

and Constitution Avenue, NW., Washington, DC 20230. See 19 CFR 351.310(d). The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

#### Deadline for Submission of Publicly Available Surrogate Value Information

In accordance with 19 CFR 351.301(c)(3)(ii), the deadline for submission of publicly available information to value FOPs under 19 CFR 351.408(c) is 20 days after the date of publication of the preliminary results. In accordance with 19 CFR 351.301(c)(1), if an interested party submits factual information less than ten days before, on, or after (if the Department has extended the deadline), the applicable deadline for submission of such factual information, an interested party may submit factual information to rebut, clarify, or correct the factual information no later than ten days after such factual information is served on the interested party. However, the Department generally will not accept in the rebuttal submission additional or alternative surrogate value information not previously on the record, if the deadline for submission of surrogate value information has passed.<sup>69</sup> Furthermore, the Department generally will not accept business proprietary information in either the surrogate value submissions or the rebuttals thereto, as the regulation regarding the submission of surrogate values allows only for the submission of publicly available information. See 19 CFR 351.301(c)(3).

#### Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. In accordance with 19 CFR 351.212(b)(1), we calculated exporter/importer (or customer)-specific assessment rates for the merchandise subject to this review.

Where the respondent reports reliable entered values, we calculate importer (or customer)-specific *ad valorem* rates

by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer). See 19 CFR 351.212(b)(1). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis*, we will apply the assessment rate to the entered value of the importers'/customers' entries during the POR. See 19 CFR 351.212(b)(1). Where we do not have entered values for all U.S. sales, we calculate a per-unit assessment rate by aggregating the antidumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer).

To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer)-specific *ad valorem* ratios based on the estimated entered value. Where an importer (or customer)-specific *ad valorem* rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties. See 19 CFR 351.106(c)(2).

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For Starbright, Hangzhou Zhongce, KS Ltd., Laizhou Xiongying, Qingdao Taifa and Weihai Zhongwei, the cash deposit rate will be the company-specific rate established in the final results of this review (except, if the rate is zero or *de minimis*, no cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific or exporter/producer-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 210.48 percent; and (4) for all non-PRC exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 7, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-913]

#### New Pneumatic Off-the-Road Tires From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review

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

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of Hebei Starbright Tire Co., Ltd. (Starbright) under the countervailing duty order on certain new pneumatic off-the-road tires (OTR Tires) from the People's Republic of China (PRC) for the period December 17, 2007, through December 31, 2008. We preliminarily determine that subsidies are being provided to Starbright for the production and export of certain new pneumatic off-the-road tires from the PRC. See "Preliminary Results of Administrative Review" section, below. If the final results remain the same as the preliminary results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties at the rate indicated below. Interested parties are invited to comment on the preliminary results of this administrative review. See "Disclosure and Public Comments" section below.

**DATES:** *Effective Date:* October 19, 2010.

**FOR FURTHER INFORMATION CONTACT:** Andrew Huston or Jun Jack Zhao, AD/CVD Operations, Office 6, Import Administration, International Trade

<sup>69</sup> See, e.g., *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission*, in Part, 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4261 and (202) 482-1396, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On September 4, 2008, the Department published in the **Federal Register** the countervailing duty (CVD) order on OTR tires from the People's Republic of China. *See Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Countervailing Duty Order*, 73 FR 51627 (September 4, 2008). On September 1, 2009, the Department published a notice of opportunity to request an administrative review of the countervailing duty order on OTR Tires from the PRC. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 74 FR 45179 (September 1, 2009).

On September 8, 2009, GPX International Tire Corporation (GPX) requested on a timely basis an administrative review of the countervailing duty order on OTR Tires from the PRC for the period December 17, 2007 through December 31, 2008 for the following companies: Aeolus Tyre Co., Ltd., Guizhou Tire Co., Ltd., Hangzhou Zhongce Rubber Co., Ltd. (Zhongce), Starbright, Jiangsu Feichi Co., Ltd., Shandong Huitong Tyre Co., Ltd., Tianjin United Tire & Rubber International Co., Ltd. (TUTRIC), Tianjin Wanda Tyre Group, and Triangle Tyre Co., Ltd. On September 20, 2009, the Department received timely requests from Zhongce and TUTRIC for reviews of themselves and on September 28, 2009, Starbright requested a review of itself.

In accordance with section 751(a)(1) of the Tariff Act of 1930, as amended, (the Act) and 19 CFR 351.221(c)(1)(i), the Department published a notice initiating an administrative review of the countervailing duty order. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 74 FR 54956 (October 26, 2009).

On December 30, 2009, the Department rescinded the review with respect to the following six companies, pursuant to a timely withdrawal by GPX of its request for reviews of these companies: Aeolus Tyre Co. Ltd., Guizhou Tire Co. Ltd., Jiangsu Feichi Co., Ltd., Shandong Huitong Tyre Co., Ltd., Tianjin Wanda Tyre Co., Ltd., and Triangle Tyre Co., Ltd. *See Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Partial*

*Rescission of Countervailing Duty Administrative Review*, 75 FR 846 (December 30, 2009). On May 6, 2010, the Department rescinded the review of Zhongce and TUTRIC, pursuant to the timely withdrawal by GPX of its request for reviews of Zhongce and TUTRIC, and Zhongce and TUTRIC's timely withdrawal of their requests for reviews of themselves. *See Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Partial Rescission of Countervailing Duty Administrative Review*, 75 FR 24884 (May 6, 2010).

