

Dated: August 5, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

## Appendix I

### List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
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## 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 Antidumping Duty Administrative Review; 2017-2018

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

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that Weihai Zhongwei Rubber Co., Ltd. (Zhongwei), an exporter of certain new pneumatic off-the-road tires (OTR tires) from the People's Republic of China (China), did not sell merchandise in the United States at prices below normal value (NV) during the period of review (POR) September 1, 2017 through August 31, 2018. We invite interested parties to comment on these preliminary results.

**DATES:** Applicable August 23, 2019.

**FOR FURTHER INFORMATION CONTACT:** Keith Haynes, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-5139.

#### SUPPLEMENTARY INFORMATION:

##### Background

On September 11, 2018, Commerce published a notice of opportunity to request an administrative review of the antidumping duty (AD) order on OTR tires from China for the period September 1, 2017 through August 31,

2018.<sup>1</sup> Based on requests by interested parties, Commerce initiated an administrative review on five exporters of OTR tires.<sup>2</sup> On January 31, 2019, we selected two mandatory respondents for individual examination in this review: Triangle Tyre Co. Ltd. (Triangle) and Weihai Zhongwei Rubber Co. Ltd. (Zhongwei).<sup>3</sup> Pursuant to timely withdrawal of review requests, Commerce rescinded the review on April 11, 2019, with respect to three exporters upon which the review was initiated, including mandatory respondent Triangle.<sup>4</sup> Accordingly, this administrative review covers one mandatory respondent, Zhongwei, and one separate rate respondent Qingdao Honghua Tyre Factory (Honghua).

On January 28, 2019, Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.<sup>5</sup> In this case, the original deadline for the preliminary results of the underlying administrative review was June 3, 2019.<sup>6</sup> Thus, the revised initial deadline for the preliminary results in this review was tolled to July 12, 2019.

On June 19, 2019, pursuant to section 751(a)(3)(A) Tariff Act of 1930, as amended (the Act), we determined that it was not practicable to complete the preliminary results of this review within

<sup>1</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 45888 (September 11, 2018).

<sup>2</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 57411 (November 15, 2018).

<sup>3</sup> See Memorandum, "Administrative Review of Certain New Pneumatic Off-the-Road Tires from the People's Republic of China," dated January 31, 2019.

<sup>4</sup> See *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Notice of Partial Rescission of the Antidumping Duty Administrative Review; 2017-2018*, 84 FR 13633 (April 5, 2019); see also *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Notice of Correction to the Partial Rescission of the Antidumping Duty Administrative Review; 2017-2018*, 84 FR 15179 (April 15, 2019).

<sup>5</sup> See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

<sup>6</sup> The calculated initial deadline of June 2, 2019 was a Sunday. Commerce's practice dictates that where a deadline falls on a weekend or a federal holiday, the appropriate deadline is the next business day. See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

245 days.<sup>7</sup> Thus, we postponed the preliminary results by 35 days.<sup>8</sup> The revised deadline for the preliminary results in this review is now August 16, 2019.

For a complete description of the events that followed the initiation of this administrative review, see the Preliminary Decision Memorandum.<sup>9</sup> The Preliminary 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>, and is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

##### Scope of the Order

The merchandise covered by this order includes new pneumatic tires designed for off-the-road and off-highway use, subject to certain exceptions. 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. The HTSUS subheadings are provided for convenience and customs purposes only; the written product description of the scope of the order is dispositive. For a complete description of the scope of the order, see the Preliminary Decision Memorandum.<sup>10</sup>

##### Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) and 751(a)(2)(A) of the Act. Export

<sup>7</sup> See Memorandum, "New Pneumatic Off-The-Road Tires from the People's Republic of China: Extension of Deadline for Preliminary Results of the 2017-2018 Antidumping Duty Administrative Review," dated June 19, 2019.

<sup>8</sup> *Id.* at 2.

