on page 75 of its October 15 questionnaire response that TUTRIC participated in this program during the POI. TUTRIC's parent company, as well as Guizhou Tire and its cross-owned affiliates, reported that they did not use this program. Starbright is an FIE, but did not claim a benefit under the program on the tax return it filed in 2006. The income tax returns submitted by these companies confirm they did not benefit from this program.

We preliminarily determine that the exemption or reduction in the local income tax paid by ''productive'' FIEs under this program confers a countervailable subsidy. The exemption/reduction is a financial contribution in the form of revenue forgone by the government and it provides a benefit to the recipients in the amount of the tax savings. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We also preliminarily determine that the exemption/reduction afforded by this program is limited as a matter of law to certain enterprises, ''productive'' FIEs, and, hence, is specific under section 771(5A)(D)(i) of the Act. The Department has also found this program to be countervailable in the CFS and LWS investigations. *See CFS Amended Preliminary*, 72 FR at 17494 (and confirmed in the *CFS Final*, 72 FR 60645), and *LWS Preliminary*, 72 FR at 67893.

To calculate the benefit from this program to TUTRIC, we treated the income tax exemption claimed by TUTRIC as a recurring benefit, consistent with 19 CFR 351.524(c)(1). To compute the amount of tax savings, we compared the tax rate paid to the rate that would have been paid by TUTRIC otherwise (the standard local rate is 3 percent) and multiplied the difference by TUTRIC's taxable income. In accordance with 19 CFR 351.525(b)(6)(i), we attributed the benefit received to the total sales of TUTRIC. Additional information on this calculation is provided in the calculation analysis memorandum for TUTRIC. *See TUTRIC Calculation Memorandum*. On this basis, we preliminarily determine a countervailable subsidy of 0.06 percent *ad valorem* for TUTRIC.

E. VAT and Tariff Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries

Petitioners allege that the *State Councils's Circular on Adjusting Tax Policies on Imported Equipment* (Guofa No. 37) (*Circular No. 37*) exempts both FIEs and certain domestic enterprises from paying import tariffs and VAT on imported equipment provided that these goods are not for resale. Enacted in 1997, *Circular No. 37* exempts both FIEs and certain domestic enterprises from the VAT and tariffs on imported equipment used in their production. The National Development and Reform Commission (NDRC) and the General Administration of Customs are the government agencies responsible for administering this program. The objective of the program is to encourage foreign investment and to introduce foreign advanced technology equipment and industry technology upgrades. Domestic industries may be exempted from tariffs and VAT on certain imported equipment as long as the equipment being imported does not fall under the *Directory of Imported Commodities of Non-Tax Exemption to be Used in Domestic Invested Projects*. FIEs may be exempted from tariffs and VAT of certain imported equipment as long as the equipment being imported does not fall under the *Directory of Imported Commodities of Non-Tax Exemption to be Used in Foreign Invested Projects*.

Both Guizhou Tire and TUTRIC reported in their October 15 questionnaire responses that they applied for, and received, VAT and tariff exemptions for imports of equipment during the POI. Guizhou Tire reported that it was entitled to these exemptions because of its status as an ''encouraged project'' (*i.e.*, a domestic enterprise that engaged in activities listed in the *Catalogue of Key Industries, Products and Technologies the Development of Which is Encouraged by the State*) and because it imported equipment during the POI which was not listed in the *Directory of Imported Commodities of Non-tax Exemption to be Used in Domestic Invested Projects*. TUTRIC reported that it was entitled to these exemptions because of its status as an FIE which imported equipment during the POI which did not fall into the *Directory of Imported Commodities of Non-tax Exemption to be Used in Foreign Invested Projects*.

We preliminarily determine that the exemptions on VAT and tariffs on purchases of imported equipment during the POI confer a countervailable subsidy. These exemptions provide a financial contribution in the form of revenue forgone by the GOC. They provide a benefit to the recipients in the amount of the VAT and tariffs saved. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.510(a)(1). As described above, certain domestic enterprises are eligible to receive VAT and tariff

exemptions under this program as well as FIEs. Based on the information provided by the GOC, it does not appear that the addition of these domestic enterprises broadens the reach or variety of users sufficiently to render the program non-specific. *See CFS Final* at Comment 16, discussing and affirming the preliminary determination that this program is specific under section 771(5A)(D)(iii)(I) of the Act despite the fact that the ''pool of companies eligible for benefits is larger than FIEs.'' For example, to be eligible, Guizhou Tire (not a FIE) had to qualify as an ''encouraged project'' (*i.e.*, a domestic enterprise that engaged in activities listed in the Catalogue of Key Industries, Products and Technologies the Development of Which is Encouraged by the State). Therefore, we preliminarily find the VAT and tariff exemptions to be specific under section 771(5A)(D)(iii)(I) of the Act.