The Department issued questionnaires to Starbright and the Government of the PRC (GOC) on December 7, 2009. On January 6, 2010, Starbright requested an extension of time to submit its responses to the questionnaire. In response, the Department granted an extension for responses from all parties, originally due January 13, 2010, until January 29, 2010. *See Memorandum to the File, "Extension of Deadlines for Submission of December 7 'Initial' Questionnaire Response,"* (January 7, 2010).<sup>1</sup> On January 25, 2010, Starbright requested a second extension to submit its questionnaire response. The Department granted an extension to Starbright until February 16, 2010. *See Memorandum to the File, "Extension of Deadlines for Submission of December 7 'Initial' Questionnaire Response,"* (January 27, 2010).

On February 12, 2010, the Department exercised its discretion to toll Import Administration deadlines for the duration of the closure of the Federal Government from February 5 through February 12, 2010. *See Memorandum to the Record from Ronald Lorentzen, Deputy Assistant Secretary for Import Administration, "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm,"* (February 12, 2010). Thus, Starbright's deadline was extended by seven days. On February 24, 2010, Starbright submitted its Questionnaire Response on a timely basis. On February 23, 2010, the GOC submitted a document, purportedly in response to the Department's original questionnaire, that was over three weeks past the extended January 29, 2010 deadline for that questionnaire response. The GOC did not answer any of the specific questions in the December 7, 2009 questionnaire, but merely stated its objections to the conduct of this review. Due to the

unique circumstances created by the bankruptcy proceedings of GPX in Federal court, during which a number of parties claimed they were prohibited from filing any submissions in this review, the Department offered the GOC an exceptional second opportunity to respond to the original questionnaire by May 7, 2010. *See Letter from Barbara Tillman, "New Pneumatic Off-the-Road Tires From the People's Republic of China: Countervailing Duty Administrative Review (C-570-913),"* (April 30, 2010). On May 7, 2010, the GOC submitted a document in response to the Department's April 30, 2010 letter which, again, did not answer any of the specific questions in the questionnaire.

On April 1, 2010 the Department extended until further notice all regulatory deadlines in this review occurring on or after January 28, 2010, due to the concerns of parties regarding the application of stay provisions of the U.S. bankruptcy code to matters involving GPX. *See Memorandum to the File, "Extension of Deadlines,"* (April 1, 2010). On May 3, 2010, the Department issued its first supplemental questionnaire to Starbright; Starbright responded on May 25, 2010. On April 30, 2010 the Department issued a memorandum stating that the Department "believes parties' concerns have been addressed" and that the Department required submissions due from domestic parties after January 28, 2010 be submitted by May 10, 2010. *See Memorandum to the File, "Due Date for Domestic Party Submissions,"* (April 30, 2010).

On May 10, 2010, Bridgestone Americas, Inc. and its subsidiary, Bridgestone Americas Tire Operations, LLC (collectively Bridgestone), a domestic interested party, submitted new subsidy allegations regarding the provision of nylon cord and carbon black for less than adequate remuneration (LTAR). Also on May 10, 2010, Titan Tire Corporation (Titan),<sup>2</sup> submitted an allegation that Starbright was uncreditworthy during 2006, 2007 and 2008. On July 1, 2010, the Department initiated investigations of the provision of nylon cord and carbon black for LTAR, and Starbright's creditworthiness for 2006. *See Memorandum to Barbara E. Tillman, "Initiation Analysis of New Subsidy Allegation and Creditworthiness Allegation for Starbright,"* (July 1, 2010). On May 10, 2010, Bridgestone and Titan each submitted timely requests for the

<sup>1</sup> A public version of all memoranda referenced in this notice is on file in the Department's Central Records Unit (CRU) in Room 1117 of the main Department building.

<sup>2</sup> Titan is one of the petitioners in the investigation along with United Steel, Paper and Forestry, Rubber, Manufacturing, Energy Allied Industrial and Service Workers International Union, AFL-CIO-CLC.

Department to conduct a verification of the questionnaire responses submitted by Starbright and the GOC.

On June 7, 2010, the Department extended the time limit for the preliminary results of this administrative review until October 7, 2010. *See Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review*, 75 FR 32159 (June 7, 2010).

On June 18, 2010, the Department issued its second supplemental questionnaire to Starbright; Starbright submitted its timely response on July 6, 2010. On July 8, 2010, the Department issued a New Subsidy Allegation Questionnaire and Uncreditworthy Allegation Questionnaire to Starbright; Starbright submitted a timely response on July 29, 2010. On July 19, 2010, the Department issued a New Subsidy Allegation Questionnaire to the GOC; on August 9, 2010, the GOC submitted a document that did not respond to any of the specific questions in the questionnaire. On August 10, 2010, the Department informed parties that it would accept new information pertaining to prices for natural and synthetic rubber, nylon cord and carbon black sold outside the PRC for the types of these inputs purchased by Starbright. *See Memorandum to the File*, "Accepting Information on Prices for Rubber Sold Outside the PRC," dated August 10, 2010. On August 19, 2010, Titan submitted information pertaining to prices for nylon cord sold outside the PRC (data had previously been submitted by both Titan and Bridgestone in a new factual information filing, submitted on the last day the record was open). On August 30, 2010, the Department issued a third supplemental questionnaire to Starbright. Starbright submitted a timely response on September 17, 2010. On September 21, 2010, the Department received pre-preliminary comments from Titan and Bridgestone arguing primarily that the Department should apply adverse facts available (AFA) in this review, continue to find countervailable the programs Starbright was found to benefit from in the original investigation, find Starbright uncreditworthy, and revise the benchmarks used in the original investigation.

### Scope of the Order

The products covered by the scope of this order are new pneumatic tires designed for off-the-road (OTR) and off-highway use, subject to exceptions identified below. Certain OTR tires are

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

<sup>3</sup> Agricultural tractors are dual-axle vehicles that typically are designed to pull farming equipment in the field and that may have front tires of a different size than the rear tires.

