

## VIII. Analysis of Programs

## IX. Analysis of Comments

Comment 1: Whether Tax and Import Duty Exemptions Under the Special Economic Zone (SEZ) and Export-Oriented Unit (EOU) Programs are Countervailable

Comment 2: Whether the Department Must Eliminate Certain Duties Regarding ATC's Tamil Nadu SEZ Location in the Final Determination

Comment 3: Whether the Advance Authorization Scheme (AAP) Is a Countervailable Program

Comment 4: Whether the Department Should Apply Adverse Facts Available (AFA) to Determine if the Government of Gujarat's (GOG) Provision of Land to BKT from the "Land Bank" was Specific

Comment 5: Whether the Department May Use Land Purchased by BKT from Private Parties as Benchmarks and Whether They Show the GOG, through the "Land Bank" Did Not Provide Land to BKT at LTAR

Comment 6: Whether ATC Benefited from the Provision of Land for LTAR for its SEZ/EOU Locations and Whether the Provision of Land to ATC is Contingent upon Export Performance

Comment 7: Whether the Department Should Revise the Benchmark for the Provision of Land Provided to ATC for its SEZ/EOU Locations

Comment 8: Whether the Department Should Revise the Discount Rate Used to Allocate ATC's Land-Use Rights Benefits for its SEZ/EOU Locations

Comment 9: Whether the Income Tax Deductions for Research and Development Expenditures Is a Specific Subsidy

Comment 10: Whether the Department Should Use a Six-Month Comparison Period for Its Final Critical Circumstances Determination

Comment 11: Whether the Department Should Correct Calculation Errors regarding ATC's Preliminary Determination Calculations

Comment 12: Whether the Department Should Apply AFA because of Information Obtained at Verification

Comment 13: Whether the Department Should Subtract BKT's Sales of its Paper Division from its Total Sales and Total Export Sales Denominators

Comment 14: Whether the Department Should Subtract Sales from BKT's Wind Divisions from its Total Sales and Total Export Sales Denominators

Comment 15: Whether the Department Should Use Total Sales Instead of Export Sales as the Denominator when Calculating the Rate for the Export Promotion of Capital Goods Scheme (EPCGS).

## X. Recommendation

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## DEPARTMENT OF COMMERCE

## International Trade Administration

[C-542-801]

**Certain New Pneumatic Off-the-Road Tires From Sri Lanka: Final Affirmative Countervailing Duty Determination, and Final Determination of Critical Circumstances**

**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 certain new pneumatic off-the-road tires (off road tires) from Sri Lanka. The period of investigation (POI) is January 1, 2015, through December 31, 2015. For information on the estimated subsidy rates, see the "Final Determination" section of this notice.

**DATES:** Effective January 10, 2017.

**FOR FURTHER INFORMATION CONTACT:** E. Whitley Herndon, Office II, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-6274.

**SUPPLEMENTARY INFORMATION:**

**Background**

The petitioners in this investigation are Titan Tire Corporation and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC. In addition to the Government of Sri Lanka, the mandatory respondent in this investigation is Camso Loadstar (Private) Ltd. (Camso Loadstar).

The events that occurred since the Department published the *Preliminary Determination*<sup>1</sup> on June 20, 2016, are discussed in the Issues and Decision Memorandum, which is hereby adopted by this notice.<sup>2</sup> The Issues and Decision

<sup>1</sup> See *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) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

<sup>2</sup> See Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, entitled, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain New Pneumatic Off-The-Road Tires from Sri Lanka," dated concurrently with this notice (Issues and Decision Memorandum).

Memorandum also details the changes we made since the *Preliminary Determination* to the subsidy rates calculated for the mandatory respondent and all other producers/exporters. 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/index.html>. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

**Scope of the Investigation**

The scope of the investigation covers off road tires, which are tires with an off road tire size designation. For a complete description of the scope of the investigation, see Appendix I.

**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 that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice as Appendix II.

**Changes Since the Preliminary Determination**

Based on our review and analysis of the comments received from parties, and minor corrections presented at verification, we made certain changes to Camso Loadstar's subsidy rate calculations since the *Preliminary Determination*. For a discussion of these changes, see the Issues and Decision Memorandum and the Final Analysis Memorandum.<sup>3</sup>

**Final Affirmative Determination of Critical Circumstances**

On May 24, 2016, the petitioners filed a timely critical circumstances allegation, pursuant to section 703(e)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.206(c)(1),

<sup>3</sup> See Memorandum "Final Determination Calculation Memorandum for Camso Loadstar (Private) Ltd. and Loadstar (Private) Ltd. (collectively Camso Loadstar)," dated concurrently with this notice (Final Analysis Memorandum).

alleging that critical circumstances exist with respect to imports of off road tires from Sri Lanka.<sup>4</sup> We preliminarily determined that critical circumstances exist for Camso Loadstar and the companies covered by the “all others” rate. For this final determination, in accordance with section 705(a) of the Act, we continue to find that critical circumstances exist for Camso Loadstar and the companies covered by the “all others” rate. For a discussion, see the “Critical Circumstances” section and “Comment 7” of the Issues and Decision Memorandum.

