DEPARTMENT OF COMMERCE
International Trade Administration
[C–533–870]


AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain new pneumatic off-the-road tires (off road tires) from India. The period of investigation is January 1, 2015, through December 31, 2015. Interested parties are invited to comment on this preliminary determination.

DATES: Effective Date: June 20, 2016.


Alignment of Final Countervailing Duty (CVD) Determination With Final Antidumping Duty (AD) Determination

On the same day the Department initiated this CVD investigation, the Department also initiated an AD investigation of off road tires from India and a CVD investigation of off road tires from Sri Lanka.1 2 This CVD, the India AD, and the Sri Lanka CVD investigations cover the same merchandise.

On May 11, 2016, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (Act), Petitioners 3 requested alignment of the final CVD determinations of off road tires from India and Sri Lanka with the final AD determination of off road tires from India. Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final CVD determinations with the final India AD determination. Consequently, the final CVD determinations will be issued on the same date as the final India AD determination, which is currently scheduled to be issued no later than October 25, 2016.

Scope of the Investigation

The scope of the investigation covers off road tires, which are tires with an off road tire size designation. For a complete description of the scope of the investigation, see Appendix I.

Scope Comments

Certain interested parties commented on the scope of the investigation as it appeared in the Initiation Notice. For discussion of those comments, see the Preliminary Decision Memorandum.4

Methodology

The Department is conducting this CVD investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, we preliminarily determine that there is a subsidy (i.e., a financial contribution by an “authority” that gives rise to a benefit to the recipient) and that the subsidy is specific.5 For a full description of the methodology underlying our preliminary conclusions, see the Preliminary Decision Memorandum.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at http://access.trade.gov, and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at http://enforcement.trade.gov/frn/. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Preliminary Determination of Critical Circumstances, in Part

In accordance with section 703(e)(1) of the Act, we preliminarily find that critical circumstances exist with respect to imports of off road tires from India for all other exporters or producers not individually examined. A discussion of our determination can be found in the Preliminary Decision Memorandum.

Preliminary Determination and Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated a CVD rate for each individually-investigated producer/exporter of the subject merchandise. We preliminarily determine that countervailable subsidies are being provided with respect to the manufacture, production, or exportation of the subject merchandise. In accordance with sections 703(d) and 705(c)(5)(A) of the Act, for companies not individually examined, we apply an “all-others” rate, which is normally calculated by weighting the subsidy rates of the individual companies as respondents by those companies’ exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the all-others rate should exclude zero and de minimis rates or any rates based entirely on facts otherwise available pursuant to section 776 of the Act. Neither of the mandatory respondents’ rates in this preliminary determination were zero or de minimis or based entirely on facts otherwise available. Accordingly, in this preliminary determination, we have calculated the “all-others” rate by weight averaging the calculated subsidy rates of the two individually investigated respondents. In order to ensure that business proprietary information is not disclosed through the all-others rate, we have used the respondent’s publicly-ranged sales data for exports of subject merchandise to the United States.6

2 At this time, the Department also initiated AD investigations of off road tires from the People’s Republic of China (PRC). However, on March 1, 2016, the U.S. International Trade Commission (ITC) found that imports of off road tires from the PRC were negligible and terminated the PRC AD and CVD investigations. See Certain New Pneumatic Off-the-Road-Tires From China, India, and Sri Lanka, 81 FR 10063 (March 1, 2016).
3 Petitioners in this investigation are Titan Tire Corporation and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, C.L.C.
4 See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, regarding “Certain New Pneumatic Off-the-Road Tires From India: Preliminary Affirmative Countervailing Duty Determination Decision Memorandum,” dated concurrently with this notice (Preliminary Decision Memorandum).
5 See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5)(A) of the Act regarding specificity.
6 See Preliminary Decision Memorandum at “CALCULATION OF THE ALL-OThERS RATE” (for further explanation of the business proprietary information concerns); see also Memorandum to the File, “Countervailing Duty Investigation of Certain New Pneumatic Off-the-Road Tires From India: Preliminary Determination and Suspension of Liquidation.”
We preliminarily determine the countervailable subsidy rates to be:

<table>
<thead>
<tr>
<th>Company</th>
<th>Subsidy rate (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ATC Tires Private Limited</td>
<td>7.64</td>
</tr>
<tr>
<td>Balkrishna Industries Limited</td>
<td>4.70</td>
</tr>
<tr>
<td>All-Others</td>
<td>6.17</td>
</tr>
</tbody>
</table>

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of off road tires from India that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the Federal Register, and to require a cash deposit for such entries of merchandise in the amounts indicated above. Moreover, because we preliminarily find critical circumstances exist with respect to all other exporters or producers not individually examined, in accordance with section 703(e)(2)(A) of the Act, we are directing CBP to apply the suspension of liquidation to any unliquidated entries entered, or withdrawn from warehouse for consumption by these companies, on or after the date which is 90 days prior to the date of publication of this notice in the Federal Register.