<sup>4</sup> Combine harvesters are used to harvest crops such as corn or wheat.

<sup>5</sup> Agricultural sprayers are used to irrigate agricultural fields.

<sup>6</sup> Industrial tractors are dual-axle vehicles that typically are designed to pull industrial equipment and that may have front tires of a different size than the rear tires.

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

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

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

<sup>10</sup> Front loaders have lift arms in front of the vehicle. They can scrape material from one location to another, carry material in their buckets, or load material into a truck or trailer.

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

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

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

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

trucks, industrial and mining vehicles other than smooth floor, skid-steers/mini-loaders, and smooth floor off-the-road counterbalanced lift trucks.<sup>15</sup> The foregoing list of vehicles and equipment generally have in common that they are used for hauling, towing, lifting, and/or loading a wide variety of equipment and materials in agricultural, construction and industrial settings. Such vehicles and equipment, and the descriptions contained in the footnotes are illustrative of the types of vehicles and equipment that use certain OTR tires, but are not necessarily all-inclusive. While the physical characteristics of certain OTR tires will vary depending on the specific applications and conditions for which the tires are designed (*e.g.*, tread pattern and depth), all of the tires within the scope have in common that they are designed for off-road and off-highway use. Except as discussed below, OTR tires included in the scope of the proceeding range in size (rim diameter) generally but not exclusively from 8 inches to 54 inches. The tires may be either tube-type<sup>16</sup> or tubeless, radial or non-radial, and intended for sale either to original equipment manufacturers or the replacement market. The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.20.10.25, 4011.20.10.35, 4011.20.50.30, 4011.20.50.50, 4011.61.00.00, 4011.62.00.00, 4011.63.00.00, 4011.69.00.00, 4011.92.00.00, 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,

<sup>15</sup> A counterbalanced lift truck is a rigid framed, engine-powered machine with lift arms that has additional weight incorporated into the back of the machine to offset or counterbalance the weight of loads that it lifts so as to prevent the vehicle from overturning. An example of a counterbalanced lift truck is a counterbalanced fork lift truck. Counterbalanced lift trucks may be designed for use on smooth floor surfaces, such as a factory or warehouse, or other surfaces, such as construction sites, mines, *etc.*

<sup>16</sup> While tube-type tires are subject to the scope of this proceeding, tubes and flaps are not subject merchandise and therefore are not covered by the scope of this proceeding, regardless of the manner in which they are sold (*e.g.* sold with or separately from subject merchandise).

light trucks, and trucks and buses. Such tires generally have in common that the symbol "DOT" must appear on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Such excluded tires may also have the following designations that are used by the Tire and Rim Association:

Prefix letter designations:

- P—Identifies a tire intended primarily for service on passenger cars;
- LT—Identifies a tire intended primarily for service on light trucks; and,

• ST—Identifies a special tire for trailers in highway service.

Suffix letter designations:

- TR—Identifies a tire for service on trucks, buses, and other vehicles with rims having specified rim diameter of nominal plus 0.156" or plus 0.250";
- MH—Identifies tires for Mobile Homes;

• HC—Identifies a heavy duty tire designated for use on "HC" 15" tapered rims used on trucks, buses, and other vehicles. This suffix is intended to differentiate among tires for light trucks, and other vehicles or other services, which use a similar designation.

- Example: 8R17.5 LT, 8R17.5 HC;
- LT—Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service; and
- MC—Identifies tires and rims for motorcycles.

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

#### Period of Review

The period for which we are measuring subsidies, *i.e.*, the period of review (POR), is December 17, 2007 through December 31, 2008. *See* 351.213(e)(2)(ii). Since there are only 15 days of 2007 entries covered in the review, the Department has decided to calculate a single rate for subsidies received in calendar year 2008 and

apply this rate to entries made from December 17, 2007 through December 31, 2007 for assessment purposes.

#### Subsidies Valuation Information

##### Allocation Period

In the investigation, consistent with 19 CFR 351.524(d)(2), we used an average useful life (AUL) of assets as the allocation period for non-recurring subsidies provided on or after December 11, 2001, the date the Department determined subsidies in the PRC became identifiable and measurable (*i.e.*, the "cutoff" date). The AUL applicable to the OTR tires 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. Thus, we continue to use a 14-year AUL for these preliminary results of review.

##### Sales Denominator

After considering the basis for Starbright's receipt of a benefit under each program at issue, we have determined to use its total sales value as the denominator in our calculations for these preliminary results of review, pursuant to 19 CFR 351.525(b)(3), except for VAT and Import Duty Exemptions for Imported Materials discussed below. For that program, we have determined that Starbright benefitted by its status as an exporter, and thus we have used total export sales as the denominator in calculating the countervailable subsidy rate for this program.

##### Creditworthiness

Titan alleged that Starbright was uncreditworthy from 2006 through 2008 due to its poor financial ratios and lack of long-term commercial loans. The Department found the allegation sufficient and indicated an uncreditworthy condition for the years 2006 through 2008. Because we have preliminarily determined that the only non-recurring subsidies were received in 2006 we have limited our analysis to that year. According to 19 CFR 351.505(a)(4)(i), a firm is considered uncreditworthy if it could not have obtained long-term loans from conventional commercial sources. Given that Starbright did not have long-term commercial loans in 2006 from conventional commercial sources, the next step in the Department's analysis, pursuant to 19 CFR 351.505(a)(4)(i)(B)–(C), would typically be to examine the past and present financial health of the firm and its recent past and present ability to meet its costs and financial

obligations with its cash flow. In 2006, Starbright had just been created from the assets of Hebei Tire, a company that was laden with unpaid debts, as indicated by the debt forgiveness decisions in the investigation. *See Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Determination of Critical Circumstances*, 73 FR 40480 (July 15, 2008), Issues and Decision Memorandum (OTR Final IDM) at "Analysis of Programs." In this first year of operations under its new form, the company had high startup costs, a low sales volume, and liquid assets on hand to cover a relatively small fraction of its immediate obligations; facts that served as the basis for the creditworthiness allegation.

