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**F. No.6/8/2018-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi 110001**

Dated 25th March, 2019

NOTIFICATION

FINAL FINDINGS

Subject: Countervailing Duty/Anti-subsidy investigation concerning imports of “New Pneumatic Tyres for Buses and Lorries” from People’s Republic of China.

A. BACKGROUND OF THE CASE

No. 6/8/2018 -DGAD: Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the “Act”), and the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter also referred to as the “Rules”) thereof:

1. Whereas, Automotive Tyre Manufacturer’s Association (hereinafter also referred to as the “Petitioner/Petitioner Association” or “ATMA”) have filed a petition on behalf of domestic producers, namely, Apollo Tyres Ltd., J.K. Tyre Industries Ltd., MRF Ltd. and Ceat Ltd. (collectively referred as “Domestic Industry”), before the Designated Authority (hereinafter also referred to as the “Authority”) in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the “Act”) and the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995 as amended from time to time (hereinafter also referred to as the “Rules”) for imposition of Countervailing Duty on imports of “New Pneumatic Tyres for Buses and Lorries” from People’s Republic of China (hereinafter also referred to as the “subject country”).
2. And, whereas, the Authority, on the basis of sufficient evidence submitted by the Petitioners, issued a public notice vide Notification No. 6/8/2018 - DGAD dated 27th March, 2018, published in the Gazette of India, initiating the subject investigation in accordance with Rule 6 to determine existence, degree and effect of the alleged subsidy and to recommend the amount of anti-subsidy/countervailing duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

B. PROCEDURE

3. The procedure described herein below has been followed by the Authority with regard to the subject investigation:

- a) The Authority notified the Embassy of People's Republic of China in India about the receipt of the present anti-subsidy application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 6 supra.
- b) The Authority invited the Government of China PR for consultation with the aim of clarifying the situation and arriving at a mutually agreed solution in accordance with Article 13 of the Agreement on subsidies and countervailing measures. The consultation was held on 20th March, 2018 in New Delhi, which was attended by the following representatives of the Government of China PR (hereinafter also referred to as GOC):
 - (i) Mr. Liang Hao, Counsellor
 - (ii) Mr. Guo Fang, Deputy Director, Ministry of Commerce, China PR
 - (iii) Mr. Ma Xin, Ministry of Commerce, China PR
- c) The Authority issued a public notice dated 27th March, 2018 published in the Gazette of India Extraordinary, initiating countervailing duty/anti-subsidy investigation concerning imports of the subject goods.
- d) The Authority sent a copy of the initiation notification dated 27th March, 2018 to the Embassy of People's Republic of China, known producers/exporters from People's Republic of China, known importers/users and the domestic industry as well as other domestic producers as per the addresses made available by the Petitioner and requested them to make their views known in writing within the prescribed time limit.
- e) The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the embassy of the People's Republic of China in India in accordance with Rule 7(3) of the Rules supra.
- f) The Embassy of People's Republic of China in India was also requested to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the People's Republic of China.
- g) The Authority sent questionnaires to the GOC (Govt. of China) in order to seek relevant facts/information with regard to various schemes/programs where countervailable benefit might have been conferred by the GOC. The GOC filed a questionnaire response, which has also been taken into account.
- h) The Authority sent questionnaires to the following known producers/exporters in People's Republic of China, in accordance with Rule 7(4) of the Rules:

S.No.	Name of Exporter	S.No.	Name of Exporter
1.	Shandong Yinbao Tire Group Co. Ltd., Taitou Industrial Zone, Shouguang City, Shandong Province, China -	2.	Shandong Hengfeng Rubber & Plastic Co Ltd. Dawang Economic Zone Guangrao County Shandong China- 257335

	262735		
3.	Aeolus Tyre Co. Ltd. No. 48, Jiadong South Road, Jiaozuo, Henan, China- 454003	4.	Zhaoyuan Liao Rubber Products Co., Ltd. No. 777, Jinlong Road, Zhaoyuan, Yantai, Shandong, China-265400
5.	Qingdao Doublestar Tire Industrial Co., Ltd. 95 Qingdao Road, Jiaonan Development Zone, Qingdao, China- 266400	6.	HangZhou ZhongCe Rubber Co., Ltd., No. 2 the 10 th Ave., Economic Development Area, Zhejiang Province, China-310008
7.	Haoyou Tyre Co., Ltd Middle Section Of Fengxu Rd., Industrial Park, Bo'ai, Jiaozuo Henan Province, China-454450	8.	Triangle Tyre Co. Ltd. 56 Middle Qingdao Road, Weihai, Shandong Province, China-264200
9.	Shandong Wanda Boto Tyre Co., Ltd. 68 Yongshen Road, Dongying City, Shandong Province, China-257506	10.	Shanghai Tyre & Rubber Co., Ltd. Shanghai Municipality No. 63, Sichuan Central Rd., Shanghai, Shanghai, China-200002
11.	Jiangsu General Science Technology Co., Ltd. Hongdou Industrial Zone, Gangxia Town, Wuxi City, Jiangsu Prov. China-214199	12.	Doublestar-Dongfeng Tyre Co., Ltd. No. 221, Hanjiang Road, Shiyan, Hubei, China-442053
13.	Giti Radial Tire(Anhui) Company Ltd. No. 18, Shixin Road, Hefei EcotechDevelopment Zone, Hefei Anhui, China- 230601	14.	Shenzhen Yuanyunxiang Trading Co., Ltd. 2702 Haitiang, Hailonghuayuan, Fenghuang Road, Luohu District, Shenzhen, Guangdong Province, China-518002
15.	Qingdao Yellow Sea Rubber Company Limited No. 1 Cangan Road, Qingdao, Shandong Province, China-266041	16.	Kenda Rubber (China) Co., Ltd. No.2, Kunjia Rd., Penlang Town, Kunshan, Suzhou, Jiangsu, Jiangsu Province, China 215333
17.	Shengtai Group Co., Ltd. Xishui Industrial Park of Guangrao Country Shandong Province, China-257336	18.	Pirelli Tyre Co., Ltd. Yinhe Industrial Park, Yanzhou, Jining, Shandong Province, China- 272100
19.	Guang Rao Economic & Technology Development Zone, Dongying, Shandong Province, China-257300	20.	Dingying ZhongYi Rubber Co., Ltd. Dawang Economic Developing Zone, Guangrao Dongying Shandong Province, China-257335
21.	Kupo Chengshan (Shandong) Tyre Co., Ltd. No. 98, Nanshan N. Rd., Rongcheng, Weihai,	22.	Shen Zhen City Hong Yun Cai Trade Co., Ltd. No. 12 H Yinboge, Haihui Mansion, Nanyou Avenue, Shenzhen, Guangdong Province, China – 518000
23.	Shenzhen Diruolan Trade Co., Ltd.	24.	Guangzhou Pearl River Rubber Tyre Ltd.

	No. 4, Lane 5, Xinsanqu, Zhenpuling Road, Nanlian Xiang, Longgang Town, Longgang District, Shenzhen Guangdong Province, China- 518116		Tanbu Town, Huadu District, Guangzhou City, Guangdong Province, China-510828
25.	Micheling (Sheyang) Tyre Co., Ltd. No. 15 Shenxin Rd. Economic- Technologic Development Zone, Shenyang Liaoning Province, China-110141	26.	Pirelli Tyre Co., Ltd. Yinhe Industrial Park, Yanzhou, Jining, Shandong Province, China-272100
27.	Qingdao Duoublestar Tire Industrial Co., Ltd. 95 Quingdao Road, Jiaonan Development Zone Qingdao, China – 266400	28.	Qingdao Yellow Sea Rubber Company Limited, No. 1 Cangan Road, Qingdao, Shandong Province, China-266041
29	Shandong Xingyuan International Trading Xishui Industrial Zone, Guangrao County Dongying City, Shandong Province China-257336		

- i) In response, the following exporters/producers from the subject country filed exporter's questionnaire response in the prescribed format:
- i. M/s. Shandong Haohua Tire Co. Ltd.
 - ii. M/s. Guangzhou Exceed Industrial Technology Co. Ltd.
 - iii. M/s. HK Trade Wind Trading Ltd.
 - iv. M/s. Aeolus Tyre Co. Ltd.
 - v. M/s. Qingdao Yellow Sea Rubber Co. Ltd.
 - vi. M/s. Shandong Yongfeng Tyres Co. Ltd.
 - vii. M/s. Zhongce Rubber Group Co. Ltd.
 - viii. M/s. Shandong Wanda Boto Tyre Co. Ltd.
 - ix. M/s. Triangle Tyre Co. Ltd.
- j) Pursuant to the initiation notification, apart from the above producers/ exporters from the subject country, Government of China PR also filed the questionnaire response.
- k) The Authority sent Importer's Questionnaires to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 7(4) of the Rules:

S.No.	Name of Importer	S.No.	Name of Importer
1.	A.G. Industries Near Petrol Pump, Opp. Bus Stand, Sirsa Road, Hisar/Haryana Pin- 110065	2.	A.S. & Company 2343, Tilak Bazar Khari Baoli, Delhi Pin-110006
3.	Aditya Sales Corporation, 333, Sant Nagar, East Of Kailash, New Delhi – 110065	4.	Agk Digital Private Limited, 703 Krishna Apra Business Square, Plot No. D-4/5/6, Netaji Subhash Place, Delhi-110034
5.	Adkhil Impex Building R.K.Associates, Sehdev Market Jalandhar, Pin-144001	6.	Alliance Traders, 2 nd Floor, T-770 Dcm Road Kishan Ganj Delhi
7.	Amitt Enterprises, Near Perfect Marriage Palace, Ambala Bye Pass Road, Near Samrala Chowk, Ludhiana- 141009	8.	Arora Enterprises, 51/45 Bajoria Market, Nayaganj Kanpur, Uttar Pradesh, Pin-208001
9.	Asis Enterprises 2, Gurunanak Niwas, Dongri Pada, King Kong Nagar, G.B.Road, Thane West, Thane, Maharashtra	10.	Bhagwatee Impex Cabin No.-6, 294, Basement, Sant Nagar, East Of Kailash, New Delhi- 110065
11.	Captown Overseas C 244, Minto Road Complex, New Delhi	12.	Celite Tyre Corporatin B/16, Bihari Apartments, Nr. Welcome Hotel, R.C.Dutt Road, Baroda-390007
13.	Chadha Tyre Traders 69, Transport Centre, Rohtak Road, Punjabi Bagh, New Delhi-110035	14.	Chhabra Sales Corporation 122/235, Sarojini Nagar, New Delhi
15.	Dashmesh Trading Co. 804/B, Odesscy Bhakti Park, Wadala Nr. Imax Cinema, Mumbai Maharashtra-400037	16.	Deep Enterprises Laladiggi Ganaesh Ganj, Mirzapur, UP-231001
17.	Delhi Tyre Shoppe F-7, East Of Kailash, New Delhi-110065	18.	Eknoor Tyres Private Limited. M.H Building No. 1 R.C. Marg, Chembur, Mumbai
19.	Electro Link 5/356 B,C & D, Eswaramangalam, Ponnani, Malapurram, Kerala, India Pin-679573	20.	Ess Infraproject Private Limited William Compound, Off. Marve Road, Mith Chowli, Malad (W) Mumbai
21.	Fine Traders G-12/334, Gali No. -12 Block-G Sangam, Vihar, Delhi	22.	Fish Aquarium Home H-16, Vikas Marg Laxmi Nagar, Delhi
23.	Ganpati Overseas RZA-72, A Block Dwarka, New Delhi	24.	Genetic Sales Corporation 7A/28, 1 st Floor W.E.A. Karol Bagh New Delhi, Pin-110005
25.	Globus Corporation A-301, Prime Apts. P.P. Marg, Virat Nagar, Virar, West, Mumbai	26.	Gupta Tyre House 328, Auto Market, Hisar/Haryana
27.	H.D.International	28.	H.S.Arora & Co.,

	S Ghee Mandi Amritsar Punjab		F-5/1A, Bhagat Singh Market, Sahid Bhagat Singh Marg, New Delhi-110015
29.	H.S.International C-192, Basement, Shop No-2, Pushpanjali Enclave, Pitampura Delhi-110034	30.	Harpreet International B-5 Karampura, Shivaji Marg, New Delhi Pin-110015
31.	Hayer Trading Co Shop No. 2, The Hayer Premium Opp Shishu Vihar, Marathi School, Rambaug Lane No.6, Kalyan-West-421301	32.	Hind Traders, C Wing No. 234, Steel Chamber, Plot No. 514, Kalamboli Steel Market, Navi Mumbai, Maharashtra
33.	Hind Traders Khasra No.9 Sangam Vihar Gali No. 10, Village Wazirabad, Delhi	34.	Indian Rubber Manufacturers Research Association, Plot No. 254/1b, Road No. 16V, Wagle Indl. Estate, Thane West, Mumbai. (M.S.) Pin-400604
35.	Indo China Impex 149-Transport Centre Rohtak Road, Punjabi Bagh, New Delhi Pin- 110035	36.	Indo Silicon Electronics P. Ltd. 3/7, Block-C, Ashok Vihar, Phase.II New Delhi, Pin-110052
37.	International Business Group 1238/5 Nandadeep, 1 st Floor, Apte Road, Decan Gymkhana, Pune/Maharashtra	38.	J.M.Shama Designs 494, Melegrina, Linking Road, Off Bandra West, Mumbai, Maharashtra Pin-400050
39.	Jaipex 1-15, Samhita Indl. Estate, Behind Orkay Mills, Sakinaka Andheri (E) Mumbai, Maharashtra Pin-400059	40.	Jitender Overseas D-149 G. Floor,Nr. Milan Cinema Karampura New Delhi Pin-1 10015
41.	Juneja Agencies 267, Transport Nagar, Opp. Sarb Multiplex, Jalandhar, Punjab	42.	K.C. Impex C-64, Ground Floor, Mansa Ram park, Uttam Nagar, New Delhi Pin- 110059
43.	Kabeer Components Pvt. Ltd. C-208 Mayapuri Industrial Area Phase-II,New Delhi Pin-110064	44.	Kaks And Bills Pvt Ltd N-5 Kailash Colony New Delhi Pin- 110048
45.	Kingston Enterprises 7/8, Ganesh Nagar Pandav Nagar Complex, Gali No 1B, Delhi	46.	Lokesh Impex Plot No. 3 Nawalgarh House S C Road, Jalupura, Jaipur, Rajasthan
47.	M S International H. No.-174, Near Swama Apptt. Vill. Pitampura, Delhi	48.	Maankesh Trading Company U-74 Top Floor Tirupati Complex, Shakarpur Delhi
49.	Meenakshi Importers 2 Amrit Bhavan 65D Linking Road,Santa Cruz Bombay, Maharashtra Pin-400054	50.	Mohan Enterprises D-262 Karampura New Delhi
51.	Nand Rubber Pvt.Ltd. Dhani Pandit Kishan Dutt, XII Quarter Road, Hisar/Haryana	52.	National Trading Company 14, C-Block, DDA Market, Dilshad Garden,Delhi Pin-1 10095

	Pin 125001		
53.	New Vikas Tyres 92, Mm Road, Bara Hindu Rao Delhi Pin-110006	54.	Pahwa Distributors 81/20-A, Shivpuri G.B.Road Lucknow, UP - 226018
55.	Paras Auto Parts Shop No.4, Plot No.70, Pjp Chamber, Sector-9c, Gandhidham (Kutch) Pin370201	56.	Pardeep Import Export Shop No.2/3, Sainath Building, Aziz Baug, Chembur, Mumbai, Maharashtra-400074
57.	Pioneer Trading Corporation 178 Chadha House, S.V.P.Nagar,Mhada Layout, Andheri (West) Mumbai, Maharashtra - 400053	58.	Prem Trading Company 57, Harsh Nagar, Subhash Nagar, Near Sanskar Secondary School, Jabalpur M.P. Pin-482002
59.	Pricon Engineering Services 90, National Park Lajpat Nagar- IV New Delhi Pin-110024	60.	R C International C-33, Maruti Dham, Anand Nagar, Vasai West, Thane. Maharashtra Pin-401202
61.	R S Enterprises 122/235,Sarojini NagarA-2, Room No 61, Sec-20Jurbhe, Navi Mumbai - 400705	62.	Radhey Kishan Enterprises 2263/68 Gf Shop No.3 Gali I-linga Beg Phatak Habs Khan Khari Baoli Delhi
63.	Rajpal Roadlines Pvt Ltd 23, Sewree Premises Society, 2nd Floor, Sewree Fort Road, Sewree (E), Mumbai, M.S.	64.	Rameshwar Dass & Co. B-584, Nehru Ground NIT Faridabad, Haryana
65.	Rangi Road Carrier Shop No. 3, Kawle Complex Datta Nagar, Hingoli Road, Near Railway Over Bridge, Nanded/Mah.	66.	Renu Raj Trading D-303, Mota Nagar, Chakala ,Andheri- East, Mumbai, Maharashtra, Pin-400099
67.	Roadlion International Lane No.7, Burari Road Khasra No.5/5, 5/6, Swaroop Nagar Sameypur, Delhi Pin-110042	68.	Royal Traders Shop No.21, 1st Floor Maa Ghouri Complex, WZ-97 Punjabi Bagh, Delhi Pin110063
69.	Rynaa Overseas (India) 540/1, Gitanjali, 13 Th Road, Tps lii,Khar (W), Mumbai	70.	S R Enterprises E-109, First Floor, Karampura,Delhi
71.	S. S. And Sons 2343, 1st Floor, Tiiak Bazar Chandni Chowk Delhi	72.	S.K. International B-3/13, Janakpuri, New Delhi Pin-110058
73.	Saarwan Enterprises 21 9, IInd Floor Vishal Tower DistrictCentre, Janak Puri, New Delhi	74.	Sabharwal Trading Company 3099 , No. 36 Shop No.4,Beadonpura Karol Bagh Delhi
75.	Sachin Prasad Yadav, 20a/H/2,Pottery Road, Kolkata,W.B.Pin-700015	76.	Samar Traders 6528, Main Road Bara Hindu Rao Delhi Pin-110006

77.	Sanjog Impex 6/2, South Tukoganj, Madhumilian Square, Indore, M.P. Pin-452001	78.	Sanmatl Portex Pvt Ltd. y-434/7 Adarsh Enclave Prem Nagar
79.	Sat Guru Traders 148 First Floor Civil Lines Sadar Azamgarh U.P. Pin-276001	80.	Saveer International 703, Krishna Apra Business Square Plot No.D-4/5/6, Netaji Subhash Place, Dist.Centre, Wazirpur,N.D. Pin-110034
81.	Shiv Shakti Enterprises 10 Rama Park, Kishan Ganj, Delhi	82.	Shivalik Exim ,sco.21-25, Cabin No.20, Sector 70, Opp.Vivek High School Mohali.(Pb).
83.	Simran India Inc., D-139, Karampura, New Delhi Pin-110015	84.	Simran Traders House No 160 Ground Floor Chand Nagar,Vishnu Garden, New Delhi
85.	Som Projects & Associates Shop No.5, Plot No.1, A 2 Block, Kanwar Singh Nagar, Nangloi Delhi Pin-110041	86.	Sri & co, No. 16/2, L.B.F.Road, Bangalore, Karnataka
87.	Sri Kumaran Traders No.5, 6, 7, 4/1, Ground Floor, 2nd Cross, Rudrappa Compound, H.Siddajah Road, Bangalore	88.	Sri Tyres NO. 22/4 Karnataka Complex Lalbagh Fort Road Bangalore Pin-560004
89.	Sumant Bachhawat 189, Bangur Avenue, Block-B, Kolkata, W.B. Pin-700055	90.	Sun Traders 7A/28, W.E.A Karol Bagh, Delhi
91.	Supreme Trading Corporation 104 Shivlok House -I Karampoura Co, New Delhi Pin-110015	92.	Surodhya Sales G-190, Pushkar Enclave Paschim Vihar, New Delhi Pin-1 10063
93.	Trans Tyres (India) Pvt.Ltd. 193, Chakala Street, Mumbai, Maharashtra Pin-400003	94.	Uniglory International K-1 1st Floor Kailash Colony New Delhi Pin-1 10048
95.	Vaan Sales India Pvt. Ltd. T-770, Dcm Road, Bara Hindu Road, Delhi - 110006	96.	Vikas Retail Private Limited Ag 103, Sanjay Gandhi Transport Nagar, New Delhi-110042
97.	Vortex Rubber Industries Pvt. Ltd. 98-A, Pocket D, Ground Floor Ashok Vihar,Phase-II Delhi-110052	98.	Vrinda Overseas Flat No.127, F/F, Kondli Gharoli, Mayur Vihar, Pahse-III,New Delhi
99.	Zafco India Pvt. Ltd 1 A Vandhna, 11, Tolstoy Marg New Delhi-110001		

- l) None of the importers/users have responded and filed importer's questionnaire response.
- m) Apart from the respondent exporters and importers mentioned above, some legal submissions have been received on behalf of the following parties during the course of this investigation.

- (i) Embassy of China PR in India
 - (ii) All India Tyre Dealers' Federation
- n) The Authority made available non-confidential version of the evidence presented / submissions made by various interested parties in the form of a public file kept open for inspection by the interested parties.
- o) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCIS) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigations, which was received by the Authority. The Authority has, relied upon the DGCIS data for computation of the volume of imports and required analysis after due examination of the transactions.
- p) The Non-Injurious Price (NIP) based on the cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-Dumping Rules has been worked out so as to ascertain whether Anti-Dumping duty lower than the subsidy margin would be sufficient to remove injury to the Domestic Industry.
- q) Physical inspection through on-spot verification of the information provided by the applicant domestic industry, to the extent deemed necessary, was carried out by the Authority. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of present final findings.
- r) Verification of the information provided by the producers/exporters and Government of China, to the extent deemed necessary, was carried out by the Authority and has been relied upon for the purpose of present final findings.
- s) The Period of Investigation for the purpose of the present anti-subsidy investigation is from October, 2016 to September, 2017 (12 Months). The injury investigation period has however, been considered as the period from 2014-15, 2015-16, 2016-17 and the POI.
- t) In accordance with Rule 7(6) of the Rules, the Authority also provided opportunity to all interested parties to present their views orally in a hearing held on 28th August, 2018. All the parties who had attended the oral hearing were advised to file written submissions of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and were advised to offer their rebuttals.
- u) The arguments made in the written submissions/rejoinders received from the interested parties have been considered in the present final findings.
- v) The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this final findings.
- w) Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.

- x) Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the final findings on the basis of the facts available.
- y) In accordance with Rule 18 of the Rules supra, the Authority disclosed the essential facts of the present investigation to all interested parties vide a disclosure statement issued on 6th March, 2019, and advised them to file the comments on the disclosure statement by 13th March, 2019. The comments received from the domestic industry and other interested parties, have been addressed in the present findings to the extent considered relevant.
- z) The exchange rate adopted by the Authority for the subject investigation is US\$1 = ₹66.70.
- aa) In this notification, *** represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

- 4. At the stage of initiation, the product under consideration is defined as:
The product under consideration in the present investigation is “New Pneumatic Tyres for Buses and Lorries”, classifiable under Customs Subheading 4011.20.
- 5. The petitioner has claimed that the goods produced by the domestic industry are like articles to the subject goods originating in or exported from People’s Republic of China. It has been stated that there is no significant difference in the subject goods produced by the domestic industry and those exported from People’s Republic of China. The petitioner claims that the two are technically and commercially substitutable.

C.1. Submissions made by the Domestic Industry

- 6. The submissions made by the domestic industry with regard to product under consideration and like article and considered relevant by the Authority are as follows:
 - a) The product under consideration in the present investigation is “New Pneumatic tyres, of rubber of a kind used in buses or lorries, whether radial or bias with or without tubes and/or flap of rubber, classifiable under 4011.20”.
 - b) Tyres, Tubes and Flaps are produced separately. However, they are invariably used together in automotive applications. Product under consideration is classified in Chapter 40 under customs subheading no 4011.20 and tubes and flaps are classified under 4013.1010/4013.1020 and 4012.9049 respectively.
 - c) Even though the cost of production of radial tyres for buses and lorries is higher than the bias tyres for buses and lorries and even though the domestic industry is selling the bias tyres at a price marginally lower than radial one (on per kg basis), the landed price of imports of radial tyres is materially below not only the radial tyres but also the bias tyres produced and sold by the domestic industry.
 - d) Subject goods produced by the domestic industry are identical to the subject goods being imported into India from the subject country. The two are technically and

commercially substitutable and hence should be treated as ‘like articles’ under the Rules.

- e) The inclusion of TBB Tyres is essential in the present investigation as TBB and TBR are substitutable products out of two different technologies and are being interchangeably used. Moreover, the prices at which the imports of TBR are being made are even lower than that of domestic industry’s TBB price. As regards the contention that TBB should be excluded as there are no imports, it is submitted that the CVD investigation is on the product under consideration which includes both, bias as well as radial tyres. Countervailing duty can be levied on all the types of the product under consideration, provided it is in commercial competition, with the like article, and can cause injury on its import. The petitioner would like to draw the attention of the authorities to Huawei Technologies Co. Ltd v. Designated Authority where CESTAT held the following:

As regards STM 256, it has been argued that this product was neither produced in India nor imported into India from the subject countries during the period of investigation. This in our view is not material as the investigation is qua the product, and not the types of the product. We agree with the counsel for the domestic industry that as long as the product is imported duty can be imposed on all types of such product provided such type is in commercial competition with the like article made in India and can cause injury on its import. STM 256 is a higher version of STM 64. STM 256 if offered at a lower price can substitute for STM 64 and cause injury to Tejas qua its market for STM 64 in India.

- f) In the present case imports of TBR are being made at a price which is even lower than the price of TBB sold by domestic industry, it is more than likely that it will eat up the TBB market of the domestic industry, in addition to TBR market. It is interesting to note that in Huawei case, even when the domestic industry was not supplying a particular product type and there were zero imports of the product type such product type was included solely on the basis that the product type is substitutable with other product type and can cause injury to the product type produced by the domestic industry. In the present case, there is a significant TBB market in India, where many Indian producers are majorly supplying TBB, so the exclusion of TBB from product under consideration and domestic industry’s performance will be unwarranted and detrimental to the investigation.
- g) The fact of TBR tyres imported from China PR competing with the TBB tyres was acknowledged by the Authority in the final findings pertaining to anti-dumping investigation concerning imports of “New/unused pneumatic radial tyres with or without tubes and/or flap of rubber (including tubeless tyres) having nominal rim dia code above 16 used in buses and lorries/trucks”, originating in or exported from China PR. Relevant part is extracted below:

The domestic industry has however contended that imports of Chinese TBR are causing injury to the TBB and TBR produced by the domestic industry. The interested parties have also contended that there has been increasing

radialisation in the tyre industry across the country. Radialisation means that the bias tyres are being increasingly substituted by radial tyres. While it may be true that TBR and TBB are technically different products, there is no dispute that TBR is increasingly substituting TBB. In fact, the interested parties have themselves contended the same. The contention of the domestic industry that TBR and TBB are being used even in the same lorries has not been refuted by the interested parties, which implies that such substitution has not happened at the level of OEM (i.e., while selling a new truck/bus), but has happened when the tyres are being replaced by the consumers.

- h) In the case of *Kajaria Ceramics v. Designated Authority* it was held, it is not necessary that tiles of every size or dimension are imported into India for levy of duty. There may be many types/sizes/ dimensions, which may be manufactured in China and not exported to India. As long as such types, forming part of PUC, are in commercial competition with like article and can cause injury to the domestic producer they can be covered by the scope of levy.
- i) The fact of absence of imports of a particular type and inclusion of the same within the scope of the PUC was considered by the Designated Authority in the matter of NBR from Korea.
- j) The decision in the case of *Andhra Petrochemicals Ltd. v. Designated Authority* relied upon by the interested parties is totally different and not applicable to the present case. In that case, CESTAT found that the product under consideration or article had not been correctly defined, and that each Acyclic Oxo-alcohol was a separate article, for which separate dumping and injury was required to be examined. It is in that context that CESTAT held that an article, which has not been imported, cannot be subject to levy of duties. Further, the product sought to be included within the scope of the product under consideration was imported into India, but the domestic industry did not supply the like article and hence its inclusion was found inappropriate. In the present case, TBB is being produced in China and India. It has not been imported during the POI, but it continues to be produced in China and India, both.
- k) On the same principle the Honble CESTAT had distinguished the decision of *Andhra Petrochemicals Ltd. v. Designated Authority* in the matter of *Huawei Technologies Co. Ltd v. Designated Authority*.
- l) The CESTAT decision in the case of *Andhra Petrochemicals Ltd. v. Designated Authority* is not applicable here in the present case as TBB tyre is not a distinct or separate product but one type of New Pneumatic tyre for bus and lorries, that is PUC. Both bias and radial tyres are part of the product under consideration.
- m) The US Authority in its scope of investigation for the Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China held that Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation. The tyres covered by that investigation included tube-type, tubeless, radial, or non-radial, intended for sale to original equipment manufacturers or the replacement market. Furthermore, the US Authority in its order for the Certain New Pneumatic Off-The-Road Tyres from the People's Republic of China held that the OTR tyres included in the scope may be either tube-type or

tubeless, radial or non-radial, and intended for sale either to original equipment manufacturers or the replacement market.

- n) Thus, Bias tyres and Radial tyres have been considered as one product under consideration by the US authority in the matter of Certain Passenger Vehicle and Light Truck Tyres from the People's Republic of China and Certain New Pneumatic Off-The-Road Tyres from the People's Republic of China.

C.2. Submissions made by the other interested parties

7. The submissions made by the exporters, importers, users and other interested parties with regard to product under consideration and like article, and considered relevant by the Authority, are as follows:

- a) Product under consideration in the present investigation covers two types of tyres- Truck & Bus bias Tyres (TBB) and Truck and Bus Radial Tyres (TBR) and both the products were subjected to separate anti-dumping duties. Moreover, the Authority themselves admitted that both are technically different products and TBR is increasingly substituting TBB. In light of this, it is clear that both the products cannot be clubbed together as they cannot be said to be like articles under Rule 2(c).
- b) Furthermore, the authority did not extend the duties to TBB, as the domestic industry failed to prove that there was any injury or any likelihood of injury on account of TBB. Clubbing them is merely an attempt to get the duties imposed on TBB also. Therefore, it is requested that the TBB be excluded from the scope of this investigation.
- c) DGCI&S import data of new pneumatic tyres shows all imports during POI are of new pneumatic radial tyres.

Import China PR	Unit	2014-15	2015-16	2016-17	POI
Radial Tyres	MT	30,665	69,982	81,896	61,203
Bias tyres	Pcs	0	0	0	1

- d) Anti-dumping duty investigation cannot be initiated on the product when there are no imports of such product in the investigating country. This was held in Andhra Petrochemicals Vs. Designated Authority. Therefore, new pneumatic bias tyres for buses and lorries are required to be excluded from the scope of product under consideration.
- e) Section 9B(1)(b)(ii) of the Customs Tariff Act read with Rule 2(b) of countervailing duty rules requires that imported product should cause material injury to the domestic industry engaged in the manufacture of like article. Like article is an article which is identical or alike in all respects to the product under investigation. Therefore, the domestic like product should be narrowed down to include only new pneumatic radial tyres for buses and lorries. This was observed in Anti-dumping investigation on New Pneumatic Radial Tyres from China PR.
- f) The product under consideration ought to exclude Tyres having normal rim diameter of 17.5 inch tubeless used on light commercial vehicles and tyres having nominal rim diameter of 16 inch & below used on light commercial vehicles, because in India buses & lorries/trucks use tyres of rim diameter code 20 inch for tube type tyres & 22.5 for tubeless tyres only.
- g) Domestic industry claims that imported new pneumatic radial tyres for buses and lorries are used interchangeably with domestically produced radial tyres as well as

bias tyres. Consequently, the domestic industry submits that the two are technically and commercially substitutable and hence should be treated as 'like article' under the Rules. Product under consideration (PUC) in the present case is new pneumatic tyres for buses and lorries. Thus, PUC includes both new pneumatic radial tyres and new pneumatic bias tyres. DGCI&S import data of new pneumatic tyres shows that there is no import of new pneumatic bias tyres from China PR in the injury investigation period. There is only one sample transaction of import of bias tyres. Anti-dumping/Countervailing duty investigation cannot be initiated on the product when there are no imports of such product in the investigating country. In the case of *Andhra Petrochemicals Vs. Designated Authority*, 2006 (201) E.L.T. 481, the Hon'ble CESTAT held that:

"Furthermore, it is evident from the provisions of Section 9A(1) that not only the article should be identified for the purpose of the import, it should be an article that is exported from any country or territory to India. Therefore, export of the article identified from the country is the basis for the levy when it is exported at less than its normal value and becomes liable to imposition of anti-dumping duty not exceeding the margin of dumping upon the importation. An article which has not been exported to India cannot, therefore, be subjected to imposition of anti-dumping duty under Section 9A(1) of the Act which lays down the basis for the import. There is, therefore, no error in the final findings in so far as duty on articles not imported to India, has not been imposed. For the same reasons imposition of anti-dumping duty on the articles which were not imported, was not justified." (emphasis added)

- h) If new pneumatic bias tyres for buses and lorries are not imported into India, investigation cannot be initiated against such products by including it within the broad ambit of new pneumatic tyres for buses and lorries. New pneumatic bias tyres for buses and lorries are required to be excluded from the scope of product under consideration.
- i) Like article is an article which is identical or alike in all respects to the product under investigation. As stated, all imports into India from China PR are of new pneumatic radial tyres for buses and lorries. Accordingly, the domestic like product should also be narrowed down to include only new pneumatic radial tyres for buses and lorries. In the *Anti-dumping investigation on New Pneumatic Radial Tyres from China PR*, the Authority has already held that material injury is to be assessed for the domestic industry producing like article and domestic radial tyres is to be treated as like article to the imported radial tyres. The Authority observed that:

"The Truck and Bus Radial (TBR) Tyres produced by the domestic industry are technically and commercially substitutable to the imported TBR Tyres. TBR produced by the domestic industry are like article to the TBR imported from China."

- j) Thus, the domestic industry cannot re-agitate the issue again in the present investigation and claim that domestically produced bias tyres should be treated as like article to imported radial tyres.

C.3. Examination by the Authority

8. The Authority has noted submissions made by various interested parties with regard to scope of the product under consideration and like article offered by the domestic industry. With respect to the product under consideration, the Authority notes as follows:

- a) The very first step in an investigation is to identify the product under consideration. The product under consideration is the imported product which is allegedly causing injury to the domestic industry. In the facts of the present case, it is clear that only new pneumatic radial tyres for buses and lorries are being imported into India and there are no imports of new pneumatic bias tyres for buses and lorries. The claim of the domestic industry also is that new pneumatic radial tyres for buses and lorries being imported into India are causing injury to the manufacturers of radial tyres as well as bias tyres manufactured by them. There is no claim by the domestic industry that new pneumatic bias tyres for buses and lorries are being imported into India. Therefore, on the basis of submissions made by various interested parties and the examination of records of Domestic Industry, the Authority excludes new pneumatic bias tyres for buses and lorries from the scope of product under consideration. Accordingly, the product under consideration in the present investigation is "New/Unused pneumatic radial tyres with or without tubes and/or flap of rubber (including tubeless tyres), having nominal rim dia code above 16" used in buses and lorries/trucks". The scope of the product under consideration includes both tube type and tubeless tyres. In tube type tyre, tyre is used along with one tube and one flap in a vehicle. One tyre, one tube and one flap are together sold as a "tyre set" and described as "TTF". The term "TTF" is prevalent in the industry, to denote a "tyre set". Tyre, tube and flap jointly render the function of "tyre" in a vehicle. Sale of tyre, tube and flap are primarily on "TTF" or "tyre set" basis. Tubeless radial tyres, where tube and flap are not required, are also within the scope of this investigation.
- b) The scope of the imported product includes only Radial tyres used in buses and lorries / trucks. Tyres are generally used in various kinds of vehicles such as trucks, buses, lorries, light commercial vehicles, passenger car, jeep, tractor, two-wheeler, three-wheeler, animal pulled vehicles, earthmover, industrial tyres, aircrafts etc. However, the product under consideration is only that type of tyre that is used in buses & lorries / trucks. All other types of tyres are beyond the scope of the product under consideration in the present investigation.
- c) Product under consideration is classified under chapter 40 of the Customs Tariff Act, 1975, Tyres are classified under customs sub-heading 40112010 whereas tubes and flaps are under 40131020 and 40129049 respectively. The customs classification is indicative only and in no way binding upon the product scope.
- d) New/Unused pneumatic radial tyres produced by the domestic industry are like article to the New/Unused pneumatic radial tyres imported from China PR. The Authority holds that there is no known difference in the subject goods produced by the domestic

Industry and that exported from China PR. Subject goods produced by the Petitioners and imported from China PR are comparable, collectively and cumulatively, in terms of product characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The Authority holds that product under consideration produced by the applicant domestic industry is like article to the subject product under consideration imported from subject country in accordance with the Anti-Subsidy Rules.

D. SCOPE OF DOMESTIC INDUSTRY & STANDING

D.1. Submissions made by the Domestic Industry

9. The submissions made by the domestic industry during the course of the investigation with regard to scope of domestic industry & standing are as follows:
 - a) Application was filed by Automotive Tyre Manufacturer's Association for imposition of anti-subsidy/countervailing duty on subsidized imports of subject goods from China. Four ATMA members, viz. Apollo Tyres Ltd., M/s Ceat Ltd. M/s J. K. Tyre Industries Ltd. and MRF Ltd., have participated in the present investigation by providing all the relevant information. The production of the petitioner companies constitutes a major proportion of total Indian production. Petitioner companies are not related to any producer-exporter of the subject product outside India. The petitioner companies, therefore, constitutes domestic industry within the stipulated criteria provided under the Anti-Subsidy Rules and satisfies the requirement of standing.

