



DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-869]

Certain New Pneumatic Off-the-Road Tires from India: Final Results of Antidumping Duty Administrative Review; 2021-2022

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

SUMMARY: The U.S. Department of Commerce (Commerce) finds that certain
producers/exporters subject to this administrative review made sales of subject merchandise at
less than normal value during the period of review (POR) March 1, 2021, through February 28,
2022.

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

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatrian or Caroline Carroll,
AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade
Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington,
DC 20230; telephone: (202) 482-6412 or (202) 482-4948, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 6, 2023, Commerce published the *Preliminary Results*.¹ On June 26, 2023,
Commerce extended the time period for issuing the final results of this review until October 3,
2023.² For a complete description of the events that occurred since the *Preliminary Results*, see

¹ See *Certain New Pneumatic Off-the-Road Tires from India: Preliminary Results of Antidumping Duty
Administrative Review; 2021-2022*, 88 FR 20471 (April 6, 2023) (*Preliminary Results*), and accompanying
Preliminary Decision Memorandum (PDM).

² See Memorandum, “Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2021-
2022,” dated June 26, 2023.

the Issues and Decision Memorandum.³ Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order⁴

The merchandise subject to the *Order* is certain new pneumatic off-the-road tires, which are tires with an off road tires size designation.⁵ 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. 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. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice in Appendix I. 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 <https://access.trade.gov>. In addition, a

³ See Memorandum, "Issues and Decision Memorandum for the Final Results of the 2021-2022 Administrative Review of the Antidumping Duty Order on Certain New Pneumatic Off-the-Road Tires from India," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁴ See *Certain New Pneumatic Off-the-Road Tires from India: Antidumping Duty Order*, 82 FR 12553 (March 6, 2017) (*Order*).

⁵ For a complete description of the scope of the *Order*, see *Preliminary Results PDM*.

complete version of the Issues and Decision Memorandum can be accessed directly at

<https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, we made certain changes to the margin calculations for ATC and ATF.⁶

Rates for Companies Not Selected for Individual Examination

Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance for calculating the rate for companies which were not selected for individual examination in an administrative review.

Under section 735(c)(5)(A) of the Act, the all-others rate is normally “an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.”

In this review, we calculated weighted-average dumping margins of 2.29 percent and 8.57 percent for ATC and ATF, respectively. With two respondents under individual examination, Commerce normally calculates: (A) a weighted-average of the estimated dumping rates calculated for the examined respondents; (B) a simple average of the estimated dumping rates calculated for the examined respondents; and (C) a weighted-average of the estimated dumping rates calculated for the examined respondents using each company’s publicly-ranged U.S. sale values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters.⁷

⁶ For a full description of changes, see Issues and Decision Memorandum.

⁷ See, e.g., *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010).

Consistent with our practice, we have determined that 2.56 percent, which is the weighted average of ATC and ATF's margins based on publicly ranged data, will be assigned to the non-examined companies under section 735(c)(5)(A) of the Act.⁸ These companies are listed in Appendix II.

Final Results of Review

As a result of this review, we determine the following estimated weighted-average dumping margins for the period March 1, 2021, through February 28, 2022:

| Producer or Exporter | Weighted-Average Dumping Margin (Percent) |
|---|--|
| ATC Tires Pvt. Ltd. | 2.29 |
| Asian Tire Factory Ltd. | 8.57 |
| Companies Not Selected for Individual Review ⁹ | 2.56 |

Disclosure

Commerce intends to disclose the calculations performed for ATC and ATF in connection with these final results to interested parties within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

Pursuant to 19 CFR 351.212(b)(1), because ATC reported the entered value of its U.S. sales, we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the sales for which entered value was reported. ATF did not report the actual entered value for its U.S. sales; thus, we calculated importer-specific per-unit duty assessment rates by aggregating the total amount of antidumping duties calculated for the examined sales and dividing this amount

⁸ See Memorandum, "Calculation of the Cash Deposit Rate for Non-Selected Companies," dated concurrently with this notice.