However, despite the poor state of its past and present finances in 2006, its acquisition in that same year created the possibility of a much healthier future. Such a prospective view is relevant, given 19 CFR 351.505(a)(4)(i)(D), which states that we may examine "evidence of the firm's future financial position, such as market studies, country and industry economic forecasts, and project and loan appraisals. \* \* \*" There are no such evaluations on the record regarding Starbright *per se*. However, in preparing to acquire Hebei Tire's productive assets in 2006, Starbright's parent, GPX, commissioned legal and financial due diligence analyses of those assets. Among these were evaluations from commercial lenders outside China, which imply profitable employment of those assets after acquisition by GPX. The favorable projections attest not only to positive prospects for GPX overall, but, by extension, for the new business operation formed solely by GPX to employ those assets, namely Starbright. *See* Starbright's April 5, 2008 questionnaire response in the investigation, at Exhibit V–CVD–1, placed on the record of this review by the Department on May 7, 2010. The content of these evaluations is business proprietary and the details cannot be discussed within this public document. They are discussed more fully in the Memorandum to the File, "Preliminary Calculation Memorandum for Hebei Starbright Tire Co., Ltd." (October 7, 2010) (Preliminary Calculation Memorandum) in which we discuss in greater detail the statements we find to be indicative of Starbright's positive prospects in 2006. Finally, our regulations refer not just to evidence of the firm's future financial position, but to "market studies, country and industry

economic forecasts.” In this regard, the propriety record indicates strong demand, insufficient capacity, and increasing price levels in its description of the global OTR tire industry. *Id.*

Thus, Starbright’s purchase by GPX creates the unique situation in which a company performing poorly historically and in the recent past, is transformed into a new producer with a radically different prospective financial outlook. Such is the result of the CIO resulting from the GPX takeover, which, according to the details of the BPI data cited above, involved plans for a significant retooling of GPX’s facilities into a modern, first class producer consistent with GPX’s global standards.

On these bases, we find that Starbright was not uncreditworthy for the year 2006.

### Benchmarks and Discount Rates

As discussed below, we are countervailing short-term lending to Starbright in the form of a loan from a State-owned commercial bank. To calculate the benchmark interest rate used in determining the benefit provided by this program, we used a regression-based methodology identical to that used in the investigation in all respects, except that the data used for this review is contemporaneous with the POR. The resulting short-term lending rate for the POR is identical to that calculated for several recent PRC investigations with periods of investigations equal to calendar year 2008. *See, e.g., Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 59212 (September 27, 2010).

The only non-recurring programs countervailed in these preliminary results are the same non-recurring programs countervailed in the investigation. Therefore, in determining the benefits for those programs allocable to this POR, we took the discount rate calculated in the investigation and modified it only to reflect agency-wide changes in the calculation methodology developed in an investigation concluded subsequent to the OTR Tires investigation, *Citric Acid and Certain Citrate Salts From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 16836 (April 13, 2009) (*Citric Acid from the PRC*). Specifically, in *Citric Acid from the PRC* we determined that the spread used to convert short-term rates to long-term rates should be based on the spread between a 2-year BB bond and an “N”-year BB bond, where N is the

AUL, or as close to the AUL in years as can be obtained in available bond rates, and that this spread should be applied as an addition to the short-term rate, not as a multiplicative factor. *See Citric Acid from the PRC*, “Issues and Decision Memorandum” at Comments 13 and 14. In *Citric Acid from the PRC* we determined these changes were not merely preferable to the older method, but were necessary to correct errors in the prior method. For the remainder of the benefit calculation for these programs, we relied on the information from the investigation without changes.

### Application of Facts Available, and Use of Adverse Inferences

#### A. Standards

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply “facts otherwise available” if 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.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available—*i.e.*, adverse facts available (AFA)—when a party has failed to cooperate by not acting to the best of its ability in complying with a request for information. As explained in more detail in “Programs to Which AFA is Being Applied” below, we find that the GOC has not acted to the best of its ability to comply with the Department’s repeated requests for information necessary to analyze fully certain of the subsidy programs under review.

#### B. Programs to Which AFA Is Being Applied

Provision of Rubber, Carbon Black, and Nylon Cord for LTAR

The Department is investigating the provision of rubber, carbon black and nylon cord for LTAR by the GOC. We requested information from the GOC about the PRC’s rubber, carbon black and nylon cord industries in general as well as the specific companies that produced the rubber, carbon black and nylon cord purchased by Starbright. In both respects, the GOC has withheld the requested information, in effect refusing to provide it. In response to the Department’s first questionnaire the GOC submitted a document that was

argumentative and which merely stated that “it makes little sense to submit detailed answers to the questions set forth in the Commerce Department Questionnaire at this time.” When given a second, extraordinary opportunity to respond to the Department’s initial questionnaire, the GOC again decided not to answer any questions and only referred to its previous arguments for not responding. In response to the Department’s New Subsidy Allegation questionnaire, rather than answer any specific questions, the GOC merely stated that it “strongly opposes the Department’s presumption that government ownership is a dispositive factor in determining the ‘authority’ status of entities, as well as the enormous documentary burdens imposed by the Department in examining the status of various input suppliers and the input industry in question as a whole,” and requested that the Department terminate the proceedings. These submissions by the GOC amount to little more than the venting of grievances against the Department and cannot reasonably be considered proper questionnaire responses. They are, in fact, outright refusals even to attempt to respond to the Department’s requests for information.

