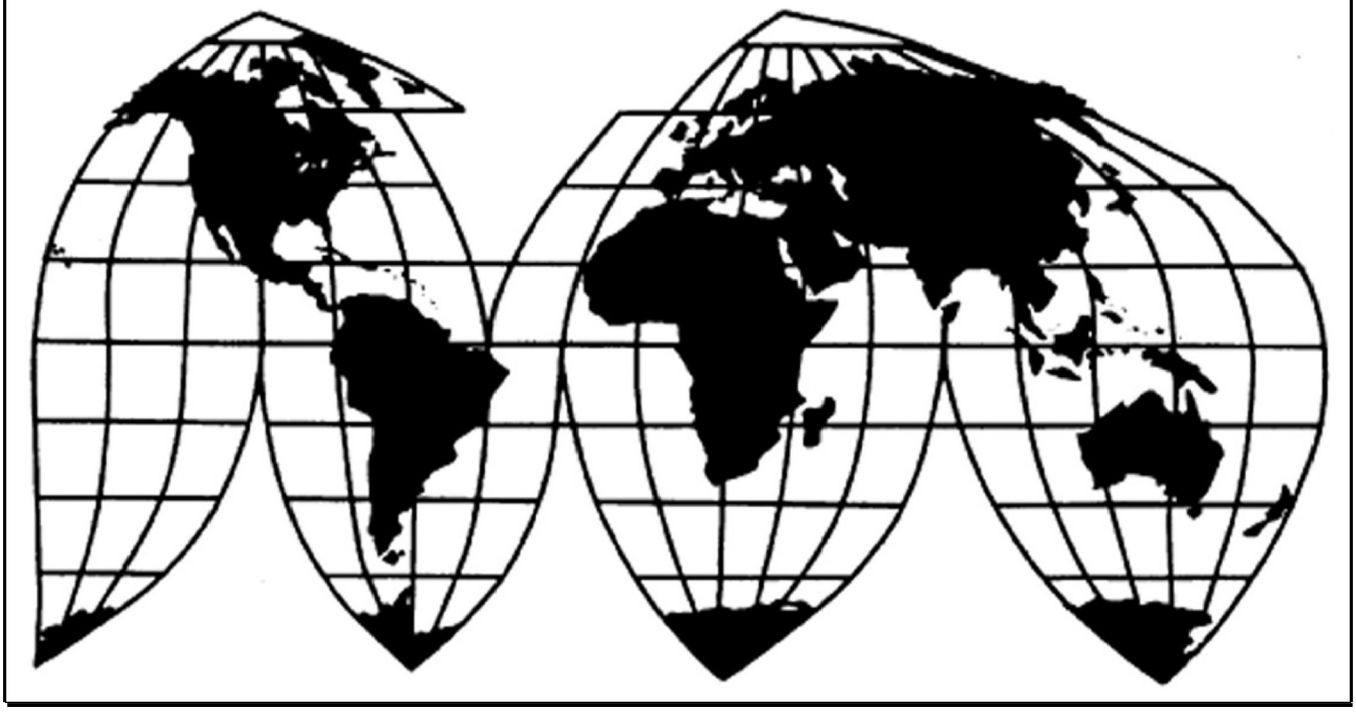
# Certain Off-The-Road Tires from China

Investigation Nos. 701-TA-448 and 731-TA-1117 (Final)

**Publication 4031** **August 2008**

## U.S. International Trade Commission



**Washington, DC 20436**

# U.S. International Trade Commission

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**Note.–Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.**

**UNITED STATES INTERNATIONAL TRADE COMMISSION**

Investigation Nos. 701-TA-448 and 731-TA-1117 (Final)

CERTAIN OFF-THE-ROAD TIRES FROM CHINA

## DETERMINATION

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b) and 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China of certain off-the-road tires, provided for in subheadings 4011.20.10, 4011.20.50, 4011.61.00, 4011.62.00, 4011.63.00, 4011.69.00, 4011.92.00, 4011.93.40, 4011.93.80, 4011.94.40, and 4011.94.80 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be subsidized by the Government of China and sold in the United States at less than fair value (LTFV).[2] [3]

## BACKGROUND

The Commission instituted these investigations effective June 18, 2007, following receipt of a petition filed with the Commission and Commerce by Titan Tire Corporation, Des Moines, Iowa, and The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC, Pittsburgh, PA. The final phase of the investigations was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of certain off-the-road tires from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of March 3, 2008 (73 FR 11437). The hearing was held in Washington, DC, on July 8 and 9, 2008, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Vice Chairman Daniel R. Pearson dissenting.

[3] The Commission also finds that imports subject to Commerce's affirmative critical circumstances determination are not likely to undermine seriously the remedial effect of the antidumping duty order on China.

## VIEWS OF THE COMMISSION

Based on the record in the final phase of these investigations, we find that an industry in the United States is materially injured by reason of imports of certain off-the-road tires ("OTR tires" or "tires") from China (or "PRC") that have been found by the U.S. Department of Commerce ("Commerce") to be subsidized and sold in the United States at less than fair value. We also determine that critical circumstances do not exist with respect to the subject imports from China covered by Commerce's affirmative critical circumstances determination.[1]

## I. BACKGROUND

Domestic producer Titan Tire Corporation ("Titan") and The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC ("USW") filed a petition on behalf of the domestic industry on June 18, 2007. Representatives for petitioners appeared at the hearing and filed prehearing and posthearing briefs, as did representatives for Bridgestone Firestone North American Tire, LLC ("Bridgestone" or "BFNA"), a domestic producer. Respondents also were represented at the hearing and their representatives filed prehearing and posthearing briefs as well. They include the subject importer GPX International Tire Corporation ("GPX");[2] subject producers and importers Aeolus Tyre Co., Ltd.; Guizhou Tyre Co., Ltd.; Hangzhou Zhongce Rubber Co., Ltd.; Haohua South (Guilin) Rubber Corp., Ltd.; Jiangsu Feichi Co., Ltd.; Laizhou Xiongying Rubber Industry Co., Ltd.; Shandong Taishan Tyre Co., Ltd.; Shandong Wanda Boto Tyre Co. Ltd.; Shandong Xingyuan International Trading Co., Ltd.; Techking Tires Limited; Tianjin United Tire & Rubber International Co., Ltd.; Triangle Tyre Co., Ltd.; Wendeng Sanfeng Tyre Co., Ltd.; Zhaoyuan Leo Rubber Co., Ltd.; Tire Engineering & Distribution, Inc.; and Guizhou Tyre I/E Corp. (collectively, the "Chinese respondents"); importer Super Grip Corporation ("Super Grip"); importer Trelleborg Wheel Systems Americas, Inc. ("Trelleborg"); importer American Pacific Industries ("API"); and purchaser Caterpillar Inc. ("Caterpillar").

## II. DOMESTIC LIKE PRODUCT AND INDUSTRY

### A. Domestic Like Product

In making its determination under section 751(c) of the Tariff Act of 1930, as amended ("the Tariff Act"), the Commission first defines the "domestic like product." The Act defines the "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation."[3]

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in

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[1] Vice Chairman Pearson finds that the domestic industry is neither materially injured nor threatened with material injury by reason of subject imports. See Additional and Dissenting Views of Vice Chairman Daniel R. Pearson. He joins sections I and II of the Commission's Views.

[2] GPX owns subject foreign producer Hebei Starbright Tire. CR at VII-3 n.7, PR at VII-3 n.7.

[3] 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

characteristics and uses" on a case-by-case basis.[4] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[5] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[6] Although the Commission must accept Commerce's determination as to the scope of the imported merchandise subsidized or sold at less than fair value,[7] the Commission determines the domestic product that is like the imported articles Commerce has identified.[8]

In its final determinations, Commerce defined the imported merchandise subject to these investigations as follows:

> new pneumatic tires designed for off-the-road (OTR) 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,[9] combine harvesters,[10] agricultural high clearance sprayers,[11] industrial tractors,[12] log-skidders,[13] agricultural implements, highway-towed

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[4] See, e.g., Cleo, Inc. v. United States, 501 F.3d 1291, 1299 (Fed. Cir. 2007); NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int'l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case'"). The Commission generally considers a number of factors including the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

[5] See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

[6] Nippon, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249 at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

[7] See, e.g., USEC, Inc. v. United States, Slip Op. 01-1421 at 9 (Fed. Cir. Apr. 25, 2002) ("The ITC may not modify the class or kind of imported merchandise examined by Commerce."); Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), aff'd, 865 F.3d 240 (Fed. Cir.), cert. denied, 492 U.S. 919 (1989).

[8] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Cleo, 501 F.3d at 1298, n.1 ("Commerce's {scope} finding does not control the Commission's {like product} determination."); Torrington, 747 F. Supp. at 748-52 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

[9] 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.

[10] Combine harvesters are used to harvest crops such as corn or wheat.

[11] Agricultural sprayers are used to irrigate agricultural fields.

[12] 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.

[13] 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.

implements, agricultural logging, and agricultural, industrial, skid-steers/mini-loaders;[14] (2) construction vehicles and equipment, including earthmover articulated dump products, rigid frame haul trucks,[15] front end loaders,[16] dozers,[17] lift trucks, straddle carriers,[18] graders,[19] mobile cranes,[20] 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.[21] 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 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 proceeding range in size (rim diameter) generally but not exclusively from 8 inches to 54 inches. The tires may be either tube-type[22] 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.

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[14] 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.

[15] 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.

[16] 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.

[17] 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.

[18] 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.

[19] 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 onto which asphalt or other paving material will be laid.

[20] I.e., "on-site'" mobile cranes designed for off-highway use.

[21] 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.

[22] 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).

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 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).[23]

In the preliminary phase of these investigations, petitioners and Bridgestone proposed defining a single domestic like product comprising certain OTR tires for agricultural, construction and industrial vehicles and equipment coterminous with the scope of the investigations[24] ("coterminous tires"). The Chinese respondents accepted petitioners' proposed definition of the domestic like product for the purposes of the preliminary phase of the investigations, but argued that they did not believe there was a substantial basis to exclude from the definition the larger construction and mining tires that are excluded from the scope (i.e., those with a rim diameter equal to or exceeding 39 inches). Based on the evidence in the record, the Commission found one domestic like product consisting of the coterminous tires. It did

[23] 73 Fed. Reg. 40485, 40490-91 (July 15, 2008) (Final Antidumping Duty & Critical Circumstances Determinations); 73 Fed. Reg. 40480, 40483-84 (July 15, 2008 (Final Countervailing Duty & Critical Circumstances Determinations).

[24] In these views, we use "coterminous" to mean coextensive with the scope of the investigations.

not include the larger construction and mining tires (hereinafter referred to as "C&M tires of 39 inches and higher") based on the evidence in the record pertaining to physical characteristics and end uses, production equipment and processes, channels of distribution, price, and lack of interchangeability. The Commission stated that it would revisit this issue in any final phase of the investigations.[25]

In this final phase of the investigations, petitioners and Bridgestone continue to argue that the Commission should define the domestic like product to include only the coterminous tires, while several respondents assert that the Commission should include C&M tires of 39 inches and higher in the definition of the domestic like product, as they argue that there is no clear dividing line at a rim diameter of 39 inches.

*Physical Characteristics and Uses*. Although petitioners concede that the coterminous tires and C&M tires of 39 inches and higher are both designed for off-road use, they maintain that the similarities largely end there. Petitioners state that there are many additional components incorporated into the construction of C&M tires of 39 inches and higher that are not used in coterminous agricultural tires with similar rim diameters. C&M bias tires of 39 inches and higher typically contain rubber squeegee components between the plies as well as more beads and more plies than coterminous agricultural tires with the same size rim diameter. C&M radial tires of 39 inches and higher consist of much heavier materials than coterminous agricultural tires of similar size rim diameter, and heavy steel ply and belts are used in the former, whereas fabric ply and belts are used in the latter. There are other components used in C&M tires of 39 inches and higher, such as multiple rubber pieces inside the turnup ply, rubber wedges used around the belt edges and in the sidewall, and multiple fabric chafer components used to protect the bead area that are not used in the coterminous tires.[26] Bridgestone concurs with petitioners.[27]

Petitioners and Bridgestone also assert that the additional components and different materials used to construct C&M tires of 39 inches and higher result in substantially heavier tires when compared to agricultural tires with similar rim diameters. The largest coterminous agricultural tires weigh approximately 1,200 pounds according to petitioners, while the largest of the C&M tires of 39 inches and higher can weigh up to 13,500 pounds. Further, while the coterminous tires generally do not exceed 100 inches in outer diameter, the outside diameter of C&M tires of 39 inches and higher can reach up to 13 feet.[28]

Petitioners argue that the differences in composition and size lead to differences in use. There is some variation among the coterminous tires with respect to applications in the agricultural, construction and industrial sectors. The size and the weight of the coterminous agricultural tires typically limit their load-bearing capacity to approximately 15,000 pounds, which limits the applications for which the tires may be used. C&M tires of 39 inches and higher, on the other hand, are capable of hauling much heavier loads and are subject to less variation in application – they are generally used in the mining industry.[29]

Respondents essentially argue that the significant characteristics of the tires, i.e., load capacities, plies, tread depths, and weights, vary along a continuum in loose association with rim diameter, and that there is no clear dividing line in terms of these characteristics between the coterminous tires and C&M

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[25] Certain Off-the-Road Tires from China, Inv. Nos. 701-TA-448 and 731-TA-1117 (Preliminary), USITC Pub. 3943 (Aug. 2007), at 7-9.

[26] Petitioners' Prehearing Brief at 7-8.

[27] Bridgestone's Prehearing Brief at 9.

[28] Petitioners' Prehearing Brief at 8; Petitioners' Posthearing Brief, Questions from Vice Chairman Pearson, Question 2 at 10; Bridgestone's Prehearing Brief at 9-10.

[29] Petitioners' Prehearing Brief at 8-9; Petitioners' Posthearing Brief, Questions from Vice Chairman Pearson, Question 2 at 9.

tires of 39 inches and higher. They add that tires with larger rim sizes are capable of carrying greater loads and are more suitable for larger machines.[30]

We are unpersuaded by respondents' arguments. We note that the coterminous tires include agricultural tires ranging up to 54 inches in rim diameter, while C&M tires of 39 inches and higher may be as small as 39 inches in rim diameter.[31] Further in this regard, Bridgestone ***. ***.[32] Accordingly, the record does not confirm the assertion that differences in OTR tire characteristics are proportional to differences in rim diameter.[33]

The record also shows real distinctions between the coterminous tires and C&M tires of 39 inches and higher. For example, ***, a purchaser, states that ***. ***.[34] GPX admits that Titan's catalog separates mining and construction tires from agricultural tires.[35]

There are a number of physical differences between coterminous and C&M tires of 39 inches and higher that are not dependent upon rim diameter. There are more beads and plies, additional components and heavier materials in a C&M tire of 39 inches and higher than in a coterminous tire, all of which result in a tire that is substantially heavier with a much greater load-bearing capacity. This ultimately affects end use, even for tires of the same rim diameter.

Caterpillar's contention that three loaders at the same job site may utilize mining or construction equipment of various sizes with correspondingly different tire sizes that cross the 39-inch boundary[36] is of limited probative value. First, the example chosen by Caterpillar is not representative of the vast majority of coterminous and C&M tires of 39 inches and higher, as it shows one application and one type of equipment, albeit in three sizes. In addition, the simultaneous presence of these OTR tires at a single job site does not establish that the tires have similar physical characteristics, even if they are being used in a similar manner in this particular instance. Moreover, as respondents have reported, Titan alone has more than 3,000 stock-keeping units ("SKUs").[37] No one contends that all of Titan's C&M construction tires of 39 inches and higher are used on the same equipment or in the same applications as its coterminous construction tires. Finally, Caterpillar admits that it does not purchase all sizes of the coterminous tires for its applications.[38]

The record contains evidence of significant distinctions in physical characteristics and uses between the coterminous tires and C&M tires of 39 inches and higher. We conclude that the coterminous tires and C&M tires of 39 inches and higher generally differ in terms of physical characteristics and uses.

*Manufacturing Facilities and Production Employees*. Bridgestone's facility in Des Moines, Iowa makes coterminous OTR tires used in agricultural applications and does not have the physical capability to make C&M tires of 39 inches and higher. Its facility in Bloomington, Illinois manufactures both coterminous and C&M tires of 39 inches and higher; however, the curing presses generally used to make

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[30] See, e.g., GPX's Prehearing Brief at 21-32; Chinese Respondents' Prehearing Brief at 9-22; Caterpillar's Prehearing Brief at 4-8; GPX's Posthearing Brief at 2-4; Chinese Respondents' Posthearing Brief at 2-3 & Answers to the Commission's Questions at 27-29.

[31] See 73 Fed. Reg. at 40484, 73 Fed. Reg. at 40490.

[32] Confidential Staff Report ("CR") at D-3, Public Staff Report ("PR") at D-3.

[33] See CR at D-3, PR at D-3.

[34] CR at D-6 - D-7, PR at D-3.

[35] GPX's Prehearing Brief at 2; Tr. at 243-44 (Mr. Mazzola).

[36] Caterpillar's Prehearing Brief at 4-8 & Exh. 2; Tr. at 245 (Mr. Mazzola).

[37] GPX's Prehearing Brief at 38.

[38] Caterpillar does not purchase OTR tires with rim diameters between 25 and 29 inches or between 51 and 57 inches. Caterpillar's Prehearing Brief at 5 n.10. As Caterpillar is a purchaser, its views bear on one of six factors we consider in defining the domestic like product.

coterminous tires cannot be used to make larger C&M tires.[39] C&M tires of 39 inches and higher must be made ***.[40] Similarly, Titan ***.[41] ***.[42]

Although the curing process is dependent upon the size of the tire in terms of type of equipment and time required for curing,[43] and the domestic industry ***.[44] ***. Whether a process *could* be performed differently is of no consequence to our finding, however. Rather, it is how the process is actually performed that is determinative.[45] In addition, the fact that eight of 10 manufacturing steps are identical for all OTR tires does not negate a finding that there is a clear dividing line among possible like products. The steps that are not identical, i.e., tire building and vulcanization,[46] are critical to the process and differentiate the coterminous and C&M tires of 39 inches and higher. Employees must be specially trained to manufacture C&M tires of 39 inches and higher,[47] and special equipment is used to mount them.[48] On balance, while there is some overlap in terms of manufacturing processes and employees, there are also very important differences.

*Interchangeability*. All parties appear to agree that there is virtually no interchangeability between the coterminous and C&M tires of 39 inches and higher. This factor is, however, of limited use in assisting the Commission with making its finding because, in an industry in which there are literally thousands of products, each is designed for a specific use. As such the lack of interchangeability does not provide strong guidance as to whether a clear dividing line exists.[49]

*Channels of Distribution*. There is overlap in the channels of distribution for coterminous tires and C&M tires of 39 inches and higher, i.e., the tires are sold directly to wholesalers or distributors, as well as directly to the end users.[50] There are some distributors that may specialize in the mining and construction segments as opposed to agriculture, although these distributors will purchase, resell and service all tires in a given series, whether of a rim diameter equal to or greater than 39 inches, or a rim diameter less than 39 inches. Some companies ***.[51] However, there is evidence in the record that in Michigan, for example, there are 1,500 to 2,000 OTR tire distributors, and there are only nine that can

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[39] CR at I-23, PR at I-19-20; Bridgestone's Prehearing Brief at 12-13. In addition, larger production equipment, with bigger bearings and bigger shafts, is needed to support a 4,000 pound earthmoving tire as opposed to a 1,200 pound agricultural tire. The equipment used to produce large agricultural tires having a rim diameter of 42 inches is used to produce mining tires with a rim diameter of 25 inches. The equipment used to produce C&M tires of 39 inches and higher is not used to produce any agricultural or industrial tires. Petitioners' Prehearing Brief at 9.

[40] CR at D-9, PR at D-3; Bridgestone's Prehearing Brief at 13.

[41] CR at I-23, PR at I-19-20; Petitioners' Prehearing Brief at 10.

[42] CR at D-9, PR at D-3.

[43] See CR at I-24 n.47, PR at I-20 n.47.

[44] CR at D-11, PR at D-3.

[45] See, e.g., Silicon Metal from Brazil and China, Inv. Nos. 731-TA-471-472 (Second Review), USITC Pub. 3892 (Dec. 2006), at 18 n.120 (fact that different method of production/technology exists from that used by foreign producer not persuasive), aff'd, Globe Metallurgical Inc. v. United States, Ct. No. 07-00011, Slip Op. 08-33 (Mar. 19, 2008).

[46] Vulcanization is also known as curing.

[47] CR at I-23, PR at I-19-20. The record indicates that training requires a matter of months. See Tr. at 200 (Mr. Ivy).

[48] CR at I-24, PR at I-20; see also Phone Notes of Ray Cantrell with ***.

[49] See, e.g., Carbon and Certain Alloy Steel Wire Rod from China, Germany, and Turkey, Inv. Nos. 731-TA-1099-1101 (Preliminary), USITC Pub. 3832 (Jan. 2006), at 10 ("a lack of interchangeability among products comprising a continuum is not unexpected and not inconsistent with finding a single like product").

[50] Petitioners argue that the vast majority of C&M tires of 39 inches and higher are shipped directly to the end user and that only a very small number of distributors have the equipment and trained personnel to handle these tires. In contrast, thousands of distributors and dealers handle the coterminous tires. See CR at I-28, PR at I-22.

[51] CR at D-12 - D-14, PR at D-3.

service the largest of the C&M tires of 39 inches and higher.[52] The largest mining companies ***. ***.[53] Six months of specialized training is required for Titan's employees to learn to mount and service the largest of the C&M tires of 39 inches and higher, whereas an employee can be trained to mount and service smaller, coterminous tires in approximately one day.[54]

*Customer and Producer Perceptions*. Although producers have separate catalogs for mining and agricultural tires, the catalogs reference tires both under 39 inches in rim diameter and equal to or greater than 39 inches in rim diameter. However, the large-volume purchaser Caterpillar ***. ***.[55]

*Price*. It is undisputed that the C&M tires of 39 inches and higher cost more to make and are higher priced than the coterminous tires. The former use more raw materials, the building and curing process is longer and transportation of these tires is more expensive and complex due to their size and weight. Titan's prices for coterminous earthmoving/construction tires range from $*** up to $***, while the prices for its C&M earthmoving tires of 39 inches and higher range from approximately $*** up to $***. Thus, Titan's least expensive C&M earthmoving tire of 39 inches and higher costs approximately *** percent more than its most expensive coterminous earthmoving tire, and the range of prices (from least to most expensive) for the C&M earthmoving tires of 39 inches and higher is considerably wider ($***) than the range of prices for its coterminous earthmoving tires ($***).[56]

The worldwide shortage of the C&M tires of 39 inches and higher also affects price. ***.[57]

*Conclusion*. Despite the fact that the evidence is mixed with respect to some of the factors we normally consider in making our like product determination, the evidence is clear that the domestic like product does not include the largest of the C&M tires of 39 inches and higher, i.e., tires that are 57 inches and 63 inches in rim diameter.[58] These tires differ greatly from the coterminous tires in terms of physical characteristics and uses, common manufacturing facilities and employees, channels of distribution, and price.[59] As is evident from the discussion above, the justification for not including in the like product C&M tires that are 39 inches or greater in rim diameter, but smaller than the largest of these non-coterminous C&M tires, is less clear. On balance, however, we find, as we did in the preliminary phase of these investigations, that there is one domestic like product, coextensive with the scope, that does not include C&M tires of 39 inches and higher. We make this finding because of significant differences in physical characteristics and uses, manufacturing facilities and production employees, channels of distribution, customer and producer perceptions, and price. The record as a whole does not persuade us that we should expand the domestic like product beyond coterminous tires.

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[52] Petitioners' Posthearing Brief, Questions from Vice Chairman Pearson, Question 2 at Exh. 2.

[53] CR at D-13, PR at D-3.

[54] Petitioners' Posthearing Brief, Questions from Vice Chairman Pearson, Question 2 at Exh. 2.

[55] CR at D-14 - D-15, PR at D-3.

[56] Petitioners' Prehearing Brief at 16.

[57] CR at D-16 - D-18, PR at D-3.

[58] See Caterpillar's Prehearing Brief at 5.

[59] See CR at D-10, D-11 and D-13; PR at D-3 (comments of ***. Additionally, these "giant" tires are generally 40 times heavier than coterminous OTR tires, most domestic plants cannot produce them, those that do require special equipment, only distributors with special equipment and specially trained personnel handle sales of them in the aftermarket, and many giant tires are sold directly to end users and not to OEMs. In addition, the average unit value of domestic producers' U.S. shipments of C&M tires of 39 inches and higher was $17,241 per tire in 2007 as compared to the average unit value of coterminous tires of $280 in that year. See Tr. at 53-54 (Mr. Stewart); CR/PR at Tables VI-2 & VI-5.

### B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant industry as the domestic "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[60] In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

There are seven known producers of certain OTR tires in the United States: Bridgestone, Carlisle Tire & Wheel Company ("Carlisle"), Denman Tire Corporation ("Denman"), Goodyear, Michelin, Specialty Tires of America, Inc. ("Specialty"), and Titan. The Commission received completed questionnaire responses from all firms.[61] Based on our domestic like product finding, we define a single domestic industry producing the domestic like product.

### C. Related Parties

Because three domestic producers (***, *** and ***) imported subject merchandise during the period of investigation, there is an issue as to whether circumstances are appropriate to exclude one or more of them from the domestic industry. In the preliminary phase of these investigations, we were aware of only one domestic producer (***) that imported and/or purchased subject merchandise from China during the period of investigation. We determined not to exclude *** from the domestic industry under the related parties provision of the statute.[62] That provision allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.[63]

By virtue of the fact that ***, *** and *** imported subject merchandise during the period of investigation, they qualify as "related parties" under 19 U.S.C. § 1677(4)(B).[64] Thus, the Commission must consider whether "appropriate circumstances" exist to exclude any of them from the domestic industry.

***. *** imported *** subject tires from *** in China in 2007, the only time during the period of investigation during which it imported any tires. It did not indicate why it imported these products, but stated that no further imports are scheduled. Its ratio of subject imports to production was *** percent in 2007.[65] *** operating income as a share of net sales was *** percent in 2007, ranking it *** among all

[60] 19 U.S.C. § 1677(4)(A).

[61] The petition also identified Trelleborg and GPX as possible U.S. producers of the subject product. During the preliminary phase of these investigations, both firms indicated that they had not produced OTR tires in the United States since January 1, 2004. CR/PR at III-1.

[62] USITC Pub. 3943 at 10.

[63] 19 U.S.C. § 1677(4)(B).

[64] Because *** has a corporate relationship with an entity in China from which it source its imports, it is also a related party for that reason. 19 U.S.C. § 1677(4)(B).

[65] CR/PR at Table III-9 & n.2.

domestic producers.[66] [67] [68] It accounted for *** percent of domestic production in 2007, and as such was the *** largest domestic producer.[69] *** opposes the petition.[70]

We do not find that circumstances are appropriate to exclude *** from the domestic industry. Its imports relative to production are *** and it has indicated that it has no plans to import subject merchandise in the near future. Although it opposes the petition, the *** quantity of subject imports did not provide it with a financial benefit.

***. *** imported subject tires throughout the period of investigation. It imported *** tires in 2005, *** tires in 2006 and *** tires in 2007. It imported *** tires in January-March 2007 and *** tires in January-March 2008. It reported that it did so "***. ***." *** currently has no subject merchandise on order. Its ratio of subject imports to production was *** percent in 2005, *** percent in 2006 and *** percent in 2007; it was *** percent in January-March 2007 and *** percent in January-March 2008.[71] On a relative basis, *** of all the domestic producers during the period. Its operating losses relative to net sales were *** percent in 2005, *** percent in 2006 and *** percent in 2007; it was *** percent in January-March 2007 and *** percent in January-March 2008.[72] *** accounted for *** percent of domestic production in 2007 and supports the petition.[73]

We find that circumstances are not appropriate to exclude *** from the domestic industry. Whereas its imports relative to production grew toward the end of the full-year period, they remained substantially below the level of its domestic production. It supports the petition. It does not appear to have derived a significant financial benefit from its subject imports. Finally, it has no intention to import more subject merchandise and has indicated that this is ***.[74] Thus, its interests appear to lie in production and not importation.[75]

***. *** imported *** subject tires in 2007 "in order to meet constraints in domestic capacity." Its ratio of subject imports to production was *** percent in that year.[76] Its operating income relative to

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[66] CR/PR at Table VI-3.

[67] Consistent with her practice in past investigations and reviews, Chairman Aranoff does not rely on individual-company operating income margins, which reflect a domestic producer's financial operations related to production of the like product, in assessing whether a related party has benefitted from importation of subject merchandise. Rather, she determines whether to exclude a related party based principally on its ratio of subject imports to domestic production and whether its primary interests lie in domestic production or importation.

[68] In the preliminary phase of these investigations, Commissioner Pinkert did not rely upon related party financial performance with respect to U.S. manufacturing operations as a factor in determining whether there were appropriate circumstances to exclude related parties from the domestic industry. He did so because the record at that time was insufficient to conclude that related party profitability was linked to any specific benefit derived from importation. See USITC Pub. 3943 at 10 n.45. Similarly, the record in the final phase of these investigations is insufficient to establish such a link. Thus, in these investigations, Commissioner Pinkert has relied on information unrelated to company profitability in determining whether appropriate circumstances exist to exclude related parties from the domestic industry.

[69] CR/PR at Table III-1.

[70] CR/PR at Table III-1.

[71] CR/PR at Table III-9 & n.3.

[72] CR/PR at Table VI-3.

[73] CR/PR at Table III-1.

[74] CR/PR at Table III-9 n.3.

[75] We note that *** ratio of nonsubject imports to production was *** percent for the first two years of the period of investigation, declining to *** percent in 2007. CR/PR at Table III-9.

[76] CR/PR at Table III-9 & nn.4-5.

net sales was *** percent in 2007, ranking it *** among the domestic producers that year.[77] ***'s share of domestic production was *** percent in 2007 and it *** the petition.[78]

We find that circumstances are not appropriate to exclude *** from the domestic industry. The amount of subject tires it imported is *** and, although it did well financially in the year it imported subject merchandise, the quantity of subject imports is ***. Examination of its subject imports relative to production shows that its interests clearly lie in production, not importation.[79] In addition, *** the petition.

### D. Conclusion

In conclusion, we define a single domestic industry that includes all seven domestic producers of the domestic like product.

## III. SELECTION OF METHODOLOGY TO MEASURE IMPORTS

### A. Importer Questionnaire Data vs. Adjusted Official Statistics

In every investigation, the Commission must determine the volume of subject merchandise (and nonsubject merchandise) imported into the United States during the period of investigation. When importers representing a large portion of the subject imports respond to the Commission's questionnaires, then questionnaire data may represent the most reliable measure. Alternatively, when subheadings of the HTS closely align with the scope of the subject merchandise, as defined by Commerce, the official import statistics may provide the best measure. In the present investigations, the response rate to the Commission's importer questionnaires was relatively low in the preliminary phase and much improved but still incomplete in the final phase. The HTS subheadings under which subject merchandise was reported are not closely aligned with Commerce's scope. Accordingly, the Commission was obligated to select from imperfect data sets when determining the volume of subject and nonsubject imports during the period of investigation.

In the preliminary phase of the investigations, the Commission used Customs data that had been adjusted to exclude imported merchandise falling outside of Commerce's scope. Compared to the figures reported for the applicable HTS subheadings, the adjustments resulted in a 71 percent decrease in the number of subject imports of OTR tires and a 16 percent reduction in value for 2006. The Commission invited the parties to address how the Customs data should be adjusted in any final phase of the investigations.[80]

In the prehearing staff report in this final phase of the investigations, Commission staff modified Customs data to exclude out-of-scope tires by subtracting imports that weigh more than 1,500 pounds per tire and imports of OTR tires with a landed duty value of less than $20 per unit. To avoid double-counting, the adjusted statistics also excluded imports from several firms that import nonsubject OTR tires under some of the same statistical reporting numbers as subject imports.[81]

At the hearing, petitioners argued that the Customs data should be adjusted to exclude Chinese tires with a landed duty value of less than $25, but that additional adjustments could be necessary in order

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[77] CR/PR at Table VI-3.

[78] CR/PR at Table III-1.

[79] We note that *** ratio of nonsubject imports to production is higher than its ratio of subject imports to production. The former ratio was *** percent throughout the full-year period and was *** percent in 2007. CR/PR at Table III-9.

[80] USITC Pub. 3943 at 14 n.85.

[81] Prehearing CR/PR at IV-4.

to better reflect the actual volume of subject imports.[82] Bridgestone concurred with this proposal.[83] In their posthearing brief, however, petitioners contended that the Customs data should be revised again, this time to exclude imports of Chinese tires with a landed duty value under $35.[84] At the hearing and in their posthearing brief, petitioners continued to argue that the Commission should use these further adjusted Customs data to arrive at subject import volumes, but they also utilized data culled from the importer questionnaire responses to support their arguments regarding injury by reason of the subject imports.[85]

Respondent GPX argues that given the significant problems in estimating imports volumes from Customs data, the Commission should use the import volumes reported in the importer questionnaire responses because the former yields an estimate of import volume that is known to be wrong and the latter "has quite 'good' coverage of total imports"[86] and "are the most accurate data source."[87] The Chinese respondents agree with GPX and assert that the adjusted Census data are clearly unreliable, whereas the data provided in the importer questionnaire responses are "both accurate and sufficiently comprehensive."[88]

In the final staff report, prepared after the hearing and after posthearing briefs were submitted, Commission staff presented three alternative data sets for calculating the volume of subject imports: importer questionnaire responses;[89] a composite consisting of importer questionnaire responses, Customs Net Import File ("CNIF") data adjusted to exclude tires over 1,500 pounds in weight (pursuant to the scope exclusion of tires with a weight of 1,500 pounds or more) and tires with a landed duty value of less than $25, and information from any importer responding to the Commission's importer questionnaires (to avoid double-counting);[90] and a second composite that is identical to the first composite, except that it excludes all OTR tires with a landed duty value of less than $35.[91] The record is not clear, nor did the parties reach any consensus, on which methodology for adjusting the Customs data was likely to result in the smallest margin of either over- or undercounting subject imports. By contrast, GPX and the Chinese respondents endorse the use of the questionnaire data, and petitioners and Bridgestone agree that the questionnaire data are representative of subject import trends.[92]

We have determined to rely on data obtained from the importer questionnaire responses in reaching our injury and critical circumstances determinations. While these data represent only an estimated *** percent of subject imports and *** percent of nonsubject imports,[93] and are therefore likely

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[82] Tr. at 38, 46 (Mr. Stewart); Petitioners' Posthearing Brief at 9.

[83] Bridgestone's Prehearing Brief at 31; see id. at Exh. 9.

[84] Petitioners' Posthearing Brief at 9; see Petitioners' Posthearing Brief, Questions from Vice Chairman Pearson, Question 4 at 28.

[85] See, e.g., Tr. at 38 (Mr. Stewart) (importer questionnaire data show domestic producers are losing market share to subject imports), 46 (Mr. Stewart) (importer questionnaire data show subject imports have increased); Petitioners' Posthearing Brief at 11, Questions from Chairman Aranoff, Question 3 at 13-14.

[86] GPX's Prehearing Brief at 92.

[87] GPX's Posthearing Brief at 4 n.6 & Exh. 2 at 3.

[88] Chinese Respondents' Posthearing Brief, Answers to the Commission's Questions at 2; see Chinese Respondents' Prehearing Brief at 44.

[89] See CR/PR at Table E-2.

[90] See CR/PR at Table C-1.

[91] See CR/PR at Table E-5. We note that reliance on those data would omit a significant number of subject imports, as is evident from an examination of the data pertaining to pricing product 4. See, e.g., CR/PR at Table V-4 (significant quantities of subject imports under $35 apparent in 2005).

[92] Petitioners argue that whether the Commission examines import statistics or importer questionnaire data, subject imports are significant and increased significantly during the period of investigation. Petitioners' Posthearing Brief at 11.

[93] CR/PR at IV-1.

to understate the absolute levels of subject and nonsubject imports, they do represent the trends in such imports as experienced by the importers responding to the questionnaires.[94]

### B. Units/Value vs. Weight

There are three possible ways to measure the volume of imports in these investigations: weight, units or value. In the preliminary phase of these investigations, the Commission explained that, whereas its normal practice is to consider volume in terms of units rather than value, in these investigations there appeared to be large variations in unit values both among the subject merchandise and among the articles comprising the domestic like product. In addition, because an issue arose as to whether the domestic industry had begun producing and selling more higher-valued products within the domestic like product and, if so, to what extent this was due to the subject imports, the Commission considered volume in terms of both units and value.[95]

In this final phase of the investigations, petitioners argue that the Commission should continue to use units as a basis to measure the volume of subject imports and may use value as well, albeit with caution.[96] Bridgestone argues that the Commission should rely on unit data and pay little, if any, attention to the pound or value data.[97] GPX, conversely, contends that the Commission should rely on weight.[98] The Chinese respondents assert that the Commission should use weight or value as a measure of volume.[99]

We have determined to use both units and value as the most appropriate measures of volume in these investigations. As indicated above, several of the parties, both supporting and opposing a finding of material injury by reason of the subject imports, maintain that the Commission should continue to use these data. In addition, these data are the most complete data on the record.[100] However, in certain instances in our discussion of the domestic industry, i.e., capacity, production, shipments, and the like, we also have evaluated the data pertaining to weight.

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[94] Chairman Aranoff, Commissioner Okun, Commissioner Lane, and Commissioner Williamson note that each of the alternative data sets exhibits the same general trends for the volume of subject imports over the period. In each data set from 2005 to 2007, the market share of subject imports increased both by units and value, and the value of subject imports increased by approximately the same amount, with increases ranging from $92 million to $102 million. CR/PR at Tables C-1, E-2 and E-5. Accordingly, reliance on a different data set to measure the volume of subject imports would not have altered their analysis in these investigations.

[95] USITC Pub. 3943 at 12 n.58.

[96] Petitioners' Posthearing Brief, Questions from Vice Chairman Pearson, Question 3 at 21, 23.

[97] Bridgestone's Prehearing Brief at 29-31 & Exh. 9; Bridgestone's Posthearing Brief at 6 & App. A at 13.

[98] GPX's Prehearing Brief at 105; GPX's Posthearing Brief, Answers to Questions at 39.

[99] Chinese Respondents' Posthearing Brief, Answers to the Commission's Questions at 44.

[100] Whereas all responding importers reported subject merchandise in terms of quantity and value, not all reported it in terms of weight. See Importer Questionnaire Responses at Question II-5 for ***.

## IV. MATERIAL INJURY BY REASON OF SUBJECT IMPORTS FROM CHINA[101]

In the final phase of antidumping or countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.[102] In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[103] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[104]

For the reasons stated below, we determine that the domestic industry producing certain OTR tires is materially injured by reason of subject imports from China.

### A. Conditions of Competition and the Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[105] The following conditions of competition are relevant to our determination.