D.2. Submission of other interested parties

10. The submissions made by interested parties with regard to the scope and standing of the domestic industry are as follows:
 - i. As stated, the domestic like product should be narrowed down to include only new pneumatic radial tyres for buses and lorries. The Respondent requests the Authority re-examine the standing of the domestic industry and also the claim of the domestic industry that it constitutes 'major proportion' of total production after excluding new pneumatic bias tyres from the scope of like article.

D.3. Examination by the Authority

11. Rule 2(b) of the Rules provides as follows:

“domestic industry means the domestic producers as a whole of the like article or domestic producers whose collective output of the said article constitutes a major proportion of the total domestic production of that article, except when such producers are related to the exporters or importers of the alleged subsidized article, or are themselves importers thereof, in which case such producers shall be deemed not to form part of domestic industry”.
12. The petition was filed by Automotive Tyre Manufacturer's Association on behalf of domestic producers namely Apollo Tyres Ltd., J.K. Tyre Industries Ltd., MRF Ltd. and Ceat Ltd. The Authority notes that petitioner companies have neither imported the subject

goods, nor are related to any importer or exporter of the subject goods. The Authority further holds that the Petitioner companies command a major proportion of the production of the subject goods in India. Accordingly, for the purpose of this investigation, the Petitioner Companies satisfy the standing requirement and constitute the domestic industry in terms of Rule 2(b) and Rule 6(3) of the Rules.

E. ISSUES RELATING TO CONFIDENTIALITY

E.1. Submissions by domestic industry

13. The following submissions have been made by the domestic industry with regard to confidentiality issues:
- a) Responding exporters have resorted to excessive confidentiality in the questionnaire filed by them. The exporters have claimed most of the information as confidential, without providing for proper non-confidential summarization. Further, the exporters have responded to limited number of schemes, which is a grossly inadequate response. These actions are in contravention of Rule 8 of the CVD Rules, as well as the trade notice illustrating the nature of information to be disclosed.
 - b) The exporters have also suppressed vital facts in relation to information pertaining to –
 - Relationship with other related and affiliated enterprises
 - Capacity, production, stocks and sales
 - Sample export sales documents
 - Sample domestic sales documents
 - Information relating to exports to India
 - Additional Grants
 - c) Art 12.4 of Agreement on Subsidies and Countervailing Measures also clarifies the contours of confidentiality in such investigations.
 - d) In *Guatemala – Cement II*, the panel examined the claim that the Guatemalan authority violated Articles 6.5, 6.5.1 and 6.5.2 by granting a submission from the domestic producer confidential treatment on its own initiative, without good cause having been shown by the producer. Mexico claimed that the authority violated 6.5.2 by failing to require that the domestic producer provide reasons as to why certain information could not be made public.
 - e) In *Argentina – Ceramic Tiles*, the Panel while examining whether the authorities were allowed to base themselves on confidential information in their determination considered that the purpose of the NCV summaries is to inform the interested parties so as to enable them to defend their interests.
 - f) In India, the decisions in *Essar Steel v UoI & HR Johnson v DA* by the CESTAT highlights that the DA is not required to mechanically treat information provided by a party as confidential merely on the request of the party for the same. Further the rules also confer discretion upon the Designated Authority to consider the request for confidentiality made by a party and if it is satisfied that the same is not warranted or that the supplier of the information is unwilling to make information public or to

authorize its disclosure in a generalized or summary form, it may disregard such information.

- g) The claim of excessive confidentiality by Domestic industry is unwarranted as the Domestic industry has supplied all the relevant data in indexed version, as disclosure of actual data, which is business sensitive information, will be detrimental to the domestic industry.
- h) Moreover, the claim of excessive confidentiality from the interested parties is surprising as the interested parties have not only claimed their data confidential, they have also claimed schemes and the documents showing existence or closure of such schemes as confidential. A government policy for the benefit of a certain sections of society would be available in public domain and to claim such information as confidential is blatant misuse of the confidentiality law.

E.2. Submissions by other interested parties

14. The following submissions have been made by other interested parties with regard to confidentiality issues:

- a) The applicant industry has kept several key economic parameters confidential without giving adequate reasoning for having done so. This has prevented the respondents from undertaking a meaningful examination of injury parameters of the applicant industry and defend their own interests. They have not even provided a proper non-confidential version of the said parameters for a reasonable understanding of the substance of the petition, as is required under Rule 8 of the Anti-Subsidy Rules. The confidentiality maintained by the applicants is excessive in respect to the following factors:
 - Basic information relating to capacity, production, sales.
 - Demand figures have not been provided. Without them the respondents are unable to comment on the critical issue of market share.
 - Facts regarding whether the applicant has dedicated capacity or common capacity.
 - Other key factors, apart from the above, have also been kept confidential.
- b) Moreover, having themselves disclosed volume related information as non-confidential in the final findings of the TBR anti-dumping case, the Authority should not let the applicants keep such information confidential in the present case. Doing so is just an attempt by the applicants to deprive interested parties from making effective comments on the petition filed by them. It is requested that the Designated Authority should not let the applicants keep such information confidential without a proper examination. To this end, the Supreme Court, in *Sterile Industries Ltd. v. Designated Authority*, has opined that confidentiality should not be granted automatically and should be based on thorough scrutiny.
- c) If the party providing information on a confidential basis is acting under the belief that the given information cannot be summarised, then Rule 8 of the Anti-subsidy Rules requires that the reason for having such an opinion needs to be submitted. In the present matter, the claim for confidentiality has been granted without a thorough evaluation of the relevant information, which is against the established legal standards.
- d) The Hon'ble CESTAT has clarified in the case of *H&R Johnson Ltd. v. Designated Authority* that Authority does not have to mechanically treat the information provided by a party as confidential merely because the party desires so. They have to be

satisfied on the confidentiality on the basis of various factors like nature of information and if any such information is by law or custom or usage treated as confidential. Any claim to treat the information as confidential must be bona fide and germane to the rights and legitimate interests of the party coming up with the claim.

- e) Furthermore, the Appellate Body has opined in *European Communities- Fasteners* that it is for the party claiming confidentiality to show good cause and the Authority needs to objectively assess the same. It needs to determine whether the claim was sufficiently substantiated. This has to be balanced with the prejudicial effect the non-disclosure might have on the transparency and due process interests of the other parties involved. In light of the above, it is imperative that the applicant industry discloses all the volume related information and proper non-confidential version of their parameters in accordance with the provisions of the law.
- f) The Petitioner has claimed confidentiality over actual figures of sales volume, consumption, Indian production, capacity, production of domestic industry, capacity utilization, market share, and demand. The information pertaining to these parameters are not of a commercially sensitive nature and wouldn't give the Petitioner's competitors any competitive advantage whatsoever.
- g) Furthermore, the information on these parameters have been disclosed by the Authority in the Final Findings dated 1st August 2017 and therefore, there is no reason for the domestic industry to claim confidentiality. The Govt. of China PR requests the Authority to direct the Petitioner to furnish the actual data of the said parameters to the interested parties.

E.3. Examination by the Authority

15. With regard to confidentiality of information, Rule 8 of Anti-Subsidy Rules provides as follows:

"Confidential information. (1) Notwithstanding anything contained in subrule (1), (2), (3) and (7) of rule 7, subrule (2) of rule 14, subrule (4) of rule 17 and subrule (3) of rule 19 copies of applications received under subrule (1) of rule 6 or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorisation of the party providing such information.

(2) The designated authority may require the parties providing information on confidential basis to furnish non confidential summary thereof in sufficient details to permit a reasonable understanding of the substance of the confidential information and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.

(3) Notwithstanding anything contained in sub rule (2), if the designated authority, is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in generalised or summary form, it may disregard such information.

16. The Authority made available non-confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidences submitted by various interested parties for inspection.

17. Submissions made by the domestic industry and other opposing interested parties with regard to confidentiality to the extent considered relevant were examined by the Authority and addressed accordingly. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file. The Authority also notes that all interested parties have claimed their business-related sensitive information as confidential.

F. MISCELLANEOUS SUBMISSIONS

F.1. Submissions made by other interested parties

18. The following miscellaneous submissions have been made by other interested parties:
- a) Anti-dumping duty was imposed on New Pneumatic radial tyres imported from China PR vide Customs Notification dated 18th September 2017 and will remain in force for five years i.e. till 17th September 2022.
 - b) Domestic industry has conflated two separate legal requirements against the imposition of double remedy on imports under the Countervailing Duty Rules and the SCM Agreement. Domestic industry does not deny that if export subsidization is established, it cannot be countervailed owing to the express prohibition under Section 9B(1)(a) of the Customs Tariff Act.
 - c) Export subsidization and dumping results in lower export price of product concerned. Therefore, Article VI:5 of GATT 1994 and Section 9B(1)(a) of the Customs Tariff Act provides that a product shall not be subject to both anti-dumping and countervailing duty to compensate for the same situation of dumping or export subsidization.
 - d) The Appellate Body in *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China* observed that application of double remedies is contrary to Article 19.3 of the SCM Agreement, which provides for imposition of countervailing duty in the appropriate amount.
 - e) According to Article VI:5 of GATT 1994 and section 9B (1)(a) of the Customs Tariff Act both anti-dumping and countervailing duty cannot be imposed to remedy the same situation of dumping and export subsidization. Therefore, further imposition of countervailing duty on the imports which are already subjected to the anti-dumping duty would provide additional duties to offset the export subsidies and directly contravene the said provisions.
 - f) In the present case, under the anti-dumping investigation, China PR was treated as a non-market economy where the normal value was constructed for China PR and

normal value was not based on the actual cost of Chinese companies. Therefore, any distortion, including distortion caused by the benefit of any subsidy received by such producers/ exporters, in the cost of production of the producers/ exporters were remedied by the imposition of anti-dumping duty. Also, the imposition of countervailing duty to offset other domestic subsidization would amount to double remedy.

- g) In the *US- Definitive AD and CVD (China) (DS 379)* dispute, the Appellate Body held that offsetting the same subsidisation twice by the concurrent imposition of both the duties, is inconsistent with Article 19.3 of the SCM agreement.
- h) In *J.K. Industries Ltd. v Union of India*, it was stated that the reason behind not imposing both duties simultaneously because it is matter of choice for the central government to opt either of the measures, keeping in mind considerations apart from mere quantity of export and its effect on home product.
- i) Hon'ble CESTAT decision in case of *Suncity Sheets vs. Union of India* was based on a different fact situation: injury margin was lower than the dumping margin in the anti-dumping investigations concerning imports from China PR, and not to the full extent of dumping margin. Thus, there was further scope for remedying the subsidization because it was probable that not all the subsidization was offset by way of imposition of anti-dumping duty Hon'ble CESTAT observed that there was no infirmity in the imposition of both countervailing duty and anti-dumping duty in such a case.
- j) Any imposition of countervailing duty to offset so called domestic subsidisation in China PR would amount to double remedy as there is already existing anti-dumping duty and it has been imposed to its fullest margin of dumping based on the treatment of application of non-market economy of China PR. Section 9B(1)(a) of the Custom Tariff Act and Article VI:5 of GATT 1994 specifically state that both anti-dumping and countervailing duty cannot be imposed to offset the same ground of dumping and export subsidization.
- k) Export subsidization, even if determined to exist pursuant to these alleged programs in the present investigation, cannot be countervailed due to already existing anti-dumping duty on the product as it would be inconsistent of Article VI:5 of the GATT.
- l) Imposition of countervailing duty would result in offsetting it a second time and would be inconsistent with Article 19.3 of the SCM Agreement. Therefore, we request the Authority to ensure that there is no double remedy in the present matter.
- m) There is already an existing anti-dumping duty levied on subject goods exported from China, the petition violates paragraph 5 of Article VI of the General Agreement on Tariffs and Trade, 1994 principles as both anti-dumping duty and anti-subsidy countervailing duty cannot be simultaneously levied by a contracting party. It is clear that this article prevents a situation of double remedy or compensation for same situation. Dumping margin already accounts for export subsidy and concurrent duties will lead to double jeopardy and section 9B(1)(a) of Custom Tariff Act in India prohibit double jeopardy. As it was laid down in the case of *J.K. Industries Ltd. v*

Union of India, the authority is at liberty to recommend imposition of either anti-dumping duty or countervailing/ anti-subsidy duty on the product under consideration but is not at liberty to impose both duties. Moreover, China PR has been considered as a non-economic market and computed on normal value, due to which, if any advantage gained by the Chinese manufactures on account of alleged subsidies has already been countered by imposition of anti-dumping duty. This determination was done on the basis of Injury Margin by applying the lesser duty rule, and therefore, if any injury is caused to the domestic industry by the imports has already been considered and addressed by the authority whilst imposing anti-dumping duty on imports.

n) The Petitioner has alleged export subsidization in the present investigation and have claimed the following programs as constituting export subsidies provided by the Chinese Government to its tyre producers/exporters:

- i. Program 11: Export Assistance Grant
- ii. Program 15: Hefei Municipal Export Promotion Policies
- iii. Program 19: Export Interest Subsidy Funds for Enterprises Located in Guangdong and Zhejiang Provinces
- iv. Program 55: Export seller's credit
- v. Program 56: Export buyer's credit
- vi. Program 57: Other export financing from State-Owned Banks
- vii. Program 58: Export credit insurance subsidies
- viii. Program 59: Export credit guarantees

It is therefore submitted that while calculating subsidy margins, the export subsidies should not be considered by the Authority.

- o) The period of investigation is not representative of the actual situation regarding injury to the domestic industry.
- Anti-dumping duty on imports of new pneumatic radial tyres used on buses or lorries was increased to 15% from 10%, as a result, effective customs duty rate for China PR increased from 8.6% to 12.9%.
 - Period of investigation in the present case is October 2016 to September 2017. Basic customs duty on the import of New pneumatic radial tyres used on buses or lorries falling under HS code 40112010 was increased to 15% from 10% by Government of India with effect from 2nd February 2018. As a result, effective customs duty rate for China increased from 8.6% to 12.9%. Anti-dumping duty was also imposed on new pneumatic radial tyres from China PR w.e.f 18 September 2017 ranging from 245 USD/MT to 452 USD/MT.
 - The authority will not be able to assess the effect of anti-dumping duty and increase in customs duty on the import of subject goods and improvement in the situation of the domestic industry because these things have occurred after the end of the investigation period. Thus, assessment of material injury by the domestic

industry will not be representative of the actual situation regarding imports and performance of the domestic industry.

- p) Respondents object to the written submissions filed by the petitioner industry which run into more than 172 pages. The Annexures run into more than 700 pages. In this context, it is submitted that the written submissions are supposed to be a gist of what has been presented before the Hon'ble Authority. It may be mentioned that the written submissions made by the petitioner Industry have no connect with the submissions made during the oral hearing. The Authority is requested to look into this aspect and ignore all such written submissions which were not argued during the oral hearing.
- q) It is submitted that petitioner industry has again tried to mislead the Hon'ble Authority with regard to dual remedy by placing reliance on Section 8(3) of Safeguards in CVD investigation. It is a known fact that Section 8 of Customs is applicable for safeguard investigations and not countervailing investigations. Further, petitioner industry has again tried to mislead the Authority by merely quoting Section 9B (1), which prohibits imposition of both ADD and CVD for same situation of dumping and export subsidization. In their complete written submission they have failed to justify why, in terms of Section 9B(1), both ADD and CVD duties are justified in present investigation.

F.2. Submissions made by domestic industry

19. The following miscellaneous submissions have been made by the domestic industry:

- a) It has been contended that for the purpose of calculating the normal value of the subject goods, China was treated as Non-Market Economy and lesser duty rule was applied by the Authority in that investigation. The WTO Appellate body in US-China held that double remedies are likely to occur in cases where NME methodology is employed. However, Petitioners contend that the WTO decision is inapplicable in the Indian context as, India applies the lesser duty rules and as the petitioner consents that subsidy duty may be charged only to the extent that the quantum of subsidy duty exceeds the quantum of ADD. In the WTO case, the US had applied subsidy duty and dumping duty without granting offset of one duty in other.
- b) Petitioner consents that (a) the authority may kindly determine the subsidy margin and injury margin, (b) determine the quantum of subsidy duty payable, (c) the authority may reduce the quantum of dumping duty in case the quantum of subsidy duty is higher than the quantum of dumping duty and recommend the differential as the amount of subsidy duty in respect of those product types which are already attracting ADD, (d) in case the quantum of existing dumping duty is higher than the quantum of subsidy duty, a Nil rate of duty may be specified in respect of those product types. Reference is made to the Final Findings concerning imports of Stainless Steel where the dual protection to the domestic industry had not been granted by the Designated Authority or the Ministry of Finance.
- c) Petitioners submit that the interested parties are misleading the Designated Authority in believing or considering that mere initiation of subsidy investigations in respect of a product that is already subject to anti-dumping duty is prohibited. Further, the interested parties are also misleading the Designated Authority in believing that the statute prohibits imposition of subsidy duties on those products where ADD is

already in place. It would be seen that the WTO has clearly held that the only bar is in imposing double duties – once as anti-dumping and once as anti-subsidy duty to account for same situation of dumping and an export subsidization. Whether or not the facts of the particular case fall into the meaning of same situation is a pertinent question of fact and is required to be established by interested parties before they can establish their contention.

- d) The interested parties are being selective in their import trend analysis, it is unfair to compare import trends from 2016-17 to POI, ignoring the tremendous increase subject imports have seen since base year. Imports have almost doubled since base year to the POI. Further, decline in imports is partly because of decline in demand and partly because of initiation of antidumping investigation on imports of TBR in May 2016.
- e) It is pertinent to note here that the POI of the anti-dumping investigation was July 2014- December 2015. The Authority had concluded increase in imports in that period and also concluded material injury when the price parameters were comparatively in a better position as prevailing in the present POI. It would be seen that though imports have declined import prices have further declined despite increases in costs. The profitability of the domestic industry has further declined thus evidencing continued material injury being suffered in terms of subsidized imports from China.
- f) As regards the argument that there has been a significant decline in imports in the post-POI, it is a settled principle of dumping law that POI is the relevant period for purpose of injury analysis. Further, while it is appreciated that there has been a decline in imports post POI as a result of imposition of ADD, what is also pertinent to see is that import prices have declined significantly in comparison to POI even with the increase in custom duty and imposition of anti-dumping duty, which clearly indicates the propensity of the Chinese exporters to reduce the prices, thanks to numerous subsidies available to them. Past decision of the Designated Authority on information pertaining to post POI is referred to and relied upon in the matter of imports of NBA from Saudi Arabia.
- g) As regards contentions raised by the opposing parties with regard to dual remedy, as anti-dumping duty has already been imposed on some types of the product under consideration, petitioner submit that only truck & bus radial tyres are attracting ADD on TBR. At the outset, there is nothing in law to bar the petitioner to seek both the remedies on the same products and at the same time. Petitioners rely upon Section 8(B)(3) of Custom tariff Act, 1975 which states as follows-

(3) The duty chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

Further, Section 9 (5) of Custom Tariff Act, 1975 states as follows-

(5) The countervailing duty chargeable under this section shall be in addition to any other duty imposed under this Act or any other law for the time being in force.

Section 9B(1) of Custom tariff Act, 1975 states that-

9B. (1) Notwithstanding anything contained in section 9 or section 9A, -

(a) no article shall be subjected to both countervailing duty and anti-dumping duty to compensate for the **same situation** of dumping or export subsidization;

- h) The interested parties' submission to the Authority that the initiation of countervailing duty investigation and imposition of countervailing duty on a product that is already subject to anti-dumping duty is prohibited under the statute, is misleading. As per the WTO Appellate Body's decision, the only bar on the Authority is in deciding the subsidy amount, and in doing so should consider the relief that has already been granted to the domestic industry by way of anti-dumping duty.
- i) The existence of domestic subsidies even in NME countries does not imply that duties cannot be applied. There is no bar in imposing countervailing duty even when anti-dumping duty is in place. Since India follows the lesser duty rule, the Authority should compare the subsidy margin with injury margin to determine the countervailing duty. If the countervailing duty determined is higher than the existing quantum of anti-dumping duty, then there is no bar in imposing countervailing duty after adjusting for existing anti-dumping duty.
- j) Petitioner submits that the CESTAT order and DGTR finding on – "*Certain Hot Rolled and Cold Rolled Stainless Steel Flat Products from China*", clearly clarifies the situation of simultaneous imposition of duties.
- k) As far as the WTO decision is concerned, petitioner submits that the same is entirely inapplicable in the Indian context considering that (a) India applies lesser duty rules and (b) the petitioner consents that the subsidy duty may be charged only to the extent that the quantum of subsidy duty exceeds the quantum of anti-dumping duty. In the case of WTO DS 379, the US has applied subsidy duty and dumping duty, without granting any offset of one duty in other.
- l) Accordingly, Petitioner requests the authority to –
 - Recommend that the quantum of subsidy duty that shall be determined after reducing the quantum of anti-dumping duty payable on the imports in order to address the dual remedy to the domestic industry. Only the differential amount shall be charged as subsidy duty. Further, if the differential amount is negative, no CVD shall be collected.
 - In the alternative, the authority may kindly determine the quantum of subsidy duty payable after adding ADD payable to the landed price of imports and recommend the remaining amount as the quantum of subsidy duty payable.
 - In the alternative, the authority may kindly determine the quantum of subsidy duty payable and recommend the differential between CVD margin and ADD as the quantum of subsidy duty payable.

F.3. Examination by the Authority

Various submissions made by the interested parties with regard to miscellaneous issues and considered relevant by the Authority are examined and addressed as follows:

20. As regards to the issue of dual remedy, because of AD duty already in force on subject goods, the Authority holds that the quantum of countervailing duty will be recommended after duly adjusting the quantum of anti-dumping duty payable on the imports of the subject goods. Only the differential amount would be charged as countervailing duty. Further, if the differential amount is negative, no Countervailing duty shall be collected.
21. This approach is in line with the consistent practice of the Authority followed in earlier investigations also, which has been ratified by the Hon'ble CESTAT as well.

G. DETERMINATION OF SUBSIDY AND SUBSIDY MARGIN

22. The petition filed by Domestic Industry provided prima facie evidence of existence of countervailable subsidies in the subject country to initiate the instant investigation prior to initiation of investigation. Government of China was invited for consultation, which was held on 20th March, 2018 in New Delhi. The producers and exporters from China PR were advised to file response to the questionnaire and were given adequate opportunity to provide verifiable evidence on the existence, degree and effect of alleged subsidy program for making an appropriate determination of existence and quantum of such subsidies, if any.
23. The following producers/exporters from China PR including Government of China have filed questionnaire responses.
 - i. Shandong Haohua Tire Co. Ltd.
 - ii. Guangzhou Exceed Industrial Technology Co. Ltd.
 - iii. HK Trade Wind Trading Ltd.
 - iv. Aeolus Tyre Co. Ltd.
 - v. Qingdao Yellow Sea Rubber Co. Ltd.
 - vi. Shandong Yongfeng Tyres Co. Ltd.
 - vii. Zhongce Rubber Group Co. Ltd.
 - viii. Shandong Wanda Boto Tyre Co. Ltd.
 - ix. Triangle Tyre Co. Ltd.

General overview of the alleged Subsidy Programs

G.1. Submissions made by domestic industry

24. The following submissions have been made by the domestic industry:
 - i. The domestic industry has contended that the Government of China PR ("GOC") is providing countervailable subsidies to its producers/exporters of the subject goods and has provided prima facie evidence of existence of such subsidy schemes in terms of legislation and policy documents. Accordingly, the domestic industry identified existence of certain numbers of countervailable subsidy schemes in China PR, within the meaning of ASCM and Indian Rules and have contended that the producers/exporters of

- subject goods in China PR have benefited from such subsidies.
- ii. The petitioner has submitted that the authority can rely on GOC and Exporter data, provided the information provided by the interested parties is complete, correct and sufficient. The questionnaire responses have been filed by the responding producers and exporters only to “pretend” that they have cooperated with the Designated Authority. The questionnaire response are grossly incomplete and inadequate. The GOC and the exporters should be treated as non-cooperative in this investigation. The very limited information filed by these exporters also shows contrary claims. The Government has denied existence of certain schemes. However, exporters have admitted availment of benefit under certain schemes. Further exporters have provided additional subsidy schemes availed by them which have not been disclosed by the GOC. Thus, since the GOC and the exporters have not provided necessary information within a reasonable period, the Authority may proceed on the basis of facts available.
 - iii. The Petitioner has submitted that the producers/exporters of subject goods have benefited from actionable subsidies. The Government of China has maintained various programs. Petitioners have considered documents such as relevant Chinese laws and regulations, WTO reports, media sources, government reports, independent reports analyses & studies, countervailing duty investigations analysis and findings of other authorities regarding subsidy programs in China PR. The petitioner has provided elaborate information regarding various subsidy programs
 - iv. Petitioner has submitted that the Designated Authority may resort to sampling in the present case. There are a large number of exporters of subject goods in China PR, exporting subject goods to India. The petitioner requested the Designated Authority to kindly consider sampling of the Chinese producers and restrict the detailed examination to only the top three producers which are Shandong Yinbao Tyre Group Co. Ltd.; Qingdao Yellow Sea Rubber Co., Ltd.; Shandong Wanda Boto Tyre Co., Ltd., because detailed examination of all the responding producers shall be unduly burdensome. The volume of exports made by some of the responding producers is very low and does not justify elaborate examination.
 - v. The programs of the GOC and other Public Bodies in China PR constitute a subsidy because of the following reasons:
 - There is a financial contribution by government or a public body, where the government practice involves a direct transfer of funds (e.g. grants, loans, and equity infusion), government revenue that is otherwise due is foregone or not collected (e.g. fiscal incentives such as tax credits), government provides goods or services other than general infrastructure, or purchases goods;
 - Benefit is thereby conferred on the Chinese producers/ exporters of the PUC; and
 - The program is specific within the meaning of Indian Rules and ASCM.
 - vi. Relevant Chinese laws and regulations, WTO reports, various Government reports, media reports and independent studies and analysis, findings of other investigating agencies in their ant-subsidy investigations clearly constitute sufficient evidence of the existence of countervailable subsidy programs in China PR. These evidences were

made available by the petitioner to all interested parties, including the GOC and the known producers and exporters in China PR.

- vii. For the purpose of this investigation, the "Government of People's Republic of China" covers all levels of government, i.e. Federal, Central, 27 Provincial, Regional or Local Govt. such as Municipal or City or Township Govts. Village or Local legislative, administrative or judicial agencies/bodies; and State-owned enterprises, operating under the direct or indirect control or influence of the GOC which operate as 'public bodies' within the meaning of the term as defined in the ASCM.
- viii. As per the petition the Chinese producers/exporters of the subject goods have received countervailable subsidies under the following programs of various levels of Govts. and they have been classified under 6 broad categories. The various programs classified under these categories are listed below:
 - I. Grants**
 - II. Tax Incentives**
 - III. Preferential Lending**
 - IV. Export Financing and Export Credit**
 - V. Equity Support**
 - VI. Provision of Goods and Services**

G.2. Submissions made by other interested parties

25. The following submissions have been made by the other interested parties:

- i. There are no countervailable subsidy programs available to exporters. There are no preferential loan, equity infusion, and provision of any goods / services by government or public body for less than adequate remuneration, revenue forgone by government or tax incentives given by Chinese government. The amounts are negligible compared to investment required to produce and export subject goods to India.
- ii. If the investigation is continued, then determination of subsidization should be based on the response filed by the exporters and the Government of China PR. As the petition does not provide evidence of actual benefit to exporters/ producers of the subject goods from China PR, the authority is requested to determine the extent of subsidization for all exports from China PR based on the questionnaire response.
- iii. Out of the 72 subsidy programs identified by the petitioners, 22 have been terminated. Accordingly, the Designated Authority should terminate the investigation against the following programs:

S. No. (Petition)	Program
4	The State Key Technology Renovation Projects Fund
7	Grants for Encouraging the Establishment of Headquarters and Regional headquarters with Foreign Investment
17	Weihai Municipality Subsidies for the Automobile and Tyre Industries
18	Subsidies for Companies Located in the Rongcheng Economic Development Zone
19	Export Interest Subsidy Funds for Enterprises Located in Guangdong and Zhejiang Provinces

28	Preferential Tax Policies for the Research and Development of FIEs
29	Tax Offsets for Research and Development by FIEs
30	Income tax credit for the purchase of domestically produced & manufactured production equipment
34	Income Tax credits for domestically owned companies purchasing Chinese made equipment
36	VAT Refunds for domestic Firms on Purchases of Chinese made Equipment
37	VAT Exemptions and Deductions for Central Regions
38	Reduced Tax Rate for Productive FIEs Scheduled to Operate for a Period not Less Than 10 Years
39	Preferential Tax Policies for Foreign Invested Export Enterprises
40	Preferential Tax Policies for FIEs which are Technology Intensive and Knowledge Intensive
41	Preferential Tax Policies for FIEs and Foreign Enterprises Which Have Establishments or Places in China and are Engaged in Production or Business Operations Purchasing Domestically Produced Equipment
42	Income Tax Refund for Re-investment of FIE Profits by Foreign Investors
44	Preferential Tax Policies for Enterprises with Foreign Investment (FIEs) Established in Special Economic Zones (excluding Shanghai Pudong Area)
45	Preferential Tax Policies for FIEs Established in the Coastal Economic Open Areas and in the Economic and Technological Development Zones
46	Local Income Tax Exemption and/or Reduction in SEZs and Other Designated Areas
47	Corporate Income Tax Exemption and /or Reduction in SEZs and Other Designated Areas
52	Preferential Loans to SOE
65	Land Use Rights in Industrial and other Special Economic Zone

- iv. The petitioners have alleged the existence of several subsidies without providing sufficient evidence in support of them or the benefits to the exporters/producers in China PR. Therefore, the Authority is requested to determine the extent of subsidization based on the questionnaire response filed by the GOC and producers/exporters from China PR.
- v. In relation to subsidy associated with cost and production, it is submitted that the Authority while recommending the anti-dumping duty against subject goods from China PR has disregarded the normal value and cost in China PR. Further, the Authority has constructed normal value and while doing so, the Authority has followed the following methodology:
 - International price of raw materials, namely, natural rubber, synthetic rubber, carbon black, nylon cord fabric, steel cord fabric and bead wire (Export/Import price from/into China PR as per World Trade Atlas has been adopted);
 - Prices of chemicals and reclaimed rubber have been considered based on domestic industry's data;
 - Consumption Norms of the most efficient constituent of domestic industry;
 - Conversion costs based on the most efficient constituent of domestic industry;
 - Selling, general and administrative expenses based on the most efficient constituent of domestic industry; and
 - Notional Profit @ 5% has been considered.

From the above methodology, it is clear that while computing constructed normal value, the Authority has adopted all components of constructed normal value mainly, raw material, energy consumption, conversion factors, selling & general administrative expenses and even profit which was not even related to the Chinese companies. Therefore, it goes without saying that subsidy, if any, hidden or otherwise, has already been taken care of while computing constructed normal value for dumping determination.

- vi. In relation to subsidies related to export performance, it is submitted that CIF price is lower due to export subsidy. Assuming, respondents are getting export subsidy (for example 10%), their net export price would be lower to the extent of 10%. This lower CIF/ export price is appropriately taken care of in anti-dumping duties.
- vii. In relation to submission of the petitioner industry relating to sampling and restricting the investigation to top three producers / exporters, the respondents submit with all humility that the request of the petitioner industry cannot be accepted at this stage of the investigation. Sampling is permitted at the beginning of the investigation subject to the prescribed conditions. It would be a travesty of justice if the responses of the fully cooperating exporters are rejected by resorting to sampling at this stage of the investigation. The Authority needs to appreciate that the respondents have fully cooperated in the proceedings and filed their complete questionnaire response to the Authority in anticipation of individual margin based on their data and numbers. It is also submitted that any sampling at this stage would cause serious prejudice to the legal and commercial interest of the respondents. In any case, we are surprised that the petitioner industry is attempting to advance a proposition on an issue which is the sole prerogative of the Hon'ble Authority.
- viii. In relation to the identification of grants available for producers / exporters of subject goods in China PR, it is submitted that the respondents had already provided complete details of the schemes availed by them. The respondents also invite the Authority for complete verification of the data/information supplied by them. All other schemes are not applicable for respondents and therefore no response is made on such schemes.
- ix. Reliance on the quantum of subsidy margins recommended by other Authorities, would be incorrect and lead to incorrect conclusions. Since subsidy margins are based on the subsidy received by specific exporter and quantum of exports made during the POI, any generic reliance on margins would not only be illogical but contrary to applicable law.
- x. If the Authority decides to proceed with the investigation, determination of subsidization should be based on the response filed by the exporters and the Government of China PR as Petition does not provide evidence of actual benefit to exporters/producers of the subject goods from China PR.
- xi. The claim of the domestic industry that response is required to be filed by all the related entities is incorrect, is contrary to the requirement under the SCM Agreement and Countervailing Duty Rules and is against the past practice of the Designated Authority. Related entities of Aeolus Tyre Co. Ltd. & Qingdao Yellow Sea Rubber Co. Ltd. are not required to file the exporters questionnaire response as they have not exported the product under consideration. The domestic industry has not identified the necessary information that will be unavailable if such related entities do not file questionnaire response. Questionnaire response filed by Yellow Sea and Aeolus provides all the information regarding benefits received by it under the subsidy programs alleged in the petition and also regarding the subsidy programs not alleged in the petition.
- xii. Out of the 72 programs alleged in the petition, questionnaire response filed by exporters have clearly identified the programs for which benefit is received by them.

- Questionnaire response filed by exporters have also provided information about subsidy programs not alleged in the petition.
- xiii. Difference in the program alleged by the petitioner and program identified by the responding exporter is clear from the difference in the legal basis for the benefit noted by the domestic industry in its petition and by the responding exporters in the questionnaire response. Thus, it is clear that the GOC has not provided any incorrect information and there is no contradiction in the response filed by the GOC and the exporter.
 - xiv. For the State Key Technology Renovation Projects Fund, GOC has noted that the program was rescinded in February 22, 2008. The domestic industry has claimed that this program may exist under different nomenclature but has not provided any evidence to substantiate such claim.
 - xv. Average useful life of assets is not 18 years as claimed by the domestic industry and therefore it is incorrect to say that the benefit received under this program is required to be examined for such period. The domestic industry has not provided any evidence to support such claim either. Information regarding annual depreciation rates, depreciation policy adopted by the exporter, average useful life of different assets is requested in the questionnaire response filed by the Authority. The Authority shall decide the appropriate average useful life period based on the information provided by the exporter concerned.
 - xvi. For Preferential income tax law for FIEs, the GOC's response is that such programs alleged by the domestic industry are rescinded.
 - xvii. GOC in its questionnaire response has itself acknowledged that new enterprise income tax law was enacted in the year 2008 upon the expiration of the previous law concerning income tax for Foreign Invested Enterprise. The GOC has also clarified in its questionnaire response that no grace period was applicable for the program alleged by the petitioners. GOC has also provided evidence in the questionnaire response regarding the termination of the program and the inapplicability of the grace period. 'Notice by the PRC State Council on the Implementation of the Grandfathering Preferential Policies under the PRC Enterprise Income Tax Law Decree No. [2007] 39' demonstrates that only those programs that were clearly listed in this notice were granted grace period.
 - xviii. For Direct government grants to specified companies, Petition filed by the domestic industry does not provide detailed description, legal basis, eligibility criteria, name of the granting authority etc, regarding the alleged programs. The petition filed by the domestic industry simply alleges existence of 'direct grant programs'. Therefore, GOC has clearly responded that there is no direct grant program of such nature.
 - xix. If the domestic industry does not file any specific information or provide explanation and evidence regarding the alleged subsidy, it cannot simply claim existence of some grant programs by the Government of China PR.
 - xx. There are no preferential loans by banks, Article 4 of the "Commercial Banking Law of China" requires the commercial banks to follow the principles of safety, liquidity and efficiency. Commercial banks make their own decisions regarding their business operations in accordance with the law and without any interference from any entity or individual. People's Bank of China (PBOC) does not interfere with the loan business of commercial banks. Following the restructuring, major state owned commercial banks (SOCBs) as well as private banks are now publicly listed companies operating solely on market principles. There is no specific lending policy designed and applied according to any specific industry sector.
 - xxi. For provision of goods or services at less than adequate remuneration, GOC has provided complete information regarding the mechanism applicable in China PR for

each of the alleged provision of goods in response to the questions noted by the Authority in the provision of Goods/Services Annexures.

