UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

C-570-942
Sunset Review
Public Document
AD/CVD I: MK

December 1, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review: Certain Kitchen Appliance Shelving and Racks from the People's Republic of China

SUMMARY

We are conducting an expedited sunset review of the countervailing duty (CVD) order on certain kitchen appliance shelving and racks (kitchen racks) from the People's Republic of China (PRC). We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum.

History of the Order

On July 27, 2009, the Department published its *Final Determination* in the CVD investigation of kitchen racks from the PRC.[1] On September 14, 2009, the Department published its *CVD Order* on kitchen racks from the PRC.[2] The Department determined that benefits that constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), were provided by the Government of the PRC (GOC) to PRC manufacturers, producers, and exporters of this merchandise. In the investigation,[3] the following programs were found to confer countervailable subsidies to the cooperating mandatory respondent company, Guangdong Wire King Co., Ltd. (formerly known as Foshan Shunde Wireking Housewares & Hardware) (Wire King):

[1] *See Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 37012 (July 27, 2009) and accompanying Issues and Decision Memorandum (*Final Determination*).
[2] *See Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Countervailing Duty Order*, 74 FR 46973 (September 14, 2009) (*CVD Order)*.
[3] *See Final Determination* and accompanying Issues and Decision Memorandum at 11-18.

1. Income Tax Reduction for Foreign-Invested Enterprises (FIEs) Based on Geographic Location
2. Income Tax Reduction for Export-Oriented FIEs
3. Local Income Tax Exemption or Reduction for "Productive" FIEs
4. Exemption from City Construction Tax and Education Tax for FIEs in Guangdong Province
5. Provision of Wire Rod for Less than Adequate Remuneration (LTAR)
6. Provision of Electricity for LTAR

The Department also determined in the investigation that one program was terminated (Exemption from Project Consulting Fee for Export-Oriented Industries) and one program did not exist (Income Tax Exemption for Investment in Domestic "Technological Renovation").[4] In addition, the Department determined that the programs, listed in the "Nature of Subsidies" section below, were not used or did not provide any benefit during the period of investigation (POI) to the cooperating mandatory respondent company, Wire King, but found them countervailable on the basis of total adverse facts available with respect to the non-cooperating respondents either in the investigation or in subsequent reviews.[5]

The Department found the following net subsidies in the original investigation.

Exporter/Manufacturer	**Net Subsidy Rate (percent)**
Guangdong Wire King Co., Ltd. (formerly known as Foshan Shunde Wireking Housewares & Hardware) (Wire King)	13.30
Asber Enterprises Co., Ltd. (China) (Asber)	170.82
Changzhou Yixiong Metal Products Co., Ltd. (Changzhou)	149.91
Foshan Winleader Metal Products Co., Ltd. (Foshan Winleader)	149.91
Kingsun Enterprises Group Co, Ltd. (Kingsun)	149.91
Yuyao Hanjun Metal Work Co./Yuyao Hanjun Metal Products Co., Ltd. (Yuyao Hanjun)	149.91
Zhongshan Iwatani Co., Ltd. (Zhongshan Iwatani)	149.91
All Others	13.30

The Department has completed three administrative reviews and has rescinded one review, pursuant to section 751(a) of the Act.

---

[4] *See id.* at 4-9 and 18.

[5] *See id.* at 18-20. Asber Enterprises Co., Ltd. (China) was a non-cooperating mandatory respondent. Changzhou Yixiong Metal Products Co., Ltd., Foshan Winleader Metal Products Co., Ltd., Kingsun Enterprises Group Co., Ltd., Yuyao Hanjun Metal Work Co.,/Yuyao Hanjun Metal Products Co., Ltd., and Zhongshan Iwatani Co., Ltd. did not answer our initial quanity and value (Q&V) questionnaire, which we were using for respondent selection purposes. Therefore, we calculated a total AFA rate "generally using program-specific rates determined for the cooperating respondent or past cases." *Id.* at 3-5. Of the 36 programs, one (Two Free, Three Half program) was subsequently found used by respondent New King Shan (Zhu Hai) Co., Ltd. in the administrative reviews. *See, e.g., Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Results of the Countervailing Duty Administrative Review*, 77 FR 21744 (April 11, 2012) and accompanying Issues and Decision Memorandum at 10 (*Kitchen Racks AR1 Final Results*).

