



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

A-533-869

Certain New Pneumatic Off-the-Road Tires from India: Negative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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

SUMMARY: The Department of Commerce (“Department”) preliminarily determines that certain new pneumatic off-the-road tires (“OTR tires”) from India are not being, or are not likely to be, sold in the United States at less than fair value (“LTFV”). The period of investigation (“POI”) is January 1, 2015, through December 31, 2015. The estimated weighted-average dumping margins of sales at LTFV are shown in the “Preliminary Determination” section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatrian or Trisha Tran, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6412, or (202) 482-4852, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this investigation on February 10, 2016.¹ For a complete description of the events that followed the initiation of this investigation,

¹ See *Certain New Pneumatic Off-the-Road Tires from India and the People’s Republic of China: Initiation of Less-Than-Fair-Value Investigations*, 81 FR 7073 (February 10, 2016) (“*Initiation Notice*”).

see the memorandum that is dated concurrently with this determination and hereby adopted by this notice.² A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. 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 <https://access.trade.gov>, and 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 found at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

On June 6, 2016, the Department published a notice of postponement for the preliminary determination in this investigation in accordance with section 733(c)(1)(B) of the Tariff Act of 1930, as amended (“the Act”), and 19 CFR 351.205(f)(1).³ As a result of the 50-day postponement, the revised deadline for the preliminary determination in this investigation is now August 11, 2016.⁴

Scope of the Investigation

The product covered by this investigation is OTR tires. For a full description of the scope of this investigation, *see* the “Scope of the Investigation,” in Appendix I.

² *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Certain New Pneumatic Off-the-Road Tires from India,” dated concurrently with this notice (“Preliminary Decision Memorandum”).

³ *See Certain New Pneumatic Off-the-Road Tires from India: Postponement of Preliminary Determination of Antidumping Duty Investigation*, 81 FR 36263 (June 6, 2016).

⁴ *Id.*, 81 FR at 36264.

Scope Comments

In accordance with the preamble to the Department's regulations,⁵ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, "scope").⁶ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Decision Memorandum.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Export prices or constructed export prices have been calculated in accordance with section 772(a) of the Act. Normal value ("NV") is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

⁵ *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

⁶ *See Initiation Notice*, 81 FR at 7074.

Preliminary Determination

For this preliminary determination, we have calculated a zero dumping margin for each individually investigated producer/exporter of the subject merchandise. Consistent with section 733(b)(3) of the Act, we are disregarding these rates and preliminarily determine that the individually reviewed mandatory respondents have not made sales of subject merchandise at LTFV.

Exporter/Manufacturer	Weighted-Average Dumping Margin (percent)
ATC Tires Private Ltd.	0.00
Balkrishna Industries Limited	0.00

Consistent with section 733(d)(1)(A) of the Act, the Department has not calculated a weighted-average dumping margin for all other producers or exporters because it has not made an affirmative preliminary determination of sales at LTFV.

Suspension of Liquidation

Because the Department has not made an affirmative preliminary determination of sales at LTFV, we are not directing U.S. Customs and Border Protection to suspend liquidation of any entries of OTR tires from India.

Disclosure and Public Comment

We will disclose the calculations performed to interested parties in this proceeding within five days of the date of announcement, in accordance with 19 CFR 351.224(b). Interested parties are invited to comment on this preliminary determination. 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.⁷ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

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. All documents must be filed electronically using ACCESS. An electronically-filed request must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.⁸ 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 time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Verification

As provided in section 782(i) of the Act, we intend to verify information relied upon in making our final determination.

Postponement of Final Determination

Section 735(a)(2)(B) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of a negative preliminary determination, a request for such postponement is made by

⁷ See 19 CFR 351.309.

⁸ See 19 CFR 351.310(c).

Petitioners. On July 28, 2016, Petitioner requested that the Department postpone the final determination.⁹

In accordance with section 735(a)(2)(B) of the Act, because our preliminary determination is negative, we are postponing the final determination. Accordingly, we will make our final determination by no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.

International Trade Commission (“ITC”) Notification

In accordance with section 733(f) of the Act, we are notifying the ITC of our negative preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination, or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Dated: August 11, 2016.

⁹ See Letter to the Secretary of Commerce from Petitioners “Petitioners’ Comment on the Extension of the Final Determination” (July 28, 2016).

Appendix I

Scope of the Investigation

The scope of the investigation is certain new pneumatic off-the-road tires (OTR tires). OTR tires are tires with an off road tire size designation. The tires included in the scope may be either tube-type¹⁰ 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 20 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.

¹⁰ While tube-type tires are subject to the scope of these proceedings, tubes and flaps are not subject merchandise and therefore are not covered by the scope of these proceedings, regardless of the manner in which they are sold (*e.g.*, sold with or separately from subject merchandise).

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.

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 OTR tires include:

The table of mining and logging tires included in the section on Truck-Bus tires;

The entire section on Off-the-Road tires;

The entire section on Agricultural tires; and

The following tables in the section on Industrial/ATV/Special Trailer tires:

- Industrial, Mining, Counterbalanced Lift Truck (Smooth Floors Only);
- Industrial and Mining (Other than Smooth Floors);
- Construction Equipment;
- Off-the-Road and Counterbalanced Lift Truck (Smooth Floors Only);
- Aerial Lift and Mobile Crane; and
- Utility Vehicle and Lawn and Garden Tractor.

OTR tires, whether or not mounted on wheels or rims, are included in the scope. However, if a subject tire is imported mounted on a wheel or rim, only the tire is covered by the scope. Subject merchandise includes OTR tires produced in the subject countries whether mounted on wheels or rims in a subject country or in a third country. OTR tires are covered whether or not they are accompanied by other parts, *e.g.*, a wheel, rim, axle parts, bolts, nuts, etc. OTR tires that enter attached to a vehicle are not covered by the scope.

In addition, specifically excluded from the scope are passenger vehicle and light truck tires, racing tires, mobile home tires, motorcycle tires, all-terrain vehicle tires, bicycle tires, on-road or on-highway trailer tires, and truck and bus tires. Such tires generally have in common that the symbol “DOT” must appear on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Such excluded tires may also have the following prefixes and suffixes included as part of the size designation on their sidewalls:

Prefix letter designations:

AT – Identifies a tire intended for service on All-Terrain Vehicles;

P – Identifies a tire intended primarily for service on passenger cars;

LT – Identifies a tire intended primarily for service on light trucks;

T – Identifies a tire intended for one-position “temporary use” as a spare only; and

ST – Identifies a special tire for trailers in highway service.

Suffix letter designations:

TR – Identifies a tire for service on trucks, buses, and other vehicles with rims having specified rim diameter of nominal plus 0.156” or plus 0.250”;

MH – Identifies tires for Mobile Homes;

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

Example: 8R17.5 LT, 8R17.5 HC;

LT – Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service;

ST – Special tires for trailers in highway service; and

M/C – Identifies tires and rims for motorcycles.

The following types of tires are also excluded from the scope: Pneumatic tires that are not new, including recycled or retreaded tires and used tires; non-pneumatic tires, including solid rubber tires; aircraft tires; and turf, lawn and garden, and golf tires. Also excluded from the scope are mining and construction tires that have a rim diameter equal to or exceeding 39 inches. Such

tires may be distinguished from other tires of similar size by the number of plies that the construction and mining tires contain (minimum of 16) and the weight of such tires (minimum 1500 pounds).

The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.20.1025, 4011.20.1035, 4011.20.5030, 4011.20.5050, 4011.61.0000, 4011.62.0000, 4011.63.0000, 4011.69.0090, 4011.92.0000, 4011.93.4000, 4011.93.8000, 4011.94.4000, 4011.94.8000, 8431.49.9038, 8431.49.9090, 8709.90.0020, and 8716.90.1020. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.99.4590, 4011.99.8590 , 8424.90.9080, 8431.20.0000, 8431.39.0010, 8431.49.1090, 8431.49.9030, 8432.90.0005, 8432.90.0015, 8432.90.0030, 8432.90.0080, 8433.90.5010, 8503.00.9560, 8708.70.0500, 8708.70.2500, 8708.70.4530, 8716.90.5035 and 8716.90.5055. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Postponement of Final Determination
- V. Scope of the Investigation
- VI. Scope Comments
- VII. Discussion of Methodology
 - A. Determination of the Comparison Method
 - B. Results of the Differential Pricing Analysis
- VIII. Date of Sale
- IX. Product Comparisons
- X. Export Price and Constructed Export Price
- XI. Normal Value
 - A. Home Market Viability
 - B. Affiliated Party Transactions and Arm's-Length Test
 - C. Level of Trade
 - D. Cost of Production Analysis
 - 1. Calculation of COP
 - 2. Test of Home Market Sale Prices
 - 3. Results of the COP Test
 - E. Calculation of NV Based on Comparison-Market Prices
- XII. Currency Conversion
- XIII. U.S. ITC Notification
- XIV. Disclosure and Public Comment
- XV. Verification
- XVI. Conclusion

[FR Doc. 2016-19867 Filed: 8/18/2016 8:45 am; Publication Date: 8/19/2016]