⁹ The exporters or producers not selected for individual review are listed in Appendix II.

by the total quantity of those sales. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For the companies not selected for individual review, we used an assessment rate based on the weighted average of the cash deposit rates calculated for ATC and ATF. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for the future deposits of estimated duties where applicable.¹⁰

Commerce's "automatic assessment" practice will apply to entries of subject merchandise during the POR produced by ATC or ATF for which the reviewed companies did not know that the merchandise they sold to the intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the *Federal Register*. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies covered in this review will be equal to the

¹⁰ See section 751(a)(2)(C) of the Act.

weighted-average dumping margin that is established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated or reviewed companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the cash deposit rate established for the most recently completed segment for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be zero percent, the all-others rate established in the LTFV investigation.¹¹ These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby

¹¹ See *Order*, 82 FR at 12554 (the dumping margin of 3.67 percent assigned to all other producers/exporters was adjusted for export subsidies found in the companion countervailing duty investigation).

requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 3, 2023.

Lisa W. Wang,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Margin Calculations
- IV. Discussion of the Issues
 - Comment 1: Whether Commerce Should Reconsider its Differential Pricing Analysis
 - Comment 2: Whether Commerce Should Make an Export Subsidy Adjustment for ATC
 - Comment 3: Whether to Deduct Countervailing Duties in the Net U.S. Price Calculation for ATC
 - Comment 4: Whether to Grant a Constructed Export Price (CEP) Offset for ATC
 - Comment 5: Whether Commerce Should Deduct Certain Duties ATC Reported from its Home Market Gross Unit Price
 - Comment 6: Assigning YOHTA as Importer for ATC
 - Comment 7: Miscellaneous Verification Issues for ATC
 - Comment 8: Treatment of ATF's Billing Adjustments as Freight Revenue
 - Comment 9: Inclusion of Certain Expenses in ATF's U.S. Duties
 - Comment 10: Whether Upward Adjustments to ATF's U.S. Gross Unit Price for Duty Drawback or Certain Other Programs are Warranted
 - Comment 11: Exclusion of Balkrishna Industries Ltd.'s (BKT's) Sales
 - Comment 12: ATC's General and Administrative (G&A) Expenses
 - Comment 13: ATC's Purchases of Electricity from Affiliated Parties
 - Comment 14: Whether ATC's Duties Paid on Raw Materials Should be Treated as Direct Selling Expenses
 - Comment 15: Interest Expense Adjustment for ATF
- V. Recommendation

Appendix II

List of Companies Not Selected for Individual Examination Receiving the Review-Specific Rate

1. Apollo Tyres Ltd.
2. Balkrishna Industries Ltd.¹²
3. Cavendish Industries Ltd.
4. CEAT Ltd.
5. Celite Tyre Corporation¹³
6. Emerald Resilient Tyre Manufacturer
7. Forech India Private Limited
8. HRI Tires India
9. Innovative Tyres & Tubes Limited
10. JK Tyres and Industries Ltd.
11. K.R.M. Tyres
12. M/S. Caroline Furnishers Pvt Ltd.
13. Mahansaria Tyres Private Limited
14. MRF Limited
15. MRL Tyres Limited (Malhotra Rubbers Ltd.)
16. OTR Laminated Tyres (I) Pvt. Ltd.
17. Rubberman Enterprises Pvt. Ltd.
18. Speedways Rubber Company
19. Sun Tyres & Wheel Systems
20. Sundaram Industries Private Limited
21. Superking Manufacturers (Tyre) Pvt., Ltd.
22. TVS Srichakra Limited

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¹² Subject merchandise produced and exported by Balkrishna Industries Ltd. (BKT) was excluded from the *Order*. See *Certain New Pneumatic Off-the-Road Tires from India: Notice of Correction to Antidumping Duty Order*, 82 FR 25598 (June 2, 2017). Accordingly, BKT is only covered by this administrative review for subject merchandise produced in India where BKT acted as either the manufacturer or exporter (but not both)

¹³ The name of this company was incorrectly listed as Celle Tyre Corporation in the *Preliminary Results*. See *Preliminary Results*, 88 FR at 20473.