*Product Considerations*. Certain OTR tires are used on a wide variety of vehicles and equipment employed in agriculture, forestry, construction, and industrial settings for hauling, towing, lifting, and/or loading. The majority of trade in tires consists of those used for agricultural and industrial applications.[106] In addition to different categories of end uses, the market is differentiated to some extent by brand names, which permit certain companies to charge a higher price than others. Certain OTR tires also are divided into other segments including the OEM market and the aftermarket (or replacement market).[107]

*Demand Considerations*. The parties agree that the demand for certain OTR tires is derived from the demand for off-the-road vehicles used in the agricultural, construction, industrial, and mining sectors of the economy, with some of these sectors being cyclical. In general, demand is considered to be strong and growing.[108] Evidence in the record also indicates that 2007 was a boom year in terms of demand, although demand generally was strong in each year of the period of investigation.[109]

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[101] Pursuant to Section 771(24) of the Tariff Act, imports from a subject country of merchandise corresponding to a domestic like product that account for less than 3 percent of all such merchandise imported into the United States during the most recent 12-month period for which data are available preceding the filing of the petition shall be deemed negligible. 19 U.S.C. §§ 1671b(a), 1673b(a), 1677(24)(A)(i)(I). No party submitted any argument on the issue of negligible imports. For the most recent 12-month period preceding the filing of the petition for which data is available (June 2006 through May 2007), subject imports from China were well above the 3 percent statutory negligibility threshold. CR/PR at IV-4 n.6. China is the largest foreign supplier of certain OTR tires to the United States, accounting for 54.7 percent of the quantity of total imports in 2007, and 34.1 percent of the value. CR/PR at Table E-1. Consequently, we find that subject imports from China are not negligible.

[102] 19 U.S.C. §§ 1671d(a) and 1673d(a).

[103] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B); see also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[104] 19 U.S.C. § 1677(7)(A).

[105] 19 U.S.C. § 1675a(a)(4).

[106] CR/PR at I-3.

[107] CR/PR at II-1.

[108] See CR at II-6, PR at II-3.

[109] See CR/PR at Table E-2 (apparent consumption reached a high of 6.3 million tires and value of $1.6 billion in 2007).

The agricultural sector experienced strong demand due to high crop and commodity prices. There is evidence that demand normally tracks trends in U.S. farming and mining sectors with sales increasing as the farm economy improves and commodity prices increase.[110] The construction sector was very strong through most of the period of investigation, although the housing crisis that began in 2007 has resulted in some declines in demand for construction tires. There has been steady growth in demand for OTR tires used in mining, oil and gas production and manufacturing.[111]

Notwithstanding a slowing U.S. economy, OTR tire demand has recently increased in light of rising farm income, rising export demand for U.S.-manufactured machines that use certain OTR tires and high prices for oil, corn and mining commodities (such as copper, gold and silver).[112] Demand has increased globally as well as domestically.[113]

Demand for OTR tires can be broken down into demand for tires to be sold in "original" machinery and equipment and demand for replacement tires, with the replacement market being much larger than the original machinery and equipment market. The level of replacement demand is affected by machine usage, the particular application at issue and the number of recently purchased machines. Original equipment and machinery tires and replacement tires are present within each industry segment.[114] [115]

The staff report shows that the overall demand for OTR tires, as measured by apparent consumption, increased over the period of investigation, from 5.8 million tires in 2005 to 6.3 million tires in 2007, and totaled 1.5 million tires in January-March 2007 and 1.6 million tires in January-March 2008. As measured by value, apparent domestic consumption increased from $1.2 billion in 2005 to $1.6 billion in 2007, and was $379.6 million in January-March 2007 and $425.3 million in January-March 2008.[116] [117]

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[110] CR at II-7, PR at II-3.

[111] See Petitioners' Prehearing Brief at 19; Bridgestone's Prehearing Brief at 18-19; Bridgestone's Posthearing Brief at 5; Chinese Producers' Prehearing Brief at 33; CR at II-8, PR at II-4.

[112] See GPX's Prehearing Brief at 41-42; Chinese Producers' Prehearing Brief at 33; see also CR at II-7 - II-8, PR at II-4.

[113] CR at II-8, PR at II-4; Chinese Producers' Prehearing Brief at 34-36.

[114] GPX's Prehearing Brief at 41-42; Chinese Producers' Prehearing Brief at 28-29; API's Prehearing Brief at 2-3; CR/PR at II-1.

[115] Domestic producers supply between 51.4 percent and 52.4 percent, measured in units, of their U.S. shipments to the OEM market, compared with 19.2 percent to 21.0 percent of subject imports U.S. shipments. Conversely, a much higher percentage of subject imports are marketed through distributors that generally serve the replacement market (aftermarket). CR/PR at II-1 & Table I-4. Likewise, there are distinct markets for agricultural, construction and off-the-highway tires, as reflected by separate headings in the Harmonized Tariff Schedule. CR/PR at Tables I-3, III-7 & IV-4. "Off-the-highway" is not a precisely defined term, being described only as "[o]f a kind used on buses or trucks." CR/PR at Table I-3. U.S. producers supply between 70.9 percent and 72.8 percent of their output to the agricultural sector and between 25.0 percent and 26.7 percent of their output to the construction sector. CR/PR at Table III-7. Importers from China supply between 23.7 percent and 37.0 percent of their imports to the agricultural sector and between 58.3 percent and 70.6 percent of their imports to the construction sector. CR/PR at Table IV-4. Lastly, there are different market segments for bias ply and radial tires, each of which has distinctive characteristics and price points. It is estimated that 65 percent to 70 percent of the market for OTR tires is made up of bias ply tires. CR at I-17 n.35, III-8; PR at I-15 n.35, III-5.

[116] CR/PR at Table E-2.

[117] Chairman Aranoff, Commissioner Okun, Commissioner Lane, and Commissioner Williamson note that the apparent consumption figures reported in the text above are based in part on data from importer questionnaire responses (see CR/PR at Table E-2). The staff report also contains apparent consumption figures based on the alternative data sets proposed by petitioners and by Bridgestone (CR/PR at Tables C-1 and E-5), which show a slight increase or decline in consumption in units, and increases by value. While most of the larger increases are seen in figures based in part on data from importers' questionnaire responses, they note that figures from all data sets are

(continued...)

*Supply Considerations.* There are three sources of supply for OTR tires: subject imports, nonsubject imports and domestic production. China is the largest foreign supplier of OTR tires to the United States.[118] A large majority of subject imports consists of bias tires[119] and a large majority of the OTR tire market likewise is for bias tires (70 percent).[120] Subject imports were present in all market segments for which data were gathered during the period of investigation,[121] although they were concentrated in the aftermarket (80 percent of importers' U.S. shipments).[122] In the first quarter of 2008, however, the concentration in the aftermarket declined and 29.1 percent of subject imports were sold to OEMs.[123]

The majority of nonsubject imports were from Sri Lanka, Taiwan and Thailand.[124] Nonsubject imports totaled 1.1 million tires in 2005 and 1.2 million tires in 2007, and totaled 308,000 tires in January-March 2007 and 357,000 tires in January-March 2008. Their market share, measured in units, was 18.8 percent in 2005 and 18.5 percent in 2007. It was 19.9 percent in January-March 2007 and 22.4 percent in January-March 2008. Measured in value, their market share was 21.9 percent in 2005 and 23.3 percent in 2007. It was 21.6 percent in January-March 2007 and 25.0 percent in January-March 2008.[125]

In terms of domestic supply, one domestic producer, Continental Tire North America, exited the industry during the period of investigation and sold its facility in Bryan, Ohio to Titan in July 2006. Goodyear also sold its farm tire plant and assets located in Freeport, Illinois to Titan in December 2005. In 2006, Titan decided to convert one-third of its farm tire capacity in Freeport to non-farm OTR tires and to expand non-farm OTR tires output at Bryan. Some of the Freeport production was shifted to Titan's facility in Des Moines, Iowa.[126]

Average domestic capacity to produce OTR tires increased from 10.0 million tires in 2005 to 10.2 million tires in 2007, and was 2.6 million tires in January-March 2007 as compared to 2.7 million tires in January-March 2008.[127] In terms of weight, capacity was 1.1 billion pounds in 2005 and 2007, and was 277.0 million pounds in January-March 2007 as compared to 284.2 million pounds in January-March 2008.[128] Production declined from 2005 to 2007 in terms of units: from 4.7 million tires in 2005 to 4.0 million tires in 2007, but was 923,000 tires in January-March 2007 and 1.1 million tires in January-March

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[117] (...continued)
consistent with reports that demand was strong throughout the period of investigation. See Petitioners' Prehearing Brief at 19, Bridgestone's Prehearing Brief at 18-19, Bridgestone's Posthearing Brief at 5, Chinese Producers' Prehearing Brief at 33; CR at II-6 - II-8, PR at II-3 - II-4.

[118] CR at IV-4 - IV-5, PR at IV-4. Subject imports totaled 825,000 tires in 2005, rising to 1.4 million tires in 2007. They totaled 325,000 tires in January-March 2007 and 237,000 tires in January-March 2008. The value of subject imports climbed from $84.9 million in 2005 to $187.3 million in 207. It was $45.2 million in January-March 2007 and $32.5 million in January-March 2008. Measured in units, subject import market share increased from 14.2 percent in 2005 to 22.3 percent in 2007, and was 21.0 percent in January-March 2007 and 14.9 percent in January-March 2008. Measured in value, subject import market share was 7.0 percent in 2005 and rose to 12.0 percent in 2007, and was 11.9 percent in January-March 2007 and 7.6 percent in January-March 2008. CR/PR at Table E-2.

[119] See CR/PR at Table IV-4.

[120] Petitioners' Prehearing Brief at 26.

[121] See, e.g., CR/PR at Table IV-4.

[122] Petitioners' Prehearing Brief at 26.

[123] Bridgestone's Prehearing Brief at 17.

[124] CR at IV-5 n.8, PR at IV-4 n.8.

[125] CR/PR at Table E-2.

[126] GPX's Prehearing Brief at 40-41.

[127] CR/PR at Table C-1.

[128] CR/PR at Table III-2.

2008.[129] In terms of weight, production increased from 567.1 million pounds in 2005 to 600.9 million pounds in 2007, and was 143.1 million pounds in January-March 2007 and 159.6 million pounds in January-March 2008.[130]

As subject imports increased over most of the period of investigation, so did their market share.[131] Domestic producers' market share declined commensurately,[132] while nonsubject market share remained fairly steady.[133]

Respondents and some purchasers reported shortages during the period of investigation. Three of the seven U.S. producers, ***, *** and *** acknowledged that they had refused, declined or been unable to supply coterminous tires during the period. Nine subject importers reported that they also had refused, declined or been unable to supply tires during the period of investigation.[134] Some purchasers were placed on allocation or did not receive the total quantity of OTR tires they had ordered.[135]

The Commission received extensive evidence and argument on the nature and extent of the alleged shortages. While the evidence in the record is mixed, shortages appear most acute in C&M tires of 39 inches and higher, especially very large agricultural and mining tires, due to a very large increase in demand for these products.[136] Other tight-supply conditions were observed among certain OTR tires, particularly in product categories in which the need was limited, such as smaller farm tires designed to fit older model equipment.[137] This situation is reflective of both the period of high demand that existed

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[129] CR/PR at Table C-1.

[130] CR/PR at Table III-2**.** We note that GPX argues that the domestic industry's claims of large excess capacity are difficult to reconcile with the evidence of shortages during the period. See GPX's Posthearing Brief at 10-11. While the record indicates that there was substantial excess capacity during the period, Titan's reconfiguration and the changes in the product mix suggest that actual excess capacity may have been less than the level reported by the domestic industry. At any rate, the large scope of products reflected in overall capacity limits the utility of the capacity data.

[131] In terms of quantity, subject import market share rose from 14.2 percent in 2005 to 22.3 percent in 2007, and was 21.0 percent in January-March 2007 and 14.9 percent in January-March 2008. In terms of value, it climbed from 7.0 percent in 2005 to 12.0 percent in 2007, and was 11.9 percent in January-March 2007 and 7.6 percent in January-March 2008. CR/PR at Table E-2.

[132] In terms of quantity, domestic producers' market share fell from 67.0 percent in 2005 to 59.2 percent in 2007, and was 59.0 percent in January-March 2007 and 62.7 percent in January-March 2008. In terms of value, it fell from 71.1 percent in 2005 to 64.7 percent in 2007, and was 66.5 percent in January-March 2007 and 67.3 percent in January-March 2008. CR/PR at Table E-2.

[133] In terms of quantity, nonsubject import market share was 18.8 percent in 2005 and 18.5 percent in 2007, and was 19.9 percent in January-March 2007 and 22.4 percent in January-March 2008. In terms of value, it was 21.9 percent in 2005 and 23.3 percent in 2007, and was 21.6 percent in January-March 2007 and 25.0 percent in January-March 2008. CR/PR at Table E-2.

[134] CR at II-3, PR at II-2; Caterpillar's Prehearing Brief, Exh. 17; Petitioners' Posthearing Brief, Questions from Commissioner Okun, Question 1 at 1-2 & Statement of Maurice M. Taylor, Jr.; Bridgestone's Posthearing Brief at 7; Tr. at 383 (Mr. Ganz).

[135] See CR at II-3 - II-6, PR at II-2; see also Tr. at 252, 343, 345, 370 (Mr. Koch), 257 (Mr. Edwards), 260, 383 (Mr. Ganz), 281 (Mr. Lammlein), 302, 409 (Mr. Denis), 318, 359, 411, 412-13 (Ms. Koester).

[136] See, e.g., Chinese Respondents' Prehearing Brief at 27; Caterpillar's Prehearing Brief, Exh. 17; Petitioners' Posthearing Brief, Questions from Commissioner Okun, Question 1 at 1-2 & Statement of Maurice M. Taylor, Jr.; Bridgestone's Posthearing Brief at 7 & n.26; Tr. at 52 (Mr. Stewart), 58 (Mr. Taylor), 74 (Mr. Rasey), 220 (Mr. Taylor), 383 (Mr. Ganz).

[137] See, e.g., Tr. at 254 (Mr. Koch) (Caterpillar was unable to obtain all tires requested in two sizes to satisfy military contract), 261 (Mr. Ganz) (older tires for smaller equipment declining in popularity and domestic industry is focusing on larger tires with longer runs), 284 (Mr. Durling) (domestic industry is making more of the newer, larger tires).

throughout the period of investigation[138] and the significant time required to reconfigure a plant to manufacture different types or sizes of tires.[139] The domestic industry reconfigured its production capacity in order to move into the manufacture of larger, higher-priced tires, contributing to some of the tight supply conditions for certain small tires.[140] [141] Data from the domestic industry do not indicate that tight supply conditions existed for any length of time across the range of certain OTR tires.[142]

We have considered the extensive testimony, both oral and written, from Caterpillar regarding its inability to obtain all of the tires it ordered.[143] We note that the tires that Caterpillar ordered are not representative of the entire market, as it generally seeks OTR tires produced by domestic producers under the three highest priced premium brands[144] and concedes that it perceives a shortage if it has to settle for non-premium brand tires of the same type, even if the latter are more readily available.[145] In addition, the type of tire that Caterpillar found to be in short supply in 2005 differed from the type not available in 2006, which is evidence that shortages do not exist in the same categories of tires year after year.[146]

*Substitutability.* There is a high degree of substitutability between U.S. and Chinese OTR tires. The majority of U.S. producers, importers and purchasers reported that they were always or frequently interchangeable.[147] When comparing U.S. and Chinese OTR tires on the basis of 17 selected characteristics, the majority or plurality of purchasers consider the products comparable in most categories.[148] Many purchasers require prequalification or certification of subject Chinese tires. Thus, for many purchasers quality is not an issue, and price is likely to be the determining factor in purchasing

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[138] Evidence in the record indicates that 2003 was a low point in the business cycle for agriculture, which then experienced growing demand for new tractors and for replacement tires for existing equipment. See, e.g., Petitioners' Posthearing Brief, Questions from Commissioner Aranoff, Question 5 at 21. In addition, the construction/industrial sector experienced "serious troughs" in demand in 2002-03, and it took time for idled equipment to come back on line, personnel to be hired/rehired, additional raw materials to be acquired to balance production and demand. Petitioners' Posthearing Brief, Questions from Commissioner Okun, Question 1 at 2.

[139] See, e.g., CR/PR at Table III-3 (Titan ***.); Petitioners' Posthearing Brief, Question 3 from Chairman Aranoff, at 4-5.

[140] See Caterpillar's Prehearing Brief, Exh. 15 (tires listed as critical in 2006, i.e. for which there was a supply gap, resulted from losing shipments from Continental/General and Belshina).

[141] We acknowledge that ***. CR/PR at Table III-3. In addition, ***. ***. CR/PR at Table III-3.

[142] See Petitioners' Responses to Posthearing Questions from Vice Chairman Pearson and Commissioner Okun at Exh. 2; Bridgestone's Responses to Posthearing Questions from Vice Chairman Pearson and Commissioner Okun at Exh. A and B. Vice Chairman Pearson and Commissioner Okun requested data related to inventory, backorders, demand, anticipated production, and when production is anticipated for OTR tires on a quarterly basis dating back to January 1, 2005. These data show that backorders were not prevalent for coterminous tires during the period of investigation. When backorders existed at the end of a quarter for specific tires, the domestic producers generally were able to eliminate or reduce these backorders in subsequent quarters. Id.

[143] See, e.g., Caterpillar's Prehearing Brief, Exhs. 1, 10, 18; Tr. at 251-54, 343, 345, 370-71 (Mr. Koch).

[144] Caterpillar's Prehearing Brief, Exh. 1 at 4, Exh. 18 at 2; Tr. at 253 (Mr. Koch) (Caterpillar prefers to purchase OTR tires from Michelin, Goodyear and Bridgestone – the "Big 3"). The importance of the brand premium is explained below.

[145] See, e.g., Tr. at 253 (Mr. Koch); Caterpillar's Prehearing Brief, Exh. 1 at 5-6.

[146] See Caterpillar's Posthearing Brief, Exh. 1. See also CR at II-3, II-2 (***); see also GPX's Prehearing Brief at 38 (Titan has more than 3,000 distinct SKUs); Tr. at 370 (Mr. Reilly) (not enough warehouse space or capital to keep large array of tires). Any backorders relative to OTR tires purchased from *** would not be unexpected.

[147] CR/PR at Table II-5.

[148] CR at II-16 - II-17 & Table II-7, PR at II-11 & Table II-7.

decisions.[149] OTR tires are not a commodity, however.[150] OTR tires vary across many dimensions such that there is an extremely wide range of products. Titan alone has more than 3,000 distinct SKUs.[151] Whereas the Chinese and U.S. product compete in both the OEM and replacement market, as noted above, most subject imports are sold in the replacement market, although their role in the OEM market is becoming more pronounced. The Chinese product competes in all sectors of the market, i.e., agricultural, construction and mining.[152]

Price is one of the three most important factors involved in purchasing decisions, along with availability and quality.[153] There is a three-tiered hierarchy of brands. The top tier consists of large, international producers having widely recognized brands, such as Goodyear, Bridgestone and Michelin.[154] These top brands sell at a premium[155] over lower tier products and feature technical and manufacturing sophistication, highly developed manufacturing facilities and product lines, deep dealer and service infrastructures, and substantial marketing and advertising budgets.[156] The second tier comprises brands that do not have the same brand recognition, market breadth and quality as the top brands. The Titan brands and some subject imports from China are included among these brands, which appeal to replacement buyers who do not require the level of quality and service provided by the premium brands and are positioned below the top-tier brands in price.[157] Subject imports also appear among the third tier, composed of so-called private brands or dealer house brands that appeal to economy-minded customers. Purchasers and domestic producers agree that there is a hierarchy of brands.[158]

We note that lead times vary from a few days to several months depending on inventories, production schedules and shipping schedules.[159] Given the high degree of substitutability between the U.S. and Chinese products and the large volumes of subject imports, we do not find that the longer lead times for subject merchandise materially limit competition between subject imports and the domestic like product.

*Other Considerations*. Other supply considerations include rapidly escalating raw material costs, which averaged 58.6 percent of the cost of goods sold ("COGS") annually between 2005 to 2007.[160] A

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[149] Bridgestone's Posthearing Brief at 22.

[150] CR at VII-10 & nn.14-15, PR at VII-6 & nn.14-15.

[151] GPX's Prehearing Brief at 37-38.

[152] See CR/PR at Table III-7; see also CR/PR at Tables V-1 - V-9 (subject merchandise present in sales of all nine pricing products).

[153] CR at II-11, PR at II-___.

[154] Caterpillar's Posthearing Brief at 9.

[155] Market participants supplied wide-ranging estimates of the extent of the price premium, from 3 percent to 50 percent or more. CR at II-14, PR at II-8. In evaluating the evidence of record, we note that the majority of estimates ranged from 10 percent to 25 percent. Id. We also note that an independent, published source indicated that mining tires of certain premium brands offer a smaller advantage over others, ranging from 5 percent to 10 percent, in terms of lifespan and operating costs. Caterpillar's Posthearing Brief, Exh. 5 at 22. Considering the above, we conclude that the price premium most commonly ranges from 10 percent to 15 percent, but may also be smaller or greater in particular instances.

[156] Chinese Producers' Prehearing Brief at 29-30.

[157] Chinese Producers' Prehearing Brief at 30; Caterpillar's Posthearing Brief at 9-10 & Exh. 9.

[158] Chinese Producers' Prehearing Brief at 31; Caterpillar's Posthearing Brief at 9; Petitioners' Posthearing Brief, Questions from Staff at 2; see CR at II-13 - II-14, PR at II-8.

[159] See API's Prehearing Brief at 2-3.

[160] CR/PR at V-1. Raw material costs increased from $500.9 million in 2005 to $629.0 million in 2007, and were $152.1 million in January-March 2007 and $186.5 million in January-March 2008. CR/PR at Table VI-1.

major raw material input used in making these products is natural rubber. Other important materials include synthetic rubber, carbon black, various chemicals, textiles, and steel.[161]

Domestic producers manufactured more of the larger tires with higher average unit values ("AUVs") as the period of investigation progressed, albeit in lower volumes.[162]

. **B. Volume of the Subject Imports from China**

Section 771(7)(C) of the Tariff Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[163]

Based on the evidence in the record of these investigations, we find the volume of subject imports from China is significant both in absolute terms and relative to consumption and production in the United States.

The volume of subject imports increased significantly from 2005 to 2007. Subject imports totaled 825,000 tires in 2005, rising to 1.4 million tires in 2007. They totaled 325,000 tires in January-March 2007 and 237,000 tires in January-March 2008.[164] In terms of value, subject imports climbed from $84.9 million in 2005 to $187.3 million in 2007. The value of subject imports was $45.2 million in January-March 2007 and $32.5 million in January-March 2008.[165]

Subject import market share increased as well. In terms of quantity, it was 14.2 percent in 2005 and rose to 22.3 percent in 2007. It was 21.0 percent in January-March 2007 and 14.9 percent in January-March 2008. In terms of value, subject import market share increased from 7.0 percent in 2005 to 12.0 percent in 2007. It was 11.9 percent in January-March 2007 and 7.6 percent in January-March 2008.[166] The ratio of the quantity of subject imports to U.S. production was 17.6 percent in 2005, rising to 35.0 percent in 2007. It was 35.2 percent in January-March 2007 and 21.9 percent in January-March 2008.[167]

Domestic producers faced significant competition from subject imports in both the agricultural sector, which constituted the largest portion of their sales, and the construction sector. U.S. shipments of subject imports of agricultural tires increased by 153 percent from 2005 to 2007, and U.S. shipments of subject imports of construction tires increased by 34 percent from 2005 to 2007.[168]

Respondents argue that the increase in subject imports was due primarily to shortages prevalent in the domestic industry.[169] As explained above, however, reported shortages were primarily among C&M tires of 39 inches and higher. We note that subject import volumes were relatively concentrated in

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[161] CR/PR at V-1.

[162] See CR/PR at Table III-6 (AUV increased from $227.22 per tire in 2005 to $280.17 per tire in 2007, while total quantity of shipments decreased from 4.5 million tires in 2005 to 4.2 million tires in 2007). See also CR/PR at Table III-7 (adjusted to show small vs. large OTR tires and shows small tires have remained a consistent share of U.S. production).

[163] 19 U.S.C. § 1677(7)(C)(i).

[164] CR/PR at Table E-1. We note that preliminary countervailing duties were imposed in December 2007 and preliminary antidumping duties were imposed in February 2008. See 72 Fed. Reg. 71360 (Dec. 17, 2007); 73 Fed. Reg. 9278 (Feb. 20, 2008). We find that the decrease in subject imports in the comparison of the interim data is the consequence of the imposition of the provisional duties.

[165] CR/PR at Table E-1.

[166] CR/PR at Table E-2.

[167] Compare CR/PR at Table E-2 with CR/PR at Table C-1.

[168] See CR/PR at Table IV-4.

[169] See, e.g., GPX's Prehearing Brief at 107-09; Caterpillar's Prehearing Brief at 12-13.

smaller, coterminous tires in which fewer shortages were reported.[170] As subject imports captured larger volumes of this smaller-sized tire segment, domestic producers concluded that they no longer could compete in that segment and focused production on larger-sized tires, both those coterminous with the scope and C&M tires of 39 inches and higher.[171] While there also were periodic tight supply conditions for smaller farm tires designed for older model equipment and other small-volume models, subject imports were not restricted to or even concentrated in the categories in which there were reported shortages.[172] Furthermore, when purchasers reported tight supply conditions in coterminous tires, data from the domestic industry indicate that any backorders were not prevalent for coterminous tires during the period of investigation.[173] When backorders existed at the end of a quarter for specific coterminous tires, the domestic producers generally were able to eliminate or reduce these backorders in subsequent quarters.[174]

For the foregoing reasons, we find that the volume of subject imports from China is significant, both in absolute terms and relative to consumption and production in the United States, and we find that the increase in the level of subject imports from China between 2005 and 2007 is also significant.

### C. Price Effects of the Subject Imports from China

Section 771(7)(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and

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[170] In 2005, subject imports of smaller, coterminous tires totaled 554,000 tires. They totaled 637,000 tires in 2006 and 845,000 tires in 2007. In January-March 2007, they totaled 195,000 tires and in January-March 2008, they totaled 162,000 tires. As measured by value, subject imports of smaller, coterminous tires totaled $31.5 million in 2005, $50.7 million in 2006 and $70.0 million in 2007. They totaled $17.1 million in January-March 2007 and $15.2 million in January-March 2008. Derived from CR/PR at Table IV-4.

C&M tires of 39 inches and higher were much fewer. In 2005, subject imports of these tires totaled *** tires. In 2006, they totaled *** tires, and in 2007 they totaled *** tires. They totaled 615 tires in January-March 2007 and *** tires in January-March 2008. As measured by value, subject imports of C&M tires of 39 inches and higher totaled $*** in 2005, $*** million in 2006 and $*** million in 2007. CR/PR at Table C-2.

We note that Table IV-4 of the staff report presents volume and value of imported subject OTR tires divided into three primary end-use categories with further breakouts by size range and tire characteristics such as tread pattern and radial or non-radial construction. In order to divide subject tires into large and small categories, the following tire sizes were considered "smaller": tires specifically designated as less than 16 inches and 24 inches, respectively, as well as a nominal "Other" category for which no size range was reported. The remaining tires, greater than or equal to 16 inches and between 24 inches and 39 inches, were considered "larger."

[171] Domestic producers manufactured more of the larger tires with higher AUVs as the period of investigation progressed, albeit in lower volumes. See CR/PR at Table III-6 (AUV increased from $227.22 per tire in 2005 to $280.17 per tire in 2007, while total quantity of shipments decreased from 4.5 million tires in 2005 to 4.2 million tires in 2007). See also CR/PR at Table III-7 (adjusted to show small vs. large OTR tires and shows small tires have remained a consistent share of U.S. production).

[172] See CR/PR at Table IV-4 (subject imports present in all sectors of the market).

[173] See Petitioners' Responses to Posthearing Questions from Vice Chairman Pearson and Commissioner Okun at Exh. 2; Bridgestone's Responses to Posthearing Questions from Vice Chairman Pearson and Commissioner Okun at Exh. A and B.

[174] Id.

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[175]

While price was consistently listed by purchasers as one of the most important factors in making purchasing decisions, it was not routinely listed as the single most important factor.[176] OTR tires also are not commodity products.[177] Brand names command a premium and the hierarchy of brands comprises three tiers, as explained above. The Chinese product is found in two of the three tiers and generally is highly substitutable for domestic OTR tires.[178]

Prices for all nine pricing products examined generally trended upward over the period, for both domestic and subject Chinese OTR tires.[179] Thus, we find that there has been no price depression during the period of investigation.

We also do not find that the evidence shows that subject imports from China had significant suppressing effects on prices for the domestic like product.[180] Although, as explained above, raw material costs increased significantly over the period of investigation, the domestic industry was able to recoup these costs through price increases.[181] Thus, the ratio of COGS to sales decreased slightly over the annual periods surveyed, from 89.7 percent in 2005 to 88.7 percent in 2007; it was 87.2 percent in both interim periods.[182] [183]

Notwithstanding the lack of price depression or evidence of significant suppression,[184] there was widespread and significant underselling during the period of investigation, with Chinese product underselling domestic OTR tires in 147 of 157 quarterly price comparisons. The margins of underselling ranged from 1.5 to 57.0 percent.[185] It is apparent that the existence of brand premiums, which most

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[175] 19 U.S.C. § 1677(7)(C)(ii).

[176] CR/PR at Table II-2.

[177] CR at VII-10 & nn.14-15, PR at VII-6 & nn.14-15.

[178] See CR/PR at Table II-5.

[179] See CR/PR at Tables V-1 - V-9.

[180] Commissioner Lane disagrees, as explained below.

[181] Raw material costs increased 25.6 percent over the period of investigation. See CR/PR at Table VI-1. For pricing product 1 sold in the replacement market, for example, domestic producers increased prices 27.5 percent between January-March 2005 and January-March 2008. See CR/PR at Table V-10.

[182] CR/PR at Table VI-1.

[183] Commissioner Lane has evaluated these data in light of the market conditions and an industry that has a relatively low operating income and arrived at a different conclusion from the majority. Considering that the operating income percentage to net sales in the first year of the period of investigation was a low 0.1 percent, CR/PR at Table VI-1, and that there is a strong demand for OTR tires, the industry should have been able to raise prices to not only cover the increased cost of its raw materials, but also to improve its operating income. She finds that the operating income of the industry, although improved, remained too low and averaged only 1.1 percent for the three full years of the period of investigation, 2005 through 2007. Id. This indicates that the industry was prevented from raising prices to levels needed to produce a more reasonable operating income. In light of prevailing conditions of competition, the record indicates that this inability to raise prices is related to the increased subject imports at reduced prices that undersold the domestic industry in a large percentage of pricing products examined. Therefore, Commissioner Lane determines that the record supports a finding that the domestic industry's prices are being suppressed by the subject imports.

[184] As noted above, Commissioner Lane does find evidence of price suppression.

[185] CR at V-23, PR at V-6.

commonly range from 10 to 15 percent, does not account for all of the underselling that occurred.[186] In the clear majority of instances, margins of underselling were 15 percent or higher.[187] In any event, a substantial share of sales of domestic pricing products were not first tier brands;[188] premium prices do not explain margins of underselling with respect to these sales of non-first tier products.

We find that the widespread and significant margins of underselling have resulted in a significant loss of the domestic industry's market share. U.S. producers' market share, as measured by quantity, fell from 67.0 percent in 2005 to 59.2 percent in 2007, and was 59.0 percent in January-March 2007 and 62.7 percent in January-March 2008. As measured by value, U.S. producers' market share fell from 71.1 percent in 2005 to 64.7 in 2007, and was 66.5 percent in January-March 2007 and 67.3 percent in January-March 2008.[189] Rather than lower its prices to meet underselling by the subject merchandise, the industry chose to hold firm on prices sufficient to meet rising per unit production costs, at the expense of sales volume.[190] Thus, the domestic industry lost market share despite rising prices and robust demand.

Evidence on the record of confirmed lost sales illustrates this point. *** alleged that it lost annual sales of 14 separate products valued at more than $*** million due to competition from subject imports. The allegations were confirmed, and it was reported that the quantities were actually far greater than those alleged.[191] *** also lost sales of *** tires valued at $*** per tire to subject imports.[192]

As discussed below, consistent price underselling by subject imports has led to significant adverse effects on the condition of the domestic industry. While the domestic industry elected not to lower prices to the level of subject imports, it experienced, as a consequence, lost market share and lower production in an expanding market, as discussed in more detail below.[193]

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[186] We explain the basis for our estimate of the price premium in Section IV.A. of these views, under the heading "Substitutability."

[187] See CR/PR at Tables V-1 - V-9.

[188] See Responses to Domestic Producer Questionnaires at Section IV.

[189] CR/PR at Table E-2.

[190] In terms of units, the domestic industry's total net sales declined from 4.5 million tires in 2005 to 4.2 million tires in 2007, and totaled 1.0 million tires in January-March 2007 and 1.2 million tires in January-March 2008. CR/PR at Table VI-1. In terms of value, the domestic industry's total net sales rose from $1.0 billion in 2005 to $1.2 billion in 2007, and was $288.3 million in January-March 2007 and $341.7 million in January-March 2008. The increase in value reflects the domestic industry's move towards the manufacture of larger-sized tires, as corroborated by these same data presented by weight: total net sales increased from 539.6 million pounds in 2005 to 639.0 million pounds in 2007, and was 160.7 million pounds in January-March 2007 and 166.8 million pounds in January-March 2008. CR/PR at Table VI-1.

[191] CR at V-23 - V-24, PR at V-6 - V-7.

[192] CR at V-24, PR at V-7. There was also confirmed lost revenue, as *** lowered its price due to a quotation on a Chinese-produced tire of $*** when the proposed price was $***. CR at V-28, PR at V-7. In the preliminary phase of these investigations, Titan maintained that it had lost business due to imports from China on 19 customer accounts. Commission staff contacted these firms, and five responded. Three out of the five stated that they purchased subject imports due to lower prices. CR at V-28, PR at V-8.

[193] We do not compare the domestic like product pricing data with that of the very large earthmoving/mining tires that are outside of the scope of the investigations. We have found that the very large earthmoving/mining tires are not part of the same domestic like product as certain OTR tires.

### D. Impact of the Subject Imports from China on the Domestic Industry[194] [195]

Section 771(7)(C)(iii) of the Act provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry."[196] These factors include output, sales, inventories, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[197]

In the final phase of these investigations, the factors we examine in making our determination as to whether subject imports have had an adverse impact on the domestic industry are mixed. Nevertheless, the overall weight of the factors supports a finding of material injury because several of the indicators that show improvement are affected either by the domestic industry's movement toward larger-sized tires or by the effects of the imposition of the provisional duties (interim 2008 data). As measured by units, U.S. production of subject OTR tires fell by 14.3 percent over the full-year period, but registered an increase

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[194] The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its final determination, Commerce calculated final weighted-average dumping margins ranging from 4.08 percent to 19.15 percent for named Chinese producers/exporters of OTR tires, and 210.48 percent for the PRC-wide entity. 73 Fed. Reg. 40485, 40489 (July 15, 2008); CR at Table I-2.

In its final determination, Commerce also found that the following programs provided countervailable subsidies to producers of OTR tires in China: (1) Government provision of rubber for less than adequate remuneration; (2) Government policy lending; (3) Government debt forgiveness to TUTRIC; (4) Government debt forgiveness and the provision of land to Starbright pursuant to its change in ownership; (5) stamp tax exemption on share transfers under NTSR; (6) tax subsidies to FIEs in specially designated geographic areas and local income tax exemption and reduction programs for "productive" FIEs; (7) VAT and tariff exemptions for FIEs and certain domestic enterprises using imported equipment in encouraged industries; and (8) State Key Technology Renovation Project Fund. Consequently, Commerce assigned the following countervailable subsidy rates: Guizhou Tire Co., Ltd. (2.45 percent); Hebei Starbright Tire Co., Ltd. (14.00 percent); Tianjin United Tire & Rubber International Co., Ltd. (6.85 percent); and all others (5.62 percent). 73 Fed. Reg. at 40,483; CR/PR at Table I-1. Commerce assigned the following net countervailable subsidy rates: Guizhou Tire Co., Ltd. (2.45 percent); Hebei Starbright Tire Co., Ltd. (14.00 percent); Tianjin United Tire & Rubber International Co., Ltd. (6.85 percent); and all others (5.62 percent). 73 Fed. Reg. 40480, 40483 (July 15, 2008).

[195] Commissioners Lane and Pinkert note that Mr. Christenberry, Chief Executive Officer, Super Grip Corporation, testified that his company is a producer and importer of specialty tires, many of which are not produced domestically, that such tires are not being dumped in the United States, that the tires do not benefit from any subsidies, and that his company was not provided notice of the petition prior to its filing. He said that by the time he was made aware of the petition, it was too late for Super Grip Corporation to apply to Commerce for a separate rate in these investigations. Consequently, Super Grip Corporation reports that its imports are subject to the "All others" weighted average dumping margin. Commerce is the agency empowered by the statute to determine the actual dumping margins. See Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), aff'd, 865 F.2d 240 (Fed. Cir.), cert. denied, 492 US. 919 (1989). Thus, as Super Grip Corporation is aware, it can pursue administrative remedies at Commerce with respect to its concerns. Tr. at 267, 435-36 (Mr. Christenberry).

[196] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports."). SAA at 885.

[197] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386, 731-TA-812-813 (Prelim.), USITC Pub. 3155 at 25 n.148 (Feb. 1999).

when comparing interim periods.[198] In terms of weight, U.S. production of subject OTR tires increased over the entire period of investigation; however, domestic producers produced relatively more larger-sized tires, as discussed above.[199] Capacity utilization declined over the full-year periods and showed an increase when comparing interim periods.[200]

U.S. producers' U.S. shipments as measured by units decreased as well over the full-year periods, but showed an increase when comparing interim periods.[201] When measured by weight, the trend was the opposite.[202] U.S. producers' U.S. shipments rose as well over the entire period of investigation when measured by value.[203]

The total quantity of net sales as measured by units fell over the full-year periods, then showed recovery when comparing interim periods.[204] As measured by weight, the total quantity of net sales increased throughout the period of investigation.[205] The total value of net sales followed the latter trend.[206]

Employment-related indicators were more consistently negative, generally showing downward trends during the full-year periods surveyed. The number of production and related workers declined between 2005 and 2007,[207] as did their hours worked[208] and wages paid.[209] Productivity, as measured in units, declined,[210] although it increased as measured by weight.[211]

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[198] U.S. production of subject OTR tires fell from 4.7 million tires in 2005 to 4.0 million tires in 2007. It was 923,000 tires in January-March 2007 and 1.1 million tires in January-March 2008. CR/PR at Table C-1.

[199] U.S. production of subject OTR tires increased from 567.1 million pounds in 2005 to 600.9 million pounds in 2007. It was 143.1 million pounds in January-March 2007 and 159.6 million pounds in January-March 2008. CR/PR at Table III-2.

[200] Capacity utilization fell from 46.8 percent in 2005 to 39.3 percent in 2007. It was 35.9 percent in January-March 2007 and 39.8 percent in January-March 2008. CR/PR at Table C-1.

[201] U.S. producers' U.S. shipments decreased from 3.9 million tires in 2005 to 3.7 million tires in 2007. They totaled 910,000 tires in January-March 2007 and 995,000 tires in January-March 2008. CR/PR at Table III-6.

[202] In terms of pounds, U.S. producers' U.S. shipments increased from 462.0 million pounds in 2005 to 552.4 million pounds in 2007. They totaled 141.7 million pounds in January-March 2007 and 140.8 million pounds in January-March 2008. CR/PR at Table III-6.

[203] U.S. producers' U.S. shipments increased from $861.2 million in 2005 to $1.0 billion in 2007. They totaled $252.4 million in January-March 2007 and $286.4 million in January-March 2008. CR/PR at Table III-6.

[204] The total quantity of net sales declined from 4.5 million tires in 2005 to 4.2 million tires in 2007. It was 1.0 million tires in January-March 2007 and 1.2 million tires in January-March 2008. CR/PR at Table VI-1.