- xxii. Domestic industry has relied on the finding of the United States, Department of Commerce in the case of Certain Passenger Vehicle and Light Truck Tires to claim that tyre producers in China PR may have received benefit under these programs. The GOC notes that there is no reason to resort to secondary information when the responding exporters have clearly provided the information regarding the use of programs availed by them. Subsidization is required to be determined for the responding exporters based on the facts and information provided by them in the questionnaire response.
- xxiii. In the countervailing duty investigation by the United States, the POI was fixed as January 1, 2013 to December 31, 2013. The POI in the present investigation is October 2016 to September, 2017. Subsidization determined for a stale POI for exporters in China PR who were exporting to the United States is unrepresentative for the present anti-subsidy investigation. Subsidization is required to be determined for the POI for producers of new pneumatic tyres for buses and lorries who have exported to India. Moreover, the product under consideration in the present investigation is "new pneumatic tyres for buses and lorries" which is different from the product under consideration in the countervailing investigation by United States i.e. "certain passenger vehicle and light truck tires".
- xxiv. Also, the determination relied upon by the domestic industry is of the year 2015, which is obsolete as there has been subsequent administrative review by the United States itself.
- xxv. Domestic industry has wrongly claimed that certain programs were countervailed by the United States. For example, the domestic industry alleges that US authority concluded that "Weihai Municipality Subsidies for the Automobile and Tyre Industries" is countervailable. However, in the administrative review, the United States has specifically concluded that "Weihai Municipality subsidies for the Automobile and Tyre Industries" was not used and was not conferring benefit during the period of review to the exporters from China PR. Similarly, the domestic industry has incorrectly noted that the US authority has determined that exporter Shandong Yongfeng Tyres Co. Ltd. has received benefit under the "Income Tax Reduction for Advanced Technology". United States has specifically concluded in the administrative review that no benefit was conferred to the exporters for "Income Tax Reduction for Advanced Technology" program.
- xxvi. If no information is provided regarding the alleged subsidy, the GOC cannot be put under an onerous burden to respond to the specific questions. Article 11.2 of the SCM Agreement and Rule 6 of the Anti-subsidy Rules clearly provides that the application filed by the domestic industry shall include sufficient evidence of the existence of a subsidy. Therefore, the application shall include sufficient evidence regarding (i) financial contribution (ii) specificity & (iii) benefit.
- xxvii. Domestic industry has provided incorrect information regarding the countervailability of the programs by the Designated Authority in the previous CVD investigations. For example, following grant programs alleged by the domestic industry as being held countervailable in the case of *Castings for Wind Operated Electricity Generator* were not even investigated by the Designated Authority:
- Special Fund for energy saving technology reform
 - The clean production technology fund
 - Fixed Asset Investment Subsidies &
 - Export assistance grant

- xxviii. Similarly, following preferential tax programs alleged by the domestic industry as being held countervailable in the case of *Castings for Wind Operated Electricity Generator* were not even investigated by the Designated Authority in that case:
- Reduced Tax rate for productive FIEs scheduled to operate for a period not less than 10 years
 - Preferential tax policies for foreign invested export enterprise
 - Income tax refund for re-investment of FIE profits by foreign investors
 - Income tax reduction for advanced technology FIEs
 - Preferential tax policies for enterprise with foreign investment established in special economic zones
 - Preferential tax policies for enterprise with foreign investment established in coastal economic open areas and in the economic and technological development areas
 - Corporate income tax exemption and reduction in SEZs and other designated areas etc.
- xxix. Domestic industry has also made similar incorrect claims regarding countervailability of the programs based on the previous finding of the Designated Authority in respect of other categories of subsidy programs.
- xxx. In the case of *Certain Hot and Cold Stainless-Steel Products*, the Designated Authority considered the GOC as non-co-operating and consequently determined the countervailability of the alleged programs based on facts available. However, in the present case, the GOC has filed complete questionnaire response and has provided all the relevant information. The Designated Authority may request further information from GOC that it may require and should not rely on its previous finding in the case of stainless steel products to decide the countervailability of the programs.
- xxxi. Reliance on the findings of the Authority in other countries in countervailing duty investigations concerning steel products is not justified. Article 12.8 of the SCM Agreement and Rule 7(8) of the Countervailing duty rule clearly provides that only when the interested party (i.e. the GOC or other exporters) refuses access to the information or does not provide necessary information that the Authority can resort to facts available. The product under consideration in those cases were 'organic coated steel', 'carbon & alloy steel', 'non-oriented steel' 'grain oriented electrical steel' etc. All the products under investigation in these cases concern steel sector. Benefit determined to have been received by steel producers in China PR bears no connection with the benefit that may have been received by producers of new pneumatic tyre for buses and lorries in China PR. The POI in those cases are stale and unrepresentative and the investigating authorities in those cases determined subsidization in respect of number of programs based on facts available and not based on positive evidence or based on the information provided by the GOC or exporters from China PR.
- xxxii. Rule 12 (1) of the Countervailing Duty Rules provides that the amount of countervailable duty shall be calculated in terms of the benefit conferred on the recipient which is found to exist during the investigation period for subsidization.
- xxxiii. GOC has provided information regarding the benefit received by the cooperating exporters for the alleged subsidy programs in its questionnaire response. There is no requirement of information regarding benefit received by producers of product under consideration who are either not exporting the product under consideration at all or did not export the product under consideration to India during the POI. Benefit

received by producers who exported the product under consideration to third countries is not required to be analysed by the Authority in this countervailing duty investigation. Scope of the present investigation is restricted to the producers who have exported new pneumatic tyres for buses and lorries to India.

- xxxiv. Responding exporters have provided the information regarding the benefit received by them for recurring subsidies during the POI and for non-recurring subsidies for which the benefit is received in the POI.
- xxxv. Domestic industry has presumed that the AUL period is of 18 years. In fact, in the written submission, the domestic industry has also claimed that the AUL period is of 25 years in the present investigation. The domestic industry has not provided any basis for presuming such elongated AUL period. Authority is required to decide the appropriate AUL period for allocating the benefit in case of non-recurring subsidies based on the depreciation rates for different types of assets prevailing in the tyre sector in China PR. Exporters have provided information in their questionnaire response regarding such depreciation rates and the proposed AUL period based on such depreciation rates.
- xxxvi. Domestic industry has not provided any positive evidence showing that the exporter has received benefit for the alleged subsidy program during the POI. Exporters have provided detailed responses clearly identifying the following:
- Recurring subsidy programs which are alleged in the petition and under which they have received benefit in the POI.
 - Non-recurring subsidy programs alleged in the petition under which they have received benefit in the POI..
 - Recurring subsidy programs which are not alleged in the petition but under which they have received benefit in the POI.
 - Non-recurring subsidy programs which are not alleged in the petition but under which they have received benefit in the POI.
- xxxvii. The claim of the domestic industry that responding exporters should demonstrate by way of positive evidence that they have not received the benefit under the alleged subsidy program is unreasonable.
- xxxviii. Exporters have provided positive evidence showing that the nature and amount of benefit received under these subsidy programs. The exporters cannot provide positive evidence showing that they have not received benefit under the alleged subsidy program. Non-receipt of benefit is a negative fact which cannot be established by way of positive evidence.

G.3. Examination of the Subsidy programs alleged by the Petitioners

26. Six groups of tyre producers from China PR have filed questionnaire response. Out of these, 5 groups have exported the subject product to India during the POI. M/s. Shandong Haohua Tire Co. Ltd., M/s. Guangzhou Exceed Industrial Technology Co. Ltd. and M/s. HK Trade Wind Trading Ltd. have not exported the subject product to India. Individual subsidy margin cannot be determined for tyre producers who have not exported the subject product to India during the POI. Accordingly, the Authority notes that separate countervailing duty rate cannot be determined for these producers from China PR.

I. Grants

(i) Program No. 1: Famous Brands Program

a. Submission by the Petitioners

27. The Petitioners submitted that enterprises whose products qualify for the title of ‘China Worldwide Famous Brand’ are eligible to get direct transfer of funds from the GOC. The program confers benefit to the recipient. The program is specific in nature because it is contingent on exports. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them.
- i. Order No. 124 – Measure for the Administration of Chinese Famous Brand Products (Dec 2009)
 - ii. Measures for the Administration of Chinese Famous Brand Products (Dec 2006)
 - iii. Notice Concerning the Promulgation and Circulation of “Measures for the Administration of National Key Technological Renovation Projects” (Para 4&7)
 - iv. Measures for the Administration of Treasury Bond Special Fund for National Key Technological Renovation Projects at Para 6-9 Guo Jing Mao Tou Zi (1999) No. 886 (Sep 10, 1999)
 - v. Guiding Opinion of the State Council on Promoting Enterprise Technological Renovation (Guo Fa (2012) No. 44)
 - vi. Industrial Revitalization and Technological Renovation Special Work Plan for 2015
 - vii. Decision Concerning Commending and/or Awarding to Enterprises of Guangdong Province Whose Products Qualify for the Title of “China Worldwide Famous Brand”, “China Famous Brand”, or “China Well-known Brand”
 - viii. Notice of Shandong Province concerning the Special Award Fund Budget in 2008 for the Development of Self Exporting Brand (Lu Cai Qi Zhi (2008) No. 75)

b. Submissions by GOC / other interested parties-

28. The GOC stated that among all legal basis provided by the petitioners, legal text is provided only for Order No. 124 – Measure for the Administration of Chinese Famous Brand Products (Dec 2009). Order No. 124 – Measure for the Administration of Chinese Famous Brand Products (Dec 2009) was terminated on 6 March 2018. No legal text is attached for the remaining exhibits. The *China Famous Brand Strategy Development Report* provided by the petitioners is not legal text.

c. Examination by the Authority:

29. The Notice Concerning the Promulgation and Circulation of “Measures for the Administration of National Key Technological Renovation Projects” (Paras 4&7) and Measures for the Administration of Treasury Bond Special Fund for National Key Technological Renovation Projects at Para 6-9 Guo Jing Mao Tou Zi (1999) No. 886 (Sep 10,

1999) were referring to the State Key Technology Renovation Projects Fund and both were found invalid.

30. Guiding Opinion of the State Council on Promoting Enterprise Technological Renovation (Guo Fa (2012) No. 44) and Industrial Revitalization and Technological Renovation Special Work Plan for 2015 were found not relevant to famous brand program. The Authority was unable to identify the content of Notice of Shandong Province concerning the Special Award Fund Budget in 2008 for the Development of Self Exporting Brand (Lu Cai Qi Zhi (2008) No. 75) and evaluate whether the regulation is related to the program or not.
31. The Authority also noticed on the website of People's Government of Guangdong Province, that it issued Decision Concerning Commending and/or Awarding to Enterprises of Guangdong Province Whose Products Qualify for the Title of "China Worldwide Famous Brand", "China Famous Brand", or "China Well-known Brand" in 2005, 2006 and 2007. However, it is unknown whether the programme is still active or not.
32. The Authority notes that the program was governed under Administrative Measures for China's Brand Name Products (Order No. 12 of the General Administration of Quality Supervision, Inspection and Quarantine) dated December 29, 2001. It was amended by the Decision of the General Administration of Quality Supervision, Inspection and Quarantine on Revising the "Administrative Measures for China's Brand Name Products" on December 18, 2009 (Order No. 124 of 2009 of the General Administration of Quality Supervision, Inspection and Quarantine).
33. According to Decision of the General Administration of Quality Supervision, Inspection and Quarantine on Abolishing and Amending Some Regulations (2018) (Order No. 196 of 2018 of the General Administration of Quality Supervision, Inspection and Quarantine), the program was still valid during the POI.
34. The program provides financial contribution in the form of direct transfer of funds and benefit is thereby conferred on the recipient. The program is specific because it is available only to certain enterprise who meets the product criteria for famous brands. None of the participating producers and exporters from China PR have received benefit under this program.
35. The petitioner has also not provided any evidence to show that this program was used by the tyre producers in China PR who exported the subject product to India during the POI.
36. During the course of investigation, the Authority could also not find any evidence to show that tyre producers in China PR who exported the subject product to India during the POI received benefit under this program. Moreover, the GOC has provided evidence to demonstrate that the program was terminated on 6 March 2018. Therefore, the Authority holds that no countervailing duty should be imposed against this program.

(ii) Program No. 2: Special Fund for Energy-Saving Technology Reform

a. Submission by the Petitioners

37. The Petitioners submitted that under the program, funds were arranged to support enterprises who are manufacturing high-efficiency and energy-consuming products in China. As

evidence of existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them.

- i. Circular of Ministry of Finance and National Development and Reform Commission on Printing and Distributing Interim Measures on Administration of Energy Saving Technology Reform Awards Fiscal Funds (Cai Jian (2007) No. 371)
- ii. Provisional Measures Special Fund for Energy Saving Technology under the Circular of the Shandong Finance Department and Shandong Economic and Trade Commission
- iii. Translated Notice of the Ministry of Industry and Information Technology on Issuing the Tire Industry Policy (Gong Chan Ye Zheng Ce (2010) No. 2 at Art.6)

b. Submissions by GOC / other interested parties

38. The GOC stated that the petitioners did not provide legal text in respect of Provisional Measures Special Fund for Energy Saving Technology under the Circular of the Shandong Finance Department and Shandong Economic and Trade Commission.

c. Examination by the Authority

39. The Authority notes that the program was governed under Cai Jian (2007) No. 371. The Regulation was replaced with Notice of the Ministry of Finance and the National Development and Reform Commission on Issuing the Administrative Measures for the Financial Incentive Funds for Energy Conservation Technology Retrofits (Cai Jian (2011) No. 367) dated 21 June 2011. This Notice was further replaced with Notice of the Ministry of Finance on Issuing the Interim Measures for the Administration of Subsidy Funds for Energy Conservation and Emission Reduction (Cai Jian (2015) No. 161) dated 12 May, 2015. Cai Jian (2015) No. 161 and is in force till date.
40. With regard to Provisional Measures on Special Fund for Energy Saving Technology under the Circular of the Shandong Finance Department and Shandong Economic and Trade Commission (Lu Cai Jian (2006) No. 61), the Authority also noted that the regulation was replaced with Lu Cai Jian (2007) No. 14) dated 12 June, 2007 and then further replaced with Lu Cai Gong (2017) No.52 dated 27 December, 2017. Lu Cai Gong (2017) No. 52 and is in force till date.
41. The Authority notes that the program has been earlier examined by other investigating authorities in the past, which also proves its existence. For example, countervailability of this program has been established by the US authorities in *Non-Oriented Electrical Steel*.
42. The program provides financial contribution in the form of direct transfer of funds and thereby confers benefit to the recipient of such financial contribution. The program is specific because it is limited to enterprise that undertake energy saving technology reforms.
43. None of the participating producers/exporter from China PR however have received benefit under this subsidy program. Petitioners have also not provided any evidence to show that benefit was received under this program by any of the tyre producers in China PR who exported to India during the POI.
44. During the course of investigation, the Authority could also not find any evidence that tyre producers in China PR who exported the subject product to India during the POI received benefit under this program.

45. Therefore, the Authority holds that no countervailing duty should be imposed against this program.

(iii)Program No. 3: The Clean Production Technology Fund

a. Submissions by the petitioners

46. The Petitioners submitted that under this program, subsidy fund was provided for the purpose of decreasing pollution through incentives including monetary rewards presented to producers and manufacturers that pass an environmental inspection. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them.

- Provisional Measures on Clean Production Inspection, Decree No. 16 of the Ministry of Environmental Protection of the People's Republic of China (Aug.16, 2004), translated excerpts

b. Examination by the Authority

47. The Authority notes that the program was governed under 'The Interim Measures for Cleaner Production Review (Order No. 16 of the National Development and Reform Commission and the Former State Environmental Protection Administration)'. The regulation was replaced with Measures for Cleaner Production Review (2016 Revision) dated 16 May, 2016. This 2016 Revision is in force till now.

48. The Authority notes that the program has been examined by other investigating authorities in the past. For example, Existence of countervailability of this program has been established by the US authorities in *Non-Oriented Electrical Steel*.

49. The program provides financial contribution in the form of direct transfer of funds and thereby confers benefit to the recipient of such financial contribution. The program is specific because it is limited to enterprise that pass the environmental inspection.

50. None of the participating companies have received benefit under this subsidy program. Petitioner has also not provided any evidence to show that benefit was received under this program by any of the tyre producers in China PR who exported to India during the POI.

51. During the course of investigation, the Authority could also not find any evidence to show that tyre producers in China PR who exported the subject product to India during the POI received benefit under this program.

52. Therefore, the Authority holds that no countervailing duty should be imposed against this program.

(iv)Program No. 4: The State Key Technology Renovation Projects Fund

a. Submissions by the petitioners

53. The eligible enterprises are provided grants for technical upgrades and renovation and is intended to *inter alia* promote technological renovation in key industries, enterprises and products. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them.
- i. Notice concerning the Promulgation and Circulation of “Measures for the Administration of National Key Technological Renovation Projects” and “Measures for the Administration of Treasury-bond Special Fund for National Key Technological Renovation Projects” (Guo Jing Mao Tou Zi [1999] No 886);
 - ii. Guo Jing Mao Tou Zi No 122 of 1999;
 - iii. Notice Concerning the Promulgation and Circulation of “Measures for the Supervision and Administration of National Key Technological Renovation Projects (for Trial Implementation)” from the State Economics and Trade Commission (Guo Jing Mao Tou Zi [1999] No 1038);
 - iv. Notice of Amendments to the “Measures for the Administration of National Key Technological Renovation Projects” and “Measures for the Administration of Treasury-bond Special Fund for National Key Technological Renovation Projects” (Guo Jing Mao Tou Zi [2000] No 822).
 - v. Shandong Province’s List of 2012-13 Shandong Province International Brands for Focused Fostering and Development includes 15 tire brands / producers
 - vi. Measures for the Administration of Chinese Famous-Brand Products, General Administration of Quality Supervision, Inspection, and Quarantine, Order No. 124 (Dec 18, 2009)
 - vii. Notice of Shandong Province Department of Commerce on Announcing List of 2011-2013 Shandong Province International Brand Names for Focused Fostering and Development (Jan.7. 2012)
54. The program provides for direct transfer of funds in the form of cash grants and confers benefit on the recipient. This program has been held countervailable by other investigating authorities. The petitioners have further alleged that major tyre producers in China who are eligible for these programs are entities such as Shanghai Tyre & Rubber Co., Ltd (a predecessor to Double Coin), Guizhou Tyre Co., Ltd, Qingdao Doublestar.

b. Submissions by GOC / other interested parties

55. This program was terminated long time ago on February 22, 2008. There is no continuing existence of benefit under this program. There was no replacement and grace period granted for this program. So no producers / exporters could have applied for or received benefits under this program during the POI.

c. Examination by the Authority-

56. The Authority notes that the said program was introduced on 10 September 1999 through:
- i. “Measures for the Administration of National Key Technological Renovation Projects” and
 - ii. “Measures for the Administration of Treasury-bond Special Fund for National Key Technological Renovation Projects” (Guo Jing Mao Tou Zi [1999] No 886), which was replaced on 28 August 2000 (Guo Jing Mao Tou Zi [2000] No 822).
 - iii. Further, “Measures for the Supervision and Administration of National Key Technological Renovation Projects (for Trial Implementation)” issued by the State Economics and Trade Commission (Guo Jing Mao Tou Zi [1999] No 1038) was the instrument providing for the supervision of the program.
57. On 22 February 2008, the National Development and Reform Commission ("NDRC") issued its Decree No. 59, by which the aforementioned instruments were rescinded.
58. The Authority examined the remaining three instruments forming the legal basis:
- i. Shandong Province’s List of 2012-13 Shandong Province International Brands for Focused Fostering and Development (which includes the names of 15 tyre brands/producers);
 - ii. Measures for the Administration of Chinese Famous-Brand Products, General Administration of Quality Supervision, Inspection, and Quarantine, Order No. 124 (Dec 18, 2009); and
 - iii. Notice of Shandong Province Department of Commerce on Announcing List of 2011-2013 Shandong Province International Brand Names for Focused Fostering and Development (Jan.7. 2012)

The Authority however found that these instruments were not relevant for the legal basis of the said program.

59. In view of the above, the Authority notes that while some of the instruments were not relevant to the aforementioned program, the other instruments were no longer in force. Thus, no producers in China PR who exported the subject product to India could have received the benefit under this program during the POI. Therefore, the Authority holds that no countervailing duty should be imposed against this program.

(v) Program No. 5: Fixed asset investment subsidies

a. Submissions by the petitioners

60. The petitioners stated that under above program, a subsidy is provided by the Hefei Government. It is a subsidy that is provided under the report of ‘the Hefei Municipal Economy and Information Commission’ for export promotion. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them.

- i. Hefei Municipal Economy and Information Commission, Notice of Request for Comments: Several Policies for Receiving Transferred Industries and Accelerating New Industrialization (May 15, 2013)
- ii. GITI Fujian Initial Quarterly Reports (2014)

Petitioners also pointed out that only Giti Anhui Passenger Radial Tyre Co., Ltd, Giti Tyre (Anhui) Co., Ltd. were eligible for this program.

b. Submissions by GOC / other interested parties-

- 61. Giti Fujian Initial Quarterly Reports is not the legal basis. Therefore, the Authority should disregard such information. There is only one producer of the subject goods based in Hefei City, i.e. Giti Tyre (Anhui) Co., Ltd.

c. Examination by the Authority

- 62. The Authority notes that under the regulation, Hefei Municipal Economy and Information Commission provides financial contribution equivalent to 5% of fixed assets investment value. The program provides financial contribution in the form of direct transfer of funds and benefit is thereby conferred on the recipient. Subsidy is also specific because it is specific to enterprise having fixed assets investment and who qualify for such benefit.
- 63. None of the participating companies have received benefit under this subsidy program. Petitioner has also not provided any evidence to show that benefit was received under this program by any of the tyre producers in China PR who exported the subject product to India during the POI.
- 64. The Authority notes that Giti Tyre (Anhui) Co. Ltd. based in Hefei City has exported the subject product to India during the POI and was eligible to receive benefit under this program. Giti Tyre (Anhui) Co. Ltd. has not participated or filed questionnaire response and therefore the Authority cannot presume that Giti Tyre (Anhui) Co. Ltd. has not received benefit under this program. Therefore, the Authority holds that countervailing duty should be imposed against this program.

(vi) Program No. 6: Venture Investment Fund of Hi-tech Industry

a. Submissions by the petitioners

- 65. The petitioners stated that under above program, enterprises producing “high-tech products” located in the high-tech zone or the high-tech park (Beijing, Shanghai, Tianjin, Chongqing, Northern Districts of China) are eligible for financial grants. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them.
 - i. Circular of Chongqing People’s Government Office in Temporary Administration Measures on Venture Investment Fund of Hi-tech Industry in Chongqing 2005
- 66. The petitioner also pointed out only Shanghai Tyre & Rubber Co., Ltd, Shanghai Guang Zheng Rubber Co., Ltd, Shanghai International Trade Co., Ltd, Fitch Bamboo, China Shipbuilding Trading (Shanghai) Co., Ltd, Shanghai Xingyu Trading Co., Ltd, Chongqing Aung Dove Trade Co., Ltd, Upload Ying Trade Co., Ltd, Chongqing Yan Import and Export

Co., Ltd, Chongqing Xuannan Science & Technology Co., Ltd. were eligible for this program.

b. Submissions by GOC / other interested parties

67. The GOC stated that the regulation was only applicable to Chongqing Municipality. There was no producer of subject product based in Chongqing.

c. Examination by the Authority:

68. The Authority notes that under the regulation, the Chongqing Municipal Government did provide subsidy to important high-tech industries in Chongqing.
69. The Authority notes that the program has been examined by some other investigating authorities, which also proves its existence. For example, countervailability of this program has been established by the Canadian investigating authorities in *Certain Aluminium Extrusions*.
70. The program provides financial contribution in the form of direct transfer of funds and benefit is thereby conferred on the recipient. Subsidy is also specific because it is specific to high-tech industries.
71. However, the Authority notes that there were no tyre producers based in Chongqing. Therefore, none of the tyre producers who exported the subject product to India could have received benefit under this program. Therefore, the Authority holds that no countervailing duty should be imposed against this program.

(vii) Program No. 7: Grants for encouraging the establishment of headquarters and regional headquarters with foreign investment

a. Submissions by the petitioners

72. The petitioners state that the main object of the program was to attract investment. FIEs are provided grants in order to reduce investment costs. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them.
- i. Provision of Guangzhou Municipality on Encouraging Foreign Investors to Set up Headquarters and Regional Headquarters
 - ii. Notice of the General Office of Guangzhou Municipal People's Government about Issuing the Provisions of Guangzhou Municipality on Encouraging Foreign Investors to Set up Headquarters and Regional Headquarters (No. 34 (2006))
 - iii. Guangzhou Municipal People's Government to speed up the implementation of the views forwarded to notice the development of headquarters economy (Sui (2010) No. 2)
73. Petitioners pointed out that only Zhaoyuan Liao Rubber Products Co., Ltd, Hangzhou Zhongce Rubber Co., Ltd, Haoyou Tyre Co., Ltd, Guangzhou Pearl River Rubber Tyre Ltd, Michelin (Shenyang) Tyre Co., Ltd, Xiamen Zhengxin Rubber Industry Co., Ltd, Kenda Rubber (China) Co., Ltd. were eligible for this program.

b. Submissions by GOC / other interested parties

74. Legal basis (i) and (ii) were same, which were terminated as per legal basis (iii). Legal basis (iii) was also terminated under Notice of the People's Government of Guangzhou Municipality on Accelerating the Development of Headquarter Economy (Sui Fu (2013) No. 14 dated 15 June 2013

c. Examination by the Authority

75. The Authority notes that Notice of the General Office of Guangzhou Municipal People's Government on Encouraging Foreign Investors to Set up Headquarters and Regional Headquarters (Sui Fu Ban (2006) No.34) was replaced with Guangzhou Municipal People's Government to speed up the implementation of the views forwarded to notice the development of headquarters economy (Sui Fu (2010) No. 2) on 16 January 2010. However, this legal basis was also terminated under Notice of the People's Government of Guangzhou Municipality on Accelerating the Development of Headquarter Economy (Sui Fu (2013) No. 14 dated 15 June 2013.
76. No tyre producers in China PR could have received benefit under the alleged subsidy programs because it was not in force.
77. Therefore, the Authority holds that no countervailing duty should be imposed against this program.

(viii) Program No. 8: Innovative Small and Medium Enterprise Grants

a. Submissions by the petitioners

78. Grants were provided to start-up capital, and subsidies for new product development for SMEs. The appropriation amount to each project will generally not exceed RMB 1 million with a maximum of RMB 2 million for key projects. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents.
- i. Article 12, 13, 36 of Law of PRC on promotion of SME;
 - ii. Measures for Administration of International Market Developing Funds of Small and Medium Sized Enterprises
 - iii. Detailed rules for the implementation of the measures for administration of international market developing funds for small and medium sized enterprises (July 1, 2001)
 - iv. Circular cooperation issuing the measures for the administration of international market developing funds of small and medium sized enterprises (2010)
 - v. Foreign trade development funds and management approach, Cai Qi (2014)
 - vi. Notice of the ministry of finance and the ministry of industry and information technology on issuing the "Measures on Administration of Special Funds for Development of SMEs" (No. 96 (2012) of Ministry of Finance)

- vii. Ministry of industry and information technology, Ministry of science and technology, Ministry of commerce on the issuance of special funds interim measures for SMEs development (Cai Qi (2014) No.38)
- viii. Ministry of Finance on the issuance of “Interim Measures on Management of Special Funds for SMEs development (Cai Jian (2015) No.458

b. Submissions by GOC / other interested parties-

79. Participating producers/exporters from China PR did not receive any benefit under this program.

c. Examination by the Authority:

80. The Authority notes that the program was governed under the Measures for the Administration of Special Funds for the Development of Small and Medium Enterprises (Cai Qi (2004) No. 185). The regulation was replaced several times. It was eventually replaced by Cai Jian (2016) No.841, which is still in force.
81. Also, Law of the People's Republic of China on the Promotion of Small and Medium- sized Enterprises was revised on 1 September, 2017.
82. The Authority also notes that Detailed Rules for the Implementation of the Measures for Administration of International Market Developing Funds of Small-and Medium-Sized Enterprises was eventually replaced with Notice of the Ministry of Finance and the Ministry of Commerce on Issuing the Measures for the Administration of the Special Fund for Foreign Trade and Economic Development (2014 Revision) (Cai Qi (2014) No.36), which is still in force.
83. The program provided financial contribution in the form of direct transfer of funds and benefit is thereby conferred on the recipient. Subsidy is also specific because it is available only to small and medium-term enterprise (SMEs).
84. None of the participating producers/exporters from China PR have received benefit under this program. Petitioners have also not provided any evidence to show that tyre producers in China PR have received benefit under the alleged subsidy program. During the course of investigation, the Authority could also not find any evidence to show that tyre producers in China PR who exported the subject product to India during the POI received benefit under this program.
85. Therefore, the Authority holds that no countervailing duty should be imposed against this program.

(ix) Program No. 9: Reimbursement of Anti-dumping and / or Countervailing Legal Expenses by the Local Governments

a. Submissions by the petitioners

86. The Petitioners claimed that the scheme is restricted to certain enterprises that are subject to foreign anti-dumping proceedings. Such companies are eligible for refund of 40% of legal fees incurred for participating in anti-dumping proceedings. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them.

- i. Rules for the Implementation of the Support Policy for the Antidumping, Anti-subsidy, Safeguard Investigation Respondent

It has also been submitted that this program has been held countervailable by other investigating authorities.

b. Examination by the Authority

87. The Authority notes that in the petition, the petitioners only provided a news article, which is not the legal basis. However, the Authority also notes that Zhejiang Province issued Countermeasures for Antidumping Regarding Export Products of Zhejiang Province (Order. 319 of the People's Government of Zhejiang Province) dated April 1, 2014 and it was found that Article 5.1 stated that the Financial Administrative Authorities shall provide the necessary financial support for antidumping defense.
88. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established. For example, the EU authorities in *organic coated steel products* and *coated fine paper* countervailing duty investigation and the United States authorities in *carbon and certain alloy steel wire rod*.
89. The program provided financial contribution in the form of direct transfer of funds and benefit is thereby conferred on the recipient. Subsidy is also specific because it is specific to enterprise subjected to anti-dumping investigation.
90. The Authority noted that certain cooperative producers/exporters from China PR received benefit in the name of legal fee for fair trade fund during the POI instead legal fee for participating in the anti-dumping investigation initiated by other countries. The reimbursement of legal fee for fair trade thus availed by some exporters has been countervailed.

(x) Program No. 10: Superstar Enterprise Grant

a. Submissions by the petitioners

91. The Petitioners claimed that the scheme is restricted to certain enterprises that exceed the sales value during the year. Financial contribution in the form of grant is provided by the local government upon meeting the target of annual sales. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them.
- i. Measures for Assessment and Encouragement of Superstar Enterprises and Excellent Enterprises

- ii. Notice of Huzhou Government Office Concerning Announcement of Criteria for Superstar Enterprises, Excellent Enterprises and Backbone Enterprises

b. Submission by the GOC/other interested parties

92. The Program is Huzhou City specific. There are no tyre producers based in Huzhou City.

c. Examination by the Authority

93. The Authority notes that in the petition, the petitioners only provided findings by Authorities in other jurisdictions. No legal text was attached of the scheme documents noted in the petition. The Authority failed to identify the content of Measures for Assessment and Encouragement of Superstar Enterprises and Excellent Enterprises and evaluate the existence of the program based on such evaluation.
94. The Authority notes that Notice of Huzhou Government Office Concerning Announcement of Criteria for Superstar Enterprises, Excellent Enterprises and Backbone Enterprises (Hu Zheng Ban Fa (2008) No. 20) was replaced with the Opinions of the People's Government of Huzhou City on further Promoting Industrial Transformation and Upgrading (Hu Zheng Fa (2011) No. 6). Hu Zheng Fa (2011) No. 6 was also abolished under Notice of the People's Government of Huzhou City on Repealing Administrative Documents (Hu Zheng Fa (2014) No. 14). The program was in existence in Huzhou City.
95. The Authority notes that there was no tyre producer based in Huzhou City and so even if this program amounts to subsidy and was specific in nature, no tyre producer in China PR could have received benefit under this program. Therefore, the Authority holds that no countervailing duty should be imposed against this program.

(xi)Program No. 11: Export Assistance Grant

a. Submissions by the petitioners

96. Grants are provided to SMEs for (i) holding or participating in overseas exhibitions, (ii) for quality management system, environment management system, (iii) promotion in the international market, (iv) exploring a new market, (v) holding training seminars and symposiums, and (vi) overseas bidding. As evidence of existence of the program, the petitioners have provided the following scheme document.

- i. Foreign Trade Department of Finance (2001) No. 270

b. Submissions by GOC / other interested parties

97. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program. However, Shandong Wanda Boto Tyre Co., Ltd and Shandong Haohua Tire Co, Ltd have accepted that they have availed benefit out of this program.

c. Examination by the Authority:

98. The Authority notes that the program was governed under Circular Cooperation Concerning Issuing the Measures for the Administration of International Market Developing Funds of Small-and Medium-Sized Enterprises (for Trial Implementation) (Cai Qi (2000) No. 467) and Detailed Rules for the Implementation of the Measures for Administration of International Market Developing Funds of Small-and Medium-Sized Enterprises (for provisional implementation) (Wai Jing Mao Ji Cai Fa (2001) No. 270). However, both regulations were replaced with Notice of the Ministry of Finance and the Ministry of Commerce on Issuing the Administrative Measures for International Market Developing Funds of Small and Medium-Sized Enterprises (Cai Qi (2010) No. 87) dated May 24, 2010 and further replaced with 2014 Revision (Cai Qi (2014) No. 36 dated April 9, 2014. Cai Qi (2014) No. 36 was found in existence till now.
99. The Authority notes that this program has been earlier examined by some other investigating Authorities and existence and countervailability of this program has been established (a) by the US authorities in *Circular Welded Carbon Quality Steel Pipe* as well as in *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe*; and (2) by the Canadian authorities in *Certain Metal Bar Grating of Carbon, Alloy or Stainless Steel*.
100. Shandong Wanda Boto Tyre Co., Ltd and Shandong Haohua Tire Co, Ltd, two of the responding exporters from China who have submitted questionnaire response, have stated that they availed this benefit and have provided information with regard to the amount of subsidy received by them during the POI.
101. Besides, the companies also provided relevant information with regard to operation of the scheme and benefit under the scheme, including the legal basis. The Authority notes that Department of Commerce of Shandong Province yearly issued the Notice on Hundred Exhibitions Market Exploring Plan, in which the Government of Shandong Province would provide grants to the companies for reducing their cost of participation in such exhibitions.
102. Program provides for financial contribution in the form of direct transfer of funds and benefit is thereby conferred. Program is also specific because it is limited to SMEs. The fact that Shandong Wanda Boto Tyre Co., Ltd., benefited from the program shows that program was in fact used by the tyre producers in China that exported the subject product to India during the POI. Therefore, the Authority holds that countervailing duty should be imposed against this program.

(xii) Program No. 12: Research & Development Assistance Grant

a. Submissions by the petitioners

103. The petitioners stated that the grant is limited to enterprises that undertake science and technology research and are selected by the local authorities. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents

- i. Implementation measure to support the acquisition of foreign science & technology type enterprises and the employment of foreign science & technology development team, issued by the Shenyang Economic & Technological Development Area Administration
- ii. Notice of the Office of People's Government of Wuxing District on Publishing and Issuing the Management Measures on three types of Science and Technology Expenses of Wuxing District
- iii. Circular of the office of the People's Government of Wuxing District Concerning Printing and Distributing the Administrative Measures of the use of Science & Technology Three type of funds of Wuxing District
- iv. Wuxi Municipal Bureau on S&T
- v. Article 9, 34, 35, 37 Law of PRC on S&T, 2007

However, the petitioner also pointed out that only Hangzhou Zhongce Rubber Co., Ltd, Yiwu Jinyun Commodities Purchase Co., Ltd. were eligible for this program

b. Submissions by GOC / other interested parties-

104. The GOC stated that the petitioners failed to provide legal text of Implementation measure to support the acquisition of foreign science & technology type enterprises and the employment of foreign science & technology development team, issued by the Shenyang Economic & Technological Development Area Administration. Notices of the Office of People's Government of Wuxing District were only applicable to companies located in Wuxing District, Huzhou, Zhejiang Province. However, no producer of the PUC was located in the area.

c. Examination by the Authority:

105. The Authority notes that the program was regulated under the Law of the People's Republic of China on Scientific and Technological Progress and the regulation was still valid.
106. Notice of the Office of People's Government of Wuxing District on Publishing and Issuing the Management Measures on three types of Science and Technology Expenses of Wuxing District (Wu Zheng Ban Fa (2005) No. 78) was abolished on 22 September 2017 through Wuxing District People's Government Notice on Publishing Reviewing Results towards Administrative Rules and Regulations in 2017 (Wu Zheng Fa (2017) No.29) and was thus in existence during POI.
107. Petitioners did not provide legal text of Implementation measure to support the acquisition of foreign science & technology type enterprises and the employment of foreign science & technology development team, issued by the Shenyang Economic & Technological Development Area Administration.
108. The Authority notes that the program has been earlier examined by other investigating authorities in the past. For example, countervailability of this program has been established by the Canadian authorities in *Certain Stainless Steel Sinks* and *Certain Aluminium Extrusions*.

109. The program provides for financial contribution by way of direct transfer of funds by Wuxing District to enterprises that undertake science and technology research. However, there are no tyre manufacturers based in Wuxing district and therefore the Authority determines that no tyre manufacturer in China who exported the subject product to India could have benefitted from this program. Therefore, the Authority holds that no countervailing duty should be imposed against this program.

(xiii) Program No. 13: Subsidies for Companies Located in the Hefei Economic and Technology Development Zone

a. Submissions by the petitioners

110. Hefei government provided funds to support innovation and technology upgrades and matching funds for new upgrades, exemptions from government fees, grants and rebates, loan interest deductions and preferential VAT and income tax treatment for exports. As evidence of existence of the program, the petitioners have provided annual report of the company as evidence of the existence of the program.

111. This program was only eligible for producers situated in certain designed areas. It has been shown that producers such as Giti Radial Tyre (Anhui) Co., Ltd might have availed the benefit out of this program.

b. Submissions by GOC / other interested parties-

112. The GOC stated that there was only one tyre manufacturer based in the designated area. However, annual report is not the form of legal basis.

c. Examination by the Authority

113. The Authority noted that in the petition, the petitioners only provided Hefei Economic & Technological Development Area Investment Environment Study 2008 reported by KPMG and web introduction of Hefei Economic & Technological Development Area. Both documents were not legal basis of the program.