**Final Determination**

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we calculated a rate for Camso Loadstar (the only individually investigated exporter/producer of subject merchandise). Section 705(c)(5)(A)(i) of the Act states that, for companies not individually investigated, we will determine an “all others” rate equal to the weighted-average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act. Where the rates for investigated companies are zero or *de minimis*, or based entirely on facts otherwise available, section 705(c)(5)(A)(ii) of the Act instructs the Department to establish an “all others” rate using “any reasonable method.”

Because the only individually calculated rate is not zero, *de minimis*, or based entirely on facts otherwise available, in accordance with 705(c)(5)(A)(i) of the Act, the rate calculated for Camso Loadstar is assigned as the all-others rate. We determine the total estimated net countervailable subsidy rates to be:

Company	Subsidy rate (percent)
Camso Loadstar (Private), Ltd. ....	2.18
All Others .....	2.18

**Suspension of Liquidation**

As a result of our affirmative Preliminary Determination and our affirmative critical circumstances determination, pursuant to sections 703(d) and 703(e)(2)(A) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise from

<sup>4</sup> See Letter from Petitioners, regarding Certain New Pneumatic Off-The-Road Tires from Sri Lanka—Petitioners’ Critical Circumstances Allegation, dated May 24, 2016.

Sri Lanka which were entered or withdrawn from warehouse, for consumption on or after March 22, 2016, which is 90 days before the date of the publication of the Preliminary Determination in the Federal Register.<sup>5</sup>

In accordance with section 703(d) of the Act, we later issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after October 18, 2016, but to continue the suspension of liquidation of all entries from March 22, 2016, through October 17, 2016, as appropriate.

We will issue a CVD order and reinstate the suspension of liquidation in accordance with our final determination and under section 706(a) of the Act if the United States International Trade Commission (ITC) issues a final affirmative injury determination, and we will instruct CBP to require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. 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 as a result of the suspension of liquidation will be refunded.

**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 related 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 the 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

<sup>5</sup> See Preliminary Determination.

APO is a violation which is subject to sanction.

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

Dated: January 3, 2017.

**Paul Piquado,**

Assistant Secretary for Enforcement and Compliance.

**Appendix I**

**Scope of the Investigation**

The scope of this investigation 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-type<sup>6</sup> 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.

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,

<sup>6</sup> While tube-type tires are subject to the scope of this proceeding, tubes and flaps are not subject merchandise and therefore are not covered by the scope of this proceeding, regardless of the manner in which they are sold (e.g., sold with or separately from subject merchandise).

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.

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, 4011.61.0000, 4011.62.0000, 4011.63.0000, 4011.69.0050, 4011.92.0000, 4011.93.4000, 4011.93.8000, 4011.94.4000, 4011.94.8000, 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: 4011.99.4550, 4011.99.8550, 8424.90.9080, 8431.20.0000, 8431.39.0010, 8431.49.1090, 8431.49.9030, 8432.90.0005, 8432.90.0015, 8432.90.0030, 8432.90.0080, 8433.90.5010, 8503.00.9560, 8708.70.0500, 8708.70.2500, 8708.70.4530, 8716.90.5035 and 8716.90.5055. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

## Appendix II

### List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. List of Issues
- IV. Subsidies Valuation Information
- V. Critical Circumstances
- VI. Analysis of Programs
- VII. Analysis of Comments

Comment 1: Whether Camso Loadstar Benefited from Exemptions/Concessions for Fiscal Levies on Imports of Spare Parts

Comment 2: Whether the Provision of Tax Concession for Exporters of Non-Traditional Products Program is Countervailable

Comment 3: Whether the Nation Building Tax Preferences Program is Specific and Constitutes a Financial Contribution

Comment 4: Whether Camso Loadstar Benefited from the Guaranteed Price Scheme for Rubber

Comment 5: Whether to Use U.S. Dollar Amounts Recorded by Camso Loadstar to Determine Subsidy Rates

Comment 6: Whether to Use Camso Loadstar's Revised FOB Sales Data for Denominator

Comment 7: Whether the Department Should Continue to Find Critical Circumstances

Comment 8: Whether to Terminate the Investigation

VIII. Recommendation

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

**FOR FURTHER INFORMATION CONTACT:** Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482-4735.

#### Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended ("the Act"), may request, in accordance with 19 CFR 351.213, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

#### Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection ("CBP") data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order ("APO") to all parties having an APO within five days of publication of the