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DEPARTMENT OF COMMERCE

International Trade Administration

(C-533-870, C-542-801)

Certain New Pneumatic Off-The-Road Tires from India and Sri Lanka: Amended Final Affirmative Countervailing Duty Determination for India and Countervailing Duty Orders

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC), the Department is issuing countervailing duty orders on certain new pneumatic off-the-road tires (off road tires) from India and Sri Lanka. In addition, the Department is amending its final determination with respect to India, as a result of ministerial errors.

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

FOR FURTHER INFORMATION, CONTACT: Gene Calvert (India); Whitley Herndon (Sri Lanka); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3586 or (202) 482-6274, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 705(d) and 777(i) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on January 10, 2017, the Department published its final determinations in the countervailing duty investigations of off road tires from India and Sri

Lanka.¹ On February 23, 2017, the ITC notified the Department of its final determination that an industry in the United States is materially injured by reason of subsidized imports of subject merchandise from India and Sri Lanka within the meaning of section 705(b)(1)(A)(i) of the Act, and its determination that critical circumstances do not exist with respect to imports of subject merchandise from India and Sri Lanka that are subject to the Department's affirmative critical circumstances finding.²

Scope of the Orders

The products covered by these orders are off road tires, which are tires with an off road tire size designation. For a complete description of the scope of the orders, *see* Appendix I.

Amendment to India Final Determination

On January 17, 2017, ATC Tires Private Limited (ATC) alleged that the Department made ministerial errors in the *India Final Determination*.³ A ministerial error is defined as an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.⁴

¹ *See Countervailing Duty Investigation of Certain New Pneumatic Off-the-Road Tires from India: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 82 FR 2946 (January 10, 2017) (*India Final Determination*); and *Certain New Pneumatic Off-the-Road Tires from Sri Lanka: Final Affirmative Countervailing Duty Determination, and Final Determination of Critical Circumstances*, 82 FR 2949 (January 10, 2017).

² *See* Letter to Ronald Lorentzen, Acting Assistant Secretary of Commerce for Enforcement and Compliance, from Rhonda K. Schmidlein, Chairman of the U.S. International Trade Commission, regarding off the road tires from the India and Sri Lanka (February 23, 2017). *See also Certain New Pneumatic Off-the-Road Tires from India and Sri Lanka*, Investigation Nos. 701-TA-552-553 and 731-TA-1308 (Final), USITC Publication 4669 (February 2017).

³ *See* Letter from ATC, "Certain New Pneumatic Off-the-Road Tires from India: Ministerial Error Comments on the Final Determination," dated January 17, 2017.

⁴ *See* section 705(e) of the Act.

The Department reviewed the record and agrees that the errors referenced in ATC's allegation constitute ministerial errors within the meaning of 19 CFR 351.224(f).⁵ Specifically, the Department double-counted the benefit ATC received through the Central Sales Tax Reimbursement Program and inadvertently treated a stamp duty exemption as a subsidy received during the POI when the record indicates it was received prior to the POI.⁶ Pursuant to 19 CFR 351.224(e), the Department is amending the *India Final Determination* to reflect the correction of the ministerial errors described above. Based on our correction, ATC's subsidy rate decreased from 4.90 percent to 4.72 percent.⁷ Because the "all-others" rate is based, in part, on ATC's subsidy rate, the "all-others" rate decreased from 5.06 percent to 4.94 percent.⁸

Countervailing Duty Orders

In accordance with sections 705(b)(1)(A)(i) and 705(d) of the Act, the ITC notified the Department of its final determinations that the industry in the United States producing off road tires is materially injured by reason of subsidized imports of off road tires from India and Sri Lanka and that critical circumstances do not exist with respect to imports of subject merchandise from India and Sri Lanka that are subject to the Department's affirmative critical circumstances findings. Therefore, in accordance with section 705(c)(2) of the Act, we are publishing these countervailing duty orders.