114. However, the Authority notes that the alleged program provided financial contribution in the form of direct transfer of funds and benefit is thereby conferred on the recipient. Subsidy is also specific because it is specific to certain enterprise engaged in technology and innovation upgrade.

115. One tyre manufacturer GITI Radial Tyre (Anhui) Co. Ltd. was based in Hefei Economic and Technology Development Zone. GITI Radial Tyre (Anhui) Co. Ltd. has not participated in this investigation or filed questionnaire response. GITI Radial Tyre (Anhui) Co. Ltd was eligible to receive benefit under this program and the Authority cannot presume that the GITI Tyre (Anhui) Co. Ltd. has not received benefit under this program. Therefore, the Authority holds that countervailing duty should be imposed against this program.

(xiv) Program No. 14: Anhui Province Subsidies for Foreign-Invested Enterprises

a. Submissions by the petitioners

116. The Petitioners claimed that FIEs which are located in Anhui Province are eligible for certain exemptions and deductions of VAT. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them.
- i. Preferential Tax Policies of Anhui Province for Foreign-invested Enterprises (May 13, 2011)
 - ii. “Preferential Treatment for the Foreign-funded Enterprises in the Development Zones of Anhui Provinces” (May 13, 2011)

The petitioners also pointed out that PUC producers such as Giti Radial Tyre (Anhui) Co., Ltd might have availed the benefit out of this program.

b. Submissions by GOC / other interested parties-

117. The GOC stated that there was only one FIE tyre manufacturer based in the designated area.

c. Examination by the Authority

118. In the petition, the petitioners only provided web news of Preferential Policies for Foreign Invested Enterprises in Anhui Province. However, both documents are not legal basis for the existence of the program. Authority was unable to identify the scheme document governing the implementation of this program.
119. Giti Radial Tyre (Anhui) Co., Ltd is an FIE and was based in Anhui province. Giti Tyre (Anhui) Co. Ltd. is based in Anhui province and has exported the subject product to India during the POI and was eligible to receive benefit under this program.
120. Giti Tyre (Anhui) Co. Ltd. has not participated or filed questionnaire response and therefore the Authority cannot presume that Giti Tyre (Anhui) Co. Ltd. has not received benefit under this program.
121. Therefore, the Authority holds that countervailing duty should be imposed against this program.

(xv) Program No. 15: Hefei Municipal Export Promotion Policies

a. Submissions by the petitioners

122. The Petitioners claimed that a grant equal to 1% or 1.5% of a company’s trade value is awarded by the municipality of Hefei, if the company exports and imports above a certain amount. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them.
- i. Hefei introduced a number of policies to promote the development of foreign trade (May 23, 2012)

- ii. Notice of Hefei People's Government on the issuance of a number of policies to promote the development of foreign trade (September 30, 2013)

The petitioners also pointed out that producers such as Giti Radial Tyre (Anhui) Co., Ltd might have availed the benefit out of this program.

b. Submissions by GOC / other interested parties-

123. The GOC stated that there was only one FIE tyre manufacturer based in the designed area.

c. Examination by the Authority

124. The Authority notes that the petitioners have provided Notice of Hefei People's Government on the issuance of a number of policies to promote the development of foreign trade (He Zheng Mi (2013) No. 115), in which it was clearly mentioned that when the enterprise achieves import and export volume of more than \$ 50 million and achieves steady growth, 1% of its total import and export trade value is provided as reward.

125. Regarding the claim that Hefei introduced a number of policies to promote the development of foreign trade (May 23, 2012), the Authority notes that the petition does not provide legal text of any of these policies. The Authority also identified that Hefei People's Government Office issued Notice (He Zheng Ban (2012) No. 25) but the same was repealed under the Decision on Revocation of Administrative Documents (He Zheng (2014) No. 46 dated April 8, 2014.

126. Giti Radial Tyre (Anhui) Co., Ltd is an FIE and was based in Hefei City. Giti Radial Tyre (Anhui) Co. Ltd. is based in Hefei City and has exported the subject product to India during the POI and was eligible to receive benefit under this program.

127. Giti Tyre (Anhui) Co. Ltd. has not participated or filed questionnaire response and therefore the Authority cannot presume that Giti Tyre (Anhui) Co. Ltd. has not received benefit under this program.

128. Therefore, the Authority holds that countervailing duty should be imposed against this program.

(xvi) Program No. 16: Subsidies for Companies Located in the Kunshan Economic and Technological Development Zone.

a. Submissions by the petitioners

129. Various benefits like exemption from local income tax, exemption by half in income tax for export oriented enterprises, reduced income tax rates are available to FIEs located in the Kunshan Economic and Technological Development Zone. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents

- i. Kunshan Municipal Office of the State Administration of Taxation "Introduction of Tax Benefits for Foreign-invested Enterprises
- ii. Preferential Policies for Foreign-Invested Enterprises under the Old Income Tax Law.

The petitioners also pointed out that PUC producers such as Kenda Rubber (China) Co., Ltd might have availed the benefit out of this program.

b. Submissions by GOC / other interested parties

130. The GOC stated that there was no tyre FIE manufacturer based in the designated area.

c. Examination by the Authority

131. The Authority notes that document referred to by the petitioners did not constitute legal basis. Petitioners claim that the subsidy program existed under the old income tax law. In this regard, the Authority notes the details regarding the tax reform that took place in China PR in 2008. Before 2008, China PR implemented Provisional Regulations of the People's Republic of China on Enterprises Income Tax, which was applicable to all enterprises other than foreign invested enterprises ("FIEs") within China PR. China PR separately implemented Income Tax Law of the PRC for Enterprises with Foreign Investment and Foreign Enterprises, in which there were lot of preferential tax policies applicable to FIEs. On 16th March 2007, the GOC issued Enterprise Income Tax Law ("EITL") of the PRC, which is applicable to all enterprises in China PR including the FIEs. This law was implemented w.e.f 1 January 2008. There were two major changes in the new tax law: (1) preferential income tax policies for FIEs have been terminated, and a unified tax rate is made applicable for domestic enterprises and FIEs; (2) preferential income tax policies for local special economic zones have been terminated. Further, the State Council issued notice on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax, stipulating that as of 1 January, 2008, enterprises that previously enjoyed the preferential policies of low tax rates shall be gradually transited to enjoy the statutory tax rate within 5 years after implementation of the EITL. Therefore, even enterprises which enjoyed preferential tax policies under old income tax law would no longer enjoy the same from the end of 2012.

132. The document annexed in the petition itself mentioned that new enterprise income tax law granted a five-year transitional period since January 1, 2008. This transition period ended before the POI i.e on 1 January 2013. Besides, it is found that there was no producer of the PUC located in Kunshan Economic and Technological Development Zone.

133. No tyre producers in China PR could have received benefit under the alleged subsidy program because it was not in force.

134. Therefore, the Authority holds that no countervailing duty should be imposed against this program.

(xvii) Program No. 17: Weihai Municipality Subsidies for the Automobile and Tyre Industries

a. Submissions by the petitioners

135. The Municipal Authority of Weihai provides funds for expansion of projects in form of credit support, exemption of tax for encouraging companies to take advantage of preferential policy.

As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents

- i. Weihai Economic and Information Technology Committee, “Weihai Municipal 12th Five Year Development Plan for the Automobile and Automobile Parts Industry” (April 3, 2013)
- ii. Weihai Bureau of Finance, “Shandong Province Competitive Allocation Plan of Self Dependant Innovation Specialty Fund” (August 6, 2012)

It has been claimed that producers such as Kupo Chengshan (Shandong) Tyre Co., Ltd. and Triangle Tyre Co., Ltd might have availed the benefit out of this program.

b. Submissions by GOC / other interested parties-

136. The GOC stated that 12th Five Year Plan referred to the Year 2011-2015 and that since the period has elapsed, the program was invalid since 2015.

c. Examination by the Authority:

137. The Authority notes that Shandong Province did provide financial assistance in the form of grants, loan interest subsidies, equity investment, incentives and other means to support rubber tyre industry through Notice of the General Office of the Provincial Government on the Competitive Distribution of Special Funds for Independent Innovation (Lu Zheng Ban Fa [2012] No. 49). Benefit was thereby conferred on the recipient of these financial contribution. However, the same notice clearly mentioned that provincial government would arrange 1 billion RMB each year in 2012-2015 to support the projects development. However, the period of benefit expired before the beginning of the POI. The program was terminated as well. The Authority also notes that the grants from the above program were not tied to capital assets and were recurring in nature.
138. In view of the above, the Authority notes that while some of the instruments were not relevant to the aforementioned program, the other instruments were no longer in force. Thus, no tyre producers in China PR who exported the subject product to India during the POI could have received the benefit under this program during the POI.
139. Therefore, the Authority holds that no countervailing duty should be imposed against this program.

(xviii) Program No. 18: Subsidies for Companies Located in the Rongcheng Economic Development Zone

a. Submissions by the petitioners

140. The Rongcheng Municipal Government provided funds for providing support to CCT Companies situated in Rongcheng EDZ. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents
- i. Certain Rules on Encouraging Companies to Transform and Develop by Rongcheng Municipal People’s Government (February 28, 2012)

It has been claimed that tyre producers such as Kupo Chengshan (Shandong) Tyre Co., Ltd. and Rongcheng Yuke Trading Co., Ltd might have availed the benefit out of this program.

b. Submissions by GOC / other interested parties

141. The GOC stated that the Petitioner provided legal basis but attached wrong legal text. The GOC stated that this program has been terminated.

c. Examination by the Authority:

142. The Authority notes that the program was governed under Regulations on the encouragement and transformation of enterprises by the government of Rongcheng City (Rong Zheng Fa (2012) No. 7). But it was terminated under Notice of the public government of Rongcheng City on the publication of the cleanup results of the municipal government's regulatory documents (Rong Zheng Fa (2016) No.16).

143. In view of the above, the Authority notes that relevant instrument was no longer in force during POI. No tire producers in China PR who exported the PUC to India during POI could have received benefit under the alleged subsidy programme because it was not in force.

144. Therefore, the Authority holds that no countervailing duty should be imposed against this program.

(xix) Program No. 19: Export Interest Subsidy Funds for Enterprises Located in Guangdong and Zhejiang Provinces

a. Submissions by the petitioners

145. Funds were provided to exporters located in Guangdong Province and Zhejiang Province. For evidence of existence of the program, the petitioners have provided the following notifications or scheme documents.

i. Transitional Review Mechanism Pursuant to Section 18 of the Protocol on the Accession of the people's Republic of China, Questions from the European Communities to China with Regard to China's Transitional Review Mechanism on Subsidy Practices, G/SCM/Q2/CHN/24, at 2,3 (Oct. 20, 2006)

ii. Export Interest Subsidy for Shenzhen Enterprises Raised, TDC Trade (May 1,2004)

146. It has been claimed that producers such as Zhongce, Guangzhou Pearl River Rubber Tyre Ltd, Kenda Tyre (Shenzhen) Co., Ltd and South China Tyre & Rubber might have availed the benefit out of this program.

b. Submissions by GOC / other interested parties-

147. The GOC stated that the Petitioner provided two legal basis but both were not legal basis regarding the existence of the program.

c. Examination by the Authority:

148. The Authority notes that the petitioners merely provided evidence showing that exporters in Zhejiang Province and Shenzhen might get export interest subsidy funds in 2004. Authority also notes that question from the EU to China PR in the WTO is not the legal basis and does not establish the existence of the program. Transitional Review Mechanism Pursuant to Section 18 of the Protocol on the Accession of the People's Republic of China has expired.
149. The Authority notes that, no tyre producer in China PR who exported the PUC to India during the POI could have received benefit under the alleged subsidy program because it was not in force. Therefore, the Authority holds that no countervailing duty should be imposed

(xx) Program No. 20 Funds for “Outward Expansion” of Industries in Guangdong Province

a. Submissions by the petitioners

150. Funds were provided to enterprises for international market exploration, export credit insurance assistance, the development of trade through science and technology, export product research and development, support for defense expenses in antidumping duty cases, interest grants for various export-related loans and development of outward-looking enterprises. The petitioner claims that subsidy is regional specific and contingent on export performance. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents.
- i. Implementing Measures of Guangdong Province on the Supporting the Development of Outward-Oriented Private Enterprises (Yue Ban Fa (2003) No. 17)
 - ii. Guangdong Supports Private Enterprise Outwards, TDC Trade, Mar. 1, 2004.

However, the petitioner also pointed out that only Guangzhou Pearl River Rubber Tyre Co., Ltd., Kenda Tyre (Shenzhen) Co., Ltd, South China Tyre & Rubber were eligible for this program.

b. Submissions by GOC / other interested parties-

151. The GOC stated that the regulation Yue Ban Fa (2003) No. 17 is valid but was only applicable to Guangdong Province. Besides, there was only one producer of the PUC based in Guangdong Province. Further. the second document ‘Guangdong Supports Private Enterprise Outwards’ does not constitute valid legal basis.

c. Examination by the Authority:

152. The Authority notes that Yue Ban Fa (2003) No. 17 was valid. Pursuant to this regulation, Guangdong province provided grants to companies through the program.
153. The program provided financial contribution in the form of direct transfer of funds and benefit is thereby conferred on the recipient. Subsidy is also specific because it is contingent on export performance. The Authority notes that the program has been earlier examined by other investigating authorities in the past, which establishes its existence as a subsidy. For

example, countervailability of this program has been established by the US authorities in *Lightweight Thermal Paper*.

154. Out of the tyre producers who have exported to India during POI, Guangzhou Pearl River is located in this place. Guangzhou Pearl River has not participated in the investigation or filed questionnaire response. Guangzhou Pearl River was eligible to receive benefit under this program. In absence of any information or participation from Guangzhou Pearl River, the Authority cannot presume that Guangzhou Pearl River has not received benefit under this program.

155. Therefore, the Authority holds that countervailing duty should be imposed against this program.

(xxi) Program No. 21: Direct Government Grants to Aeolus

a. Submissions by the petitioners

156. The Petitioners claimed that various grants for export promotion are provided by the GOC to the tyre industry. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents.

- i. Annual Report of Aeolus

The petitioners also pointed out this program was only eligible to Aeolus.

b. Submissions by GOC / other interested parties-

157. The GOC stated that an annual report does not form the legal basis. The Authority may verify from the Exporter's Questionnaire Response filed by Aeolus Tire Co., Ltd., as to whether it has received any such subsidies from the GOC.

c. Examination by the Authority

158. The Authority notes that the petitioners have provided a news report which was not legal basis to establish the existence of the program.

159. The Authority has verified the existence of all government grants received by Aeolus and it was found that all data reported were reconciled with its annual report and audited accounts. The subsidy margin for grants received by Aeolus has been determined separately based on the information provided in the questionnaire response. There is no program by the description of direct grants from the GOC to Aeolus.

160. The Authority notes that no other tyre producer(s) in China PR who exported the subject product to India could have received benefit under the alleged program which was allegedly only available to Aeolus.

161. Therefore, the Authority holds that no countervailing duty should be imposed against this program.

(xxii) Programs No. 22 to 26: Direct Government Grants to Double Coin, GITI, Guizhou Tire, Qingdao Double Star, Sailun Group

a. Submissions by the petitioners

162. The Petitioners claimed that various grants were mentioned in the annual reports such as innovation and industry upgrading special guiding funds to specific tyre producers. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents.

- i. Annual Report 2013 of Double Coin Holdings
- ii. Annual Report 2016 of GITI
- iii. Annual Report of Guizhou Tyre
- iv. Annual Report of Qingdao Double Star
- v. Annual Report of Sailun Group

b. Submissions by GOC / other interested parties-

163. The GOC states that the annual reports do not constitute the legal basis. Besides, the petitioners have only provided Annual Reports of Double Coin Holdings and GITI for the year 2013.

c. Examination by the Authority

164. The Authority noted that the petitioners did not provide any legal basis concerning the above programs. Moreover, evidence provided in the form of annual report of two companies is for the year 2013 and therefore not relevant to determine that grants were received by these tyre producers during the POI.

165. In any case, the Authority notes after reviewing all the information that no subsidy programs by the name 'direct grants' were in existence.

166. Therefore, the Authority holds that no countervailing duty should be imposed against these programs.

I.A Grant programs received by participating producers/exporters from China PR

167. Six groups of tyre producers from China PR have filed questionnaire response. Out of these, 5 groups have exported the subject product to India during the POI. M/s. Shandong Haohua Tire Co. Ltd., M/s. Guangzhou Exceed Industrial Technology Co. Ltd. and M/s. HK Trade Wind Trading Ltd. have not exported the subject product to India. Individual subsidy margin cannot be determined for tyre producers who have not exported the subject product to India during the POI. Accordingly, the Authority holds that separate countervailing duty rate cannot be determined for these producers from China PR.

(i) Zhongce Rubber Group Co. Ltd

168. Zhongce Rubber Group Co. Ltd., (Zhongce Rubber) filed questionnaire response and provided information regarding the grant programs availed by them.

169. Zhongce has three factories involved in the production of the subject goods. The three factories namely, (i) Zhongce Rubber (Jiande) Co., Ltd. (ii) Zhongce Chaoyang Rubber Co., Ltd. (iii) Zhongce Rubber (Fuyang) Co., Ltd. are subsidiaries 100% owned by Zhongce Rubber. Zhongce Rubber has provided information regarding grant programs availed by these subsidiaries as well.

170. Authority has verified the information provided by Zhongce Rubber Group Co. Ltd. and determined subsidy margin for grant programs for which benefit was received or accrued during the POI. Authority determined that all the grant programs resulted in the provision of financial contribution in the form of direct transfer of funds. As a result, benefit was conferred to Zhongce Rubber as a recipient of this grant. Subsidy programs were also specific because they were limited to certain enterprise including Zhongce Rubber.

171. The table below provides for the name of the grant programs, and the corresponding subsidy margin:

Name of the grant program	Brief Description/Comment	Subsidy margin %	Subsidy Margin Range %
2014 Special Funds for Promotion of Foreign Economic and Trade Development in Hangzhou Economic and Technology Development Area (HEDA)	To support the following five main projects: (1)Exhibition Subsidies; (2) Export Brand Names; (3) Export Credit Insurance; (4) Import Advanced Equipment; (5) Participating of Anti-dumping investigation (6) Service outsourcing industry related activities (7) Setting up foreign trade operation survey monitoring points	***	0-1%
2013 Export Credit Insurance Subvention for Enterprises located in HEDA	Reimbursement of the Export Credit Insurance cost incurred by the company in previous years	***	0-1%
2016 Special Funds for Foreign Economic and Trade Development (HEDA)	To support enterprises investment in overseas region - Zhongce received the grant for its investment activities in Thailand.	***	0-1%
Coal-fired Boiler Clean Renovation 1st Phase	To reform thermoelectric coal-fired boilers and industrial coal-	***	0-1%

Special Grants (HEDA)	fired boilers for environment protection purpose in order to decrease the emission of dust, sulfur dioxide and nitrogen oxide.		
2016 Air Pollution Prevention Special Grants	To reform thermoelectric coal-fired boilers for environment protection purpose	***	0-1%
2016 Hangzhou Pollution Source Monitoring Equipment Funds (1st batch)	To reform thermoelectric coal-fired boilers for environment protection purpose	***	0-1%
2016 Hangzhou Pollution Source Monitoring Equipment Funds (2nd batch)	To reform thermoelectric coal-fired boilers for environment protection purpose	***	0-1%
2014 Zhejiang Province and Hangzhou City "Export Famous Brand" Award	The program is provided for enterprises whose product brand is recognized as "Hangzhou Export Famous Brand" or "Zhejiang Export Famous Brand"	***	0-1%
Grants for Employment Stabilization of Hangzhou City	The employment stabilization subsidy is provided to the enterprises that takes effective measures to reduce layoffs and keep stable employment.	***	0-1%
2016 Hangzhou Internet of Things and Industrial Internet Pilot Project Funding	Support enterprises trial projects on applying internet of things into production and management	***	0-1%
Financial subsidy (HEDA)	General financial assistance	***	0-1%
2015 RD Investment Funding for Enterprises located in HEDA	For R&D purposes	***	0-1%
2016 Technology Standard Funding (HEDA)	For technology advancement	***	0-1%
2013 Import and Export Trade Fair Funding	For marketing assistance	***	0-1%
Postdoctoral researchers funding	For R&D purposes	***	0-1%
Postdoctoral researchers one-time R&D funding	For R&D purposes	***	0-1%
Government subsidy deferred income transfer into non-operational income	For acquisition of assets	***	0-1%

Relocation compensation	Relocation compensation	***	0-1%
Jiande			
2016 Hangzhou Pollution Source Monitoring Equipment Funds (1st batch and 2nd batch)	To reform thermoelectric coal-fired boilers for environment protection purpose	***	0-1%
2016 Jiande Pollution Source Monitoring Equipment Funds (1st batch)	To reform thermoelectric coal-fired boilers for environment protection purpose	***	0-1%
2015 "115" Introduction Investment Subsidy	To reward company for introducing investment	***	0-1%
Chaoyang			
2016 Zhejiang Province Advanced Industrial New Product (Technology) List - All steel Industrial Radial Tires	To encourage new industrial technology and product	***	0-1%
2016 Hangzhou Subsidy to Online Technology Transaction Achievement Conversion Project (2nd Batch)	To encourage the conversion of technology transaction achievement	***	0-1%
2016 Hangzhou Subsidy to Online Technology Transaction Achievement Conversion Project (2nd Batch)	To encourage the conversion of technology transaction achievement	***	0-1%
2015 Hangzhou Internet of Things and Industrial Internet Pilot Project Funding-All-steel Off-Road Radial Tyre Craft	Support enterprises trial projects on applying internet of things into production and management	***	0-1%
2015 Hangzhou Internet of Things and Industrial Internet Pilot Project Funding	Support enterprises trial projects on applying internet of things into production and management	***	0-1%
2015 RD Investment Funding for Enterprises located in HEDA	For R&D purposes	***	0-1%
2016 Provincial and City Industry and Information Development Financial Special Fund - mixing A area central air-conditioned technology renovation	Support enterprises trial projects on applying internet of things into production and management	***	0-1%

2016 Provincial and City Industry and Information Development Financial Special Fund - Chaoyang All-steel Radial Tyre Industrial Design	Support enterprises trial projects on applying internet of things into production and management	***	0-1%
2015 Hangzhou Development Zone Graduates Training and Employment Grants	To provide training to graduates	***	0-1%
2016 Hangzhou Pollution Source Monitoring Equipment Funds (1st batch)	To reform thermoelectric coal-fired boilers for environment protection purpose	***	0-1%
2016 Hangzhou Pollution Source Monitoring Equipment Funds (2nd batch)	To reform thermoelectric coal-fired boilers for environment protection purpose	***	0-1%
Grants to “Mayoral Cup”	To encourage intellectual property creation	***	0-1%
2015 Hangzhou Urban Ecological Civilization Demonstration Project Subsidy	To improve urban ecological environment	***	0-1%
Grants for Employment Stabilization of Hangzhou City	The employment stabilization subsidy is provided to the enterprises that takes effective measures to reduce layoffs and keep stable employment.	***	0-1%
Miscellaneous Government subsidies related to assets received in previous years and amortized in this year	Miscellaneous Government subsidies related to assets received in previous years and amortized in this year	***	0-1%
Fuyang			
Relocation Compensation	Relocation Compensation	***	0-1%
Total		***	0-5%

(ii) Shandong Wanda Boto Tyre Co. Ltd.

172. Shandong Wanda Boto Tyre Co. Ltd. (“Wanda Boto”) filed questionnaire response and provided information regarding the grant programs availed by them. Authority has verified the information provided by Wanda Boto and determined subsidy margin for grant programs for which benefit was received or accrued during the POI. Authority determined that all the grant programs resulted in the provision of financial contribution in the form of direct transfer of funds. As a result, benefit was conferred to Wanda Boto as a recipient of this grant.

Subsidy programs were also specific because they were specific to certain enterprise including Wanda Boto.

173. The table below provides for the grant programs, and the corresponding subsidy margin:

Name of the grant	Brief	Subsidy margin%	Subsidy margin range
Foreign trade development fund	Special fund for foreign trade development of Dongying City Finance Bureau	***	0-5%
Export Assistance Grant - the grants for participating in overseas exhibitions.	2016 Frankfurt Middle East (Dubai) international auto parts exhibition special fund	***	0-1%
Export Assistance Grant - the grants for participating in overseas exhibitions.	2016 Germany Essen international tire booth subsidy	***	0-1%
Export Assistance Grant - the grants for participating in overseas exhibitions.	Subsidies for Exhibitions	***	0-1%
Talent introduction fund	Funding of Dongying Human Resources and Social Security Bureau	***	0-1%
Foreign trade development fund	Special fund for foreign trade development of Dongying City Finance Bureau	***	0-5%
Research report writing expenditure	Research report writing expenditure	***	0-1%
Development fund	Supporting Subsidies of Shengtuo Town Government	***	0-1%
Service industry development fund	Special funds for service industry development of Kenli County Finance Bureau in 2016	***	0-1%
Export Assistance Grant - the grants for participating in overseas exhibitions.	Subsidies for Exhibitions	***	0-1%

Total		***	0-5%
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(iii) Shandong Yongfeng Tyres Co. Ltd.

174. Shandong Yongfeng Tyres Co. Ltd. (“Shandong Yongfeng”) filed questionnaire response and provided information regarding the grant programs availed by them. Authority has verified the information provided by Shandong Yongfeng and determined subsidy margin for grant programs for which benefit was received or accrued during the POI. Authority determined that all the grant programs resulted in the provision of financial contribution in the form of direct transfer of funds. As a result, benefit was conferred to Shandong Yongfeng as a recipient to this grant. Subsidy programs were also specific because they were specific to certain enterprise including Shandong Yongfeng.
175. The table below provides for the name of the grant programs, and the corresponding subsidy margin:

Name of the grant program	Brief Description/Comment	Subsidy margin%	Subsidy margin range%
Gas Anti-pollution Special Fund	To reform thermoelectric coal-fired boilers for environment protection purpose	***	0-1%
Provincial Key Self-owned Brand Subsidy	To promote the creation of international self-owned brands in Shandong province	***	0-1%
Self-owned Brand Development Registration Fee	To promote the creation of international self-owned brands in Shandong province	***	0-1%
Import Equipment interest subsidy 2015	To give support for the import of encouraged equipments	***	0-1%
Import Equipment interest subsidy	To give support for the import of encouraged equipments	***	0-1%
Export Reward	To reward enterprises who achieves the goal of export value	***	0-1%

Special Fund for Foreign Trade and Economic Development (import equipment)	To give support for the import of encouraged equipments	***	0-1%
Total		***	0-5%

(iv) Triangle Tyre Co. Ltd.

176. Triangle Tyre Co. Ltd. ("Triangle Tyre") filed questionnaire response and provided information regarding the grant programs availed by them. Authority has verified the information provided by Triangle Tyre and determined subsidy margin for grant programs for which benefit was received or accrued during the POI. Authority determined that all the grant programs resulted in the provision of financial contribution in the form of direct transfer of funds. As a result, benefit was conferred to Triangle Tyre as a recipient of this grant. Subsidy programs were also specific because they were specific to certain enterprise including Triangle Tyre.

177. The table below provides for the grant programs and the corresponding subsidy margin:

Name of the grant	Brief	Subsidy margin%	Subsidy margin range%
Patent Creation Support Fund	It is a subsidy for patents already obtained by the company before the end of 2015.	***	0-1%
Technology Award	Provided to Entities for Upgradation of Technology	***	0-1%
Patent Creation Support Fund	It is a subsidy for patents already obtained by the company before the end of 2015.	***	0-1%
Industrial Design Award	Provided to Entities for Upgradation of Technology	***	0-1%
export credit insurance premium subsidy	Export credit insurance premium subsidy	***	0-1%
Listing Fee Grant	Granted to Stock Listed Companies	***	0-1%
Patent Support Fund	It is a subsidy for patents already obtained by the company before the	***	0-1%

	end of 2015. This is not a subsidy for new patents. It is a subsidy for patents already obtained by the company before the end of 2015.		
export credit insurance premium subsidy	export credit insurance premium subsidy	***	0-1%
export credit insurance premium subsidy	export credit insurance premium subsidy	***	0-1%
Grant for Bringing in Foreign Intellectuals	Provided against employment of Expert Foreign National to subsidise their salary element	***	0-1%
2016 City Science and Technology Plan "In-house self-repair and anti-puncture" research funding	Provided to Entities for Upgradation of Technology	***	0-1%
Patent Award Fund	Patent Award Fund	***	0-1%
Environmental Monitoring System Monitoring Equipment Operation and Maintenance Subsidy	The government (Environmental Protection Agency) has set up an environmental monitoring equipment in the company, which helps to maintain and incur costs. That part of the cost paid by the government.	***	0-1%
2016 Technology Innovation Enterprise Support Award	Provided to Entities for Upgradation of Technology	***	0-1%
Export Credits in 2016	Export Credits in 2016	***	0-1%
Listed company listed company subsidies for 2016	Granted to Stock Listed Companies (Balance 50%)	***	0-1%
2017 Weihai Patent Creation Funding Fund	It is a subsidy for patents already obtained by the company before the end of 2015...	***	0-1%
2017 Weihai Patent Creation Support Fund	It is a subsidy for patents already obtained by the company before the end of 2015.	***	0-1%

R & D Center Industrial Park infrastructure construction special funds	The factory was originally located in the urban area (where the land price is very high), the new location of the factory relocation is located in the suburbs, and the economy is underdeveloped (where the land price is very low). Government compensation is provided.	***	0-1%
Infrastructure spending	The factory was originally located in the urban area (where the land price is very high), the new location of the factory relocation is located in the suburbs, and the economy is underdeveloped (where the land price is very low). Government compensation is provided.	***	0-1%
Development and Application Projects of Low Temperature Primary Rubber Refining Technology (related To Rubber refining Technology)	Grant for Technological Upgradation	***	0-1%
R & D Center Industrial Park infrastructure construction special funds	The factory was originally located in the urban area (where the land price is very high), the new location of the factory relocation is located in the suburbs, and the economy is underdeveloped (where the land price is very low). Government compensation is provided.	***	0-1%
Funds for land acquisition and relocation compensation expenses	The factory was originally located in the urban area (where the land price is very high), the new location of the factory relocation is located in the suburbs, and the economy is underdeveloped (where the land price is very low). Government compensation is provided	***	0-1%
Industrial Park Phase II construction on the south side of the land base of special funds	The factory was originally located in the urban area (where the land price is very high), the new location of the factory relocation is located in the suburbs, and the economy is underdeveloped (where the land price is very low). Government compensation is provided.	***	0-1%
R & D Center Industrial Park	The factory was originally located in the urban area (where the land price	***	0-1%

infrastructure construction special funds	is very high), the new location of the factory relocation is located in the suburbs, and the economy is underdeveloped (where the land price is very low). Government compensation is provided.		
Construction of industrial park land base of special funds	The factory was originally located in the urban area (where the land price is very high), the new location of the factory relocation is located in the suburbs, and the economy is underdeveloped (where the land price is very low). Government compensation is provided.	***	0-1%
Key technological transformation projects industry loans financial discount funds for Year 2015	Grant for Technological Upgradation	***	0-1%
Infrastructure construction expenditure	The factory was originally located in the urban area (where the land price is very high), the new location of the factory relocation is located in the suburbs, and the economy is underdeveloped (where the land price is very low). Government compensation is provided.	***	0-1%
Development and Application Projects of Low Temperature Primary Rubber Refining Technology (related To Rubber refining Technology)	Grant for Technological Upgradation	***	0-1%
Land acquisition and demolition compensation expenditure funds	The factory was originally located in the urban area (where the land price is very high), the new location of the factory relocation is located in the suburbs, and the economy is underdeveloped (where the land price is very low). Government compensation is provided.	***	0-1%
Special fund for land foundation construction on the south side of the second phase of	The factory was originally located in the urban area (where the land price is very high), the new location of the factory relocation is located in the suburbs, and the economy is	***	0-1%

Industrial Park	underdeveloped (where the land price is very low). Government compensation is provided.		
Industrial Park R&D Center Fundamental Construction Special Fund	The factory was originally located in the urban area (where the land price is very high), the new location of the factory relocation is located in the suburbs, and the economy is underdeveloped (where the land price is very low). Government compensation is provided.	***	0-1%
Industrial Park Land Foundation Special Fund	The factory was originally located in the urban area (where the land price is very high), the new location of the factory relocation is located in the suburbs, and the economy is underdeveloped (where the land price is very low). Government compensation is provided.	***	0-1%
Shandong Province Key Industry Technical Reform Project Loan Financial Discount Interest Fund	Grant for Technological Upgradation	***	0-1%
Nanhai New District Industrial Park Land Special Fund	The factory was originally located in the urban area (where the land price is very high), the new location of the factory relocation is located in the suburbs, and the economy is underdeveloped (where the land price is very low). Government compensation is provided.	***	0-1%
Boiler desulfurization, denitrification and dust removal technology transformation funds	Grant for Technological Upgradation	***	0-1%
Total		***	0-5%

(v) Aeolus Tyre Co. Ltd.

178. Aeolus Tyre Co. Ltd. filed questionnaire response and provided information regarding the grant programs availed by them. Authority has verified the information provided by Aeolus Tyre and determined subsidy margin for grant programs for which benefit was received or

accrued during the POI. Authority determined that all the grant programs resulted in the provision of financial contribution in the form of direct transfer of funds. As a result, benefit was conferred to Aeolus Tyre as a recipient of this grant. Subsidy programs were also specific because they were specific to certain enterprise including Aeolus Tyre.

The table below provides for the grant programs and the corresponding subsidy margin

Name of the grant	Brief	Subsidy margin%	Subsidy margin range%
Jiaozuo 2015 Science and Technology Award	To award the Company for its technological achievement	***	0-1%
2017 Special Fund Plan for Environmental Protection - 5# Rubber Mixing Center 1# Gk400 Production Line Odor Management Project	To cover the expense of environmental management projects	***	0-1%
Subsidy for Stabilization of Employment	To stabilize employment of the Company	***	0-1%
Second Batch of Municipal Science and Technology Funds in 2016	To award the Company for its authorization of patent	***	0-1%
2016 Henan Province Science and Technology Reward Funds	To award the Company for its technological achievement	***	0-1%
Subsidy for Processing Trade Project	To subsidize the Company to conduct processing trade	***	0-1%
2016 Annual Subsidy for Export Credit Insurance	To cover expense of export credit insurance	***	0-1%
Jiaozuo City Entrepreneurial Innovation Leading Talent Award	To courage innovation	***	0-1%
2017 Industrial Restructuring and Upgrading Funds	To cover the expense of Industrial Restructuring and Upgrading	***	0-1%

Boiler Low Emission Renovation Funds	To cover the treatment cost for environment protection purpose	***	0-1%
Total		***	0-5%

(vi) Yellow Sea Rubber Co. Ltd.

179. Yellow Sea Rubber Co. Ltd. (“Yellow Sea”) filed questionnaire response and provided information regarding the grant programs availed by them. Authority has verified the information provided by Yellow Sea and determined subsidy margin for grant programs for which benefit was received or accrued during the POI. Authority determined that all the grant programs resulted in the provision of financial contribution in the form of direct transfer of funds. As a result, benefit was conferred to Yellow Sea as a recipient of this grant. Subsidy programs were also specific because they were specific to certain enterprise including Yellow Sea. The table below provides for the grant programs and the corresponding subsidy margin for Yellow Sea:

Name of the grant	Brief	Subsidy margin%	Subsidy margin range%
Postdoctoral Grant	For R&D purposes	***	0-1%
Special Subsidy for High-tech Enterprises of Year 2015	To cover R&D expense	***	0-1%
Subsidy for Export Credit Insurance of Year 2015	Reimbursement of the Export Credit Insurance cost incurred by the company in previous years	***	0-1%
Subsidy for Export Credit Insurance	Reimbursement of the Export Credit Insurance cost incurred by the company in previous years	***	0-1%
Coal-fired boiler air-pollution control funds	To cover the treatment cost	***	0-1%

Total		***	0-5%
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I.B. Summary of Grant Programs

180. The Authority has determined the all others rate based on the highest of the subsidy margins for the cooperating parties. In addition, subsidy margin for program nos. 5, 13, 14 and 15 has also been added while determining the all others rate.