Based on the above, we preliminarily find that necessary information is not available on the record, that the GOC has withheld information requested by the Department, and, thus, that the Department must rely on “facts available” in making its preliminary determination. *See* sections 776(a)(1) and (a)(2)(A) of the Act. Moreover, we preliminarily find that the GOC has failed to cooperate by not acting to the best of its ability in complying with our request for information. Consequently, an adverse inference is warranted in the application of facts available. *See* section 776(b) of the Act.

Regarding the GOC’s failure to provide certain requested ownership and control information about the producers of inputs purchased by the respondent, we are assuming adversely that all of the producers of rubber, carbon black and nylon cord purchased by Starbright are “authorities” within the meaning of section 771(5)(B) of the Act. While Starbright has given us some information concerning the ownership of three of the producers, given the GOC’s lack of a response, we have no information concerning government control of any of the producers, beyond the immediate owners of these three producers. With respect to the GOC’s failure to provide requested information about the production and consumption

of rubber, carbon black and nylon cord generally, we are assuming adversely that the GOC's dominance of the market in the PRC for these inputs results in significant distortion of domestic prices and, hence, that the use of external benchmarks is warranted. For details on the calculation of the subsidy rate for Starbright, *see* below under the "Analysis of Programs" section.

#### VAT and Import Duty Exemptions on Imported Material

In the investigation, we determined that certain respondents "used imported rubber to produce tires sold in the PRC and, therefore, such imports would not have been entitled to VAT and import duty exemptions." *See* OTR Final IDM at 12. We then concluded: "Therefore, if a CVD order is issued and an administrative review requested, the Department intends to examine the GOC's import duty and VAT exemption programs." *Id.* Consequently, we included several questions in our initial questionnaire to the GOC concerning the operation and administration of the program by which companies are exempt from paying VAT and import duties on imports used in the production of exported products. Specifically, the questions were designed to determine whether a system was in place that ensures all exempted materials are consumed in exported products, based on the actual experience of companies using the program. Given that the GOC did not respond to these questions, we are unable to evaluate whether the GOC's system meets the criteria for non-countervailability set forth in 19 CFR 351.519(a). As such the decision by the GOC not to respond to any of our questions leaves the Department with no choice but to find the entire amount of the exemptions "extends to inputs that are not consumed in the production of the exported product, making normal allowances for waste." *See* 19 CFR 351.519(a). For details on the calculation of the subsidy rate for the respondent, *see* below under the "Analysis of Programs" section.

#### C. Corroboration of AFA

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as "information derived from the petition that gave rise to the investigation or review, the final determination

concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise."

The facts available decisions described above do not rely on secondary information. While Bridgestone and Titan have submitted information regarding the status of rubber producers and suppliers relevant to this review, our determination that these producers are public entities is based on the unwillingness of the GOC to provide necessary information on the status of these entities. Likewise, our determinations that the domestic rubber market in the PRC is distorted through government intervention, and that the PRC's bonding system does not ensure that imports exempted from duties are solely consumed in exported products, are based on the GOC's refusal to address either of these issues, or to provide any information that would lead us to a different conclusion. The corroboration requirement of section 776(c) of the Act is therefore not applicable to the use of facts available in this review.

#### Analysis of Programs

##### A. Programs Previously Determined To Be Countervailable

##### 1. Government Debt Forgiveness and the Provision of Land to Starbright Pursuant to Its Change in Ownership

On July 7, 2008, the Department issued a change in ownership memorandum, analyzing Starbright's 2006 purchase of the assets of Hebei Tire. *See* Memorandum to the File, "Countervailing Duty Investigation of Certain New Pneumatic Off-the-Road Tires (OTR Tires) From the People's Republic of China; Analysis of Change in Ownership, Final Determination" (July 7, 2008) (CIO Memorandum) determining that debt and land provided to Hebei Tire benefitted Starbright. Applying the Department's CIO methodology we concluded that the 2006 transaction did not extinguish any non-recurring subsidies provided to Hebei Tire prior to the transaction, including debt forgiveness, because Starbright had not demonstrated the transaction was at arm's length and for fair market value. We also determined that Starbright had been the direct recipient of land use rights provided at less than adequate remuneration. No new information or evidence of changed circumstances has been submitted in this review that leads us to reconsider these determinations. Therefore for the preliminary results of this review, we are maintaining our determination that the 2006 transaction did not extinguish

prior non-recurring subsidies to Hebei Tire.

##### a. Debt Forgiveness From State-Owned Banks to Hebei Tire

Consistent with our prior determination, the Department continues to find that the forgiveness of certain loans from State-owned banks to Hebei Tire is countervailable. This debt forgiveness constitutes a financial contribution under section 771(5)(D)(i) of the Act, and is specific under section 771(5A)(D)(iii)(I) of the Act, as it was limited to a specific enterprise (*i.e.*, to Hebei Tire only). A benefit exists equal to the amount of principal and accrued interest forgiven within the meaning of 19 CFR 351.508(a). In determining this benefit, we have taken the amount of the debt forgiveness from the investigation calculations placed on the record on May 7, 2010. We then reallocated this amount using the revised discount rate methodology discussed above in the "Benchmarks and Discount Rate" section, using an allocation table beginning in 2006, just as in the investigation. We then divided the benefit amount allocated to the POR by Starbright's total sales during the POR to calculate a countervailable subsidy rate of 1.52 percent *ad valorem*.