In the first administrative review, which covered 2009, the Department calculated net subsidy rates of: 21.48 percent for Wire King; 7.85 percent for New King Shan (Zhu Hai) Co., Ltd. (NKS); 12.35 percent for Leader Metal Industry Co., Ltd. (aka Marmon Retail Services Asia); 12.35 percent for Hangzhou Dunli Import and Export Co., Ltd./Hanzhou Dunli Industry Co., Ltd.; 12.35 percent for Hengtong Hardware Manufacturing (Huizhou) Co., Ltd.; 264.09 percent for Jiangsu Weixi Group Co; and 264.09 percent for Asia Pacific CIS (Wuxi) Co., Ltd.[6] The rates for mandatory respondents Wire King and NKS were based on the following countervailable programs[7]:

1. Two Free, Three Half Program
2. Reduced Income Tax Rates to FIEs Based on Location
3. Exemption from City Maintenance and Construction Taxes and Education Fee Surcharges for FIEs in Guangdong Province
4. Shunde Famous Brands
5. International Market Exploration Fund
6. Foshan Shunde Export Rebate
7. Zhuhai Export Trade Grant
8. Guangdong Supporting Fund
9. Zhuhai Farmer Training Subsidy Program
10. Provision of Electricity for LTAR
11. Provision of Wire Rod for LTAR
12. Provision of Steel Strip for LTAR

In addition, the Department determined that 38 programs, listed in the "Nature of Subsidies" section below, were not used or did not provide any measurable benefit during 2009 to the cooperating mandatory respondent companies, but found them countervailable on the basis of adverse facts available with respect to the non-cooperating Q&V respondents.[8]

In the second administrative review, which covered 2010, the Department found a net subsidy rate of 12.06 percent *ad valorem* for NKS.[9] The rate for NKS was based on the following countervailable programs[10]:

1. Two Free, Three Half Program
2. Income Tax Reduction for FIEs Based on Geographic Region

[6] *See Kitchen Racks AR1 Final Results* and accompanying Issues and Decision Memorandum. Wire King and NKS were cooperating mandatory respondents. Asia Pacific CIS and Jiangsu Weixi were respondents who did not answer our initial Q&V questionnaire, which we were using for respondent selection purposes. *Id.* at 2-5. The other companies were non-selected respondents, who did answer our initial Q&V questionnaire.
[7] *See id.* at 10-20.
[8] *See Kitchen Racks AR1 Final Results,* 77 FR at 21745-46 (citing *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Results of the Countervailing Duty Administrative Review,* 76 FR 62364, 62366-67 (October 7, 2011) (*Kitchen Racks AR1 Preliminary Results*)). We note that of these 38 programs, 35 were found countervailable in the investigation on the basis of adverse facts available, one was a new program, and two were used in the investigation.
[9] *See Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2010,* 78 FR 21594 (April 11, 2013) and accompanying Issues and Decision Memorandum (*Kitchen Racks AR2 Final Results*).
[10] *See id.* at 7-15.

3. Exemption from City Maintenance and Construction Taxes and Education Fee Surcharges for FIEs in Guangdong Province
4. Tax Rebates for Electromechanical High-Tech Products
5. Provision of Wire Rod for LTAR
6. Provision of Steel Strip for LTAR
7. Provision of Electricity for LTAR
8. Guangdong Supporting Fund
9. Zhuhai Export Trade Grant
10. Clean Production Promotion Program

In the third administrative review, which covered 2011, the Department found a net subsidy rate of 8.52 percent *ad valorem* for NKS.[11] The rate for NKS was based on the following countervailable programs[12]:

1. Income Tax Reduction for FIEs Based on Geographic Location
2. Provision of Wire Rod for LTAR
3. Provision of Steel Strip for LTAR
4. Provision of Electricity for LTAR
5. Gaoxin District Energy Efficient Company Award

The Department rescinded the fourth administrative review of the *CVD Order* for the period January 1, 2012, through December 31, 2012.[13] No review was requested of the period January 1, 2013, through December 31, 2013.

The Department conducted four scope rulings regarding kitchen racks. On December 19, 2013, the Department found Thermo Fisher Scientific (Asheville) LLC's wire racks used in laboratory equipment are within the scope of the antidumping duty (AD) and CVD orders because they fit the written description and dimensions in the scope language of the ADand CVD orders.[14] On April 22, 2013, the Department found that U-Line Corporation (U-Line)'s steel shelving units used in wine coolers, beverage coolers and its Americans with Disabilities Act compliant cooling units imported by U-Line are covered by the scope of the AD and CVD orders.[15] On June 18, 2011, the Department found that certain of Olson Wire Products Co., Ltd's supermarket shelving units and commercial oven racks that fit within size parameters of the scope are subject to the AD and CVD orders; and certain of Olson's supermarket shelving units and commercial oven racks that do not fit within the size parameters of the scope are not within the scope of the AD