Name of the Company	Subsidy Margin for grants%	Range%
Zhongce Rubber Group Co. Ltd.	***	0-5%
Shandong Wanda Boto Tyre Co. Ltd.	***	0-5%
Triangle Tyre Co. Ltd	***	0-5%
Shandong Yongfeng Tyres Co. Ltd	***	0-5%
Aeolus Tyre Co. Ltd.	***	0-5%
Qingdao Yellow Sea Rubber Co. Ltd.	***	0-5%
All Others	***	5-15%

II. Programs Identified in the Form of Tax Incentives

(i) Program No. 27: Tax Policies for the Deduction of Research and Development Expenses

a. Submissions by the petitioners

181. Companies which introduce new technologies, products or techniques in their production can decrease corporate income tax by 50%. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents

- i. China State Administration of Taxation (SAT) Guo Shui Fa (2008) No. 116
- ii. Notice of MOF and SAT on policy issues concerning Free Tax Super Deduction of R&D Expenses (Circular 70, 2013)
- iii. Article 3 of Notice of SAT on issuing the Administrative Measures for the Pre tax deductions of Enterprise Research and Development Expenses, 2008

- iv. Corporate Income Tax Law of the PRC (Article 30.1)
- v. Article 95 of the Regulations on the Implementation of Enterprise Income Tax Law of the PRC (Decree No. 512 of the State Council of the PRC) and the Guide to Key Fields (Notification No. 6 2007)

b. Submissions by GOC / other interested parties-

182. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program. However, Zhongce Rubber Group Co, Ltd has admitted that it has availed benefit out of this program.

c. Examination by the Authority:

183. The Authority notes that the program was governed under Article 30.1 of the Corporate Income Tax Law of the PRC and Article 95 of the Regulations on the Implementation of Enterprise Income Tax Law of the PRC. Further, the SAT issued Notice on Issuing the Administrative Measures for the Pre-tax Deduction of Enterprise Research and Development Expenses (for Trial Implementation) (Guo Shui Fa (2008) No. 116) to clarify R&D expense allowed to be deducted on a weighted basis.
184. The above instrument also stipulates that where the R&D expenses actually incurred by an enterprise have not been included in the current loss and profit as intangible assets, 50% of the amount of R&D expenses actually incurred during year shall be deducted from the amount of taxable income in addition to the deduction based on actual expenses. Where any intangible assets are formed, 150% of the costs of the intangible assets shall be amortized before tax payment.
185. The Authority notes that Guo Shui Fa (2008) No. 116 was replaced with Notice of the Ministry of Finance and the State Administration of Taxation on Issues concerning the Policies for the Weighted Pre-tax Deduction of Research and Development Costs (Cai Shui (2013) No. 70) dated January 1, 2013 and then further replaced with Notice of the Ministry of Finance, the State Administration of Taxation and the Ministry of Science and Technology on Improving the Policies for the Weighted Pre-tax Deduction of Research and Development Expenses (Cai Shui (2015) No. 119) dated January 1, 2016. The same is still in effect.
186. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past, which establishes its existence. For example, countervailability of this program has been established by the EU authorities in *Organic Coated Steel Products*.
187. Zhongce Rubber Group Co, Ltd, one of the responding exporters from China PR has submitted in its questionnaire response that it availed this subsidy and has provided information with regard to the amount of subsidy during the POI.
188. Program provides for a financial contribution in the form of revenue foregone which is otherwise due and a benefit is thereby conferred. Subsidy is also specific because it is limited to enterprise which are engaged in research and developmental activities. The fact that Zhongce Rubber benefitted from the program shows that program was in fact used by the tyre

producers in China PR that exported the subject product to India during the POI. Therefore, Authority holds that countervailing duty should be imposed against this program.

(ii) Programs No. 28 and 29: Preferential Tax Policies for the Research and Development of FIEs & Tax Offsets for Research and Development by FIEs

189. Legal basis of alleged financial contribution and benefit for programs 28 and 29 is the same. These two programs have they been examined together.

a. Submissions by the petitioners

190. GOC maintains preferential tax policies for research and development. Specifically, when research and development expenses increase by more than ten percent from the previous year, the producing companies are allowed to offset such expenses by 50 percent from the taxable income of that year. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents.

- i. Guo Shui Han (2001) No. 405
- ii. SAT Circular Guo Shui Fa No. 173 of 1999

191. Petitioners allege that producers such as Zhaoyan Liao Rubber Products Co., Ltd., Haoyou Tyre Co., Ltd., Guangzhou Pearl River Rubber Tyre Ltd. Giti Radial Tire (Anhui) Co., Ltd., Michelin (Shenyang) Tyre Co., Ltd., Xiamen Zhengxin Rubber Industry Co., Ltd., Kenda Rubber (China) Co., Ltd. might have availed benefit from these programs.

b. Submissions by GOC / other interested parties-

192. It was submitted by the GOC that both programs were terminated way back on January 4, 2011 and there was no replacement and grace period granted for this program. Thus, there is no continuing existence of a benefit. So no PUC producers / exporters could apply for or receive benefits under this program during the POI.

c. Examination by the Authority:

193. The Authority notes that the alleged programs were governed by:

- i. “Circular on the Issues Related with the Offset Taxable Income on Technology Development Fee of Foreign Investment Enterprises” (Guo Shui Fa No. 173 of 1999) dated 19 September 1999 and
- ii. Supplementary Circular (Guo Shui Han (2001) No. 405) dated June 8, 2001.

However, both regulations were abolished by Announcement No. 2 [2011] of the State Administration of Taxation dated January 4, 2011.

194. In view of the above, the Authority holds that these programs were no longer in force and tyre producers in China PR who exported the subject product to India during POI could not have received benefits under these two programs.

195. Therefore, the Authority holds that no countervailing duty should be determined against these programs.

(iii) Program No. 30: Income tax credit for the purchase of domestically Produced & manufactured production equipment

(iv) Program No. 34: Income Tax credits for domestically owned Companies Purchasing Chinese made Equipment

196. The above mentioned programs allegedly provide tax exemption/reduction/remission to enterprises for the purchase of domestically produced and manufactured production equipment as per the income tax law of China PR. Therefore, both these programs have been examined together.

a. Submissions by the petitioners

197. It is the submission of the Petitioners that the GOC provides a tax credit of up to 40% of the purchase price of domestic equipment which may be considered as a tax saving for eligible enterprises. As evidence of existence of the programs, the petitioners have provided the following notifications or scheme documents.

- i. Provisional measures on enterprise income tax credit for investment in domestically produced equipment for technology renovation projects of 1 July 1999
- ii. Notice of the State Administration of Taxation on Stopping the Implementation of the Equipment Income Tax Deduction and Exemption Policy of the Investment of an Enterprise in Purchasing Home-made Equipment, No. 52 [2008] of the Statement Administration of Taxation, effective 1 January 2008
- iii. Article 28 of the PRC Law on Enterprise Income Tax (No 63 promulgated on 16 March 2007) along with the Administrative Measures for the Determination of High and New Technology Enterprises
- iv. Circular of the State Council on the issues concerning carrying out the transitional preferential policies on enterprise income tax, Guo Fa (2007) No. 39
- v. Circular of the state administration of taxation on the issues concerning implementation of preferential income tax for Hi-tech enterprises, Guo Shui Han (2009) No. 203
- vi. Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Credits for Purchase of Domestic Equipment by Foreign Invested Enterprises and Foreign Enterprises (Cai Shui Zi (2000) No.49)
- vii. Administrative Measures on Enterprise Income Tax Credits for Purchase of Domestic Equipment by FIEs and Foreign Enterprises (Guo Shui Fa (2000) No.90)
- viii. The Circular of the Ministry of Finance and the State Administration of Taxation of the People's Republic of China on Distribution of Interim Measures Concerning the Reduction and Exemption of Enterprise Income Tax for Technological Renovation (Cai Shui Zi (1999) No.209)

198. Petitioners mention that producers such as Zhaoyan Liao Rubber Products Co., Ltd., Haoyou Tyre Co., Ltd., Guangzhou Pearl River Rubber Tyre Ltd. Giti Radial Tire (Anhui) Co., Ltd., Michelin (Shenyang) Tyre Co., Ltd., Xiamen Zhengxin Rubber Industry Co., Ltd., Kenda Rubber (China) Co., Ltd. might have availed the benefit out of these programs.

b. Submissions by GOC / other interested parties-

199. Article 28 of the PRC Law on Enterprise Income Tax (No 63 promulgated on 16 March 2007), Administrative Measures for the Determination of High and New Technology Enterprises and Circular of the state administration of taxation on the issues concerning implementation of preferential income tax for Hi-tech enterprises, Guo Shui Han (2009) No. 203 were not relevant to abovementioned programs, but instead related to high technology enterprises.

200. Both programs were terminated long back on May 16, 2008. There was no replacement or grace period granted. Thus, there is no continuing existence of a benefit. Hence, none of the producers / exporters could have applied for or received benefits under this program during the POI.

c. Examination by the Authority:

201. The Authority notes that the said programs were introduced in 1999 through “Provisional Measures on Enterprise Income Tax Credit for Investment in Domestically Produced Equipment for Technology Renovation Projects” (Cai Shui Zi (1999) No. 290).

202. On 14 January 2000, the GOC issued the Notice of the Ministry of Finance and the State Administration of Taxation concerning the Issue of Tax Credit for Enterprise Income Tax for Domestic Equipment Purchased by Foreign-funded Enterprises (Cai Shui Zi (2000) No.49), which allowed FIEs falling under the Encouraged Category and Restricted B Category listed in the Directive Category of the Industries of Foreign-funded Enterprises to deduct 40 percent of the investment for the domestic equipment purchases from the increased part of their enterprise income taxes of the purchasing year over those of the year before.

203. However, both regulations were abolished through Decision of the Ministry of Finance on Announcement of the List of Abolished and Invalidated Finance Provisions and Regulatory Documents (11th Set) dated 21 February 2011.

204. The Authority also notes that the State Administration of Taxation also issued Notice of the State Administration of Taxation on Prohibiting and Distributing the Measures Concerning Industrial Income Tax Credit on the Investment of Foreign-funded Enterprises and Foreign Enterprises by Way of Purchasing Home Products (Guo Shui Fa (2000) No. 90). But the regulation was also abolished through Announcement No. 2 [2011] of the State Administration of Taxation dated January 4, 2011.

205. Regarding Notice of the State Administration of Taxation on Stopping the Implementation of the Enterprise Income Tax Deduction and Exemption Policy of the Investments of an Enterprise in Purchasing Home-made Equipment, No. 52 [2008] of the State Administration

of Taxation, it was clearly mentioned that commencing from 1 January 2008, the implementation of the policy of offsetting the enterprise income tax by purchasing domestically manufactured equipment would be terminated. Therefore, both programs were terminated after implementing new Enterprise Income Tax Law of the PRC.

206. The Circular of the state council on the issues carrying out the transitional preferential policies on enterprise income tax, Guo Fa (2007) No.39 provides for transitional period under the old law but no relation could be found with Programs 30 & 34.
207. The Authority also examined Article 28 of the PRC Law on Enterprise Income Tax (No 63 promulgated on 16 March 2007) and the Administrative Measures for the Determination of High and New Technology Enterprises and Circular of the state administration of taxation on the issues concerning implementation of preferential income tax for Hi-tech enterprises (Guo Shui Han (2009) No. 203) but found that these regulations pertain to Program 31 and not Programs 30 and 34.
208. In view of the above, the Authority notes that while some of the instruments were not relevant to the aforementioned programs, other instruments were no longer in force. Thus, no tyre producers in China PR who exported the subject product to India during the POI received benefit under these programs during the POI.
209. Therefore, the Authority holds that no countervailing duty should be imposed against these programs.

(v) Program No. 31: Preferential Tax Policies / Income Tax Reductions for Companies that are Recognized as High and New Technology Companies

a. Submissions by the petitioners

210. Enterprises applying for a certificate of high and new technology enterprise are eligible for a benefit of a reduced income tax rate of 15% as compared to the ordinarily applicable rate of 25%. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them:
- i. Article 28 of the Corporate Income Tax Law of the PRC (No. 63 promulgated on 16 March 2007)
 - ii. Regulations on the Implementation of Enterprise Income Tax Law of the PRC (Decree No. 512 of the State Council of the PRC)
 - iii. Administrative Measures for the Determination of High and New Technology Enterprises
 - iv. Notice of the State Administration of Taxation on the issues concerning Enterprises Income Tax Payment of High and New Technology Enterprises (Guo Shui Han (2008) No. 985)
 - v. Circular Guo Shui Fa No. 135 of 2003
 - vi. Circular Cai Shui (2014) No. 59 & Cai Shui (2010) No. 65
 - vii. SAT circular Guo Shui Fa No. 139 of 1995

b. Submissions by GOC / other interested parties-

211. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program. However, Aeolus Tyre Co, Ltd and Triangle Tyre Co, Ltd have stated that they have received subsidy under this program and the same has been disclosed in their Questionnaire Response.

c. Examination by the Authority:

212. The program was governed under Article 28 of the Corporate Income Tax Law of the PRC and Article 93 of the Regulations on the Implementation of Enterprise Income Tax Law of the PRC. Further, the Ministry of Science and Technology, Ministry of Finance, and SAT jointly issued Administrative Measures for the Determination of High and New Technology Enterprises (Guo Ke Fa Huo [2008] No. 172) as well as Circular of the Ministry of Science and Technology, Ministry of Finance and State Administration of Taxation on Printing and Issuing of the Guidelines for the Administration of the Recognition of Hi-tech Enterprises (Guo Ke Fa Huo [2008] No. 362) to clarify the identification of high and new technology enterprises. The SAT issued Circular on the Issues Concerning Implementation of the Preferential Income Tax for Hi-Tech Enterprises (Guo Shui Han (2009) No. 203), which was in force till now.

213. However, Guo Ke Fa Huo (2008) No. 172 and Guo Ke Fa Huo (2008) No. 362 were replaced by Notice of the Ministry of Science and Technology, the Ministry of Finance and the SAT on Revising and Issuing the Measures for the Administration of the Certification of High-tech Enterprises (2016) (Guo Ke Fa Huo (2016) No. 32) and Notice of the Ministry of Science and Technology, the Ministry of Finance, and the SAT on Revising and Issuing the Guidelines for the Administration of the Certification of High-Tech Enterprises (2016) (Guo Ke Fa Huo (2016) No. 195). The SAT issued Announcement on Issues concerning the Implementation of the Preferential Income Tax Policies regarding High-Tech Enterprises (Announcement No. 24 [2017] of the State Administration of Taxation).

214. The Authority also noticed that Notice of the SAT on the issues concerning Enterprises Income Tax Payment of High and New Technology Enterprises (Guo Shui Han (2008) No. 985) was just related to the financial year of 2008 and it was repealed by Announcement on Issuing the Catalogue of Tax Regulatory Documents to be Invalidated and Entirely or Partially Repealed (Announcement No. 34 [2016] of the State Administration of Taxation) dated May 29, 2016.

215. In addition, Cai Shui (2010) No. 65 and Cai Shui (2014) No. 59 were related to advanced technology service enterprises. Guo Shui Fa No. 135 of 2003 and Guo Shui Fa No. 139 of 1995 were repealed by Announcement No. 2 [2011] of the SAT.

216. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established. For example, (a) by the EU authorities in *organic coated steel products* as well as *coated fine paper*.

217. Aeolus Tyre Co, Ltd and Triangle Tyre Co, Ltd, two of the responding exporters from China PR who have submitted questionnaire response and have stated that they availed this benefit

and have provided information with regard to the amount of subsidy received by them during the POI.

218. Program provides for financial contribution in the form of revenue foregone and benefit is thereby conferred. Program is also specific because it is limited to certain enterprises. The fact that Aeolus Tyre Co. Ltd. and Triangle Tyre Co. Ltd., benefited from the program shows that program was in fact used by the tyre producers in China PR that exported the subject product to India during the POI. Therefore, the Authority holds that countervailing duty should be imposed against this program.

(vi) Program No. 32: Income Tax Concessions for the enterprises engaged in comprehensive resource utilization (special raw materials)

a. Submissions by the petitioners

219. The Petitioners submitted that under the program, companies that use materials and manufacturing products listed in the *Catalogue of Income Tax Concessions for Enterprises engaged in Comprehensive Resource Utilization* are eligible for a 10% exemption on income tax for 5 years. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them.

- i. Article 33 of the PRC Law on Enterprise Income Tax, Order 63, 2007
- ii. Article 99 of Regulations on Implementation of the PRC Law on Enterprises Income Tax by the State Council, Order 115, 2008
- iii. Catalogue of Income Tax Concession for Enterprises engaged in Comprehensive Resource Utilization (Cai Shui (2008) No. 117)
- iv. EU-Certain organic steel products – 2013
- v. EU-Coated fine paper, 2011

b. Submissions by GOC / other interested parties-

220. The GOC stated that the program name determined by the petitioners was wrong, and the inclusion of the phrase "special raw materials" was erroneous. Besides, the program was not relevant to tyre industry.

c. Examination by the Authority:

221. The Authority notes that the program was governed under the EITL and Article 99 of Order 115, 2008 also stipulated that an enterprise that uses any of the materials as listed in the Catalogue of Resources for Comprehensive Utilization by Enterprises Entitled to Preferential Income Tax Treatment as its major raw materials, the income obtained from producing products which are not restricted or prohibited by the state and which meet the relevant standards of the state or the industry concerned shall be eligible for a 10% exemption from taxability.

222. The Authority also notes that only using junked tyre to make retread tyre was listed in the catalogue. Therefore, it is not relevant to the production of subject goods. Also, none of the

responding producers/exporters have benefited from the program. Petitioner has not provided any evidence to show that any tyre producers in China PR who exported the subject product to India received benefit under the program. Therefore, the Authority holds that no countervailing duty should be imposed against this program.

(vii) Program No. 33: Tax Credit Concerning the Purchase of Special Equipment

a. Submissions by the petitioners

223. An offset of 10% is granted on purchase cost of special equipment used for environmental protection, energy and water saving and production safety against the corporate income tax payable in the year of purchase, which can be carried forward for 5 years.

As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents

- i. Enterprise Income Tax Law of the PRC, Order of the President of the People's Republic of China No. 63
- ii. Article 100 of the Regulations on the Implementation of Enterprise Income Tax Law of the PRC (Decree No. 512 of the State Council of the PRC)

b. Submissions by GOC / other interested parties-

224. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program. However, Shandong Yongfeng Tire Co, Ltd has accepted that it has availed benefit out of this program.

c. Examination by the Authority:

225. The Authority notes that the program was governed under Article 34 of the Enterprise Income Tax Law of the PRC and Article 100 of the Regulations on the Implementation of Enterprise Income Tax Law of the PRC. Further, the Ministry of Finance, the State Administration of Taxation, the National Development and Reform Commission and Other Departments issued the Catalogues of the Special Equipment for Energy and Water Conservation and Environmental Protection Eligible for Enterprise Income Tax Preferences (Cai Shui (2008) No. 115), which was replaced by 2017 Version (Cai Shui (2017) No. 71).

226. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established. For example, by the EU authorities in *organic coated steel products*.

227. Shandong Yongfeng Tire Co. Ltd, one of the responding exporters from China PR who has submitted questionnaire response has stated that it availed this benefit and has provided information with regard to the amount of subsidy received by the company during the POI.

228. The program provides for financial contribution in the form of revenue foregone and benefit is thereby conferred on the recipient. The program is also specific because it is limited to

certain enterprises that purchases special equipment. The fact that Shandong Yongfeng benefited from the program shows that program was in fact used by the tyre producers in China PR that exported the subject product to India during the POI. Therefore, the Authority holds that countervailing duty should be imposed against this program.

(vii) Program No. 35: Tariff and VAT exemptions for imported technologies and equipment

a. Submissions by the petitioners

229. If an FIE falls in the ‘encouraged’ or ‘restricted’ categories in the Catalogue of Industries for Guiding Foreign Investment (2004) or the Catalogue of Industries for Guiding Foreign Investment (2007), it is eligible for the exemption from tariff and import VAT for equipment. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them:

- i. Article 1 and 2 of the Notice of the State Council Concerning the Adjustment of Taxation Policies for Imported Equipment (Guo Fa (1997) No. 37)
- ii. Announcement of the Ministry of Finance, the General Administration of Customs and the State Administration of Taxation (2008) No. 43
- iii. Notice of the NDRC on the relevant issues concerning the handling of confirmation letter on domestic or foreign-funded projects encouraged to develop by the State, No. 316 2006 of 22 February 2006
- iv. Catalogue on Non-duty-exemptible Articles of importation for either FIEs or domestic enterprises 2008
- v. Catalogue of Industries for Guiding Foreign Investment
- vi. Catalogue of Industry, Product and Technology Key Supported by the State at Present (2004)
- vii. State Council’s Import Goods Not Exempted from Taxation for Foreign Investment Projects Catalogue
- viii. Import Goods Not Exempted from Taxation for Domestic Investment Projects Catalogue

230. The petitioners have further alleged that major tyre producers in China PR who might have benefited under this scheme are entities such as Zhaoyuan Liao Rubber Products Co., Ltd, Haoyou Tyre Co., Ltd, Guangzhou Pearl River Rubber Tyre Ltd, Giti Radial Tyre (Anhui) Co., Ltd, Michelin (Shenyang) Tyre Co., Ltd, Xiamen Zhengxin Rubber Industry Co., Ltd, Kenda Rubber (China) Co., Ltd.

b. Submissions by GOC / other interested parties-

231. This program was terminated way back on February 22, 2008 and there was no replacement and grace period granted for this program. Thus, there is no continuing existence of a benefit. So, no PUC producers / exporters could apply for or receive benefits under this program during the POI.

c. Examination by the Authority-

232. The Authority noted that the petitioner provided (i) Cai Shui (2007) No. 75, (ii) Cai Shui (2008) No. 170 (iii) Cai Shui (2014) No. 36, (iv) Cai Shui (2014) No. 38, (v) Cai Shui (2014) No.37, (vi) Cai Quan Shui (2014) No. 24, (v) Fa Gai Ban Wai Zi (2014) No. 1329, (vi) Fa Gai Ban Wai Zi (2014) No.1454, (vii) Fa Gai Ban Wai Zi (2014) No. 1386, (viii) PBOC Order (2014) No. 2, (ix) the State Council (1993) No. 134, (x) Cai Fa (1993) No.38, (xi) Guo Shui Fa (2000) No.84. However, these 11 legal texts were not related to the program at all.
233. The Authority notes that Program 35 was actually governed under Circular of the State Council on Adjustment of Imported Equipment Taxation Policies (Guo Fa (1997) No. 37). The General Administration of Customs further issued Notice of the General Administration of Customs on Import Taxation Policies Related to Further Encouraging Foreign Investment (Shui Shui (1999) No. 791) to clarify which articles imported by FIEs were exempted from VAT and Customs duties.
234. Meanwhile, Guo Fa (1997) No. 37 also clarifies that, equipment:
- a. imported for own use within the total amount of investment of foreign investment projects which involve technology transfer and
 - b. which are in the encouraged category or Group B of the restricted category of the Industrial Guidance Catalogue for Foreign Investment and
 - c. such equipment is not among commodities listed in the Catalogue of Imported Commodities not Entitled for Tariff Exemption for Projects with Foreign Investment.
- shall enjoy exemption from tariff and import-stage value- added tax, provided that "High performance radial tyre" was listed in the encourage category of Catalogue for Guiding Industry Restructuring (2011 Version) (2013 Amendment).
235. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established. For example, by the EU authorities in *solar glass*, *organic coated steel products* and *coated fine paper*.
236. Program provides for financial contribution in the form of revenue foregone and benefit is thereby conferred. Program is also specific because it is limited to foreign invested enterprise. None of the participating tyre producers has received benefit under this program during the POI. Petitioner has not provided any evidence to show that tyre producers in China PR who exported the subject product to India during the POI benefited from this program. During the course of investigation, the Authority could also not identify evidence to support that tyre producers in China PR who exported the subject product to India during the POI benefited from this program.

237. Authority holds that no countervailing duty should be imposed against this program.

(viii) Program No. 36 VAT refunds for domestic firms on purchases of Chinese made equipment

(ix) Program No. 41: Preferential Tax Policies for FIEs and Foreign Enterprises Which Have Establishments in China and are Engaged in Production or Business Operations Purchasing Domestically Produced Equipments

238. Programs No. 36 & 41, allege same VAT benefits to enterprises for the purchase of domestically produced & manufactured production equipment. Therefore, these programs have been examined together.

a. Submissions by the petitioners

239. VAT is refunded on the purchase of domestic equipment for the enterprises, including FIEs. As evidence of existence of the programs, petitioners have provided the following notifications or scheme documents as was reasonably available to them.

- i. Article 3 & 27 of the “Interim Regulations of the People’s Republic of China on Value-Added Tax” (Decree (1993) No. 134 of State Council)
- ii. “Directive Category of Foreign Funded Industries stipulated in the Circular of the State Council concerning the Adjustment of the Taxation Policies of Imported Equipments”
- iii. Circular of State Adminstrating of Taxation Concerning Transmitting the Interim Measures for Administration of Tax Refund to Enterprise with FIEs. (Guo Shui Fa (1997) No. 171, September 20, 1999)
- iv. Circular of State Council on Adjustment of Tax Policies of Imported Equipment (Guo Fa (1997) No. 37)
- v. Catalogue of major industries, products and technologies encouraged for development in China (1998)
- vi. EU-Coated Fine Paper
- vii. EU-Organic Coated Steel Products
- viii. Notice regarding the adjustment of import-level tax policies related to key technological equipment and machinery (Cai Guan Shui (2014) No.2)

240. Tyre producers such as Zhaoyan Liao Rubber Products Co., Ltd., Haoyou Tyre Co., Ltd., Guangzhou Pearl River Rubber Tyre Ltd. Giti Radial Tire (Anhui) Co., Ltd., Michelin (Shenyang) Tyre Co., Ltd., Xiamen Zhengxin Rubber Industry Co., Ltd., Kenda Rubber (China) Co., Ltd. might have availed the benefit out of these programs.

b. Submissions by GOC / other interested parties-

241. Articles 3 & 27 of the “Interim Regulations of the People’s Republic of China on Value-Added Tax” (Decree (1993) No. 134 of State Council) is invalid as it was replaced with “Interim Regulations of the People’s Republic of China on Value-Added Tax” (2008 Revision).

242. Further, the CVD findings of the European Commission in *EU-Coated Fine Paper* and *EU-Organic Coated Steel* do not form the legal basis.

243. Circular of State Council on Adjustment of Tax Policies of Imported Equipment (Guo Fa (1997) No. 37) and Notice regarding the adjustment of import-level tax policies related to key technological equipment and machinery (Cai Guan Shui (2014) No.2) are the regulations related to Program 35 but not Program 36 or Program 41.

c.Examination by the Authority:

244. The Authority notes that:

- i. The said programs were mainly governed under Notice of the State Administration of Taxation concerning the Proposed Management Methods for Tax Refund (Guo Shui Fa (1997) No. 171).
- ii. On May 10, 2006, the Ministry of Finance and the State Administration of Taxation jointly issued Notice on Adjusting the Scope of Tax Refund Policies for the Purchase of Home-made Equipment for Foreign-funded Projects (Cai Shui (2006) No.61).
- iii. The State Administration of Taxation and the NDRC also jointly issued the “Trial Implementation Measures on Tax Refunded Administration for the Purchase of Home-made Equipment for Foreign-funded Projects” (Guo Shui Fa (2006) No.111) on July 1, 2006.

245. However, all above regulations were abolished under the Notice of the Ministry of Finance and the State Administration of Taxation on Stopping the Implementation of the Policy of Refunding Tax to Foreign-funded Enterprises for Their Purchase of Home-made Equipment (Cai Shui (2008) No. 176). As per this instrument, it is clearly mentioned that from January 1, 2009, the policy that refunds VAT to foreign-funded enterprises that purchase home-made equipment within the total amount of investment shall not be implemented any more.

246. Authority also notes that “Directive Category of Foreign Funded Industries stipulated in the Circular of the State Council concerning the Adjustment of the Taxation Policies of Imported Equipments” and “Catalogue of Major Industries, Products and Technologies Encouraged for Development in China” have no direct link with the said programs.

247. In view of the above, Authority notes that while some of the instruments were not relevant to the aforementioned program, the other instruments were no longer in force. No tyre producer in China PR who exported the subject product to India during the POI could have benefitted from the program.

248. Therefore, the Authority holds that no countervailing duty should be imposed against these programs.

(x) Program No. 37: VAT Exemptions and Deductions for Central Regions

a. Submissions by the petitioners

249. The petitioners stated that under above program, VAT payers located in 26 cities of the old industrial bases of the central region, that make investments in certain fixed assets can deduct the amount of VAT paid on the fixed assets from its total VAT liability. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents.

- i. SAT-Provisional Regulation on VAT of China PR-Order No.134 (1993)
- ii. SAT-Rules for implementation of provisional Regulation on VAT of China PR -order No. 38 (1993)
- iii. SAT-Measures for pre-Tax Deductions from China PR-Guo Shui Fa (2000)-Order - No.84
- iv. Interim Measures for expanding the scope of offset for VAT in central region No. 75 (2007)
- v. Notice of the Ministry of Finance and the SAT on several issues concerning the National implementation of VAT tax reforms No. 170 (2008) of the Ministry of Finance
- vi. Notice regarding issues related to the simplification and unification of Value-Added Tax (VAT) collection rates (SAT Announcement [2014] No. 36)
- vii. Web Research – China Business Hand Book
- viii. Web Research – Investment in China PR
- ix. Web Research – China’s VAT experience – By Xu Yan

However, the petitioners also pointed out that this program was only eligible to producers who were situated in certain designated areas. It has been claimed that producers such as Kenda Rubber (China) Co., Ltd, Giti Radial Tyre (Anhui) Co., Ltd and Xiamen Zhengxin Rubber Industry Co., Ltd. might have availed the benefit out of these programs.

b. Submissions by GOC / other interested parties-

250. No legal text was provided by the petitioner of the notification noted in the petition. Web research and case findings are not the legal basis under the Article 11.2 of the SCM. In order to co-operate fully, the GOC has provided the legal text and also the termination notification.

c. Examination by the Authority:

251. Based on the information provided by the GOC, the Authority could identify relevant regulations. The said program was governed under Interim Measures for expanding the scope of offset for VAT in central region (Cai Shui (2007) No. 75). However, the regulation was terminated under Notice of the Ministry of Finance and the State Administration of Taxation on Several Issues concerning the National Implementation of Value-added Tax Reform (Cai Shui [2008] No. 170). However, Cai Shui (2008) No. 170 was still in force and VAT rate was simplified under Notice of the Ministry of Finance and the State Administration of Taxation on the Policy of Streamlining and Combination of Value-Added Tax Levy Rates (Cai Shui (2014) No. 57). Both regulations are just general provisions of VAT in China PR. And there is no relation with Program 37.

252. The Authority notes that Interim Regulations of the People's Republic of China on Value - added Tax (No. 134 of the State Council), was revised in 2008, 2016 and 2017. Detailed Rules for the Implementation of the Interim Regulations of the People's Republic of China on Value-Added Tax dated December 25, 1993, were revised in 2008 and 2011 as well. However, both regulations are just general provisions of VAT in China PR and there is no relation with Program 37.
253. The instrument Measures for Pre-tax Deductions from Income Tax for Enterprises (Guo Shui Fa (2000) No.84) was related to the deduction of Enterprise Income Tax and the same was terminated by Catalogue of Currently Effective, Invalidated and Repealed Rules of Taxation Departments dated November 29, 2010.
254. The instrument Notice regarding issues related to the simplification and unification of Value-Added Tax (VAT) collection rates (SAT Announcement [2014] No. 36) was the clarification of VAT to be collected by simplified method. This instrument was not relevant to program 37.
255. In view of the above, the Authority notes that while some of the instruments were not relevant to the aforementioned program, the other instruments were no longer in force. No tyre producer in China PR who exported the subject product could have received benefit under this alleged program. The Authority holds that no countervailing duty should be imposed against this program alleged in the petition.

- (xi) Program No. 38: Reduced Tax Rate for Productive FIEs Scheduled to operate for a period not Less Than 10 Years**
- (xii) Program No. 39: Preferential Tax Policies for Foreign Invested Export Enterprises**
- (xiii) Program No. 40: Preferential Tax Policies for FIEs which are Technology Intensive and Knowledge Intensive**
- (xiv) Program No. 42: Income Tax Refund for Re-investment of FIE Profits by Foreign Investors**
- (xv) Program No. 44: Preferential Tax Policies for Enterprises with Foreign Investment (FIEs) Established in Special Economic Zones (excluding Shanghai Pudong Area)**
- (xvi) Program No. 45: Preferential Tax Policies for FIEs Established in the Coastal Economic Open Areas and in the Economic and Technological Development Zones**
- (xvii) Program No. 46: Local Income Tax Exemption and/or Reduction in SEZs and Other Designated Areas**
- (xviii) Program No. 47: Corporate Income Tax Exemption and/or Reduction in SEZs and Other Designated Areas**

256. Petitioners have alleged existence of series of tax programs, which provide income tax exemption/reduction/remission to certain categories of enterprises based on their location or nature of the enterprises or technological innovation. It is noted that the Program Nos. 38, 39, 40, 42, 44, 45, 46 & 47, as listed above alleges existence of similar income tax benefits to FIEs enterprises. Therefore, all these programs have been examined together.

a. Submissions by the petitioners

257. Program No. 38 is administered by MOF, MOFCOM, SAT and its local tax bureaus. From the year an FIE makes profits, it enjoys full income tax exemption for first two years and 50% exemption in the next three years. To be eligible, the enterprise must be an FIE which is product oriented, with an anticipated operation of at least 10 years and that has had a financial year in which it made a profit.

258. Under Program 39, export-oriented enterprises invested in and operated by foreign businesses for which in any year the output value of all export products amounts to 70% or more than for that particular year may pay half or fifteen per cent that qualify under the above-mentioned conditions or shall pay enterprise income tax at the tax rate of 10%.

259. Under Program 40, FIEs that qualify as technology-intensive or knowledge-intensive and have major products listed in the Catalogue of High and New Technology Products of China are eligible for the said program.

260. Under Program 42, FIEs are entitled to receive a 40% (if profits are re-invested) or 100% (if profits are re-invested in an export-oriented or technologically advanced enterprise) refund on the income tax that was paid on the re-invested amounts.

261. Under Program 44, the foreign invested productive enterprises established in Pudong area (Shanghai) are subject to income tax at the reduced rate of 15 percent.

262. Under Program 45, FIEs located in economic and technological development zones or coastal economic open areas are eligible to a reduced income tax rate of 15% or 24% based on location.

263. Under Program 46, both domestic enterprises and FIEs are eligible to income tax at lower rates of 15% or 24% or an exemption of 3% under “Regulations on Special Economic Zones in Guangdong Province” and “Provisions of the State Council Concerning the Encouragement of Investment in Developing Hainan Island”.

264. Under Program 47, FIEs that are established in the Economic and Technological Development Zones are subject to the reduced corporate income tax rate of 15%.

265. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents

Program 39- Preferential Tax Policies for Foreign Invested Export Enterprises

- i. Income Tax Law of the People's Republic of China for Enterprises with foreign Investment and Foreign Enterprises
- ii. Rules for the implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises
- iii. Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise income Tax Preferential Policies- Cai Shui [2009] No.69
- iv. Circular 115-Oct 2009
- v. SAT Circular Guo Shui Fa No. 139 of 1995
- vi. SAT Circular Guo Shui Fa No. 1 of 2003
- vii. Circular Cai Shui (2014) No.59 & 65

Program 40- Preferential Tax Policies for FIEs which are Technology intensive and Knowledge intensive

- viii. Notification of the State Council on carrying out the transitional preferential policies concerning Enterprise Income Tax (Guo Fa 2007 No. 39)
- ix. Notice of the State Administration of Taxation on Issues regarding pre tax deduction from enterprise Income Tax on interests expenditure for enterprise borrowing money from natural person. (Letter No. 777, 2009)
- x. Article 73 of. the Implementation Rules of the Income Tax Law of the People's Republic of China of Foreign Investment Enterprises
- xi. Catalogue of High and New Technology Products of China promulgated by the Ministry of Science and Technology ("MOST")

Program 42- Income Tax Refund for Re-investment of FIE Profits by Foreign Investors

- xii. Article 10 of the Foreign Invested Enterprise and Foreign Enterprise Income Tax law 1991 (the FIE income Tax Law)
- xiii. Article 80 of Implementing Rules of the Foreign Investment Enterprise and Foreign Enterprise Income Tax Law (the FIE Tax Regulations).
- xiv. Circular of the State Administration. of Taxation on Some Issues Concerning Tax Reimbursement for Re-investment Made by Foreign Investors of Enterprise with Foreign Investment (Guo Shui Fa [1993] No 9) Cai Shui [2009] No. 69
- xv. Catalogue-Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Preferential Policies-2015

Program 44- Preferential Tax Policies for Enterprises with Foreign Investments (FIEs) Established in Special Economic Zones (excluding Shanghai Pudong Area)

- xvi. Decree [1991] No. 85 of the State Council [30 June 1991]
- xvii. Order [1991] No. 45 of the President of the People's Republic of China [9 April-91]
- xviii. State Council Circular Guo Fa No. 37 of 2000

- xix. Notification of the State Council on Carrying out the Transition Preferential Policies Concerning Enterprise Income Tax, Guo Fa No. 39 of 2007
- xx. Article 19 of Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises 1991
- xxi. Article 4, 28 and 36 of Enterprises Income Tax Law of the People's Republic of China 2008;
- xxii. Article 91 of Regulations of People's Republic of China on the Implementation of the Enterprise Income Tax, 2008

Program 45- Preferential Tax Policies for (FIEs) Established in the Coastal Economic Open Areas and in the Economic and Technological Development Zones

- xxiii. Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises (the Tax Law);
- xxiv. Enterprises Income Tax Law 2008
- xxv. Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprise

Program 46- Local Income Tax Exemption and/or Reduction in SEZs and Other Designated Areas-

- xxvi. Article 81 of Decree 85, 1991
- xxvii. Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises (the Tax Law)
- xxviii. Article 5, Regulation on the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprise
- xxix. Regulations on Special Economic Zones in Guangdong Province
- xxx. Provisions of the State Council Concerning the Encouragement of Investment in Developing Hainan Island

Program 47- Corporate Income Tax Exemption and/or Reduction in SEZs and Other Designated Areas-

- xxxi. Article 28.2 of the Enterprises Income Tax Law of the People's Republic of China, 2008
- xxxii. Article 93 of Regulations on the Implementation of Enterprise Income Tax Law of the People's Republic of China by the State Council
- xxxiii. Ministry of Finance, State Administration of Taxation, the State Development and Reform Commission on Comprehensive Utilization of Resources announced the Corporate Income Tax Catalogue (2008 edition) Notice (Cai Shui [2008] No. 116) and (Cai Shui [2008] No. 117) (2008).
- xxxiv. Income Tax Law of the People's Republic of China for Enterprises, with Foreign Investment and Foreign Enterprises (the Tax Law);
- xxxv. State Council Issue Circular Guofa (2014) No. 14-(2014)

- xxxvi. State Council Notice 40-Article 57 of Corporate Income Tax
- xxxvii. Decree No-63 of Chairman of China PR -2007
- xxxviii. Decree No-516 State Council of China PR-2007
- xxxix. State Council Issue Circular Guofa (2014) No.14-(2014)

b. Submissions by GOC / other interested parties-

- 266. The instruments - G/SCM/N/235/CAN-2012, US-Carbon and Certain Alloy Steel Wire Rod, US-Initiation Check List in Sodium Nitrate China PR and G/SCM/N/123/CHN-2006 did not form the legal basis.
- 267. Secondly, the GOC introduced tax reform that took place in China PR in 2008. Before 2008, China PR law provided a lot of preferential tax policies applicable to FIEs.
- 268. On 16th March 2007, the GOC issued Enterprise Income Tax Law (“EITL”) of the PRC, which is applicable to all enterprises in China PR including the FIEs. This law was implemented with effect from 1 January 2008.
- 269. There were two major changes in the new tax law: (1) preferential income tax policies for FIEs were terminated, and a unified tax rate was applicable for domestic enterprises and FIEs; (2) preferential income tax policies for local special economic zones have been terminated. Further, the State Council issued notice on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax, stipulating that as of 1 January, 2008, enterprises that previously enjoyed the preferential policies of low tax rates shall be gradually transitioned to become subject to enjoy the statutory tax rate within 5 years after implementation of the EITL. Therefore, even enterprises which enjoyed preferential tax policies under the previous income tax law would no longer enjoy the same from the end of 2012.

c. Examination by the Authority:

- 270. The Authority notes that President Order No. 45, dated 9 April 1991 was terminated under Enterprise Income Tax Law of the People's Republic of China (President Order No. 63, dated 16 March, 2007) since 1 January 2008. The Authority also notes State Council Order No.85, dated 30 June, 1991 was terminated under Regulations on the Implementation of Enterprise Income Tax Law of the People's Republic of China by the State Council (State Council Order No. 512).
- 271. Meanwhile, the State Council also issued “Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax (Guo Fa (2007) No. 39” which provides a grace period to enterprises enjoying the preferential policies in respect of enterprise income tax under the former tax law, administrative regulations and documents. Program 47 (Sr.1), 45 (Sr.2 &14), 40 (Sr.3), 44 (Sr.5), 46 (Sr. 11 & 13), 38 (Sr.19) were listed in the table for implementation of transitional preferential policy on enterprise income tax.