Since these VAT and tariff exemptions were for the purchase of capital equipment, we are treating these exemptions as non-recurring benefits in accordance with 19 CFR 351.524(c)(2)(iii). *See*, *also*, LWS Preliminary (countervailing a rebate for the purchase of capital equipment as a non-recurring benefit under a similar VAT program). Guizhou Tire and TUTRIC reported that they received these exemptions during the POI. To determine the benefit, we first conducted the ''0.5 percent test.'' *See* 19 CFR 351.524(b)(2). We summed the VAT and tariff exemptions Guizhou Tire and TUTRIC received and divided that sum by each company's sales during the POI in accordance with the attribution rules described in 19 CFR 351.525(b)(6). As a result, we found that the benefits were less than 0.5 percent of relevant sales during the POI for both Guizhou Tire and TUTRIC. Thus, Guizhou Tire's and TUTRIC's VAT and tariff exemptions should be allocated to the year of receipt (*i.e.*, 2006, the POI). On this basis, we preliminarily determine a countervailable subsidy of 0.03 and 0.17 percent *ad valorem* for Guizhou Tire and TUTRIC, respectively.

F. The State Key Technologies Renovation Project Fund

Petitioners state that the State Key Technology Renovation Project Fund (Key Technology Program) was created pursuant to state circular Guojingmaotouzi No. 886 (*Circular No. 886*) in 1999 to promote technologies in targeted sectors, and operates under the regulatory guidelines provided in the circular. The circular was issued by the former State Economic and Trade Commission (SETC), the former State Planning Commission (SPC), the Ministry of Finance (MOF) and the People's Bank of China (PBC). The purpose of this program is to promote: 1) technological renovation in key industries, key enterprises, and key products; 2) facilitation of technology upgrade; 3) improvement of product structure; 4) improvement of quality; 5) promotion of domestic production; 6) increase of supply; 7) expansion of domestic demand; and 8) promotion of continuous and healthy development of the state economy.

Under the Key Technology Program, companies can apply for funds to cover the cost of financing specific technological renovation projects. Pursuant to Article 4 of *Circular No. 886*, the recipients of these funds will mainly be selected from large-sized state-owned enterprises and large-sized state holding enterprises among the 512 key enterprises, 120 pilot enterprise groups and the leading enterprises in industries. To be considered for funding, the enterprise files an application that is reviewed at various levels of government, with final approval given by the State Council.

The GOC has further reported that the Key Technology Program has not operated since 2003, although the implementing regulations remain in effect. This is due to institutional reform in the government. The implementing agency, the SETC, was dissolved and the program was not taken over by another agency. The GOC and Guizhou Tire have reported that Guizhou Tire received benefits under the Key Technology Program to assist in Guizhou Tire's development of a production line before the program ceased operation in 2003. This production line was involved in the production of both subject and non-subject merchandise.

We preliminarily determine that the Key Technology Program provides countervailable subsidies to Guizhou Tire within the meaning of section 771(5) of the Act. Guizhou Tire notes that only a certain portion of the merchandise produced from the production line was subject merchandise. However, Guizhou Tire has provided insufficient evidence to demonstrate that these subsidies were tied to non-subject merchandise, pursuant to19 CFR 351.525(b)(5). *See Guizhou Tire Calculation Memorandum* for details. We find that these grants are a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act, providing a benefit in the amount of the grant. *See* 19 CFR 351.504(a). We further preliminarily determine that the grants provided under this program are limited as a matter of law to certain enterprises, *i.e.*, large-sized state-owned enterprises and large-sized state holding enterprises among the 512 key enterprises, 120 pilot enterprise groups and the leading enterprises in industries, and, hence, are specific under section 771(5A)(D)(i) of the Act.

According to the GOC, the program supports state key technological renovation projects through project investment or loan interest grants. Therefore, consistent with 19 CFR 351.524(c)(1), we are treating the grants received under this program as ''non-recurring.'' To measure the benefits of each grant that are allocable to the POI, we first conducted the ''0.5 percent test'' for each grant. *See* 19 CFR 351.524(b)(2). We divided the total amounts approved in each year by the relevant sales for those years. As a result, we found that a grant provided in one year was greater than 0.5 percent of relevant sales and was properly allocated over the AUL.