##### b. Debt Forgiveness of Hebei Tire's Loan Guarantee Obligations

In the investigation, the Department found that obligations arising from the provision of loan guarantees represented a form of debt forgiveness to Hebei Tire and that this debt forgiveness was countervailable. In its initial questionnaire response, Starbright submitted new information regarding this program. Specifically, Starbright claimed that under Article 219 of the Civil Procedures Law of the PRC, Starbright's debt guarantees were extinguished. Starbright further argues that the debt was extinguished through the bankruptcy of the primary debtor. Given that the record indicates clearly that at least two of the obligations survived the bankruptcy proceeding,<sup>17</sup> and were not, in fact, extinguished by the Civil Procedures Law, and Starbright's failure to provide direct evidence that any of the debt guarantees were extinguished, the Department continues to find this program countervailable. This debt forgiveness constitutes a financial contribution under section 771(5)(D)(i) of the Act, and is specific under section 771(5A)(D)(iii)(I) of the Act, as it was limited to specific enterprises (*i.e.*, Hebei Tire, co-guarantors, primary

<sup>17</sup> *See* CIO Memorandum at 4.

borrower). A benefit exists equal to the amount of principal and accrued interest forgiven under 19 CFR 351.508(a). In determining this benefit, we have taken the amount of the debt forgiveness from the investigation calculations placed on the record on May 7, 2010. We then reallocated this amount using the revised discount rate methodology discussed above in the “Benchmarks and Discount Rate” section, using an allocation table beginning in 2006, just as in the investigation. We divided the benefit amount allocated to the POR by Starbright’s total sales during the POR to calculate a countervailable subsidy rate of 5.39 percent *ad valorem*.

#### c. Government Provision of Land to SOEs for Less Than Adequate Remuneration—Starbright’s Granted Land Use Rights

Consistent with our prior determination, the Department continues to find that Starbright’s granted land use rights are countervailable. We previously determined that this subsidy was specific in accordance with section 771(5A)(D)(i) of the Act, because Starbright obtained its granted land use rights as part of a government policy of SOE reform. We also found a financial contribution under section 771(5)(D)(iii) of the Act and a benefit under section 771(5)(E)(iv) of the Act, because we determined the granted land use rights were a provision of a good or service for LTAR. In determining this benefit, we have taken the amount of the benefit from the granted land use rights from the investigation calculations placed on the record on May 7, 2010. We then reallocated this amount using the revised discount rate discussed above, using an allocation table beginning in 2006, just as in the investigation. We divided the benefit amount allocated to the POR by Starbright’s total sales during the POR to calculate a countervailable subsidy rate of 0.43 percent *ad valorem*.

#### d. Government Provision of Land to SOEs for Less Than Adequate Remuneration—Starbright’s Land Leased From Local Villages

Consistent with our prior determination, the Department continues to find that the land Starbright leases from local villages is countervailable.<sup>18</sup> In the investigation, we found that the local village

committees are authorities within the meaning of section 771(5)(B) of the Act. Accordingly, we found a financial contribution under section 771(5)(D)(iii) of the Act because the provision of land is a provision of a good or service. We also found that the provision of leased land is specific in accordance with section 771(5A)(D)(i) of the Act because Starbright assumed the leases for these village tracts as part of its asset purchase of Hebei Tire, which was part of a government program to reform SOEs. With respect to benefit, we determined that a benefit exists under 19 CFR 351.511(a) to the extent that the leased land was provided at LTAR. No information was placed on the record of this review that would cause us to change these findings from the investigation. In determining the amount of the benefit, we have updated the benchmark from the investigation, using 2008 quarterly industrial rental values in Thailand. This is the same source of information used in the investigation, but updated with values contemporaneous with the POR. See Preliminary Calculation Memorandum.

We then compared the rental payments made by Starbright during the POR with the amount of rent Starbright would have at the benchmark rate; we divided the benefit amount by Starbright’s total sales during the POR to calculate a countervailable subsidy rate of 0.76 percent *ad valorem*.

#### 2. Government Policy Lending

In the investigation, we found that policy lending was *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act, constitutes financial contributions by “authorities” (*i.e.*, State-owned commercial banks) within the meaning of sections 771(5)(B) and 771(5)(D)(i) of the Act, and provides benefits within the meaning of section 771(5)(E)(ii) of the Act 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. In our initial questionnaire to the GOC, we noted our intention to rely on our findings in the investigation regarding the countervailability of this program. We noted: “However, if there were any changes to the operation of the program since it was last reviewed, please answer all relevant appendices.” As noted above, the GOC did not respond to this questionnaire and thus no information has been placed on the record of this review that would cause us to change our findings from the investigation. Therefore we are continuing to find government policy lending countervailable.

In its response to the Department’s initial questionnaire, Starbright provided a loan spreadsheet indicating it had received a loan under this program during the POR from a State-owned commercial bank. Using a benchmark interest rate, we compared Starbright’s actual interest payments during the POR to the State-owned commercial bank to the payments it would have been required to make on “comparable commercial loans.” In doing so, we made adjustments for inflation, following the standard PRC loan methodology used in the investigation. In calculating the benchmark for “comparable commercial loans,” we relied on the same regression analysis used in the investigation for calculating PRC lending rates absent the distortive effects of government interference in the banking sector, revised only to reflect data contemporaneous with the POR. We divided the total benefit amount by Starbright’s total sales during the POR, and determined a countervailable subsidy rate of 0.20 percent *ad valorem*.