<sup>9</sup> See Memorandum, "Decision Memorandum for Preliminary Results of the Antidumping Duty Administrative Review: Certain New Pneumatic Off-the-Road Tires from the People's Republic of China; 2017-2018," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>10</sup> *Id.*

prices have been calculated in accordance with section 772(a) of the Act. Because China is a non-market economy within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum.

**China-Wide Entity**

Commerce’s policy regarding conditional review of the China-wide entity applies to this administrative review.<sup>11</sup> Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity in this review, and we did not self-initiate a review of the entity, the entity is not under review and the entity’s rate (*i.e.*, 105.31 percent) is not subject to change.<sup>12</sup>

**Separate Rates**

Commerce preliminarily determines that information placed on the record by Zhongwei and Honghua demonstrates that these companies are entitled to separate rate status.<sup>13</sup> For additional information, see the Preliminary Decision Memorandum.

**Dumping Margins for Separate Rate Company**

The statute and Commerce’s regulations do not address what rate to apply to respondents not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. 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 when calculating the rate for non-selected respondents that are not examined individually in an administrative review. Section 735(c)(5)(A) of the Act states that the all-others rate should be calculated by averaging the weighted-

average dumping margins for individually-examined respondents, excluding rates that are zero, *de minimis*, or based entirely on facts available. Where the rates for the individually examined companies are all zero, *de minimis*, or based entirely on facts available, section 735(c)(5)(B) of the Act provides that Commerce may use “any reasonable method” to establish the all-others rate. As the margin preliminarily calculated for the mandatory respondent, Zhongwei, is zero, we preliminarily assigned Honghua, the sole separate-rate respondent not selected for individual examination in this review, a separate rate margin based on Zhongwei’s weighted-average dumping margin, which we find to be reasonable and consistent with practice.<sup>14</sup>

**Preliminary Results of Review**

We preliminarily determine that the following weighted-average dumping margins exist for the period September 1, 2017 through August 31, 2018:

Exporter	Weighted-average dumping margin (percent)
Weihai Zhongwei Rubber Co., Ltd .....	0.00
Qingdao Honghua Tyre Factory	0.00

**Disclosure and Public Comment**

Commerce intends to disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs within 30 days after the date of publication of these preliminary results of review in the **Federal Register**.<sup>15</sup> Rebuttals to case briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the time limit for filing case briefs.<sup>16</sup> Parties who submit arguments are requested to submit with the argument (a) a statement of the issue, (b) a brief summary of the argument, and (c)

a table of authorities.<sup>17</sup> Parties submitting briefs should do so pursuant to Commerce’s electronic filing system, ACCESS.<sup>18</sup>

Any interested party may request a hearing within 30 days of publication of this notice.<sup>19</sup> 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, 1401 Constitution Avenue NW, Washington, DC 20230.<sup>20</sup>

Commerce intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

**Assessment Rates**

Upon issuance of the final results, Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.<sup>21</sup> Commerce intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

If Zhongwei’s weighted-average dumping margin is not zero or *de minimis* (*i.e.*, less than 0.5 percent) in the final results of this review, Commerce will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer’s examined sales to the total entered value of sales, in accordance with 19 CFR 351.212(b)(1). For customers or importers of Zhongwei for which we received entered-value information, we have calculated importer-(or customer-) specific antidumping duty assessment rates based on importer-(or customer-) specific *ad valorem* rates.<sup>22</sup> Where an importer-or (customer-) specific *ad valorem* rate is greater than *de minimis*, Commerce will instruct CBP to collect the appropriate duties at the time of liquidation.<sup>23</sup> If Zhongwei’s weighted-average dumping margin is zero or *de*

<sup>11</sup> See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

<sup>12</sup> See *Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013*, 80 FR 20197 (April 15, 2015).

<sup>13</sup> See Zhongwei’s March 11, 2019 Section A Questionnaire Response at 2–14; see also Honghua’s Letter, “Separate Rate Application: Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China,” dated December 14, 2018.

