



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

C-570-041

Truck and Bus Tires from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination, in Part

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

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of truck and bus tires from the People's Republic of China (PRC). For information on the estimated subsidy rates, *see* the "Final Determination" section of this notice. The period of investigation is January 1, 2015, through December 31, 2015.

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

FOR FURTHER INFORMATION CONTACT: Jennifer Shore or Mark Kennedy, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2778 or (202) 482-7883, respectively.

Background

The Department published the *Preliminary Determination* on July 5, 2016.<sup>1</sup> A summary of the events that occurred since the Department published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found

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<sup>1</sup> *See Truck and Bus Tires From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination With Final Antidumping Determination*, 81 FR 43577 (July 5, 2016) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

in the Issues and Decision Memorandum.<sup>2</sup> The Issues and 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 Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic version are identical in content.

### Scope of the Investigation

The products covered by this investigation are truck and bus tires from the PRC. For a full description of the scope of the investigation, *see* Appendix I.

### Scope Comments

Since the *Preliminary Determination*, the Department has received comments on the scope of this investigation from the parties in this investigation. See Issues and Decision Memorandum for further details. The scope in Appendix I reflects the final scope language.

### Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix II.

### Use of Adverse Facts Available

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<sup>2</sup> See Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Truck and Bus Tires from the People's Republic of China," dated concurrently with this determination (Issues and Decision Memorandum) and hereby adopted by this notice.

In making this final determination, the Department relied, in part, on facts available and, because the Government of China and a respondent company did not act to the best of their abilities in responding to the Department's requests for information, we drew an adverse inference where appropriate in selecting from among the facts otherwise available, pursuant to section 776(a) and (b) of the Tariff Act of 1930, as amended, (the Act). For further information, see the section "Use of Facts Otherwise Available and Adverse Inferences" in the accompanying Issues and Decision Memorandum.

#### Changes Since the Preliminary Determination

Based on our analysis of information requested and received from the GOC and the company respondents since the *Preliminary Determination*, the results of verification, and the comments received from parties, we have made certain changes to the respondents' subsidy rate calculations. For discussion of these changes, see the Issues and Decision Memorandum.

#### Final Determination of Critical Circumstances, in Part

In the *Preliminary Determination*, the Department found that critical circumstances exist with respect to truck and bus tires from the PRC produced and/or exported by Guizhou Tyre Co., Ltd. (GTC) and its cross-owned trading company, Guizhou Tyre Import and Export Co., Ltd. (GTCIE), but did not exist for Double Coin or all other companies. Upon further analysis of the data following the *Preliminary Determination*, under section 705(a)(2) of the Act, we continue to find that critical circumstances do not exist with respect to imports of truck and bus tires from the PRC for Double Coin and that critical circumstances exist with respect to imports of truck and bus tires from the PRC for GTC and GTCIE. In addition, for purposes of this final determination, we find that critical circumstances exist with respect to imports of truck and bus

tires from the PRC for all other companies. A discussion of our determination can be found in the Issues and Decision Memorandum.

Final Determination

We determine that countervailable subsidies are being provided with respect to the manufacture, production, or exportation of the subject merchandise. In accordance with section 705(c)(1)(B)(i)(I) of the Act, we calculated a CVD rate for each individually-investigated producer/exporter of the subject merchandise. In accordance with section 705(c)(5)(A)(i) 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 mandatory 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 final determination was zero or *de minimis* or based entirely on facts otherwise available. In order to ensure that business proprietary information is not disclosed, we have calculated the all-others rate as a simple average of the countervailable subsidy rates found for the two mandatory respondents.<sup>3</sup>

We determine the countervailable subsidy rates to be:

<b>Company</b>	<b>Subsidy Rate (percent)</b>
Shanghai Huayi Group Corporation Limited; Double Coin Holdings Ltd.; Double Coin Group (Jiangsu) Tyre Co., Ltd.; Double Coin Group (Chongqing) Tyre Co., Ltd.; Double Coin Group Shanghai Donghai Tyre Co. Ltd.; Double Coin Group (Xinjiang) Kunlun Tyre Co., Ltd.	38.61
Guizhou Tyre Import and Export Co., Ltd.; Guizhou Tyre Co., Ltd.	65.46

<sup>3</sup> See Memorandum to the File, “Calculation of the All-Others Rate” dated concurrently with this final determination.

Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of truck and bus tires from the PRC exported by Double Coin and all other companies that were entered, or withdrawn from warehouse, for consumption on or after July 5, 2016, the date of the publication of the *Preliminary Determination* in the *Federal Register*. With respect to entries of subject merchandise exported by GTC and GTCIE, as a result of our preliminary affirmative critical circumstances determination, we instructed CBP to suspend liquidation of entries that were entered, or withdrawn from warehouse, for consumption on or after April 6, 2016, which is 90 days before the date of the publication of the *Preliminary Determination* in the *Federal Register*. At that time, we also instructed CBP to collect cash deposits of estimated countervailing duties at the rates determined in the *Preliminary Determination* for such entries of merchandise. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after November 2, 2016, but to continue the suspension of all entries from April 6, 2016, or July 5, 2016 (for GTC and GTCIE, or Double Coin and all other companies, respectively) through November 1, 2016, as appropriate.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order and will reinstate the suspension of liquidation under section 706(a) of the Act and will require a cash deposit of estimated CVDs for such entries of subject merchandise in the amounts indicated above. On the basis of our final affirmative critical circumstances determination, we will instruct CBP to suspend liquidation on entries of truck and

bus tires from China for all other companies effective April 6, 2016. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

#### ITC Notification

In accordance with section 705(d) 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 (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

#### Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

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Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

Dated: January 19, 2017.

## Appendix I

### Scope of the Investigation

The scope of the investigation covers truck and bus tires. Truck and bus tires are new pneumatic tires, of rubber, with a truck or bus size designation. Truck and bus tires covered by this investigation may be tube-type, tubeless, radial, or non-radial.

Subject tires have, at the time of importation, the symbol “DOT” on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have one of the following suffixes in their tire size designation, which also appear on the sidewall of the tire:

TR – Identifies tires for service on trucks or buses to differentiate them from similarly sized passenger car and light truck tires; and

HC – Identifies a 17.5 inch rim diameter code for use on low platform trailers.

All tires with a “TR” or “HC” suffix in their size designations are covered by this investigation regardless of their intended use.

In addition, all tires that lack one of the above suffix 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 “Truck-Bus” section of the *Tire and Rim Association Year Book*, as updated annually, unless the tire falls within one of the specific exclusions set out below.

Truck and bus 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 truck and bus tires produced in the subject country whether mounted on wheels or rims in the subject country or in a third country. Truck and bus tires are covered whether or not they are accompanied by other parts, *e.g.*, a wheel, rim, axle parts, bolts, nuts, etc. Truck and bus tires that enter attached to a vehicle are not covered by the scope.

Specifically excluded from the scope of this investigation are the following types of tires: (1) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires; (2) non-pneumatic tires, such as solid rubber tires; and (3) tires that exhibit each of the following physical characteristics: (a) the designation “MH” is molded into the tire’s sidewall as part of the size designation; (b) the tire incorporates a warning, prominently molded on the sidewall, that the tire is for “Mobile Home Use Only;” and (c) the tire is of bias construction as evidenced by the fact that the construction code included in the size designation molded into the tire’s sidewall is not the letter “R.”

The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.20.1015 and 4011.20.5020. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.69.0020,

4011.69.0090, 4011.70.00, 4011.90.80, 4011.99.4520, 4011.99.4590, 4011.99.8520, 4011.99.8590, 8708.70.4530, 8708.70.6030, 8708.70.6060, and 8716.90.5059.<sup>4</sup>

While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

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<sup>4</sup> On August 26, 2016, the Department included HTSUS subheadings 4011.69.0020, 4011.69.0090, and 8716.90.5059 to the case reference files, pursuant to requests by CBP and the petitioner. *See* Memorandum to the File entitled, “Requests from Customs and Border Protection and the Petitioner to Update the ACE Case Reference File,” dated August 26, 2016. On January 19, 2017, the Department included HTSUS subheadings 4011.70.00 and 4011.90.80 to the case reference files, pursuant to requests by CBP. *See* Memorandum to the File entitled, “Requests from Customs and Border Protection to Update the ACE Case Reference File,” dated January 19, 2017.