To calculate the countervailable subsidy rate, we divided the benefits attributable to the POI by the total value of Guizhou Tire's total sales during the POI. On this basis, we preliminarily determine the countervailable subsidy rate to be 0.12 percent *ad valorem* for Guizhou Tire.

G. Provision of Natural and Synthetic Rubber by SOEs for Less than Adequate Remuneration

Bridgestone alleges that the GOC, through state-owned rubber producers, provides domestic tire producers with natural and synthetic rubber at prices that do not reflect adequate remuneration. In its questionnaire response, the GOC states that the production and purchase price of both natural and synthetic rubber in the PRC are driven by market forces. *See* October 29 GOC questionnaire response at 11. The GOC also states that it does not regulate the price of rubber products, nor does it interfere with the decision making or day-to-day operations of natural and synthetic rubber producers or consumers. *Id.* The GOC reported that the users of rubber in the PRC included the following industries: tires; rubber bands and tubes; shoes; machinery components; and commodity products. The GOC claims not to be aware of any particular industries that receive preferential prices for rubber. In our initial new subsidy allegation questionnaire, we asked the GOC to explain the nature of its relationship with rubber suppliers and to state whether they are owned by the government. The GOC did not answer our question regarding state ownership of rubber suppliers. *Id.* at 10. In our

supplemental questionnaire dated November 14, 2007, we asked the GOC to provide a complete list of producers and sellers of rubber in China and to indicate the state's ownership interest in each producer. The GOC did not provide a complete list of rubber producers and sellers and did not indicate the state's ownership interest in any producer. *See* November 27 GOC supplemental questionnaire response at 30.

All three respondents reported purchases of natural and synthetic rubber during the POI, and provided a breakdown of purchases from each supplier. Although the Department requested respondents to identify which suppliers were SOEs, Guizhou Tire did not provide this information. Instead, Guizhou Tire stated that the Department had not defined the term SOE in its questionnaires and that it is unable to ''discern accurately all of the shareholders of its rubber suppliers.'' *See* October 29 Guizhou Tire questionnaire response at 8; *see*, *also*, November 27 Guizhou Tire supplemental questionnaire response at 42.

Based on the record evidence, we preliminarily determine that the provision of natural and synthetic rubber by SOEs to OTR tire producers in the PRC is countervailable. In its response, the GOC listed the industries that use natural and synthetic rubbers: ''tires, rubber bands and tubes, shoes, machinery components and commodity products.'' *See* October 29 GOC questionnaire response at 10. We preliminarily find that these industries are ''limited in number'' and, hence, that the provision of natural and synthetic rubber is specific under section 771(5A)(D)(iii)(I) of the Act. We further determine preliminarily that the GOC's provision of natural and synthetic rubber through SOEs is a financial contribution within the meaning of section 771(5)(D)(iii) and that it confers a benefit under section 771(5)(E)(iv) of the Act to the extent that it is provided for less than adequate remuneration.

To determine whether a benefit has been conferred by the provision of goods, the Department follows the hierarchy set forth in 19 CFR 351.511(a)(2). The potential benchmarks provided in 19 CFR 351.511(a)(2) are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation; (2) world market prices that would be available to purchasers in the country under investigation; or (3) an assessment of whether the government price is consistent with market principles.

Under 19 CFR 351.511(a)(2)(1), the first choice of a benchmark is ''market prices from actual transactions within the country under investigation.'' Because the GOC did not provide the requested information that is necessary for the Department to determine whether we can use domestic prices as a benchmark, we find that we must apply facts available in accordance with sections 776(a)(1) and (2) of the Act.

