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Administrative Review
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DATE: April 25, 2018

MEMORANDUM TO: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

FROM: Edward Yang
Senior Director, Office VII
Antidumping and Countervailing Duty Operations

SUBJECT: Administrative Review of the Countervailing Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Decision Memorandum for Amended Final Results

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SUMMARY

On March 16, 2018, the Department of Commerce (Commerce) published the final results of the administrative review of the countervailing duty order on certain passenger vehicle and light truck tires from the People's Republic of China.[1] On March 15, 2018, Shandong Shuangwang Rubber Co., Ltd. (Shandong Shuangwang) submitted a request to correct a clerical error in the *Final Results*.[2] On March 28, 2018, GITI Tire Global Trading Pte. Ltd., GITI Tire (USA) Ltd., GITI Radial Tire (Anhui) Company Ltd. (GITI Anhui Radial), GITI Tire (Fujian) Company Ltd (GITI Fujian), and GITI Tire (Hualin) Company Ltd. (GITI Hualin) (collectively, GITI) timely alleged that Commerce made four ministerial errors in the *Final Results*.[3] No other parties submitted ministerial error allegations or comments on Shandong Shuangwang's or GITI's allegations.

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[1] *See Countervailing Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2014-2015*, 83 FR 11694 (March 16, 2018) (*Final Results*) and accompanying Issues and Decision Memorandum (Decision Memorandum).
[2] *See* Shandong Shuangwang's Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China — Request to Correct Clerical Error in Final Results of Countervailing Duty Administrative Review," dated March 15, 2018 (Shandong Shuangwang Ministerial Comments).
[3] *See* GITI's Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Ministerial Error Comments — Giti Tire Global Trading Pte. Ltd.," dated March 28, 2018 (GITI Ministerial Comments).

After analyzing Shandong Shuangwang's and GITI's allegations, and as discussed below, we recommend finding that we made ministerial errors within the meaning of 19 CFR 351.224(f) in the *Final Results* with regard to Shandong Shuangwang and GITI. Pursuant to 19 CFR 351.224(e), we also recommend correcting these ministerial errors by amending the *Final Results*, as shown in the amended calculations for GITI and for the non-selected companies that were subject to this review.[4]

LEGAL AUTHORITY

Pursuant to section 751(h) of the Tariff Act of 1930, as amended (the Act), Commerce's regulations at 19 CFR 351.224 define the procedures for the correction of ministerial errors. In accordance with 19 CFR 351.224(b) and (c)(1), Commerce will disclose its calculations performed in connection with the final results of a review to parties to the proceeding and those parties may submit comments concerning any ministerial errors. Section 351.224(f) of Commerce's regulations defines a ministerial error as "an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial." This reflects the definition of "ministerial error" provided under section 751(h) of the Act.

Comments submitted by interested parties "must explain the alleged ministerial error by reference to applicable evidence in the official record, and must present what, in the party's view, is the appropriate correction."[5] At 19 CFR 351.224(e), Commerce's regulations explain that the Secretary will analyze any comments received and, if appropriate, correct any ministerial error by amending the final results of review.[6] An allegation of an error related to a methodological decision by Commerce is not considered to be a ministerial error because it does not meet the regulatory definition of ministerial error.[7]

SCOPE OF THE ORDER

The scope of this order is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation. Tires covered by this order may be tube-type, tubeless, radial, or non-radial, and they may be intended for sale to original equipment manufacturers or the replacement market.

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 the following prefixes or suffix in their tire size designation, which also appears on the sidewall of the tire:

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[4] *See* Memorandum, "Administrative Review of the Countervailing Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Amended Final Results Calculations," dated concurrently with this memorandum (Amended Final Results Calculations Memorandum).
[5] *See* 19 CFR 351.224(d).
[6] *See* 19 CFR 351.224(e).
[7] *See*, *e.g.*, *Alloy Piping Products, Inc. v. United States*, 201 F. Supp. 2d 1267, 1285 (CIT 2002) ("The error in question must be demonstrated to be a clerical error, not a methodological error, an error in judgement, or a substantive error").

Prefix designations:

P - Identifies a tire intended primarily for service on passenger cars

LT- Identifies a tire intended primarily for service on light trucks

Suffix letter designations:

LT - Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service.

All tires with a "P" or "LT" prefix, and all tires with an "LT" suffix in their sidewall markings are covered by this order regardless of their intended use.

In addition, all tires that lack a "P" or "LT" prefix or suffix in their sidewall markings, as well as all tires that include any other prefix or suffix in their sidewall 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 passenger car section or light truck 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.

Passenger vehicle and light truck tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope.