272. The Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Preferential Policies (Cai Shui (2009) No. 69) further clarifies several issues related to Guo Fa (2007) No. 39. However, no issue was related to mentioned programs.
273. Guo Shui Fa (1995) No. 139 was replaced with Circular of the State Administration of Taxation concerning the Tax Preferential Policy Applicable to Enterprises with Foreign Investment with Regard to Technology-Intensive and Knowledge-Intensive Projects (Guo Shui Fa (2003) No. 135) dated November 7, 2003. This in turn was repealed by Announcement No. 2 [2011] of the State Administration of Taxation.
274. Similarly, Guo Shui Fa (1993) No. 9 and Guo Fa (2000) No. 37 implemented provisions of President Order No. 45 and the State Council Order No.85. However, since President Order No. 45 and State Council Order No.85 were terminated on 1 January 2008, Guo Shui Fa (1993) No.9 and Guo Fa (2000) No. 37 stood invalidated.
275. In its examination, the Authority found that Cai Shui (2010) No. 65 and Cai Shui (2014) No. 59 did not relate to the aforementioned programs.
276. The Authority also noted that the petitioner did not provide legal text of legal basis Circular 115 – Oct 2009. Therefore, the Authority is not in a position to make the determination regarding this instrument.
277. Authority also notes that before 2008, China PR implemented Provisional Regulations of the People's Republic of China on Enterprises Income Tax, which was applicable to all enterprises other than foreign invested enterprises ("FIEs") within China PR. China PR separately implemented Income Tax Law of the PRC for Enterprises with Foreign Investment and Foreign Enterprises, in which there were lot of preferential tax policies applicable to FIEs. On 16th March 2007, the GOC issued Enterprise Income Tax Law ("EITL") of the PRC, which is applicable to all enterprises in China PR including the FIEs. This law was implemented w.e.f 1 January 2008. There were two major changes in the new tax law: (1) preferential income tax policies for FIEs have been terminated, and a unified tax rate is made applicable for domestic enterprises and FIEs; (2) preferential income tax policies for local special economic zones have been terminated. Further, the State Council issued notice on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax, stipulating that as of 1 January, 2008, enterprises that previously enjoyed the preferential policies of low tax rates shall be gradually transited to enjoy the statutory tax rate within 5 years after implementation of the EITL. Therefore, even enterprises which enjoyed preferential tax policies under old income tax law would no longer enjoy the same from the end of 2012.
278. In view of the above, the Authority notes that while some of the instruments were not relevant to the aforementioned program, the other instruments were no longer in force. Thus, no tyre producers/exporters who had exported the subject product to India during the POI received benefit under this program.

279. Therefore, the Authority holds that no countervailing duty should be determined against these programs.

(xix) Program No. 43: Income Tax Reduction for Advanced Technology FIEs

a. Submissions by the petitioners

280. FIEs of advanced technology may continue to enjoy 50% income tax exemption after period of reduction and exemption has expired. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents.

- i. Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Preferential Policies (Cai Shui (2009) No. 69)
- ii. Cai Shui (2015) No. 37
- iii. Catalogue – Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Preferential Policies 2015

The petitioner also pointed out that PUC producers such as Kenda Rubber (China) Co., Ltd might have availed the benefit out of this program.

b. Submissions by GOC / other interested parties-

281. Petitioner has not provided legal text of the notification mentioned in the petition.

c. Examination by the Authority

282. The Authority notes that legal basis of Cai Shui (2009) No. 69 is not relevant to this Program.

283. Cai Shui (2015) No. 37 was related to Deed Tax Policy for Further Supporting the Transformation and Restructuring of Enterprises and Public Institutions and not to the Program 43. Petitioners did not provide legal text of Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Preferential Policies 2015. During the course of investigation, the Authority also failed to identify relevant legal basis for the alleged program.

284. None of the participating producers from China PR has received benefit under this program. Petitioner has also not provided evidence to show that tyre producers in China PR who exported the subject product to India received benefit under this program.

285. Therefore, there is no evidence to establish that the alleged program exists.

286. Therefore, the Authority holds that no countervailing duty should be imposed against the alleged subsidy program.

(xx) Program No. 48: Tariff and Value-added tax exemptions on imported materials and equipment in SEZs and other designated areas

a. Submissions by the petitioners

287. Both FIEs and certain domestic enterprises are exempted from the VAT and tariffs on imported equipment used in their production so long as the equipment does not fall into prescribed lists of non-eligible items. Provincial branch provides a certificate to enterprises that receive the exemption. The program encourages foreign investment and aims to introduce foreign advanced technology equipment and industry technology upgrades. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents.

- i. Circular of the State Council on Adjusting Tax Policies on Import Equipment (Guo Fa No. 37)
- ii. Web research – tax exemption and reduction
- iii. Web research – trade regulations, customs and standards
- iv. China PR Tax Laws

b. Submissions by GOC / other interested parties-

288. The GOC stated that except Guo Fa No. 37, the remaining documents did not constitute the legal basis.

c. Examination by the Authority:

289. The Authority notes that Guo Fa (1997) No. 37 pertains to exemption from tariff and import-stage value-added tax for imported materials and equipment. Tax benefit of imported material is already evaluated in Program 35.

290. In absence of any other legal basis, the Authority is unable to evaluate if the program provides for financial contribution in the form of revenue foregone. Moreover, none of the participating tyre producers have received benefit under this program during the POI. Petitioners have not provided any evidence to show that tyre producers in China PR who exported the subject product to India during the POI benefitted from this program. During the course of investigation, the Authority could also not identify evidence to support that tyre producers in China PR who exported the subject product to India during the POI benefitted from the program.

291. Therefore, the Authority holds that no countervailing duty should be imposed against this program.

(xxi) Program No. 49 Preferential Income Tax Policy for the Enterprises in the Northeast Region

a. Submissions by the petitioners

292. The petitioners stated that under above program, enterprises located in the Northeast region of China PR are eligible for deduction of accelerated depreciation and amortization expenses

linked to the purchase of fixed assets. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents :

- i. Notice of the Ministry of Finance and the State Administration of Taxation on the Assets Depreciation and the Implementation Calibre of Amortization Policy in the Northeast Old Industrial Base (Cai Shui (2005) No. 17)
- ii. Opinions of the General Office of the State Council on Implementing the Promoting of Further Opening-up of the Old Industrial Bases in Northeast China (Guo Ban Fa (2005) No.36)
- iii. Opinions of the State Council on Further Implementing the Strategy of Revitalizing the Old Industrial Bases including Northeast China (Guo Fa (2009) No.33)
- iv. Notice of the Ministry of Finance and the State Administration of Taxation on Exempting the Tax Arrears of the enterprises in the old industrial bases of northeast China (Cai Shui (2006) No. 167)

However, the petitioners also pointed out that only tyre companies located in Northeast region were eligible for this program.

b. Submissions by GOC / other interested parties-

293. The GOC clarified that item (1) was abolished under Decision of the Ministry of Finance on Announcement of the List of Abolished and Invalidated Finance Provisions and Regulatory Documents (11th Set) dated 21 January 2011. Item (2) and (3) were not relevant to the program. Also, no legal text was attached in the petition. In order to cooperate fully, the GOC identified the legal text for this program and provided the same to the verification team and the same was made part of the verification exhibits.

c. Examination by the Authority:

294. The Authority notes that Cai Shui (2005) No.17 was terminated by Decision of the Ministry of Finance on Announcement of the List of Abolished and Invalidated Finance Provisions and Regulatory Documents (11th Set) on 21 February 2011. Moreover, Guo Ban Fa (2005) No. 36, Cai Shui (2006) No. 167 and Guo Fa (2009) No. 33 was not related to the program at all.

295. The Authority also noted that the program actually was governed under Notice of the State Administration of Taxation about Scope of Application of the Enterprise Income Tax Preferential Policies for Revitalizing the Old Industrial Base in Northeast China (Guo Shui Han (2005) No. 823). However, the regulation was terminated under Announcement No. 2 [2011] of the State Administration of Taxation dated 4 January 2011. Authority is unable to identify any other legal basis which provides for the existence of this program and which is still in force.

296. Moreover, none of the participating tyre producers have received benefit under this alleged program during the POI. Petitioners have not provided any evidence to show that tyre producers in China PR who exported the subject product to India during the POI benefited from this program. During the course of investigation, the Authority could also not identify

evidence to support that tyre producers in China PR who exported the subject product to India during the POI benefited from this program.

297. Therefore, Authority holds that no countervailing duty should be imposed against this program.

(xxii) Program No. 50: Tax Concessions for Central and Western Regions

a. Submissions by the petitioners

298. A preferential income tax rate of 15% over the ordinarily applicable 25% was available to companies in the Central and Western regions of China PR. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them.

- i. Guo Fa (2000) No.33
- ii. Cai Shui (2001) No. 202
- i. Cai Shui (2011) No. 58
- ii. SAT – in depth implementation of the Western Development, Strategy on CIT
- iii. China approves for the 12th Five Year Plan for Western Region – 2012
- iv. Foreign Investment Guidelines for Central & Western Region
- v. Investing in Central & Western Region, 2000
- vi. State Administration of Taxation – 2012
- vii. Western China Development Strategy, 2013
- viii. China extends tax incentives in western regions
- ix. State Administration of Taxation – 2015. Announcement on Issues concerning Enterprise Income Tax in Implementing the “Catalogue of Industries Encouraged to Develop in the Western Region” (Cai Shui (2015) No. 14)

299. Petitioners provided the following names as eligible entities: Aeolus Tyre Co. Ltd., Haoyou Tyre Co., Ltd., Doublestar-Dongfeng Tyre Co. Ltd., Enshi Geelong Trading Co. Ltd. Tyre Producers in Western China- Chongqing Qingsu Science & Technology Co. Ltd., Chongqing Lianpo Science & Technology Co. Ltd., Chongqing Zhundong Trade Co. Ltd, Chongqing Duhao Trade Co. Ltd, Chongqing Xuannan Science & Technology Co. Ltd, Chongqing Wei Sha Trading Co. Ltd., Chengdu Gao Wei Neng Trading Co. Ltd, Chengdu Fengsheng Trade Co. Ltd., Chengdu Shengdafei Commerce and Trade Co. Ltd., Chengdu Baoling Technology Co. Ltd., kunming Sangduo Trade Co. Ltd, Kunming Mingwen Trading Co. Ltd., Baiyinmeixuan Trading Co. Ltd, Kashi Jin Sheng Sanli International Trade Co., Ltd.

b. Submissions by GOC / other interested parties-

300. In the petition, Indian domestic industry noted 12 legal basis towards this program. The GOC clarified that 3 legal basis were terminated, 5 legal basis have no text or relevant documents.

Remaining 4 legal basis have relevant legal text but all of them are related to western region . There are totally 12 provinces included in western region, i.e. Shaanxi, Sichuan, Yunnan, Guizhou, Guangxi, Gansu, Qinghai, Ningxia, Xizang, Xinjiang, Inner Mongolia and Chongqing. It was clarified that there are no tyre manufacturers located in these places.

c. Examination by the Authority:

301. The Authority notes that the program actually was governed under Guo Fa (2000) No.33, which is still valid. The areas in which policies on the development of the Western Region are applicable include Chongqing Municipality, Sichuan Province, Guizhou Province, Yunnan Province, Tibet Autonomous Region, Shangxi Province, Gansu Province, Ningxia Hui Autonomous Region, Qinghai Province, Xinjiang Uygur Autonomous Region, Inner Mongolian Autonomous Region and Guangxi Chuang Autonomous Region.
302. Cai Shui (2015) No. 14 further regulated corporate income tax towards encouraged industries in western region and provided that they would continue preferential income tax rate of 15%.
303. The Authority notes that the program has been earlier examined by other investigating authorities in the past and existence and countervailability of this program has been established. For example, by the EU authorities in *Organic Coated Paper*.
304. The Authority however notes that no tyre manufacturer who exported the subject product to India during the POI was based in the western region. During the course of investigation, the Authority could also not identify that any tyre producers who exported the subject product to India during the POI received benefit under this program.
305. Therefore, the Authority holds that countervailing duty should not be imposed against this program.

II.A Tax programs received by participating producers/exporters from China PR

(i) Zhongce Rubber Group Co Ltd.

306. Authority has verified the information provided by Zhongce Rubber Group Co. Ltd. and determined subsidy margin for tax programs for which benefit was received or accrued during the POI. Authority determined that all the tax programs resulted in the provision of financial contribution in the form of revenue foregone. As a result, benefit was conferred to Zhongce Rubber as a recipient of foregone revenue. Subsidy programs were also specific because they provided benefit to certain enterprise including Zhongce Rubber.
307. The table below provides for the name of the tax programs, and the corresponding subsidy margin:

Name of the grant program	Brief Description/Comment	Subsidy margin%	Subsidy Margin Range%
Program 27: as per the petition: Tax Policies for the deduction of research and development (R&D) expenses	Where an enterprise has incurred research and development expense in the development of new technologies, new products and new processes but intangible assets are yet to be formed and included in the profit and loss for the current period, 50% of the research and development expenses shall be deducted on the basis of actual deduction; where intangible assets are formed, 150% of the cost of intangible assets shall be amortised.	***	0-5%

(ii) Shandong Wanda Boto Tyre Co. Ltd.

308. Wanda Boto did not receive any benefit under tax program during the POI.

(iii) Shandong Yongfeng Tyres Co. Ltd.

309. Tax programs received by Shandong Yongfeng Tyres Co. Ltd. are noted in the table below:

Name of the grant program	Brief Description/Comment	Subsidy margin%	Subsidy Margin Range%
Program 33: Tax credit concerning the purchase of special equipment	Article 34 of EITL stipulates that the amount of an enterprise's investment in the purchase of special equipment for environmental protection, energy and water saving, work safety, etc. may be deducted from the tax amount at a certain rate.	***	0-5%

(iv) Triangle Tyre Co. Ltd.

310. Tax programs received by Triangle Tyre are noted in the table below:

Name of the grant program	Brief Description/Comment	Subsidy margin%	Subsidy Margin Range%
Program 31: Preferential income tax rate	Preferential income tax rate for high and new technology enterprise	***	0-5%

(v) Aeolus Tyre Co. Ltd.

311. The table below provides for the tax programs and the corresponding subsidy margin.

Name of the Program	Brief Facts	Subsidy Margin	Subsidy Margin Range%
Program 31: Preferential tax policies/ Income Tax Reductions for companies that are recognized as high and new technology companies	The Company is officially recongnized as a new high-tech enterprise.	***	0-5%

(vi) Yellow Sea Rubber Co. Ltd.

312. Yellow Sea Rubber Co. Ltd. did not receive any benefit under the tax programs during the POI.

II.B. Summary of Tax Programs

313. The Authority has determined the all others rate based on the highest of the subsidy margins for the cooperating parties.

Name of the Company	Subsidy Margin for grants%	Range%
Zhongce Rubber Group Co. Ltd.	***	0-5%
Triangle Tyre Co. Ltd	***	0-5%
Shandong Yongfeng Tyres Co. Ltd	***	0-5%
Aeolus Tyre Co. Ltd.	***	0-5%
All Others	***	0-5%

III. Programs Identified in the Form of Preferential Lending

(i) Program No. 51 Government Policy Lending

a. Submissions by the petitioners

314. Steel producers benefit from low (subsidized) interest rates from state owned commercial banks and government banks in accordance with the GOC policy to support and develop the expansion of the Chinese steel industry. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them.

- i. Decision of the State Council on Promulgating and Implementing the “Temporary Provisions on Promoting Industrial Structure Adjustment” (Guo Fa (2005) No. 40)
- ii. Article 34 and Article 38 of the Commercial Banking Law
- iii. Articles 16,24 and 25 of Order No. 35 – Policies for the development of Iron and Steel Industry
- iv. The Ministry of Industry and Information Technology’s 2012 Industry Transfer Guidance Catalog supports key and advantaged industries, such as the steel industry through preferential lending
- v. Directory Catalog on Readjustment of Industrial Structure (Directory Catalogue) – 2005 & 2011
- vi. Guidelines for the Eleventh Five-Year Plan for National Economic and Social Development (2006-2010) (11th Five-year Plan)
- vii. Yin Fa [2003] No. 50
- viii. Yinfa (2004) No. 251
- ix. Blueprint for implementing the adjustment and revitalisation program for the steel industry [2009] provides for “increasing the financial support for key backbone enterprises”

Tyre producers such as Aeolus, Double Coin, Sailun and Guizhou Tire might have availed the benefit out of this program.

b. Submissions by GOC / other interested parties-

315. The GOC stated that the petitioners only provided legal text of Guo Fa (2005) No. 40. Other legal basis had no legal text. Besides, the article *MITT to publish Tire Industry Access Conditions* and the annual reports did not constitute legal basis.
316. Based on the list of legal basis provided in the petition, it is clear that the program is applicable only to the steel industry. Petition itself notes that steel industry benefits from this program.

c. Examination by the Authority

317. Authority notes that all the legal basis provided in the petition relates to steel industry. Therefore, Authority determines that no countervailing duty shall be imposed against this program.
318. However, during the course of investigation, the Authority determined that certain participating exporters from China PR have received benefit in the form of preferential lending from state owned banks. Authority has determined that such preferential lending has resulted in financial contribution in the form of direct transfer of funds. Authority has determined countervailing duty against such preferential lending by comparing the interest rate charged by the state owned bank from the exporter receiving loan with the commercial benchmark interest rate prescribed on the long term and short term borrowing by the People’s

Bank of China (Central Bank of China). Benefit was calculated based on the difference between these two amounts.

(ii) Program No. 52: Preferential Loans to SOE

a. Submissions by the petitioners

319. It was claimed that under this Program, the SOEs receive preferential loans through state-owned commercial or policy banks. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents.

- i. Circular of the China PR Bank of China, the State Administration of Foreign Exchange, the Ministry of Foreign Trade and Economic Cooperation and the State Administration of Taxation Concerning Printing and distributing detailed Rules on rewarding and punishment concerning provisional regulations over examination of export collections of foreign exchange - Yin Fa (2000) No. 58

320. It has been shown that PUC producers such as Xiamen Penavico Logistics Co., Ltd; Doublestar Dongfeng Tyre Co., Ltd; Xuzhou Xugong Tyres Co., Ltd; Aeolus Tyre Co., Ltd; Qingdao Doublestar Tyre Industrial Co., Ltd; Triangle Tyre Co., Ltd; Shifeng Double-star Tyre Co., Ltd; Shandong Taishan Tyre Co., Ltd; China Shipbuilding Trading (Shanghai) Co., Ltd; Shanghai Tyre & Rubber Co., Ltd might have availed the benefit under this program.

b. Submissions by GOC / other interested parties-

321. The GOC has stated that the program was terminated.

c. Examination by the Authority:

322. The Authority notes that the program was governed under Detailed Rules on Rewarding and Punishment Concerning Provisional Regulations over Examination of Export Collections of Foreign Exchange (Yin Fa [2000] No. 58) but the same was terminated through Announcement No. 7 [2007] of the People's Bank of China, State Administration of Foreign Exchange, Ministry of Commerce and State Administration of Taxation -- annulling the Circular of Distributing the Detailed Rules on Reward and Punishments of Provisional Regulations on Examination of Foreign Exchange Collection.

323. In view of the above, the Authority notes that the relevant instrument was no longer in force. However, during the course of investigation, the Authority determined that certain participating exporters from China PR have received benefit in the form of preferential lending from state owned banks. Authority has determined that such preferential lending has resulted in financial contribution in the form of direct transfer of funds. Authority has determined countervailing duty against such preferential lending by comparing the interest rate charged by the state owned bank from the exporter receiving loan with the commercial benchmark interest rate prescribed on the long term and short term borrowing by the People's Bank of China (Central Bank of China). Benefit was calculated based on the difference between these two amounts.

(iii) Program No. 53 Discounted Loans for Export-oriented Enterprises and Export Loan Interest Subsidies

(iv) Program No. 54: Preferential Loans and Interest Rate to the Tyre Industry

a. Submissions by the petitioners

324. The Petitioners claimed that state-owned commercial banks provide preferential loans for exports. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents:

- i. Fujian Province iron and steel industry and non-ferrous metals industry adjustment and revitalization implementation plan (2009-2011)
- ii. 2012 Annual Report of Shanxi Taigang Stainless Steel Co., Ltd
- iii. 2013 Recruitment Notice Of The Export Import Bank Of China Ningbo Branch
- iv. Circular of the ministry of industry and information technology on printing and distributing the iron and steel industry 12th five-year development plan (Gong Xin Gui (2011) No.480)
- v. Circular of the ministry of science and technology on printing and distributing the high quality specialty steel science and technology development 12th five-year special plan (2012)
- vi. Order 47 – Article 34 of Law of the China PR on Commercial Banks (2003) with respect to the fulfilment of the government industrial policies
- vii. Circulars of the People's Bank of China (PBOC) concerning expansion of financial institutions' loan interest rate policy (Yin Fa (2003) No. 250)
- viii. The annual reports of Chinese banks that were either submitted from GOC or publicly available, information retrieved from the 2006 Deutsche Bank research on China's banking sector, WTO Policy review on China (2010 and 2012), China 2030 World Bank Report
- ix. PBOC's circular on the issues about the adjusting interest rates on deposits and loans – Yin Fa (2004) No. 251
- x. NDRC order No. 35 – Policies for the Development of Iron and Steel Industry,
- xi. OECD 2010 economic survey of China, February 2010 (see chapter 3, pages 71, 73-81, 97)
- xii. OECD China's financial sector reforms, economic department working paper No. 747, ECO/WKP (2010) 3, 1 February 2010, (see pages 2, 8-15, 36)

325. The petitioners also pointed out that producers such as Xiamen Penavico Logistics Co. Ltd; Fujian Province, Doublestar -Dongfeng Tyre Co. Ltd. Hubei Province, Xuzhou Xugong Tyres Co., Ltd. Jiangsu Province, Aeolus Tyre Co. Ltd. Henan Province, Qingdao Doublestar Tyre Industrial Co., Ltd. Shandong Province, Triangle Tyre Co. Ltd Shandong Province, Shifeng Double-Star Tyre Co., Ltd, Shandong Province, Shandong Taishan Tyre Co., Ltd,

Shandong Province, China Shipbuilding Trading (Shanghai) Co., Ltd. Shanghai Municipality, Shanghai Tyre & Rubber Co., Ltd. Shanghai Municipality, Sichuan Tyre And Rubber Co., Ltd, Sichuan Province might have availed the benefit out of this program.

b. Submissions by GOC / other interested parties-

326. The GOC stated that the annual reports, 2013 recruitment notice of the export import bank of china Ningbo branch, and OECD reports did not constitute the legal basis.

327. Fujian Province Iron And Steel Industry And Non-Ferrous Metals Industry Adjustment And Revitalization Implementation Plan (2009-2011), Circular of the ministry of industry and information technology on printing and distributing the iron and steel industry 12th five-year development plan (Gong Xin Gui (2011) No.480), Circular of the ministry of science and technology on printing and distributing the high quality specialty steel science and technology development 12th five-year special plan (2012) were related to steel industry only.

c. Examination by the Authority

328. The Authority notes that most of the legal instruments provided by the petitioners in program 53 were related to the steel industry only. While Yin Fa (2003) No. 250 was the regulation determining the floating scope applicable to the commercial banks. Yin Fa (2004) No. 251 stipulated benchmark loan interest rate published by the PBOC. However, both these were not relevant to the program. Decree No. 40 did not mention that tyre industry shall be provided preferential loans and interest rates.

329. However, during the course of investigation, the Authority determined that certain participating exporters from China PR have received benefit in the form of preferential lending from state owned banks. Authority has determined that such preferential lending has resulted in financial contribution in the form of direct transfer of funds. Authority has determined countervailing duty against such preferential lending by comparing the interest rate charged by the state owned bank from the exporter receiving loan with the commercial benchmark interest rate prescribed on the long term and short term borrowing by the People's Bank of China (Central Bank of China). Benefit was calculated based on the difference between these two amounts.

IV. Programs Identified in the Form of Export Financing and Export Credit

(i) Program No. 55: Export Seller's Credit

(ii) Program No. 56: Export Buyer's Credit

(iii) Program No. 57: Other Export financing from State-owned Banks

a. Submissions by the petitioners

330. Domestic companies are eligible for getting financing from government banks for export of certain products according to their export performance. As evidence of existence of the

program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them:

- i. Circular of Import & Export Bank of China on supporting the exports of high and new technologic products, 1999 No. 210
- ii. The Export-Import Bank of China, export sellers credit, 2012 Annual Report
- iii. Export Buyer's Credit, website excerpts
- iv. The Export-Import Bank of China website
- v. China's Compliance with WTO & International Trade Rules, 2014
- vi. Export Financing Activities by the Chinese Government 2011

It has also been submitted that this program has been held countervailable by other investigating authorities.

b. Submissions by GOC / other interested parties-

331. The GOC stated that annual report of the Export-Import Bank of China, weblink of brief introduction of the Export-Import Bank of China, Giti's Annual Report and all other documents furnished by the petitioner did not constitute the legal basis.

c. Examination by the Authority

332. The Authority notes that the Import and Export Bank of China issued Circular on Supporting the Export of High-New Technologic Products (Jin Chu Yin Ji Fa [1999] No. 210), which is still in effect. Besides, Article 1 stated that the scope of the high and new technology products that need support shall be decided according to the List of Exports and Imports of High and New technology Product of China. The Authority also noted that radial tyre was listed as a high and new technology product of China.
333. The Authority notes that program 55 & 56 have been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by the US authorities in certain passenger vehicle and light truck tyres and utility scale wind towers.
334. During the course of investigation, the Authority noted that certain participating exporters from China PR have received benefit in the form of preferential lending from state owned banks. Authority has determined that such preferential lending has resulted in financial contribution in the form of direct transfer of funds. Authority has determined countervailing duty against such preferential lending by comparing the interest rate charged by the state owned bank from the exporter receiving loan with the commercial benchmark interest rate prescribed for the long term and short term borrowing by the People's Bank of China (Central Bank of China). Benefit was calculated based on the difference between these two rates. The Authority has not separately identified whether the loan granted by state owned banks were for exports or for other reasons.

(iv) Program No. 58: Export Credit Insurance Subsidies

(v) Program No. 59: Export Credit Guarantees

a. Submissions by the petitioners

335. The Petitioners mentioned that under the program, the GOC directed the China Export & Credit Insurance Corporation, or Sinosure to increase its support for export of products listed in the catalogue of Chinese high-tech products for export. Tyre producers are eligible for export credit guarantees. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents:.

- i. Strategy of promoting trade through science and technology by utilizing export credit insurance
- ii. Catalogue of Chinese High-Technology Products for Export (2006) and translated excerpts
- iii. Ministry of Commerce of China PR, Department of Mechanic, Electronic and Hi-tech Industry (national Mechanic and Electronic Import and Export Office) Webpage and translated excerpt.
- iv. Notice of the Ministry of industry and information technology on issuing the tyre industry policy (Gong Chan Ye Zheng Ce (2010) No.2) and translated excerpts
- v. Order of the NDRC and Reform Commission of China PR on revising certain provisions of guidance catalogue for the industrial structure adjustment (2011) No. 21 (Feb 2013)
- vi. Ministry of Commerce and China Export & Credit Insurance, Shang Ji Fa (2004) No. 368

b. Submissions by GOC / other interested parties-

336. The GOC stated that strategy of promoting trade and webpage were not legal basis.

c. Examination by the Authority:

337. The Authority notes that the Ministry of Commerce and China Export & Credit Insurance Notice on utilizing export credit insurance to implement the strategy of encouraging trade through science and technology (Shang Ji Fa (2004) No. 368) was still in force.

338. Import and Export Bank of China issued Circular on Supporting the Export of High-New Technologic Products (Jin Chu Yin Ji Fa [1999] No. 210), which is still in effect. Besides, Article 1 stated that the scope of the high and new technology product that need support shall be decided according to the List of Exports and Imports of High and New technology Product of China. The Authority also noted that radial tyre was listed as the high and new technology product of China PR.

339. Authority notes that the program provides for provision of export guarantee by state funded insurance company Sinosure. The program provides for financial contribution in the form of potential direct transfer of funds. Program is also specific because it is contingent on export

performance. The program can be said to provide benefit and is thus countervailable subsidy if it is determined that export guarantee is provided by Sinosure at less than comparable commercial charges i.e. the fees charges by other domestic private insurance company on comparable commercial export guarantee provision. No evidence is provided in the petition in this regard.

340. In any case, petition has not provided any evidence to show that tyre producers in China PR who exported the subject product to India received benefit under this program. None of the participating exporters from China PR have received benefit under this program. During the course of investigation, the Authority could also not identify that tyre producers in China PR who have exported the subject product to India have received benefit under this program.

341. Thus, the Authority holds that no countervailing duty can be imposed against these alleged programs.

342. The Authority also notes that some of the participating producers have reported benefit received in the form of export credit insurance premium subsidy as grants (other than the benefit under this program) and the same has already been countervailed by the Authority.

III/IV.A Summary for preferential lending/Export Financing and Export Credit received by responding producers/exporter

343. Authority has verified the information provided by participating producers/exporters from China PR. Subsidy margin for preferential loans for which benefit was received during the POI is noted in the table below.

344. The Authority has determined the all others rate based on the highest of the subsidy margins for the cooperating parties.

Name of the participating producer/exporters	Subsidy margin%	Subsidy margin range%
Zhongce Rubber Group Co. Ltd.	***	0-5%
Triangle Tyre Co. Ltd.	***	0-5%
Aeolus Tyre Co. Ltd.	***	0-5%
All others	***	0-5%

V. Programs Identified in the Form of Equity

(i) Program No. 60: Equity infusions

a. Submissions by the petitioners

345. The Petitioners claimed that the GOC acquires additional ownership shares in steel companies and at the same time provides cash subsidies. GOC owns majority stake in almost all steel producers in China PR as economic policy goal. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents:

- i. China International Capital Corporation Ltd. ("CICC")'s web page

It has also been submitted that this program has been held countervailable by other investigating authorities.

b. Submissions by GOC / other interested parties-

346. The GOC stated that document cited by the Petitioners did not constitute the legal basis. Besides, CICC is not the shareholder of any tyre company.

c. Examination by the Authority

347. The Authority notes that the petition itself alleges that equity infusion is made in Steel industries. Unlike other alleged programs, petition has also not provided list of eligible tyre producer in China PR who may have received benefit under this program.

348. Authority also notes that none of the responding exporters have availed benefit under this program. Petition has not provided any information to demonstrate that tyre producers who exported the subject product to India received benefit under this program. During the course of investigation, the Authority also could not identify that exporters in China PR who exported the subject product to India received benefit under this program.

349. Therefore, Authority determines that no countervailing duty can be imposed against this program.

(ii) Program No. 61: Unpaid dividends

a. Submissions by the petitioners

350. Government acquires additional ownership shares in tyre companies. However, the GOC foregoes or does not collect the dividends from these companies, some of whom are producers of the PUC. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them:

- i. Ministry of Finance, State Administration of Taxation and China Securities Regulatory Commission jointly published Cai Shui (2014) No.79

b. Submission by Government of China

351. The document relied upon as evidence by the petitioner was not provided as exhibits.

c. Examination by the Authority

352. The Authority notes that the legal instrument noted by the petitioners determined that income derived by qualified foreign institutional investors ("QFII") and RMB qualified foreign

institutional investors (“RQFII”) from the transfer of stock or any other equity investment asset in China shall be temporarily exempt from enterprise income tax. This is however not relevant to this program. The Authority notes that Petitioner did not provide any evidence to show that tyre companies in China PR who exported the subject product received benefit under this program.

353. None of the participating producers/exporters from China PR received benefit in the form of unpaid dividends. Petitioner also did not provide any evidence to show that tyre producers in China PR who exported the subject product to India received benefit under this program. During the course of investigation, the Authority also could not identify that tyre producers in China PR who exported the subject product to India received benefit under this program.

354. Therefore, Authority holds that no countervailing duty should be imposed against this program.

(iii) Program No. 62 Dividend exemption between qualified resident enterprises

a. Submissions by the petitioners

355. Preferential tax treatment is provided in form of tax reduction on certain dividends, bonus and other equity benefits to the enterprises. Chinese enterprises who are shareholders in other Chinese resident enterprises are eligible for the said benefit. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them.

i. Article 26, Enterprise Income Tax Law

ii. Article 83, Regulations on the Implementation of Enterprise Income Tax Law, Decree No. 512 of the State Council

b. Examination by the Authority:

356. The Authority notes that the program was governed under Article 26 of Enterprise Income Tax Law as well as Article 83 of Regulations on the Implementation of Enterprise Income Tax Law.

357. The Authority notes that the program has been earlier examined by some other investigating authorities in the past and existence and countervailability of this program has been established by the EU authorities in (a) *coated fine paper* and (b) *certain organic coated steel products*.

358. None of the responding producers/exporters from China PR received benefit under this program. Petition does not provide any evidence to show that tyre producers in China PR who exported the subject product to India received benefit under this program. During the course of investigation, the Authority could also not identify that tyre producers in China PR who exported the subject product to India received benefit under this program.

359. Therefore, the Authority holds that no countervailing duty should be imposed against this program.

VI. Programs Identified in the Form of Provision of Goods and Services

(i) Program No. 63: Provision of Electricity for Less Than Adequate Remuneration

(ii) Program No. 64: Provision of Water for Less Than Adequate Remuneration

a. Submissions by the petitioners

360. The Petitioners claimed that tyre manufacturers are eligible for receiving electricity or water for less than adequate remuneration. Petitioners relied on the following legal basis:

- i. Gua Fa 2004 No. 20
- ii. Catalog – Decision No. 40 (2005)-(NDRC)
- iii. Order 35 of the NDRC – Policies for development of Iron and Steel Industry – 2005
- iv. Articles 3,6,35,37,38,39,41 & 42 of Electricity Laws – 1995
- v. Water Laws in China PR-2002
- vi. Web Research – Preferential treatment for FIEs in Jiangsu Qidong Lusio Development Zone

b. Submission by Government of China

361. Petitioners have not provided legal text for any of the legal basis noted in the petition.

c. Examination by the Authority

362. Petitioners have alleged that GOC provides electricity and water at preferential rates and at basic price respectively.

363. The Authority notes that there is not sufficient evidence to conclusively prove that Government of China is providing water to certain enterprises at less than adequate remuneration.

364. However, the Authority notes that Government of China is providing electricity to certain enterprises at less than adequate remuneration. Provision of electricity at less than adequate remuneration amounts to financial contribution in the form of provision of services. Authority observes that electricity at less than market rates amounts to conferring of benefit. This subsidy program is also specific because it is limited to certain type of enterprises in China PR. Therefore, the Authority notes that the provision of electricity by the GOC is a countervailable subsidy program.