[205] The total quantity of net sales rose from 539.6 million pounds in 2005 to 639.0 million pounds in 2007. It was 160.7 million pounds in January-March 2007 and 166.8 million pounds in January-March 2008. CR/PR at Table VI-1.

[206] The total value of net sales increased from $1.0 billion in 2005 to 1.2 billion in 2007. It was $288.3 million in January-March 2007 and $341.7 million in January-March 2008. CR/PR at Table VI-1.

[207] The number of production and related workers fell from 4,073 in 2005 to 3,856 in 2007. They numbered 3,777 in January-March 2007 and 3,853 in January-March 2008. CR/PR at Table III-10.

[208] The hours worked by production and related workers decreased from 8.5 million hours in 2005 to 8.1 million hours in 2007. They totaled 2.0 million hours in January-March 2007 and 2.2 million hours in January-March 2008. CR/PR at Table III-10.

[209] Total wages paid decreased from $246.3 million in 2005 to $240.0 million in 2007. Total wages paid were $59.8 million in January-March 2007 and $64.8 million in January-March 2008. CR/PR at Table III-10.

[210] Productivity declined from 0.55 tires per hour in 2005 to 0.50 tires per hour in 2007. It was 0.46 tires per hour in January-March 2007 and 0.50 tires per hour in January-March 2008. CR/PR at Table III-10.

[211] Productivity rose from 66.5 pounds per hour in 2005 to 74.4 pounds per hour in 2007. It was 71.0 pounds per hour in January-March 2007 and 73.9 pounds per hour in January-March 2008. CR/PR at Table III-10.

In addition, the domestic industry's financial indicators were mixed. Operating income increased over the entire period.[212] The ratio of operating income to net sales, although improving, was quite low.[213] COGS rose substantially over the period, primarily fueled by the rise in raw material costs,[214] yet COGS relative to net sales declined slightly over the full-year periods surveyed and held steady when comparing interim periods.[215] Four of the seven domestic producers experienced operating losses during the period, and two suffered losses every year and during both interim periods.[216]

As we consider whether these mixed indicators are reflective of a significant adverse impact by subject imports, we note that demand for certain OTR tires was strong and increasing over the period of investigation – which would ordinarily cause considerable improvement in the indicators – and that the domestic industry shifted to the production of larger tires, allowing natural efficiency gains.[217] On balance, we conclude that the subject imports are having a material adverse impact on the condition of the domestic industry. The absolute and relative volumes of subject imports are significant, and subject imports have gained significant market share at the expense of the domestic industry. As the volume of subject imports undersold the domestic product, the domestic industry experienced a number of adverse effects on key factors we consider, namely production, capacity utilization, shipments, total quantity of net sales, employment, and lost sales and revenue. The trends are sometimes reversed when measured by weight, a fact we attribute to the industry's refocusing of production away from the small tire segment and toward the larger sizes.

Subject import volumes were concentrated in smaller, coterminous tires.[218] As subject imports captured larger volumes of this smaller-sized tire segment, domestic producers concluded that they no longer could compete in that segment and focused production on larger-sized tires.[219] The record does not support respondents' argument that the domestic industry moved to producing larger tires only because it could receive higher margins. Indeed, capacity utilization and demand considerations for the smaller-sized tire segment indicate that the domestic industry could have produced both the smaller-sized tires and the more profitable, larger-sized tires if it had not been for the underselling of subject imports in the

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[212] Operating income rose from $1.5 million in 2005 to $28.0 million in 2007. It was $11.1 million in January-March 2007 and $14.1 million in January-March 2008. CR/PR at Table VI-1.

[213] The ratio of operating income to net sales was 0.1 percent in 2005 and rose to 2.4 percent in 2007. It was 3.9 percent in January-March 2007 and 4.1 percent in January-March 2008. CR/PR at Table VI-1.

[214] COGS climbed from $906.9 million in 2005 to $1.1 billion in 2007. It was $251.4 million in January-March 2007 and $298.1 million in January-March 2008. Raw material costs increased from $500.9 million in 2005 to $629.0 million in 2007. It was $152.1 million in January-March 2007 and $186.5 million in January-March 2008. CR/PR at Table VI-1.

[215] COGS relative to net sales decreased from 89.7 percent in 2005 to 88.7 percent in 2007. It was 87.2 percent in January-March 2007 and January-March 2008. CR/PR at Table VI-1.

[216] CR/PR at Table VI-3. As discussed above, the domestic industry restructured during the period, as certain producers ceased production of OTR tires and others began to produce more of the larger sized tires. The costs associated with this restructuring do not negate the adverse impact attributable to the subject imports. See GPX's Posthearing Brief, Exh. 1 at 56-57, for detailing of these costs. The costs associated with the restructuring are allocable ***. See CR/PR at Table III-3. GPX's arguments focus on the costs incurred by the industry; however, the domestic industry has also cut costs. It has cut both direct labor and other factory costs as a ratio to net sales over the period of investigation. See CR/PR at Table VI-1. Further, petitioners (one of which is the labor union USW) maintain that ***. Petitioners' Posthearing Brief at 1.

[217] See Bridgestone's Posthearing Brief, App. A at 2-3.

[218] See CR/PR at Table IV-4.

[219] See CR/PR at Table III-7; CR at VI-16 n.29, PR at VI-7 n.29.

smaller-sized tire segment.[220] Thus, the domestic industry could have produced more tires and would have experienced better financial returns than it has.[221] [222] [223] [224]

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[220] Average capacity utilization was below 50 percent throughout the period of investigation. CR/PR at Table C-1.

[221] We note that the interim 2008 data indicate that, after provisional measures were imposed in December 2007, subject import volumes decreased, domestic and subject import prices for several certain OTR products rose sharply, and performance indicators for the domestic industry improved. Cf. SAA at 854 ("[t]he imposition of provisional duties, in particular, can cause a reduction in import volumes and an increase in prices of both the subject imports and the domestic like product.") They find that these developments constitute additional evidence of a causal link between the subject imports and the material injury experienced by the domestic industry.

Subject import volume, measured both by quantity and value, was lower in interim 2008 than in interim 2007. Subject import volume by quantity was 237,000 tires in interim 2008 versus 325,000 in interim 2007. Subject import volume by value was $32.5 million in interim 2008 versus $45.2 million in interim 2007. CR/PR at Table E-1.

Domestic and subject import prices for several certain OTR products rose sharply in the first quarter of 2008. CR/PR at Tables V-1, V-5, V-6, and V-8 (***.).

The impact of these reduced volumes and increased prices is reflected in improvements from interim 2007 to interim 2008 in the following performance indicators: ratio of operating income to sales, shipments, production, capacity utilization, and number of production workers. CR/PR at Table C-1.

[222] Commissioner Williamson does not join the preceding footnote.

[223] Having reached an affirmative determination by application of the statutorily mandated factors, the Federal Circuit's decision in Bratsk Aluminum Smelter v. United States requires that we turn to an additional analysis which can, in some circumstances, negate an affirmative determination. 444 F.3d 1369 (Fed. Cir. 2006); see also Caribbean Ispat, Ltd. v. United States, 450 F.3d 1346 (Fed. Cir. 2006). The Federal Circuit directed the Commission to undertake an "additional causation inquiry" whenever certain triggering factors are met: "whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market." Id. at 1375. The additional inquiry required by Bratsk, which we refer to as the Bratsk replacement/benefit test, is "whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers." Id. As in the preliminary stage of these investigations, all parties agree that Bratsk does not apply to these investigations. This is principally due to the fact that OTR tires are not commodity products. See, e.g., CR at VII-10 & n.15. See also Bridgestone's Prehearing Brief at 63. At least some producers characterize the market as having commodity type products within it, however. See, e.g., Tr. at 122, 124 (Mr. Monthei), 165 (Ms. Lutz), 313 (Mr. Anderson), 386 (Mr. Gantz). In the preliminary phase of the investigations, the Commission determined not to apply the analysis dictated by Bratsk because one of the predicates for that analysis, a "commodity product," was not present. The Commission asked that in any final phase investigations, any party holding a contrary view should so indicate and provide a basis for its view when submitting written comments on the draft questionnaires. USITC Pub. 3943 at 15 n.97. None of the parties responded. Based on the record, we find that certain OTR tires are not commodity products and we do not apply the Bratsk analysis in these investigations.

[224] Commissioner Okun discerns two possible interpretations of the Bratsk opinion, which differ substantially. The so-called "replacement/benefit test" is noted above. The second one is that Bratsk is a further restatement of the causation approach prescribed by Gerald Metals. Under this interpretation, the Bratsk decision stands to remind the Commission of its obligation under Gerald Metals that the Commission may not satisfy the "by reason of" causation requirement by showing that subject imports contributed only "minimally or tangentially to the material harm." In other words, the Bratsk Court's relatively short discussion of the underlying determination may not have established a new and rigid replacement/benefit test. Rather, the Court may have discussed the triggering factors as a reminder that the Commission, before it makes an affirmative determination, must satisfy itself that it has not attributed material injury to factors other than subject imports. See Separate and Additional Views of Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun Concerning Bratsk Aluminum v. United States in Sodium Hexametaphosphate from China, Inv. No. 731-TA-1110 (Prelim.), USITC Pub. 3912 (Apr. 2007). Commissioner Okun has included this analysis in the Commission's affirmative causation analysis.

## V. CRITICAL CIRCUMSTANCES

On March 11, 2008, petitioners alleged that there was a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of certain OTR tires from China. With regard to the countervailing duty investigation, pursuant to section 705(a)(2) of the Act, Commerce must find that there are countervailable subsidies that are inconsistent with the World Trade Organization Agreement on Subsidies and Countervailing Measures ("SCM Agreement") and that there have been massive imports over a relatively short period in order for critical circumstances to exist. Commerce determined in this investigation that none of the respondents received subsidies inconsistent with the SCM Agreement and did not reach the issue of whether there have been massive imports over a relatively short period of time. Thus, Commerce found in its final determination that critical circumstances do not exist with respect to subject imports. As pertains to the antidumping duty investigation, Commerce found in its final determination that critical circumstances exist for the PRC entity and found that critical circumstances do not exist for the mandatory respondents or for the remaining "Separate Rate Recipients." Based on the record before the Commission and the final Commerce determinations, petitioners are not pursuing the issue of critical circumstances any further.[225] Because Commerce made an affirmative critical circumstances determination with respect to the PRC entity in its antidumping duty determination, however, we too are obligated to make a finding on that issue.[226]

As Trelleborg points out, normally the Commission relies on Commerce's monthly import data for the comparison periods reported by the exporters whose merchandise was subject to Commerce's affirmative critical circumstances determination and official import statistics when available.[227] The necessary data, however, are not present on the record of these investigations. Commerce's data cover only the four mandatory respondents that provided export data in response to its request, and it made a negative critical circumstances determination as to each firm. Commerce did not request the monthly export data from the 24 separate rate companies, but rendered a negative determination as to them based on the experience of the four mandatory respondents. As a result, Commerce's affirmative critical circumstances determination was made only as to the residual exports of the "PRC entity," and this determination was made on the basis of adverse inferences because the PRC entity failed to respond to Commerce's questionnaire.[228]

The petitions in these investigations were filed on June 18, 2007.[229] As Trelleborg argues, there were a total of 1.2 million OTR tires exported to the United States in 2007, without excluding the firms as to which Commerce issued a negative critical circumstances determination, valued at $149.1 million.[230] A total of 1.1 million OTR tires were exported to the United States in 2006, valued at $137.7 million.[231] In addition, U.S. importers' end-of-period inventories totaled 142,000 tires in 2006 and 217,000 tires in 2007.[232] These data do not show a sudden and significant increase in subject imports subsequent to the filing of the petition that would undermine seriously the remedial effect of the antidumping duty order.

Based on the record, we determine that the imports subject to Commerce's affirmative critical circumstances determination are not likely to undermine seriously the remedial effect of the antidumping duty order to be issued on certain OTR tires.

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[225] CR at IV-15 - IV-16, PR at IV-13.

[226] See 19 U.S.C. § 1673d(b)(4)(A)(i).

[227] Trelleborg's Prehearing Brief at 10.

[228] Trelleborg's Prehearing Brief at 10-11.

[229] CR/PR at I-1.

[230] CR/PR at Tables VII-2 & VII-3.

[231] CR/PR at Table VII-3.

[232] CR/PR at Table VII-5.

## CONCLUSION

For the reasons stated above, we find that the domestic industry producing certain OTR tires is materially injured by reason of subject imports of certain OTR tires from China that are subsidized and sold in the United States at less than fair value.

# ADDITIONAL AND DISSENTING VIEWS OF VICE CHAIRMAN DANIEL R. PEARSON

Based on the record in these investigations, I find that an industry in the United States is neither materially injured, nor threatened with material injury, by reason of subject imports of OTR tires from China that are subsidized and sold in the United States at less than fair value (LTFV). I join the views of my colleagues regarding domestic like product and domestic industry, and therefore join, and adopt as my own, sections I and II of their Views.

## I. NO MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

In the final phase of antidumping or countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.[1] In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[2] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[3] In assessing whether the domestic industry is materially injured by reason of subject imports, I consider all relevant economic factors that bear on the state of the industry in the United States.[4] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[5]

For the reasons discussed below, I determine that the domestic industry producing OTR tires is not materially injured by reason of subject imports from China found to be subsidized and sold in the United States at LTFV.

### A. Measurement Issues

The various data sets available in these investigations show more inconsistencies and contradictions than is normally the case. As is customary, the staff report contains summary tables based on a hybrid of questionnaire responses and official import statistics,[6] which are intended to give a reasonably comprehensive overview of apparent consumption, imports, domestic production, market shares, and financial conditions.[7] Staff acknowledges however, those tables may provide an imperfect picture of the state of the domestic industry, due to the fact that the official import statistics include imports not subject to investigation and there is a degree of disagreement as to the best way to minimize the amount of such imports included in the data set.[8]

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[1] 19 U.S.C. §§ 1671d(a), 1673d(b).

[2] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor. . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B); see also Angus Chem. Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[3] 19 U.S.C. § 1677(7)(A).

[4] 19 U.S.C. § 1677(7)(C)(iii).

[5] Id.

[6] CR at I-4 to I-5 & n.7, IV-4 & n.5, IV-12; PR at I-3 to I-4 & n.7, IV-4 & n.5, IV-11.

[7] See, e.g., CR/PR at Table C-1.

[8] CR at I-5 n.6, IV-4 n.4; PR at I-3 to I-4 n.6, IV-4 n.4. I note that at the time of the hearing, both petitioners and BFNA found the $25 per unit cutoff in the hybrid data to be a satisfactory approach. Tr. at 38, 46 (Mr. Stewart); Bridgestone's Prehearing Brief at 31.

For that reason, staff has also provided data based solely on responses to the importers' questionnaires.[9] Of the 75 firms believed to be importing subject merchandise, 34 firms returned usable questionnaires, two returned unusable questionnaires, and another nine firms stated that they did not import the subject merchandise.[10] Based on official import statistics, responding importers accounted for about *** percent by quantity of subject imports.[11] In light of this coverage estimate, I am most comfortable basing my determinations on the import data based on the hybrid of questionnaire data and the official import statistics, although my analysis will also address the questionnaire-only data.

Another issue is whether to describe import volume in terms of units, dollar value, or weight in pounds. Although the Commission ordinarily measures volume in terms of quantity, it has discretion to choose a different methodology when there are significant size and price variations among large numbers of types and configurations of the merchandise at issue.[12] Nevertheless, the practice of the Commission has been to rely on quantity measures to avoid distortions resulting from product-mix issues.[13] While noting that all of these measures are to some extent flawed, my analysis will generally follow the recommendation of petitioners and rely on units, as expressed in the number of tires.[14] Prices for OTR tires rose significantly over the period examined,[15] thus making it difficult to measure volume accurately when considering values. Nonetheless, I will make reference to value as an indicator of volume, as appropriate, to enable as detailed an analysis as possible.

Volume data presented as weight in pounds have some advantages in that they are able to capture, to some extent, the effects of a change in product mix, for instance a move toward larger tires, that units of tires alone would not measure.[16] I will address volumes expressed in pounds where appropriate.

### B. Conditions of Competition

I have taken the following conditions of competition into account when assessing whether the domestic industry is materially injured by reason of the subject imports.

#### 1. Demand Conditions

Demand for OTR tires derives mainly from demand for vehicles in agricultural, construction, and industrial applications.[17] The cost share of OTR tires in end-use products is small, with estimates ranging from 2 to 9 percent of the cost of the vehicle.[18] Evidence on trends in demand is inconclusive, with 59 percent of respondents—27 of 45 responding purchasers, 17 of 27 responding importers, and 3 of 7

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[9] See, e.g., CR/PR at Table E-2.

[10] CR/PR at IV-1 & nn.1 & 2.

[11] CR/PR at IV-1.

[12] See, e.g., Navneet Publ'ns (India), Ltd. v. United States, ___ F. Supp. 2d ___, Slip Op. 08-22 (Ct. Int'l Trade Feb. 26, 2008), at 6-13; Torrington Co. v. United States, 790 F. Supp. 1161, 1172-73 (Ct. Int'l Trade 1992); Pneumatic Directional Control Valves from Japan, Inv. No. 731-TA-988 (Preliminary), USITC Pub. 3491 (Mar. 2002).

[13] Color Television Receivers from China, Inv. No. 731-TA-1034 (Final), USITC Pub. 3695 (May 2004), at 7 n.36; see also Coated Free Sheet Paper from China, Indonesia, and Korea, Inv. Nos. 701-TA-444-446 (Final) and 731-TA-1136-1137 (Final), USITC Pub. 3965 (Dec. 2007), at 8; Certain Lined Paper School Supplies from China, India, and Indonesia, Inv. Nos. 701-TA-442-443 and 731-TA-1095-1097 (Final), USITC Pub. 3884 (Sept. 2006), at 19.

[14] Petitioners' Posthearing Brief, Responses to Questions from Vice Chairman Pearson at 21, 23.

[15] CR/PR at Table V-10.

[16] Respondents' Prehearing Brief at 105.

[17] CR/PR at II-1, IV-12.

[18] CR at II-8 to II-9; PR at II-3 to II-4.

responding domestic producers—stating that demand had increased over the period examined.[19] Because of strong farm income and high commodity prices, demand appears to have increased for agricultural and mining tires while demand for construction tires was reported to be soft due to problems in the housing market.[20] The data show that while apparent consumption as expressed in quantity fell irregularly from 7,974,000 tires in 2005 to 7,790,000 tires in 2007, a decrease of 2.3 percent, its value increased from $1.420 billion in 2005 to $1.794 billion in 2007, an increase of 26.3 percent. In terms of quantity, apparent consumption was 1,822,000 tires in first quarter 2008, compared with 1,907,000 tires in first quarter 2007. In terms of value, apparent consumption was $468.9 million in first quarter 2008, compared with $440.3 million in first quarter 2007.[21]

There are various market segments that comprise overall demand. Demand from end users, largely original equipment manufacturers (OEMs), has been relatively more important for domestic producers than for subject imports. Domestic producers sent between 51.4 and 52.4 percent, measured in units, of their U.S. shipments to the OEM market, compared with 19.2 to 21.0 percent of subject Chinese imports. Conversely, a much higher percentage of subject imports are marketed through distributors that generally serve the replacement market (aftermarket).[22] Likewise, there are distinct markets for agricultural and construction tires. U.S. producers sent between 70.9 and 72.8 percent of their output to the agricultural sector and between 25.0 and 26.7 percent of their output to the construction sector.[23] Importers from China sent between 23.6 and 37.0 percent of their imports to the agricultural sector and between 58.3 and 70.6 percent of their imports to the construction sector.[24] Lastly, there are different market segments for bias ply and radial tires, each of which has distinctive characteristics and price points. It is estimated that 65 to 70 percent of the market for OTR tires is made up of bias ply tires.[25]

### 2. Supply Conditions

The majority of questionnaire respondents stated that there were no substitutes for OTR tires, but some producers mentioned retreads as possible substitutes while some purchasers and importers mentioned solid or semi-solid tires as possible substitutes. Some purchasers and importers also mentioned that tracks could serve as substitutes in some limited applications.[26]

Domestic supply is *** with the top *** companies comprising *** percent of domestic production by quantity.[27] There was significant consolidation early in the period examined. In July 2006, Continental General exited the industry, selling its tire facility in Bryan, OH to Titan Tire Corporation

[19] CR at II-7; PR at II-3 to II-4.

[20] CR at II-7 to II-8, IV-12; PR at II-4, IV-12.

[21] CR/PR at Table C-1. I note that, by contrast, questionnaire-only data show an increase in apparent consumption both in quantity and value terms with quantity increasing irregularly from 5,793,000 tires in 2005 to 6,286,000 tires in 2007, a 8.5 percent increase, and with value increasing from $1.212 billion in 2005 to $1.555 billion in 2007, a 28.3 percent increase. In terms of quantity, apparent consumption was 1,588,000 tires in first quarter 2008, compared with 1,543,000 tires in first quarter 2007. In terms of value, apparent consumption was $425.3 million in first quarter 2008, compared with $379.6 million in first quarter 2007. CR/PR at Table E-2.

[22] CR/PR at II-1 & Table I-4.

[23] CR/PR at Table III-7.

[24] CR/PR at Table IV-4.

[25] CR at I-17 n.35, III-8; PR at I-15 n.35, III-5.

[26] CR at II-8; PR at II-4.

[27] CR/PR at III-1, Tables III-1, III-2.

("Titan") for $***. In December 2005, Goodyear also sold its Freeport, IL farm tire facility to Titan for $100 million.[28] ***.[29]

Along with restructuring, the domestic industry experienced some production disruptions. ***.[30] In addition, ***.[31]

Nonsubject imports accounted for a significant percentage of total imports into the United States and exceeded subject Chinese imports in terms of import values, but not in terms of import quantities, in every year of the period examined.[32] Nonsubject imports entered from many different sources, including from foreign companies affiliated with several domestic producers.[33] Among the leading nonsubject sources were, in alphabetical order, Canada, France, India, Japan, Mexico, Sri Lanka, Taiwan, and Thailand.[34]

The record also includes evidence of shortages in the supply of OTR tires. Twenty-two of 50 responding purchasers reported that suppliers had refused, declined, or been unable to supply some OTR tires since January 2005, citing a total of 74 instances, 61 of which involved domestic producers and 6 of which involved subject Chinese producers.[35] Specifically, ***. ***.[36] In addition, ***.[37] Finally, ***.[38] Domestic producers stated that any shortages of OTR tires were limited to construction and mining tires with rim diameters of over 39 inches or were related to inventory problems caused by the business cycle.[39]

The evidence further suggests that the domestic industry increasingly focused its sales in the larger tires throughout the period examined. The unit weight of domestic producers' U.S. shipments increased from 119.0 pounds per tire in 2005 to 148.5 pounds per tire in 2007.[40]

### 3. Other Conditions

Purchasers indicated that availability, quality, and price were the most important factors affecting purchasing decisions. There are many indications in the record that non-price factors play a role equal, if not greater, to that of price in purchasers' decisions. "Quality" was the factor most frequently selected as most important, selected by 15 of 50 responding purchasers, whereas "price" was the factor most

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[28] CR at III-1 n.3, Table III-3, VI-1 to VI-2 & n.8; PR at III-1 n.3, Table III-3, VI-1 & n.8.

[29] CR/PR at Table III-3.

[30] Id.

[31] Id.

[32] CR/PR at Table IV-2.

[33] CR/PR at Table IV-1. "The tire industry is multinational in nature; therefore, production plants are situated in virtually every geographic region, particularly in North America, Europe, Japan, other Asian countries, Oceania, Latin America, the Middle East, and Africa." CR at VII-11; PR at VII-7.

[34] Certain Off-the-Road Tires from China, Inv. Nos. 701-TA-448 and 731-TA-1117 (Preliminary), USITC Pub. 3943 (August 2007) ("Preliminary report") at IV-4 & Table IV-2. But see CR at IV-5 n.8; PR at IV-4 n.8 (listing Sri Lanka, Taiwan, and Thailand).

[35] CR at II-3 to II-4; PR at II-2.

[36] CR at II-4 to II-5; PR at II-2.

[37] CR at II-5; PR at II-3.

[38] CR at II-5 to II-6; PR at II-3.

[39] CR/PR at III-4 n.5.

[40] CR/PR at Table III-6. As petitioners stated "[t]here's no question that the more larger tires you can build, the better off your bottom line is going to be." Tr. at 116 (Mr. Taylor). This does not appear to have been true for subject imports as weight per tire measures, constructed using data from the staff report's Tables IV-4 and E-1, show an increase in unit weights between 2005 and 2006, but a decrease between 2006 and 2007 with unit weights in 2007 close to what they were in 2005.

frequently selected as the next most important, selected by 13 of 50 purchasers.[41] Only 10 of 50 purchasers stated that they "always" or "usually" base their decisions mainly on price.[42] While 31 of 49 responding purchasers stated that "price" is a "very important" factor in their purchasing decisions, seven other factors, including "availability" (48 of 50), "product consistency" (44 of 50), "quality meets industry standards" (43 of 50), "ability to obtain manufacturer's support for warranty service" (42 of 50), "reliability of supply" (41 of 49), "delivery time" (34 of 50), and "U.S. transportation costs" (33 of 49), were selected more frequently as "very important."[43]

Branding in the OTR tire industry is an important consideration for purchasers; 28 of 49 purchasers said that they "always" or "usually" base their purchasing decisions on the producer of the tire and 20 of 50 purchasers said that they "always" or "usually" base their decisions on the brand of the product.[44] Branding appears to be particularly important to OEMs.[45] Reasons given by purchasers as to why they prefer certain producers or brands include quality, consistent performance of product, specific design requirements, competitive prices, payment terms, and customer service.[46] Purchasers' questionnaire responses regarding the magnitude of the brand premium contained within the price of branded OTR tires were varied, ranging between 3 and 50 percent, but the majority of estimates provided by purchasers were in the range of 10 to 25 percent.[47]

With regard to interchangeability between domestically produced tires and subject imports from China, a strong majority of questionnaire respondents (6 of 6 domestic producers, 15 of 23 importers, and 30 of 43 purchasers) stated that the two were either "always" or "frequently" interchangeable.[48] Nevertheless, non-price differences between domestically produced OTR tires and subject imports from China were "always" or "frequently" important to a majority of questionnaire respondents (1 of 6 domestic producers, 13 of 21 importers, and 25 of 43 purchasers).[49] While domestically produced OTR tires and subject Chinese imports were found to be "comparable" across a wide range of characteristics by a majority of purchasers (including "packaging," "extension of credit," "product consistency," "discounts offered," "U.S. transportation costs," "quality exceeds industry standards," "able to source multiple products from supplier," "product range," and "warranty service"), the domestic product was found to be "superior" by a majority of purchasers with regard to "delivery terms" and "delivery time" and the subject imports were found to be "superior" by a majority of purchasers only with regard to "price."[50] While there are some industry-wide standards,[51] both petitioners and respondents believed that OTR tires are not a commodity product.[52]

The primary raw material used to manufacture OTR tires is natural rubber, the price of which increased from an average of $0.23 per pound in 2001 to an average of $0.97 per pound in 2007. Prices in 2008 have risen to $1.16 per pound, an unprecedented level.[53] The domestic OTR tire industry generally purchases natural rubber using short-term contracts.[54]

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[41] CR/PR at Table II-2.
[42] CR at II-11; PR at II-6.
[43] CR/PR at Table II-3.
[44] CR/PR at Table II-4.
[45] CR at II-13 n.11; PR at II-8 n.11.
[46] CR at II-13; PR at II-8.
[47] CR at II-14; PR at II-8.
[48] CR/PR at Table II-5.
[49] CR/PR at Table II-6.
[50] CR/PR at Table II-7.
[51] CR at I-13; PR at I-11.
[52] CR at VII-10 & nn.14 & 15; PR at VII-6 & nn.14 & 15.
[53] CR at I-12 n.19, VI-4 n.10; PR at I-10 n.19, VI-3 n.10.
[54] CR at VI-11 & n.13; PR at VI-5 & n.13.

### B. Volume of the Subject Imports

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[55]

In terms of quantity, subject imports from China increased from 2,333,000 tires in 2005 to 2,521,000 in 2006 before falling to 2,337,000 tires in 2007, for an overall increase of 0.2 percent over the period examined. The quantity of subject imports was 380,000 tires in first quarter 2008, compared with 523,000 tires in first quarter 2007.[56] As a share of apparent consumption, subject imports increased, in terms of quantity, from 29.3 percent in 2005 to 32.6 percent in 2006 before falling to 30.0 percent in 2007, representing an increase of 0.7 percentage points over the period examined. The share of subject imports in first quarter 2008 was 20.9 percent, compared with 27.4 percent in first quarter 2007.[57] Thus, while subject imports from China constitute a significant presence in the U.S. market for OTR tires, their presence in the market, when measured in terms of units, has changed little over the period examined.

When measured in value terms, subject imports from China increased from $190.4 million in 2005 to $287.3 million in 2006, before declining slightly in 2007 to $282.4 million, an increase of 48.3 percent over the period examined. The value of subject imports was $43.7 million in first quarter 2008, compared with $70.0 million in first quarter 2007.[58] As a share of the value of apparent consumption, subject imports increased from 13.4 percent in 2005 to 18.4 percent in 2006, then decreased to 15.7 percent in 2007, representing an increase of 2.3 percentage points over the period examined. The share of subject imports in first quarter 2008 was 9.3 percent, compared with 15.9 percent in first quarter 2007.[59]

Nonsubject imports, in quantity terms, decreased from 1,760,000 tires in 2005 to 1,733,000 tires in 2007, a decrease of 1.5 percent. The quantity of nonsubject imports was 447,000 tires in first quarter 2008, compared with 473,000 tires in first quarter 2007.[60] Nonsubject imports' share in apparent consumption, in quantity terms, rose only slightly from 22.1 percent in 2005 to 22.2 percent in 2007, an increase of 0.1 percentage points. The share of nonsubject imports was 24.5 percent in first quarter 2008, compared with 24.8 percent in first quarter 2007.[61]

By quantity, the domestic producers' U.S. shipments decreased irregularly from 3,881,000 tires in 2005 to 3,720,000 tires in 2007, a decrease of 4.2 percent. The quantity of U.S. shipments was 995,000 tires in first quarter 2008, compared with 910,000 tires in first quarter 2007.[62] As a share of apparent consumption, by quantity, the domestic industry's market share fell irregularly from 48.7 percent in 2005 to 47.8 percent in 2007, a decrease of 0.9 percentage points over the period examined. The domestic

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[55] 19 U.S.C. § 1677(7)(C)(i).

[56] CR/PR at Table IV-2. Note that questionnaire-only data show that the quantities of subject imports increased from 825,000 in 2005 to 1,403,000 in 2007, an increase of 70 percent over the period examined. CR/PR at Table E-2.

[57] CR/PR at Table IV-6. Note that questionnaire-only data show that the share of subject imports in apparent consumption, in quantity terms, increased from 14.2 percent in 2005 to 22.3 percent in 2007, an increase of 8.1 percentage points. CR/PR at Table E-2.

[58] CR/PR at Tables IV-2, C-1. Note that questionnaire-only data show that subject imports from China, in value terms, increased from $84.9 million in 2005 to $187.3 million in 2007, an increase of 120.6 percent over the period examined. CR/PR at Table E-2.

[59] CR/PR at Table IV-6. Note that questionnaire-only data show that the share of subject imports from China in apparent consumption, in value terms, increased from 7.0 percent in 2005 to 12.0 percent in 2007, an increase of 5.0 percentage points over the period examined. CR/PR at Table E-2.

[60] CR/PR at Table IV-2.

[61] CR/PR at Table IV-6.

[62] CR/PR at Table III-6.

industry's share was 54.6 percent in first quarter 2008, compared with 47.7 percent in first quarter 2007.[63] By value, the domestic producers' U.S. shipments rose from $861.2 million in 2005 to $1,006 million in 2007, an increase of 16.8 percent. The value of domestic producers' U.S. shipments was $286.4 million in first quarter 2008, compared with $252.4 million in first quarter 2007.[64] The domestic industry's market share, in terms of value, decreased irregularly over the period, falling from 60.6 percent in 2005 to 56.1 percent in 2007, a decrease of 4.6 percentage points over the period examined. The domestic industry's share was 61.1 percent in first quarter 2008, compared 57.3 percent in first quarter 2007.[65] By weight, the U.S. shipments of domestic producers rose steadily from 462.0 million pounds in 2005 to 552.4 million pounds in 2007, an increase over the period examined of 19.6 percent.[66]

Because all measures indicate that subject imports have a substantial presence in the U.S. market, I find that the absolute level of subject imports is significant. Evidence as to whether subject imports have increased over the period examined is less clear. While the questionnaire-only data show a meaningful increase in subject imports,[67] the data as adjusted by staff do not.[68] Thus, I make no finding as to whether the increase in subject imports has been significant.

### C. Price Effects of the Subject Imports

Section 771(7)(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether --

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
>
> (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[69]

In the quarterly price comparisons between domestic OTR tires and imported Chinese OTR tires, prices of the Chinese OTR tires were lower than those of U.S. OTR tires in 147 out of 157 quarters with margins of underselling ranging from 1.5 percent to 57.0 percent.[70] Yet, even with nine products, the coverage of pricing data was thin because there are so many varieties and sizes of tires; pricing data covered only 4.5 percent of the domestic industry's sales and 7.0 percent of subject import sales.[71] Based on this evidence, I find significant underselling by the imported merchandise.

Nonetheless, at least part of the underselling can be accounted for by the fact that branding, extended delivery times in obtaining tires from China, and quality are important considerations for purchasers. As discussed above, while the majority of purchasers estimated that the branding premium

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[63] CR/PR at Tables IV-6, C-1. I note that, by quantity, exports of the domestic industry declined over the period from 572,000 tires in 2005 to 515,000 tires in 2007, a decline of 10 percent. By value, exports increased over the period from $150.6 million in 2005 to $180.5 million in 2007, an increase of 19.9 percent. Over the period examined, exports accounted for between 12.2 and 12.8 percent of total shipments. CR/PR at Table III-6.

[64] CR/PR at Table III-6.

[65] CR/PR at Tables IV-6, C-1.

[66] CR/PR at Table III-6.

[67] CR/PR at Table E-2.

[68] CR/PR at Table C-1.

[69] 19 U.S.C. § 1677(7)(C)(ii).

[70] CR at V-23; PR at V-6.

[71] CR at V-5; PR at V-3.

was between 10 and 25 percent, some of the estimates were as high as 50 percent.[72] Of the 157 quarterly price comparisons, only two quarters had margins of underselling that exceeded 50 percent.[73] It is possible that a branding premium could explain a substantial portion of the observed underselling. As mentioned above, "delivery time" was one of only two factors in which the domestic OTR tire industry received a superior rating from a majority of purchasers when compared to subject imports from China.[74] One importer stated that while lead times of domestic producers may be as little as a few days, lead times for Chinese producers may be as much as six months.[75] That the advantage of domestic producers with regard to delivery time may result in a price premium over subject imports is demonstrated by the fact that purchasers rated this criterion as "very important" more frequently than "price."[76]

In addition, the quarterly product-specific data indicate that prices for OTR tires have increased substantially for each product over the period examined.[77] Average unit values for shipments by the domestic industry also increased.[78] Accordingly, I do not find any evidence that subject imports have depressed domestic prices during the period examined.

With regard to lost sales, the Commission staff was only able to confirm one lost sales allegation. That lost sale, alleged by ***, occurred in February 2008 and was valued at more than $***.[79] In first quarter 2008, *** sold OTR tires valued at $*** million.[80] The lost sale would amount to less than one percent of *** sales during that quarter. With respect to lost revenues, a purchaser did confirm one of *** lost revenue allegations from November 2007 in which it claimed to have lowered the price of *** tires from $*** to $*** due to competition from China. Another lost revenue allegation made by ***, also involving *** tires, while not disputed, was claimed by the purchaser to have been an overstocked item.[81] These lost revenue claims are quite small in comparison to the overall level of sales.

Finally, there is no evidence of price suppression. The ratio of cost of goods sold (COGS) to net sales actually fell slightly from 89.7 percent in 2005 to 88.7 percent in 2007,[82] demonstrating that there has been no cost-price squeeze. COGS rose, but prices rose faster.

Accordingly, in light of the role of non-price factors in the market, the domestic industry's consistent price increases, the relative lack of confirmed lost sales or lost revenues, and the absence of any evidence of price suppression, I find that subject imports did not have a significant adverse effect on domestic prices during the period examined.

### D. Impact of the Subject Imports

In examining the impact of the subject imports on the domestic industry, I consider all relevant economic factors that bear on the state of the industry in the United States.[83] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow,

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[72] CR at II-14; PR at II-8.
[73] CR/PR at Tables V-1, V-2.
[74] CR/PR at Table II-7.
[75] API's Pre-Hearing Brief at 2-3.
[76] CR/PR at Table II-3.
[77] CR/PR at Table V-10.
[78] CR/PR at Table VI-3.
[79] CR at V-25, Table V-11; PR at V-6, Table V-11.
[80] CR/PR at Table VI-3.
[81] CR at V-27 to V-28, Table V-12; PR at V-6 to V-7, Table V-12.
[82] CR/PR at Table VI-1.
[83] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports").

return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[84] [85]

The record indicates that the domestic industry's financial performance was relatively stable over the period examined. The domestic industry was profitable in each year of the period, and its profitability trended upward throughout the period.

Operating income of the domestic industry increased during the period from only $1.5 million in 2005 to $28.0 million in 2007.[86] Operating income in the first quarter of 2008 was $14.1 million, compared to $11.1 million in first quarter 2007. Operating income as a ratio to net sales increased from 0.1 percent in 2005 to 2.4 percent in 2007. The ratio of operating income to net sales in first quarter 2008 was 4.1 percent, compared to 3.9 percent in first quarter 2007.[87] The operating income per tire increased from close to $0 in 2005 to $7 in 2007.[88]

For this industry, operating margins may not be the best measure of profitability due to uncertainties regarding the reporting of SG&A expenses. Among the seven domestic producers, ***, had the highest ratio of SG&A expenses to net sales in 2005 and the second-highest ratio in both 2006 and 2007. In every year of the period examined, *** ratio of operating expenses to net sales was at least twice the ratio for the ***.[89] The SG&A expenses allocated by *** to its OTR tire operations changed significantly between the preliminary and final phases of these investigations and this turned an operating *** in 2005 into an operating ***[90] Because *** accounts for between *** and *** percent of the domestic industry's gross profit,[91] its methodology for calculating SG&A expenses has a significant influence on the financial performance of the domestic industry as a whole. For that reason, I also examine gross profits.

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[84] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Invs. Nos. 701-TA-386 and 731-TA-812-813 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 25 n.148.

[85] The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its final determination, Commerce calculated final weighted-average dumping margins ranging from 4.08 percent to 19.15 percent for named Chinese producers/exporters of OTR tires, and 210.48 percent for the China-wide entity. 73 Fed. Reg. 40,485, 40,489 (July 15, 2008); CR/PR at Table I-2.

In its final determination, Commerce also found that the following programs provided countervailable subsidies to producers of OTR tires in China: (1) Government provision of rubber for less than adequate remuneration; (2) Government policy lending; (3) Government debt forgiveness to TUTRIC; (4) Government debt forgiveness and the provision of land to Starbright pursuant to its change in ownership; (5) stamp tax exemption on share transfers under NTSR; (6) tax subsidies to FIEs in specially designated geographic areas and local income tax exemption and reduction programs for "productive" FIEs; (7) VAT and tariff exemptions for FIEs and certain domestic enterprises using imported equipment in encouraged industries; and (8) State Key Technology Renovation Project Fund. 73 Fed. Reg. 40,480, 40,484 (July 15, 2008). Consequently, Commerce assigned the following net countervailable subsidy rates: Guizhou Tire Co., Ltd. (2.45 percent); Hebei Starbright Tire Co., Ltd. (14.00 percent); Tianjin United Tire & Rubber International Co., Ltd. (6.85 percent); and all others (5.62 percent). 73 Fed. Reg. at 40,483; CR/PR at Table I-1.