As a result of the ITC's final determination, in accordance with section 706(a) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by the Department, countervailing duties on unliquidated entries of off road tires entered, or withdrawn from warehouse, for consumption on or after June 20, 2016, the date on

⁵ See Memorandum to Jim Maeder, Senior Director for Antidumping and Countervailing Duty Operations "Countervailing Duty Investigation of Certain New Pneumatic Off-the-Road Tires from India: Ministerial Error Comments on the Final Determination" (February 27, 2017).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

which the Department published its preliminary countervailing duty determinations in the *Federal Register*,⁹ and before October 18, 2016, the date on which the Department instructed CBP to discontinue the suspension of liquidation on subject merchandise from India and Sri Lanka in accordance with section 703(d) of the Act. Section 703(d) of the Act states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for more than four months. Therefore, entries of off road tires from India and Sri Lanka made on or after October 18, 2016, and prior to the date of publication of the ITC's final determination in the *Federal Register* are not liable for the assessment of countervailing duties due to the Department's discontinuation, effective October 18, 2016, for off road tires from India and Sri Lanka, of the suspension of liquidation.

Suspension of Liquidation

In accordance with section 706 of the Act, the Department will direct CBP to reinstitute the suspension of liquidation of off road tires from India and Sri Lanka, effective the date of publication of the ITC's notice of final determination in the *Federal Register*, and to assess, upon further instruction by the Department pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates for the subject merchandise. On or after the date of publication of the ITC's final injury determination in the *Federal Register*, CBP must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the rates noted below:

⁹ See *Certain New Pneumatic Off-the-Road Tires From India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination With Final Antidumping Determination*, 81 FR 39903 (June 20, 2016); and *Certain New Pneumatic Off-the-Road Tires From Sri Lanka: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Determination*, 81 FR 39900 (June 20, 2016) (collectively, *CVD Preliminary Determinations*).

Producer/Exporter from India	Subsidy Rate (percent)
ATC Tires Private Limited	4.72 percent
Balkrishna Industries Limited	5.36 percent
All Others	4.94 percent

Producer/Exporter from Sri Lanka	Subsidy Rate (percent)
Camsco Loadstar (Private), Ltd.	2.18 percent
All Others	2.18 percent

Critical Circumstances

With regard to the ITC's negative critical circumstances determination on imports of off road tires from India and Sri Lanka, we will instruct CBP to lift suspension and to refund any cash deposits made to secure the payment of estimated countervailing duties with respect to entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after March 22, 2016 (*i.e.*, 90 days prior to the date of the publication of the *CVD Preliminary Determinations*), but before June 20, 2016 (*i.e.*, the date of publication of the *CVD Preliminary Determinations*).

Notifications to Interested Parties

This notice constitutes the countervailing duty orders with respect to off road tires from India and Sri Lanka, pursuant to section 706(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at <http://enforcement.trade.gov/stats/iastats1.html>.

These orders are issued and published in accordance with section 706(a) of the Act and
19 CFR 351.211(b).

Ronald K. Lorentzen

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

March 2, 2017

(Date)

Attachment I

Scope of the Orders

The scope of these orders 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-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.

SL – Service limited to agricultural usage.

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).

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 certain off road 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.

Certain off road 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 certain off road tires produced in the subject countries whether mounted on wheels or rims in a subject country or in a third country. Certain off road tires are covered whether or not they are accompanied by other parts, *e.g.*, a wheel, rim, axle parts, bolts, nuts, etc. Certain off road 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, 4011.70.0010, 4011.62.0000, 4011.80.1010, 4011.80.1020, 4011.90.1050, 4011.70.0050, 4011.80.2010, 4011.80.8010, 4011.80.2020, 4011.80.8020, 8431.49.9038, 8431.49.9090, 8709.90.0020, and 8716.90.1020.¹¹ Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.90.2050, 4011.90.8050, 8424.90.9080, 8431.20.0000, 8431.39.0010, 8431.49.1090, 8431.49.9030, 8432.90.0020, 8432.90.0040, 8432.90.0050, 8432.90.0060, 8432.90.0081, 8433.90.5010, 8503.00.9560, 8708.70.0500, 8708.70.2500, 8708.70.4530, 8716.90.5035, 8716.90.5056 and 8716.90.5059.¹² While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

¹¹ Prior to January 1, 2017, subject merchandise was classifiable under the following HTSUS numbers which have been deleted or discontinued: 4011.61.0000, 4011.63.0000, 4011.69.0050, 4011.92.0000, 4011.93.4000, 4011.93.8000, 4011.94.4000, and 4011.94.8000.

¹² Prior to January 1, 2017, tires meeting the scope description may also enter under the following HTSUS subheadings which have been deleted or discontinued: 4011.99.4550, 4011.99.8550, 8432.90.0005, 8432.90.0015, 8432.90.0030, 8432.90.0080, and 8716.90.5055.

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