365. The Government of China and the participating exporters/respondents have not provided adequate information for quantification of benefit availed. The authority has therefore determined countervailing duty against provision of electricity for less than adequate remuneration based on facts available.

(iii)Program No. 65: Land Use Rights in Industrial and Other Special Economic Zone

(iv)Program No. 66: Land Use Rights for SOEs

a. Submissions by the petitioners

366. The land use right provisions in China are dealt with Land Administration Law of China PR. Land provision and acquisition in China is unclear and non-transparent and the prices are often arbitrarily set up by the authorities. The authorities set the prices according to the Urban Land Evaluation System which instruct them, among other criteria, to consider and set prices of industrial land. The land in China PR is provided far below the normal market rates.
367. According to Article 2 of the Land Administration Law, all land is government owned since, according to the Chinese constitution and relevant legal provisions, land belongs collectively to the People of China. No land can be sold but land use rights may be assigned according to the law. The State authorities can assign it through public bidding, quotation or auction.
368. The petitioners have noted that benefit is available to high and new technologically advanced SOEs. Following notifications or scheme documents have been furnished by them as evidence :
- i. General Office of the People's Government of Henan Province Notice Regarding Dissemination of Henan Province Industrial Transformation and Upgrading 12th Five-Year Plan, Yu Zheng Ban (2012) No.22 (Feb. 25, 2012)
 - ii. Land Administration Law of the People's Republic of China 2004
 - iii. Real Right Law of the People's Republic of China

b. Submissions by GOC / other interested parties-

369. The GOC stated that 12th Five Year Plan referred to Year 2011-2015. Since the 12th plan period expired, the program was invalid since 2015. Remaining exhibits provided by the petitioner do not constitute as legal basis.

c. Examination by the Authority:

370. The Authority notes that the legal basis provided by the petitioner was for the Year 2011-2015 and that period has expired.
371. However, Authority notes that Government of China is providing land use rights to certain enterprises at less than adequate remuneration. Provision of land use rights at less than adequate remuneration amounts to financial contribution in the form of provision of services. Authority observes that land use rights provided at less than market rates amounts to conferring of benefit. This subsidy program is also specific because it is limited to certain type of enterprises in China PR. Therefore, the Authority notes that the provision of land use rights by the GOC is a countervailable subsidy program.

372. The Government of China and the participating exporters/respondents have not provided adequate information for quantification of benefit availed under land use rights. The authority has therefore determined countervailing duty against provision of land use rights at less than adequate remuneration based on facts available.

(v) Program No. 67: Land use right for FIEs

a. Submissions by the petitioners

373. China has a policy of providing land-use rights to certain foreign-invested enterprises (FIEs) on a preferential basis in addition to SOEs. Enterprises with foreign investment could qualify either as an export enterprise. Also, technologically advanced enterprise can avail the benefit on land use fees, and local governments are authorized for such payment for limited periods of time. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents:

- i. Provisions of the State Council on the Encouragement of Foreign Investment, Guo Fa (1986) No. 95, at art.4 (Oct.11.1986)
- ii. Notice of the Ministry of Industry and Information Technology on Issuing the Tyre Industry Policy (Gong Chan Ye Zheng Ce (2010) No.2)
- iii. Provisions of Fuzhou Economic and Technological Development Zone (Dec.12, 1986) at art.23
- iv. Implementing Provisions for Encouraging Foreign Investment in Guangdong Province (Apr. 26, 1987) at art.20
- v. Provincial Provisions for Encouraging Foreign Investment in Heilongjiang Province (Dec.18, 1986) at Arts.2 4(1)-(2)
- vi. Regulations of the Jiangsu Provincial People's Government for the Encouragement of Foreign Investment (Nov.11, 1986) at art.2

b. Submissions by GOC / other interested parties-

374. The GOC stated that the petitioners did not provide legal text of Implementing Provisions for Encouraging Foreign Investment in Guangdong Province (Apr. 26, 1987) and Several Regulations of the Jiangsu Provincial People's Government for the Encouragement of Foreign Investment (Nov.11, 1986).

c. Examination by the Authority:

375. The Authority notes that the program was governed under Guo Fa (1986) No.95, which was still in force.

376. The Authority also noted that Regulations of Fuzhou Economic and Technological Development Zone was replaced with 1993 revision and 2002 revision. The 2002 revision was still in force. However, there was no tyre producer based in Fuzhou Economic and Technological Development Zone.

377. Implementing Provisions for Encouraging Foreign Investment in Guangdong Province (Apr. 26, 1987) was also repealed on 14 April 1998. Provincial Provisions for Encouraging Foreign Investment in Heilongjiang Province (Dec.18, 1986) was terminated on 5 January 2011. Regulations of the Jiangsu Provincial People's Government for the Encouragement of Foreign Investment (Nov.11, 1986) was terminated on 24 June 2002.

378. However, Authority notes that Government of China is providing land use rights to certain enterprises at less than adequate remuneration. Such provision of land use rights at less than adequate remuneration amounts to financial contribution in the form of provision of services. Authority observes that land use rights provided at less than market rates amounts to conferring of benefit. This subsidy program is also specific because it is limited to certain type of enterprises in China PR. Therefore, the Authority notes that the provision of land use rights by the GOC is a countervailable subsidy program.

379. The Government of China and the participating exporters/respondents have not provided adequate information for quantification of benefit availed under land use rights. The authority has therefore determined countervailing duty against provision of land use rights for less than adequate remuneration based on facts available.

(vi) Program No. 68: Provision of Carbon Black for Less than Adequate Remuneration

(vii) Program No. 69: Provision of Nylon Cord for Less than Adequate Remuneration

(viii) Program No. 70: Provision of Synthetic Rubber and Butadiene for Less than Adequate Remuneration

(ix) Program No. 71: Provision of Natural Rubber for Less than Adequate Remuneration.

a. Submissions by the petitioners

380. The Petitioners claimed that tyre industry is the predominant user of raw materials like carbon black, nylon cord, synthetic rubber and natural rubber. GOC through SOEs is providing these raw materials at less than adequate remuneration. As evidence of existence of the program, the petitioners have not provided the following notifications or scheme documents:.

- i. Notice of the Ministry of Industry and Information Technology on Issuing the Tyre Industry Policy (Gong Chan Ye Zheng Ce (2010) No. 2) at arts.16-19
- ii. Form 20-F of Annual Report of Sinopec Shanghai Petrochemical Co., Ltd, filed with the United States Securities and Exchange Commission on Apr. 30, 2014
- iii. Ministry of Commerce, People's Republic of China, Catalogue for the Guidance of Foreign Investment Industries (Amended in 2011)
- iv. The Dalian High-Tech Industrial Zone lists "synthetic rubber" among its "encouraged foreign investment industries." Dalian High-Tech Industrial Zone, "Encouraged Foreign Investment Industries" (Mar. 16, 2006)

- v. The Guangzhou Development District lists “butadiene” and “synthetic rubber” as “encouraged industries”, Guangzhou Development District, “Investment – encouraged industries” (2003)
- vi. The Guangzhou “State Industrial Catalog Guiding Foreign Investment” lists synthetic rubber among “The Encouraged Industries for Foreign Investment.”
- vii. “The Encouraged Industries for Foreign Investment” the State Industrial Catalogue Guiding Foreign Investment.
- viii. Order of National Development and Reform Commission of China PR on revising certain provisions of “Guidance Catalogue for the Industrial Structure Adjustment (2011)

b. Submissions by GOC / other interested parties-

381. The GOC stated that Form 20-F Annual Report, the Dalian High-Tech Industrial Zone List, the Guangzhou Development District Lists did not constitute the legal basis and thus the Petitioner has not provided the legal basis/legal text for the alleged program.

c. Examination by the Authority

382. The Authority notes that the Notice of the Ministry of Industry and Information Technology on Issuing the Tyre Industry Policy (Gong Chan Ye Zheng Ce (2010) No. 2) was the major industrial policy regulating development of tyre industry. Articles 16 to 19 also stated that in order to update tyre quality, the State encouraged the development of natural rubber, certain synthetic rubber, structural steel cord and specialty carbon black.

383. Authority notes that financial contribution arises if the provision is made for raw materials at less than adequate remuneration by the government or public body. In such a situation, benefit is conferred on the recipient of goods. Such subsidy is also specific because it is limited to the enterprise which uses such raw material/goods.

384. Authority verified the information provided by participating exporters from China PR. Authority first did a detailed examination as to which raw materials have been procured by participating producers/exporters from state owned enterprises. Thereafter, the Authority compared the purchase price from state owned enterprises with the purchase price from private enterprises as well as import price/international benchmark. The Authority notes that the three primary raw materials purchased by participating producers/exporters from state owned entities are natural rubber, synthetic rubber and carbon black.

385. In so far as natural rubber is concerned, the Authority notes that it is primarily imported into China and domestic purchases from state owned enterprises are negligible. Even the purchase price from state owned enterprise is comparable with the price of imported product.

386. In so far as synthetic rubber is concerned, the Authority notes that the participating producers/exporters have purchased synthetic rubber from state owned enterprises as well as private entities and also imported the same. The Authority has compared the purchase price

from state owned enterprises with purchase price from private entity as well as the price of the imported product. The Authority notes that the purchase price from state owned enterprise is comparable with the purchase price from private entities as well as the price of the imported product.

387. In so far as carbon black is concerned, the Authority notes that participating producers/exporters have purchased carbon black from state owned enterprises as well as private entities. None of the participating producers/exporters have imported carbon black. For comparison purposes, the Authority has considered the international benchmark as the import price of carbon black into India from Korea RP. The Authority notes that the purchase price from state owned enterprise is comparable with the purchase price from private entities as well as the international benchmark adopted by the Authority except in case of Triangle Tyre Co. Ltd. and Zhongce Rubber group company Ltd. Accordingly, the Authority has determined the benefit for Triangle Tyre Co. Ltd. and Zhongce Rubber group company Ltd. based on the difference between the price paid to state owned enterprise and the international benchmark.

388. Thus, the Authority holds that no benefit has been received by the participating producers/exporters from China PR in the form of provision of raw materials for less than adequate remuneration except in the case of provision of carbon black for Triangle Tyre Co. Ltd. and Zhongce Rubber Group co. Ltd.

VI.A. Summary of provision of Goods and Services at less than adequate remuneration.

The Authority has determined the all others rate based on the highest of the subsidy margins for the cooperating parties.

Name of the Company	Subsidy Margin for provision of electricity at less than adequate remuneration%	Subsidy Margin for provision of land use rights at less than adequate remuneration %	Subsidy Margin for provision of carbon black at less than adequate remuneration	Total	Total range
Zhongce Rubber Group Co. Ltd.	***	***	***	***	5-15%
Shandong Wanda Boto	***	***	***	***	5-15%

Tyre Co. Ltd.					
Triangle Tyre Co. Ltd	***	***	***	***	5-15%
Shandong Yongfeng Tyres Co. Ltd	***	***	***	***	5-15%
Aeolus Tyre Co. Ltd.	***	***	***	***	5-15%
Qingdao Yellow Sea Rubber Co. Ltd.	***	***	***	***	5-15%
All Others	***	***	***	***	5-15%

(x) Program No. 72: Purchase of goods by the Government for higher than Adequate Remuneration

a. Submissions by the petitioners

389. Government purchases goods from the producers at higher prices. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them.

- i. WTO challenges China's export restraints on raw material inputs
- ii. Chen Aizhu, as opposition grows, China defends plans for petrochemical plants
- iii. Sinopec Corp. Chemical, website excerpt
- iv. Synthetic Rubber Industry Assessments (China), China Synthetic Rubber Markets (Sep. 1998)
- v. China announces first cuts in gasoline, diesel prices in 16 months. English.new.cn, Oct. 8, 2011, attached at Exhibit M-74; China: Sinopec Confirms Receipt of US\$ 1.7 bn subsidy, Petrol World, March 24, 2008
- vi. World Energy: local player – Sinopec, economist intelligence unit, Aug. 13, 2007
- vii. Certain Crystalline Silicon Photovoltaic Products from China PR

b. Submissions by GOC / other interested parties-

390. The GOC stated that none of the documents identified by the Petitioners constitute legal basis at all. Besides, the GOC does not purchase PUC.

c. Examination by the Authority

391. The Authority notes that the Petitioners did not provide any legal basis and evidence in respect of the abovementioned program. In any case, the Authority observes that the Government of China does not purchase tyres/subject product and therefore question of financial contribution because of purchase of goods at more than adequate remuneration does not arise in this case.

392. Therefore, the Authority holds that no countervailing duty can be determined against this subsidy program.

SUMMARY OF SUBSIDY MARGIN FOR PARTICIPATING PRODUCERS/EXPORTERS FROM CHINA PR

393. The details of the total subsidy margin for the participating producers/exporters from China PR and all others rate is given below:

Name of the Company	Subsidy Margin %	Range%
Zhongce Rubber Group Co. Ltd.	***	5-15%
Shandong Wanda Boto Tyre Co. Ltd.	***	5-15%
Triangle Tyre Co. Ltd	***	5-15%
Shandong Yongfeng Tyres Co. Ltd	***	5-15%
Aeolus Tyre Co. Ltd.	***	5-15%
Qingdao Yellow Sea Rubber Co. Ltd.	***	5-15%
Weighted average for Aeolus Tyre Co. Ltd. and Qingdao Yellow Sea Rubber Co. Ltd.	***	5-15%
All Others	***	10-20%

394. The Authority notes that subsidy margin for all the participating producers/exporters from China PR is above *de-minimis*.

H. INJURY ASSESSMENT AND CAUSAL LINK

H.1. Submission made by the Domestic Industry

395. The submissions made by domestic industry are as follows:

- a) Demand/apparent consumption of the PUC is defined as the sum of domestic sales of Indian producers and imports from all other countries. Demand has increased over the injury period, with some decline in the POI.
- b) Volume of subsidized imports from the subject country has doubled in comparison to the base year. Since the imports are de-facto only in the replacement market, the injury to the domestic industry is also prominent in the replacement market. Imports of PUC increased significantly in absolute terms in 2016-17, even as demand had marginally declined. Imports have thereafter declined in the POI, partly due to the decline in demand, as well as due to the initiation of ADD investigation on imports of subject goods (only TBR) in May 2016. There has been a significant decline in imports of TBB, the primary reason for which is the fact that the Chinese TBR is available in the market at a price below TBB. In fact, the present situation is such that one truck can be seen with TBB and TBR on different axle or even same axles. Evidence to this effect is enclosed with these submissions. TBB, however, still constitutes more than TBR in the Indian market. Chinese imports constitute 85% of all imports into India. There are no known imports of the product under consideration in the OEM segments and since the imports are de-facto only in replacement market, the injury will also be visible to the domestic industry in the replacement market.
- c) Import prices from subject country is significantly low, and has declined in the POI, despite the costs of production having increased.
- d) The DA is required to consider whether there has been a significant price undercutting by the subsidised imports when compared with the price of like products in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree. In the present case, the landed price of imports from subject country is significantly below the domestic industry's selling price, thus undercutting the prices of the domestic industry.
- e) The comparison of cost of production and selling prices show that both declined. However, the decline in prices was less compared to the decline in costs, allowing the domestic industry to improve its profitability in 2015-16. However, costs of sales declined thereafter in 2016-17 and increased in the present POI. Selling price declined further than the decline in costs in 2016-17, and thereafter the increase in selling price in the POI was also less as compared to the corresponding increase in costs. Landed price of imports have declined in the POI despite the costs having increased. The landed price

is also below the level of both sale price and cost of sales of the domestic industry. Thus, imports have suppressed the prices of the domestic industry as the increase in selling price is less than increase in costs and subsidized imports are further preventing the domestic industry from increasing its selling price.

- f) The fact that TBR imports are at a price materially lower than the TBB price implies that cost per kg to the consumer is significantly lower for imported TBR as compared to TBB tyres supplied by the domestic industry. This shows the suppressing and depressing behaviour of Chinese exporters.
- g) Domestic Industry enhanced capacity in view of present & potential demand. However, despite this increase, the production that increased till 2016-17 fell in the POI, along with sales. Consequently, the capacity utilization has also fallen in the POI. The adverse effect of subsidised goods is more visible on the volume parameters in the replacement market. Whether input prices rise/fall, the industry does not realign its prices along with the same.
- h) The market share of imports from subject country has increased throughout the injury period and market share of the domestic industry also increased. However, market share of Indian industry as a whole has declined.
- i) Suppressing effect of imports have caused decline in the profits of the domestic industry. Profit before interest, cash profits and return on capital employed, also showed the same trend as that of profits. The ROI of the domestic industry is even less than the bank rates prevailing in India. The profitability has declined for the companies as a whole as well as for PUC. The decline in PUC profitability is greater than that of non-PUC, and even if PUC commands equal share of sales and capital employed, the profits earned are meagre.
- j) Inventories of the PUC with domestic industry have increased significantly in the POI.
- k) Wages have shown improvement in the injury period while number of employees have remained the same. However, these are not solely dependent on the subject goods performance, as they are governed by several legislative requirements in the country, and other business compulsions.
- l) The only factor responsible for the domestic industry prices are the import prices of the product and the cost of production of the domestic industry. On import price of the product, it is only the Chinese imports which concerns the domestic industry. Import price from rest of the world does not concern the domestic industry, as, either these are too high prices, or these imports are being made by one of the tyre companies and then being resold in the market at much higher prices. Thus, the principal factors responsible for the domestic industry prices are the cost of production and landed prices of the subject goods.
- m) The ability to raise fresh investment has not been impacted by subsidization of the product as investment decisions are taken on a long-term basis. However, long term

viability of the PUC is dependent upon strong profitable business.

- n) The growth of the domestic industry during the injury period was negative in the presence of subsidized imports in the domestic market, based on production, sales, market share, profits, PBIT, cash profits and ROI parameters.
- o) Imports from subject country have increased in absolute as well as relative terms over the injury period. While there was some decline in the imports in the POI as compared to preceding year, it does not mean that the imports have not increased over the injury period, considering that the imports in POI were still double the volumes in base year. The import price declined very steeply over the injury period. Imports are undercutting the prices of the Domestic Industry to a significant extent. Imports are suppressing the prices of the Domestic Industry and preventing the price increases that would have occurred in the absence of dumping. Performance of the domestic industry deteriorated in terms of production, domestic sales, capacity utilization, inventory, market share, profits, cash flow and ROI. Consequent impact of subsidized imports on the domestic industry has been significantly adverse.
- p) Chinese subsidies to its producers allows them to produce at significantly low cost, giving them a competitive advantage over other producers of subject goods across the globe. This subsidisation has led to significant exports by China to other countries. The scheme of subsidies available are clearly geared towards increase in production and exports. Furthermore, the US has initiated ADD and Anti-subsidy investigation on the export of subject goods by China.
- q) Imports from subject country have grown 100% in the POI as compared to the base year, despite the Domestic Industry having sufficient capacity to cater to domestic demand.
- r) Producers of the PUC in the subject country have high capacities, despite demand for the subject goods being low in the subject country market in comparison, thus leading to excess capacities.
- s) Landed value of imports are priced lower than the selling price as well as cost of production of the Domestic Industry. The domestic market is attractive to producers of the subject country. Imports are entering the market with suppressive/depressive effect on domestic prices, and would likely increase demand for further imports. There is a high likelihood that Chinese exporters would aggressively target the domestic market.
- t) The import price of subject goods from China has declined significantly in the POI as compared to previous year despite the cost of production of subject goods increasing in the same period.
- u) China is the world's largest producer and exporter of tyres, accounting for a quarter of global production. Exports from subject country to the world as well to India have been

on the rise since 2005. Chinese exporters thus have high exports to world as well as India, showing them to be highly export oriented. The present price difference between the domestic product and the imported product is extremely significant, thus likely to increase demand for imported products. Furthermore, capacities are being expanded by producers. Despite trade barriers working against the Chinese tyre industry, it shows no signs of tiring out.

- v) Number of other countries, such as Brazil, Turkey, Colombia, Egypt, US and EU, have either imposed ADD against the subject goods from subject country or have initiated the AD investigation.
- w) China consumed 38% of the Natural Rubber used in tires globally in 2014. In 2015-16 China imported 2,220,373 MT of Natural Rubber. Out of total NR imports 2,63,123 MT were in form of RSS and 19,57,250 MT in form of Block Rubber (Technically Specified Natural Rubber). Thus around 88% of NR imported is in form of Block Rubber. Investments in major rubber producing countries has given significant cost advantages to Chinese Producers vis- a- vis India as import Price of Block rubber into China is consistently lower than import price in India.
- x) Level of inventories present with producers of subject country are unknown to the domestic industry. However, in view of the fact of significant capacity available with them, it is evident that foreign producers can scale up their production in a short period.
- y) India has become one of the top 10 export destinations for Chinese tyre producers. From being the 43rd ranked export destination in 2012, India is ranked 6th in 2016. Thus, subsidized Chinese exports are posing serious threat of material injury to the Indian domestic industry.
- z) Thus, in the instant case, there is a substantial increase in subsidized PUC, projecting an increasing trend. Furthermore, these imports are only somewhat contained due to the initiation of ADD investigation as well as uncertainty over the quantum of the same in the mind of the importers. The price difference between the two products is significant, and may lead to increased demand for imports. Finally, not only are there freely disposable capacities available with the subject country, but the producers in the subject country can scale up production in a short period.
- aa) The claimed injury to the Domestic Industry is solely on account of domestic operations. No significant advances in production technology have been made in the industry at a global level. Performance of other products being produced and sold by petitioner companies is not a possible cause of injury to the domestic industry. There are no trade restrictive practices, which could have contributed to the injury to the domestic industry and there has been no material change in the pattern of consumption of the product under consideration. In light of this, the Petitioners submit that the following parameters can be used to establish the existence of a causal link –

- Imports are undercutting the prices of the Domestic Industry. Resultantly, the volume of imports has increased.
 - Price undercutting is caused by the subsidized imports, resulting in increase of market share of imports and corresponding decline in market share of the Domestic Industry. Further, in the replacement segment, market share of the Domestic Industry has steeply declined.
 - Landed price of imports of TBR is much below the prices of even TBB. Imports are significantly suppressing the domestic industry.
 - Production, sales and capacity utilization of the Domestic Industry has declined in the POI. Profits, profit before interest, cash profits and ROI employed have declined in the POI.
 - Inventories with domestic industry have increased significantly.
 - Consequent impact of subsidized imports on the domestic industry have been significantly adverse.
- bb) The various parameters collectively and cumulatively establish that the Domestic Injury has suffered Material injury. Further increase in Chinese imports, excess capacity with Chinese producers coupled with their high export orientation and the price attractiveness of the Indian Market evidences that there is further threat of material injury to the Domestic Industry.
- cc) The fact is that the producers in China are still left with significant capacity much more than their demand and are highly export oriented as evidenced from their ever rising exports to global market.
- dd) Furthermore, the claim that there is a further decline in price undercutting in the post-POI period because of increase in custom duty and imposition of anti-dumping duty is hypothetical conjecture devoid of any relation with reality. The price undercutting in the post-POI has increased as the price of imports has declined significantly in the post- POI period.
- ee) As has been stated earlier the decline in imports is partly because of decline in demand and partly because of initiation of antidumping investigation on imports of subject goods (only TBR) in May 2016. Further, the relevant period for a countervailing investigation is the period of investigation. Volume of subsidized imports from the subject country has doubled in comparison to the base year. It may be noted that since the imports are de-facto only in replacement market, the injury to the domestic industry is also prominent in the replacement market. Notwithstanding above, though it is true that the volume of imports has fallen from subject country, but the price at which such imports are coming has also declined significantly in the post-POI period.
- ff) It may be seen that the domestic industry was able to increase its profits in 2015-16. However, the same declined subsequently in 2016-17 with significant increase in imports at low prices. Import price have further declined in the POI when the costs

have actually increased. Thus, the suppressing effect of imports have caused further decline in the profits of the domestic industry.

- gg) It is also relevant to note that it is not possible for the industry to keep realigning its prices with every change in the inputs. It is submitted that whether the input prices increases or reduces, the industry does not realign its prices immediately with the changes in the input costs. In fact, the industry had in past taken 2-4 price changes in one year when the inputs such as natural rubber had undergone changes almost every day.
- hh) The presumption of the interested parties is misplaced, as can be perused from the data submitted with the petition, which shows that the production of the domestic industry has increased. It is not possible for any business to increase production when it is facing shortage of raw materials. The evidence submitted by the interested parties in relation to shortage of raw material is all related to post-POI period and is an information accessible to the counsels by virtue of their assisting the consumers of these inputs. It is quite inappropriate for these parties to represent ATMA or other consumers on these raw materials, get briefings on these aspects and now present to the Designated Authority such claims which even do not pertain to the POI of the present case.
- ii) The presumption of the interested parties is misplaced, as can be perused from the data submitted with the petition. The cost of sales have declined throughout the injury period with slight increase in POI. The production of the domestic industry has increased. The evidence submitted by the interested parties in relation to shortage of raw materials is all related to post-POI period.
- jj) The producers of the product under consideration in the subject country have high capacities. The demand for subject goods in subject country market is significantly low as compared to the production capacities created in such country, thus leading to excess capacities in the subject country. Major producers of subject goods in subject country have significantly high production capacity which is way beyond the demand in the subject country.
- kk) The petitioner fails to understand how the interested parties have come to a conclusion from the final finding in the TBR ADD case that the duties imposed were based on injury margin.
- ll) It is submitted that contrary to the claims of the interested parties, decline in profits is visible from the balance sheets of the petitioner companies. It would be seen that (a) the profitability has declined for the companies as a whole as well as for PUC (b) decline in profitability of PUC is higher than the decline in profitability of NPUC (d) even when PUC commands equal share of sales and capital employed, the profits earned from them is meagre.

H.2. Submission by other interested parties

396. The submissions made by other interested parties with regard to injury and causal link, are as follows:

- a) During the period of investigation, the domestic industry has made huge profits, as the product demand and revenues of the company have increased. Therefore, there is no injury to the domestic industry due to alleged increased imports of subject goods caused by subsidized imports. The increased demand also indicates that imports originating in China PR do not have a negative impact on the domestic industry.
- b) Injury, if any, to the domestic industry is self-inflicted, because firstly, according to press reports India kept its focus on TBB till late and is slow to adopt radialisation and consumers preferred radial tyres for its better strength and durability. Secondly, Chinese exporters lowered their price of TBR when cost of raw material went down, while the domestic industry focused on making huge profits. Thirdly, the decrease in market share of the domestic industry, if any, is caused by the aggressive pricing behaviour of other domestic competitors and not imports from China PR.
- c) On the scrutiny of the balance sheets and profit and loss accounts and based on the various economic parameters of domestic tyre industry, it can be seen that there is no material injury to the stated members of ATMA and there is further decline in the imports during the POI.
- d) Demand and use of radial tyres is increasing and preference for bias tyres is declining due to which domestic industry of bias tyres is demonstrating decline in performance. Effects of such decline has been included in the information given by the petitioners.
- e) At home, the raw material are prevailing below the peak August 2008 and again in August 2013. Despite this, the tyre prices have been hiked at regular intervals during last three quarters and consequently, the industry had made huge profits, which can be seen by evaluating the balance sheets of last 10 years particularly of POI.
- f) Tyre manufacturing is a hugely raw material-based industry and rate of return on investment is normally 10%-12%. The domestic tyre majors use the route of expanding capacity even without expanding their proportionate production and sales, camouflaging their real profits. Similarly, despite regular tyre imports, the domestic tyre majors have grown exponentially in terms of size and profits and with high rate of return on investment.
- g) Radial tyre imports from the year 2010 onwards have forced the domestic industry to give priority to radialisation at home for truck and bus tyres as domestic tyre majors were making profit by selling outdated technology and inefficient bias ply Nylon fabric tyres, which are not being sold even in neighbouring countries like Pakistan, Sri Lanka and Bangladesh. This is because the domestic tyre majors enjoy undue

tariff and non-tariff protection granted by Government of India and exploit the domestic market by indulging in price parallelism and cartelisation.

- h) In *M/s. Apollo Tyres & Ors. (Respondents) v Ministry of Corporate Affairs (informants)*, the DG investigation, CCI has declared domestic tyre majors indulging in price parallelism and cartelization. Hence the present petition by ATMA seeking imposition of countervailing duty is only an attempt to further raise the wall of tariff on tyre imports and strangle the free and fair play of market forces in the replacement market in India.
- i) There is decline of imports of subject goods from China PR.
- As per available data, there has been decline in volume of exports of the subject goods from China PR in the POI and the same has further gone down in the post POI period on account of the imposition of anti-dumping duty and the increase in basic custom duty.
 - Many tyre factories in China PR have been ordered to shut down or reduce production, as an outcome of the government's drive to cut down pollution. This has already reduced exports to India.
 - Therefore, there is no threat of injury due to imports of subject goods from China PR.
- j) Shortage of raw material and shift in industry are affecting the performance of the domestic industry.
- The domestic supply of key ingredient, carbon black and natural rubber is unable to keep up with the increasing domestic demand by the user industries in India.
 - Further anti-dumping duty imposed on other raw material caused further increase in the cost of manufacturing the subject goods in India.
- k) There is increase in demand and use of radial tyres in the Indian market while preference for bias tyres is declining. This may have contributed to a decline in economic parameters of the domestic industry for both radial and bias tyres taken together.
- l) Rule 13 of the Countervailing Duty Rules require that material injury assessment should be made taking in to account the principles laid down in Annexure I of the Rules. Para 1 sub-para (2) of Annexure I requires the authority to consider whether there has been significant increase in subsidized imports. Para 1 sub-para (3) of Annexure I requires the Authority to consider the effect of subsidized imports on prices and whether there has been a significant price undercutting by them.
- m) The volume of subject imports from China PR has declined in the POI and has further gone down substantially in the post-POI period.

Year	POI (Oct 16-Sep 17)	Post-POI (Oct 17 – June 18)	Post- POI(A)
Volume (in MT)	65,386.93	15,183.53	20,244.71

- n) As can be seen from the table below, as per the petition by the domestic industry, there has been a substantial decline in the level of price undercutting in the last two years of the injury period.

Particulars	Unit	2014-15	2015-16	2016-17	POI
Landed price of imports from China PR	Rs./kg	169	161	169	168
Domestic selling prices	Rs./kg	***	***	***	***
Price undercutting range	%	15-25	15-25	5-15	5-15

- o) Increase of customs duty on new pneumatic radial tyres has increased the landed price of the subject imports from China PR in the post POI period resulting in reduced price undercutting.

The domestic industry's market share has increased in the POI and market share of imports have declined.

Particulars	Unit	2015-16	2016-17	POI (Oct 2016-Sep 2017)
Domestic industry	%Indexed	101	100	102
Imports from China PR	%	17.5	21.2	16.5
Other countries	%	2.6	2.3	2.8
Domestic producers as a whole	%	79.9	76.5	80.7

- p) Market share of domestic industry would show further increase if the post POI data is considered where imports have declined by approximately 70% as compared to the POI.
- q) The domestic industry's profits, cash profits, PBIT, and ROCE have increased in 2015-16, but declined in 2016-17 but this is inconsistent with the decline in the volume of imports and in price undercutting in 2016-17 and the PoI.

Particulars	Unit	2014-15	2015-16	2016-17	POI (Oct 16-Sep 17)
Profits-total	Rs. crore/Indexed	100	156	103	38
Cash Profits	Rs. crore/Indexed	100	147	107	62
RoCE	% /Indexed	100	116	74	33
Imports from subject country	MT	30,665	69,982	81,896	61,203
Price undercutting range	%	15-25	15-25	5-15	5-15

- r) The domestic industry has increased its capacity in view of the present and expected demand. Capacity utilization has declined marginally in the POI.

Particulars	Unit	2014-15	2015-16	2016-17	POI (Oct 16-Sep 17)
Capacity	Index	100	101	103	106
Production	Index	100	102	103	102
Capacity utilization	Index	100	101	100	96

- s) Capacity utilization of the domestic industry was 86.42% in the year 2014-15. In the present case, MRF is also included as domestic industry and there is marginal decline during POI in the capacity utilization of domestic industry, but it is certain that capacity utilization is still above 80% in the POI. This is due to the increase in capacity in the POI and the difficulty in converting the capacity for Bias tyres to radial tyres. Moreover, capacity utilization has declined because the manufacture of bias tyres has declined. This can be due to preference for radial tyres over bias tyres. As already noted, the material injury caused to performance of the domestic industry for bias tyres is required to be excluded for assessment of material injury.
- t) Demand and use of radial tyres is increasing and preference for bias tyres is declining due to which domestic industry of bias tyres is demonstrating decline in performance. Effects of such decline has been included in the information given by the petitioners.
- u) Injury, if any, to the Domestic Industry is due to shortage of raw material. One of the primary raw materials used in the manufacture of the PUC is carbon black. For various reasons, the domestic supply for carbon black in India has not been able to meet the domestic demand. This is made worse by the imposition of anti-dumping duties as high as US\$ 494/MT on the imports of carbon black from China PR and Russia. This has resulted in a sharp increase in prices of carbon black in India and affected the production of the subject goods by the domestic industry and also severely dented the domestic industry's profitability. Publicly available information

shows that shortage of carbon black has led to a significant decline in the domestic industry's capacity utilization, as admitted by the Petitioner itself.

- v) Another primary raw material used in the manufacture of the PUC is rubber. There is a significant shortage in production of natural rubber in India and therefore a huge gap between supply and demand. Natural rubber, which is currently attracting BCD as high as 25 per cent, has to be imported. Also, till 13 June 2018, imports of natural rubber were allowed only via Chennai and Nhava Sheva ports in India, adding to the costs of natural rubber in the country. Even otherwise, the domestic prices of natural rubber are higher than the international prices by at least 20%. The impact of these have been admitted to by Apollo in its annual report. Moreover, other key raw materials used by the tyre industry namely SBR, NBR, 6PPD & Nylon Tyre Cord Fabric are also subject to anti-dumping duty.
- w) There is no threat of material injury to the domestic industry. The legal provisions concerning threat of material injury are contained in paragraph 3 of Annexure I to the Countervailing Duty Rules, which states that "A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the subsidy would cause injury must be clearly foreseen and imminent." Factors to be considered for the same are listed therein. The GOC however denies that there is a threat of material injury on account of the subject imports for the following reasons.
 - The first parameter under threat of material injury pertains to "the nature of the subsidies in question and the trade effects that are likely to arise therefrom". The Petitioner's contentions under this heading however are unsubstantiated. Secondly, volume of imports of the PUC has substantially declined in the POI and in the post-POI period.
 - The Petitioner has contended that producers of the PUC in China PR have excess capacities while their demand there is significantly low, leading to excess capacities. However, the figures relied upon do not pertain to capacity to manufacture the PUC in China PR. Moreover, the GOC states that many tyre factories in China PR have been ordered to be shut-down or asked to reduce production, as an outcome of the government's drive to cut down pollution.
- x) The Petitioner has alleged that the landed value of the subject imports is lower than the domestic selling price of the domestic industry. However, this is unsubstantiated. Moreover, imposition of anti-dumping duty and the increased BCD on imports has negated any price attractiveness that may have existed.
- y) It is an admitted position that TBB and TBR are two different products, which are used interchangeably in the market. It is also apparent from the petition and even written submission that petitioner industry has not provided segregated injury information for both types of tyres separately. Without having separate information

for both types of tyres, in relation to imports, landed value, market share, production, sales, capacity, capacity utilization, cost to make and sell, profitability, inventory position, we are handicapped to offer any meaningful comments on the injury (if any) suffered by the petitioner industry. We therefore, reserve our right to comment on the injury parameters once the desired information is provided to us.

- z) In relation to threat of injury, it is submitted that respondents have very serious doubts over the injury shown by the petitioner industry. In any case, post imposition of anti-dumping duties, there is no occasion for petitioner industry to even claim for threat of material injury.
- aa) Material injury to the domestic industry cannot be assessed vis-a-vis the particular category of consumers in the domestic market. There is no possibility of excluding the sales, market share, etc. with respect to OEM market. It is also not clear how the assessment regarding mandatory injury parameters can be made vis-à-vis replacement market alone. There is no legal or factual basis to claim that material injury caused to the domestic industry in the replacement market should be assessed and should be considered as sufficient.
- bb) Due to increase in basic customs duty and imposition of anti-dumping duty on radial tyres, landed price of the subject imports has increased in the post POI period. Thus, there would be no price undercutting by subject imports if the POI is extended beyond September 2017.
- cc) There is no correlation between price undercutting and price suppression in the POI due to imports from China PR and the decline in financial performance of the domestic industry. The domestic industry's profits, cash profits, PBIT, and ROCE have declined in the POI. However, imports has also declined in the POI and price undercutting have also declined in the POI.
- dd) Remedial effects of the increased basic customs duty and anti-dumping duty on radial tyres are evident in the post-POI period. Available information indicates that tyre industry in India is performing positively and is set to record 8% growth in sales volume in the year 2018-19 which is commensurate with increase in demand. The Respondents request the Authority to assess the present situation of the domestic industry.
- ee) The volume of subject imports has substantially declined in the POI and in the post-POI period. There is thus no threat of material injury in this regard.

H.3. Examination by the Authority

397. In consideration of the various submissions made by the interested parties and the domestic industry in this regard, the Authority has examined injury to the domestic industry on account of subsidized imports from the subject country.

398. Rule 13 of the Subsidy Rules deals with the principles governing the determination of injury which provide as follows:

13. Determination of injury.-

(1) In the case of imports from specified countries, the designated authority shall give a further finding that the import of such article into India causes or threatens material injury to any industry established in India, or materially retards the establishment of an industry in India.