[86] CR/PR at Table VI-1.

[87] Id. I note further that the ratio of operating income to sales in 2004, as presented during the preliminary phase of these investigations, was -0.1 percent. Preliminary report at Table C-1. Even while fully recognizing that there may have been changes in accounting methodologies between the preliminary and final phases of these investigations, I believe that this indicates that the ratio of operating income to sales in 2004 was not significantly different from the level observed in 2005.

[88] CR/PR at Table VI-2.

[89] CR/PR at Table VI-3.

[90] CR at VI-14 n.21; PR at VI-5 n.21. As discussed in the staff report, *** financial results were verified by Commission staff during plant visits. Id.

[91] CR/PR at Table VI-3.

Gross profits declined only slightly from $103.8 million in 2005 to $102.5 million in 2006, and then improved to $134.1 million in 2007. Gross profits were $43.7 million in first quarter 2008, compared with $36.9 million in first quarter 2007.[92] The ratio of gross profits to net sales increased by 1.0 percentage points from 10.3 percent in 2005 to 11.3 percent in 2007. The ratio of gross profits to net sales was 12.8 percent in first quarter 2008, as it was in first quarter 2007.[93] Gross profit per tire increased from $23 in 2005 to $32 in 2007.[94]

Total capital expenditures by the domestic industry increased from $*** in 2005 to $*** in 2007 and total R&D expenses increased from $*** in 2005 to $*** in 2007. In addition, average return on investment increased from *** percent in 2005 to *** percent in 2007.[95] Although these data do not indicate a robust performance by the industry, they reflect generally improving financial conditions in the domestic industry.

Other indicators, while not as positive, do not portray an industry that is materially injured. The number of production workers in the industry declined moderately from 4,073 in 2005 to 3,856 in 2007, a decrease of 5.3 percent. Likewise, hours worked fell by 5.4 percent between 2005 and 2007.[96] Yet, as discussed above, the period examined was a period of consolidation within the domestic industry and several large production facilities were acquired by the largest producers in the industry.[97] Given this backdrop, it is not surprising to see a small reduction in total industry employment.

Total production capacity increased by 2.1 percent over the period examined. Capacity utilization dropped irregularly from 46.8 percent in 2005 to 39.3 percent in 2007, a decline of 7.5 percentage points.[98] Producers report that areas where they have large amounts of unused capacity are for the production of smaller sized agricultural OTR tires, which is consistent with the evidence showing that the domestic industry concentrated its product mix in larger OTR tires throughout the period examined.[99] As discussed above, domestic production, when measured in pounds, increased by 19.6 percent over the period examined,[100] indicating that the overall output of the domestic industry is likely increasing, even if the U.S. shipments expressed in units of tires declined by 4.2 percent.[101] The domestic industry's consolidation and reconfiguration, the strike at Goodyear, and the shift in product mix to larger tires appears to have had meaningful effects on capacity utilization and employment during the period examined.

In sum, even though the volume of subject imports is significant and subject imports consistently undersold the products of the domestic industry, I do not find that any injury experienced by the domestic industry was caused by subject imports. Accordingly, based on the record in the final phase of these investigations, and in light of my analysis of the significance of the volume, price effects, and impact of the subject imports, I determine that an industry in the United States is not materially injured by reason of imports of subject OTR tires from China that are subsidized and sold in the United States at less than fair value.

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[92] CR/PR at Table VI-1.
[93] CR/PR at Table VI-1.
[94] CR/PR at Table VI-2.
[95] CR/PR at Table VI-9.
[96] CR/PR at Table III-10.
[97] CR/PR at Table III-3.
[98] CR/PR at III-1 & Table III-2.
[99] CR/PR at III-4.
[100] CR/PR at Table III-6.
[101] CR/PR at Table C-1.

## II. NO THREAT OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

Section 771(F) of the Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[102] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole" in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued.[103] In making my determination, I considered all statutory factors that are relevant to these investigations.[104]

### A. Production Capacity in China

The Commission sent questionnaires to 95 Chinese firms that produce or export OTR tires and received responses from 19 firms that make up an estimated 75.1 percent, by quantity, of Chinese production of OTR tires and an estimated 115.1 percent, by quantity, of Chinese exports to the United States.[105] Chinese producers reported that they shipped between 63 and 64 percent of their production to the home market and that this percentage is expected to increase to 68.8 percent in 2009.[106] The Chinese industry exported between 14.8 and 16.2 percent of its production to the United States and exported between 20.2 and 21.2 percent of its production to other export markets. Chinese OTR tires were exported to 18 different countries, several of which are relatively close neighbors (e.g., Australia, India, Indonesia, Malaysia, and Russia).[107] During the period examined, it was reported that three different countries—Argentina in March 2003, Turkey in August 2005, and South Africa in October 2006—imposed antidumping duties on tires from China, but it was unclear how the scope of those orders related to the subject merchandise.[108] While production capacity increased at a healthy pace (by about 40 percent over the period examined), capacity utilization for Chinese producers was over 90 percent during the period examined and was approximately 92.4 percent in 2007.[109] Production capacity is expected to increase only a further 5.3 percent over the next two years.[110] In 2007, the Chinese industry had less than 85 percent of the production capacity, by quantity, of the U.S. OTR tire industry.[111] This indicates that

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[102] 19 U.S.C. § 1677(7)(F)(ii).

[103] Id.

[104] 19 U.S.C. § 1677(7)(F)(i). Statutory threat factor (VII) is inapplicable because these investigations do not involve imports of both raw and processed agricultural products. Because Commerce found subsidies in these investigations, supra note 85, CR at I-5, Table I-1; PR at I-4, Table I-1, I am required to take into account statutory threat factor (I). I note that it is not clear how the various programs identified by Commerce might affect the incentives of Chinese producers to export subject OTR tires, among all of the various types of tires produced in China, nor is it clear how these programs might effect incentives to export specifically to the United States, recalling that exports to the United States were less than half of total Chinese OTR tire exports, in both quantity and value terms, in every year of the period examined (CR/PR at Table VII-3). I do not find that these subsidies are likely to generate substantial additional subject imports from China in the imminent future.

[105] CR/PR at Tables VII-1, VII-2. *** commented that because they believe the questionnaire data underestimate the size of the Chinese OTR tire industry, responding Chinese producers may only constitute one-half of the production of OTR tires in China. CR at VII-3 n.5; PR at VII-2 n.5.

[106] CR at VII-7, Table VII-3; PR at VII-3, Table VII-3.

[107] CR at VII-7 n.10; PR at VII-3 n.10.

[108] CR at VII-10 n.11; PR at VII-6 n.11.

[109] CR at VII-3, Tables VII-1, VII-3; PR at VII-2, Tables VII-1, VII-3.

[110] CR/PR at Table VII-3.

[111] CR/PR at Tables VII-1, C-1.

there is not a large amount of unused capacity in China, and that there is only a relatively modest amount of exports that are currently being sent to third countries that could be diverted to the United States.

### B. Rate of Increase of Subject Imports

In terms of quantity, subject imports from China, after increasing from 2,333,000 tires in 2005 to 2,521,000 tires in 2006, actually fell by 7.3 percent to 2,337,000 tires in 2007. This trend is also present when viewing the quantity of subject imports as a share of apparent consumption; after increasing from 29.3 percent in 2005 to 32.6 percent in 2006, the share of subject imports fell to 30.0 percent in 2007, a decrease of 2.6 percentage points.[112] All measures, whether the hybrid data or the questionnaire-only data, show a decline in subject imports between the interim periods.

Because countervailing duties were not imposed until December 17, 2007 and antidumping duties were not imposed until February 20, 2008,[113] this decrease in the quantity of subject imports appears to have been caused by factors other than the imposition of the preliminary duties. Other market developments, such as the 20-percent devaluation of the U.S. dollar relative to the Chinese renminbi since July 2005, a reduction in the Chinese VAT rebate on OTR tires from 13 percent to 5 percent (implemented on July 1, 2007), a reduction in the Chinese export tax rebate for rubber products, and increases in ocean transportation costs likely discouraged U.S. imports of subject OTR tires.[114] [115] There is no evidence on the record to suggest changes in these market fundamentals in the reasonably foreseeable future. Thus, a substantial near-term increase in subject imports, absent the imposition of an order, seems unlikely.

### C. Pricing

In every year of the period examined, AUVs for sales of subject Chinese merchandise to third countries were higher than for subject merchandise exported to the United States. AUVs of Chinese OTR tires exported to other destinations ranged from $103.08 to $207.63 while AUVs of subject merchandise entering the United States ranged from $99.19 to $129.23.[116] These differing AUVs may well represent a difference in product mix. In any case, Chinese producers would likely be reluctant to shift their capacity toward lower-valued output for sale in the U.S. market.

As discussed above, market fundamentals were shifting in a direction that acted to reduce the price advantage of Chinese imports. These shifts are reflected in the pricing data for the individually priced products. For eight of nine products in the replacement sector, underselling margins declined between fourth quarter 2006 and fourth quarter 2007.[117] While pricing data are more sparse for products marketed to the OEM sector, underselling margins were lower for two of the four products between

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[112] CR/PR at Table C-1. I note that the questionnaire-only data show a consistent increasing trend over the period examined. CR/PR at Table E-2.

[113] CR/PR at I-1.

[114] CR at VII-7 n.9; PR at VII-3 n.9.

[115] The same pattern is discernible when examining subject imports by value. While the value of subject imports from China rose from $190.4 million in 2005 to $287.3 million in 2006, the value of subject imports then dropped by 1.7 percent to $282.4 million in 2007. Likewise, subject imports' share in apparent consumption, in value terms, rose from 13.4 percent in 2005 to 18.4 percent in 2006, only to fall 2.7 percentage points to 15.7 percent in 2007. Comparing the interim periods, we see that the value of subject imports fell by 37.6 percent, from $70.0 million in first quarter 2007 to $43.7 million in first quarter 2008. As a share of apparent consumption, subject imports lost 6.6 percentage points, by value, when comparing first quarter 2008 with first quarter 2007. CR/PR at Table C-1.

[116] CR/PR at Table VII-3.

[117] CR/PR at Tables V-1 to V-9.

fourth quarter 2006 and fourth quarter 2007.[118] In other words, the margin of underselling subject imports became smaller as the period progressed. Nothing on the record suggests that a change in this trend is likely.

### D. Inventories of Subject Merchandise

Although inventories of subject merchandise held by importers rose moderately over the period examined, they amounted to only 9.3 percent of subject imports in 2007.[119]

### E. Product Shifting Potential

Of the 19 responding Chinese producers, 16 stated that they produced only OTR tires. Of the other three who stated that they produced other types of tires, it is clear that they are also highly specialized in their production capabilities. Two of the three clearly specialize in OTR tires, with their output devoted 75 percent and 86 percent to OTR tires; the third Chinese company specialized in consumer tires, with only 2 percent of its output in OTR tires.[120]

On balance, given that there is little unused capacity in the Chinese industry, that subject imports decreased by both quantity and value measures between 2006 and 2007, that underselling margins generally declined in 2007, that importers' inventories are a small percentage of subject Chinese imports, and that there appears to be little ability for Chinese producers to shift production into subject imports, I conclude that the domestic OTR tires industry is not threatened with material injury by reason of subject imports from China.

## CONCLUSION

For the foregoing reasons, I determine that the domestic OTR tires industry is neither materially injured nor threatened with material injury by reason of subject imports.

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[118] Id.

[119] CR/PR at Table C-1. I note that the import inventory ratios contained in the staff report, CR/PR at Table VII-5, were calculated using questionnaire-only import data and are therefore higher than the ratios calculated using the hybrid import data.

[120] CR at VII-7, Table VII-4; PR at VII-3, Table VII-4.

# PART I: INTRODUCTION

## BACKGROUND

These investigations result from a petition filed with the U.S. Department of Commerce ("Commerce") and the U.S. International Trade Commission ("USITC" or "Commission") by Titan Tire Corporation ("Titan"), Des Moines, Iowa, and The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC ("USW"), Pittsburgh, PA, on June 18, 2007, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and less-than-fair-value ("LTFV") imports of certain off-the-road ("OTR") tires[1] from China. Information relating to the background of the investigations is provided below.[2]

| Effective date | Action |
|---|---|
| June 18, 2007 | Petition filed with Commerce and the Commission; institution of the Commission's investigations |
| August 6, 2007 (AD)<br>August 7, 2007 (CVD) | Commerce's notices of initiation |
| August 27, 2007 | Commission's preliminary determinations |
| December 17, 2007 (CVD)<br>February 20, 2008 (AD) | Commerce's preliminary determinations; scheduling of final phase of Commission investigations (73 FR 11437, March 3, 2008); revised scheduling of final phase of Commission investigations (73 FR 19249, April 9, 2008), (73 FR 38467, July 7, 2008), and (73 FR 42594, July 22, 2008) |
| July 7, 2008 | Commerce's final determinations (73 FR 40480 (CVD), 73 FR 40485 (AD), July 15, 2008) |
| July 8 and 9, 2008 | Commission's hearing[1] |
| August 15, 2008 | Commission's vote |
| August 28, 2008 | Commission's determinations sent to Commerce |

[1] A list of witnesses appearing at the Commission's hearing is presented in app. B.

[1] See the section entitled "The Subject Merchandise" in *Part I* of this report for a complete description of the merchandise subject to these investigations.

[2] *Federal Register* notices cited in the tabulation are presented in app. A.

## STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

### Statutory Criteria

Section 771(7)(B) of the Tariff Act of 1930 (the "Act") (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission--

> *shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and . . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.*

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

> *In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.*
> . . .
> *In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether . . . (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.*
> . . .
> *In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to*
> . . .
> *(I) actual and potential declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.*

## Organization of the Report

*Part I* of this report presents information on the subject merchandise, subsidy and dumping margins, and domestic like product. *Part II* of this report presents information on conditions of competition and other relevant economic factors. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. *Parts IV and V* present the volume and pricing of imports of the subject merchandise, respectively. *Part VI* presents information on the financial experience of U.S. producers. *Part VII* presents the statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury and the judicial requirements and information obtained for use in the Commission's consideration of *Bratsk* issues.

## U.S. MARKET SUMMARY

Certain OTR tires are used on a wide variety of vehicles and equipment employed in agricultural and forestry, construction, and industrial settings for hauling, towing, lifting, and/or loading.[3] The majority of trade in subject tires is comprised of certain OTR tires used for agricultural and industrial applications. The leading U.S. producers of certain OTR tires are *** and ***, while leading producers in China include ***. The leading U.S. importers of certain OTR tires from China are ***. Leading importers of certain OTR tires from nonsubject countries include ***. U.S. purchasers of certain OTR tires include original equipment manufacturers ("OEMs") and distributors for the aftermarket; leading purchasers include ***.

Apparent U.S. consumption of certain OTR tires totaled approximately 7.8 million tires ($1.8 billion) in the U.S. market in 2007. Currently, seven firms are known to produce certain OTR tires in the United States.[4] U.S. producers' U.S. shipments of certain OTR tires totaled 3.7 million tires ($1.0 billion) in 2007, and accounted for 47.8 percent of apparent U.S. consumption by quantity and 56.1 percent by value. U.S. imports from China totaled 2.3 million tires ($282 million) in 2007 and accounted for 30.0 percent of apparent U.S. consumption by quantity and 15.7 percent by value. U.S. imports from nonsubject sources totaled 1.7 million tires ($506 million) in 2007 and accounted for 22.2 percent of apparent U.S. consumption by quantity and 28.2 percent by value.

## SUMMARY DATA AND DATA SOURCES

A summary of data collected in the investigations is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on questionnaire responses of seven firms that accounted for 100 percent of U.S. production of certain OTR tires during 2007. U.S. imports are based on questionnaire responses of 34 firms and official Commerce statistics that were modified to exclude: (1) the 34 firms that returned usable importer questionnaires, (2) the nine firms that reported they did not import subject merchandise or mining/construction tires during the period of investigation, (3) out-of-scope OTR tire imports that weigh more than 1,500 pounds per tire,[5] and (4) out-of-scope imports of OTR tires less than

[3] Petitioners' response to Commerce's second supplemental questionnaire, June 27, 2007, p. 9.

[4] In addition to Titan and BFNA, U.S. producers include CarlisleTire and Wheel Company ("Carlisle"); Denman Tire Corporation ("Denman"); Goodyear Tire and Rubber Company ("Goodyear"); Michelin North America, Inc. ("Michelin"); and Specialty Tires of America, Inc. ("Specialty").

[5] The petition (as revised) excluded from the scope OTR tires used on mining and construction vehicles and equipment that have a rim diameter equal to or exceeding 39 inches, with a weight of 1,500 pounds or more. Petitioners' response to Commerce's second supplemental questionnaire, June 27, 2007, pp. 6-9.

$25 per unit.[6] [7] Data regarding the Chinese industry are based on foreign producer questionnaire responses of 18 producers of certain OTR tires in China.

## PREVIOUS AND RELATED INVESTIGATIONS

The Commission has not previously conducted import injury investigations on OTR tires.[8]

## NATURE AND EXTENT OF SUBSIDIES AND SALES AT LTFV

### Subsidies

On July 15, 2008, Commerce published a notice in the *Federal Register* of its final determination of countervailable subsidies for producers and exporters of certain OTR tires from China.[9] Table I-1 presents Commerce's findings of subsidization of certain OTR tires in China.

**Table I-1**
**Certain OTR tires: Commerce's final subsidy determination with respect to imports from China**

| Entity | Final countervailable subsidy margin (*percent*) |
|---|---|
| Guizhou Tire Co., Ltd. | 2.45 |
| Hebei Starbright Tire Co., Ltd. | 14.00 |
| Tianjin United Tire & Rubber International Co., Ltd. | 6.85 |
| All others | 5.62 |
| Source: 73 FR 40483, July 15, 2008. | |

[6] Petitioners originally recommended removing OTR tires less than $20 per unit, which was done in the prehearing report methodology. During the Commission's hearing they proposed raising the per unit cutoff to $25, and in their posthearing brief they proposed raising the per unit cutoff to $35. Import data with the per unit cutoff at $35 are presented in app. E.

[7] The methodology of calculating the unit values of less than $25 per unit and the per unit shipping weight of greater than 1,500 pounds differs slightly from the methodology used in the preliminary phase of the investigations. In the preliminary phase, the exclusion categories were applied to data aggregated by importer, country, and entry month, while in the final phase, the exclusion categories were applied to the data on a less aggregated basis, *i.e.*, by importer, consignee, foreign manufacturer, country, entry month, HTS number, and Customs entry district. (Container shipping weight was used as a surrogate for product weight because Customs did not collect product weight upon entry for merchandise under the applicable statistical reporting numbers.)

[8] In 2007, the Commission reported on the probable economic effect of providing competitive need limit waivers for HTS subheading 4011.20.10 (nonsubject new radial bus and truck tires) from Thailand. *Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2006 Review, Investigation No. 332-483*, USITC Pub 3919, April 2007, chap. 4.

[9] *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Determination of Critical Circumstances,* 73 FR 40480, July 15, 2008.

## Sales at LTFV

On July 15, 2008, Commerce published a notice in the *Federal Register* of its final determination of sales at LTFV with respect to imports from China.[10] Table I-2 presents Commerce's dumping margins with respect to imports of certain OTR tires from China.

**Table I-2**
**Certain OTR tires: Commerce's final weighted-average LTFV margins with respect to imports from China**

| Exporter | Producer | Final dumping margin (*percent*) |
|---|---|---|
| Guizhou Tyre Co., Ltd. | Guizhou Advance Rubber | 4.08 |
| Guizhou Tyre Co., Ltd. | Guizhou Tyre Co., Ltd | 4.08 |
| Hebei Starbright Co., Ltd./GPX International Tire Corp. | Hebei Starbright Co., Ltd . | 19.15 |
| Tianjin United Tire & Rubber International Co., Ltd. | Tianjin United Tire & Rubber International Co., Ltd. | 8.09 |
| Xuzhou Xugong Tyre Company Limited | Xuzhou Xugong Tyre Company Limited | 0.00 |
| Aeolus Tyre Co., Ltd. | Aeolus Tyre Co., Ltd | 9.48 |
| Double Coin Holdings Ltd. | Double Coin Holdings Ltd | 9.48 |
| Double Coin Holdings Ltd. | Double Coin Group Rugao Tyre Co., Ltd | 9.48 |
| Double Coin Holdings Ltd. | Double Coin Group Shanghai Donghai Tyre Co., Ltd | 9.48 |
| Double Happiness Tyre Industries Corp., Ltd. | Double Happiness Tyre Industries Corp., Ltd | 9.48 |
| Jiangsu Feichi Co., Ltd. | Jiangsu Feichi Co., Ltd | 9.48 |
| Kenda Rubber (China) Co,, Ltd./Kenda Global Holding Co., Ltd. (Cayman Islands) | Kenda Rubber (China) Co., Ltd. | 9.48 |
| KS Holding Limited | Oriental Tyre Technology Ltd | 9.48 |
| KS Holding Limited | Shandong Taishan Tyre Co., Ltd | 9.48 |
| KS Holding Limited | Xu Zhou Xugong Tyres Co., Ltd | 9.48 |
| Laizhou Xiongying Rubber Industry Co., Ltd. | Laizhou Xiongying Rubber Industry Co., Ltd | 9.48 |
| Oriental Tyre Technology Limited | Midland Off the Road Tire Co., Ltd | 9.48 |
| Oriental Tyre Technology Limited | Midland Specialty Tire Co., Ltd | 9.48 |
| Oriental Tyre Technology Limited | Xuzhou Hanbang Tyres Co., Ltd | 9.48 |

Table continued on next page.

[10] *Certain New Pneumatic Off-The-Road Tires From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485, July 15, 2008.

**Table I-2--*Continued***
**Certain OTR tires: Commerce's final weighted-average LTFV margins with respect to imports from China**

| Exporter | Producer | Final dumping margin (*percent*) |
|---|---|---|
| Qingdao Aonuo Tyre Co., Ltd. | Qingdao Aonuo Tyre Co., Ltd. | 9.48 |
| Qingdao Etyre International Trade Co., Ltd. | ShanGong Xingua Tyre Co. Ltd | 9.48 |
| Qingdao Etyre International Trade Co., Ltd. | Shandong Xingyuan International Trade Co. Ltd | 9.48 |
| Qingdao Etyre International Trade Co., Ltd. | Shandong Xingyuan Rubber Co. Ltd | 9.48 |
| Qingdao Free Trade Zone Full-World International Trading Co., Ltd. | Qingdao Eastern Industrial Group Co., Ltd | 9.48 |
| Qingdao Free Trade Zone Full-World International Trading Co., Ltd. | Qingdao Qihang Tyre Co., Ltd | 9.48 |
| Qingdao Free Trade Zone Full-World International Trading Co., Ltd. | Qingdao Shuanghe Tyre Co., Ltd | 9.48 |
| Qingdao Free Trade Zone Full-World International Trading Co., Ltd. | Qingdao Yellowsea Tyre Factory | 9.48 |
| Qingdao Free Trade Zone Full-World International Trading Co., Ltd. | Shandong Zhentai Tyre Co., Ltd | 9.48 |
| Qingdao Hengda Tyres Co., Ltd. | Qingdao Hengda Tyres Co., Ltd | 9.48 |
| Qingdao Milestone Tyre Co., Ltd. | Qingdao Shuanghe Tyre Co., Ltd | 9.48 |
| Qingdao Milestone Tyre Co., Ltd. | Shandong Zhentai Tyre Co., Ltd | 9.48 |
| Qingdao Milestone Tyre Co., Ltd. | Shifeng Double-Star Tire Co., Ltd | 9.48 |
| Qingdao Milestone Tyre Co., Ltd. | Weifang Longtai Tyre Co., Ltd | 9.48 |
| Qingdao Qinghang Tyre Co., Ltd. | Qingdao Qinghang Tyre Co., Ltd | 9.48 |
| Qingdao Qizhou Rubber Co., Ltd. | Qingdao Qizhou Rubber Co., Ltd | 9.48 |
| Qingdao Sinorient International Ltd. | Qingdao Hengda Tyres Co., Ltd | 9.48 |
| Qingdao Sinorient International, Ltd. | Shifeng Double-Star Tire Co., Ltd | 9.48 |
| Qingdao Sinorient International, Ltd. | Tengzhou Broncho Tyre Co., Ltd | 9.48 |
| Shandong Huitong Tyre Co., Ltd. | Shandong Huitong Tyre Co., Ltd | 9.48 |
| Shandong Jinyu Tyre Co., Ltd. | Shandong Jinyu Tyre Co., Ltd | 9.48 |
| Shandong Taishan Tyre Co., Ltd. | Shandong Taishan Tyre Co., Ltd | 9.48 |
| Shandong Wanda Boto Tyre Co., Ltd. | Shandong Wanda Boto Tyre Co., Ltd | 9.48 |
| Shandong Xingyuan International Trading Co., Ltd. | Shangdong Xingda Tyre Co., Ltd | 9.48 |
| Shandong Xingyuan International Trading Co., Ltd. | Xingyuan Tyre Group Co., Ltd | 9.48 |
| Techking Tires Limited | Shandong Xingda Tyre Co. Ltd | 9.48 |

Table continued on next page.

**Table I-2--*Continued***
**Certain OTR tires: Commerce's final weighted-average LTFV margins with respect to imports from China**

| | | |
|---|---|---|
| Techking Tires Limited | Shandong Xingyuan International Trade Co. Ltd | 9.48 |
| Techking Tires Limited | Shandong Xingyuan Rubber Co. Ltd | 9.48 |
| Triangle Tyre Co., Ltd. | Triangle Tyre Co., Ltd | 9.48 |
| Wendeng Sanfeng Tyre Co., Ltd. | Wendeng Sanfeng Tyre Co., Ltd | 9.48 |
| Zhaoyuan Leo Rubber Co., Ltd. | Zhaoyuan Leo Rubber Co., Ltd | 9.48 |
| All others | | 210.48 |
| Source: 73 FR 40489, July 15, 2008. | | |

## THE SUBJECT PRODUCT

### Scope

The imported products subject to these investigations include:[11]

*...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, combine harvesters, agricultural high clearance sprayers, industrial tractors, log-skidders, agricultural implements, highway-towed implements, agricultural logging, and agricultural, industrial, skid-steers/ mini-loaders; (2) construction vehicles and equipment, including earthmover articulated dump products, rigid frame haul trucks, front end loaders, dozers, lift trucks, straddle carriers, graders, mobile cranes, 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. 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. The foregoing descriptions are illustrative of the types of vehicles and 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 petitions range in size (rim diameter) generally but not exclusively from 8 inches to*

[11] *Certain New Pneumatic Off-The-Road Tires From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485, July 15, 2008. *See* Commerce's notice for footnotes describing the machinery and equipment cited in the scope language.

*54 inches. The tires may be either tube-type or tubeless, radial or non-radial, and intended for sale either to original equipment manufacturers or the replacement market. 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 with rims having specified rim diameter of nominal plus 0.156″ or plus 0.250″;*
*• MH—Identifies a tire 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*
*• 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; tires of a kind used on aircraft, all-terrain vehicles, and vehicles for turf, lawn and garden, golf and trailer applications; and tires of a kind used for 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).*

## Tariff Treatment

Imports of certain OTR tires are entered under statistical reporting numbers or subheadings 4011.20.1025, 4011.20.1035, 4011.20.5030, 4011.20.5050, 4011.61.0000, 4011.62.0000, 4011.63.0000, 4011.69.0000, 4011.92.0000, 4011.93.4000, 4011.93.8000, 4011.94.4000, and 4011.94.8000 of the Harmonized Tariff Schedule of the United States ("HTS"). During the course of these investigations, it was found that certain U.S. imports entering under HTS subheadings 4011.61, 4011.62, 4011.69, and 4011.92 were consumer tires that are outside the scope of these investigations. Import data used in this report have been adjusted to account for these out-of-scope products.

Table I-3 presents data on the current tariff rates of the subheadings identified above.

**Table I-3**
**Certain OTR tires: Tariff treatment, 2008**

| HTS provision | Article description | General[1] | Special[2] | Column 2[3] |
|---|---|---|---|---|
| | | Rates *(percent ad valorem)* | | |
| 4011 | New pneumatic tires, of rubber: | | | |
| 4011.20 | Of a kind used on buses or trucks: | | | |
| 4011.20.10 | Radial | 4 | | 10 |
| | Off-the-highway: | | | |
| 4011.20.1025 | For use on a rim measuring 40.6 cm or more in diameter | | | |
| 4011.20.1035 | Other | | | |
| 4011.20.50 | Other | 3.4 | | 10 |
| | Off-the-highway: | | | |
| 4011.20.5030 | For use on a rim measuring 40.6 cm or more in diameter | | | |
| 4011.20.5050 | Other | | | |
| | Other, having a "herring-bone" or similar tread: | | | |
| 4011.61.0000 | Of a kind used on agricultural or forestry vehicles and machines | Free | | Free |
| 4011.62.0000 | Of a kind used on construction or industrial handling vehicles and machines and having a rim size exceeding 6 cm | Free | | 10 |
| 4011.63.0000 | Of a kind used on construction or industrial handling vehicles and machines and having a rim size exceeding 61 cm | Free | | 10 |
| 4011.69.0000 | Other | Free | | 10 |
| | Other: | | | |
| 4011.92.0000 | Of a kind used on agricultural or forestry vehicles and machines | Free | | Free |
| 4011.93 | Of a kind used on construction or industrial handling vehicles and machines and having a rim size not exceeding 61 cm: | | | |
| 4011.93.4000 | Radial | 4 | | 10 |
| 4011.93.8000 | Other | 3.4 | | 10 |
| 4011.94 | Of a kind used on construction or industrial handling vehicles and machines and having a rim size exceeding 61 cm: | | | |
| 4011.94.8000 | Other | 3.4 | | 10 |

[1] Normal trade relations, formerly known as the most-favored-nation duty rate.
[2] Special rates not applicable when General rate is free. China is ineligible for special duty rate treatment.
[3] Applies to imports from a small number of countries that do not enjoy normal trade relations duty status.

Source: Harmonized Tariff Schedule of the United States (2008).

## THE DOMESTIC LIKE PRODUCT

The Commission's determination regarding the appropriate domestic product that is "like" the subject imported product is based on a number of factors, including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price.[12]

Petitioners[13] and other supporting parties, including BFNA,[14] contend that the Commission should find one domestic like product that is co-extensive with the scope of merchandise subject to the final phase of the investigations as defined by Commerce.[15] Respondents have challenged the petitioners' view that radial and bias OTR tires designed for use in mining and construction applications with a rim diameter of 39 inches or greater should be excluded from the scope of the final phase of the investigations.[16] Commerce excludes from its scope definition radial and bias OTR mining and construction tires equal to or above 39 inches in rim diameter, stated to be physically distinguishable from subject OTR tires by the more extensive use of internal reinforcing materials, and the heavier weight of such tires.[17] Additional information is presented in appendix D and in Part I**,** *"Domestic Like Product Issues."*

### Physical Characteristics and Uses

All pneumatic (air pressurized) rubber tires, whether passenger car, truck, or OTR, have the same basic generic components, but structurally, are markedly different. The basic components of a tire consist internally of a base rubber inner liner or a rubber inner tube, each impervious to air migration from the tire; rubberized reinforcing tire cord plies and belts that give the tire strength and stability; and a rubberized steel bead that provides an airtight seal of the tire with a given metal wheel. The outer components of a tire that can be seen on an assembled tire are the tread that runs around the outside of the tire, the sidewall, and the rubber rim. All tires contain varying amounts of natural and synthetic rubber in addition to several other components such as carbon black reinforcement, sulfur curing agents, nylon and steel tire cords and belts, and steel bead wire.[18]

Compared to the more familiar on-the-road passenger and truck tires, most certain OTR tires are designed for more rugged use where physical strength is imperative to absorb the abuses experienced in off-the-road applications, and where heavier load bearing characteristics are required. For this reason, a generally higher content and ratio of stronger, expensive, and more durable natural rubber[19] is used in certain OTR tires relative to the more supple, but lower strength synthetic rubbers which are used in higher proportions in on-the-road tires. Also, more substantial internal reinforcement is required, including textile and steel tire cords and belts, steel bead, and carbon black pigment reinforcement.[20]

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[12] Questionnaire responses regarding certain OTR tires and nonsubject OTR tires with a rim diameter equal to or greater than 39 inches are presented in app. D.

[13] Petitioners' prehearing brief, p. 7.

[14] BFNA, prehearing brief, p. 4.

[15] 73 FR 40490, July 15, 2008.

[16] Hearing transcript, p. 41 (Durling).

[17] 73 FR 40490- 40491, July 15, 2008.

[18] Staff field trip report, BFNA, July 19, 2007.

[19] Producer costs for raw materials like natural rubber and for energy are now at all-time record levels. Hearing transcript, p. 68 (Allen).

[20] Titan prehearing brief, p. 4.

Certain OTR tire series for a given application having the same rim diameter size and section width can have very different price points.[21]

Certain OTR tires are produced in a wide variety of types and sizes, ranging from relatively small agricultural implement tires, to larger agricultural, construction, and industrial tires found on the more familiar farm tractors, earth movers, back hoe loaders, and fork lift trucks, for example.[22] The rim diameter (inside diameter) of certain OTR tires may range from eight to 72 inches,[23] [24] and the weight of a large agricultural tire, up to 1,200 pounds.[25] Subject OTR mining and construction tires less than 39 inches in rim diameter are typically much higher in weight, some more than 3,000 pounds.[26] Unlike on-the-road tires, certain OTR tires are typically designed for speeds no higher than 25-30 miles per hour.[27] These tires may be of bias ply or radial construction depending upon the end use, and consist of multiple tread types depending on the types of equipment and end-use requirements.[28] Certain OTR tires may be of the tubeless or tube variety, but are predominately tubeless, while all are pneumatic (air pressurized) in nature, as defined in the scope.[29]

In the United States, OTR producers have generally adopted The Tire and Rim Association ("TRA"), Inc. standards. TRA standards for the subject tires are broken out into three categories: Off-the-Road, Agricultural, and Industrial. TRA standards identify items such as the type of equipment on which the tire is used, the tire type and tire-type designation to be molded into the sidewall, the speed and load carrying ply ratings, and several other physical and quantitative descriptions.[30] Designations used on foreign tires may or may not conform to TRA standards, but they usually carry a tire size and country- of-origin marking.[31] TRA tire standards are described in the following tabulation:

[21] GPX posthearing brief, p. 48 (Ganz).
[22] Titan prehearing brief, p. 4.
[23] Ibid, p. 3.
[24] The scope rim diameter range is generally, but not exclusively, 8 to 54 inches. 73 FR, 40490, July 15, 2008.
[25] Titan prehearing brief, p. 3.
[26] BFNT revised public posthearing brief, exh. 3.
[27] Titan prehearing brief, p.4.
[28] Ibid, p. 3.
[29] Staff field trip report, BFNA, July 19, 2007.
[30] *2007 Yearbook*, The Tire and Rim Association, Inc.
[31] Certain Chinese tire producers are affiliate members of the TRA; *2007 Yearbook*, The Tire and Rim Association, Inc., p. V.

| OTR tire: 45/65R45 NHS 16PR *** | | Agricultural tire: 14.5/75-16.1 SL 10PR 121 A8 | | Industrial tire: 23x10.50-12 NHS 4PR | |
|---|---|---|---|---|---|
| 45 | Width of tire cross section (inches) | 14.5 | Width of tire cross section (inches) | 23 | Overall diameter (inches) |
| 65 | Aspect ratio | 75 | Aspect ratio | 10.50 | Width of tire cross section (inches) |
| R | Radial | - | Bias | - | Bias |
| 45 | Rim diameter (inches) | 16.1 | Rim diameter (inches) | 12 | Rim diameter (inches) |
| NHS | Suffix (Not for highway service) | SL | Service limited to agricultural usage | NHS | Suffix (Not for highway service) |
| 16PR | Ply rating | 10PR | Ply rating | 4PR | Ply rating |
| *** | Load symbol (rated for 30 psi) | 121 | Load index (max. load) | | |
| | | A8 | Speed symbol (25 mph) | | |
| Source: *2007 Year Book*, Tire and Rim Association, pp. 4-02, 5-02, 6-03. | | | | | |

As described in the scope language, 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. Shipment and import data were gathered during these final phase investigations regarding end uses in terms of the agricultural/forestry, construction/industrial, and other off-the-highway applications. The data indicate that the subject products from all sources were present in all applications during the period of investigation. During 2007, the majority of U.S. producers' shipments (72.8 percent by quantity and 61.4 percent by value) were for agricultural/forestry applications, and the majority of shipments of imports from China were for construction/industrial applications (58.3 percent by quantity and 54.7 percent by value).[32]

## Manufacturing Processes

The production processes for certain OTR tires are generally more labor intensive and typically require more semi-automated production sequences than for on-the-road passenger and truck tires. This is due to the larger sizes, number of components, and higher strength properties demanded in certain OTR tire end-use applications, although there may be exceptions, especially for smaller certain OTR tires. The majority of certain OTR tires are of tubeless design, i.e., do not usually contain inflatable inner tubes such as those found in bicycle tires.[33]

Several stages are required for the production of certain OTR tires. The initial stage is the receiving and testing of various raw materials. These include natural and synthetic rubbers, textile tire cord fabric, carbon black reinforcing pigment, steel wires for rim bead, and other rubber processing chemicals, including antioxidants, plasticizers, sulfur curing agents, processing oils, and resins.

[32] *See* tables III-7 and IV-4.
[33] Staff field trip report, BFNA, July 19, 2007.

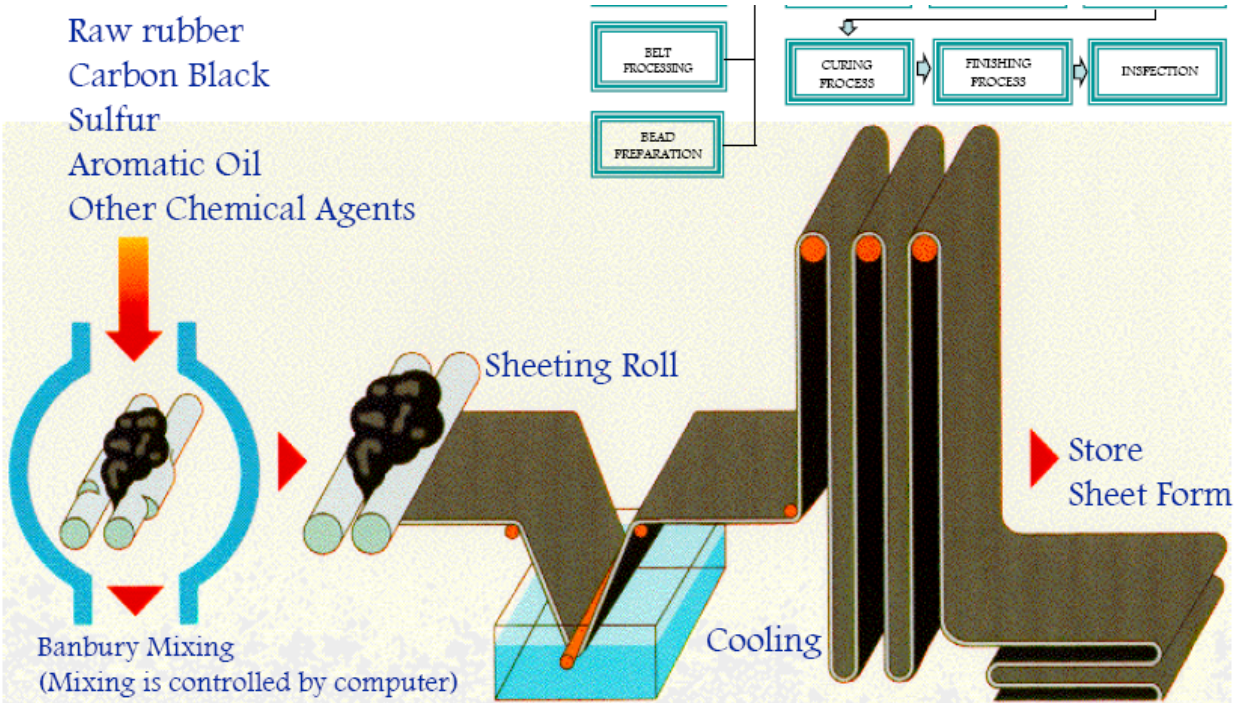
The rubber preparation stage involves the mixing of the various rubbers and selected raw materials into several different types of compounds or recipes designed for specific downstream process end uses, as shown in figure I-1. Each batch is placed into a Banbury mixer where the rubber is heated, softened, and thoroughly mixed with the other ingredients under conditions of mixer blade shear and ram pressure. Following the discharge of a given rubber compound batch from the mixer, the mass is cooled, and sulfur curing agents are added. Subsequent Banbury mixing is usually required to complete this step.