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply ''facts otherwise available'' if, *inter alia*, necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where 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. If the party fails to remedy the deficiency within the applicable time limits then, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department ''shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority'' if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

We asked the GOC to provide information about the natural rubber and synthetic rubber industries in the PRC including a description of the industry, users of natural rubber and synthetic rubber in the PRC, and whether natural rubber and synthetic rubber producers are SOEs. Only limited information was provided in the GOC's questionnaire response dated October 29, 2007 and its supplemental questionnaire response dated November 27, 2007. In particular, in its October 29, 2007 supplemental questionnaire response, the GOC did not provide a complete list of rubber suppliers or indicate the level of its ownership interest in any rubber producer. Thus, we are not able to gauge the extent of government involvement in the PRC natural rubber and synthetic rubber industries, determine the extent to which the domestic rubber market are dominated by SOEs, or ascertain the extent to which government involvement distorts the prices for these products in the PRC. Accordingly, pursuant to sections 776(a)(2)(A) and 776(a)(2)(C) of the Act, we are relying on facts otherwise available.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (AFA) information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

In selecting from among the facts available for the GOC, the Department has determined that an adverse inference is warranted, pursuant to section 776(b) of the Act. We find that the GOC did not act to the best of its ability in complying with our requests for information because it should have information pertaining to state ownership and control over the rubber industry within its control, but did not provide this information, as described above.

As an adverse inference, we have rejected internal prices in the PRC because we do not know the share of natural rubber or synthetic rubber produced and sold by SOEs in the PRC. As explained in the preambular language addressing 19 CFR 351.511(a), ''While we recognize that government involvement in a market may have some impact on the price of the good or service in that market, such distortion will normally be minimal unless the government provider constitutes a majority, or in certain circumstances, a substantial portion of the market.'' *See Countervailing Duties; Final Rule*, 63 FR 65348, 65377 (November 25, 1998) (CVD Preamble).

Because we have preliminarily determined that we cannot consider domestic prices as a potential benchmark, we turn to the next level of

the hierarchy in section 351.511(a)(2) of the Department's regulations (*i.e*, world market prices that would be available to purchasers in the country under investigation). We have calculated annual 2006 benchmarks for natural rubber and synthetic rubber based on 2006 world market prices for natural rubber and synthetic rubber as reported by the International Rubber Study Group (IRSG).[19] *See* Memorandum to the File, ''Countervailing Duty Investigation on Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Natural Rubber and Synthetic Rubber Benchmarks'' (December 7, 2007) (*Rubber Benchmarks Memorandum*).

We note that the IRSG's natural rubber prices are FOB Singapore and synthetic rubber prices are FAS. Therefore, pursuant to 19 CFR 351.511(a)(2)(iv), we have added freight charges and import charges including VAT to calculate a price for natural rubber and synthetic rubber that Starbright, Guizhou Tire, and TUTRIC would have paid on the world market for these products. We obtained June 2006 freight rates from Maersk Lines. *See Rubber Benchmarks Memorandum*. We obtained the PRC import duties for natural rubber and synthetic rubber from Asia Pacific Economic Cooperation (APEC) Tariff Database at *http://www.apectariff.org/*. Imports of natural rubber into the PRC are subject to an import duty of 20 percent and imports of synthetic rubber into the PRC are subject to an import duty of 7.5 percent. *See Rubber Benchmarks Memorandum*. Finally, we obtained PRC VAT rates from the Decree 134 of the State Council, 1993. *See Rubber Benchmarks Memorandum*.

We also note that Guizhou Tire also did not provide certain requested information. Specifically, in our supplemental questionnaire, we asked Guizhou Tire to identify which of its natural rubber and synthetic rubber suppliers were SOEs. As noted above, Guizhou Tire did not provide this information. Thus, in reaching our preliminary determination, pursuant to sections 776(a)(2)(A) and (C) of the Act, we are relying on facts otherwise available to determine Guizhou Tire's benefit under the government's provision of natural rubber and synthetic rubber for less than adequate remuneration. For the preliminary determination, we have relied on neutral facts available and treated a portion of Guizhou Tire's natural rubber and synthetic rubber as having been purchased from SOEs. Specifically, we have identified certain suppliers of natural rubber and synthetic rubber to Guizhou Tire as SOEs. *See Rubber Benchmarks Memorandum and Guizhou Tire's Calculation Memorandum*. We are treating purchases from these suppliers as purchases from SOEs. We calculated the respective percent of the quantity of total natural rubber and synthetic rubber purchases that Guizhou Tire purchased from known SOEs during the POI. We then applied these percentages to the quantity and value of Guizhou Tire's natural rubber and synthetic rubber purchases from unknown suppliers. *See Rubber Benchmarks Memorandum* and *Guizhou Tire's Calculation Memorandum*.