<sup>14</sup> See, e.g., *Diamond Sawblades and Parts Thereof from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2015–2016*, 83 FR 17527 (April 20, 2018), and accompanying Issues and Decision Memorandum at Comment 4; see also *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2017–2018*, 84 FR 34863, 34864 (July 19, 2019) (citing *Albemarle Corp. v. United States*, 821 F.3d 1345 (Fed. Cir. 2016)).

<sup>15</sup> See 19 CFR 351.309(c)(1)(ii).

<sup>16</sup> See 19 CFR 351.309(d)(1)–(2).

<sup>17</sup> See 19 CFR 351.309(c)(2), (d)(2).

<sup>18</sup> See 19 CFR 351.303 (for general filing requirements).

<sup>19</sup> See 19 CFR 351.310(c).

<sup>20</sup> See 19 CFR 351.310(d).

<sup>21</sup> See 19 CFR 351.212(b).

<sup>22</sup> *Id.*

<sup>23</sup> See 19 CFR 351.212(b)(1).

*minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. Entries by Honghua, the separate rate respondent, will be assessed at the cash deposit rate, since it is not a mandatory respondent. If Zhongwei's margin is above *de minimis* at final, we will calculate importer-specific assessment rates, which only apply to Zhongwei's importers.

For entries that were not reported in the U.S. sales database submitted by an exporter individually examined during this review, Commerce will instruct CBP to liquidate such entries at the China-wide rate. Additionally, if Commerce determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number will be liquidated at the China-wide rate.<sup>24</sup>

#### Cash Deposit Requirements

Because the antidumping duty order on OTR tires from China was revoked,<sup>25</sup> Commerce will not issue cash deposit instructions at the conclusion of this administrative review.

#### Notification to Importers

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

#### Notification to Interested Parties

These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: August 16, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

#### Appendix

##### List of Topics Discussed in the Preliminary Decision Memorandum

##### I. Summary

<sup>24</sup> See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

<sup>25</sup> See *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Sunset Reviews and Revocation of Antidumping Duty and Countervailing Duty Orders*, 84 FR 20616 (May 10, 2019).

- II. Background
- III. Scope of the Order
- IV. Discussion of the Methodology
- V. Currency Conversions
- VI. Adjustment Under Section 777A(f) of the Act
- VII. Recommendation

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

**RIN 0648-XR024**

##### Marine Mammals; File No. 22851

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

**ACTION:** Notice; receipt of application.

**SUMMARY:** Notice is hereby given that Sea Life Park Hawaii, 41-202 Kalaniana'ole Highway #7, Waimanalo, HI 96795 (Valerie King, Responsible Party), has applied in due form for a permit to maintain non-releasable Hawaiian monk seals (*Neomonachus schauinslandi*) in captivity for enhancement purposes.

**DATES:** Written, telefaxed, or email comments must be received on or before September 23, 2019.

**ADDRESSES:** The application and related documents are available for review by selecting "Records Open for Public Comment" from the "Features" box on the Applications and Permits for Protected Species (APPS) home page, <https://apps.nmfs.noaa.gov>, and then selecting File No. 22851 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone: (301) 427-8401; fax: (301) 713-0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713-0376, or by email to [NMFS.Pr1Comments@noaa.gov](mailto:NMFS.Pr1Comments@noaa.gov). Please include the File No. 22851 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Skidmore or Sara Young, (301) 427-8401.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226).

Sea Life Park Hawaii proposes to maintain up to four non-releasable adult Hawaiian monk seals for enhancement purposes. These seals would be animals removed from the wild under separate permits for stranding response and enhancement and will be animals that have been deemed non-releasable to the wild. A public conservation and education lecture will be conducted daily concerning the status of Hawaiian monk seals, and educational descriptive signs with current information are on display at the monk seal exhibit. In addition, these animals will be made available for scientific studies by researchers whose research protocols are approved by the Sea Life Park Hawaii Curator and staff veterinarian and authorized under separate permits. The requested duration of this permit is five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: August 19, 2019.

**Julia Marie Harrison,**

*Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

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