During the mixing process, heat and friction soften the rubber for several applications, including a type of rubber compound designed to hold air on the inside of the tubeless tire; various types of rubber compounds designed to adhere to wire and fabric used to make the casing; and other types of rubber compounds designed for the outside of the tire; e.g., the steel bead, sidewalls, and tread. Following the mixing process, the various rubber compounds or batches are milled into slab form for use in the factory.

Several different types of equipment are used to process the rubber formulations into multiple certain OTR tire components. Large machines equipped with rollers known as calendars are used to produce sheets of butyl rubber interlining which prevent the migration of pressurized air through a tubeless tire casing. Calendars are also used to coat tire cord fabric or wire with selected rubber formulations for reinforcement of the tire casing which supports the weight of the vehicle.

Machines called wire winders are used to apply a given rubber batch coating to the bead wire and wrap it into an exact circular dimension needed to hold the tubeless tire securely to the steel wheel. The smooth rubber pieces that will eventually become treads and sidewalls are produced with machines called extruders which force various softened rubber compounds through a die to produce the desired configurations.

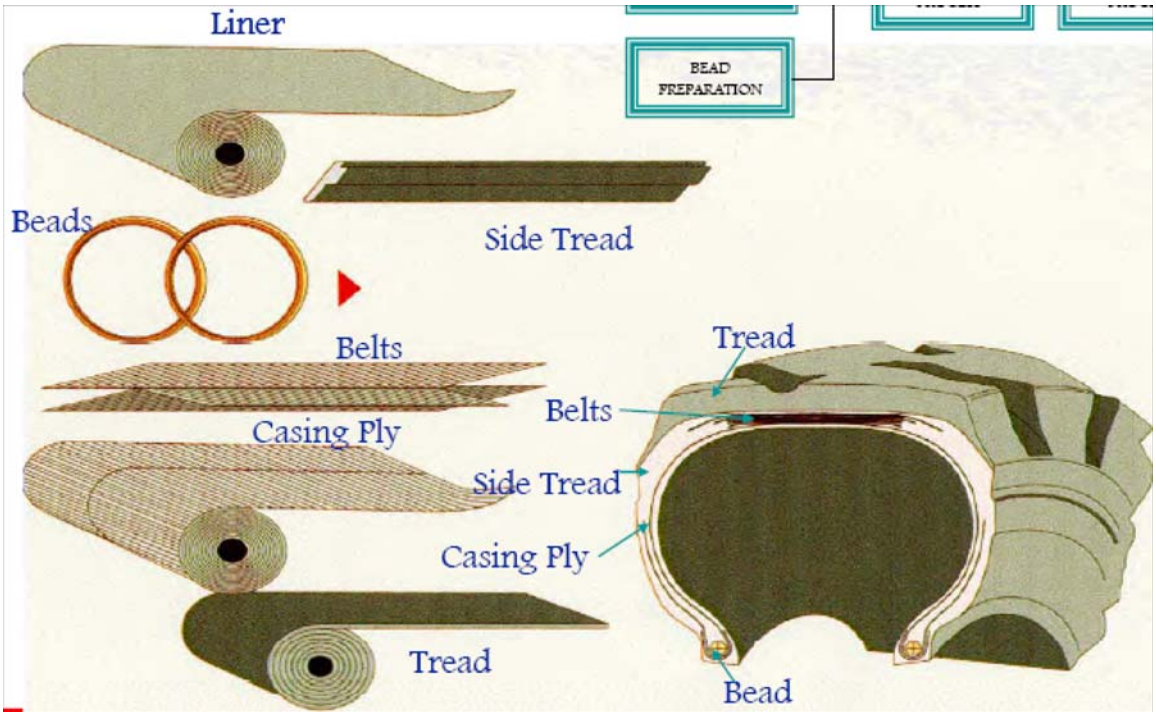
**Figure I-1**
**Rubber mixing process**




Source: Staff field trip report, BFNA, July 19, 2007, attachment.

The next step involves a process known as tire building in which all of the individual components that make up the tire are assembled, as shown in figure I-2. Certain OTR tire building is typically performed manually by an employee known as a tire builder who places the various components in sequence about a horizontally positioned cylindrical drum. The time necessary to complete a single tire building cycle can vary from a few minutes or longer depending upon the type of tire being assembled. The tire builder first positions the bottom interlining about the drum and proceeds sequentially upwards with the reinforcing tire cord plies, sidewall and tread stock, ending with the positioning of the bead rims into each side of the assembly.[34]

**Figure I-2**
**Tire assembly components**




Source: Staff field trip report, BFNA, July 19, 2007, attachment.

[34] Many types of certain OTR tires also have steel wire or textile belt material directly under the tread area for added stability and impact resistance.

In bias ply tire building, the tire cord plies are cut at alternating angles around the drum circumference as the assembly proceeds; otherwise, radial construction involves placing parallel steel or fabric piles that run "radially" from bead to bead at right angles to the direction of tire travel.[35] The green (uncured) tire assembly is removed from the drum in the form of an ***, and positioned with several others for transfer to the final molding and curing process.[36]

The final molding and curing process involves the placement of the green tire assembly about a bladder sleeve in a circular curing press tire mold of the appropriate configuration as shown in figure I-3. After the curing press is closed, the bladder is injected with steam and expanded to force the green tire assembly out against the mold walls. The green tire thus takes on the configuration of the tire mold, including that of the sidewall, sidewall size designations, and tread type. Vulcanization or curing of the green tire takes place in the mold at elevated temperature and pressure. Curing times vary widely depending upon the size of the tire, and may vary nominally from a few minutes to several hours; each tire model requires its own mold. During vulcanization, the original weak green tire rubber becomes strong and rigid (thermoset), and will not again soften with heat due to molecular cross-linking or bonding of the rubber with the sulfur chemical additives.[37] [38]

Following the molding and curing process, the finished tire is moved to the quality control area for a final visual and x-ray inspection. The tires that pass inspection are then moved to a warehouse for storage and shipping. Finished tires are coded to track their whereabouts, and to identify the plant of manufacture and that of the individual tire builders.

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[35] Bias ply construction is one in which the reinforcing tire cords run diagonally from rim bead to rim bead, with each successive ply running at equal, but opposite angles. In radial construction, the reinforcing tire cords run parallel from bead to bead, or perpendicular to the direction of travel and have reinforcing belts directly underneath the tread. Bias ply tires are popularly used in many OTR applications because of their sidewall strength, stiffness, and toughness, and the ability to carry the heavy loads demanded in the OTR industry. A radial tire will have better traction and fuel because of less slippage. Radial tires reportedly have a longer tire life than bias ply tires; higher resistance to cuts, punctures, and tears; excellent traction; improved handling and fuel economy; and a smoother ride and operator comfort.

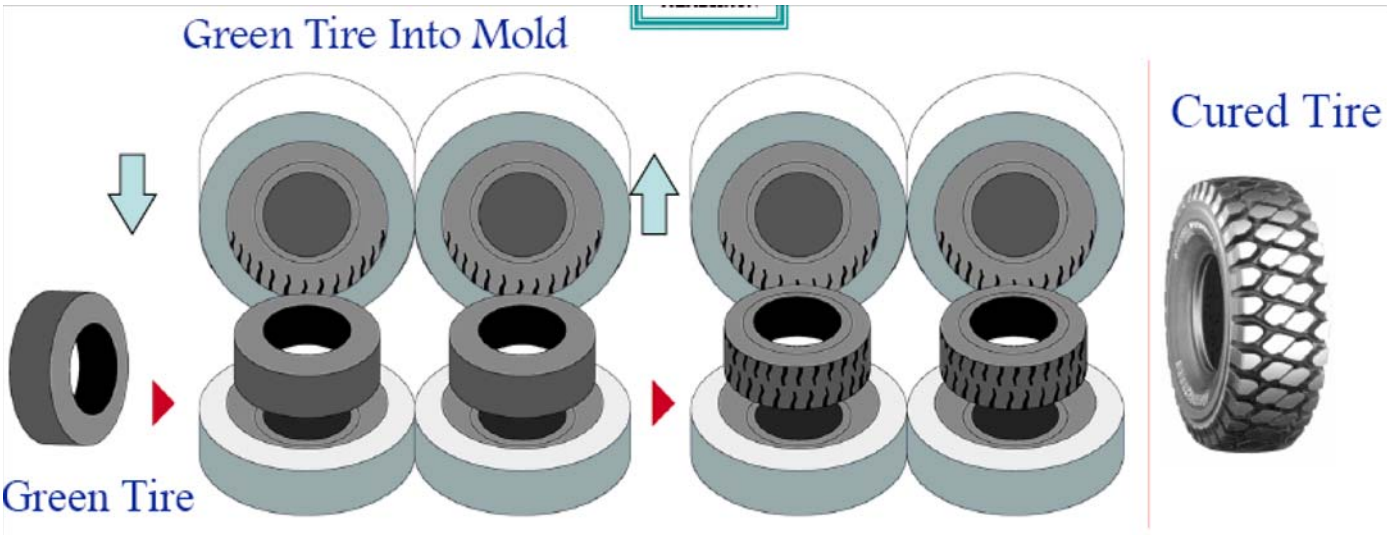
Bias-type tires are estimated to account for 65 to 70 percent of the U.S. market for certain OTR tires. Hearing transcript, p. 62 (Vasichek). Bias tires, both large and small, are made from the same types of materials and have the same basic components. The same is true for radial tires, however, the materials may be distinctly different, e.g,. steel ply (GPX posthearing brief p. 43). Both types are used on agricultural, mining and construction equipment.

[36] ***. Staff field trip report, BFNA, July 19, 2007.

[37] Both presses and pot heaters can be used to cure subject OTR and out-of-scope OTR tires. GPX posthearing brief, p. 3; exh. 5 & 13.

[38] Pot heaters are multi-functional and can be used to cure both subject OTR and out-of-scope OTR tires at the same time. Hearing transcript, p. 109 (Taylor).

**Figure I-3**
**Curing process**




Source: Staff field trip report, BFNA, July 19, 2007, attachment.

## Channels of Distribution

Certain OTR tires and OTR tires greater or equal to 39 inches in rim diameter are sold directly to original equipment manufacturers and tire distributors for the aftermarket. Data compiled in response to Commission questionnaires concerning channels of distribution are presented in table I-4. As indicated by the data, the majority of U.S. producers' sales of certain OTR tires are through the end user channel, and the majority of U.S. importers' sales are through the distributor channel. The majority of both U.S. producers' sales and U.S. importers' sales of OTR tires greater or equal to 39 inches in rim diameter are through the distributor channel.

**Table I-4**
**OTR tires: U.S. producers' and importers' shares of reported U.S. shipments, by sources and channels of distribution, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | Share of reported shipments, units (*percent*) | | | | |
| **Certain OTR tires** | | | | | |
| U.S. producers' U.S. shipments to: | | | | | |
| Distributors | 47.6 | 48.4 | 48.6 | 50.1 | 44.6 |
| End users | 52.4 | 51.6 | 51.4 | 49.9 | 55.4 |
| U.S. importers' U.S. shipments from China to: | | | | | |
| Distributors | 80.8 | 79.0 | 79.4 | 77.0 | 70.9 |
| End users | 19.2 | 21.0 | 20.6 | 23.0 | 29.1 |
| U.S. importers' U.S. shipments from all other countries to: | | | | | |
| Distributors | 60.8 | 63.6 | 61.4 | 63.4 | 70.7 |
| End users | 39.2 | 36.4 | 38.6 | 36.6 | 29.3 |
| **Nonsubject OTR tires >= 39 inches in rim diameter** | | | | | |
| U.S. producers' U.S. shipments to: | | | | | |
| Distributors | 69.6 | 66.0 | 62.0 | 74.7 | 75.5 |
| End users | 30.4 | 34.0 | 38.0 | 25.3 | 24.5 |
| U.S. importers' U.S. shipments from China to: | | | | | |
| Distributors | 100.0 | 86.4 | 92.4 | 100.0 | 73.7 |
| End users | 0.0 | 13.6 | 7.6 | 0.0 | 26.3 |
| U.S. importers' U.S. shipments from all other countries to: | | | | | |
| Distributors | 93.1 | 86.8 | 83.8 | 83.3 | 79.8 |
| End users | 6.9 | 13.2 | 16.2 | 16.7 | 20.2 |

Source: Compiled from data submitted in response to Commission questionnaires.

## Price

Table I-5 presents average unit values ("AUVs") for U.S. shipments of certain OTR tires produced domestically and imported from China and all other sources, and AUVs of U.S. shipments and U.S. imports from China of nonsubject OTR tires. AUVs for U.S. producers' U.S. shipments ranged from $189 to 1,414 during 2005-07, and U.S. imports from China ranged from $119 to 1,340 per tire. The highest unit values for all sources were reported in the off-the-highway sector. Pricing practices and prices reported for certain OTR tires in response to the Commission's questionnaires are presented in Part V of this report, *Pricing and Related Information*.

**Table I-5**
**OTR tires: Average unit values of U.S. shipments and imports, by sources and types, 2005-07**

| Item | Calendar year | | |
|---|---|---|---|
| | 2005 | 2006 | 2007 |
| | Unit value (*per tire*) | | |
| **Certain OTR tires:** | | | |
| ***U.S. producers' U.S. shipments--*** | | | |
| Agricultural/forestry | $189.34 | $199.54 | $225.41 |
| Construction/industrial | 247.98 | 289.77 | 286.32 |
| Off-the-highway | 1,274.13 | 1,340.44 | 1,414.21 |
| Average | 225.12 | 251.07 | 267.13 |
| ***U.S. importers' U.S. shipments (from China)--*** | | | |
| Agricultural/forestry[1] | 133.16 | 129.49 | 119.80 |
| Construction/industrial[2] | 132.40 | 175.07 | 154.67 |
| Off-the-highway[3] | 372.42 | 954.09 | 1,340.43 |
| Average | 137.91 | 188.39 | 164.92 |
| **Nonsubject OTR tires:** | | | |
| ***U.S. producers' U.S. shipments--*** | | | |
| Rim width > = 39 inches | 10,479 | 12,307 | 15,634 |
| ***U.S. importers' U.S. shipments (from China)--*** | | | |
| Rim width > = 39 inches | *** | *** | *** |

[1] Includes HTS subheadings 4011.61 and 401.92.
[2] Includes HTS subheadings 4011.62, 4011.63, 4011.93.40, 4011.94.40, 4011.93.80, and 4011.94.80.
[3] Includes HTS statistical reported numbers 4011.20.1025, 4011.20.1035, 4011.20.5030, and 4011.20.5050.

Note: AUVs for U.S. producers' U.S. shipments do not reconcile with the corresponding data presented in tables III-6 and C-1 due to internal reporting inconsistencies between different sections of the questionnaire responses.

Source: Compiled from data submitted in response to Commission questionnaires.

## DOMESTIC LIKE PRODUCT ISSUES

Petitioner and supporting parties contend that the Commission should define a single domestic like product of all domestically produced certain OTR tires as coextensive with Commerce's scope and that the domestic industry consists of the domestic producers of certain OTR tires. On the other hand, respondents view the like product scope differently, as a continuum of nonagricultural OTR tires with rim sizes both above and below petitioner's "bright line" of 39 inches (e.g., 33, 39, and 49 inches).[39] The parties argued the merits of the various like product issues in accordance with the Commission's traditional six-factor like product analysis, as follows.[40]

### Physical Characteristics and Uses

Petitioner Titan generally describes nonsubject OTR construction and mining tires 39 inches in rim diameter and above as jumbo earthmoving, construction, and mining tires.[41] It states that nonsubject OTR tires are significantly different from subject certain OTR tires in their physical composition, size, weight, and load bearing characteristics. According to Titan, the massive size and weight of these tires is necessary for them to serve their specific end-use of moving enormous loads for the mining and construction industry. A subject certain OTR mining tire with a 35-inch rim is typically 83 inches tall (6.9 feet), 21 inches wide, and weighs about 1,200 pounds, while a nonsubject OTR mining tire with a 39-inch rim is eight feet tall, 40 inches wide, and weighs about 5,000 pounds. Thus, the smallest nonsubject OTR construction and mining tire with a 39-inch tire rim diameter would be only 4 inches above the largest 35-inch subject certain OTR mining and construction tire, but 13 inches taller, almost twice as wide, and more than four times heavier. Titan argues that because these significant physical differences arise among mining and construction tires once the rim diameter reaches 39 inches or greater, rim diameter provides a meaningful basis for distinguishing like product.[42] The 57 and 63-inch rim diameter radial mining tires currently in short supply are now produced by Titan, and are 13 to 13.5 feet tall, weigh 8,000 to 13,000 pounds, and cost $35,000 to $50,000 each. The only other known producers of the 63-inch radial tire are BFNA and Michelin.[43]

### Common Manufacturing Facilities and Production Employees[44]

Petitioners contend that due to the significant physical differences, there is little overlap in domestic production facilities for subject certain OTR and nonsubject OTR construction and mining tires. BFNA only has the capability to manufacture nonsubject OTR construction and mining jumbo earthmoving tires at its Bloomington, IL, facility; no such nonsubject OTR construction and mining tires are produced at its other OTR tire facility in Des Moines, IA. Likewise, Titan's Des Moines, IA, and Freeport, IL, plants are not capable of producing the nonsubject OTR tires because the final product is too large to be handled in the physical facilities themselves; nor do these facilities have the necessary equipment or the employees with the proper training to handle production of jumbo tires. Thus, Titan can

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[39] Hearing transcript, p. 41 (Durling).

[40] Party views were sourced from prehearing and posthearing briefs, together with the transcript of the Commission hearing held on July 8-9, 2008. Additional information is presented in app. D.

[41] BFNA describes nonsubject OTR construction and mining tires as "Giant Earthmoving Tires," and subject OTR non-agricultural tires as "Large" tires. BFNA posthearing brief, pp. 1-4.

[42] Titan posthearing brief, PEARSON 9-11.

[43] Hearing transcript, pp. 220-221 (Taylor).

[44] Unless otherwise noted, information under this heading was obtained from Titan's posthearing brief, pp. PEARSON 11-14.

only produce nonsubject OTR tires at its Bryan, OH, facility. Of the remaining U.S. producers of nonsubject OTR tires, ***.

Titan argues that even where nonsubject OTR and subject certain OTR tires are produced at the same facility, nonsubject OTR tires require separate equipment, production processes, and employee training. At BFNA's Bloomington, IL, facility, only two of the eight types of tire machines can produce nonsubject OTR tires, and that production requires specialized technical know-how and investment. ***.

Subject certain OTR tires are typically cured in conventional curing presses, while nonsubject OTR tires are cured in pot heaters due to their significantly larger size. Titan's Chairman stated that the cost of pot heaters required to produce nonsubject OTR construction and mining tires is substantial and dwarfs the costs for most curing equipment used for subject certain OTR tires. According to Titan, nonsubject OTR tires must be placed into the pot heaters using heavy-duty cranes that are not required for curing subject certain OTR tires.[45] [46]

Respondent GPX argues that contrary to petitioner's arguments, eight out of ten manufacturing steps, the equipment, and processes are identical for all OTR tires.[47] The affidavit by Joel De Glopper,[48] provided at exhibit 5 of GPX's posthearing brief, explains that both presses and pot heaters can be used to cure OTR tires that straddle both sides of petitioners' alleged 39 inch bright line. Exhibit 13 of the same brief provides a BFNA submission to the Illinois EPA that states that pot heaters can cure the full range of tire sizes from less than three feet to greater than 12 feet in diameter. Although there may be special equipment used for mounting giant OTR tires 57 to 63 inches in rim diameter, much of the manufacturing equipment even for these giant tires is used for all OTR tires. Moreover, GPX argues that special mounting equipment for giant OTR tires reportedly has nothing to do with whether 39 inches is a clear bright line that justifies carving out an entire segment of the overall industry.[49]

With regard to the curing process, respondent GPX contends that the petitioners gave the impression that 39-inch and larger nonsubject OTR tires must be cured in pot heaters. However, GPX states that there are curing presses that can cure both subject certain OTR and nonsubject OTR tires. Specifically, GPX notes that the GRM Company manufacturers a 122-inch press that is capable of curing a number of 39-inch to 49-inch nonsubject OTR tires, as well as most subject certain OTR tires, 25 to 35 inches.[50] [51]

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[45] In pot molding, two or three individual tire molds can be stacked into the chamber unlike a conventional single clamshell mold press, so it's a much different process and investment, as well. Hearing transcript, p. 108 (Rasey).

[46] In pot molding, the top is locked, and whether you have a 33 inch tire in there or a 45 inch tire, the one that takes the longest to cure, that's how long you have to leave them in there, because you can't take one out; it's for multi-use. Hearing transcript, p. 109 (Taylor).

[47] Only two steps are size dependent, tire building and curing, which represent only about 20 percent of total assets value of the plant. The only difference in the tire building process is the size of the equipment. There is a progression in the size of the building equipment that follows the tire size. Hearing transcript, pp. 245-246 (Mazzola).

[48] Joel De Glopper is Vice President of Radial Tires for GPX.

[49] GPX posthearing brief, pp. 2-4; exh. 5&13.

[50] Hearing transcript, p. 246 (Mazzola).

[51] The curing process for nonsubject OTR tires is not pot heater dependent; both curing presses and pot heaters can be used to cure subject certain and nonsubject OTR tires. Pot heaters are a multi-use curing device. Subject certain tires and nonsubject OTR tires up to 51 inches can be cured in pot heaters at our {GPX} Starbright factory. Ibid.

## Interchangeability

Petitioners contend that there is no interchangeability between nonsubject OTR tires and subject certain OTR tires, primarily due to the differences in load-bearing capacity. Nonsubject OTR tires cannot be installed on the same vehicles and equipment and are not used for the same specific applications. While there is some limited interchangeability among some of the subject certain OTR tires, petitioner argues that the Commission has previously found that "a difference observed between products inside and outside the scope may provide a sufficient basis not to expand the domestic like product even if the same difference exists between different products found within the scope."[52]

End-users, such as respondent Caterpillar, use OTR tires with rim diameters of 33, 39, and 49 inches, all on the same types of equipment.[53] [54] Respondent GPX argues that the repeated statements from industry witnesses and counsel for petitioners at the Commission's hearing in these investigations were simply statements of an obvious observation that a mining and construction OTR tire with a rim diameter of 39 inches cannot be used on equipment requiring an OTR tire with a rim diameter of 33 inches.[55] GPX contends that such observations are viewed as equally true for all rim diameter sizes within the continuum of sizes of the like product definition, and says nothing about why a dividing line at 39 inches is meaningful.[56]

## Customer and Producer Perceptions

Petitioner states that due to the significantly larger size and weight of nonsubject OTR tires, there are differences in the production processes, shipping, and handling. Producers reportedly view nonsubject OTR tires as distinct from subject certain OTR tires. ***.[57]

Petitioner contends that customers also view nonsubject OTR tires as a distinct product from subject OTR tires due to their physical differences, particular end-uses and limited applications, their lack of interchangeability, different channels of distribution, and large price differentials. According to petitioner, *** reports that the high cost of nonsubject OTR tires leads customers to view them differently and to track their performance more closely. Similarly, ***.[58] ***. ***.[59] ***.[60] [61]

Respondent GPX points to the major U.S. OTR tire producers' product brochures as the best evidence of producer and customer perceptions of dividing lines among OTR tires.[62] [63] According to GPX, these brochures demonstrate unequivocally that, in the real-world marketplace, none of the major U.S. producers consider 39 inches to be a meaningful dividing line. Goodyear is said to use the exact

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[52] Titan posthearing brief, pp. PEARSON 14-15.

[53] Hearing transcript, p. 41 (Durling).

[54] Caterpillar's quarry and construction trucks run on tires with diameters that straddle the 39-inch boundary, specifically from 33 to 49 inches. The same is true for the wheel loaders which load the trucks. The medium wheel loaders use 25-inch tires, while its large wheel loaders use tires ranging from 33 inches to 57 inches. Hearing transcript, pp. 249-250 (Koch).

[55] Ibid, p. 138 (Taylor).

[56] GPX posthearing brief, pp. 41-42 (Ganz).

[57] Titan posthearing brief, PEARSON 16.

[58] Ibid.

[59] Hearing transcript, pp. 249-251(Koch).

[60] Titan posthearing brief, PEARSON 16.

[61] Although both petitioners and respondents debated extensively on the merits of product recognition during the hearing, their arguments appeared to be more focused on subject certain OTR product competition and underselling.

[62] Goodyear product specification sheets are provided in exh. 6 of the GPX prehearing brief. GPX posthearing brief, p. 46.

[63] Hearing transcript, pp. 322-323 (Ganz).

same language to describe the "features and benefits" of mining and construction tires both above and below 39 inches.[64]

With respect to customer perceptions, in GPX's view, customers do not perceive that there is a bright line distinction between mining, construction, and materials handling tires below 39 inches and mining and construction tires above 39 inches. GPX views the manner in which OEM customers, such as Caterpillar, organize their equipment that use these tires, and the way which distributors purchase these tires from U.S. producers and offer them for resale, as making the answer to this question self-evident. In GPX's view, this indicates that customers fully understand and recognize that within a particular product series, there is a continuum of sizes.[65]

Respondent Caterpillar reported that it was incorrect to state that 39-inch tires are not being shipped together with the equipment on which these tires are installed. In fact, Caterpillar states that machines are sold with OTR tires ranging in rim size from 15 inches to 57 inches. Furthermore, in Caterpillar's view, there is no significant leap in weight at the 39-inch boundary, and the firm has purchased some smaller tires that weigh more than the 39-inch tires. Additionally, the firm views the 39-inch boundary as insignificant as reflected in the product materials of the tire manufacturers themselves. According to Caterpillar, at least two tire manufacturers have reportedly organized product groups that straddle the 39-inch boundary.[66]

### Channels of Distribution

Petitioner reports that the vast majority of nonsubject OTR tires are shipped direct to the end user, typically an open face mining company, when intended for use on new equipment instead of being shipped to the OEM for installation at the factory.[67] [68] [69] In addition, the substantially larger size and weight of nonsubject OTR tires requires the use of dedicated equipment for the transport, mounting, and servicing of such tires.[70] [71] According to petitioners, only a very small number of distributors have the equipment and trained personnel to handle the nonsubject OTR tires versus literally thousands of distributors and dealers for subject certain OTR tires.[72] Also, the trucks and equipment required to handle nonsubject OTR tires costs significantly more than those used to transport smaller and lighter subject certain OTR tires.[73] While subject certain OTR tires can be shipped over roads in a haul truck or container, the nonsubject OTR tires may require a flatbed truck for shipping, and must be transported over particular routes that can handle oversized loads.[74] [75]

Respondent GPX's view is that petitioner and BFNA made two factual claims to support their argument that nonsubject OTR tires with rim diameters 39 inches and above are sold through different channels of distribution from in-scope OTR tires.[76] First, it was claimed that, unlike all subject certain OTR tires, original equipment requiring nonsubject OTR tires is sold and delivered "barefoot," that is

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[64] GPX posthearing brief, p. 46
[65] Ibid., p. 47.
[66] Hearing transcript, p. 251 (Koch).
[67] Titan posthearing brief, PEARSON 15.
[68] Titan public prehearing brief, pp. 12-13.
[69] Hearing transcript, p. 59 (Taylor).
[70] Titan public prehearing brief, pp. 13-14.
[71] Hearing transcript, pp. 89-90 (Monthei).
[72] Certified statement of Mr. Tracy Leslie, Titan posthearing brief, exh. 2.
[73] Ibid.
[74] Ibid.
[75] Hearing transcript, pp. 133-134 (Taylor).
[76] GPX posthearing brief, pp. 45-46..

without tires mounted on the equipment prior to delivery.[77] GPX argues that this claim was specifically and pointedly refuted by Caterpillar, the world's largest manufacturer of mining and construction equipment that utilizes mining and construction OTR tires.[78] Second, petitioners and BFNA claimed that specialized equipment is needed to handle and transport nonsubject OTR tires with a rim diameter of 39 inches and above. However, GPX argues that industry witnesses and counsel were careful to limit this factual claim to only "giant" mining and construction tires. In this regard GPX states that counsel for petitioners was particularly careful in his argument that "only distributors with special equipment and specially trained personnel handle sales of giant mining tires in the after-market."[79] GPX claims that given that all industry witnesses fully agreed that "giant" mining tires refer only to those OTR tires having rim diameters of 57 inches and above, this particular factual claim provides no support for a clear dividing line at 39 inches.[80]

**Price**

Petitioner Titan reports that price is another factor that clearly distinguishes nonsubject OTR tires from subject certain OTR tires.[81] For example, the least expensive nonsubject OTR tires are significantly more expensive than the most costly subject certain OTR tires.[82] In 2007, the average unit value for U.S. producers' U.S. shipments of nonsubject OTR tires was $15,537 per tire, more than 58 times higher than the $267.13 average unit value for domestic producers' shipments of all subject certain OTR tires, including agricultural/forestry tires.[83] According to Titan, these large and consistent differences in price far outweigh the one isolated example those in opposition to relief have cited where a subject certain OTR tire is listed in a price list at a slightly higher price than one particular model of nonsubject OTR tire.[84]

BFNA provided a comparison of its largest subject certain OTR and smallest nonsubject OTR tires in the same model series by rim diameter, weight, and price. BFNA designates all of the given tires, whether subject certain OTR or nonsubject OTR tires, as "Mining and Construction" tires, as distinguished from "agricultural/forestry" tires. Subject certain OTR tires under 39 inches in rim diameter are designated by BFNA as "Small" or "Large," and nonsubject OTR tires 39 inches and above as "Giant."

Of the 20 tire models shown by BFNA, all nonsubject OTR tires were larger in both weight and price, and, of course, rim size. The largest subject certain OTR tire rim sizes varied from 33 to 35 inches, except for one 25-inch tire, while the smallest nonsubject OTR tire rim sizes varied from 39 inches to 57 inches. The smallest spread in rim sizes provided was a comparison of four-35 inch subject certain OTR tires with four 39-inch nonsubject OTR tires (4 inch rim size differential). The nonsubject OTR tires in this category were 31 percent heavier on average, and also 31 percent higher in list price. On a per pound basis, there was a 2 cents per-pound average price differential between the subject certain OTR 35-inch tires and the nonsubject OTR 39-inch tires of the same model series. For all comparative models shown, BFNA's nonsubject OTR tires were 83 percent heavier, and 81 percent higher in list price, on average. BFNA argues that these very large differences support separate like products.[85]

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[77] Titan prehearing brief, p. 14.
[78] Hearing transcript, p. 251 (Koch).
[79] Ibid, p. 53 (Stewart).
[80] GPX posthearing brief, p. 46.
[81] Titan posthearing brief, PEARSON 17-18.
[82] Titan public prehearing brief, p. 16.
[83] Staff public prehearing report, I-21.
[84] Hearing transcript, p. 247 (Mazzola).
[85] BFNA revised public posthearing brief, p.4; exh. 2, 3&4..

Respondent GPX's view on price is that when analyzing the price factor in its like product analysis, the Commission looks to whether there is a natural or significant price break at the suggested dividing line, not whether average prices of large categories of products are different. GPX argues that based on price data cited at the hearing, the evidence before the Commission is clear that there is no significant price break for nonsubject OTR tires 39 inches and above, as indicated by a very similar price for two mining and construction OTR tires significantly different in rim size (35 inches vs. 49 inches). GPX further states that the absence of a clear dividing line can also be seen by the fact that mining and construction tires having the exact same rim diameter and section width can have very different selling prices.[86]

[86] GPX posthearing brief, pp. 47-48.

# PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

## U.S. MARKET SEGMENTS/CHANNELS OF DISTRIBUTION

Certain OTR tires are used on a wide range of vehicles and equipment including those used in agriculture and forestry (e.g. agricultural tractors, combine harvesters, agricultural high clearance sprayers, industrial tractors, log-skidders, agricultural implements, highway-towed implements, agricultural logging, and agricultural, industrial, skid-steer/mini-loaders); construction vehicles and equipment (e.g earthmover articulated dump trucks and rigid frame haul trucks, front end loaders, dozers, lift trucks, straddle carriers, graders, mobile cranes, compactors); and industrial vehicles and equipment (e.g smooth floor industrial, mining, counterbalanced lift trucks, industrial and mining vehicles other than smooth floor, skid-steers/mini-loaders, and smooth off-the road counterbalanced lift trucks).[1]

In addition to different categories of end uses, the market is differentiated to some extent by brand names in which certain companies typically charge a higher price than others. Certain OTR tires are also divided into other segments including the original equipment market "OEM" and the aftermarket or replacement market. U.S. producers and importers of certain OTR tires from China compete for sales in both market segments. Evidence indicates that there are many tire distributors in the replacement market in the United States ranging in size from small local distributors to larger regional distributors and finally to the largest distributors that have outlets nationwide.

U.S. producer sales have tended be about equally divided between OEMs and distributors during 2005-07, while imports from China have been about more focused on distributors as shown in table I-4. However, during January-March 2008, shipments by both U.S. producers and importers from China to OEMs have increased when compared with the same period in the previous year.

All seven U.S. producers and the majority of importers of tires from China sell certain OTR tires nationally. Among 25 responding importers of product from China, 15 market nationally, while the other10 sell in one or more specific regions in the country. Seven reported sales in the Midwest, five reported sales in the Southeast, and smaller numbers reporting sales in other regions.

Six of seven U.S. producers reported that the largest share of their sales are made from items in inventories rather than produced to order, while a majority of responding importers (14 of 22) are more likely to sell items produced to order. Among producers, the lead times for delivery of items in inventories typically range from 2 to 10 days. For items that are specially ordered, producers' lead times are as long as 12 weeks. Among importers that sell from inventory, delivery lead times typically range from 1 to 14 days. For items produced to order, lead times can be as long as 6 months.

## SUPPLY AND DEMAND CONSIDERATIONS

### U.S. Supply

Domestic supply responsiveness depends upon such factors as the level of industry capacity utilization, the level of inventories, the availability of export markets, and the flexibility of shifting production equipment to other products. U.S. producers' capacity utilization rates ranged from a low of 38.0 percent in 2007 to a high of 46.8 percent in 2005. The ratio of U.S. producers' end-of-period inventories to their total shipments ranged from a low of 15.6 percent in 2007 to a high of 22.9 percent in 2006. During January-March 2008, the ratio was 12.9 percent. U.S. producers' export shipments, as a percentage of total shipments, ranged between 12 and 13 percent during 2005-07. During January-March 2008, the ratio was 14.0 percent.

[1] Petitioner's postconference brief, pp. 10-11.

All seven U.S. producers reported that they have manufactured other products using the equipment used to manufacture certain OTR tires. These products include OTR tires with a rim diameter of 39 inches or more, truck tires, lawn and garden tires, all terrain vehicle tires, and trailer tires.

**Industry Shortages**

Producers and importers were asked whether they had refused, declined, or been unable to supply certain OTR tires at any time since January 1, 2005, and purchasers were asked whether their suppliers had at any time refused, declined, or been unable to supply certain OTR tires since January 2005.[2] Three of the seven U.S. producers, *** acknowledged that they had refused, declined, or been unable to supply tires in the specified period. ***.[3] ***.[4] ***.

Nine importers of tires from China and one importer of tires from Japan reported that they had refused, declined, or been unable to supply tires in the specified period. Among these importers, eight reported that they had delivered shipments later than committed, five reported delivering less than promised quantities, one reported not renewing an existing customer, and two reported not accepting a new customer.

Twenty-two of 50 purchasers reported that suppliers had refused, declined, or been unable to supply some OTR tires since January 2005, reporting a total of 74 instances.[5] Sixty-one of the refusals were reported to be by U.S. producers ***[6] ***.[7] Other refusals were reported for China (6), Japan (2), Israel (2), Korea (1), Taiwan (1), and one with the producing country unreported. Many of these reported a number of problems, 29 reported allocations, 4 reported that they were not accepted as new customers, 2 reported they were not renewed as existing customers, 14 reported they were delivered less than the promised quantity, 16 reported shipments were delivered later than committed, and 37 reported other problems including territorial restrictions, canceled orders, refusal to sell or take orders from the purchaser, not given access to certain types or sizes of tires, product not available when ordered/needed, long back orders, back orders canceled, all sales were to OEM, being forced to purchase non-radial tires, and non- delivery. A number of the purchasers reported that they were currently facing these problems and some reported supply problems in every year from 2004 through 2008.

The three largest OEMs providing purchaser questionnaires, *** all reported that they have had difficulty in obtaining certain OTR tires since 2005. Together, these three firms accounted for more than *** percent of the total value of purchases from all sources reported by 50 responding purchasers during 2007 .

While many of the reports concerning tire shortages were often very general, the larger purchasers provided more detailed information concerning products and companies. For example, ***.

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[2] In addition to this question concerning subject imports, purchasers were also asked that same question concerning OTR tires with rim diameters equal to or greater than 39 inches. Fourteen firms reported problems in obtaining these nonsubject tires since 2005. However, the majority of these firms did not provide detailed information concerning the problems.

[3] BFNA reported that *** (BFNA's response to Post-hearing Questions from Vice Chairman Pearson and Commissioner Okun, Exh. E).

[4] Titan's response to Post-hearing Questions from Vice Chairman Pearson and Commissioner Okun, Tab 1.

[5] Two other firms reported refusals, however they did not report which firms refused the sales.

[6] ***.

[7] In two of these cases, *** rather than U.S. product.

The second largest purchaser of tires, ***.[8] ***.

***, the third largest purchaser of certain OTR tires according to questionnaire responses, ***.

### Subject Imports

The supply responsiveness of the Chinese industry to changes in price in the U.S. market depends upon such factors as capacity utilization rates in China, the availability of home markets, other export markets besides the United States, and inventory levels. The evidence relating to capacity utilization rates, alternative markets, and inventory levels indicates that Chinese suppliers have some flexibility for expanding exports to the United States in response to a change in price. Chinese producers reported a capacity utilization rate of 95.6 percent in 2005, 90.9 percent in 2006, and 92.4 percent in 2007. The projected capacity utilization rate is 92.1 percent for 2008 and 91.9 percent for 2009. Chinese producers' combined shipments to the home market and to export markets other than the United States consistently amounted to between 84 and 85 percent of its total shipments annually during 2005-07. These combined shipments are projected to amount to about 91 percent of the total annually in 2008 and about 93 percent in 2009. Chinese producers' inventories as a percentage of total shipments accounted for 6.7 percent in 2005, 6.9 percent in 2006, and 7.1 percent in 2007. Projected ratios of inventories to shipments are 5.9 percent in 2008 and 5.3 percent in 2009.