To calculate the natural rubber benefit, we compared the domestic prices paid by Starbright, Guizhou Tire, and TUTRIC during the POI for natural rubber from SOEs to the 2006 C&F, duty-paid IRSG-based price for natural rubber. We treated the difference in the amounts that Starbright, Guizhou Tire, and TUTRIC would have paid by comparing our calculated benchmark to the amounts actually paid by these companies as the benefit. To calculate the synthetic rubber benefit, we compared the domestic prices paid by Starbright, Guizhou Tire, and TUTRIC for synthetic rubber from SOEs to the 2006 C&F duty-paid IRSG-based price for synthetic rubber. We treated the difference in the amounts that Starbright, Guizhou Tire, and TUTRIC would have paid by comparing our calculated benchmark to the amounts actually paid by these companies as the benefit.

We then summed these two benefits for each company and divided this benefit by that company's respective sales. On this basis, we preliminarily determine a countervailable subsidy of 1.38, 1.92, and 2.82 percent *ad valorem* for Guizhou Tire, Starbright, and TUTRIC, respectively.

II. Programs Preliminarily Determined To Be Not Countervailable

A. Provision of Electricity for Less than Adequate Remuneration

Petitioners allege that the GOC provides electricity to certain FIEs and SOEs on a preferential basis. According to the GOC, electricity in the PRC is produced by numerous power plants and it is transmitted for local distribution by two state-owned transmission companies, State Grid and China South Power Grid. Generally, prices for uploading electricity to the grid and transmitting it are regulated by the GOC, as are the final sales prices. *See Circular on Implementation Measures Regarding Reform of Electricity Prices* (Fagaijiage (2005) No. 514) at Appendix 3 of the *Provisional Measures on Prices for Sales of Electricity* at Article 29 (''Government departments in charge of pricing at various levels shall be responsible for the administration and supervision of electricity sales prices''), provided in the October 15 GOC questionnaire response, Exhibit GOC–G–2.

Electricity consumers are divided into broad categories such as residential, commercial, large-scale industry, and agriculture. The rates charged vary across customer categories and within customer categories based on the amount of electricity consumed. Moreover, among industrial users, certain industries are specifically broken out and these industries receive special, discounted rates. Specifically, Article 8 of the *Provisional Measures on Prices for Sales of Electricity* provides that certain small and medium-sized chemical fertilizer producers shall be provided a separate electricity sales price. All other end users are charged the standard electricity price for industrial and commercial users. Thus, according to the GOC, there is no program to provide electricity at a discounted rate to SOEs or FIEs. The GOC provided a list of benchmark rates by province. We tied the rates reported by respondents to the GOC-provided schedule and to respondents supplier-specific schedules. *See* GOC and respondents' October 15 questionnaire responses and November 27 supplemental questionnaire responses. We saw no indication of discounted rates.[20]

Thus, based on the information on the record there is no indication of provision of electricity to the respondents at less than adequate remuneration pursuant to their status as SOEs or FIEs. On this basis, we preliminarily determine that the GOC's provision of electricity does not confer a countervailable subsidy. *See*, *also*, *CWP Preliminary*, 72 FR at 63883.

[19] The IRSG is comprised of a number of countries including several Asian countries, European countries and the United States. The IRSG provides price data for natural rubber from the commodity exchanges in New York, Singapore, and Europe. The IRSG also provides export price data for synthetic rubber from the USA, Japan, and France.

[20] Guizhou Tire's consolidated financial statements indicate numerous energy subsidies, provided in the form of grants and rebates. We did not have sufficient time to collect information on these potential subsidies; however, in accordance to section 351.501 of the Act, we intend to examine these subsidies further during the course of this investigation and will issue an interim analysis on them prior to the final determination.

B. VAT Export Rebates

Petitioners allege that OTR tire exporters may apply to the tax authorities for a refund up to 13 percent for taxes paid for inputs in exported goods, and that the amount is in excess of the indirect tax levied on the production and distribution of the same product sold in the domestic market. According to the GOC, the ''exemption, deduction and refund'' of VAT applies if a manufacturer exports its self-produced goods by itself or via a trading company. *See* Article 1 of the *Circular on Further Promotion of Methodology of ''Exemption, Deduction, and Refund'' of Tax for Exported Goods* (CAISHUI (2002) No. 7) provided in the GOC October 15 response at Exhibit GOC–P–4. The GOC reported the VAT levied on domestic sales of OTR tires during the POI was 17 percent and the VAT rebated for export sales of OTR tires during the POI was 13 percent.

