

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-912]

Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Preliminary Results of Changed Circumstances Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On November 10, 2009, the Department of Commerce ("the Department") published in the **Federal Register** a notice of initiation of a changed circumstances review of the antidumping duty order on certain new pneumatic off-the-road ("OTR") tires from the People's Republic of China ("PRC") in order to determine whether Mai Shandong Radial Tyre Co., Ltd. ("Mai Shandong") is the successor-in-interest to Shandong Jinyu Tyre Co., Ltd. ("Shandong Jinyu") for the purpose of determining antidumping duty liability. We have preliminarily determined that Mai Shandong is not the successor-in-interest to Shandong Jinyu for the purpose of determining antidumping duty liability. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 8, 2010.

FOR FURTHER INFORMATION CONTACT: Raquel Silva, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: 202-482-6475.

SUPPLEMENTARY INFORMATION:**Background**

On September 4, 2008, the Department published in the **Federal Register** an antidumping duty order on OTR tires from the PRC. See *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Notice of Amended Final Affirmative Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 73 FR 51624 (September 4, 2008) ("Order"). As part of the Order, Shandong Jinyu received the separate-rate respondent amended rate of 12.91 percent. *Id.* at 51627. On September 14, 2009, Mai Shandong filed a submission requesting that the Department conduct a changed circumstances review of the Order to confirm that it is the successor-in-interest to Shandong Jinyu.¹ In its submission, Mai Shandong

provided the Joint Venture Contract, Articles of Association and various other documents confirming: 1) an approximately 90-percent transfer of OTR tire assets from Shandong Jinyu to Maitech Fin S.r.l. (now known as Mai International); and 2) the resulting formation of the Mai Shandong joint venture. In addition, Mai Shandong provided narrative explanation and limited documentation relating to the management, production facilities and process, customer base, supplier relationships, distribution and marketing channels and product mix of both it and the company as it previously operated as Shandong Jinyu. As part of its September 14, 2009 submission, Mai Shandong requested that the Department conduct an expedited review.

In response to the request, the Department initiated a changed circumstances review of Mai Shandong on November 10, 2009. See *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Initiation of Changed Circumstances Review*, 74 FR 57999 (November 10, 2009). However, the Department found conclusive evidence lacking and, therefore, determined an expedited preliminary result was not appropriate. *Id.* at 58001. Subsequent to initiation, the Department issued, and Mai Shandong responded to, several supplemental questionnaires requesting additional information.

Scope of the Order

The products covered by the order are new pneumatic tires designed for off-the-road and off-highway use, subject to exceptions identified below. Certain OTR tires are generally designed, manufactured and offered for sale for use on off-road or off-highway surfaces, including but not limited to, agricultural fields, forests, construction sites, factory and warehouse interiors, airport tarmacs, ports and harbors, mines, quarries, gravel yards, and steel mills. The vehicles and equipment for which certain OTR tires are designed for use include, but are not limited to: (1) agricultural and forestry vehicles and equipment, including agricultural tractors,² combine harvesters,³ agricultural high clearance sprayers,⁴

industrial tractors,⁵ log-skidders,⁶ agricultural implements, highway-towed implements, agricultural logging, and agricultural, industrial, skid-steers/mini-loaders;⁷ (2) construction vehicles and equipment, including earthmover articulated dump products, rigid frame haul trucks,⁸ front end loaders,⁹ dozers,¹⁰ lift trucks, straddle carriers,¹¹ graders,¹² mobile cranes,¹³ compactors; and (3) industrial vehicles and equipment, including smooth floor, industrial, mining, counterbalanced lift trucks, industrial and mining vehicles other than smooth floor, skid-steers/mini-loaders, and smooth floor off-the-road counterbalanced lift trucks.¹⁴ The foregoing list of vehicles and equipment generally have in common that they are used for hauling, towing, lifting, and/or loading a wide variety of equipment and materials in agricultural, construction and industrial settings. Such vehicles and equipment, and the descriptions contained in the footnotes are illustrative of the types of vehicles and

⁵ Industrial tractors are dual-axle vehicles that typically are designed to pull industrial equipment and that may have front tires of a different size than the rear tires.

⁶ A log-skidder has a grappling lift arm that is used to grasp, lift and move trees that have been cut down to a truck or trailer for transport to a mill or other destination.

⁷ Skid-steer loaders are four-wheel drive vehicles with the left-side drive wheels independent of the right-side drive wheels and lift arms that lie alongside the driver with the major pivot points behind the driver's shoulders. Skid-steer loaders are used in agricultural, construction and industrial settings.

⁸ Haul trucks, which may be either rigid frame or articulated (*i.e.*, able to bend in the middle) are typically used in mines, quarries and construction sites to haul soil, aggregate, mined ore, or debris.

⁹ Front loaders have lift arms in front of the vehicle. They can scrape material from one location to another, carry material in their buckets, or load material into a truck or trailer.

¹⁰ A dozer is a large four-wheeled vehicle with a dozer blade that is used to push large quantities of soil, sand, rubble, *etc.*, typically around construction sites. They can also be used to perform "rough grading" in road construction.