## U.S. Demand

### Demand Characteristics

Since certain OTR tires are used principally in vehicles in agricultural, construction, and industrial applications, the overall demand in the United States for certain OTR tires depends upon demand in those industries. Annual data for the period 1992-2006 show that manufacturers shipments of farm machinery, construction machinery, and industrial machinery all increased substantially (in value terms) over this period, contributing to an overall increase in demand for certain OTR tires during this period.[9] There is evidence that the demand for certain OTR tires tends to be cyclical and normally tracks trends in U.S. farming and mining sectors with sales increasing as the farm economy and commodity prices increase.[10]

When purchasers were asked whether demand is stronger or weaker during the first half of the year as compared to the second half, 28 responding purchasers answered "yes" and 20 answered no. While a majority agreed that seasonal factors do influence demand for OTR tires, there was no consensus among the purchasers on whether demand is stronger in the first or the second half of the year.

The overall demand for OTR tires, as measured by apparent consumption, decreased during 2005-07 from 8.0 million tires in 2005 to 8.6 million in 2006, and then to 7.8 million in 2007. During January-March 2008, apparent consumption was 1.8 million tires as compared to 1.9 million in the same period of 2007.

When asked whether demand in the United States has increased, remained the same, or decreased since January 1, 2005, responses were varied among producers, while the majority of importers and purchasers reported that demand had increased. Of the seven U.S. producers, three firms stated that

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[8] It further stated that ***.

[9] Bureau of the Census, *Manufacturers' Shipments, Inventories and Orders, August 2003*, pp. 8-10 and *Benchmark Report for Manufacturers' Shipments, Inventories and Orders*, May 2007, p. D3 and May 2008, p. D3.

[10] Hearing transcript, pp. 111-112 (Dorn).

demand had increased, two reported that demand had fluctuated, one stated that it had remained unchanged, and one reported that demand was varied in different market sectors during the period. Among responding importers, 17 reported that demand had increased, 6 reported demand had fluctuated, and 4 reported that it had decreased. Among responding purchasers, 27 reported that demand had increased, 12 reported that it had fluctuated, 4 reported that there was no change, and 2 reported that it had decreased. Among producers, importers, and purchasers that discussed changes in demand in the United States, some firms reported that farm income has been strong during the period covered and this has resulted in increased spending on new equipment with a resulting increase in demand for agricultural tires. In addition, high commodity prices for oil, copper, iron, gold and silver have resulted in increased demand for mining vehicles. However, some firms reported that the decline in the housing market has resulted in less demand for certain OTR tires in construction equipment.

### Demand Outside of the United States

When asked how demand for certain OTR tires outside of the United States had changed since January 1, 2005, four of five responding producers reported that this demand had increased while one reported no change. Among responding importers, 14 reported that demand outside of the United States had increased, 2 reported that it had fluctuated, and 1 reported that it had decreased. Those firms reporting an increase attributed the increase to strong global demand and increasing demand in mining, metals, energy, farming and forestry markets to high commodity and crop prices, and increased construction in developing countries.

### Substitute Products

When asked whether other products can be substituted for OTR tires, the majority of questionnaire respondents answered no. Among producers, one firm reported that retreaded tires can be used as substitutes, and two reported that tracks can be substituted for tires on skid steers. However, the other four producers reported that substitutes are not available. While the majority of importers and purchasers indicated that no substitutes exist, some mentioned substitutes including solid and semi-solid tires and tracks.

### Cost Share

When producers and importers were asked to estimate the cost share of OTR tires in end-use products where they are used, most firms that provided estimates indicated that these relative costs are small. One producer estimated that OTR tires account for no more than 5 percent of the cost of a vehicle where they are used. Another producer estimated that the cost of OTR tires accounted for less than 2 percent of the cost of skid steer vehicles and compact tractors, and from 3 to 6 percent of the cost of implement equipment. Among importers, one firm estimated that OTR tires account for between 2 and 5 percent of the cost of mining equipment, and another importer estimated the relative cost to be about 5 percent of the cost of mechanized irrigation equipment. A third importer reported that the cost share of OTR tires for OEM equipment is less than 7.5 percent for tractors greater than 100 horsepower, less than 5 percent for tractors with horsepower between 40 and 100, less than 5 percent for loaders, telehandlers and skid steers, and less than 4.5 percent for backhoes. Among purchasers, one firm estimated that the cost share of OTR tires is 3 to 9 percent for tractors, 2 to 4 percent of combines, and 2 to 7 percent for construction equipment. Another purchaser estimated a cost share of 5.5 percent for agricultural tractors over 150 horsepower, 5.2 percent for compact tractors, and 7.5 percent for front loaders used in construction. Another purchaser estimated a cost share of 1 to 3 percent for backhoe loaders, 3 to 4 percent for skid steer loaders, and 7.5 to 9 percent for medium wheel loaders.

## SUBSTITUTABILITY ISSUES

The degree of substitutability between domestic products and subject imports, between domestic products and nonsubject imports, between subject imports from different sources, and between subject and nonsubject imports is discussed in this section. The information is based mainly on questionnaire responses of producers, importers, and purchasers.

### U.S. Purchasers

The 50 purchasers that submitted questionnaires included 43 firms that function as distributors, 4 as original equipment manufacturers, one as an independent tire dealer, one as an assembler of tire wheels for OEM's and one as a reseller. Among firms that are distributors, one also functions as a retailer, and two also function as resellers. All 50 of the purchasers reported purchases from China during 2005-07, 46 of these purchasers also reported buying U.S. produced tires during this period and 41 reported buying imports from nonsubject sources. The combined value of purchases by the 47 firms that were able to break out purchases annually by sources during 2005-07 is presented in table II-1. The nonsubject countries mentioned included Belarus, Canada, the Czech Republic, France, Germany, India, Israel, Italy, Korea, Japan, Mexico, Poland, Russia, Spain, Sri Lanka, and Taiwan. Thirteen purchasers reported buying nonsubject tires (i.e, tires with a rim diameter greater than or equal to 39 inches). Since January 2007, the combined purchases of these 13 purchasers amounted to 1,028 tires.

**Table II-1**
**Certain OTR tires: Value of purchases (in thousands of dollars) from U.S. producers and import sources, as reported by responding U.S. purchasers, 2005-07**

| Purchase source | Year | | |
|---|---|---|---|
| | 2005 | 2006 | 2007 |
| U.S. producers | $509,136 | $506,343 | $611,340 |
| China | 97,380 | 132,497 | 134,091 |
| Nonsubject countries | 170,973 | 206,419 | 260,021 |

Source: Compiled from data submitted in response to Commission questionnaires.

Purchasers were asked to discuss trends in their purchases of OTR tires from U.S. producers, importers from China, and importers from other sources during 2005-07. The majority of purchasers reported that purchases of imports from China increased while responses relating to purchases of U.S.-produced tires and purchases from other import sources were mixed.

In the case of purchases from U.S. producers, 15 purchasers reported that they had increased, 1 reported that they had increased and fluctuated, 11 reported that they had fluctuated, 8 reported that they were constant, and 11 reported that they had decreased. Firms reporting an increase cited such factors as new customers, new company locations, growth in construction and agriculture, and improved market conditions. Firms reporting a decrease cited a lack of availability, and prices that were not competitive.

In the case of purchases of imports from China, 28 purchasers reported that they had increased, 8 reported that they had fluctuated, 3 reported that they were constant, and 10 reported that they had decreased. Firms reporting increased sales, cited such factors, as low Chinese prices, availability of the Chinese product, a limited domestic supply, and increased customer demand. Firms reporting decreases cited increased duties, inconsistent quality, and increased purchases from other sources.

In the case of purchases of imports from other sources, 17 purchasers reported that they had increased, 10 reported that they had fluctuated, 5 reported that they were constant, and 8 reported that

they had decreased. Among firms reporting an increase, factors cited included increased demand, competitive prices, and new customers. Firms reporting a decrease cited a shifting product mix, a supplier move from India to China, and poor delivery and a lack of capacity.

### Factors Affecting Purchasing Decisions

When asked to rank the three most important factors involved in purchasing decisions, purchasers consistently chose availability, quality and price as the most important factors (table II-2). Other factors mentioned included product consistency, delivery time, freight costs and product range.

**Table II-2**
**Certain OTR tires: Ranking of factors used in purchasing decisions as reported by U.S. purchasers**

| Factor | Number of firms reporting | | |
|---|---|---|---|
| | Number one factor | Number two factor | Number three factor |
| Availability | 12 | 10 | 9 |
| Price | 11 | 13 | 13 |
| Quality | 15 | 9 | 5 |
| Other[1] | 12 | 18 | 23 |

[1] Other factors include product consistency, delivery time, freight cost, and product range.

Source: Compiled from data submitted in response to Commission questionnaires.

In order to obtain more information on purchasing decisions, firms were asked whether these decisions are based mainly on price. Purchasers were instructed to answer "always," "usually," "sometimes," or "never." One purchaser reported always, 9 reported usually, 32 reported sometimes, and 8 purchasers selected "never."

In addition to these rankings, purchasers were also asked to report whether the factors shown in table II-3 are "very important," "somewhat important," or "not important" in their purchasing decisions. The factors firms cited most often as "very important" were availability (49 firms), product consistency (44 firms), quality exceeding industry standards (43 firms) ability to obtain manufacturer's support for warranty service and reliability of supply (41 firms). Price, delivery terms, delivery time, and technical support/service were also cited as "very important" by the majority of purchasers.

**Table II-3**
**Certain OTR tires: Importance of purchasing factors, as reported by U.S. purchasers**

| Factor | Very important | Somewhat important | Not important |
|---|---|---|---|
| | Number of firms responding | | |
| Ability to obtain manufacturer's support for warranty service | 42 | 8 | 0 |
| Able to source multiple products from supplier | 25 | 21 | 4 |
| Availability | 48 | 2 | 0 |
| Delivery terms | 27 | 22 | 1 |
| Delivery time | 34 | 16 | 0 |
| Discounts offered | 15 | 29 | 6 |
| Extension of credit | 15 | 23 | 11 |
| Minimum quantity requirements | 8 | 26 | 13 |
| Multiple sources of supply | 14 | 25 | 10 |
| Packaging | 2 | 15 | 31 |
| Price | 31 | 18 | 0 |
| Product consistency | 44 | 6 | 0 |
| Quality meets industry standards | 43 | 7 | 0 |
| Quality exceeds industry standards | 23 | 23 | 3 |
| Product range | 20 | 28 | 2 |
| Reliability of supply | 41 | 8 | 0 |
| Technical support/service | 27 | 23 | 0 |
| U.S. transportation costs | 33 | 12 | 4 |
| Other | 16 | 0 | 0 |

Source: Compiled from data submitted in response to Commission questionnaires.

Purchasers were asked how frequently they and their customers purchase certain OTR tires based on the producer, brand, and country of origin. Table II-4 summarizes the responses.

**Table II-4**
**Certain OTR tires: Importance of producer, brand, and country of origin as reported by purchasers**

| Purchaser/customer decision | | | | |
|---|---|---|---|---|
| **Basis of decision** | Always | Usually | Sometimes | Never |
| Purchaser makes decision based on producer | 9 | 19 | 14 | 7 |
| Purchaser's customer makes decision based on producer | 3 | 15 | 24 | 4 |
| Purchaser makes decision based on brand | 6 | 14 | 21 | 9 |
| Purchaser's customer makes decision based on brand | 2 | 18 | 20 | 7 |
| Brand names purchased based on country of origin | 2 | 1 | 13 | 30 |
| Purchaser makes decision based on country of origin | 2 | 3 | 20 | 25 |
| Purchaser's customer makes decision based on country of origin | 0 | 2 | 26 | 19 |
| Source: Compiled from data submitted in response to Commission questionnaires. | | | | |

Most responding purchasers (28 of 49) reported that they always or usually make purchases based on the producer of the certain OTR tires. The purchasers that reported that they always make decisions based on the producer cited the following reasons: quality; ability to withstand the abusive conditions of mining; prefer U.S. tires for quality; purchase on a program as opposed to a spot basis; purchase from companies with proven track record; quality must meet *** quality standards; product line, tread designs, price availability warranty customer service, payment terms warehouse locations, existing competition, perception of company; quality at competitive price; and customers look to them to source quality products that can be offered with dependable supply at competitive prices. Most purchasers (39 of 46) reported that their customers usually or sometimes make decisions based on the producer.

The brand of the tire was less important than the producer, for both the purchaser and its customers. Nonetheless, 20 of the responding 50 purchasers reported that they always or usually based purchases on brand while 20 of the 47 responding purchasers reported that their customers purchased based on brand.[11] Reasons purchasers always purchased brands included better tires reduce downtime; must be approved program sources; consistent brands; purchase product that perform; tires all branded ***; and defined by customer. Almost all purchasers, 45 out of 48 responding, reported that branded tires commanded premium prices (not shown in table). When asked to list brand names commanding a premium, the most commonly cited were Michelin (33 purchasers), BFNA and/or Firestone (30 purchasers), Goodyear (16 purchasers) and Titan (10 purchasers). When asked to estimate the amount of the premium for specified brands, the estimates ranged widely from 3 percent to as much as 50 percent or more. The majority of estimates were in the 10 to 25 percent range.

The country of origin was much less important for both purchasers and their customers than other factors. When asked to rank the importance of the country of origin of branded tires 43 of the 46 responding firms reported that it was sometimes or never important. For the more general questions concerning the importance of the country of origin, 46 of 50 responding purchasers reported that the country was only sometimes or never important for their purchases and 45 of the 47 responding purchasers reporting that it was sometimes or never important for their customers.

[11] Evidence indicates that most sales to OEMs are branded tires (see Titan's posthearing brief, Exh. 1).

## Comparisons of Domestic Products and Subject and Nonsubject Imports

In order to determine whether U.S.-produced certain OTR tires can generally be used in the same applications as imports from China and nonsubject sources, producers and importers were asked whether the product can "always," "frequently,""sometimes," or "never" be used interchangeably. As shown in table II-5, the majority of questionnaire respondents that reported that U.S.-produced tires and imports from China are always or frequently interchangeable. Similarly, the majority of questionnaire respondents consider U.S.-produced tires and imports from China as always or frequently interchangeable with nonsubject imports.

One importer of Chinese product which uses tires as a part of its *** considers the U.S.-produced tires to be "sometimes" interchangeable. It considers the failure rate with tires that it has purchased from *** unacceptable. Another importer stated that the top brands of U.S.-produced tires do not compete with Chinese value brands. This firm also reported that China does not export large radial tires to the United States. Another importer stated that the tires that it imports from China are unique products that are not directly interchangeable with any other tires.

**Table II-5**
**Certain OTR tires: Interchangeability of product from the United States and subject and nonsubject sources[1]**

| | U.S. producers | | | | U.S. importers | | | | Purchasers | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Country comparison | A | F | S | N | A | F | S | N | A | F | S | N |
| U.S. vs. China | 5 | 1 | 0 | 0 | 9 | 6 | 7 | 1 | 17 | 13 | 12 | 1 |
| U.S. vs. nonsubject | 5 | 1 | 0 | 0 | 8 | 4 | 7 | 0 | 16 | 9 | 8 | 1 |
| China vs. nonsubject | 5 | 1 | 0 | 0 | 8 | 4 | 7 | 0 | 16 | 8 | 8 | 2 |

[1] Producers, importers, and purchasers were asked if certain OTR tires produced in the United States and in other countries are used interchangeably.

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, and "N" = Never.

Source: Compiled from data submitted in response to Commission questionnaires.

Among purchasers, one firm reported that domestic USA brands, *** and *** have established market share, brand recognition and high quality, and that state-of-the art products are generally not available from sources other than such companies as ***. One end user that allows customers to pick tire brands for some of its machines reported that tires from China are sometimes viewed as inferior. However, for other machines, tires are not as large an issue for customers, and in these cases the Chinese tires may be considered interchangeable with tires from other sources.

In addition to questions concerning interchangeability, producers and importers were also asked to compare U.S.-produced products with imports from China and nonsubject imports in terms of product differences other than price such as quality, availability, product range, and other characteristics, as a factors in their sales of certain OTR tires (table II-6). The majority of producers consistently reported that product differences are never or sometimes important when comparing the U.S.-produced product with imports from China, while the majority of importers and purchasers reported that the differences are always or frequently important. One importer reported that the quality of the Chinese product is lower, and ocean freight is expensive. However, another importer reported that the quality and performance of Chinese tires is very good and that some Chinese brands have a better reputation than major brands such as *** and ***. Another importer reported that it shifted to imports from China because it was unable to obtain *** tires and small industrial tires from U.S. producers. Another importer stated that producers in developing countries do not have the presence, R&D capability, and marketing staffs to be significant suppliers to the OEM segment.

**Table II-6**
**Certain OTR tires: U.S. producers' and importers' perceived importance of factors other than price in sales of products produced in the United States and in other countries**[1]

| Country comparison | U.S. producers | | | | U.S. importers | | | | Purchasers | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A | F | S | N | A | F | S | N | A | F | S | N |
| U.S. vs. China | 0 | 1 | 2 | 3 | 9 | 4 | 5 | 3 | 14 | 11 | 12 | 6 |
| U.S. vs. nonsubject | 0 | 1 | 2 | 3 | 7 | 3 | 4 | 3 | 10 | 8 | 10 | 4 |
| China vs. nonsubject | 0 | 1 | 2 | 1 | 8 | 2 | 4 | 3 | 8 | 9 | 11 | 3 |

[1] Producers, importers, and purchasers were asked if differences other than price between certain OTR tires produced in the United States and in other countries are a significant factor in their firms' sales of certain OTR tires.

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never, and "0" = No familiarity.

Source: Compiled from data submitted in response to Commission questionnaires.

Among purchasers, one firm comparing U.S.-produced tires with imported tires from China reported that some Chinese companies are very good, but most others are very poor. Another purchaser stated than in quality and lead time, the U.S. has an advantage over China. Another purchaser reported that quality is an issue for Chinese tires; it reported that Chinese tires wear out faster than U.S.-produced tires and that U.S. tires are easier to repair than Chinese tires. Another purchaser reported that *** and *** have expansive product offerings not available from any one supplier China or other countries, and they have extensive field sales and warranty support, and brand quality reputation not available from off shore manufacturers. Another purchaser reported that it has been forced to buy offshore because a sufficient supply of domestic tires is not available. Another purchaser reported that the availability of domestically produced tires has been a problem over the last four years; it cited *** as contributing to the shortage.

Purchasers also were asked to compare U.S.-produced OTR tires with imported OTR tires from China in 17 selected characteristics and as shown in table II-7, noting whether the domestic product was superior, comparable, or inferior to the imports. Forty-eight purchasers provided comparisons for the selected categories. The U.S. product was rated superior to imports from China by a majority of purchasers in delivery time and by a plurality of purchasers in delivery terms, and technical support/service. The Chinese product was rated superior by a majority of purchasers in terms of price (i.e., lower price), and by a plurality of purchasers in availability. In all other categories, a majority or plurality of purchasers considered the U.S. and Chinese products comparable. When compared with nonsubject imports, the U.S. product was ranked superior in delivery terms, delivery time, and technical support/service. The Chinese product was ranked superior to nonsubject imports in price.

**Table II-7**
**Certain OTR tires: Comparisons between U.S.-produced and subject products from China, and subject and nonsubject products as reported by U.S. purchasers**

| Factor | U.S. vs China | | | U.S. vs nonsubject | | | China vs nonsubject | | |
|---|---|---|---|---|---|---|---|---|---|
| | S | C | I | S | C | I | S | C | I |
| | *Number of firms responding* | | | | | | | | |
| Able to source multiple products from supplier | 16 | 26 | 5 | 8 | 17 | 1 | 6 | 16 | 2 |
| Availability | 13 | 15 | 19 | 9 | 13 | 4 | 5 | 15 | 5 |
| Delivery terms | 22 | 17 | 8 | 15 | 10 | 1 | 3 | 18 | 4 |
| Delivery time | 24 | 14 | 9 | 15 | 8 | 3 | 3 | 17 | 5 |
| Discounts offered | 6 | 29 | 11 | 4 | 17 | 5 | 3 | 21 | 1 |
| Extension of credit | 15 | 31 | 0 | 6 | 19 | 1 | 1 | 22 | 2 |
| Minimum quantity requirements | 16 | 24 | 7 | 9 | 15 | 1 | 1 | 20 | 4 |
| Packaging | 4 | 42 | 0 | 2 | 22 | 0 | 0 | 23 | 1 |
| Price[1] | 3 | 14 | 30 | 3 | 5 | 18 | 12 | 9 | 2 |
| Product consistency | 15 | 29 | 3 | 7 | 15 | 2 | 6 | 14 | 4 |
| Product range | 20 | 25 | 2 | 12 | 11 | 2 | 7 | 15 | 3 |
| Quality exceeds industry standards | 20 | 27 | 0 | 12 | 10 | 3 | 6 | 15 | 3 |
| Quality meets industry standards | 14 | 33 | 0 | 5 | 18 | 2 | 6 | 16 | 3 |
| Reliability of supply | 10 | 20 | 15 | 8 | 11 | 5 | 8 | 16 | 1 |
| Technical support/service | 23 | 18 | 5 | 15 | 9 | 2 | 5 | 18 | 2 |
| U.S. transportation costs | 13 | 29 | 2 | 8 | 18 | 0 | 3 | 21 | 1 |
| Warranty Service | 20 | 25 | 1 | 8 | 14 | 1 | 6 | 18 | 1 |
| Other | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |

Note.--S=first listed country's product is superior; C=both countries' products are comparable; I=first listed country's product is inferior.

[1]A rating of superior on price and U.S. transportation costs indicates that the first country generally has lower prices/U.S. transportation costs than the second country.

Source: Compiled from data submitted in response to Commission questionnaires.

## ELASTICITY ESTIMATES

This section discusses the elasticity estimates. Parties were encouraged to comment on these estimates in their prehearing brief. In their prehearing brief, one of the petitioners agreed with the staff estimate discussed below that the U.S. demand for certain OTR tires is price inelastic. No other comments on the estimates were provided by any of the parties in their briefs.[12]

### U.S. Supply Elasticity[13]

The domestic supply elasticity for certain OTR tires measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price for these products. The elasticity of domestic supply depends on several factors, including the level of excess capacity, the existence of inventories, and the availability of alternative markets for certain OTR tires. The low rate of industry

[12] Prehearing brief of BFNA pp. 23-24.
[13] A supply function is not defined in the case of a non-competitive market.

capacity utilization and the availability of inventories suggest that the domestic supply elasticity is relatively high. A range of 5 to 10 was proposed at the prehearing stage of this investigation. However, evidence of shortages indicates that the supply elasticity may be in the lower end of this range.

### U.S. Demand Elasticity

The U.S. demand elasticity for certain OTR tires measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of this product. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component cost of the certain OTR tires in the production of downstream products. Because of a lack of close substitute products as reported by questionnaire respondents, and the relatively small cost share of certain OTR tires in final products, the aggregate demand for certain OTR tires is likely to be inelastic; a range of -0.01 to -0.5 is suggested.

### Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.[14] Product differentiation, in turn, depends upon such factors as quality (e.g., chemistry, appearance, etc.) and conditions of sale (availability, sales terms/discounts/promotions, etc.). Based on available information, the elasticity of substitution between U.S.-produced certain OTR and imported certain OTR is likely to be in the range of 3 to 5.

[14] The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

# PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

## U.S. PRODUCERS

The Commission sent producer questionnaires to seven firms identified in the petition as domestic producers of certain OTR tires.[1] The Commission received completed producer questionnaire responses from seven firms accounting for 100 percent of U.S. production of certain OTR tires during 2007.[2] Presented in table III-1 is a list of current domestic certain OTR tires producers, each company's position on the petition, production locations, related and/or affiliated firms, and their shares of 2007 reported domestic production of certain OTR tires.[3] Two firms, *** and ***, accounted for *** percent of reported 2007 domestic production.

## U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

U.S. producers' capacity, production, and capacity utilization data for certain OTR tires are presented in table III-2. These data show an increase in the capacity to produce certain OTR tires of 2.1 percent from 2005 to 2007, and a decrease of 5.8 percent from January-March 2007 to January-March 2008. *** accounted for a majority of the increase in capacity from 2005 to 2007, and in the interim periods. *** also reported an increase in capacity. *** reported a decrease in capacity from 2005 to 2007, and then an increase in the interim periods. Production of certain OTR tires decreased 14.3 percent from 2005 to 2007, then increased 17.3 percent from January-March 2007 to January-March 2008. *** accounted for a majority of the decreased production of certain OTR tires from 2005 to 2007. ***accounted for a majority of the increase of production from January-March 2007 to January-March 2008. Capacity utilization decreased 7.5 percentage points from 2005 to 2007 and increased 3.9 percentage points from January-March 2007 to January-March 2008. U.S. producers report that areas where they have large amounts of unused capacity are for the production of smaller sized agricultural certain OTR tires, which cannot be used to produce larger certain OTR tires.[4]

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[1] Petition, pp. 25-26 and amendment to the petition, June 22, 2007, attach. 1.

[2] The petition also identified Trelleborg Wheel Systems and GPX as possible U.S. producers of the subject product. During the preliminary phase of these investigations, both firms responded to the Commission's U.S. producers' questionnaire indicating that they had not produced certain OTR tires in the United States since January 1, 2004.

[3] Since 2005, the certain OTR tires industry has experienced several mergers and acquisitions. In December 2005, Titan acquired Goodyear's American farm tire plant and assets located in Freeport, IL, for approximately $*** million in cash proceeds. In July 2006, Titan acquired Continental Tire North America's construction tire plant and assets located in Bryan, OH, for approximately $*** million in cash proceeds.

[4] Hearing transcript, p. 48 (Stewart) and p. 58 (Taylor). Titan and USW's posthearing brief, p. Okun-6. Respondents argue that this idle machinery is older equipment used to manufacture older, smaller tires that are not in high demand. GPX posthearing brief, pp. 95-86.

**Table III-1**
**Certain OTR tires: U.S. producers, positions on the petition, plant locations, shares of total reported U.S. production in 2007, ownership, and affiliated foreign producers**

| Firm | Position on petition | U.S. production location(s) | Related and/or affiliated firms | Share of 2007 production (*percent*) |
|---|---|---|---|---|
| BFNA | Supports | Des Moines, IA<br>Bloomington, IL | Bridgestone Americas Holding, Inc.<br>Bridgestone Corporation (Japan)<br>Bridgestone Firestone Argentina S.A.I.C.<br>Bridgestone Firestone do Brazil Industria e Comercia LTDA<br>Bridgestone Firestone de Costa Rica, S.A.<br>P.T. Bridgestone Tire Indonesia<br>Bridgestone Firestone de Mexico, S.A. de C.V.<br>Bridgestone South Africa Holdings (Pty) Ltd.<br>Bridgestone Hispania, S.A. (Spain)<br>Brisa Bridgestone Sebanci Lastik Sanayi ve Ticaret A.S. (Turkey) | *** |
| Carlisle | Opposes | Aiken, SC<br>Carlisle, PA<br>Clinton, TN | Carlisle Companies, Inc.<br>Carlisle (Meizhou) Rubber Manufacturing Co., Ltd. | *** |
| Denman | Supports | Leavittsburg, OH | Pensler Capital Corp. | *** |
| Goodyear | *** | Topeka, KS | Goodyear International Corp.<br>Nippon Giant Tire K.K. (Japan)<br>P.T. Goodyear Indonesia Tbk.<br>Goodyear do Brasil Productos de Borracha Ltd.<br>Goodyear S.A. (Luxembourg) | *** |
| Michelin | *** | Greenville, SC | Michelin Corporation<br>Michelin North America (Canada) Inc.<br>Manufacture Franqaise des Pneumatiques Michelin (France)<br>Michelin Hungaria Tyre Manufacture Ltd. (Hungary)<br>Michelin Polska S.A. (Poland)<br>Silvania S.A. (Romania)<br>Michelin Espana Portugal, S.A. (Spain) | *** |
| Specialty | Supports | Indiana, PA<br>Unicoi, TN | Polymer Enterprises, Inc. | *** |
| Titan | Petitioner | Des Moines, IA<br>Freeport, IL<br>Bryan, OH | Titan International, Inc. | *** |

Source: Compiled from data submitted in response to Commission questionnaires.

**Table III-2**
**Certain OTR tires: U.S. capacity, production, and capacity utilization, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | | Calendar year | | | January-March | |
|---|---|---|---|---|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 | 2005 | 2006 | 2007 | 2007 | 2008 |
| | Capacity (*1,000 tires*) | | | | | Capacity[1] (*1,000 pounds*) | | | | |
| BFNA | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Carlisle | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Denman | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Goodyear | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Michelin | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Specialty | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Titan | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Total | 9,996 | 10,049 | 10,202 | 2,569 | 2,718 | 1,088,628 | 1,084,680 | 1,104,329 | 276,995 | 284,183 |
| | Production (*1,000 tires*) | | | | | Production (*1,000 pounds*) | | | | |
| BFNA | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Carlisle | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Denman | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Goodyear | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Michelin | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Specialty | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Titan | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Total | 4,676 | 3,818 | 4,009 | 923 | 1,083 | 567,053 | 547,006 | 600,885 | 143,061 | 159,562 |
| | Capacity utilization (*percent*) | | | | | | | | | |
| BFNA | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Carlisle | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Denman | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Goodyear | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Michelin | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Specialty | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Titan | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Average | 46.8 | 38.0 | 39.3 | 35.9 | 39.8 | 52.1 | 50.4 | 54.4 | 51.6 | 56.1 |
| | Average production weight (*pounds per tire*) | | | | | | | | | |
| BFNA | *** | *** | *** | *** | *** | | | | | |
| Carlisle | *** | *** | *** | *** | *** | | | | | |
| Denman | *** | *** | *** | *** | *** | | | | | |
| Goodyear | *** | *** | *** | *** | *** | | | | | |
| Michelin | *** | *** | *** | *** | *** | | | | | |
| Specialty | *** | *** | *** | *** | *** | | | | | |
| Titan | *** | *** | *** | *** | *** | | | | | |
| Total | 121.3 | 143.3 | 149.9 | 155.0 | 147.3 | | | | | |

Source: Compiled from data submitted in response to Commission questionnaires.

In the Commission's questionnaire, U.S. producers were asked if they had experienced any plant openings, relocations, expansions, acquisitions, consolidations, closures, or prolonged shutdowns because of strikes or equipment failure; curtailment of production because of shortages of materials; or any other change in the character of their operations or organization relating to the production of certain OTR tires since January 1, 2005. Six firms reported such changes; their responses to this question are presented in table III-3.[5]

**Table III-3**
**Certain OTR tires: U.S. producers' comments concerning plant openings, relocations, expansions, acquisitions, consolidations, closures, or prolonged shutdowns**

| Firm | Changes in the character of operations |
|---|---|
| BFNA | *** |
| Carlisle | *** |
| Denman | *** |
| Goodyear | *** |
| Specialty | *** |
| Titan | *** |
| Source: Compiled from data submitted in response to Commission questionnaires. | |

All U.S. producers reported production of nonsubject tires on the same machinery and equipment used to produce certain OTR tires. Their responses are shown in tables III-4 and III-5. In aggregate, the producers' reported products and those products' shares of total plant production in 2007 (based on units) were: subject OTR tires (*** percent), consumer tires (*** percent), and OTR tires of greater than or equal to 39 inches in rim diameter (*** percent).[6] In aggregate, the producers' reported products and those products' shares of total plant production in 2007 (based on pounds) were: subject OTR tires (*** percent), consumer tires (*** percent), and OTR tires greater than or equal to 39 inches in rim diameter (*** percent). Four firms, ***, reported production of nonsubject OTR tires with a rim diameter greater than 39 inches.

[5] U.S. producers assert that any shortage of U.S.-produced OTR tires was related to excluded large earthmoving and mining tires, or resulted from inventory reductions of subject OTR tires made at the bottom of the business cycle in 2003 and 2004. When the cyclical upswing began in 2005, due to rising farm income, inventories were rebuilt from June 2005 until March 2007. Hearing transcript, p. 58 and p. 220 (Taylor), pp. 74-75 (Rasey), p. 87 (Leslie), pp. 97-98 (Hawkins), and p. 157 (Ivy). Respondents argue that there has been a critical shortage of OTR tires since 2004 across the entire OTR size spectrum. Hearing transcript, pp. 252-253 (Koch), p. 257 (Edwards), p. 260 (Ganz).

[6] Production of subject OTR tires in both units and pounds were *** percent of total tires produced for the *** largest certain OTR tire producers, ***, during the period of investigation. For ***, production consisted of mostly nonsubject tires in both units and pounds. *See* table III-4.

**Table III-4**
**Tires: U.S. producers' total plant capacity and production, by products, 2005-07, January-March 2007, and January-March 2008**

* * * * * * *

**Table III-5**
**Tires: Production of tires using the same machinery and equipment, 2007**

* * * * * * *

## U.S. PRODUCERS' SHIPMENTS

Table III-6 presents information on U.S. producers' shipments of certain OTR tires. U.S. producers' U.S. shipments fell from 2005 to 2007 by 4.2 percent based on quantity, while the average unit value increased by 21.9 percent and unit weight increased by 24.8 percent. From January-March 2007 to January-March 2008, U.S. shipments increased by 9.3 percent, average unit value increased by 3.8 percent, and the unit weight increased by 9.1 percent. Petitioners report that the increase in average unit value reflects a combination of some price increase to cover part of the increase in raw material costs and an evolving product mix of larger tires as domestic producers lost market share (particularly in the smaller-sized certain OTR tires).[7] U.S. producers' exports decreased in share of total shipments in units from 12.8 to 12.2 percent during 2005 to 2007. This share increased to 13.7 percent in units during interim 2008 when compared to the same period in 2007.

Table III-7 presents information on U.S. producers' shipments of certain OTR tires by end-use application. The majority of U.S. shipments were for agricultural/forestry applications which accounted for 72.8 percent based on quantity (units) and 61.4 percent based on value of total U.S. shipments during 2007. Petitioners report that while there is increasing demand for radial certain OTR tires, bias certain OTR tires continue to account for the vast majority of demand in the farm, construction, and industrial sectors.[8]

[7] Titan and USW's posthearing brief, p. 5.
[8] Titan and USW's posthearing brief, p. 7.

**Table III-6**
**Certain OTR tires: U.S. producers' shipments, by types, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | | | **Quantity (*1,000 tires*)** | | |
| Commercial shipments | *** | *** | *** | *** | *** |
| Internal consumption[1] | *** | *** | *** | *** | *** |
| Transfers to related firms[3] | *** | *** | *** | *** | *** |
| U.S. shipments[4] | 3,881 | 3,383 | 3,720 | 910 | 995 |
| Export shipments[5] | 572 | 483 | 515 | 134 | 158 |
| Total shipments | 4,453 | 3,866 | 4,235 | 1,044 | 1,154 |
| | | | **Quantity (*1,000 pounds*)** | | |
| Commercial shipments | *** | *** | *** | *** | *** |
| Internal consumption[1] | *** | *** | *** | *** | *** |
| Transfers to related firms[3] | *** | *** | *** | *** | *** |
| U.S. shipments[4] | 461,993 | 436,171 | 552,396 | 141,683 | 140,784 |
| Export shipments[5] | 78,046 | 73,591 | 84,408 | 19,897 | 25,490 |
| Total shipments | 540,039 | 509,762 | 636,804 | 161,581 | 166,273 |
| | | | **Value (*1,000 dollars*)** | | |
| Commercial shipments | *** | *** | *** | *** | *** |
| Internal consumption[1] | *** | *** | *** | *** | *** |
| Transfers to related firms[3] | *** | *** | *** | *** | *** |
| U.S. shipments[4] | 861,224 | 835,550 | 1,006,044 | 252,393 | 286,384 |
| Export shipments[5] | 150,625 | 146,603 | 180,504 | 38,439 | 56,037 |
| Total shipments | 1,011,848 | 982,153 | 1,186,548 | 290,832 | 342,421 |
| | | | **Unit value (*per tire*)** | | |
| Commercial shipments | $*** | $*** | $*** | $*** | $*** |
| Internal consumption[1] | *** | *** | *** | *** | *** |
| Transfers to related firms[3] | *** | *** | *** | *** | *** |
| U.S. shipments[4] | 221.90 | 246.97 | 270.45 | 277.23 | 287.76 |
| Export shipments[5] | 263.33 | 303.40 | 350.36 | 287.51 | 353.99 |
| Total shipments | 227.22 | 254.02 | 280.17 | 278.55 | 296.85 |
| | | | **Unit value (*per pound*)** | | |
| Commercial shipments | $*** | $*** | $*** | $*** | $*** |
| Internal consumption[1] | *** | *** | *** | *** | *** |
| Transfers to related firms[3] | *** | *** | *** | *** | *** |
| U.S. shipments[4] | 1.86 | 1.92 | 1.82 | 1.78 | 2.03 |
| Export shipments[5] | 1.93 | 1.99 | 2.14 | 1.93 | 2.20 |
| Total shipments | 1.87 | 1.93 | 1.86 | 1.80 | 2.06 |

Table continued on next page.

**Table III-6--*Continued***
**Certain OTR tires: U.S. producers' shipments, by types, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | **Unit weight (*pounds per tire*)** | | | | |
| Commercial shipments | *** | *** | *** | *** | *** |
| Internal consumption[1] | *** | *** | *** | *** | *** |
| Transfers to related firms[3] | *** | *** | *** | *** | *** |
| U.S. shipments[4] | 119.0 | 128.9 | 148.5 | 155.6 | 141.5 |
| Export shipments[5] | 136.4 | 152.3 | 163.8 | 149.0 | 161.0 |
| Total shipments | 121.3 | 131.8 | 150.4 | 154.8 | 144.1 |
| | **Share of quantity, units (*percent*)** | | | | |
| Commercial shipments | *** | *** | *** | *** | *** |
| Internal consumption[1] | *** | *** | *** | *** | *** |
| Transfers to related firms[3] | *** | *** | *** | *** | *** |
| U.S. shipments[4] | 87.2 | 87.5 | 87.8 | 87.2 | 86.3 |
| Export shipments[5] | 12.8 | 12.5 | 12.2 | 12.8 | 13.7 |
| Total shipments | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |
| | **Share of quantity, weight (*percent*)** | | | | |
| Commercial shipments | *** | *** | *** | *** | *** |
| Internal consumption[1] | *** | *** | *** | *** | *** |
| Transfers to related firms[3] | *** | *** | *** | *** | *** |
| U.S. shipments[4] | 85.5 | 85.6 | 86.7 | 87.7 | 84.7 |
| Export shipments[5] | 14.5 | 14.4 | 13.3 | 12.3 | 15.3 |
| Total shipments | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |
| | **Share of value (*percent*)** | | | | |
| Commercial shipments | *** | *** | *** | *** | *** |
| Internal consumption[1] | *** | *** | *** | *** | *** |
| Transfers to related firms[3] | *** | *** | *** | *** | *** |
| U.S. shipments[4] | 85.1 | 85.1 | 84.8 | 86.8 | 83.6 |
| Export shipments[5] | 14.9 | 14.9 | 15.2 | 13.2 | 16.4 |
| Total shipments | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

[1] ***.
[2] Less than 500 tires.
[3] ***.
[4] With respect to military/Buy America sales, ***.
[5] Export destinations included Australia, Canada, Latin America, Mexico, and South Africa.

Source: Compiled from data submitted in response to Commission questionnaires.

**Table III-7**
**Certain OTR tires: U.S. producers' U.S. shipments, by application and types, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | Quantity (*1,000 tires*) | | | | |
| **Agricultural/forestry:** | | | | | |
| Herringbone or similar tread >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Herringbone or similar tread < 40.6 cm (16") | *** | *** | *** | *** | *** |
| Not herringbone >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Not herringbone < 40.6 cm (16") | *** | *** | *** | *** | *** |
| **Subtotal** | 2,829 | 2,405 | 2,708 | 648 | 695 |
| **Construction/industrial:** | | | | | |
| Herringbone < 61 cm (24") | *** | *** | *** | *** | *** |
| Herringbone >= 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| Radial less than 61 cm (24") | *** | *** | *** | *** | *** |
| Radial >= to 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| Other < 61 cm (24") | *** | *** | *** | *** | *** |
| Other >= 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| **Subtotal** | 985 | 906 | 931 | 235 | 277 |
| **Off-the-highway:** | | | | | |
| Radial >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Radial < 40.6 cm (16") | *** | *** | *** | *** | *** |
| Other >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Other < 40.6 cm (16") | *** | *** | *** | *** | *** |
| **Subtotal** | 75 | 82 | 83 | 27 | 24 |
| **Other** | 0 | 0 | 0 | 0 | 0 |
| **Total** | 3,889 | 3,393 | 3,722 | 910 | 996 |
| | Quantity (*1,000 pounds*) | | | | |
| **Agricultural/forestry:** | | | | | |
| Herringbone or similar tread >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Herringbone or similar tread < 40.6 cm (16") | *** | *** | *** | *** | *** |
| Not herringbone >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Not herringbone < 40.6 cm (16") | *** | *** | *** | *** | *** |
| **Subtotal** | 305,270 | 274,723 | 368,657 | 92,522 | 95,663 |
| **Construction/industrial:** | | | | | |
| Herringbone < 61 cm (24") | *** | *** | *** | *** | *** |
| Herringbone >= 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| Radial less than 61 cm (24") | *** | *** | *** | *** | *** |
| Radial >= to 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| Other < 61 cm (24") | *** | *** | *** | *** | *** |
| Other >= 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| **Subtotal** | 128,207 | 125,283 | 131,771 | 34,187 | 35,223 |
| **Off-the-highway:** | | | | | |
| Radial >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Radial < 40.6 cm (16") | *** | *** | *** | *** | *** |
| Other >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Other < 40.6 cm (16") | *** | *** | *** | *** | *** |
| **Subtotal** | 32,349 | 41,236 | 51,720 | 14,980 | 9,833 |
| **Other** | 0 | 0 | 0 | 0 | 0 |
| **Total** | 465,825 | 441,242 | 552,148 | 141,689 | 140,719 |

Table continued on next page.

**Table III-7-*Continued***
**Certain OTR tires: U.S. producers' U.S. shipments, by application and type, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | Value (*$1,000*) | | | | |
| **Agricultural/forestry:** | | | | | |
| Herringbone or similar tread >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Herringbone or similar tread < 40.6 cm (16") | *** | *** | *** | *** | *** |
| Not herringbone >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Not herringbone < 40.6 cm (16") | *** | *** | *** | *** | *** |
| **Subtotal** | 535,578 | 479,931 | 610,315 | 147,321 | 184,139 |
| **Construction/industrial:** | | | | | |
| Herringbone < 61 cm (24") | *** | *** | *** | *** | *** |
| Herringbone >= 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| Radial less than 61 cm (24") | *** | *** | *** | *** | *** |
| Radial >= to 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| Other < 61 cm (24") | *** | *** | *** | *** | *** |
| Other >= 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| **Subtotal** | 244,339 | 262,537 | 266,629 | 69,052 | 73,703 |
| **Off-the-highway:** | | | | | |
| Radial >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Radial < 40.6 cm (16") | *** | *** | *** | *** | *** |
| Other >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Other < 40.6 cm (16") | *** | *** | *** | *** | *** |
| **Subtotal** | 95,560 | 109,380 | 117,238 | 34,008 | 24,360 |
| **Other** | 0 | 0 | 0 | 0 | 0 |
| **Total** | 875,478 | 851,848 | 994,182 | 250,381 | 282,202 |
| | Unit value (*per tire*) | | | | |
| **Agricultural/forestry:** | | | | | |
| Herringbone or similar tread >= 40.6 cm (16") | $*** | $*** | $*** | $*** | $*** |
| Herringbone or similar tread < 40.6 cm (16") | *** | *** | *** | *** | *** |
| Not herringbone >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Not herringbone < 40.6 cm (16") | *** | *** | *** | *** | *** |
| **Average** | 189.34 | 199.54 | 225.41 | 227.21 | 265.06 |
| **Construction/industrial:** | | | | | |
| Herringbone < 61 cm (24") | *** | *** | *** | *** | *** |
| Herringbone >= 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| Radial less than 61 cm (24") | *** | *** | *** | *** | *** |
| Radial >= to 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| Other < 61 cm (24") | *** | *** | *** | *** | *** |
| Other >= 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| **Average** | 247.98 | 289.77 | 286.32 | 293.28 | 265.76 |
| **Off-the-highway:** | | | | | |
| Radial >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Radial < 40.6 cm (16") | *** | *** | *** | *** | *** |
| Other >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Other < 40.6 cm (16") | *** | *** | *** | *** | *** |
| **Average** | 1,274.13 | 1,340.44 | 1,414.21 | 1,280.42 | 999.59 |
| **Other** | 0 | 0 | 0 | 0 | 0 |
| **Average** | 225.12 | 251.07 | 267.13 | 275.02 | 283.22 |

Table continued on next page.

**Table III-7-*Continued***
**Certain OTR tires: U.S. producers' U.S. shipments, by application and type, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | Unit value (*per pound*) | | | | |
| **Agricultural/forestry:** | | | | | |
| Herringbone or similar tread >= 40.6 cm (16") | $*** | $*** | $*** | $*** | $*** |
| Herringbone or similar tread < 40.6 cm (16") | *** | *** | *** | *** | *** |
| Not herringbone >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Not herringbone < 40.6 cm (16") | *** | *** | *** | *** | *** |
| **Average** | 1.75 | 1.75 | 1.66 | 1.59 | 1.92 |
| **Construction/industrial:** | | | | | |
| Herringbone < 61 cm (24") | *** | *** | *** | *** | *** |
| Herringbone >= 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| Radial less than 61 cm (24") | *** | *** | *** | *** | *** |
| Radial >= to 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| Other < 61 cm (24") | *** | *** | *** | *** | *** |
| Other >= 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| **Average** | 1.91 | 2.10 | 2.02 | 2.02 | 2.09 |
| **Off-the-highway:** | | | | | |
| Radial >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Radial < 40.6 cm (16") | *** | *** | *** | *** | *** |
| Other >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Other < 40.6 cm (16") | *** | *** | *** | *** | *** |
| **Average** | 2.95 | 2.65 | 2.27 | 2.27 | 2.48 |
| **Other** | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| **Average** | 1.88 | 1.93 | 1.80 | 1.77 | 2.01 |
| | Share of quantity, units (*percent*) | | | | |
| **Agricultural/forestry:** | | | | | |
| Herringbone or similar tread >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Herringbone or similar tread < 40.6 cm (16") | *** | *** | *** | *** | *** |
| Not herringbone >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Not herringbone < 40.6 cm (16") | *** | *** | *** | *** | *** |
| **Subtotal** | 72.7 | 70.9 | 72.8 | 71.2 | 69.7 |
| **Construction/industrial:** | | | | | |
| Herringbone < 61 cm (24") | *** | *** | *** | *** | *** |
| Herringbone >= 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| Radial less than 61 cm (24") | *** | *** | *** | *** | *** |
| Radial >= to 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| Other < 61 cm (24") | *** | *** | *** | *** | *** |
| Other >= 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| **Subtotal** | 25.3 | 26.7 | 25.0 | 25.9 | 27.8 |
| **Off-the-highway:** | | | | | |
| Radial >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Radial < 40.6 cm (16") | *** | *** | *** | *** | *** |
| Other >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Other < 40.6 cm (16") | *** | *** | *** | *** | *** |
| **Subtotal** | 1.9 | 2.4 | 2.2 | 2.9 | 2.4 |
| **Other** | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| **Total** | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

Table continued on next page.

**Table III-7-*Continued***
**Certain OTR tires: U.S. producers' U.S. shipments, by application and type, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2009 |
| | Share of quantity, weight (*percent*) | | | | |
| **Agricultural/forestry:** | | | | | |
| Herringbone or similar tread >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Herringbone or similar tread < 40.6 cm (16") | *** | *** | *** | *** | *** |
| Not herringbone >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Not herringbone < 40.6 cm (16") | *** | *** | *** | *** | *** |
| **Subtotal** | 65.5 | 62.3 | 66.8 | 65.3 | 68.0 |
| **Construction/industrial:** | | | | | |
| Herringbone < 61 cm (24") | *** | *** | *** | *** | *** |
| Herringbone >= 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| Radial less than 61 cm (24") | *** | *** | *** | *** | *** |
| Radial >= to 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| Other < 61 cm (24") | *** | *** | *** | *** | *** |
| Other >= 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| **Subtotal** | 27.5 | 28.4 | 23.9 | 24.1 | 25.0 |
| **Off-the-highway:** | | | | | |
| Radial >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Radial < 40.6 cm (16") | *** | *** | *** | *** | *** |
| Other >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Other < 40.6 cm (16") | *** | *** | *** | *** | *** |
| **Subtotal** | 6.9 | 9.3 | 9.4 | 10.6 | 7.0 |
| **Other** | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| **Total** | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |
| | Share of value (*percent*) | | | | |
| **Agricultural/forestry:** | | | | | |
| Herringbone or similar tread >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Herringbone or similar tread < 40.6 cm (16") | *** | *** | *** | *** | *** |
| Not herringbone >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Not herringbone < 40.6 cm (16") | *** | *** | *** | *** | *** |
| **Subtotal** | 61.2 | 56.3 | 61.4 | 58.8 | 65.3 |
| **Construction/industrial:** | | | | | |
| Herringbone < 61 cm (24") | *** | *** | *** | *** | *** |
| Herringbone >= 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| Radial less than 61 cm (24") | *** | *** | *** | *** | *** |
| Radial >= to 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| Other < 61 cm (24") | *** | *** | *** | *** | *** |
| Other >= 61 cm (24") < 99.06 cm (39") | *** | *** | *** | *** | *** |
| **Subtotal** | 27.9 | 30.8 | 26.8 | 27.6 | 26.1 |
| **Off-the-highway:** | | | | | |
| Radial >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Radial < 40.6 cm (16") | *** | *** | *** | *** | *** |
| Other >= 40.6 cm (16") | *** | *** | *** | *** | *** |
| Other < 40.6 cm (16") | *** | *** | *** | *** | *** |
| **Subtotal** | 10.9 | 12.8 | 11.8 | 13.6 | 8.6 |
| **Other** | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| **Total** | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

Source: Compiled from data submitted in response to Commission questionnaires.

## U.S. PRODUCERS' INVENTORIES

Table III-8 presents end-of-period inventories for certain OTR tires during the period of investigation. The data indicate that inventories decreased by 29.1 percent from 2005 to 2007, and by 22.6 percent between January-March 2007 and January-March 2008. Likewise, inventories as a ratio to production, to U.S. shipments, and to total shipments also fell from 2005 to 2007, and during the interim periods.

**Table III-8**
**Certain OTR tires: U.S. producers' end-of-period inventories, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| **Tires** | | | | | |
| Inventories (*1,000 tires*) | 935 | 887 | 663 | 767 | 593 |
| Ratio of inventories to production (*percent*) | 20.0 | 23.2 | 16.5 | 20.8 | 13.7 |
| Ratio of inventories to U.S. shipments (*percent*) | 24.1 | 26.2 | 17.8 | 21.1 | 14.9 |
| Ratio of inventories to total shipments (*percent*) | 21.0 | 22.9 | 15.6 | 18.4 | 12.9 |
| **Pounds** | | | | | |
| Inventories (*1,000 pounds*) | 105,111 | 142,070 | 107,903 | 124,798 | 100,987 |
| Ratio of inventories to production (*percent*) | 18.5 | 26.0 | 18.0 | 21.8 | 15.8 |
| Ratio of inventories to U.S. shipments (*percent*) | 22.8 | 32.6 | 19.5 | 22.0 | 17.9 |
| Ratio of inventories to total shipments (*percent*) | 19.5 | 27.9 | 16.9 | 19.3 | 15.2 |

Source: Compiled from data submitted in response to Commission questionnaires.

## U.S. PRODUCERS' IMPORTS AND PURCHASES

*** was the only U.S. producer to report purchases of certain OTR tires.[9] *** U.S. producers reported imports of certain OTR tires. Three U.S. producers, ***, reported imports from China. Five U.S. producers, ***, reported imports of certain OTR tires from nonsubject sources. Table III-9 presents company-specific information on U.S. producers' imports and ratios of imports to production of certain OTR tires.

**Table III-9**
**Certain OTR tires: U.S. producers' U.S. production, U.S. imports, and ratio of imports to production, 2005-07, January-March 2007, and January-March 2008**

* * * * * * *

[9] ***.

## U.S. PRODUCERS' EMPLOYMENT, WAGES, AND PRODUCTIVITY

The U.S. producers' aggregate employment data for certain OTR tires are presented in table III-10. Employment of production and related workers ("PRWs") in the U.S. certain OTR tires industry declined by 5.3 percent from 2005 to 2007, then increased 2.0 percent from January-March 2007 to January-March 2008.[10] The largest employers in this industry were ***.[11] Hourly wages increased by 2.8 percent from 2005 to 2007, and increased by 1.1 percent from January-March 2007 to January-March 2008.[12] Productivity decreased by 9.4 percent from 2005 to 2007, then increased by 9.5 percent from January-March 2007 to January-March 2008. Unit labor costs increased by 13.5 percent from 2005 to 2007, then decreased by 7.7 percent from January-March 2007 to January-March 2008.

**Table III-10**
**Certain OTR tires: U.S. producers' employment-related indicators, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| Production and related workers (PRWs) | 4,073 | 3,844 | 3,856 | 3,777 | 3,853 |
| Hours worked by PRWs (*1,000 hours*) | 8,529 | 7,751 | 8,072 | 2,015 | 2,159 |
| Wages paid to PRWs (*1,000 dollars*) | 246,336 | 231,296 | 239,685 | 59,821 | 64,767 |
| Hourly wages | $28.88 | $29.84 | $29.70 | $29.69 | $30.00 |
| Productivity: | | | | | |
| Tires per hour | 0.55 | 0.49 | 0.50 | 0.46 | 0.50 |
| Pounds per hour | 66.5 | 70.6 | 74.4 | 71.0 | 73.9 |
| Unit labor costs: | | | | | |
| Per tire | $52.68 | $60.57 | $59.79 | $64.81 | $59.80 |
| Per pound | $0.43 | $0.42 | $0.40 | $0.42 | $0.41 |

Source: Compiled from data submitted in response to Commission questionnaires.

[10] The USW represents the workers employed at Bridgestone, Denman, Goodyear, and Titan. Hearing transcript, p. 82 (Hoover).

[11] In Freeport, IL, Titan has a pool of about 200 laid-off workers on a "recall list" that have the necessary training and skills to build tires, and who are available to return to work. Hearing transcript, p. 18 (Manzullo), and p. 84 (Hoover). It reportedly takes 3 to 9 months for a tire worker to become skilled, and 12 to 15 months to become an exceptional tire builder. Hearing transcript, pp. 106-107 (Taylor and Ivy).

[12] Consistent with union contract provisions, newer workers were laid off first, therefore the average wage increase reflects the change in the seniority mix of the workforce toward more senior, higher wage-earning workers. Bridgestone's posthearing brief, app. A, p. 2

## U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION OF NONSUBJECT OTR CONSTRUCTION AND MINING TIRES

Four U.S. producers of certain OTR tires reported production of OTR tires of greater than or equal to 39 inches in rim diameter, ***. U.S. producers' capacity, production, and capacity utilization data for OTR tires of greater than or equal to 39 inches in rim diameter are presented in table III-11. These data show an increase in the capacity to produce OTR tires of greater than or equal to 39 inches in rim diameter (based on units) of *** percent from 2005 to 2007, and an increase of *** percent from January-March 2007 to January-March 2008. Production of OTR tires of greater than or equal to 39 inches in rim diameter (based on units) increased by *** percent from 2005 to 2007, and increased by *** percent from January-March 2007 to January-March 2008. Capacity utilization (based on units) increased by *** percentage points from 2005 to 2007 and decreased by *** percentage point from January-March 2007 to January-March 2008.

**Table III-11**
**OTR tires >= 39 inches in rim diameter: U.S. capacity, production, and capacity utilization, 2005-07, January-March 2007, and January-March 2008**

* * * * * * *

## U.S. PRODUCERS' SHIPMENTS OF NONSUBJECT OTR CONSTRUCTION AND MINING TIRES

Table III-12 presents information on U.S. producers' shipments of OTR tires of greater than or equal to 39 inches in rim diameter. U.S. producers' U.S. shipments increased by *** percent from 2005 to 2007 based on units, while the average unit value increased by *** percent and unit weight increased by *** percent. From January-March 2007 to January-March 2008, U.S. shipments (in units) decreased by *** percent, average unit value increased by *** percent, and the unit weight increased by *** percent.

**Table III-12**
**OTR tires >= 39 inches in rim diameter: U.S. producers' shipments, by types, 2005-07, January-March 2007, and January-March 2008**

* * * * * * *

## U.S. PRODUCERS' INVENTORIES OF NONSUBJECT OTR CONSTRUCTION AND MINING TIRES

Table III-13 presents end-of-period inventories of OTR tires of greater than or equal to 39 inches in rim diameter during the period of investigation. The data indicate that inventories (in units) increased by *** percent from 2005 to 2007, and by *** percent between January-March 2007 and January-March 2008. Likewise, inventories (in units) as a ratio to production, to U.S. shipments, and to total shipments also increased from 2005 to 2007, and during the interim periods.

**Table III-13**
**OTR tires >= 39 inches of rim diameter: U.S. producers' end-of-period inventories, 2005-07, January-March 2007, and January-March 2008**

* * * * * * *

## U.S. PRODUCERS' EMPLOYMENT, WAGES, AND PRODUCTIVITY OF NONSUBJECT OTR CONSTRUCTION AND MINING TIRES

The U.S. producers' aggregate employment data for OTR tires of greater than or equal to 39 inches in rim diameter are presented in table III-14. Employment of production and related workers ("PRWs") in the U.S. certain OTR tires industry increased by *** percent from 2005 to 2007, and increased by *** percent from January-March 2007 to January-March 2008. Hourly wages increased by *** percent from 2005 to 2007, and decreased by *** percent from January-March 2007 to January-March 2008. Unit labor costs (per tire) decreased by *** percent from 2005 to 2007, then increased by *** percent from January-March 2007 to January-March 2008.

**Table III-14**
**OTR tires >= 39 inches in rim diameter: U.S. producers' employment-related indicators, 2005-07, January-March 2007, and January-March 2008**

* * * * * * *

## U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION OF CERTAIN OTR TIRES AND NONSUBJECT OTR CONSTRUCTION AND MINING TIRES

U.S. producers' capacity, production, and capacity utilization data for certain OTR tires and OTR tires of greater than or equal to 39 inches in rim diameter are presented in table III-15.

**Table III-15**
**Certain OTR tires and OTR tires >= 39 inches in rim diameter: U.S. capacity, production, and capacity utilization, 2005-07, January-March 2007, and January-March 2008**

* * * * * * *

## U.S. PRODUCERS' SHIPMENTS OF CERTAIN OTR TIRES AND NONSUBJECT OTR CONSTRUCTION AND MINING TIRES

Table III-16 presents information on U.S. producers' shipments of certain OTR tires and OTR tires of greater than or equal to 39 inches in rim diameter.

**Table III-16**
**Certain OTR tires and OTR tires >= 39 inches in rim diameter: U.S. producers' shipments, by types, 2005-07, January-March 2007, and January-March 2008**

* * * * * * *

## U.S. PRODUCERS' INVENTORIES OF CERTAIN OTR TIRES AND NONSUBJECT OTR CONSTRUCTION AND MINING TIRES

Table III-17 presents end-of-period inventories for certain OTR tires and OTR tires of greater than or equal to 39 inches in rim diameter during the period of investigation.

**Table III-17**
**Certain OTR tires and OTR tires >= 39 inches of rim diameter: U.S. producers' end-of-period inventories, 2005-07, January-March 2007, and January-March 2008**

* * * * * * *

## U.S. PRODUCERS' EMPLOYMENT, WAGES, AND PRODUCTIVITY OF CERTAIN OTR TIRES AND NONSUBJECT OTR CONSTRUCTION AND MINING TIRES

The U.S. producers' aggregate employment data for certain OTR tires and OTR tires of greater than or equal to 39 inches in rim diameter are presented in table III-18.

**Table III-18**
**Certain OTR tires and OTR tires >= 39 inches in rim diameter: U.S. producers' employment-related indicators, 2005-07, January-March 2007, and January-March 2008**

* * * * * * *

# PART IV: U.S. IMPORTS, APPARENT U.S. CONSUMPTION, AND MARKET SHARES

## U.S. IMPORTERS

The Commission sent importer questionnaires to 75 firms believed to be importers of certain OTR tires as well as all U.S. producers of certain OTR tires.[1] Usable questionnaire responses were received from 34 companies that are believed to account for *** percent of the quantity of U.S. imports from China, and *** percent of U.S. imports from other countries during the period for which data were collected.[2] In 2007, *** was the largest importer of certain OTR tires from China and the largest importer of certain OTR tires from other sources. Presented in table IV-1 are the responding 36 U.S. importers and 2007 coverage based on responses to Commission questionnaires.

**Table IV-1**
**Certain OTR tires: U.S. importers, locations, related and/or affiliated firms, and shares of imports from China and other sources in 2007**

| Firm name | Location | Related/affiliated firm(s) | Share of 2007 reported U.S. imports from-- | | |
|---|---|---|---|---|---|
| | | | China *(percent)* | Other sources *(percent)* | All sources *(percent)* |
| Allied Wheel | Garden Grove, CA | None. | *** | *** | *** |
| American Kenda Rubber Ind., Co. | Chicago, IL | Kenda Rubber Ind. Co., Ltd. (Taiwan) | *** | *** | *** |
| American Omni Trading Company | Houston, TX | None. | *** | *** | *** |
| American Pacific Industries, Inc. | Valencia, CA | Xuzhou Xugong Tyres (China)<br>Xuzhou Armour Rubber (China) | *** | *** | *** |
| BlueOcean Rubber & Chemicals Inc. | Missouri City, TX | None. | *** | *** | *** |
| Bridgestone Firestone North American Tire, LLC | Nashville, TN | Bridgestone Americas Holding, Inc (USA).<br>GCR Tire Centers<br>Bridgestone Corporation (Japan)<br>Bridgestone Firestone Argentina S.A.I.C. (Argentina)<br>Bridgestone Firestone Do Brasil Industria E Comercio Ltda. (Brazil)<br>Bridgestone Firestone De Costa Rica, S.A. (Costa Rica)<br>P.T. Bridgestone Tire Indonesia (Indonesia)<br>Bridgestone Firestone de Mexico, S.A. DE C.V. (Mexico)<br>Bridgestone South Africa Holdings (Pty) Ltd. (South Africa)<br>Bridgestone Hispania, S.A. (Spain)<br>Brisa Bridgestone Sabanci Lastik Sanayi Ve Ticaret A.S. (Turkey) | *** | *** | *** |

Table continued on next page.

[1] Nine firms, *** reported that they did not import the subject merchandise during the period of investigation.
[2] The Commission received an incomplete questionnaire response from ***.

**Table IV-1--*Continued***
**Certain OTR tires: U.S. importers, locations, related and/or affiliated firms, and shares of imports from China and other sources in 2007**

| Firm name | Location | Related/affiliated firm(s) | Share of 2007 reported U.S. imports from-- | | |
|---|---|---|---|---|---|
| | | | China *(percent)* | Other sources *(percent)* | All sources *(percent)* |
| Bridgestone Firestone Retail and Commercial Operations, LLC ("GCR Tire") | Austin, TX | Bridgestone Americas Holding, Inc.<br>Bridgestone Firestone North American Tire<br>Bridgestone Corporation (Japan)<br>Bridgestone Firestone Argentina S.A.I.C. (Argentina)<br>Bridgestone Firestone Do Brasil Industria E Comercio Ltda. (Brazil)<br>Bridgestone Firestone De Costa Rica, S.A. (Costa Rica)<br>P.T. Bridgestone Tire Indonesia (Indonesia)<br>Bridgestone Firestone de Mexico, S.A. DE C.V. (Mexico)<br>Bridgestone South Africa Holdings (Pty) Ltd. (South Africa)<br>Bridgestone Hispania, S.A. (Spain)<br>Brisa Bridgestone Sabanci Lastik Sanayi Ve Ticaret A.S. (Turkey) | *** | *** | *** |
| Carlisle Tire & Wheel Company | Aiken, SC | Carlisle Companies Inc. (USA)<br>Carlisle (Meizhou) Rubber Manufacturing Company Ltd (China) | *** | *** | *** |
| CGS Tires US, Inc. | Charlotte, NC | Ceska Gumarenska Spolencnosj, a.s. (The Czech Republic) | *** | *** | *** |
| Cheng Shin Rubber USA ("Maxxis") | Suwanee, GA | Cheng Shin Rubber Ind., Co., Ltd. (Taiwan) ("Cheng Shin")<br>Cheng Shin Toyo Tire & Rubber Ind., Co., Ltd. (China)<br>Cheng Shin Petrel Tire Co., Ltd. (China) | *** | *** | *** |
| China Manufacturers Alliance, LLC | Monrovia, CA | Double Coin Holdings (China)<br>International New Market (China) | *** | *** | *** |
| Denman Tire Corporation | Leavittsburg, OH | *** | *** | *** | *** |
| Dunlap and Kyle Co., Inc. | Batesville, MS | None. | *** | *** | *** |
| Duramax, Inc. | City of Industry, CA | None. | *** | *** | *** |
| Equipment Finders | Ft. Lupton, CO | W.W.F., Inc. (USA) | *** | *** | *** |
| Foreign Tire Sales | Union, NJ | None. | *** | *** | *** |
| Goodyear Tire & Rubber Company | Akron, OH | Goodyear International Corp. | *** | *** | *** |
| GPX International Tire Corporation | Malden, MA | Sterling Investment Partners, LP<br>Hebei StarBright Tire Co., Ltd. (China) | *** | *** | *** |
| Greenball Corp. | Long Beach, CA | None. | *** | *** | *** |

Table continued on next page.

**Table IV-1--*Continued***
**Certain OTR tires: U.S. importers, locations, related and/or affiliated firms, and shares of imports from China and other sources in 2007**

| Firm name | Location | Related/affiliated firm(s) | Share of 2007 reported U.S. imports from-- | | |
|---|---|---|---|---|---|
| | | | China *(percent)* | Other sources *(percent)* | All sources *(percent)* |
| Guizhou Tyre I/E Corp. North America | Gyiyan, Guizhou | Guizhou Tyre Co., Ltd. (China)<br>Tire Engineerign & Distribution<br>Guizhou Advance Rubber | *** | *** | *** |
| LQJ Global Tyre, Inc | City of Industry, CA | None. | *** | *** | *** |
| Michelin North America | Greenville, SC | Michelin Corporation<br>Michelin North America (Canada) Inc. (Canada)<br>Manufacture Francaise des Pneumatiques Michelin (France)<br>Michelin Hungaria Tyre Manufacture Ltd. (Hungary)<br>Michelin Polska S.A. (Poland)<br>Silvania S.A. (Romania)<br>Michelin Espana Portugal, S.A. (Portugal) | *** | *** | *** |
| National Logistics and Support LCC | Salt Lake City, UT | None. | *** | *** | *** |
| OTR Wheel Engineering, Inc. | Rome, GA | Blackstone OTR, LLC. | *** | *** | *** |
| Paska, Inc. | Kenner, LA | None. | *** | *** | *** |
| Solideal USA | Charlotte, NC | Swan International<br>World Tyres Ltd. (Hong Kong) | *** | *** | *** |
| Strategic Import Supply | Minnetonka, MN | None. | *** | *** | *** |
| Super Grip Corporation | Piney Flats, TN | None. | *** | *** | *** |
| Sutong China Tire Resources, Inc. | Houston, TX | None. | *** | *** | *** |
| Tire Engineering & Distribution, Inc. | North Lawrence, OH | Guizhou Tyre Co., Ltd. (China)<br>Guizhou Advance Rubber | *** | *** | *** |
| Titan Tire Corporation | Des Moines, IA | Titan International | *** | *** | *** |
| Toyo Tire International, Inc. | Cypress, CA | Toyo Tire & Rubber Co., Ltd. (Japan) | *** | *** | *** |
| Trelleborg Wheel Systems Americas, Inc. | Hartville, OH | Trelleborg Corporation (USA) | *** | *** | *** |
| The Trillium Group | Akron, OH | None. | *** | *** | *** |
| Tyres International, Inc. | Stow, OH | None. | *** | *** | *** |
| Valmont Industries, Inc. | Omaha, NE | None. | *** | *** | *** |
| | | Total | 100.0 | 100.0 | 100.0 |

Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics, adjusted.

## U.S. IMPORTS

U.S. imports represent the sum of data from questionnaire responses of 34 importers and official Commerce statistics that were modified to exclude: (1) the 34 firms that returned usable importer questionnaires, (2) the nine firms that reported they did not import subject merchandise or mining/construction tires during the period of investigation, (3) out-of-scope imports of OTR tires that weigh more than 1,500 pounds per tire,[3] and (4) out-of-scope imports of OTR tires less than $25 per unit.[4] [5] [6] U.S. imports of certain OTR tires are presented in table IV-2.[7] China is the largest foreign supplier of certain OTR tires to the United States, accounting for 57.4 percent of the quantity of total imports in 2007, and 35.8 percent of the value.[8] Table IV-3 presents imports of certain OTR tires with questionnaire data and adjusted CNIF data presented separately.

The quantity of imports of certain OTR tires from China increased by 0.2 percent from 2005 to 2007, and decreased by 27.3 percent in January-March 2008 compared with January-March 2007. The value of imports of certain OTR tires from China increased by 48.3 percent from 2005 to 2007, and decreased by 37.6 percent in January-March 2008 compared with January-March 2007. The unit value of imports of certain OTR tires from China increased by 48.0 percent from 2005 to 2007, and decreased by 14.2 percent in January-March 2008 compared with January-March 2007. The quantity of imports of certain OTR tires from other countries decreased by 1.6 percent from 2005 to 2007, and decreased by 5.6 percent in January-March 2008 compared with January-March 2007. The value of imports of certain OTR tires from other countries increased by 37.3 percent from 2005 to 2007, and increased by 17.8 percent in January-March 2008 compared with January-March 2007. The unit value of imports of certain OTR tires from other countries increased by 39.4 percent from 2005 to 2007, and increased by 24.8 percent in January-March 2008 compared with January-March 2007.

U.S. imports of certain OTR tires by industry applications are presented in table IV-4. The majority of U.S. imports from China were for construction/industrial applications which accounted for 58.3 percent based on quantity (units) and 54.7 percent based on value of total U.S. imports from China during 2007.

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[3] The petition (as revised) excluded from the scope OTR tires used on mining and construction vehicles and equipment that have a rim diameter equal to or exceeding 39 inches, with a weight of 1,500 pounds or more. Petitioners' response to Commerce's second supplemental questionnaire, June 27, 2007, pp. 6-9.

[4] Petitioners originally recommended removing OTR tires less than $20 per unit, which was done in the prehearing report methodology. During the Commission's hearing they proposed raising the per-unit cutoff to $25, and in their posthearing brief they proposed raising the per-unit cutoff to $35. Import data adjusted as described above, with the per-unit cutoff at $35 (as well as apparent consumption using import data with the per-unit cutoff at $35) is presented in app. E.

[5] The methodology of calculating the unit values of less than $25 per unit and the per unit shipping weight of greater than 1,500 pounds differs slightly from the methodology used in the preliminary phase of the investigation. In the preliminary phase, the exclusion categories were applied to data aggregated by importer, country, and entry month, while in the final phase, the exclusion categories were applied to the data on a less aggregated basis, *i.e.*, by importer, consignee, foreign manufacturer, country, entry month, HTS number, and Customs entry district. (Container shipping weight was used as a surrogate for product weight because Customs did not collect product weight upon entry for merchandise under the applicable statistical reporting numbers.)

[6] With respect to the question of negligible imports (section 771(24)(A)(i) of the Act), the share of total imports of certain OTR tires from China during the most recent 12-month period for which data are available that precedes the filing of the petition (June 2006 through May 2007), was well above the 3-percent negligibility threshold.

[7] Import data from questionnaire responses (as well as apparent consumption using import data from questionnaires) are presented in app. E.

[8] A majority of the remainder comes from Sri Lanka, Taiwan, and Thailand.

**Table IV-2**
**Certain OTR tires: U.S. imports, by sources, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | | | **Quantity (*1,000 tires*)** | | |
| China | 2,333 | 2,521 | 2,337 | 523 | 380 |
| Nonsubject sources | 1,760 | 1,831 | 1,733 | 473 | 447 |
| Total | 4,093 | 4,352 | 4,070 | 997 | 827 |
| | | | **Value (*1,000 dollars*)[1]** | | |
| China | 190,444 | 287,316 | 282,390 | 70,037 | 43,692 |
| Nonsubject sources | 368,629 | 435,633 | 505,975 | 117,896 | 138,851 |
| Total | 559,073 | 722,949 | 788,365 | 187,933 | 182,543 |
| | | | **Unit value (*per tire*)** | | |
| China | $81.63 | $113.97 | $120.84 | $133.82 | $114.88 |
| Nonsubject sources | 209.41 | 237.89 | 292.00 | 248.99 | 310.77 |
| Average | 136.59 | 166.11 | 193.72 | 188.52 | 220.69 |
| | | | **Share of quantity (*percent*)** | | |
| China | 57.0 | 57.9 | 57.4 | 52.5 | 46.0 |
| Nonsubject sources | 43.0 | 42.1 | 42.6 | 47.5 | 54.0 |
| Total | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |
| | | | **Share of value (*percent*)** | | |
| China | 34.1 | 39.7 | 35.8 | 37.3 | 23.9 |
| Nonsubject sources | 65.9 | 60.3 | 64.2 | 62.7 | 76.1 |
| Total | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

[1] Landed, duty-paid.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics, adjusted.

**Table IV-3**
**Certain OTR tires: U.S. imports, by sources, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | | | **Quantity (*1,000 tires*)** | | |
| China: | | | | | |
| Commission questionnaires | 825 | 1,079 | 1,403 | 325 | 237 |
| Adjusted CNIF data | 1,508 | 1,442 | 934 | 199 | 144 |
| Total | 2,333 | 2,521 | 2,337 | 523 | 380 |
| Nonsubject sources: | | | | | |
| Commission questionnaires | 1,087 | 1,183 | 1,163 | 308 | 357 |
| Adjusted CNIF data | 673 | 649 | 569 | 166 | 90 |
| Total | 1,760 | 1,831 | 1,733 | 473 | 447 |
| Total: | | | | | |
| Commission questionnaires | 1,912 | 2,262 | 2,567 | 632 | 593 |
| Adjusted CNIF data | 2,181 | 2,091 | 1,503 | 365 | 234 |
| Total | 4,093 | 4,352 | 4,070 | 997 | 827 |
| | | | **Value (*1,000 dollars*)[1]** | | |
| China: | | | | | |
| Commission questionnaires | 84,907 | 175,618 | 187,347 | 45,216 | 32,505 |
| Adjusted CNIF data | 105,537 | 111,698 | 95,043 | 24,821 | 11,187 |
| Total | 190,444 | 287,316 | 282,390 | 70,037 | 43,692 |
| Nonsubject sources: | | | | | |
| Commission questionnaires | 265,426 | 294,816 | 362,099 | 81,983 | 106,441 |
| Adjusted CNIF data | 103,203 | 140,816 | 143,876 | 35,913 | 32,411 |
| Total | 368,629 | 435,633 | 505,975 | 117,896 | 138,851 |
| Total: | | | | | |
| Commission questionnaires | 350,333 | 470,435 | 549,446 | 127,199 | 138,946 |
| Adjusted CNIF data | 208,739 | 252,514 | 238,919 | 60,734 | 43,598 |
| Total | 559,073 | 722,949 | 788,365 | 187,933 | 182,543 |
| | | | **Unit value (*per tire*)** | | |
| China: | | | | | |
| Commission questionnaires | $102.89 | $162.78 | $133.52 | $139.30 | $137.27 |
| Adjusted CNIF data | 70.00 | 77.45 | 101.79 | 124.86 | 77.93 |
| Average | 81.63 | 113.97 | 120.84 | 133.82 | 114.88 |
| Nonsubject sources: | | | | | |
| Commission questionnaires | 244.15 | 249.28 | 311.25 | 266.51 | 298.56 |
| Adjusted CNIF data | 153.31 | 217.13 | 252.68 | 216.49 | 358.99 |
| Averagel | 209.41 | 237.89 | 292.00 | 248.99 | 310.77 |
| Total: | | | | | |
| Commission questionnaires | 183.20 | 208.02 | 214.08 | 201.20 | 234.19 |
| Adjusted CNIF data | 95.71 | 120.78 | 158.95 | 166.54 | 186.45 |
| Average | 136.59 | 166.11 | 193.72 | 188.52 | 220.69 |

[1] Landed, duty-paid.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics, adjusted.