The Department's regulations state that in the case of an exemption upon export of indirect taxes, a benefit exists only to the extent that the Department determines that the amount exempted ''exceeds the amount levied with respect to the production and distribution of like products when sold for domestic consumption.'' 19 CFR 351.517(a) and 19 CFR 351.102 (for a definition of ''indirect tax''). Because the VAT rebate applicable to exported OTR tires during the POI (13 percent) was less than the VAT levied on domestic sales of OTR tires during the POI (17 percent), the Department preliminarily determines that, for the purposes of this investigation, the VAT refund received upon the export of OTR tires does not confer a countervailable benefit. *See*, *also*, *CWP Prelim*, 72 FR at 63884.

III. Programs Preliminarily Determined To Be Not Used

We preliminarily determine that Guizhou Tire, Starbright, and TUTRIC did not apply for or receive benefits during the POI under the programs listed below.

A. Discounted Loans for Export-Oriented Enterprises

B. Loan Forgiveness for SOEs

C. Foreign Currency Retention Scheme

D. Provision of Land for Less Than Adequate Remuneration to FIEs

E. Preferential Tax Policies for Enterprises with Foreign Investment (Two Free, Three Half Income Program)

F. Preferential Tax Policies for Export-Oriented FIEs

G. Corporate Income Tax Refund Program for Reinvestment of FIE Profits in Export-Oriented Enterprises

H. Tax Benefits for FIEs in Encouraged Industries that Purchase Domestic Origin Machinery

I. VAT Rebate for FIE Purchases of Domestically Produced Equipment

J. Funds for Outward Expansion of Industries in Guangdong Province

K. Export Interest Subsidy Funds for Enterprises Located in Guangdong and Zhejiang Provinces

L. Grants to Loss-Making SOEs

M. Exemption for SOEs from Distributing Dividends to the State

N. Preferential Tax Policies for Advanced Technology Foreign Invested Enterprises

O. Preferential Tax Policies for Knowledge or Technology Intensive FIEs

P. Preferential Tax Policies for High or New Technology FIEs

Q. Preferential Tax Policies for Research and Development by FIEs

R. Provincial Support in Antidumping Proceedings

For purposes of this preliminary determination, we have relied on respondents' submissions to preliminarily determine non-use of the programs listed above. During the course of verification, the Department will further examine whether these programs were used by respondents during the POI.

IV. Programs Preliminarily Determined To Be Terminated

Exemption from Payment of Staff and Worker Benefits for Export Oriented Industries

The Department determined that this program was terminated on January 1, 2002, with no residual benefits. *See CFS Final*, 72 FR 60645.

V. Programs For Which More Information Is Required

A. Grants to the Tire Industry for Electricity

Petitioners allege that the GOC has provided grants to cover a portion of electricity expenses for OTR tire producers. Petitioners also allege that the GOC authorizes local governments to offer grants to tire producers in order to cover the producers electricity costs. Guizhou Tire, Starbright, and TUTRIC stated that they did not receive benefits under this program during the POI. However, according to its financial statements, Guizhou Tire appears to receive subsidies for energy. *See* October 15 Guizhou Tire questionnaire response, Exhibit GTC–5.

At this time, we do not have sufficient information from the GOC or Guizhou Tire to determine whether this assistance received by Guizhou Tire is a countervailable subsidy. We intend to seek further information and issue an interim analysis describing our preliminary findings with respect to this program before the final determination so that parties will have the opportunity to comment on our findings before the final determination.

B. Provision of Water to FIEs for Less than Adequate Remuneration

Petitioners allege that the GOC provides water to certain FIEs on a preferential basis. According to the GOC, water supply is localized in the PRC. Generally, water prices are regulated by local governments pursuant to Article 26.2 of the *Regulation on Administration of City Water Supply* (Decree 158 of the State Council, 1994) provided within the October 15 GOC response at Exhibit GOC–H–1. The GOC states that water prices vary depending on the end user to which the water is provided. The GOC also states that local authorities establish their own categories of end users. End users in each of these categories are charged the same water price.

Guizhou Tire is not an FIE and as such has reported that it is not eligible for this program. *See* October 15 Guizhou Tire questionnaire response at 26. Starbright states it pumps water from its own wells, and therefore the company is not provided water by the GOC. *See* October 15 Starbright questionnaire response at 19. TUTRIC has provided its water bills; however, the company states that it does not have access to any water pricing schedules or tariffs. *See* October 15 TUTRIC questionnaire response at Exhibit 13. The GOC did not provide water pricing

schedules as requested in our supplemental questionnaire. It responded that the Department's investigation ''pertains to an alleged 'program' pertaining to the provision of land and electricity and does not involve the alleged provision of water.'' *See* November 27 GOC supplemental questionnaire at 19. This was the result of a mislabled section heading in our questionnaire, which referred to SOEs, instead of FIEs.