#### 3. Government Provision of Rubber for Less Than Adequate Remuneration

We preliminarily find the government provision of natural and synthetic rubber inputs to Starbright to be countervailable. In the investigation we found the provision of rubber to be specific within the meaning of section 771(5A)(D)(iii)(I) of the Act, because the rubber is provided to a limited number of industries. See OTR Final IDM at 9–12. As discussed above, due to the GOC’s failure to respond to our initial questionnaire, the Department is unable to determine the extent of government control over the producers of rubber purchased by Starbright. Also as noted above, we find that an adverse inference is warranted, and, as such, we conclude that all domestic producers from whom Starbright purchased natural and synthetic rubber are “public entities” and therefore “authorities” within the meaning of section 771(5)(B) of the Act. Without GOC participation, the Department is unable to determine the extent of GOC ownership of, and involvement in, the domestic market for natural and synthetic rubber, and we are unable to determine the extent of domestic price distortion caused through GOC involvement in the production of rubber. Therefore, we are also determining as AFA that a world benchmark is warranted pursuant to 19 CFR 351.511(a)(2)(ii). Using average purchase prices by month and type of rubber, we calculated benefit amounts equal to the differences between what Starbright paid for the domestically

<sup>18</sup> The GOC was asked to provide information regarding changes to this program in the initial questionnaire. Starbright provided rent payment information in response to the May 25, 2010 supplemental questionnaire.



sourced rubber and these benchmarks, multiplied by the relevant quantities at LTAR. We calculated separate benchmarks for natural and synthetic rubber on a quarterly basis. We added amounts for ocean freight, inland freight, and VAT and import duties, calculated in accordance with the standard PRC VAT and duty rates for these products, before comparing these benchmarks to the delivered prices paid by Starbright. We then divided the total amount of these benefits by Starbright's total sales during the POR and preliminarily determined a countervailable subsidy rate of 1.44 percent *ad valorem*.

#### *B. New Subsidy Programs Initiated in the Review*

##### *Provision of Carbon Black and Nylon Cord for LTAR*

Bridgestone alleged that the GOC provides producers of nylon cord and carbon black with numerous subsidies and preferences, causing distortion in the markets for those two products, and that the GOC otherwise exerts considerable control on the market for carbon black and nylon cord through SOEs. Bridgestone further alleged that the provision of carbon black and nylon cord by SOEs constitutes a financial contribution, that Starbright receives a benefit to the extent that it purchases carbon black and nylon cord from SOEs at LTAR, and that this subsidy is specific because the tire industry is the predominant user of these inputs in the PRC. As discussed above, under the "Application of Facts Available, and Use of Adverse Inferences" section, the GOC did not respond to the Department's questionnaire regarding these programs. Accordingly, we are applying AFA for parts of our decision with respect to these programs. Based on AFA, we determine that the producers of the nylon cord and carbon black purchased by Starbright are owned or otherwise controlled by the GOC and therefore are "public entities" and "authorities" within the meaning of section 771(5)(B) of the Act. Moreover, without GOC participation, the Department is unable to determine the extent of GOC ownership of, and involvement in, the domestic market for nylon cord and carbon black, and we are unable to determine the extent of domestic price distortion caused through GOC involvement in the production of these two products. Therefore, we are also determining as AFA that a world benchmark is warranted pursuant to 19 CFR 351.511(a)(2)(ii). Finally, we find that the provision of nylon cord and carbon black is specific within the

meaning of section 771(5A)(D)(iii)(II) of the Act because, according to information included in the allegations, uncontested by respondents, the tire industry is the predominant user of both those products.

In determining the benefit, we have relied on benchmarks calculated from the Global Trade Atlas (GTA) for both products. While Bridgestone and Titan provided possible benchmark data for nylon cord reported by Chemical Markets Associates, Inc., we are unable to use this data because it covers only one month of the POR, or covers months not in the POR. Using the GTA data, we calculated monthly average unit value benchmarks for each product based on exports from all countries other than China. We added amounts for ocean freight, inland freight, and VAT and import duties, calculated in accordance with the standard PRC VAT and duty rates for these products in order to derive delivered prices. Using average purchase prices by month, we calculated benefit amounts equal to the differences between what Starbright paid for the domestically sourced nylon cord and carbon black and these benchmarks, multiplied by the relevant quantities at LTAR. We then summed the benefits calculated in this manner to derive a total benefit amount under each program. After dividing the total benefit amounts by total sales, we determined countervailable subsidy rates of 2.32 percent and 9.10 percent *ad valorem* for nylon cord and carbon black, respectively.

##### *C. VAT and Import Duty Exemptions on Imported Material*

As noted above, because the GOC did not respond to our questionnaire, which contained several questions aimed at evaluating whether VAT and import duty exemptions received by Starbright on materials imported under bond were countervailable, we have determined it is appropriate to find that all such exemptions are countervailable under 19 CFR 351.519(a). The program provides a financial contribution pursuant to section 771(5)(D)(ii) of the Act in the form of revenue foregone by the GOC, and is specific as an export subsidy pursuant to section 771(5A)(B) of the Act, as only exporters can qualify. To calculate the amount of the benefit, we calculated the total amount of VAT and duties that would otherwise have been paid on the exempted material, using the VAT and duty rates for the different types of material reported by Starbright. We then divided this total benefit amount by total export sales in order to determine a countervailable subsidy rate of 9.71 percent *ad valorem*.