[11] *See Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 14668 (March 17, 2014) and accompanying Issues and Decision Memorandum (*Kitchen Racks AR3 Final Results*).
[12] *See id.* at 4-5.
[13] *See Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2012*, 79 FR 8435 (February 12, 2014).
[14] *See Notice of Scope Rulings*, 79 FR 19057 (April 7, 2014).
[15] *See Notice of Scope Rulings*, 78 FR 59653 (September 27, 2013). This notice referenced only the AD case, but the scope ruling was made for both AD and CVD cases. *See Final Scope Ruling: Antidumping and Countervailing Duty Orders on Certain Kitchen Appliance Shelving and Racks from thePeople's Republic of China* (April 22, 2013).

and CVD orders.[16] On April 1, 2010, the Department found that Custom BioGenic Systems, Inc.'s inventory control racks are outside the scope of the AD and CVD orders.[17]

The Department has not issued any anti-circumvention or changed circumstances determinations.

Background

On August 1, 2014, the Department initiated a sunset review of the *CVD Order*.[18] On August 18, 2014, the Department received a notice of intent to participate in the review on behalf of Nashville Wire Products (Nashville Wire) and SSW Holding Company Inc. (SSW) (collectively, the domestic industry) within the deadline specified in 19 CFR 351.218(d)(1)(i).[19] Each of these companies claimed interested party status under section 771(9)(C) of the Act, as a domestic producer of the domestic like product.

On September 2, 2014, the Department received adequate substantive responses from the domestic industry within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[20] The Department did not receive a substantive response from the GOC or company respondent interested parties.

According to the Department's regulations at 19 CFR 351.218(e)(1)(ii)(B)-(C), when there are inadequate responses from respondent interested parties, we normally will conduct an expedited sunset review and, no later than 120 days after the date of publication in the *Federal Register* of the notice of initiation, will issue the final results of review based on the facts available, in accordance with 19 CFR 351.308(f).[21] Therefore, we are conducting an expedited (120-day) sunset review of the *CVD Order*.

Scope of the Order

The scope of the order consists of shelving and racks for refrigerators, freezers, combined refrigerator-freezers, other refrigerating or freezing equipment, cooking stoves, ranges, and ovens. Certain kitchen appliance shelving and racks are defined as shelving, baskets, racks (with or without extension slides, which are carbon or stainless steel hardware devices that are connected to shelving, baskets, or racks to enable sliding), side racks (which are welded wire support structures for oven racks that attach to the interior walls of an oven cavity that does not include support ribs as a design feature), and sub-frames (which are welded wire support structures that interface with formed support ribs inside an oven cavity to support oven rack assemblies utilizing extension slides) with the following dimensions:

---

[16] *See Notice of Scope Rulings*, 77 FR 9893 (February 21, 2012).
[17] *See Notice of Scope Rulings*, 75 FR 79339 (December 20, 2010).
[18] *See Initiation of Five-Year ("Sunset") Review*, 79 FR 44743 (August 1, 2014).
[19] *See* Nashville Wire's and SSW's submission, re: "Five-Year ("Sunset") Review of the Countervailing Duty Order on Kitchen Appliance Shelving and Racks from the People's Republic of China: Domestic Interested Parties' Notice of Intent to Participate," (August 18, 2014).
[20] *See* Nashville Wire's and SSW's submission, re: "Five-Year ("Sunset") Review of the Countervailing Duty Order on Kitchen Appliance Shelving and Racks from the People's Republic of China: Domestic Interested Parties' Notice of Intent to Participate," (September 2, 2014).
[21] *See* section 751(c)(3)(B) of the Act and 19 CFR 351.221(c)(5)(ii).

- Shelving and racks with dimensions ranging from 3 inches by 5 inches by 0.10 inch to 28 inches by 34 inches by 6 inches; or

- Baskets with dimensions ranging from 2 inches by 4 inches by 3 inches to 28 inches by 34 inches by 16 inches; or

- Side racks from 6 inches by 8 inches by 0.10 inch to 16 inches by 30 inches by 4 inches; or

- Sub-frames from 6 inches by 10 inches by 0.10 inch to 28 inches by 34 inches by 6 inches.

The subject merchandise is comprised of carbon or stainless steel wire ranging in thickness from 0.050 inch to 0.500 inch and may include sheet metal of either carbon or stainless steel ranging in thickness from 0.020 inch to 0.20 inch. The subject merchandise may be coated or uncoated and may be formed and/or welded. Excluded from the scope of the order is shelving in which the support surface is glass.