¹¹ A straddle carrier is a rigid frame, engine-powered machine that is used to load and offload containers from container vessels and load them onto (or off of) tractor trailers.

¹² A grader is a vehicle with a large blade used to create a flat surface. Graders are typically used to perform "finish grading." Graders are commonly used in maintenance of unpaved roads and road construction to prepare the base course on to which asphalt or other paving material will be laid.

¹³ *I.e.*, "on-site" mobile cranes designed for off-highway use.

¹⁴ A counterbalanced lift truck is a rigid framed, engine-powered machine with lift arms that has additional weight incorporated into the back of the machine to offset or counterbalance the weight of loads that it lifts so as to prevent the vehicle from overturning. An example of a counterbalanced lift truck is a counterbalanced fork lift truck. Counterbalanced lift trucks may be designed for use on smooth floor surfaces, such as a factory or warehouse, or other surfaces, such as construction sites, mines, *etc.*

¹ See Letter from Mai Shandong to the Department regarding *Certain New Pneumatic Off-The-Road Tires from the People's Republic of*

China, Request for Changed Circumstances Review (Case No. A-570-912) (September 14, 2009).

² Agricultural tractors are dual-axle vehicles that typically are designed to pull farming equipment in the field and that may have front tires of a different size than the rear tires.

³ Combine harvesters are used to harvest crops such as corn or wheat.

⁴ Agricultural sprayers are used to irrigate agricultural fields

equipment that use certain OTR tires, but are not necessarily all-inclusive. While the physical characteristics of certain OTR tires will vary depending on the specific applications and conditions for which the tires are designed (e.g., tread pattern and depth), all of the tires within the scope have in common that they are designed for off-road and off-highway use. Except as discussed below, OTR tires included in the scope of the order range in size (rim diameter) generally but not exclusively from 8 inches to 54 inches. The tires may be either tube-type¹⁵ or tubeless, radial or non-radial, and intended for sale either to original equipment manufacturers or the replacement market. The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States ("HTSUS") subheadings: 4011.20.10.25, 4011.20.10.35, 4011.20.50.30, 4011.20.50.50, 4011.61.00.00, 4011.62.00.00, 4011.63.00.00, 4011.69.00.00, 4011.92.00.00, 4011.93.40.00, 4011.93.80.00, 4011.94.40.00, and 4011.94.80.00. While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

Specifically excluded from the scope are new pneumatic tires designed, manufactured and offered for sale primarily for on-highway or on-road use, including passenger cars, race cars, station wagons, sport utility vehicles, minivans, mobile homes, motorcycles, bicycles, on-road or on-highway trailers, light trucks, and trucks and buses. 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 designations that are used by the Tire and Rim Association:

Prefix letter designations:

- P - Identifies a tire intended primarily for service on passenger cars;
- LT - Identifies a tire intended primarily for service on light trucks; 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

¹⁵ 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).

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; and
- MC - 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; tires of a kind designed for use on aircraft, all-terrain vehicles, and vehicles for turf, lawn and garden, golf and trailer applications. Also excluded from the scope are radial and bias tires of a kind designed for use in mining and construction vehicles and equipment 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).

Preliminary Results of the Review

In this changed circumstances review pursuant to section 751(b) of the Tariff Act of 1930, as amended (the "Act"), the Department has conducted a successor-in-interest analysis. In making a successor-in-interest determination, the Department examines several factors, including, but not limited to, changes in the following: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base. See, e.g., *Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber From Japan*, 67 FR 58 (January 2, 2002). While no single factor or combination of factors will necessarily provide a dispositive indication of a successor-in-interest relationship, generally, the Department will consider the new company to be the successor to the previous company if the new company's resulting operation is not materially dissimilar to that of its predecessor. See, e.g., *Fresh and Chilled Atlantic Salmon From*

Norway; Final Results of Changed Circumstances Antidumping Duty Administrative Review, 64 FR 9979, 9980 (March 1, 1999). Thus, if the record evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, the Department may assign the new company the cash deposit rate of its predecessor.

In accordance with 19 CFR 351.221(c)(3)(i), we preliminarily determine that Mai Shandong, formed by an approximately 90-10 ownership joint venture of Mai International and Shandong Jinyu, respectively, is not the successor-in-interest to Shandong Jinyu. While the record evidence indicates that Mai Shandong retained identical production facilities, distribution channels and similar suppliers to Shandong Jinyu, it also indicates that Mai Shandong's ownership, management composition, corporate structure and sales/marketing operations changed significantly from that of Shandong Jinyu. The remaining business characteristics (e.g., production process) changed moderately, but not sufficiently to warrant elaboration.

While Mai Shandong claims that the majority of its personnel transferred from Shandong Jinyu, none of Shandong Jinyu's executive-level managers remain in Mai Shandong. Furthermore, Mai Shandong is now governed by a Board of Directors, in which Mai Shandong's new Italian parent company retains two-thirds control overall of Mai Shandong's major operational decisions.

With respect to corporate and operational structure, the new entity no longer has its own independent human resources, raw material processing, corporate-level research and development or sales capabilities. Shandong Jinyu conducted those business functions for itself whereas Mai Shandong depends on its parent companies for each of those functions. For further information, please see Memorandum from Raquel Silva, Analyst, regarding "Analysis Memo for Preliminary Results of Antidumping Duty Changed Circumstances Review of New Pneumatic Off-the-Road Tires from the People's Republic of China," dated concurrently with the signature date of this notice ("Preliminary Results Analysis Memo").

Finally, Mai Shandong's sales and marketing operations are now highly dependent upon its Italian parent. Mai Shandong retains an employee partially dedicated to sales activities; the employee plays a supportive, but not leading role. It also routes all sales

through Mai International, selling no product directly to customers as Shandong Jinyu had done. Additionally, Mai Shandong has not sold any product to any of Shandong Jinyu's former U.S. customers. The evidence on the record also shows a significant change in customer base. For further information, please see the Preliminary Results Analysis Memo.

Therefore, we preliminarily find that the record evidence does not support Mai Shandong's claim that it is the successor-in-interest to Shandong Jinyu. Mai International's acquisition of approximately 90 percent equity in Shandong Jinyu's OTR tires business resulted in a joint venture that is majority owned and operated by a new, foreign entity, with a new corporate structure, changed management, and significantly altered sales and marketing operations. Therefore, given the totality of the considered factors, the record evidence demonstrates that Mai Shandong is a new entity that operates in a significantly different manner from Shandong Jinyu. Consequently, we preliminarily determine that Mai Shandong should not be given the same antidumping duty treatment as Shandong Jinyu, *i.e.*, the separate rate status previously afforded to Shandong Jinyu and the accompanying 12.91 percent antidumping duty cash deposit rate. Instead, Mai Shandong, as a new entity, should continue to be treated as part of the PRC-wide entity until such time as it demonstrates that it meets the separate rates criteria established by the Department and assigned, as its cash deposit rate, the "PRC-wide entity" rate, which in this proceeding is 210.48 percent.

The cash deposit determination from this changed circumstances review will apply to all entries of the subject merchandise entered or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this changed circumstances review. *See Granular Polytetrafluoroethylene Resin from Italy: Final Results of Changed Circumstances Review*, 68 FR 25327 (May 12, 2003). This deposit rate shall remain in effect until further notice.

Public Comment

Any interested party may request a hearing within 10 days of publication of this notice in accordance with 19 CFR 351.310(c). Interested parties may submit case briefs no later than 14 days after the date of publication of this notice, in accordance with 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the

case briefs, in accordance with 19 CFR 351.309(d)(1). Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. See 19 CFR 351.310(d). The Department will issue its final results of review within 270 days after the date on which the changed circumstances review was initiated, in accordance with 19 CFR 351.216(e), and will publish these results in the **Federal Register**.

This notice is published in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216 of the Department's regulations.

Dated: June 1, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XW73

Fisheries of the Exclusive Economic Zone off Alaska; Chinook Salmon Bycatch Data Collection; Workshop for Industry Review of Data Forms

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public workshop.

SUMMARY: NMFS announces a workshop to solicit comments from the Bering Sea pollock trawl industry on data forms for evaluating the Bering Sea Chinook salmon bycatch management program that will be implemented under Amendment 91 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area. The workshop is open to the public, but NMFS is particularly seeking participation by members of the Bering Sea pollock trawl fishery who are knowledgeable about industry plans and operations for avoiding Chinook salmon bycatch.

DATES: The public workshop will be held June 21, 2010, 9 a.m. to 5 p.m. Pacific Standard Time.

ADDRESSES: The review will be held at the NMFS Alaska Fisheries Science Center, 7600 Sand Point Way N.E., Building 4, Rm 2076 - Traynor Conference Room, Seattle, WA 98115. Photo identification is required to enter this facility.

FOR FURTHER INFORMATION CONTACT: Ron Felthoven, 206-526-4114.

SUPPLEMENTARY INFORMATION: National Marine Fisheries Service (NMFS) Alaska Fisheries Science Center (AFSC) staff are hosting a public workshop to solicit comments on data forms related to the Bering Sea Chinook salmon bycatch data collection program. This program was recommended by the North Pacific Fisheries Management Council at its December 2009 meeting and will be implemented under Amendment 91. AFSC staff will use the results of the workshop to refine the data forms and to evaluate the effectiveness of the program. The workshop is open to the public, but NMFS is particularly seeking participation by members of the Bering Sea pollock trawl fishery who are knowledgeable about the operations and plans for avoidance of Chinook salmon bycatch. NMFS invites owners and operators of American Fisheries Act (AFA) catcher/vessels, catcher/processors, motherships, and Community Development Quota (CDQ) groups to comment on the clarity of the questions in the data forms and contribute advice based on their knowledge of pollock fishing operations.

Special Accommodations

This workshop will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ron Felthoven, 206-526-4114, at least 10 working days prior to the workshop date.

Dated: June 3, 2010.

Carrie Selberg,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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