## Appendix II

### List of Topics Discussed in the Final Decision Memorandum

- I. Summary
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  - III. Scope of the Investigation
  - IV. Critical Circumstances
  - V. Application of the Countervailing Duty Law to Imports from the PRC
  - VI. Use of Facts Otherwise Available and Adverse Inferences
  - VII. Subsidies Valuation
  - VIII. Interest Rate Benchmarks; Discount Rates; Input, Electricity, and Land Benchmarks
  - IX. Analysis of Programs
  - X. Analysis of Comments
- Comment 1: Whether there is a Legal Basis for Investigating “Other” and/or “Discovered Subsidies
- Comment 2: Whether to Find Non-Use for the Export Buyer’s Credit Program
- Comment 3: Whether the Department was Able to Verify Non-Use with Exporters for the Export Buyer’s Credit Program
- Comment 4: Whether Information Provided by the Respondents is Sufficient for the Export Buyer’s Credit Program
- Comment 5: Whether to Find the Export Buyer’s Credit Program Countervailable as AFA
- Comment 6: Identification of an AFA Rate for the Export Buyer’s Credit Program
- Comment 7: Whether to Adjust the Ocean Freight and Import Duties Included in the Benchmarks for the Input for LTAR Calculations
- Comment 8: Whether the Ocean Freight Data includes “Aberrational” Prices
- Comment 9: Whether to Use Carbon Black World Market Prices Reported in US Dollars per MT
- Comment 10: Whether to Include Brokerage and Handling Costs in the Benchmarks for Carbon Black and Nylon Cord
- Comment 11: Whether to Average Benchmark Prices
- Comment 12: Whether to Use Actual Import Prices as the Benchmark for Measuring the Benefits from the Provision of Synthetic Rubber and Butadiene for LTAR
- Comment 13: Whether to Include in the Benefit Calculation Purchases of Synthetic Rubber and Butadiene Produced by a Russian Company
- Comment 14: Whether to Include in the Benefit Calculation Purchases of Inputs from Cross-Owned Affiliates
- Comment 15: Whether to Treat Double Coin as a Parent Company or a Producer for the Purposes of its Sales Denominator
- Comment 16: Whether to Adjust Double Coin’s Sales Denominator
- Comment 17: Whether to Recognize Double Coin’s 2016 Name Change
- Comment 18: Whether to Attribute to Double Coin Subsidies Received by Kunlun Engineering
- Comment 19: Whether to Attribute to Double Coin Subsidies Received by Tyre Research
- Comment 20: Whether to Adjust Guizhou Tyre’s Sales Denominator

- Comment 21: Whether to Include Land Purchases from Affiliates in Calculating the Benefits from the Provision of Land for LTARs
- Comment 22: Whether to Conduct the 0.5 Percent Test on the Basis of all Land Purchases in 2009
- Comment 23: Whether to Adjust the Benchmarks Used in the Measuring the Benefit from the Provision of Land for LTARs
- Comment 24: Whether to Adjustments the Calculations for the Provision of Land for LTARs for Guizhou Tyre
- Comment 25: Whether to Include “Fund” Amounts in the Electricity Price Paid by Guizhou Tyre
- Comment 26: Whether to Adjust the Electricity Benchmark
- Comment 27: Whether the Department Should Have Accepted Additional Loan and Grant Information Presented by Guizhou Tyre at Verification
- Comment 28: Whether to Apply AFA to Guizhou Tyre Regarding its Government Policy Lending Program
- Comment 29: What AFA Rate to Apply to Guizhou Tyre’s Government Policy Lending Program
- Comment 30: Whether to apply AFA to Grants First Identified at Verification
- Comment 31: Whether to Defer to the First Administrative Review the Investigation of Grants Presented by Guizhou Tyre at Verification
- Comment 32: Whether to Exclude Mobile Home Tires
- Comment 33: Whether to Limit the Exclusion of Tires Attached to Vehicles

XI. Recommendation

[FR Doc. 2017-01862 Filed: 1/26/2017 8:45 am; Publication Date: 1/27/2017]