The merchandise subject to the order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting numbers 8418.99.8050, 7321.90.5000, 7321.90.6040, 7321.90.6090, 8418.99.8060, 8419.90.9520, 8516.90.8000, and 8516.90.8010. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

DISCUSSION OF THE ISSUES

In accordance with section 751(c)(1) of the Act, the Department is conducting this review to determine whether revocation of the *CVD Order* would be likely to lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that in making this determination the Department shall consider: 1) the net countervailable subsidy determined in the investigation and any subsequent reviews, and 2) whether any changes in the programs which gave rise to the net countervailable subsidy have occurred that are likely to affect the net countervailable subsidy.

Pursuant to section 752(b)(3) of the Act, the Department shall provide to the International Trade Commission (ITC) the net countervailable subsidy likely to prevail if the order were revoked. In addition, consistent with section 752(a)(6) of the Act, the Department shall provide to the ITC information concerning the nature of the subsidy and whether the subsidy described is a subsidy described in Article 3 or Article 6.1 of the 1994 World Trade Organization Agreement on Subsidies and Countervailing Measures (ASCM).

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy

Interested Parties' Arguments

The domestic industry argues that subsidization of kitchen racks from the PRC would likely continue or recur if the Department revoked the order because the subsidies to the industry are numerous and longstanding, and show no indication of termination. The domestic industry notes that producers of subject merchandise in the PRC continue to benefit from the wide variety of subsidy programs available to the kitchen racks industry in the PRC.[22] In addition, the domestic industry notes that several new programs have been found to be countervailable since the original investigation.[23] The domestic industry argues that, while the order has reduced the use of subsidies for one producer of kitchen racks in the PRC (NKS), it has not caused the GOC to eliminate subsidy programs as a whole nor has it reversed subsidization in the kitchen racks industry in the PRC. Therefore, the domestic industry maintains that the Department should conclude that subsidization would likely continue or increase if the countervailing duty order on kitchen racks were revoked.

Department's Position

Section 752(b)(1) of the Act directs the Department in determining the likelihood of continuation or recurrence of a countervailable subsidy to consider the net countervailable subsidy determined in the investigation and subsequent reviews, and whether there has been any change in a program found to be countervailable that is likely to affect that net countervailable subsidy. According to the Statement of Administrative Action (SAA), the Department will consider the net countervailable subsidies in effect after the issuance of the order and whether the relevant subsidy programs have been continued, modified, or eliminated.[24] The SAA adds that continuation of a program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies.[25] Additionally, the presence of programs that have not been used, but also have not been terminated without residual benefits or replacement programs, is also probative of the likelihood of continuation or recurrence of a countervailable subsidy.[26] Where a subsidy program is found to exist, the Department will normally determine that revocation of the CVD order is likely to lead to continuation of a countervailable subsidy regardless of the level of subsidization.[27]

---

[22] *See Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Results of the Countervailing Duty Administrative Review*, 79 FR 14668 (March 17, 2014) and accompanying Issues and Decision Memorandum at 4-5.
[23] *Id.*
[24] *See* Statement of Administrative Action (SAA), H.R. Doc. No. 103-316, 103d Cong., 2d Session, Vol. 1(1994) at 888.
[25] *Id.*
[26] *See, e.g., Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil: Final Results of Full Sunset Review of Countervailing Duty Order*, 75 FR 75455 (December 3, 2010) and accompanying Issues and Decision Memorandum at Comment 1.
[27] *Id.*

As indicated above, the Department has completed three administrative reviews of the *CVD Order* since it went into effect. In these reviews, the Department found that PRC producers of kitchen racks continued to receive countervailable subsidies from programs identified in the investigation as providing countervailable subsidies. In addition, in these reviews, the Department identified additional countervailable subsidy programs providing benefits to PRC producers of kitchen racks. Finally, no party submitted evidence to demonstrate that the countervailable programs have expired or been terminated. Thus, the Department determines that there is a likelihood of recurrence or continuation of countervailable subsidies because the record in this proceeding indicates that the subsidy programs found countervailable during the investigation and subsequent administrative reviews continue to exist and be used.