##### *D. Programs Determined To Be Not Used*

1. *Loan Forgiveness For SOEs.*
2. *Foreign Currency Retention Scheme.*
3. *Preferential Tax Policies For Enterprises With Foreign Investment (Two Free, Three Half Income Tax Program).*
4. *Preferential Tax Policies For Export-Oriented Foreign Invested Enterprises (FIEs).*
5. *Corporate Income Tax Refund Program For Reinvestment Of FIE Profits In Export-Oriented Enterprises.*
6. *Tax Benefits For FIEs In Encouraged Industries That Purchase Domestic Origin Machinery.*
7. *VAT Rebate For FIE Purchases Of Domestically Produced Equipment.*
8. *Funds For Outward Expansion Of Industries In Guangdong Province.*
9. *Export Interest Subsidy Funds For Enterprises Located In Guangdong And Zhejiang Provinces.*
10. *Grants To Loss-Making SOEs.*
11. *Exemption For SOEs From Distributing Dividends To The State.*
12. *Preferential Tax Policies For Advanced Technology FIEs.*
13. *Preferential Tax Policies For Knowledge Or Technology Intensive FIEs.*
14. *Preferential Tax Policies For High Or New Technology FIEs.*
15. *Preferential Tax Policies For Research And Development By FIEs.*
16. *Provincial Support In Antidumping Proceedings.*
17. *Grants To The Tire Industry For Electricity.*
18. *Discounted Loans For Export-Oriented Enterprises.*
19. *Stamp Tax Exemption on Share Transfers under the Non-Tradeable Share Reform (NTSR) Program.*
20. *State Key Technology Renovation Project Fund.*
21. *Special Fund for Environmental Protection of 2004.*
22. *Provision of Land for LTAR to FIEs.<sup>19</sup>*
23. *Tax Subsidies to FIEs in Specially Designated Geographic Areas.*
24. *Local Income Tax Exemption and Reduction Program for "Productive" FIEs.*
25. *Tax and Tariff Exemption for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries.*
26. *Provincial/Municipal Technology Programs.*

<sup>19</sup> The Department is finding the provision of land for LTAR countervailable, see section "Programs Previously Determined to be countervailable," however the Department does not find provision of Land for LTAR countervailable as a result of a company's FIE status.



27. *Municipal Major Technical Innovation Program.*

**Preliminary Results of Administrative Review**

In accordance with 19 CFR 351.221(b)(4)(i), we have calculated an individual subsidy rate for Starbright for the POR. We preliminarily determine the total countervailable subsidy to be 30.87 percent *ad valorem*.

**Assessment Rates/Cash Deposits**

If these preliminary results are adopted in our final results of this review, 15 days after publication of the final results of this review the Department will instruct CBP to liquidate shipments of OTR Tires by Starbright entered or withdrawn from warehouse, for consumption from December 17, 2007 through December 31, 2008, at 30.87 percent *ad valorem* of the entered value. In keeping with the Agreement on Subsidies and Countervailing Measures of the World Trade Organization, shipments entered, or withdrawn from warehouse, for consumption on or after April 15, 2008, and on or before September 4, 2008, the period between the expiration of "provisional measures" and the publication of the final affirmative injury determination of the U.S. International Trade Commission, will be liquidated without regard to countervailing duties.

The Department will also instruct CBP to collect cash deposits of estimated countervailing duties at the rate of 30.87 percent *ad valorem* of the entered value on shipments of the subject merchandise produced by Starbright, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. We will instruct CBP to continue to collect cash deposits for non-reviewed companies at the applicable company-specific or all-others rate established in the investigation.

Producer/exporter	Net subsidy rate (percent)
Hebei Starbright Tire Co., Ltd. ....	30.87

**Disclosure and Public Comment**

We will disclose the calculations used in our analysis to parties to this segment of the proceeding within five days of the publication of this notice. See 19 CFR 351.224(b). Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless the time period is extended by the Department,

case briefs are to be submitted within 30 days of the date of publication of this notice in the **Federal Register**. See 19 CFR 351.309(c). Rebuttal briefs, limited to issues raised in case briefs, may be filed not later than five days after the date of the filing of case briefs. Parties who submit briefs in this proceeding should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Interested parties may request a hearing within 30 days after the date of publication of this notice. Unless otherwise specified, the hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs. The Department will publish a notice of the final results of this administrative review within 120 days from the publication of these preliminary results.

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

Dated: October 7, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2010-26283 Filed 10-18-10; 8:45 am]

**BILLING CODE 3510-DS-P**

**DEPARTMENT OF COMMERCE**

**Foreign-Trade Zones Board**

[Order No. 1712]

**Reorganization/Expansion of Foreign-Trade Zone 196 Under Alternative Site Framework Fort Worth, TX**

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

*Whereas*, the Board adopted the alternative site framework (ASF) in December 2008 (74 FR 1170, 01/12/09; correction 74 FR 3987, 01/22/09) as an option for the establishment or reorganization of general-purpose zones;

*Whereas*, the Alliance Corridor, Inc., grantee of Foreign-Trade Zone 196, submitted an application to the Board (FTZ Docket 18-2010, filed 3/16/2010) for authority to reorganize under the ASF with a service area that includes the Alliance Corridor area of Denton and Tarrant Counties, Texas, adjacent to the Alliance Customs and Border Protection user fee airport, FTZ 196's existing Sites 1-4 would be categorized

as magnet sites and the grantee proposes an initial usage-driven site (Site 5);

*Whereas*, notice inviting public comment was given in the **Federal Register** (75 FR 14127-14128, 3/24/2010) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

*Whereas*, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

*Now, therefore*, the Board hereby orders:

The application to reorganize FTZ 196 under the alternative site framework is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28, to the Board's standard 2,000-acre activation limit for the overall general-purpose zone project, to a five-year ASF sunset provision for magnet sites that would terminate authority for Sites 2, 3 and 4 if not activated by October 31, 2015, and to a three-year ASF sunset provision for usage-driven sites that would terminate authority for Site 5 if no foreign-status merchandise is admitted for a *bona fide* customs purpose by October 31, 2013.

Signed at Washington, DC, October 7, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

[FR Doc. 2010-26275 Filed 10-18-10; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XZ14**

**Takes of Marine Mammals Incidental to Specified Activities; Navy Training Conducted at the Silver Strand Training Complex, San Diego Bay**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; proposed incidental harassment authorization; request for comments.

**SUMMARY:** NMFS has received an application from the U.S. Navy (Navy) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to conducting training exercises at the Silver Strand Training Complex (SSTC)