(2) Except when a finding of injury is made under sub-rule (3), the designated authority shall determine the injury, threat of injury, material retardation to the establishment of an industry and the casual link between the subsidized import and the injury, taking into account inter alia, the principle laid down in Annexure I to the rule.

(3) The designated authority may, in exceptional cases, give a finding as to the existence of injury even where a substantial portion of the domestic industry is not injured if –

(i) there is a concentration of subsidized imports into an isolated market, and

(ii) the subsidized imports are causing injury to the producers of almost all of the production within such market.

I. Volume Effect of subsidized imports and Impact on domestic Industry

(i) Assessment of Demand

399. Demand or apparent consumption of the product concerned in India is defined as the sum of domestic sales of Indian producers and imports from all other countries. It is seen that demand has increased over the injury period with marginal decline in POI. The demand so assessed is as follows

Particulars	Unit	2014-15	2015-16	2016-17	Oct'16-Sep'17
China	MT	30,665	69,982	81,896	61,203
Other Countries	MT	14,564	10,402	9,666	11,145
D. I. Sales	MT	295,488	347,554	356,128	360,178
Other producers	MT	54,081	43,631	44,143	21,240
Total Demand	MT	394,798	471,569	491,833	453,766

(ii) Imports

400. With regard to volume of the subject imports, the Authority is required to consider whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India.

401. The volume of import in absolute term for the injury period is as under: The Authority notes that the volume of subject imports from the subject country has increased till 2016-17 but has reduced during POI. However, the imports during POI were much higher than the base year.

Particulars	UOM	2014-15	2015-16	2016-17	Oct'16-Sep'17
Import Volume					
China	MT	30,665	69,982	81,896	61,203
Other Countries	MT	14,564	10,402	9,666	11,145
Total	MT	45,229	80,384	91,562	72,348
Share in Imports					
China	%	68%	87%	89%	85%
Other Countries	%	32%	13%	11%	15%
Total	%	100%	100%	100%	100%

402. The volume of import in relation to production and consumption in India during the injury period is as under: The Authority observed that the trend of import in relation to production and consumption in India follows the same trend as imports in absolute terms. The imports in relation to production and consumption in India increased till 2016-17 and declined during POI. However, the imports during POI were much higher than the base year.

Particulars	UOM	2014-15	2015-16	2016-17	Oct'16-Sep'17
Subject Country Imports in relation to					
Indian Production	%	8%	16%	18%	14%
Consumption	%	8%	15%	17%	13%
Total Imports	%	68%	87%	89%	85%

(iii)Market Share-

Particulars	UOM	2014-15	2015-16	2016-17	Oct'16-Sep'17
Share in Demand					
Subject Country	%	8%	15%	17%	13%
Other Countries	%	4%	2%	2%	2%
DI domestic Sales	%	75%	74%	72%	79%
Other Indian Producers	%	13%	9%	9%	5%
Total	%	100%	100%	100%	100%

403. It is seen that the market share of subject country has increased till 2016-17 and declined during POI. The market share of domestic industry has increased during POI. However, the market share of imports during POI was much higher than the base year.

II. Price effect of subject imports and impact on domestic industry

404. With regard to the effect of subsidized imports on prices, the Authority has considered whether there has been a significant price undercutting by the subsidized imports as compared with the price of the like product in India, or whether the effect of such subsidized imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree. For the purpose of this analysis, the weighted average cost of production (COP), weighted average Net Sales Realization (NSR) of the domestic industry have been compared with the landed price of imports from the subject country.

(i) Price Undercutting

405. Price undercutting has been worked out by comparing the landed price of imports with the selling price of the domestic industry for the investigation period. The net sales realization has been arrived after deducting outward freight and taxes. Landed value of imports has been calculated by adding handling charge and applicable basic customs duty including applicable cess to the CIF value of subject imports.

Particulars	UOM	2014-15	2015-16	2016-17	POI
Import Volume	MT	30,665	69,982	81,896	61,203
Landed price of imports	Rs/Kg	169	161	169	168
Net Sales Realization	Rs/Kg	***	***	***	***
Price undercutting	Rs/Kg	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting Range	%	20-30	20-30	10-20	10-20

406. It can be seen that landed price of imports from subject country is significantly below the level of selling price of the domestic industry and are thus undercutting the prices of the domestic industry. Price undercutting is positive during the injury period and POI.

(ii) Price Underselling

407. The Authority has worked out non-injurious prices of the subject goods and compared the same with the landed values of the imported goods to arrive at the extent of price underselling. The price underselling during the POI is positive.

Name of the producer/exporter	Landed Value (USD/KG)	Non-Injurious Price (USD/Kg)	Injury Margin USD/KG	Injury Margin %	Injury Margin Range
Zhongce Rubber Group Co. Ltd.	***	***	***	***	30-40%
Shandong Wanda Boto Tyre Co. Ltd.	***	***	***	***	20-30%
Shandong Yongfeng Tyres Co. Ltd.	***	***	***	***	20-30%
Triangle Tyre Co. Ltd.	***	***	***	***	20-30%
Aeolus Tyre Co. Ltd	***	***	***	***	30-40%
Yellow Sea Rubber Co. Ltd.	***	***	***	***	30-40%

Weighted average for Aeolus Tyre Co. Ltd and Yellow Sea Rubber Co. Ltd.	***	***	***	***	30-40%
All Others	***	***	***	***	40-50%

(iii) Price Suppression and Depression

408. The cost of sales of Domestic Industry (DI) has reduced by four indexed points in POI as compared to the base year and the selling price of the DI has reduced by seven indexed points during the same period. The landed value of imports from subject country has remained at the same level during POI as compared to the base year.

Particulars	UOM	2014-15	2015-16	2016-17	Oct'16-Sep'17
Cost of Sales	Rs/Kg	***	***	***	***
Trend	Indexed	100	92	90	96
Selling Price	Rs/Kg	***	***	***	***
Trend	Indexed	100	96	92	93
Landed Price	Rs/Kg	***	***	***	***
Trend	Indexed	100	95	100	100

III. Economic Parameters relating to the Domestic Industry

409. The Rules require that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the Rules further provide that the examination of the impact of the subsidized imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. Accordingly, performance of the domestic industry has been examined over the injury period.

(i) Production, Capacity, Capacity Utilization and Sales

410. Position of the domestic industry over the injury period with regard to Production, Capacity, Capacity Utilization and Sales was as follows:

Particulars	UOM	2014-15	2015-16	2016-17	Oct'16-Sep'17
Capacity	MT	429,841	458,974	474,863	496,900
Production	MT	343,654	387,508	405,626	418,847
Capacity Utilization	%	80%	84%	85%	84%

Sales Volume total		342,310	387,511	405,446	422,026
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411. Authority notes that-

- The domestic industry has consistently enhanced its capacity.
- The production of the domestic industry has increased constantly throughout the injury period and POI.
- Similarly, sales of the domestic industry has also increased constantly throughout the injury period and POI.
- The capacity utilization of the DI has improved after base year and then almost remained same thereafter.

(ii) Profitability, return on investment and cash profits

412. Position of the domestic industry over the injury period with regard to profitability, ROI and cash profit are as follows:

Particulars	UOM	2014-15	2015-16	2016-17	Oct'16-Sep'17
Cost of Sales	Rs/Kg	***	***	***	***
Trend	Indexed	100	92	90	96
Selling Price	Rs/Kg	***	***	***	***
Trend	Indexed	100	96	92	93
Profit	Rs/Kg	***	***	***	***
Trend	Indexed	100	157	113	52
Cash Profits	Rs Lacs	***	***	***	***
Trend		100	157	132	93
PBIT	Rs Lacs	***	***	***	***
Trend		100	185	136	64
Return on Investment	%	***	***	***	***
Trend		100	120	80	45

413. From the above information, the Authority notes that:

- The profit (Rs/kg) of the DI has reduced during POI.
- Similarly, cash profits, profit before interest and return of investment of the DI has also reduced during POI.

(iii) Market share

414. Position of the domestic industry over the injury period with regard to market share in demand are as follows:

Particulars	UOM	2014-15	2015-16	2016-17	Oct'16-Sep'17
Market Share in Demand					
Subject Countries	%	8%	15%	17%	13%
Other Countries	%	4%	2%	2%	2%
DI domestic Sales	%	75%	74%	72%	79%

Other Indian Producers	%	14%	9%	9%	5%
Total	%	100%	100%	100%	100%

415. The market share of the domestic industry has improved during the POI as compared to the earlier years.

(iv) Employment, Wages and Productivity

Particulars	UOM	2014-15	2015-16	2016-17	Oct'16-Sep'17
No of Employees	Nos	***	***	***	***
Trend		100	100	105	104
Salaries & Wages	Rs Lacs	***	***	***	***
Trend		100	115	132	145
Salaries & Wages per Unit	Rs./Kg	***	***	***	***
Trend		100	102	112	119
Productivity Per Employee	MT/No	***	***	***	***
Trend		100	112	113	117
Productivity Per Day	MT/Day	***	***	***	***
Trend		100	113	118	122

416. Number of employees, salaries and wages per unit and productivity per employee has increased during the POI. Number of employee has marginally declined during POI.

(v) Inventories

417. Inventories with the domestic industry have increased in the POI.

Particulars	UOM	2014-15	2015-16	2016-17	Oct'16-Sep'17
Inventory	MT	***	***	***	***
Trend	Index	100	103	103	132

(vi) Ability to raise capital investment

418. The Petitioner has submitted that ability to raise fresh investment is not impacted by subsidization of the product as investment decisions are long term decisions and are taken considering present and potential demand for the product under consideration. However, long term viability of the product under consideration is dependent upon strong profitable business.

Causal link between subsidized imports & material injury

419. The Authority notes that the causal link between subsidized imports from China PR and material injury to the domestic industry is established because of the following:

- a) Subsidized imports from China PR are coming into India in substantial volumes.
- b) Subsidized imports from China PR are undercutting the prices of the Domestic Industry.
- c) Subsidized imports from China PR are suppressing the prices of the domestic industry and preventing the price increases that would have occurred in the absence of dumping.
- d) Performance of the domestic industry has deteriorated during POI in terms of profits, cash flow and ROI.

IV. Threat of Material Injury

420. The provisions relating to threat of material injury are provided in para 3 of Annexure I of Subsidy Rules which provide as follows:

3. A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the subsidy would cause injury must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of a material injury, the designated authority shall consider, inter alia, such factors as :

- i. nature of the subsidy or subsidies in question and the trade effects likely to arise therefrom;*
- ii. a significant rate of increase of subsidized imports into the domestic market indicating the likelihood of substantially increased importation;*
- iii. sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased subsidized exports to Indian market, taking into account the availability of other export markets to absorb any additional exports;*
- iv. whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further Imports; and*
- v. inventories of the product being investigated.*

421. With respect to threat of material injury, the Authority notes as under:

- a) There are countervailable subsidies which are being provided to the producers of the product under consideration in China PR. The subsidy margins for all of the co-operating producers/exporters from China PR are above de-minimis.
- b) There is a declining trend of imports of the subject goods from the subject country during the period of investigation. The Authority notes that the imports of the subject goods have further reduced during the post POI period due to the imposition of Anti-Dumping Duty on the subject goods from the subject country and increase in the rates of the basic customs duty by Government of India on the subject goods.

- c) The Authority has examined the capacity details of the co-operative producers/exporters from the subject country and it is noted that no significant capacity has been added by any of the co-operative producers/exporters.
- d) Authority has examined the inventory of the co-operative producers/exporters from the subject country and it is noted that none of them hold any significant inventory of the subject goods.

422. As regards the claim concerning threat of injury, the Authority notes that it has already concluded that the domestic industry is suffering material injury due to subsidized imports and therefore the Authority is not required to provide conclusion for threat of injury.

I. POST-DISCLOSURE COMMENTS BY INTERESTED PARTIES

423. The post disclosure submissions have been received from the interested parties. The issues raised therein have already been raised earlier during the course of the investigation and also addressed appropriately. However, for the sake of clarity, the submissions by the interested parties to the extent deemed relevant are being examined as below:

I.1. Submissions by Domestic Industry

424. Copy of the rejoinder submission, verification report, supplementary Questionnaire response and Methodology of calculation of subsidy Margins for all schemes should be disclosed.

425. The subsidy margins determined are very low as compared to the subsidy margins determined by other authorities for tyre investigations.

426. The EU has determined a subsidy margin of 32.85% for Aeolus whereas the Indian Authority has determined subsidy margin of 0-10% for Aeolus even though the POI is overlapping between these two investigations.

427. The Authority has not disclosed the benchmark used for determining benefit for subsidy programs and the denominator for determining the % of subsidy margin.

428. The Authority has not examined subsidies received by affiliated companies while determining subsidy margins in the present investigation.

429. The methodology applied for determination of quantum of subsidy in the present case is materially different from the methodology applied (a) in previous two investigations and (b) applied by other authorities. Chinese benchmarks have been considered for determining benefit instead of international benchmark.

430. The Designated Authority had recommended Countervailing duty as the quantum of subsidy margins after reducing anti-dumping duty in the previous investigation because both anti-dumping and countervailing duty margins were based on non-Chinese benchmarks. However,

in the instant case, the benchmarks adopted are domestic benchmarks for provision of raw materials and therefore the decision of the Designated Authority in the previous two cases cannot be applied. The domestic industry is entitled to a total duty of anti-dumping plus countervailing duty determined for domestic subsidies if such duty amount is lesser than the injury margin determined for the domestic industry.

431. POI is different in this countervailing duty investigation and the anti-dumping investigation and therefore it is not established that anti-dumping duty and countervailing duty are for the same situation of dumping and subsidisation.

432. When the program has been terminated after the POI, the investigation cannot be terminated in respect of the same (for instance, program number 1). When the program has been terminated during or before the POI, the investigation cannot be terminated unless it is shown that no benefit was received during the POI in respect of the same (for instance, program numbers 3 & 4). When the program has been terminated during or before the POI, but a new notification conferring the same benefit exists, the investigation cannot be terminated (for instance, program numbers 28, 29, 32, 34, 35, 36, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49 & 50).

433. The authority is not only required to countervailing the grants received with respect to subject goods but all grants of general nature received by the company.

434. Other investigating authorities are continuing to hold the programs 4, 17, 18, 30, 32, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 51, 53, 54, 64, and 72 as countervailable and continuing to determine subsidies in a large number of these program.

435. As regards the determination that there are no tyre manufacturers based in P-16, 17, 18, 19 & 20 locations, petitioners provided a detailed exporter wise submission showing whose plants are located in that region.

436. While stating that no benefit has been received by the company, a mere statement has been made by the exporter and has been accepted in the disclosure statement.

437. POI in EU investigation is from 1 July 2016 to 30 June 2017 which overlaps the POI of the present investigation i.e October 2016-September, 2017. CVD Margin derived by EU and other Authorities in various investigations with regard to tyre is significantly higher than the ones determined by the Authority. The US authorities determined CVD margins ranging 38%-65%.

438. The disclosure statement does not show any scheme which can be considered as “export subsidies” for the purpose of addressing dual remedy principles. Therefore, entirety of the schemes considered by the Designated Authority are required to be considered for the purpose of imposing CVD duty without adjusting for the anti-dumping duties. The GOC and

the responding Chinese exporters hold the obligation to establish that these include export subsidies.

439. Analysis of annual reports of Aeolus tyre Co Ltd and Triangle Tire Co., Ltd reveals that both the responding exporters have availed various benefits under the head 'government grants' which are over and above grants quantified by the Authority, information of which has not been provided by the exporters and thus not been examined. Annual report of Triangle Tire Co., Ltd. shows that the company has received huge amounts towards relocation subsidy in the year 2017.
440. For non-recurring subsidies, which can be linked to the acquisition of fixed assets, the total value of the subsidy has to be spread over the normal life of the assets which means that nonrecurring subsidies granted several years before the investigation period can still be countervailed and quantified even if the same has been received before the POI and the investigation period. The responding exporters have not provided the benefits received by their affiliated parties and the parent company.
441. Under Program number 22 to 26, annual reports of Double Coin Holdings and GITI Group for 2013 were provided by the petitioner and the subsidy margin were quantified.
442. Injury margin increased in the current POI as compared to previous investigation. Despite increase in production and sales, the profits of the domestic industry have steeply declined. The profits and consequently ROI has declined during 2015-16 and the POI. Capacity utilization of the domestic industry has stagnated. There is almost 32% increase in inventories over the injury period.
443. The landed price of imports of TBR tyres from China is materially lower than the selling price of the domestic industry for TBB tyres. Thus, the goods are being imported into the Country at a price even below TBB tyre price in India. At current prices, the domestic industry is selling the product at a price below NIP and therefore the Indian producers are not in a position to reduce their prices to the extent of import prices. Should the domestic industry sell the product at a price matching the import prices, it would suffer financial losses
444. There is no merit in examining threat of material injury, the Authority is not required to examine threat of material injury. In any case, the threat analysis carried out by the Authority is incorrect.
445. Freely disposable capacity cannot be restricted to the cooperating producers alone. Existing freely disposable and increase in capacities are two separate and distinct requirements and cannot be mixed. Third country exports from China, show significant volume of exports, at a price lower than at the prices exported to India. Thus, this volume is also likely to get diverted to India

I.2. Submission of other interested parties

446. The Authority provided 5 working days to file comments in response to the disclosure statement, which is not sufficient and therefore additional time should be provided to file further comments.
447. Authority has not determined specificity for the subsidy programs that are determined to be countervailed. No countervailing duty can be imposed without determining that the program is specific.
448. No legal basis is provided for 9 & 13 by the petitioner and therefore no countervailing duty can be recommended for program no. 9 & 13.
449. Program nos. 5, 13, 14 & 15 are specific to Anhui Province. Program 20 is specific to Guangdong province. These two sets of programs are mutually exclusive. Tyre producers in China PR who exported the subject product to India can only use one of these two sets of programs. Therefore, the Authority should not consider both these set of programs while determining the subsidy rate for all others category.
450. State owned banks cannot be considered as public bodies because they are not performing governmental function and were not exercising governmental authority. The decision of the commercial bank to provide loans at certain interest rate is not a subsidy. Commercial banks make their own decisions regarding their business operations in accordance with the law and without any interference from any entity or individual.
451. Authority should not countervail provision of land use rights and provision of electricity programs. Title to industrial land can only be granted from the State to industrial enterprises through bidding or a similar public offering process. Purchase prices of power from the grid followed the officially established price levels set at provincial level for industrial clients. There are no preferential electricity rates for tyre industry and therefore these price levels do not confer any benefit to tyre industries.
452. No countervailing duty can be recommended for provision of electricity and provision of land use rights for participating producers/exporters because no benefit has been received for provision of electricity at less than adequate remuneration and provision of land use rights at less than adequate remuneration. Grants concerning land use rights are already included by the Authority while recommending countervailing duty for grant programs.
453. Subsidy margin adopted by other investigating authorities concerning provision of electricity and provision of land use rights cannot be adopted by the investigating authority in this case.
454. M/s. Shandong Haohua Tire Co. Ltd., M/s. Guangzhou Exceed Industrial Technology Co. Ltd. & M/s. HK Trade Wind Trading Ltd have requested that individual subsidy margin should

be determined for them even though they have not exported the subject product to India because there is no provision of new shipper review in the countervailing duty rules.

455. Radial tyres imported from China PR are of better quality than the tyres sold by the domestic industry. Imposition of duty is not in the interest of end users.
456. There is no injury to the domestic industry because the performance of the domestic industry has improved with regard to most of the economic parameters. Even if there is injury to the domestic industry, there is no causal link between the material injury and subsidized imports.
457. There is no threat of material injury to the domestic industry as there is declining trend of imports of the subject goods the import from China PR, imports of subject goods has reduced in the post POI period, no significant capacity has been added and none of the co-operative producers/exporters hold any significant inventory.

I.3. Examination by the Authority

458. The Authority has addressed all the issues raised by the domestic industry and other interested parties to the extent deemed relevant.
459. The Authority notes that non-confidential version of the submission, questionnaire response and disclosure comments provided by the interested parties are kept in the public file. It is the consistent practice of the Authority that rejoinder submissions of interested parties are not kept in the public file. The same procedure has been followed in the present investigation as well.
460. There is no past practice of the Authority to disclose verification report of one interested party to the other interested party. Further, this information is confidential in nature and not amenable to summarization. The Authority does not disclose the verification reports of domestic industry to other interested parties and *vice-versa*.
461. As regards the claim concerning higher subsidy margin determined by other investigating Authorities for tyre investigations, the Authority notes that the claim is not correct. Subsidy margin determined by the United States in the case of *Certain Passenger Vehicle and Light Truck Tires* from China PR is not relevant because it concerns different period of investigation as well as different product under consideration. In *Certain Pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries* by the European Union, lowest subsidy margin determined for the participating sampled producer/exporter from China PR was 2.06%. The lowest subsidy margin determined by the Authority in the present investigation is *** which is significantly higher than the lowest subsidy margin determined by the EU. The Authority notes that the subsidy margin is determined by the Authority based on the evidence and verifiable information presented by interested parties during the course of investigation. The Authority further notes that subsidy margin is required to be determined

for tyre producers in China PR who exported the subject product to India during the POI. The producers/exporters who exported the subject product to the EU and who were investigated by the EU were different from the producers/exporters who exported the subject product to India and therefore subsidy margins are different in both investigations.

462. As regards the claim that subsidy margin in *Truck and Bus Tires* by the United States is between 20.68% to 63.34%, the Authority notes that the comparison between the United States decision and the present case is inappropriate. Subsidy margin of 20.68% to 63.34% is determined for different tyre producers in China PR i.e. Guizhou Tyre Group, Double Coin Group and Kunlun Tyre. The Authority further notes that the subsidy margin was determined by the United States was for a different POI i.e. January 2015 to December 2015. The Authority also notes that the decision of the United States to calculate subsidy margin of 20.68% to 63.34% was based on the application of adverse facts available for grant programs, preferential lending programs, and for provision of electricity, raw materials (carbon black, nylon cord, synthetic rubber and butadiene, natural rubber) and land use rights.

463. The Authority also notes that there is no requirement that subsidy margin determined by different investigating authorities for the countervailing duty investigation on a particular product should be same. Subsidy margin determination is based on the information provided by the participating producers and exporters, the GOC and also the evidence submitted by the domestic industry and other facts available on record. Different subsidy margin determined by the US and the EU for *truck and bus tyres* itself shows that subsidy margin determined by different authorities for the same product under consideration are normally different.

464. As regards the claim that subsidy margin determined for Aeolus is 32.85% by the EU, the Authority notes that subsidy margin of 32.85% was determined by the EU for the China National Tyre Group as a whole consisting of several companies. Aeolus Tyre Co. Ltd. is one of the companies in National Tyre Group. In the present investigation, Aeolus Tyre Co. Ltd. and its related company Qingdao Yellow Sea Rubber Co. Ltd have participated as only they have exported the PUC to India during the POI. The Authority has duly examined subsidies availed by both of them and determined suitable subsidy margin for both of them. The Authority also notes that the subsidy margin with respect to preferential financing for National Tyre Group was determined by the EU relying partially on facts available whereas the Indian Authority has determined subsidy margin with respect to preferential lending based on the verified information supplied by Aeolus Tyre Co. Ltd. and Qingdao Yellow Sea Rubber Co. Ltd. The Authority further notes that subsidy margin determined by the Authority with respect to provision of electricity for less than adequate remuneration, provision of land use rights for less than adequate remuneration, and income tax exemption for Aeolus Tyre Co. Ltd. are higher than the subsidy margins determined by the EU for these subsidies.

465. The Authority has disclosed the type of benchmark adopted for subsidy programs wherever applicable in its analysis of subsidy programs. As regards the claim that the Authority has not disclosed the basis on which % of subsidy margin is determined, the Authority notes that the subsidy margin is determined as a % of CIF price.

466. With regard to the claim that the Authority has not examined subsidies received by affiliated companies while determining subsidy margins in the present investigation, the Authority notes that the subsidies received by affiliated companies have been duly considered in the present investigation to the extent deemed relevant. For example, while determining subsidy margin for Zhongce Rubber Group Co. Ltd., subsidies received by its three subsidiaries who were engaged in production of subject goods on job work basis were duly taken into account. Out of all the related companies of Aeolus Tyre Co. Ltd., only Qingdao Yellow Sea Rubber Co., Ltd. was engaged in production and exports of the subject goods to India during the POI. Accordingly, the Authority has determined subsidy margin for Aeolus Tyre Co. Ltd. and Qingdao Yellow Sea Rubber Co. Ltd based on the information provided by them and as verified by the Authority.
467. As regards the claim that relocation amount received by participating producers should be considered as grant and should be countervailed, the Authority notes that relocation compensation received by participating producers has been considered as grant and subsidy margin has been determined for such grant program.
468. As regards the claim that the benefit received for non-recurring subsidy programs tied to capital assets before the POI and during the AUL period should also be countervailed, the Authority notes that where the grants are related to assets, participating producers/exporters have recognized them as deferred income, amortized to profit and loss over the average useful life of the related asset and where the grants are related to income, participating producers/exporters have recognized them as 'other income' or 'non-operational income' immediately in the profit and loss for the specific year in which it was received. Either way, the amount is clearly shown in the annual report of the year in which it is received. The entire grant amounts is reflected in the annual report where it is income-linked or reflected as an amortized amount in the annual report of every year of the average useful life of the asset where it is asset-linked. The Authority has countervailed both grants related to income as well as grants related to assets in the present investigation.
469. As regards the claim that all grants reported in the Annual Reports of the participating producers are required to be considered for determining the subsidy margin for grant programs, the Authority notes that it has examined the Annual Reports of all participating producers/exporters and has considered all the grants reported in their Annual Report for determining the total subsidy margin for grant programs.
470. As regards the claim that methodology applied for determining quantum of subsidy in the present case is different form the methodology applied in previous two investigations and that applied by other Authorities and that international benchmarks have not been used for determining the benefit for provision of raw materials in the present investigation, the Authority notes as follows:

- i. The Authority has determined subsidy margin in the present case in terms of the provisions of WTO SCM Agreement, Countervailing Duty Rules and as per its consistent practice.
- ii. The Authority has determined subsidy margin for provision of land use rights at less than adequate remuneration based on facts available.
- iii. The Authority has determined subsidy margin for provision of electricity at less than adequate remuneration based on facts available, which is in turn based on the decision of the Indian Authority in the previous countervailing duty investigation concerning *Hot Rolled and Cold Rolled Stainless Steel Flat Products*.
- iv. As regards provision of raw materials for less than adequate remuneration, Authority first did a detailed examination as to which raw materials have been procured by participating producers/exporters from state owned enterprises. Thereafter, the Authority compared the purchase price from state owned enterprises with the purchase price from private enterprises as well as import price/international benchmark. The Authority notes that the three primary raw materials purchased by participating producers/exporters from state owned entities are natural rubber, synthetic rubber and carbon black.
- v. In so far as natural rubber is concerned, the Authority notes that it is primarily imported into China and domestic purchases from state owned enterprises are negligible. Even the purchase price from state owned enterprise is comparable with the price of imported product.
- vi. In so far as synthetic rubber is concerned, the Authority notes that the participating producers/exporters have purchased synthetic rubber from state owned enterprises as well as private entities and also imported the same. The Authority has compared the purchase price from state owned enterprises with purchase price from private entity as well as the price of the imported product. The Authority notes that the purchase price from state owned enterprise is comparable with the purchase price from private entities as well as the price of the imported product.
- vii. In so far as carbon black is concerned, the Authority notes that participating producers/exporters have purchased carbon black from state owned enterprises as well as private entities. None of the participating producers/exporters have imported carbon black. For comparison purposes, the Authority has considered the international benchmark as the import price of carbon black into India from Korea RP. The Authority notes that the purchase price from state owned enterprise by all participating producers/exporters except Triangle

Tyre Co. Ltd. and Zhongce rubber group Ltd. is comparable with the purchase price from private entities as well as the international benchmark adopted by the Authority. Accordingly, the Authority has determined the benefit for Triangle Tyre Co. Ltd. and Zhongce rubber group Ltd. based on the difference between the price paid to state owned enterprise and the international benchmark.

- viii. The Authority also notes that in countervailing duty investigation concerning *Truck and Bus Tyres* from China PR by the United States, the United States also determined the subsidy margin for producers/exporters from China PR by comparing the difference between the price charged by state owned entities and the actual import purchase price provided by participating Chinese companies.
- ix. Article 14(d) of the SCM Agreement provides that in case of provision of goods, the adequacy of remuneration shall be determined in relation to prevailing market conditions for the goods or services in question in the country of provision (including price, quality, availability, marketability, transportation, and other conditions of purchase or sale). Annexure IV, para B(d)(i) of Countervailing Duty Rules provides that adequate remuneration should normally be determined in light of prevailing market conditions on the domestic market of the exporting country. Para. B(d)(ii) provides that the amount subsidy should be difference between lowest price available from private suppliers and the government price.
- x. In countervailing duty investigation concerning *Certain Pneumatic tyres, new or retreated, of rubber, of a kind used for buses or lorries*, the EU determined that no benefit has been conferred on the producers/exporters from China PR concerning provision of raw materials namely, carbon black, nylon cord, synthetic rubber & natural rubber.
- xi. There was no co-operation from the producers/exporters from China PR and the Government of China in the Indian countervailing duty investigation concerning *Hot Rolled and Cold Rolled Stainless Steel Flat Products* and there was no cooperation from Government of China in the Indian countervailing duty investigation on *castings for wind operated electricity generators*. Therefore, in both these countervailing duty investigations, the Authority had relied on facts available for a number of subsidy programs. On the other hand, in the present investigation both Government of China and producers/exporters from China PR have participated and provided relevant verifiable information.
- xii. There is no provision regarding non-market economy treatment in SCM Agreement or in the Countervailing Duty Rules.

471. Regarding the countervailability of alleged subsidy programs in the petition, the Authority notes that all the claims are responded by the Authority in the section containing detailed analysis for each subsidy program.
472. Regarding the claim that full amount of countervailing duty should be imposed in addition to the anti-dumping duty because the Authority has adopted domestic benchmark for provision of raw materials in the present investigation, the Authority notes that the submission of the domestic industry does not have any legal basis and is contrary to their own argument and submission made during the course of investigation. The domestic industry in its post hearing submissions had submitted that if anti-dumping duty already imposed is higher than the countervailing duty determined in the present investigation, then no countervailing duty shall be recommended, imposed and collected. The Authority also notes that the claim of the domestic industry is incorrect that the Authority has adopted domestic benchmark for provision of raw materials in the present investigation as can be seen in the previous sections.
473. Anti-dumping duty is already in force on the product under consideration imported from China PR. The total subsidy margin determined by the Authority consists of export subsidies and domestic subsidies. As regards the export subsidies, Section 9B(1)(a) of the Customs Tariff Act provides that a product shall not be subject to both anti-dumping and countervailing duty to compensate for the same situation of dumping or export subsidization. Thus, the anti-dumping duty in force is required to be deducted from the total countervailing duty to avoid double counting of subsidisation and only if countervailing duty is more than the anti-dumping duty in force, the differential amount is required to be collected as countervailing duty. If countervailing duty is imposed in addition to the anti-dumping duty, it would amount to double remedy. To ensure that subsidization is not remedied twice i.e. there is no 'double remedy', the Authority concludes that only if the countervailing duty is more than the anti-dumping duty, the differential amount would be charged as countervailing duty over and above the anti-dumping duty already in existence. This is completely in line with the past practice followed consistently by Indian Authority in all previous anti-subsidy investigations against China PR.
474. The Authority further notes that the decision of the Authority to reduce anti-dumping duty in force from the total countervailing duty to avoid double counting in line with the consistent practice of the Authority, the decision of the Hon'ble CESTAT in *Suncity Sheets vs. Union of India*, SCM Agreement and the decision of the Appellate Body in *US- Definitive AD and CVD (China)*.
475. As regards the claim that there are no export specific subsidies in the present case and accordingly no adjustment should be made to reduce the anti-dumping duty in force, the Authority notes that there are a number of export specific subsidies countervailed by the Authority in the present investigation and accordingly there is a need to reduce the anti-dumping duty in force at the time of recommending the countervailing duty.

476. As regards the claim concerning threat of injury, the Authority notes that it has already concluded that the domestic industry is suffering material injury due to subsidized imports of subject goods and therefore the Authority is not required to provide conclusion for threat of injury.
477. As regards the claim that there is no provision of new shipper review in the countervailing duty rules and therefore individual subsidy margin should be determined for producers who have not exported the subject product, the Authority notes that Article 19.3 of WTO SCM Agreement provides for 'expedited review' for exporters who were not actually investigated for reasons other than a refusal to co-operate. Therefore, new producer/exporters from China PR i.e. those who have not exported the subject product to India in the POI can request for initiation of new shipper review, if they have exported the subject product after the POI.
478. With regard to the claim concerning additional time, the Authority notes that it has already provided sufficient time to the interested parties and no further time can be provided to the interested parties to file comments because the investigation is time bound. It is the consistent practice of the Authority to not allow any further submission pursuant to the comments on disclosure.
479. As regards the countervailability of subsidy programs, the Authority has determined that subsidy programs are countervailable when there is a financial contribution, benefit and specificity. The Authority refers to the explanation provided for each subsidy program in this finding. The Authority has disclosed the methodology for determination of subsidy margin in each case and has provided explanation for such methodology in its analysis for each of the subsidy programs.
480. As regards the claim that no countervailing duty can be recommended for programs for which no legal basis is provided, the Authority notes that when there is sufficient evidence regarding the existence of financial contribution, benefit and specificity based on the information provided by the petitioner or based on the information available on record with the Authority, the Authority can recommend countervailing duty against such subsidy program.
481. As regards the claim that program nos. 5, 13, 14 & 15 and Program No. 20 are mutually exclusive and both sets of programs cannot be countervailed while determining 'all others' rate, the Authority notes that the countervailing duty for 'all others' category has been recommended against only one set of programs.
482. As regards the claim that state owned banks and entities providing electricity cannot be considered as public bodies because they are not performing governmental function or exercising governmental authority, the Authority notes that no information has been provided by the GOC or by such state-owned banks and entities through GOC to show that they are not performing governmental function or exercising governmental authority. The Authority has determined based on the information available on record that state-owned banks and entities providing electricity are public bodies within the meaning of Section 9(1)(a) of the Customs

Tariff Act. In addition, even if the state-owned financial institutions and entities providing electricity were not to be considered as public bodies, the Authority found that they would be considered entrusted and directed by the GOC to carry out functions normally vested in the government, within the meaning of Section 9(1)(a)(iv) of Customs Tariff Act.

483. As regards the submission that commercial banks in China provide loans based on their own decision without any interference from any entity, the Authority notes that the information provided by the participating producers/exporters from China PR showed that loans obtained from state owned banks in certain cases were at a lower interest rate than the interest rate notified by the People's Bank of China. Therefore, the Authority determined that benefit has been conferred to the tyre producers/exporters by way of preferential lending program by state owned banks.

J. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

484. The Authority notes that the purpose of imposition of countervailing duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of subsidization so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the Country. Imposition of countervailing duty would not prohibit imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.

485. Imposition of countervailing measures would remove the unfair advantages gained by subsidization, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

K. RECOMMENDATION

486. The Authority notes that the investigation was initiated and notified to all interested parties including the Government of China PR and adequate opportunity was given to provide positive information on the aspect of subsidization, injury and causal links. Having initiated and conducted the investigation into subsidization, injury and causal links in terms of the Rules laid down and having established positive subsidy margin as well as material injury to the domestic industry caused by such subsidized imports, the Authority is of the view that imposition of definitive countervailing duty is required to offset subsidization and injury. Therefore, the Authority considers it necessary to recommend imposition of definitive countervailing duty on the imports of the subject goods from China PR in the form and manner described hereunder.

487. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive countervailing duty equal to the lesser of margin of subsidy and margin of injury, from the date of notification to be issued in this regard by the Central

Government, so as to remove the injury to the domestic industry. Since, product under consideration is already attracting anti-dumping duty from China PR, the amount of countervailing duty to be imposed is equivalent to the difference between the quantum of countervailing duty mentioned in Col No.7 below and antidumping duty payable, if any. If the countervailing duty is less than the anti-dumping duty payable, the differential amount would be in the negative and no countervailing duty shall be collected in such case.

DUTY TABLE

S. No.	Heading/ Subheading	Description of Goods	Country of Origin	Country of Export	Producer	Duty amount as % of CIF value
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	40112010	New/Unused pneumatic radial tyres with or without tubes and/or flap of rubber (including tubeless tyres), having nominal rim dia code above 16" used in buses and lorries/trucks	China PR	Any other country including China PR	Zhongce Rubber Group Co. Ltd.	9.55%
2.	-do-	-do-	China PR	Any other country including China PR	Shandong Wanda Boto Tyre Co. Ltd.	9.18%
3.	-do-	-do-	China PR	Any other country including China PR	Triangle Tyre Co. Ltd	12.23%
4.	-do-	-do-	China PR	Any other country including China PR	Shandong Yongfeng Tyres Co. Ltd	9.12%

5.	-do-	-do-	China PR	Any other country including China PR	Aeolus Tyre Co. Ltd.	9.66%
6.	-do-	-do-	China PR	Any other country including China PR	Qingdao Yellow Sea Rubber Co. Ltd.	9.66%
7.	-do-	-do-	China PR	Any other country including China PR	Any producer other than S. No. 1 to 6	17.57%
8.	-do-	-do-	Any country other than China PR	China PR	Any	17.57%

488. Landed value of imports for the purpose of this Notification shall be the assessable value as determined under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.

489. An appeal against the order of the Central Government arising out of this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(Sunil Kumar)
Additional Secretary & Designated Authority