2. **Net Countervailable Subsidy Likely to Prevail**

Interested Parties' Arguments

The domestic industry argues that, because no subsidy programs have been terminated since the original investigation, subsidization is likely to continue at rates established in the original investigation, adjusted to include programs that were subsequently found to be countervailable in administrative reviews.[28] The domestic industry states that the principles established in the SAA[29] and the Department's *Policy Bulletin*[30] call for the Department to rely upon the net rates of subsidization from the original investigation, taking into account all new subsidy programs that have been identified since the original investigation. For companies not subject to an administrative review, the Department should rely on the rates set out in the *CVD Order*. The domestic industry notes that Wire King was the only company originally investigated for which an administrative review was completed, and claims that, in the first administrative review, the Department determined that Wire King benefited from several new subsidy programs and calculated a higher net subsidy rate. U.S. producers of kitchen racks assert that the Department should rely on this higher rate as the net countervailable subsidy rate likely to prevail with respect to Wire King. Specifically, the domestic industry recommends the following rates are the rates likely to prevail: 21.48 percent for Wire King, 170.82 percent for Asber; 149.91 percent for Changzhou; 149.91 percent for Foshan Winleader; 149.91 percent for Kingsun; 149.91 percent for Yuyao Hanjun; 149.91 percent for Zhongshan Iwatani, and 13.30 percent for all others.[31]

Department's Position

The Department normally will provide to the ITC the net countervailable subsidy that was determined in the investigation as the subsidy rate likely to prevail if the order were revoked because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place.[32] Section 752(b)(1)(B) of the Act

---

[28] *See* Domestic Interested Parties' Substantive Response at 16.
[29] *See* the SAA at 890.
[30] *See Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871, 18876 (April 16, 1998) (*Policy Bulletin*).
[31] *See* Domestic Interested Parties' Substantive Response at 17.
[32] *See* SAA at 890, and House Report, H.R. Rep. No103-826 (1994) (House Report") at 64.

provides, however, that the Department will consider whether there have been any changes in the programs which gave rise to the net countervailable subsidy determination in the investigation or subsequent reviews has occurred that are likely to affect the net countervailable subsidy. Therefore, although the SAA and House Report provide that the Department normally will select a rate from the investigation, this rate may not be the most appropriate if, for example, this rate was derived (in whole or in part) from subsidy programs which were found in subsequent reviews to be terminated, there has been a program-wide change, or the rate ignores a program found to be countervailable in a subsequent administrative review.[33]

Where the Department has conducted an administrative review of the order and determined to increase the net countervailable subsidy rate for any reason, including as a result of the application of facts available, the Department may adjust the net countervailable subsidy rate determined in the original investigation to reflect the increase in the rate.[34] Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide the adjusted all-others rate, which has been adjusted from the investigation for programs subsequently found to be countervailable as the rate likely to prevail.[35]

In this instance, the Department has completed three administrative reviews in which, as discussed above, several additional subsidy programs were found countervailable. As a result, we adjusted the rate for each of the companies and the "all others" to reflect the programs that were subsequently found to be countervailable.[36] Therefore, in providing to the ITC the subsidy rates likely to prevail if the *CVD Order* were revoked, we added to the net countervailable subsidy rates determined in the original investigation the countervailable subsidy rates from the additional subsidy programs found to be countervailable during the first through third administrative reviews. These additional programs are:

1. Two Free, Three Half Program
2. Provision of Steel Strip for LTAR
3. Shunde Famous Brands
4. International Market Exploration Fund
5. Foshan Shunde Export Rebate
6. Zhuhai Export Trade Grant
7. Guangdong Supporting Fund
8. Zhuhai Farmer Training Subsidy Program
9. Tax Rebates for Electromechanical High-Tech Products
10. Clean Production Promotion Program

[33] *See, e.g., Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Final Results of Expedited Second Sunset Review*, 75 FR 62101 (October 7, 2010) and accompanying Issues and Decision Memorandum at Comment 2.
[34] *See Policy Bulletin*, 63 FR at 18876 (III.B.3(d)).
[35] *See Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Results of the Expedited Sunset Review of the Countervailing Duty Order*, 78 FR 77101 (December 20, 2013) and accompanying Issues and Decision Memorandum at 8.
[36] See, e.g., *Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Results of Expedited Sunset Review of the Countervailing Duty Order*, 79 FR 45671 (August 6, 2014) and accompanying Issues and Decision Memorandum at Comment 2.

11. Gaoxin District Energy Efficient Company Award

As a result, and consistent with section 752(b)(3) of the Act, the Department will provide to the ITC the net countervailable subsidy rates shown in the section titled "Final Results of Review" below.[37]

3. **Nature of the Subsidy**

Consistent with section 752(a)(6) of the Act, the Department is providing the following information to the ITC concerning the nature of subsidies and whether the subsidies are subsidies as described in Article 3 or Article 6.1 of the SCM Agreement. We note that Article 6.1 of the SCM Agreement expired effective January 1, 2000.

Export Subsidies

The following programs fall within the definition of an export subsidy under Article 3.1 of the SCM Agreement, as receipt of benefits under these programs is contingent upon export activity.

1. Income Tax Reduction for Export-Oriented FIEs

Under this program, FIEs pay a reduced income tax to the GOC based on their export performance.[38]

2. Local Income Tax Exemption or Reduction for "Productive" FIEs

Provincial governments provide an exemption or reduction in local income taxes specifically to "productive" FIEs. The Department determined that the exemption afforded by this program was contingent on the respondent's export performance.[39]

3. International Market Exploration Fund

Companies receive assistance under this program (also known as the International Market Development Fund Grants for Small and Medium Sized Enterprises). The Department determined that the grant is specific because the grant is contingent upon export performance.[40]

[37] *See* Memorandum to the File regarding "Calculation of Net Countervailable Subsidy Likely to Prevail," dated concurrently with this Issues and Decision Memorandum.
[38] *See Final Determination* and accompanying Issues and Decision Memorandum at "B. Income Tax Reduction for Export-Oriented FIEs."
[39] *See Final Determination* and accompanying Issues and Decision Memorandum at "C. Local Income Tax Exemption or Reduction for 'Productive' FIEs."
[40] *See Kitchen Racks AR1 Final Results* and accompanying Issues and Decision Memorandum at "E. International Market Exploration Fund."

4. Foshan Shunde Export Rebate

A respondent received a countervailable subsidy under this program. The Department determined that the grant was specific because receipt of the grant was contingent upon export performance.[41]

5. Zhuhai Export Trade Grant

This program came into effect in November 2008 with the purpose of maintaining the stable development of international trade. The Department determined that the grant was specific because receipt of the grant was contingent upon export performance.[42]

6. Tax Rebates for Electromechanical High-Tech Products

Under this program, enterprises can receive a tax rebate based on exports of electromechanical high-tech products. The Departent determined that the grant was specific because receipt of the grant was related to exports based on the application of adverse facts available.[43]

Other Subsidies

The following programs do not fall within the meaning of Article 3.1 of the SCM Agreement, but could be subsidies as described in Article 6.1 of the SCM Agreement if the amount of the subsidy exceeds five percent, as measured in accordance with Annex IV of the SCM Agreement. They also could fall within the meaning of Article 6.1 if theyconstitute debt forgiveness, grants to cover debt repayment, or subsidies to cover operating losses sustained by an industry or enterprise. However, there is insufficient information on the record of this review in order for the Department to make such a determination. We are, in any case, providing the ITC with the following program descriptions:

1. Income Tax Reduction for FIEs Based on Geographic Location

FIEs located in a coastal economic development zone benefit from the reduced income tax rate. The incentive was found to be geographically specific.[44]

2. Exemption from City Construction Tax and Education Tax for FIEs in Guangdong Province

Pursuant to the "Circular on Temporarily Not Collecting City Maintenance and Construction Tax and Education Fee Surcharge for FIEs and Foreign Enterprises," the local tax authorities exempt

[41] *See Kitchen Racks AR1 Final Results* and accompanying Issues and Decision Memorandum at "F. Foshan Shunde Export Rebate."
[42] *See Kitchen Racks AR1 Final Results* and accompanying Issues and Decision Memorandum at "G. Zhuhai Export Trade Grant."
[43] *See Kitchen Racks AR2 Final Results* and accompanying Issues and Decision Memorandum at "9. Tax Rebates for Electromechanical High-Tech Products."
[44] *See Final Determination and accompanying Issues and Decision Memorandum at "A. Income Tax Reduction for FIEs Based on Geographic Location."*

all FIEs and foreign enterprises from the city maintenance and construction tax, and the education fee surcharge. The Department found the benefits under this program to be *de jure* specific to FIEs.[45]

3. Provision of Wire Rod for LTAR

The GOC provided wire rod for LTAR. In the investigation, the program was found to be specific to a limited number of industries.[46]

4. Provision of Electricity for LTAR

The GOC provided electricity for LTAR. Because the GOC failed to provide information concerning this program, the Department, as AFA, determined that the program confers a financial contribution and is specific.[47]

5. Shunde Famous Brands

The purpose of this program was to increase the popularity and competitiveness of product brands. The GOC stated that the government authority responsible for administering this program was the Shunde Economic and Trade Bureau. The Department determined that the grants under this program are *de facto* specific based on the limited number of users.[48]

6. Guangdong Supporting Fund

According to the GOC, the Guangdong Supporting Fund program was established in 2009 with the purpose of helping enterprises affected by economic crisis and to maintain employment. The Department determined that the grant under this program is limited to specific industries, and is, thus, *de jure* specific.[49]