At this time, we do not have sufficient information from the GOC to determine whether TUTRIC received water on a preferential basis. Specifically, we will ask the GOC again for the relevant water pricing schedule and issue an interim analysis describing our preliminary findings with respect to this program before the final determination so that parties will have the opportunity to comment on our findings before the final determination.

C. Debt Forgiveness from State–Owned Banks to Hebei Tire

Bridgestone alleges that, in approving the acquisition of Hebei Tire by Starbright, the Hebei provincial government authorized the transfer of Hebei Tire's SOCB debt at a discount to Starbright (or its parent, GPX) in exchange for equity, thereby forgiving part of the debt. Bridgestone and petitioners also allude to the possibility that Hebei Tire's SOCB debt was forgiven before the transaction, essentially to make it a more attractive buy.

As explained in the ''Change In Ownership'' section above, at this time we do not have sufficient information from the GOC or Starbright regarding the role played by the GOC in the Hebei Tire sale. We intend to seek further information on this question and to issue an interim analysis describing our preliminary findings with respect to this program before the final determination so that parties will have the opportunity to comment on our findings before the final determination.

D. Non-Tradable Share Reform

As mentioned under the ''Case History'' section of this notice, the Department determined to investigate the Non-Tradable Share Reform program on November 14, 2007. Given that the questionnaire responses are due on December 10, 2007 (extended in response to the respondents' request), the Department does not have the information needed to and analyze this program for this preliminary determination. We will therefore analyze the responses to this allegation and address all arguments fully in a post-preliminary analysis memorandum.

Verification

In accordance with section 782(i)(1) of the Act, we intend to verify the information submitted by the respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual rate for each producer/exporter of the subject merchandise. We preliminarily determine the total estimated net countervailable subsidy rates to be:

Exporter/Manufacturer	Net Subsidy Rate
Guizhou Tire Co., Ltd.	3.13
Hebei Starbright Tire Co., Ltd.	2.38
Tianjin United Tire & Rubber International Co., Ltd.	6.59
All-Others	4.44

Sections 703(d) and 705(c)(5)(A) of the Act state that for companies not investigated, we will determine an all-others rate by weighting the individual company subsidy rate of each of the companies investigated by each company's exports of the subject merchandise to the United States. However, the all-others rate may not include zero and *de minimis* rates or any rates based solely on the facts available. In this investigation, all three individual rates can be used to calculate the all-others rate. Therefore, we have assigned the weighted-average of these three individual rates to all-other producers/exporters of OTR tires from the PRC.

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing U.S. Customs and Border Patrol (CBP) to suspend liquidation of all entries of OTR tires from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of merchandise in the amounts indicated above.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(2)(B) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Disclosure and Public Comment

In accordance with 19 CFR 351.224(b), we will disclose to the parties the calculations for this preliminary determination within five days of its announcement. Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. *See* 19 CFR 351.309(c) (for a further discussion of case briefs). Rebuttal briefs must be filed within five days after the deadline for submission of case briefs, pursuant to 19 CFR 351.309(d)(1). A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, pursuant to 19 CFR 351.310(d), at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

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 30 days of the publication of this notice, pursuant to 19 CFR 351.310(c). Requests should contain: (1) the party's name, address, and telephone numbers; (2) the number of participants; and, (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act.

Dated: December 7, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–24397 Filed 12–14–07; 8:45 am]

BILLING CODE 3510–DS–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Extension of Period of Determination for Textile and Apparel Safeguard Action on Imports from Honduras of Cotton, Wool and Man-Made Fiber Socks

December 11, 2007.

AGENCY: The Committee for the Implementation of Textile Agreements (the Committee)

ACTION: Notice.

SUMMARY: The Committee is extending through January 18, 2008 the period for making a determination on whether to request consultations with Honduras regarding imports of cotton, wool and man-made fiber socks (merged Category 332/432 and 632 part).

FOR FURTHER INFORMATION CONTACT: Sergio Botero, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-2487.