Specifically excluded from the scope are the following types of tires:

(1) racing car tires; such tires do not bear the symbol "DOT" on the sidewall and may be marked with "ZR" in size designation;

(2) new pneumatic tires, of rubber, of a size that is not listed in the passenger car section or light truck section of the Tire and Rim Association Year Book;

(3) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires;

(4) non-pneumatic tires, such as solid rubber tires;

(5) tires designed and marketed exclusively as temporary use spare tires for passenger vehicles which, in addition, exhibit each of the following physical characteristics:

(a) the size designation and load index combination molded on the tire's sidewall are listed in Table PCT-1B ("T" Type Spare Tires for Temporary Use on Passenger Vehicles) of the Tire and Rim Association Year Book,

(b) the designation "T" is molded into the tire's sidewall as part of the size designation, and,

(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed is 81 MPH or a "M" rating;

(6) tires designed and marketed exclusively for specialty tire (ST) use which, in addition, exhibit each of the following conditions:

(a) the size designation molded on the tire's sidewall is listed in the ST sections of the Tire and Rim Association Year Book,

(b) the designation "ST" is molded into the tire's sidewall as part of the size designation,

(c) the tire incorporates a warning, prominently molded on the sidewall, that the tire is "For Trailer Service Only" or "For Trailer Use Only",

(d) the load index molded on the tire's sidewall meets or exceeds those load indexes listed in the Tire and Rim Association Year Book for the relevant ST tire size, and

(e) either

(i) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed does not exceed 81 MPH or an "M" rating; or

(ii) the tire's speed rating molded on the sidewall is 87 MPH or an "N" rating, and in either case the tire's maximum pressure and maximum load limit are molded on the sidewall and either

(1) both exceed the maximum pressure and maximum load limit for any tire of the same size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book; or

(2) if the maximum cold inflation pressure molded on the tire is less than any cold inflation pressure listed for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book, the maximum load limit molded on the tire is higher than the maximum load limit listed at that cold inflation pressure for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book;

(7) tires designed and marketed exclusively for off-road use and which, in addition, exhibit each of the following physical characteristics:

(a) the size designation and load index combination molded on the tire's sidewall are listed in the off-the-road, agricultural, industrial or ATV section of the Tire and Rim Association Year Book,

(b) in addition to any size designation markings, the tire incorporates a warning, prominently molded on the sidewall, that the tire is "Not For Highway Service" or "Not for Highway Use",

(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 55 MPH or a "G" rating, and

(d) the tire features a recognizable off-road tread design.

The products covered by the order are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.99.45.10, 4011.99.45.50, 4011.99.85.10, 4011.99.85.50, 8708.70.45.45, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

ANALYSIS OF ALLEGED MINISTERIAL ERRORS

Comment 1: Identification of Non-Selected Company Under Review

Shandong Shuangwang Allegation

- In the *Final Results*, Commerce incorrectly identified Shandong Shuangwang in its list of the Non-Selected Companies Under Review. Specifically, Commerce misspelled "Shandong" as "Shangong."[8]

No other interested parties commented on Shandong Shuangwang's allegation.

Commerce's Position

We reviewed Shandong Shuangwang's allegation and the record evidence, and agree that Shandong Shuangwang was misidentified in the list of Non-Selected Companies Under Review as a result of a misspelling in the name, *i.e.*, we misspelled "Shandong" (with a "d") as "Shangong" (with a "g"). For the amended final results, we are correctly identifying Shandong Shuangwang as one of the Non-Selected Companies Under Review.

Comment 2: Sales Denominator for GITI China

GITI's Allegation

- Commerce stated its intention to revise the sales denominator for subsidies provided to GITI Tire (China) Investment Co., Ltd. (GITI China) in the *Final Results*, yet inadvertently did not make this change.
- In particular, Commerce stated that it would use the consolidated sales reported in GITI China's consolidated income statement, but continued to use the sales denominator used in the preliminary results.

[8] *See* Shandong Shuangwang Ministerial Comments.

- This error affects the program-specific calculation for the following programs: (1) Government Policy Lending; (2) Provision of Carbon Black for LTAR; (3) Provision of Synthetic Rubber and Butadiene for LTAR; and (4) Miscellaneous Post-Investigation Grants.

No other interested parties commented on GITI's allegation.

Commerce's Position

We reviewed GITI's allegation and the record evidence, and we agree with GITI. In the GITI Final Calculation Memorandum, Commerce stated that, "We revised the denominator for subsidies provided directly to GITI China (a holding company) to use the consolidated sales reported in GITI China's consolidated income statements (*e.g.*, 11,773,012,896.21 RMB for 2015), consistent with our stated intent in the *Preliminary Results*."[9] However, in the underlying Excel worksheets, we inadvertently did not revise the sales denominator for GITI China. Thus, for these amended final results, we corrected this error in GITI China's sales denominator.

Issue 3: Government Grants

GITI's Allegation

- In the *Final Results*, Commerce inadvertently countervailed certain government grants reported by GITI Tire (Chongqing) Company Ltd. (Giti Chongqing), Giti Anhui Radial and GITI Tire (Anhui) Company Ltd. (Giti Anhui) twice.[10]
- Commerce's formula for calculating the total rate under "Misc. Post-Investigation Grants" includes grants listed on the "Significant Expensed Grants" worksheet and "Fixed Asset" worksheet, and Commerce separately included a subsidy rate for a grant titled "GITI Chonqing Special Fund for Energy-Technology Reform." Grants listed on the "Fixed Asset" worksheet and the "GITI Chonqing Special Fund" were already included in the "Significant Expensed Grants" worksheet.
- Commerce should adjust its rate calculation by removing grants listed in the "Fixed Asset" worksheet from the "Misc. Post-Investigation Grants" formula, and deleting the separate line item for "GITI Chonqing Special Fund' in the amended final results.