7. Zhuhai Farmer Training Subsidy Program

This program was established to promote the hiring and training of migrant rural workers. The Department determined that the GOC failed to act to the best of its ability in providing information concerning the distribution of assistance under this program which is necessary for a specificity determination. Thus, as AFA, the Department found this program to be *de facto* specific.[50]

---

[45] *See id.* at "D. Exemption from City Construction Tax and Education Tax for FIEs in Guangdong Province."
[46] *See Final Determination* and accompanying Issues and Decision Memorandum at "E. Provision of Wire Rod for Less Than Adequate Remuneration"; *see also Kitchen Racks AR1 Final Results* and accompanying Issues and Decision Memorandum at "K. Provision of Wire Rod for LTAR".
[47] *See Final Determination and accompanying Issues and Decision Memorandum at "F. Government Provision of Electricity for Less than Adequate Remuneration."*
[48] *See Kitchen Racks AR1 Final Results* and accompanying Issues and Decision Memorandum at "D. Shunde Famous Brands."
[49] *See Kitchen Racks AR1 Final Results* and accompanying Issues and Decision Memorandum at "H. Guangdong Supporting Fund."
[50] *See Kitchen Racks AR1 Final Results* and accompanying Issues and Decision Memorandum at "I. Zhuhai Farmer

8. Provision of Steel Strip for LTAR

The GOC provided steel strip for LTAR to respondents. The GOC did not provide requested information on the owners of the steel strip purchased by the respondents. As a result, the Department determined that the steel strip purchased by the respondents confers a financial contribution in the form of a government provision of a good and that the respondents received a benefit to the extent that the price they paid for steel strip was for LTAR. The Department determined that "steel consuming industries" are limited in number, and hence, the subsidy is specific.[51]

9. Clean Production Promotion Program

A respondent reported receiving grants to support green production/products. Based on the GOC's "Circular on Distributing Work Scheme for Clean Production of Key Enterprises in Zhuhai City" that included "Working Scheme for Clean Production of Key Enterprises in Zhuhai City" and the "Circular on Promulgating The Ninth List of Clean Production Enterprises I Guangdong". The Department found that the grants conferred a countervailable subsidy and were specific based on adverse facts available because the GOC did not respond to our questionnaire.[52]

10. Gaoxin District Energy Efficient Company Award

This grant was given by Gaoxin District based on an enterprise's prior designation as a "green producer" by the Guangdong provincial government. The Department found that the grant conferred a countervailable subsidy and was specific based on the facts available because the GOC did not respond to our questionnaire.[53]

11. Two Free, Three Half Program

Productive FIEs received tax benefits under this program, either an exemption or reduction in income tax paid. The Department found the program *de jure* specific, as it is limited as a matter of law to certain enterprise (*i.e.*, productive FIEs).[54]

Training Subsidy Program."

[51] *See Kitchen Racks AR1 Final Results* and accompanying Issues and Decision Memorandum at "L. Provision of Steel Strip for LTAR."

[52] *See Kitchen Racks AR2 Final Results* and accompanying Issues and Decision Memorandum at "10. Clean Production Promotion Program."

[53] *See Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Countervailing Duty Administrative Review; 2011*, 78 FR 63166 (October 23, 2013) and accompanying Preliminary Decision Memorandum at "Use of Facts Otherwise Available and Adverse Inferences," *unchanged in Kitchen Racks AR3 Final Results* and accompanying Issues and Decision Memorandum at "VII. Use of Facts Otherwise Available and Adverse Inferences."

[54] *See Kitchen Racks AR1 Final Results* and accompanying Issues and Decision Memorandum at "A. Two Free, Three Half Program."

Programs Not Used

The Department determined that the following programs were not used by the mandatory investigation respondent, Wire King, but found the programs to be countervailable on the basis of adverse facts available for non-cooperating companies.[55]