Verification

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

U.S. International Trade Commission

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

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

Disclosure and Public Comment

The Department intends to disclose calculations performed for this preliminary determination to the parties within five days of the date of public announcement of this determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs. A table of contents, list of authorities used, and an executive summary of issues should accompany any briefs submitted to the Department, pursuant to 19 CFR 351.309(c)(2) and (d)(2). This summary should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically-filed request must be received successfully, and in its entirety, by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice. Requests should contain the party’s name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a date, time, and location of the hearing two days before the scheduled date.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: June 13, 2016.

Paul Piquado,
Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of this investigation is certain new pneumatic off-the-road tires (certain off road tires). Certain off road tires are tires with an off road tire size designation. The tires included in the scope may be either tube-type or tubeless, radial, or non-radial, regardless of whether for original equipment manufacturers or the replacement market.

Subject tires may have the following prefix or suffix designation, which appears on the sidewall of the tire:

Prefix designations:
- DH—Identifies a tire intended for agricultural and logging service which must be mounted on a DH drop center rim.
- VA—Identifies a tire intended for agricultural and logging service which must be mounted on a VA multipiece rim.
- IF—Identifies an agricultural tire to operate at 40 percent higher rated load than standard metric tires at the same inflation pressure.
- VF—Identifies an agricultural tire to operate at 40 percent higher rated load than standard metric tires at the same inflation pressure.

Suffix designations:
- ML—Mining and logging tires used in intermittent highway service.
- DT—Tires primarily designed for sand and paver service.
- NHS—Not for Highway Service.
- TG—Tractor Grader, off-the-road tire for use on rims having bead seats with nominal +0.188” diameter (not for highway service).
- K—Compactor tire for use on 5” drop center or semi-drop center rims having bead seats with nominal minus 0.032 diameter.
- IND—Drive wheel tractor tire used in industrial service.
- SL—Service limited to agricultural usage.
- FI—Implement tire for agricultural towed highway service.
- CFO—Cyclic Field Operation.
- SS—Differentiates tires for off-highway vehicles such as mini and skid-steer loaders from other tires which use similar size designations such as 7.00–15TR and 7.00–15NHS, but may use different rim bead seat configurations.

All tires marked with any of the prefixes or suffixes listed above in their sidewall markings are covered by the scope regardless of their intended use.

*While tube-type tires are subject to the scope of this proceeding, tubes and flaps are not subject merchandise and therefore are not covered by the scope of this proceeding, regardless of the manner in which they are sold (e.g., sold with or separately from subject merchandise).
In addition, all tires that lack any of the prefixes or suffixes listed above in their sidewall markings are included in the scope, regardless of their intended use, as long as the tire is of a size that is among the numerical size designations listed in the following sections of the Tire and Rim Association Year Book, as updated annually, unless the tire falls within one of the specific exclusions set forth below. The sections of the Tire and Rim Association Year Book listing numerical size designations of covered tires are:

- Section VI: Off-the-Road Tires for Construction and Mining
- Section VII: On-Highway Tires
- Section VIII: Aerial Lift and Mobile Crane
- Section IX: Golf Carts
- Section X: Industrial and Mining
- Section XI: Transportation Equipment
- Section XII: Special Tires
- Section XIII: Light Truck Tires
- Section XIV: Light Car Tires
- Section XV: Motor Scooters
- Section XVI: Bicycles

The following types of tires are also excluded from the scope:

- Pneumatic tires that are not new, including recycled or reconditioned tires
- Non-pneumatic tires, including solid rubber tires, aircraft tires, and turf, lawn and garden, and golf tires
- Tires that do not conform to applicable motor vehicle safety standards

Subject to the exclusions set forth below, the subject tires are covered whether or not they are (a) mounted on wheels or rims, (b) mounted on vehicles, (c) included in the end-use product, (d) intended for use in the end-use product, or (e) manufactured in the subject countries.

The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.90.9000, 4011.20.0000, 4011.90.1000, 4011.90.7000.

In addition, all tires that lack any of the prefixes or suffixes listed above in their sidewall markings are included in the scope, regardless of their intended use, as long as the tire is of a size that is among the numerical size designations listed in the following sections of the Tire and Rim Association Year Book, as updated annually, unless the tire falls within one of the specific exclusions set forth below. The sections of the Tire and Rim Association Year Book listing numerical size designations of covered tires are:

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