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DEPARTMENT OF COMMERCE

International Trade Administration

C-570-041

Truck and Bus Tires from the People's Republic of China: Amended Final Determination and Countervailing Duty Order

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

SUMMARY: On November 1, 2018, the Court of International Trade (CIT) remanded the International Trade Commission's (ITC) negative injury determination on truck and bus tires from the People's Republic of China (China). On January 30, 2019, the ITC filed its remand determination, finding material injury to an industry in the United States by reason of imports of truck and bus tires from China. Based on affirmative final determinations by the Department of Commerce (Commerce) and the ITC, Commerce is issuing a countervailing duty order on truck and bus tires from the China. In addition, Commerce is amending its final determination to correct ministerial errors. Therefore, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation and collect cash deposits on entries of truck and bus tires from China at the *ad valorem* rates listed below.

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

FOR FURTHER INFORMATION CONTACT: Dana Mermelstein or Lana Nigro, 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) 482-1391 or (202) 482-1779, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 17, 2017, the ITC published its final determination that an industry in the United States was not materially injured or threatened with material injury by reason of imports of truck and bus tires from China.¹ The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC (the petitioner) challenged the ITC's final negative determination, and on November 1, 2018, the CIT remanded the determination to the ITC for reconsideration.² On January 30, 2019, upon remand, the ITC found that a U.S. industry is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act, by reason of subsidized imports of truck and bus tires from China.³ Further, the ITC determined that critical circumstances do not exist with respect to imports of truck and bus tires from China.

On February 8, 2019, pursuant to the U.S. Court of Appeals for the Federal Circuit's (CAFC) opinion in *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374, 1381 (Fed. Cir. 2010), the ITC notified Commerce of its determination upon remand.⁴ In *Diamond Sawblades*, the CAFC clarified that the same procedures for issuance of an order and collection of cash deposits apply when a material injury determination is made upon remand, and that the ITC should provide notice to Commerce of its remand determination at the time that it is issued, notwithstanding the pendency of ongoing litigation.⁵ Moreover, the Court held that Commerce's duty to publish an order is triggered by the ITC's notification of its affirmative injury determination, rather than the date of the publication of the notice of such determination.⁶

¹ See *Truck and Bus Tires from China*, 82 FR 14232 (March 17, 2017) (ITC Final Determination).

Scope of the Order

The products covered by this order are truck and bus tires from China. For a complete description of the scope of this order, *see* the Appendix to this notice.

Amendment to the *Final Determination*

On January 30, 2017, and February 1, 2017, Shanghai Huayi Group Corporation Limited (Double Coin) and Guizhou Tyre Co., Ltd. and Guizhou Tyre Import and Export Co., Ltd. (collectively GTC), respectively, timely alleged that the *Final Determination*⁷ contained certain ministerial errors and requested that Commerce correct such errors.

Commerce reviewed the record and on February 14, 2017, agreed that certain errors referenced in Double Coin's and GTC's allegations constitute ministerial errors within the meaning of section 705(e) of the Act and 19 CFR 351.224(f).⁸ Pursuant to 19 CFR 351.224(e), Commerce is amending the *Final Determination* to reflect the correction of the ministerial errors described in the *Ministerial Error Memorandum*.⁹ Based on our correction of the ministerial

² See *United Steel, Paper and Forestry, Rubber, Mfg., Energy, Allied Indus. and Serv. Workers Int'l Union v. United States*, Slip Op. 18-151 (CIT November 1, 2018).

³ See ITC Notification Letter to the Secretary of Commerce, referencing ITC Investigation Nos. 701-TA-556 and 731-TA-1311, dated February 8, 2019 (ITC Notification).

⁴ *Id.*

⁵ *Diamond Sawblades*, 626 F.3d at 1381-82.

⁶ *Id.* at 1379, n.2.

⁷ See *Truck and Bus Tires from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination, in Part*, 82 FR 8606 (January 27, 2019) (Final Determination).

⁸ See Memorandum, "Countervailing Duty Investigation of Truck and Bus Tires from the People's Republic of China: Allegations of Ministerial Errors," dated February 14, 2017 (Ministerial Error Memorandum).

⁹ This amended final determination recalculated the subsidy rates for certain LTAR programs that are used in the concurrent antidumping duty investigation for the calculation of domestic pass-through subsidy rate. These amended subsidy rates are as follows:

<u>Inputs Provided at LTAR</u>	Double Coin	GTC
Carbon Black	Same as Final	3.73%
Nylon Cord	Same as Final	4.05%
Natural Rubber	0.02%	Same as Final
Synthetic Rubber and Butadiene	2.35%	6.49%

Id.

errors in Double Coin’s calculation, the subsidy rate for Double Coin decreased from 38.61 *ad valorem* to 20.98 *ad valorem*.¹⁰ Based on our correction of the ministerial errors in GTC’s calculation, the subsidy rate for GTC decreased from 65.46 *ad valorem* to 63.34 percent *ad valorem*.¹¹ Because in the *Final Determination*, we based the “all-others” rate on Double Coin’s and GTC’s *ad valorem* subsidy rates, the corrections described above also required that we recalculate the “all-others” rate. This recalculation decreased the “all-others” rate determined in the *Final Determination* from 52.04 percent *ad valorem* to 42.16 percent *ad valorem*.¹²

Countervailing Duty Order

On February 8, 2019, in accordance with section 705(d) of the Act, the ITC notified Commerce of its remand determination in this investigation, in which it found that imports of truck and bus tires are materially injuring a U.S. industry.¹³ Therefore, in accordance with section 705(c)(2) of the Act, we are publishing this countervailing duty order.

Suspension of Liquidation

In accordance with section 706 of the Act, Commerce will direct CBP to reinstitute the suspension of liquidation of subject merchandise from China, effective the date of publication of this countervailing duty order in the *Federal Register*, and to assess, upon further instruction by Commerce 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 this countervailing duty order in the *Federal Register*, we will instruct CBP to require, at the same time as importers would normally deposit estimated duties on this merchandise, cash deposits for each entry of subject merchandise equal

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ See ITC Notification.

to the rates noted below. These instructions suspending liquidation will remain in effect until further notice. The “all-others” rate applies to all producers or exporters not specifically listed, as appropriate.

Company	Subsidy Rate
Guizhou Tyre Import and Export Co., Ltd; Guizhou Tyre Co., Ltd.	63.34 percent
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.	20.98 percent
All-Others	42.16 percent

Notifications to Interested Parties

This notice constitutes the countervailing duty order with respect to truck and bus tires from China pursuant to section 706(a) of the Act. Interested parties can find a list of countervailing duty orders currently in effect at <http://enforcement.trade.gov/stats/iastats1.html>.

This order is issued and published in accordance with section 706(a) of the Act and 19 CFR 351.211(b).

/S/ Christian Marsh

Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance

February 12, 2019

Date

Appendix

Scope of the Order

The scope of the order 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 8716.90.5059.¹⁴

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

¹⁴ On August 26, 2016, Commerce 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, Commerce 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.