No other interested parties commented on GITI's allegation.

Commerce's Position

We reviewed GITI's allegation and the record evidence, and we agree with GITI that certain grants were inadvertently countervailed twice in the *Final Results*. In these amended final results, we have adjusted the formula for "Misc. Post-Investigation Grants" by removing grants listed in the "Fixed Asset" worksheet and deleting the separate line item "GITI Chonqing Special Fund" to calculate the total rate.

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[9] *See* Commerce Memorandum, "GITI Final Calculation Memorandum," dated March 9, 2018 at 2.
[10] *See* GITI Ministerial Error Comments at 2.

Issue 4: AFA Rate for Export Buyer's Credits

GITI's Allegation

- Commerce applied an adverse facts available (AFA) rate to the Export Buyer's Credits program in the preliminary results and final results. The AFA rate was based on the rate determined for preferential loans during this proceeding.[11]
- Commerce failed to adjust the AFA rate for the Export Buyer's Credits program to reflect the rate calculated for preferential loans in the *Final Results*.
- Commerce should update the rate for the Export Buyer's Credits program, after making the change to GITI China's sales denominator (*see* Comment 2).

No other interested parties commented on GITI's allegation.

Commerce's Position

Commerce agrees with GITI that we did not update the AFA rate for the Export Buyer's Credits program in the *Final Results*, inadvertently using the rate calculated for preferential loans from the *Preliminary Results*. For these amended final results, we are using the revised rate for preferential loans (calculated in these amended final results) as the AFA rate for the Export Buyer's Credits program.

Issue 5: Synthetic Rubber Grade

GITI's Allegation

- In the *Final Results*, Commerce revised GITI's synthetic rubber benchmarks to make them grade specific.
- Commerce inadvertently classified solution styrene butadiene rubber (S-SBR) as styrene butadiene rubber (SBR), rather than a specialty grade product.[12]
- Classifying S-SBR as SBR is contrary to Commerce's stated intent to make GITI's synthetic rubber benchmark grade specific.

No other interested parties commented on GITI's allegation.

Commerce's Position

We disagree with GITI that this involves a ministerial error within the meaning of 19 CFR 351.224(f). There is no indication on the record that Commerce intended to classify S-SBR rubber as a "specialty rubber." Commerce stated its intent to use separate benchmarks for butadiene rubber (BR), SBR rubber, and specialty rubber. While GITI's questionnaire response describes S-SBR as "solution *styrene butadiene rubber*"[13] (emphasis added), nothing else on the record indicates that S-SBR should be characterized as a specialty rubber, rather than as a type of

[11] *Id.* at 4.
[12] *Id.* at 5.
[13] *See* GITI's October 13, 2017, Supplemental Questionnaire Response at Exhibits S2-9 through S2-15.

SBR. Therefore, Commerce does not consider this a ministerial error. Accordingly, we are not revising the synthetic rubber benchmarks for these amended final results.

AMENDED FINAL RESULTS RATE FOR COOPER (KUNSHAN) TIRE CO., LTD.

In the *Final Results*, we applied an AFA rate to Cooper (Kunshan) Tire Co., Ltd. (Cooper) for the Export Buyer's Credits program based on the rate calculated for GITI for preferential loans in this proceeding. Because the rate calculated for GITI's preferential loans has changed in these amended final results, we have changed the AFA rate for the Export Buyer's Credits program for Cooper to the revised preferential loans rate for GITI in these amended final results.[14]

AMENDED FINAL AFA RATE FOR ZHONGCE RUBBER GROUP COMPANY LIMITED

In the *Final Results*, we applied total AFA to Zhongce Rubber Group Company Limited (Zhongce). For several programs, we derived the AFA rate from the highest calculated rate in this proceeding. Where applicable, we have revised these rates for Zhongce to reflect the highest calculated rates in these amended final results.[15]

AMENDED FINAL RESULTS RATE FOR THE NON-SELECTED COMPANIES UNDER REVIEW

The correction of ministerial errors results in a change to the calculated rate for both GITI and Cooper. Because we relied on GITI's and Cooper's subsidy rates to calculate the rate for non-selected companies under review, we are also revising the rate for non-selected companies under review in these amended final results.[16]

[14] *See* Amended Final Results Calculations Memorandum at 2.
[15] *Id.*
[16] *Id.* at 2-3.

RECOMMENDATION

Based on our analysis of the comments received and the record of this administrative review, we recommend adopting the positions set forth above. If this recommendation is accepted, we will publish a notice of the amended final results in the *Federal Register*.

☒	☐
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Agree	Disagree

4/25/2018

X James Maeder

Signed by: JAMES MAEDER

James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations