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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-912

New Pneumatic Off-The-Road Tires from the People's Republic of China: Initiation of Antidumping Duty New Shipper Review; 2015-2016

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

DATES: Effective [Insert date of publication in the *Federal Register*]

SUMMARY: On September 20, 2016, the Department of Commerce (“the Department”) received a timely request for a new shipper review (“NSR”) of the antidumping duty (“AD”) order on new pneumatic off-the-road tires (“OTR Tires”) from the People’s Republic of China (“PRC”). The Department has determined that the request meets the statutory and regulatory requirements for initiation. The period of review (“POR”) for this NSR is September 1, 2015, through August 31, 2016.

FOR FURTHER INFORMATION CONTACT: Alex Rosen, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: 202-482-7814.

SUPPLEMENTARY INFORMATION:

Background

The AD order on OTR Tires from the PRC was published in the *Federal Register* on September 4, 2008.¹ On September 20, 2016, pursuant to section 751(a)(2)(B)(i) of the Tariff

¹ See *New Pneumatic Off-The-Road Tires from the People’s Republic of China: Antidumping Duty Order*, 73 FR 51624 (September 4, 2008) (“Order”).

Act of 1930, as amended (“the Act”), and 19 CFR 351.214(b), the Department received a NSR request from The Carlstar Group LLC (“Carlstar Group”), Carlisle (Meizhou) Rubber Manufacturing Co., Ltd. (“Carlisle Meizhou”), and CTP Distribution (HK) Limited (“CTP”) (collectively, “Carlstar Companies”).² Carlstar Companies certified that CTP is the exporter of the subject merchandise upon which the request is based and that its affiliate, Carlisle Meizhou, is the producer of the subject merchandise.³

Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i), Carlstar Companies certified that it did not export subject merchandise to the United States during the period of investigation (“POI”).⁴ Further, Carlstar Companies certified that it is the producer of the subject merchandise upon which the request is based.⁵ In addition, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Carlstar Companies certified that, since the initiation of the investigation, it has never been affiliated with any PRC exporter or producer who exported subject merchandise to the United States during the POI, including those respondents not individually examined during the investigation.⁶ As required by 19 CFR 351.214(b)(2)(iii)(B), Carlstar Companies also certified that its export activities were not controlled by the government of the PRC.⁷

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2)(iv), Carlstar Companies submitted documentation establishing the following: (1) the date on which

² See Letter from Carlstar Companies, “Entry of Appearance and Request for New Shipper Review: New Pneumatic Off-The-Road Tires from the People’s Republic of China,” dated September 20, 2016 (“NSR Request”).

³ *Id.*, at 1 and Exhibit 1.

⁴ *Id.*, at 3.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

it first shipped subject merchandise for export to the United States; (2) the volume of its first shipment;⁸ and (3) the date of its first sale to an unaffiliated customer in the United States.⁹ Finally, the Department conducted a U.S. Customs and Border Protection (“CBP”) database query and confirmed the price, quantity, date of sale, and date of entry of Carlstar Companies’ sales, as well as that the shipment reported by Carlstar had entered the United States for consumption and that liquidation had been properly suspended for antidumping duties.¹⁰ However, the Department has concerns with certain information contained in the CBP entry data, and intends to address these, and any remaining issues, after initiation of this NSR. The continuation of the new shipper review will be contingent upon confirmation of the information reported in the review request.

Period of Review

In accordance with 19 CFR 351.214(g)(1)(i)(A), the POR for a NSR initiated in the month immediately following the anniversary month will be the twelve-month period immediately preceding the anniversary month. Therefore, the POR is September 1, 2015, through August 31, 2016.¹¹ Based on the information provided by Carlstar Companies, the subject merchandise upon which Carlstar Companies’ NSR request is based entered the United States during this twelve-month POR.¹²

Initiation of New Shipper Review

Pursuant to section 751(a)(2)(B) of the Act, 19 CFR 351.214(b), and 19 CFR 351.214(d)(1), and based on the evidence provided by Carlstar Companies, we find that its

⁸ *Id.*, at 4, where the Carlstar Companies stated that it had no subsequent shipments.

⁹ *Id.*, at Exhibits 2 - 6.

¹⁰ See Memorandum to the File from Alex Rosen, Analyst “U.S. Customs and Border Protection Import Data,” dated October 19, 2016.

¹¹ See 19 CFR 351.214(g)(1)(ii)(B).

¹² See NSR Request at 3.

request meets the threshold requirements for initiation of the NSR for shipments of OTR Tires from the PRC produced by Carlisle Meizhou and exported by CTP.¹³ If the information supplied by Carlstar Companies is found to be incorrect or insufficient during the course of this proceeding, the Department may rescind the review for Carlstar Companies or apply facts available pursuant to section 776 of the Act, depending on the facts on record.

Absent a determination that the new shipper review is extraordinarily complicated, the Department intends to issue the preliminary results of this NSR within 180 days from the date of initiation and the final results within 90 days after the date on which the preliminary results are issued.¹⁴

It is the Department's usual practice, in cases involving non-market economies ("NMEs"), to require that a company seeking to establish eligibility for an antidumping duty rate separate from the NME entity-wide rate provide evidence of *de jure* and *de facto* absence of government control over the company's export activities.¹⁵ Accordingly, we will issue questionnaires to Carlstar Companies that will include a section requesting information concerning CTP's eligibility for a separate rate. The NSR will proceed if the responses provide sufficient indication that CTP is not subject to either *de jure* or *de facto* government control with respect to its exports of subject merchandise.

On February 24, 2016, the President signed into law the Trade Facilitation and Trade Enforcement Act of 2015, H.R. 644, which made several amendments to section 751(a)(2)(B) of

¹³ See Memorandum to the File, from Alex Rosen, Analyst, "Initiation of Antidumping Duty New Shipper Review: New Pneumatic Off-The-Road Tires from the People's Republic of China New Shipper Initiation Checklist," dated concurrently with this notice.

¹⁴ See section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i).

¹⁵ See Import Administration Policy Bulletin, Number: 05.1. (<http://ia.ita.doc.gov/policy/bull05-1.pdf>).

the Act. We will conduct this NSR in accordance with section 751(a)(2)(B) of the Act, as amended by the *Trade Facilitation and Trade Enforcement Act of 2015*.¹⁶

Interested parties requiring access to proprietary information in this NSR should submit applications for disclosure under administrative protective order, in accordance with 19 CFR 351.305 and 19 CFR 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act, 19 CFR 351.214, and 19 CFR 351.221(c)(1)(i).

Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

¹⁶ Notably, the *Trade Facilitation and Trade Enforcement Act of 2015* removed from section 751(a)(2)(B) of the Act the provision directing the Department to instruct CBP to allow an importer the option of posting a bond or security in lieu of a cash deposit during the pendency of an NSR.

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