SUPPLEMENTARY INFORMATION:

Authority: Title III, Subtitle B, Section 321 through Section 328 of the Dominican Republic-Central America-United States Free Trade Agreement (''CAFTA-DR'' or the ''Agreement'') Implementation Act; Article 3.23 of the Dominican Republic-Central America-United States Free Trade Agreement.

BACKGROUND:

In accordance with section 4 of the Committee's Procedures (''Procedures'') for considering action under the CAFTA-DR textile and apparel safeguard, (71 FR 25157, April 28, 2006), the Committee decided, on its own initiative, to consider whether imports of Honduran origin cotton, wool and man-made fiber socks are being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for cotton, wool and man-made fiber socks, and under such conditions as to cause serious damage, or actual threat thereof, to the U.S. industry producing these products.

On August 21, 2007 the Committee solicited public comments regarding a possible safeguard action on imports from Honduras of cotton, wool and man-made fiber socks (merged Category 332/432 and 632 part). This 30 day period allowed the public an opportunity to provide information and analysis to assist the Committee in considering this issue and in determining whether a safeguard action is appropriate. See **Solicitation of Public Comments Regarding Possible Safeguard Action on Imports from Honduras of Cotton, Wool and Man-Made Fiber Socks**, 72 FR 46611.

The Procedures state that the Committee will make a determination within 60 calendar days of the close of the public comment period as to whether the United States will request consultations with Honduras. However, if the Committee is unable to make a determination within 60 calendar days, it will cause to be published a notice in the Federal Register, including the date, by which it will make a determination.

The original 60-day determination period for this case expired on November 19, 2007. On November 6, 2007, the Committee decided to extend the deadline for making its determination until December 19, 2007. (72 FR 64050, November 14, 2007). At this time, the Committee is unable to make a determination within the extended period because it is continuing to evaluate conditions in the market as well as examining the current trade data and other relevant information available. Therefore, the Committee is further extending the determination period to January 18, 2008.

R. Matthew Priest,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E7–24370 Filed 12–14–07; 8:45 am]

BILLING CODE 3510–DS

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Limitation of Duty-free Imports of Apparel Articles Assembled in Haiti under the Haitian Hemispheric Opportunity Through Partnership for Encouragement Act (HOPE)

December 11, 2007.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Publishing the 12-Month Cap on Duty-Free Benefits

EFFECTIVE DATE: December 17, 2007.

FOR FURTHER INFORMATION CONTACT: Maria Dybczak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3651.

SUPPLEMENTARY INFORMATION:

Authority: The Caribbean Basin Recovery Act (CBERA), as amended by the Haitian Hemispheric Opportunity Through Partnership for Encouragement Act of 2006 (collectively, HOPE), Title V of the Tax Relief and Health Care Act of 2006.

HOPE provides for duty-free treatment for certain apparel articles imported directly from Haiti. Section 213A (b)(2) of HOPE provides duty-free treatment for apparel articles wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, and yarns, if the sum of the cost or value of materials produced in Haiti or one or more countries, as described in HOPE, or any combination thereof, plus the direct costs of processing operations performed in Haiti or one or more countries, as described in HOPE, or any combination thereof, is not less than an applicable percentage of the declared customs value of such apparel articles, subject to quantitative limitation.

Section 213A (a)(1)(B) of HOPE provides that the initial applicable one-year period of quantitative limitation means the one-year period beginning on the date of the enactment of HOPE, beginning on December 20, 2006. Section 213A (b)(3) of HOPE provides that annual quantitative limitations will be recalculated for each subsequent 12-month period. Section 213A (b)(3) of HOPE also provides that the quantitative limitations for qualifying apparel imported from Haiti under this provision for the twelve-month period beginning on December 20, 2007 will be an amount not to exceed 1.25 percent of the aggregate square meter equivalent of all apparel articles imported into the United States in the most recent 12-month period for which data are available. For purposes of this notice, the most recent 12-month period for which data are available as of December 20, 2007 is the 12-month period ending on October 31, 2007.

For the one-year period beginning on December 20, 2007 and extending through December 19, 2008, the quantity of imports eligible for preferential treatment under this provision is 313,000,534 square meters equivalent. Apparel articles entered in excess of these quantities will be subject to otherwise applicable tariffs.

These quantities are calculated using the aggregate square meters equivalent of all apparel articles imported into the United States, derived from the set of Harmonized System lines listed in the Annex to the World Trade Organization Agreement on Textiles and Clothing (ATC), and the conversion factors for units of measure into square meter