1. Income Tax Credits for Purchases of Domestically Produced Equipment by FIEs
2. Income Tax Refund for Reinvestment of Profits in Export-Oriented Enterprises
3. Preferential Tax Subsidies for Research and Development at FIEs
4. Income Tax Credits for Purchases of Domestically Produced Equipment by Domestically Owned Companies
5. Income Tax Rebate for 'Superior Industrial Enterprises' in Zhongshan[56]
6. Accelerated Depreciation for New Technological Transformation Projects 'Superior Industrial Enterprises' in Zhongshan[57]
7. Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax
8. Exemption from Real Estate Tax and Dyke Maintaining Fee for FIEs in Guangdong Province
9. Reduction in Urban Infrastructure Fee for Industrial Enterprises in Industrial Zones[58]
10. Exemption from the Tax on Investments in Fixed Assets for 'Superior Industrial Enterprises' in Zhongshan[59]
11. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
12. VAT Rebates for FIEs Purchasing Domestically-Produced Equipment
13. Import Tariff Exemption for the "Encouragement of Investment by Taiwanese Compatriots
14. Import Tariff Refunds and Exemptions for FIEs in Guangdong
15. Import Tariff and VAT Refunds and Exemptions for FIEs in Zhejiang
16. Preferential Loans and Interest Rate Subsidies in Guangdong Province
17. Funds for "Outward Expansion" of Industries in Guangdong Province
18. Direct Grants--Guangdong
19. Grants to Promote Exports from Zhejiang Province
20. Land-Related Subsidies to Companies Located in Specific regions of Guangdong
21. Preferential Land-Use Charges for Newly-Established, Industrial Projects in Zhongshan's Industrial Zones[60]

---

[55] *See Certain Kitchen Applicance Shelving and Racks From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 74 FR 683, 686-7 (January 7, 2009) (*Preliminary Determination*), *unchanged in Final Determination*, 74 FR at 37013 and accompanying Issues and Decision Memorandum at "Use of Facts Otherwise Available and Adverse Facts Available." The Two Free, Three Half Program was also included in these programs in the investigation, but it was subsequently used by respondents in the reviews, so it is described above.

[56] This program is only included in Asber's AFA rate. *See Preliminary Determination*, 74 FR at 687, *unchanged in Final Determination* and accompanying Issues and Decision Memorandum at "Use of Facts Otherwise Available and Adverse Facts Available."

[57] This program is only included in Asber's AFA rate. *See id.*

[58] This program is only included in Asber's AFA rate. *See id.*

[59] This program is only included in Asber's AFA rate. *See id.*

[60] This program is only included in Asber's AFA rate. *See id.*

22. Reduction of Land Price at the Township Level for Newly-Established Industrial Projects in Zhongshan's Industrial Zones[61]
23. Land-Related Subsidies to Companies Located in Specific Regions of Zhejiang
24. Provision of Nickel for LTAR

The Department determined that the following programs were not used by the mandatory respondents in the first administrative review, but found the programs to be countervailable on the basis of adverse facts available for non-cooperating companies.[62]

1. Government Provision of Water for LTAR to Companies Located in Development Zones in Guangdong Province
2. Exemption from District and Township Level Highway Construction Fees for Enterprises Located in Industrial Cluster Zones
3. Exemptions from or Reductions in Educational Supplementary Fees and Embankment Defense Fees for Enterprises Located in Industrial Cluster Zones
4. Special Subsidy from the Technology Development Fund to Encourage Technology Innovation
5. Special Subsidy from the Technology Development Fund to Encourage Technology Development
6. Subsidies to Encourage Enterprises in Industrial Cluster Zones to Hire Post-Doctoral Workers
7. Land Purchase Grant Subsidy to Enterprises Located in Industrial Cluster Zones and Encouraged Enterprises
8. Exemption from Accommodating Facilities Fees for High-Tech and Large-Scale FIEs
9. Income Tax Deduction for Technology Development Expenses of FIEs
10. Exemption from Land Development Fees for Enterprises Located in Industrial Cluster Zones
11. Reduction in Farmland Development Fees for Enterprises Located in Industrial Zones

Final Results of the Review

Based on the analysis above, the Department finds that revocation of the *CVD Order* would be likely to lead to continuation or recurrence of countervailable subsidies at the rates listed below.

Producer/Exporter	**Net Subsidy Rate (percent)**
Guangdong Wire King Co., Ltd. (formerly known as Foshan Shunde Wireking Housewares & Hardware)	19.13
Asber Enterprises Co., Ltd. (China)	175.03
Changzhou Yixiong Metal Products Co., Ltd.	154.12
Foshan Winleader Metal Products Co., Ltd.	154.12
Kingsun Enterprises Group Co, Ltd.	154.12

[61] This program is only included in Asber's AFA rate. *See id.*
[62] *Kitchen Racks AR1 Final Results*, 77 FR at 21745-46 (citing *Kitchen Racks AR1 Preliminary Results*, 76 FR at 62366).

Yuyao Hanjun Metal Work Co./Yuyao Hanjun Metal Products Co., Ltd.	154.12
Zhongshan Iwatani Co., Ltd.	154.12
All Others	17.51

Recommendation

We recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of review in the *Federal Register* and notify the ITC of our findings.

Agree　　　　　　　　　　Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

1 DECEMBER 2014
(Date)