**Table IV-4**
**Certain OTR tires: U.S. shipments of imports from China, by application and type, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | Quantity (*1,000 tires*) | | | | |
| **Agricultural/forestry:** | | | | | |
| Herringbone or similar tread >= 40.6 cm (16") | 59 | 84 | 124 | 32 | 26 |
| Herringbone or similar tread < 40.6 cm (16") | 10 | 39 | 24 | 8 | 5 |
| Not herringbone >= 40.6 cm (16") | 38 | 70 | 147 | 33 | 26 |
| Not herringbone < 40.6 cm (16") | 81 | 131 | 180 | 39 | 24 |
| **Subtotal** | 188 | 323 | 475 | 113 | 81 |
| **Construction/industrial:** | | | | | |
| Herringbone < 61 cm (24") | 345 | 328 | 456 | 107 | 100 |
| Herringbone >= 61 cm (24") < 99.06 cm (39") | 63 | 106 | 86 | 21 | 17 |
| Radial less than 61 cm (24") | 11 | 14 | 13 | 4 | 2 |
| Radial >= to 61 cm (24") < 99.06 cm (39") | 10 | 20 | 17 | 5 | 3 |
| Other < 61 cm (24") | 82 | 91 | 134 | 28 | 22 |
| Other >= 61 cm (24") < 99.06 cm (39") | 50 | 51 | 43 | 11 | 9 |
| **Subtotal** | 561 | 610 | 749 | 176 | 153 |
| **Off-the-highway:** | | | | | |
| Radial >= 40.6 cm (16") | 4 | 24 | 12 | 3 | 1 |
| Radial < 40.6 cm (16") | 0 | 0 | 0 | 0 | 0 |
| Other >= 40.6 cm (16") | 18 | 11 | 10 | 3 | 2 |
| Other < 40.6 cm (16") | 0 | 0 | 0 | 0 | 0 |
| **Subtotal** | 22 | 35 | 22 | 7 | 3 |
| **Other** | 24 | 34 | 38 | 8 | 9 |
| **Total** | 796 | 1,002 | 1,283 | 304 | 247 |
| | Quantity (*1,000 pounds*) | | | | |
| **Agricultural/forestry:** | | | | | |
| Herringbone or similar tread >= 40.6 cm (16") | 13,347 | 19,124 | 23,169 | 5,612 | 4,951 |
| Herringbone or similar tread < 40.6 cm (16") | 489 | 1,343 | 1,276 | 265 | 284 |
| Not herringbone >= 40.6 cm (16") | 3,022 | 5,311 | 10,241 | 2,371 | 1,730 |
| Not herringbone < 40.6 cm (16") | 3,493 | 5,496 | 7,469 | 1,835 | 1,074 |
| **Subtotal** | 20,352 | 31,274 | 42,155 | 10,083 | 8,037 |
| **Construction/industrial:** | | | | | |
| Herringbone < 61 cm (24") | 19,721 | 20,565 | 27,411 | 6,543 | 5,725 |
| Herringbone >= 61 cm (24") < 99.06 cm (39") | 15,768 | 16,197 | 16,295 | 4,577 | 3,644 |
| Radial less than 61 cm (24") | 880 | 1,244 | 624 | 138 | 111 |
| Radial >= to 61 cm (24") < 99.06 cm (39") | 1,475 | 7,121 | 6,728 | 1,647 | 1,423 |
| Other < 61 cm (24") | 4,293 | 6,172 | 9,532 | 1,889 | 1,636 |
| Other >= 61 cm (24") < 99.06 cm (39") | 18,231 | 21,844 | 15,513 | 4,408 | 3,379 |
| **Subtotal** | 60,367 | 73,143 | 76,103 | 19,203 | 15,917 |
| **Off-the-highway:** | | | | | |
| Radial >= 40.6 cm (16") | (1) | 99 | 632 | (1) | (1) |
| Radial < 40.6 cm (16") | 0 | 0 | 0 | 0 | 0 |
| Other >= 40.6 cm (16") | 1,822 | 6,440 | 7,243 | 2,332 | 809 |
| Other < 40.6 cm (16") | 0 | 0 | 0 | 0 | 0 |
| **Subtotal** | 1,822 | 6,539 | 7,875 | 2,332 | 809 |
| **Other** | 1,293 | 4,697 | 6,318 | 2,144 | 641 |
| **Total** | 83,834 | 115,654 | 132,452 | 33,762 | 25,404 |

Table continued on next page.

**Table IV-4-*Continued***
**Certain OTR tires: U.S. shipments of imports from China, by application and type, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | Value (*$1,000*) | | | | |
| **Agricultural/forestry:** | | | | | |
| Herringbone or similar tread >= 40.6 cm (16") | 17,831 | 26,450 | 33,985 | 7,877 | 8,319 |
| Herringbone or similar tread < 40.6 cm (16") | 725 | 3,212 | 2,065 | 760 | 381 |
| Not herringbone >= 40.6 cm (16") | 3,108 | 5,682 | 10,773 | 2,455 | 2,210 |
| Not herringbone < 40.6 cm (16") | 3,407 | 6,491 | 10,119 | 2,666 | 1,727 |
| **Subtotal** | 25,072 | 41,834 | 56,943 | 13,758 | 12,637 |
| **Construction/industrial:** | | | | | |
| Herringbone < 61 cm (24") | 19,681 | 24,239 | 34,535 | 7,558 | 9,114 |
| Herringbone >= 61 cm (24") < 99.06 cm (39") | 17,732 | 20,237 | 21,826 | 5,923 | 5,294 |
| Radial less than 61 cm (24") | 1,262 | 2,019 | 1,992 | 520 | 313 |
| Radial >= to 61 cm (24") < 99.06 cm (39") | 2,830 | 17,899 | 15,899 | 3,883 | 3,460 |
| Other < 61 cm (24") | 4,340 | 7,645 | 11,621 | 2,330 | 2,480 |
| Other >= 61 cm (24") < 99.06 cm (39") | 28,493 | 34,831 | 29,912 | 8,196 | 6,468 |
| **Subtotal** | 74,337 | 106,871 | 115,785 | 28,411 | 27,129 |
| **Off-the-highway:** | | | | | |
| Radial >= 40.6 cm (16") | 2,674 | 24,494 | 19,394 | 5,300 | 1,710 |
| Radial < 40.6 cm (16") | 0 | 0 | 0 | 0 | 0 |
| Other >= 40.6 cm (16") | 5,523 | 8,486 | 9,895 | 3,189 | 1,062 |
| Other < 40.6 cm (16") | 0 | 0 | 0 | 0 | 0 |
| **Subtotal** | 8,197 | 32,980 | 29,288 | 8,489 | 2,772 |
| **Other** | 2,112 | 7,064 | 9,647 | 3,233 | 1,152 |
| **Total** | 109,718 | 188,749 | 211,663 | 53,891 | 43,690 |
| | Unit value (*per tire*) | | | | |
| **Agricultural/forestry:** | | | | | |
| Herringbone or similar tread >= 40.6 cm (16") | $304.02 | $316.57 | $274.70 | $244.79 | $324.72 |
| Herringbone or similar tread < 40.6 cm (16") | 69.84 | 82.85 | 84.58 | 91.87 | 74.42 |
| Not herringbone >= 40.6 cm (16") | 81.45 | 81.05 | 73.24 | 73.45 | 84.16 |
| Not herringbone < 40.6 cm (16") | 42.02 | 49.68 | 56.19 | 67.79 | 70.73 |
| **Average** | 133.16 | 129.49 | 119.80 | 121.54 | 155.23 |
| **Construction/industrial:** | | | | | |
| Herringbone < 61 cm (24") | 57.06 | 73.82 | 75.71 | 70.57 | 91.38 |
| Herringbone >= 61 cm (24") < 99.06 cm (39") | 280.50 | 191.67 | 254.97 | 285.82 | 303.31 |
| Radial less than 61 cm (24") | 110.18 | 144.93 | 154.08 | 120.12 | 207.48 |
| Radial >= to 61 cm (24") < 99.06 cm (39") | 283.34 | 877.89 | 934.41 | 735.85 | 1,085.51 |
| Other < 61 cm (24") | 52.75 | 84.01 | 86.81 | 84.13 | 110.34 |
| Other >= 61 cm (24") < 99.06 cm (39") | 574.06 | 680.51 | 695.20 | 757.67 | 737.74 |
| **Average** | 132.40 | 175.07 | 154.67 | 161.47 | 177.16 |
| **Off-the-highway:** | | | | | |
| Radial >= 40.6 cm (16") | 639.78 | 1,021.85 | 1,682.03 | 1,610.94 | 1,692.77 |
| Radial < 40.6 cm (16") | (2) | (2) | (2) | (2) | (2) |
| Other >= 40.6 cm (16") | 309.75 | 800.84 | 958.78 | 986.79 | 467.83 |
| Other < 40.6 cm (16") | (2) | (2) | (2) | (2) | (2) |
| **Average** | 372.42 | 954.09 | 1,340.43 | 1,301.64 | 844.91 |
| **Other** | 88.54 | 208.75 | 256.22 | 408.21 | 131.91 |
| **Average** | 137.91 | 188.39 | 164.92 | 177.52 | 177.20 |

Table continued on next page.

**Table IV-4-*Continued***
**Certain OTR tires: U.S. shipments of imports from China, by application and type, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | Unit value (*per pound*) | | | | |
| **Agricultural/forestry:** | | | | | |
| Herringbone or similar tread >= 40.6 cm (16") | $1.34 | $1.38 | $1.47 | $1.40 | $1.68 |
| Herringbone or similar tread < 40.6 cm (16") | 1.48 | 2.39 | 1.62 | 2.87 | 1.34 |
| Not herringbone >= 40.6 cm (16") | 1.03 | 1.07 | 1.05 | 1.04 | 1.28 |
| Not herringbone < 40.6 cm (16") | 0.98 | 1.18 | 1.35 | 1.45 | 1.61 |
| **Average** | 1.23 | 1.34 | 1.35 | 1.36 | 1.57 |
| **Construction/industrial:** | | | | | |
| Herringbone < 61 cm (24") | 1.00 | 1.18 | 1.26 | 1.16 | 1.59 |
| Herringbone >= 61 cm (24") < 99.06 cm (39") | 1.12 | 1.25 | 1.34 | 1.29 | 1.45 |
| Radial less than 61 cm (24") | 1.43 | 1.62 | 3.19 | 3.77 | 2.82 |
| Radial >= to 61 cm (24") < 99.06 cm (39") | 1.92 | 2.51 | 2.36 | 2.36 | 2.43 |
| Other < 61 cm (24") | 1.01 | 1.24 | 1.22 | 1.23 | 1.52 |
| Other >= 61 cm (24") < 99.06 cm (39") | 1.56 | 1.59 | 1.93 | 1.86 | 1.91 |
| **Average** | 1.23 | 1.46 | 1.52 | 1.48 | 1.70 |
| **Off-the-highway:** | | | | | |
| Radial >= 40.6 cm (16") | (2) | 247.41 | 30.69 | (2) | (2) |
| Radial < 40.6 cm (16") | (2) | (2) | (2) | (2) | (2) |
| Other >= 40.6 cm (16") | 3.03 | 1.32 | 1.37 | 1.37 | 1.31 |
| Other < 40.6 cm (16") | (2) | (2) | (2) | (2) | (2) |
| **Average** | 4.50 | 5.04 | 3.72 | 3.64 | 3.43 |
| **Other** | 1.63 | 1.50 | 1.53 | 1.51 | 1.80 |
| **Average** | 1.31 | 1.63 | 1.60 | 1.60 | 1.72 |
| | Share of quantity, units (*percent*) | | | | |
| **Agricultural/forestry:** | | | | | |
| Herringbone or similar tread >= 40.6 cm (16") | 7.4 | 8.3 | 9.6 | 10.6 | 10.4 |
| Herringbone or similar tread < 40.6 cm (16") | 1.3 | 3.9 | 1.9 | 2.7 | 2.1 |
| Not herringbone >= 40.6 cm (16") | 4.8 | 7.0 | 11.5 | 11.0 | 10.7 |
| Not herringbone < 40.6 cm (16") | 10.2 | 13.0 | 14.0 | 13.0 | 9.9 |
| **Subtotal** | 23.7 | 32.2 | 37.0 | 37.3 | 33.0 |
| **Construction/industrial:** | | | | | |
| Herringbone < 61 cm (24") | 43.4 | 32.8 | 35.5 | 35.3 | 40.5 |
| Herringbone >= 61 cm (24") < 99.06 cm (39") | 7.9 | 10.5 | 6.7 | 6.8 | 7.1 |
| Radial less than 61 cm (24") | 1.4 | 1.4 | 1.0 | 1.4 | 0.6 |
| Radial >= to 61 cm (24") < 99.06 cm (39") | 1.3 | 2.0 | 1.3 | 1.7 | 1.3 |
| Other < 61 cm (24") | 10.3 | 9.1 | 10.4 | 9.1 | 9.1 |
| Other >= 61 cm (24") < 99.06 cm (39") | 6.2 | 5.1 | 3.4 | 3.6 | 3.6 |
| **Subtotal** | 70.6 | 60.9 | 58.3 | 58.0 | 62.1 |
| **Off-the-highway:** | | | | | |
| Radial >= 40.6 cm (16") | 0.5 | 2.4 | 0.9 | 1.1 | 0.4 |
| Radial < 40.6 cm (16") | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other >= 40.6 cm (16") | 2.2 | 1.1 | 0.8 | 1.1 | 0.9 |
| Other < 40.6 cm (16") | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| **Subtotal** | 2.8 | 3.5 | 1.7 | 2.1 | 1.3 |
| **Other** | 3.0 | 3.4 | 2.9 | 2.6 | 3.5 |
| **Total** | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

Table continued on next page.

**Table IV-4-*Continued***
**Certain OTR tires: U.S. shipments of imports from China, by application and type, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2009 |
| | Share of quantity, weight (*percent*) | | | | |
| **Agricultural/forestry:** | | | | | |
| Herringbone or similar tread >= 40.6 cm (16") | 15.9 | 16.5 | 17.5 | 16.6 | 19.5 |
| Herringbone or similar tread < 40.6 cm (16") | 0.6 | 1.2 | 1.0 | 0.8 | 1.1 |
| Not herringbone >= 40.6 cm (16") | 3.6 | 4.6 | 7.7 | 7.0 | 6.8 |
| Not herringbone < 40.6 cm (16") | 4.2 | 4.8 | 5.6 | 5.4 | 4.2 |
| **Subtotal** | 24.3 | 27.0 | 31.8 | 29.9 | 31.6 |
| **Construction/industrial:** | | | | | |
| Herringbone < 61 cm (24") | 23.5 | 17.8 | 20.7 | 19.4 | 22.5 |
| Herringbone >= 61 cm (24") < 99.06 cm (39") | 18.8 | 14.0 | 12.3 | 13.6 | 14.3 |
| Radial less than 61 cm (24") | 1.0 | 1.1 | 0.5 | 0.4 | 0.4 |
| Radial >= to 61 cm (24") < 99.06 cm (39") | 1.8 | 6.2 | 5.1 | 4.9 | 5.6 |
| Other < 61 cm (24") | 5.1 | 5.3 | 7.2 | 5.6 | 6.4 |
| Other >= 61 cm (24") < 99.06 cm (39") | 21.7 | 18.9 | 11.7 | 13.1 | 13.3 |
| **Subtotal** | 72.0 | 63.2 | 57.5 | 56.9 | 62.7 |
| **Off-the-highway:** | | | | | |
| Radial >= 40.6 cm (16") | 0.0 | 0.1 | 0.5 | 0.0 | 0.0 |
| Radial < 40.6 cm (16") | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other >= 40.6 cm (16") | 2.2 | 5.6 | 5.5 | 6.9 | 3.2 |
| Other < 40.6 cm (16") | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| **Subtotal** | 2.2 | 5.7 | 5.9 | 6.9 | 3.2 |
| **Other** | 1.5 | 4.1 | 4.8 | 6.4 | 2.5 |
| **Total** | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |
| | Share of value (*percent*) | | | | |
| **Agricultural/forestry:** | | | | | |
| Herringbone or similar tread >= 40.6 cm (16") | 16.3 | 14.0 | 16.1 | 14.6 | 19.0 |
| Herringbone or similar tread < 40.6 cm (16") | 0.7 | 1.7 | 1.0 | 1.4 | 0.9 |
| Not herringbone >= 40.6 cm (16") | 2.8 | 3.0 | 5.1 | 4.6 | 5.1 |
| Not herringbone < 40.6 cm (16") | 3.1 | 3.4 | 4.8 | 4.9 | 4.0 |
| **Subtotal** | 22.9 | 22.2 | 26.9 | 25.5 | 28.9 |
| **Construction/industrial:** | | | | | |
| Herringbone < 61 cm (24") | 17.9 | 12.8 | 16.3 | 14.0 | 20.9 |
| Herringbone >= 61 cm (24") < 99.06 cm (39") | 16.2 | 10.7 | 10.3 | 11.0 | 12.1 |
| Radial less than 61 cm (24") | 1.1 | 1.1 | 0.9 | 1.0 | 0.7 |
| Radial >= to 61 cm (24") < 99.06 cm (39") | 2.6 | 9.5 | 7.5 | 7.2 | 7.9 |
| Other < 61 cm (24") | 4.0 | 4.1 | 5.5 | 4.3 | 5.7 |
| Other >= 61 cm (24") < 99.06 cm (39") | 26.0 | 18.5 | 14.1 | 15.2 | 14.8 |
| **Subtotal** | 67.8 | 56.6 | 54.7 | 52.7 | 62.1 |
| **Off-the-highway:** | | | | | |
| Radial >= 40.6 cm (16") | 2.4 | 13.0 | 9.2 | 9.8 | 3.9 |
| Radial < 40.6 cm (16") | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other >= 40.6 cm (16") | 5.0 | 4.5 | 4.7 | 5.9 | 2.4 |
| Other < 40.6 cm (16") | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| **Subtotal** | 7.5 | 17.5 | 13.8 | 15.8 | 6.3 |
| **Other** | 1.9 | 3.7 | 4.6 | 6.0 | 2.6 |
| **Total** | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

[1] Less than 500 pounds.
[2] Not applicable.

Source: Compiled from data submitted in response to Commission questionnaires.

## APPARENT U.S. CONSUMPTION

Data concerning apparent U.S. consumption of certain OTR tires, presented in table IV-5, are based on U.S. producers' U.S. shipments of certain OTR tires provided in response to Commission questionnaires, and the sum of U.S. imports of certain OTR tires provided in response to Commission questionnaires and U.S. imports from official statistics, adjusted to exclude (1) data for 34 firms that provided usable questionnaire responses, (2) data for nine firms that reported they did not import subject merchandise or mining/construction tires during the period of investigation, (3) OTR tires with a rim diameter greater than or equal to 39 inches (i.e., having an average weight greater than 1,500 pounds), and (4) OTR tires for retail consumer use (i.e., having an average unit LDP value of less than $25). The quantity of apparent U.S. consumption decreased by 2.3 percent from 2005 to 2007, and decreased by 4.5 percent in January-March 2008 compared with January-March 2007. The value of apparent consumption increased by 26.3 percent from 2005 to 2007, and increased by 6.5 percent in January-March 2008 compared with January-March 2007.

**Table IV-5**
**Certain OTR tires: U.S. producers' U.S. shipments, U.S. imports (adjusted), by sources, and apparent U.S. consumption, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | Quantity (*1,000 tires*) | | | | |
| U.S. producers' U.S. shipments | 3,881 | 3,383 | 3,720 | 910 | 995 |
| U.S. imports from-- | | | | | |
| China | 2,333 | 2,521 | 2,337 | 523 | 380 |
| Nonsubject countries | 1,760 | 1,831 | 1,733 | 473 | 447 |
| Total U.S. imports | 4,093 | 4,352 | 4,070 | 997 | 827 |
| Apparent U.S. consumption | 7,974 | 7,735 | 7,790 | 1,907 | 1,822 |
| | Value (*1,000 dollars*) | | | | |
| U.S. producers' U.S. shipments | 861,224 | 835,550 | 1,006,044 | 252,393 | 286,384 |
| U.S. imports from-- | | | | | |
| China | 190,444 | 287,316 | 282,390 | 70,037 | 43,692 |
| Nonsubject countries | 368,629 | 435,633 | 505,975 | 117,896 | 138,851 |
| Total U.S. imports | 559,073 | 722,949 | 788,365 | 187,933 | 182,543 |
| Apparent U.S. consumption | 1,420,296 | 1,558,498 | 1,794,409 | 440,326 | 468,927 |

Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics, adjusted.

U.S. producers report that the demand for certain OTR tires is derived from the demand for certain OTR vehicles and equipment used in the agricultural, construction, industrial, and mining sectors of the economy, and that these sectors are cyclical. Due to high crop and commodity prices, the agricultural sector is widely viewed as approaching the peak of the current business cycle.[9] Demand in the construction sector was also strong recently but has weakened due to the housing crisis.[10]

## U.S. MARKET SHARES

U.S. market share data are presented in table IV-6. The quantity of the U.S. producers' market share decreased by 0.9 percentage point from 2005 to 2007, and increased by 6.9 percentage points in January-March 2008 compared with January-March 2007. The share of imports from China increased by 0.7 percentage point from 2005 to 2007, and decreased by 6.6 percentage points in January-March 2008 compared with January-March 2007. Nonsubject imports' market share increased by 0.2 percentage point from 2005 to 2007, and decreased by 0.3 percentage point in January-March 2008 compared with January-March 2007.

**Table IV-6**
**Certain OTR tires: Apparent U.S. consumption and market shares, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | Quantity (*1,000 tires*) | | | | |
| Apparent U.S. consumption | 7,974 | 7,735 | 7,790 | 1,907 | 1,822 |
| | Value (*1,000 dollars*) | | | | |
| Apparent U.S. consumption | 1,420,296 | 1,558,498 | 1,794,409 | 440,326 | 468,927 |
| | Share of quantity (*percent*) | | | | |
| U.S. producers' U.S. shipments | 48.7 | 43.7 | 47.8 | 47.7 | 54.6 |
| U.S. imports from-- | | | | | |
| China | 29.3 | 32.6 | 30.0 | 27.4 | 20.9 |
| Nonsubject countries | 22.1 | 23.7 | 22.2 | 24.8 | 24.5 |
| Total imports | 51.3 | 56.3 | 52.2 | 52.3 | 45.4 |
| | Share of value (*percent*) | | | | |
| U.S. producers' U.S. shipments | 60.6 | 53.6 | 56.1 | 57.3 | 61.1 |
| U.S. imports from-- | | | | | |
| China | 13.4 | 18.4 | 15.7 | 15.9 | 9.3 |
| Nonsubject countries | 26.0 | 28.0 | 28.2 | 26.8 | 29.6 |
| Total imports | 39.4 | 46.4 | 43.9 | 42.7 | 38.9 |

Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics, adjusted.

[9] Titan and USW's prehearing brief, p. 19.
[10] Titan and USW's prehearing brief, p. 22.

## RATIO OF IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of imports to U.S. production of certain OTR tires is presented in table IV-7. Imports from China were equivalent to 49.9 percent of U.S. production during 2005. This level increased irregularly to 58.3 percent during 2007 and decreased to 35.1 percent in January-March 2008 compared with 56.7 percent in January-March 2007.

**Table IV-7**
**Certain OTR tires: U.S. producers' imports and ratios to U.S. production, by sources, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | Quantity (*1.000 tires*) | | | | |
| U.S. production | 4,676 | 3,818 | 4,009 | 923 | 1,083 |
| | Ratio of U.S. imports to production (*percent*) | | | | |
| China | 49.9 | 66.0 | 58.3 | 56.7 | 35.1 |
| Nonsubject sources | 37.6 | 48.0 | 43.2 | 51.3 | 41.3 |
| Total imports | 87.5 | 114.0 | 101.5 | 108.0 | 76.4 |

Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics, adjusted.

## CRITICAL CIRCUMSTANCES

On March 11, 2008, petitioners alleged that there was a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of certain OTR tires from China. With regard to the countervailing duty investigation, pursuant to section 705(a)(2) of the Tariff Act of 1930, as amended (the Act), in order for critical circumstances to exist, Commerce must find that there are countervailable subsidies that are inconsistent with the World Trade Organization Agreement on Subsidies and Countervailing Measures (*SCM Agreement*), and that there have been massive imports over a relatively short period. Commerce determined that none of the respondents received subsidies inconsistent with the *SCM Agreement*, therefore Commerce need not reach the issue of whether there have been massive imports over a relatively short period of time. Since the requirements of section 705 (a)(2) of the Act have not been met, Commerce's final determinations found that critical circumstances do not exist with respect to imports of OTR tires from the PRC.[11] With regard to the antidumping investigation, Commerce's final determination found critical circumstances exist for the PRC entity, and found that critical circumstances do not exist for the mandatory respondents or the remaining "Separate Rate Recipients."[12] Based on the record before the Commission and the final Commerce determinations, petitioners are not further pursuing the critical circumstances issue.[13]

[11] (73 FR 40481, July 15, 2008)
[12] (73 FR 40488, July 15, 2008)
[13] Titan and USW's posthearing brief, p. Aranoff-20.

# PART V: PRICING AND RELATED INFORMATION

## FACTORS AFFECTING PRICING

### Raw Material Costs

Raw material costs account for a large share of the cost of certain OTR tires. During 2005-07, these costs averaged 58.6 percent of the cost of goods sold annually. A major raw material input used in making these products is natural rubber. Other important materials include synthetic rubber, carbon black, various chemicals, and textiles and steel.[1]

### Transportation Costs to the U.S. Market

Ocean transportation costs for certain OTR tires shipped from China to the United States (excluding U.S. inland costs) averaged 9.2 percent of the customs value of these imports during 2007.[2] These estimates are derived from official import data and represent the transportation and other charges on imports.

### U.S. Inland Transportation Costs

Transportation costs on U.S. inland shipments of certain OTR tires generally account for a small to moderate share of the delivered price of these products. The majority of U.S. producers reported that these costs ranged from 3 percent to as much as 8 percent of the delivered price. Among importers, the majority of estimates for U.S. inland transportation costs ranged from 1 percent to 10 percent of the delivered price.

Producers were asked to estimate the shares of their sales that occurred within 100 miles of their storage or production facility, between 101 and 1,000 miles, and over 1,000 miles. Among the six U.S. producers that responded to the question, most shipments were for distances of 101 miles or more. The largest share of producer shipments was within the 101 to 500 mile range with reported shipments of the six firms ranging from 60 percent to 96 percent their totals. In the case of importers, the majority of responding firms also reported that the largest share of their shipments were for distances of over 101 miles.

### Exchange Rates

Nominal exchange rates for the Chinese yuan in relation to the U.S. dollar are shown on a quarterly basis in figure V-1 for the period January-March 2005 through January-March 2008. The data show that the yuan has appreciated relative to the dollar since 2005. Real exchange rates could not be computed because of the lack of producer price indices for China.[3]

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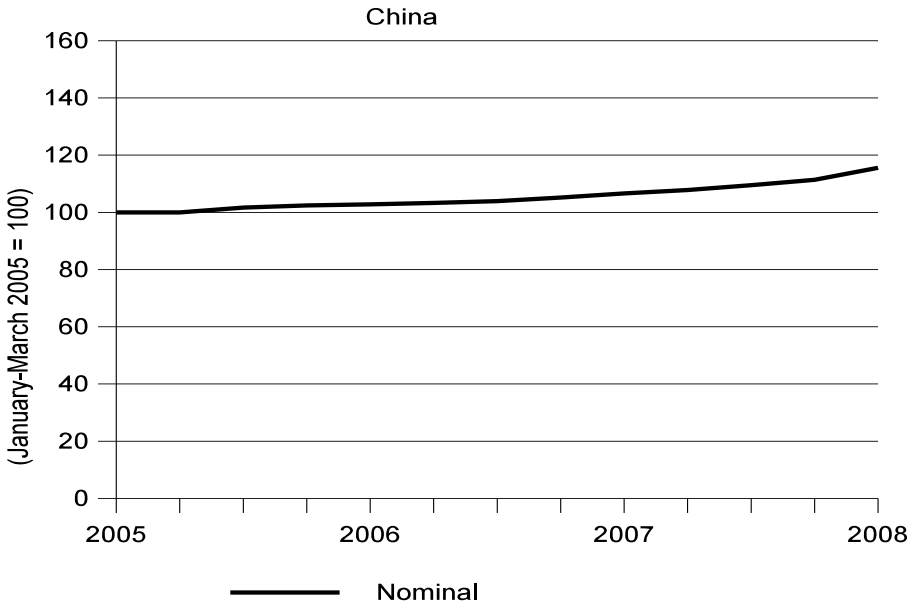
[1] Hearing transcript p. 64 (Vasichek).

[2] The estimated cost was obtained by subtracting the customs value from the c.i.f. value of the imports for 2006 and then dividing by the customs value.

[3] Real exchange rates are calculated by adjusting the nominal rates for movements in producer prices in the United States and other countries.

**Figure V-1**
**Exchange rates: Indexes of the nominal rate of the Chinese yuan relative to the U.S. dollar, by quarters, January-March 2005-January-March 2008**




Source: International Monetary Fund, *International Financial Statistics*, June 2008 and various earlier issues.

## PRICING PRACTICES

While different methods of arriving at prices were reported by U.S. producers and by importers of certain OTR tires, the use of price lists is very common in sales of certain OTR tires. All seven U.S. producers and 12 of the 25 responding importers of the Chinese product reported that they make use of price lists at least as a starting point in arriving at prices. Some producers and importers also reported that prices are determined by transaction by transaction negotiations. In other cases, contract arrangements and material costs are important in determining prices.

Discounting is commonly used in sales of certain OTR tires. Six of seven U.S. producers reported that they provide discounts based on such factors as volume, market conditions, and customer needs and promotional considerations. In addition, five of seven producers also reported that they provide discounts of 1 to 2 percent for early payment of accounts. Among importers of certain OTR tires from China, 12 of 25 responding firms reported that they provide discounts, usually based upon volume. Five of the importers from China also provide discounts based upon early payments of accounts ranging from 1 to 5 percent.

For both U.S. producers and importers of certain OTR tires from China, prices are commonly quoted on either an f.o.b. or delivered basis. Among producers, four reported that all quotes are on a delivered basis and one reported that all quotes are on an f.o.b. basis. Among the other two firms *** reported that it quotes on a delivered basis for shipments of 3,500 pounds or more (which accounts for the majority of its shipments), and *** reported that it quotes on an f.o.b. warehouse basis to original equipment manufacturers, but quotes on a delivered basis to customers in the replacement market. Among responding importers of product from China , seven reported that they quote on an f.o.b. basis,

that it varies from case to case. All seven U.S. producers and 23 of 26 responding importers from China and other sources reported that they arrange transportation for their customers while two importers reported that their customers arrange transportation and one reported that both arrange transportation. None of the U.S. producers and most of the importers reported that they do not sell certain OTR tires over the internet. One importer reported that its internet sales accounts for less than one percent of its total sales.

Producers and importers of certain OTR tires from China were asked to estimate the percentages of their sales that are on a spot basis, a short-term contract basis of up to 12 months, or a long-term contract of 12 months or more. Most sales of OTR tires are on a spot basis. Two of six responding producers reported that all of their sales are on a spot basis, and the others reported that a majority of their sales are on a spot basis. Among 25 responding importers of certain OTR tires from China, 14 sell entirely on a spot basis, 4 sell principally on a spot basis, and others sell principally or entirely on a contract basis. Among producers that reported using short-term contracts, contract periods range from 6 months to one year. Prices may or may not be fixed during the contract period. Long-term contracts for producers range from 3 to 5 years with prices and quantities sometimes subject to adjustment during the period. Among importers that reported the used of short-term contracts, contract periods reportedly range in length to as much as one year with prices and in some cases quantities fixed during the period. Long term contracts for importers range from 1 to 5 years. Prices and quantities may be fixed or adjustable during the contract period.

## PRICE DATA

The Commission requested U.S. producers and importers of certain OTR tires from China to provide quarterly data for the total quantity and f.o.b value of certain OTR tires that were shipped to unrelated purchasers in the U.S. market during 2005-07 and January-March 2008. The products for which pricing data were requested are as follows:

Six [4] U.S. producers and 16 importers of Chinese product provided varying amounts of usable pricing data for sales of the requested products. Sales of the nine representative products accounted for a fairly small percentage of total sales for both producers and importers, since a broad range of products are sold by both. In the case of U.S. producers, price data accounted for about 4.5 percent of sales, and in the case of importers of product from China it accounted for about 7.0 percent of sales in 2007.

[4] The seventh producer, ***.

| | Type | Size | TT/TL | Ply rating/ load index | Overall diameter | Rim width | Tire width | Weight |
|---|---|---|---|---|---|---|---|---|
| **Product 1.** | **Skid steer** | **12-16.5NHS** | **Tubeless** | **8** | **32.7"** | **9.75"** | **12.6"** | **69 lbs.** |
| **Product 2.** | **Diagonal (Bias) PlyTractor Drive Wheel** | **11.2-24** | **Tubeless** | **4** | **42.9-" 44.2** | **10"** | **10.9" 11.9** | **77-89 lbs.** |
| **Product 3** | **Diagonal (Bias) PlyTractor Drive Wheel** | **19.5L-24** | **Tubeless** | **12** | **50.9"-52.8** | **17"** | **18.9"-20.7** | **202-217 lbs.** |
| **Product 4** | **Diagonal (Bias) Ply Agricultural Implement Tire** | **11L-15** | **Tubeless** | **8** | **30.1"-31.2** | **8"** | **10.7"-11.7** | **33-38 lbs.** |
| **Product 5** | **Motor Grader G2/L-2** | **14.00-24TG** | **Tube/ Tubeless** | **12** | **52.2"-54.0** | **8-10"** | **13.8"-15.7** | **165-205 lbs.** |
| **Product 6** | **Loader L2/G-2/E2** | **17.5-25** | **Tube/ Tubeless** | **12** | **52.5"--53.9** | **13"-14"** | **17.0"-19.3** | **205-245 lbs.** |
| **Product 7** | **Diagonal (Bias) PlyTractor Drive Wheel R-1** | **14.9-28** | **Tube/ Tubeless** | **6** | **53.0"--54.9** | **12"-13"** | **14.5"-15.8"** | **139-159 lbs.** |
| **Product 8** | **Diagonal (Bias) PlyTractor Drive Wheel R-1** | **16.9-30** | **Tube/ Tubeless** | **6** | **57.6"--59.6** | **14"-15"** | **16.4"-17.9"** | **163-196 lbs.** |
| **Product 9** | **Forestry Tire** | **30.5l-32** | **Tubeless** | **20** | **73.5"** | **27"** | **30.5"** | **980 lbs.** |

## Price Trends

Quarterly weighted-average prices for the nine products are shown in tables V-1 through V-9 and in figure V-2 for the period January-March 2005 through January-March 2008. The data are reported separately for sales to original equipment manufacturers (OEMs) and to the replacement market. While U.S. producers reported sales to both OEMs and the replacement market for all products, there were no reported sales to OEMs of Chinese imports for products 7, 8 and 9 and very few sales to OEMs of product 2 and 3. The data show that U.S. producer prices and prices of imports from China generally increased overall during this period. The extent of the price increases are detailed in table V-10.

**Table V-1**
**Certain OTR tires: Weighted-average f.o.b. selling prices and quantities for product 1, and margins of underselling, January 2005-March 2008**

* * * * * * *

**Table V-2**
**Certain OTR tires: Weighted-average f.o.b. selling prices and quantities for product 2, and margins of underselling, January 2005-March 2008**

* * * * * * *

**Table V-3**
**Certain OTR tires: Weighted-average f.o.b. selling prices and quantities for product 3, and margins of underselling, January 2005-March 2008**

* * * * * * *

**Table V-4**
**Certain OTR tires: Weighted-average f.o.b. selling prices and quantities for product 4, and margins of underselling/(overselling), January 2005-March 2008**

* * * * * * *

**Table V-5**
**Certain OTR tires: Weighted-average f.o.b. selling prices and quantities for product 5, and margins of underselling, January 2005-March 2008**

* * * * * * *

**Table V-6**
**Certain OTR tires: Weighted-average f.o.b. selling prices and quantities for product 6, and margins of underselling, January 2005-March 2008**

* * * * * * *

**Table V-7**
**Certain OTR tires: Weighted-average f.o.b. selling prices and quantities for product 7, and margins of underselling, January 2005-March 2008**

* * * * * * *

**Table V-8**
**Certain OTR tires: Weighted-average f.o.b. selling prices and quantities for product 8, and margins of underselling, January 2005-March 2008**

* * * * * * *

**Table V-9**
**Certain OTR tires: Weighted-average f.o.b. selling prices and quantities for product 9, and margins of underselling/(overselling), January 2005-March 2008**

* * * * * * *

**Figure V-2**
**Certain OTR tires: Weighted-average f.o.b. selling prices for products 1-9, January 2005-March 2008**

* * * * * * *

## Price Comparisons

In the 157 quarterly price comparisons between U.S.-produced and imported Chinese products, prices for the Chinese OTR tires were lower than those for U.S. OTR tires in 147 quarters and higher in 10 quarters. For all comparisons, margins of underselling ranged from 1.5 percent to 57.0 percent and margins of overselling ranged from 2.1 to 92.6 percent. A survey of maximum and minimum prices for each product, by source, on sales to OEMs and the replacement market is presented in table V-10.

**Table V-10**
**Certain OTR tires: Summary of weighted-average f.o.b. prices for products 1-9, by country, January 2005-March 2008**

* * * * * * *

## LOST SALES AND LOST REVENUES

One U.S. producer, ***, provided detailed lost sales allegations. *** allegations concerned transactions involving a total of *** tires that it valued at more than $*** (see table V-11).

*** alleged that it lost annual sales of 14 separate products to *** in February of 2008 that it valued at more than $*** million due to competition from imports from China.[5] *** agreed with all of the lost sales allegations and reported that the quantity numbers are actually far greater than those alleged by ***. *** further stated that the Chinese have offered low quality tires at cheap prices.

*** alleged that it lost combined annual sales of *** irrigation tires to *** that it valued at over $*** to competition from imports from China in October of 2007. The allegation alleged that the Chinese imports were valued at about $***. *** disagreed with the allegation. They reported that the actual purchases of Chinese imports amounted to just *** irrigation tires rather than the quantity alleged by the petitioner. They also reported that the actual price per tire of the Chinese product was $*** rather than the price of less than $*** alleged by ***. *** further stated that for 2007 its annual sales of U.S. manufactured tires for this size amounted to *** tires, and for imports from China they amounted to *** tires. It reported that sales are expected to be similar for 2008.

*** also alleged that it lost combined annual sales of *** irrigation tires to *** that it valued at nearly $*** to competition from imports from China in October of 2007. The allegation alleged that the Chinese imports were valued at about $***. The staff contacted *** to investigate the allegation, but *** did not respond.

**Table V-11**
**Certain OTR tires: U.S. producers' lost sales allegations**

* * * * * * *

Titan alleged that it lost revenue on sales to several customers of its *** skid steer tire in December 2007 due to competition from imports from China. It reported that it was forced to lower its price on sales to all customers from $*** per tire to between $*** and $***. In this regard, Titan provided names of contact persons and quantities sold to 13 individual companies, but did not provide information on alleged prices of imports from China for competing products. The staff has contacted the firms to investigate the allegations. The general responses of the seven firms that answered the inquiry with date of alleged quantities, and rejected price and accepted price are presented in table V-12.

[5] ***.

The detailed responses of the seven purchasers were widely varied. *** stated that the price of the tire was lowered by *** because it reported that it was overstocked. *** reported that they had never purchased the specified tire. *** reported that Titan told them that it had an excess inventory of the specified tire. *** also reported that it made an offer for the tire and Titan accepted. *** reported that the price was lowered, but that *** lowered the price on its own with no counteroffer being made. *** reported that *** lowered the price on the specified product because it had become obsolete and was no longer easily marketable. *** reported that it never did see a quote from *** of $***. It said that the price that it paid was much closer to the initial price offer of $*** than to the alleged final quote of $***.

In the one case where a purchaser generally agreed with the allegation, *** reported that Titan lowered its price on the tire due to a quotation on a Chinese-produced tire price of $***. *** also stated that this was an overstocked item for ***.

**Table V-12**
**Certain OTR tires: U.S. producers' lost revenue allegations**

* * * * * * *

**Results from the Preliminary Phase of the Investigations**

Detailed lost sales and lost revenue allegations were generally not available in the preliminary phase of the investigations. Titan reported in the petition that it did not have information available on lost sales and lost revenues relating to certain OTR tires on a transaction-by-transaction basis. Titan did provide a list of 19 customer accounts where it believed that it had lost business to imports from China. While company telephone numbers and fax numbers were provided, the list did not include any detailed price and quantity data on specific transactions and did not include names of contact persons. Therefore, staff attempted to contact all of these firms with some general questions concerning price competition from China. Five of the firms provided responses.[6]

Two of the questions dealt specifically with the firms' activities since January 2004. When asked whether they had shifted from U.S.-produced certain OTR tires to imports of these products from China, three firms answered "yes" and two answered "no." When asked if the lower price of the imports from China was the reason for shifting, all three of the firms that had shifted answered "yes." However, one purchaser qualified the answer by also attributing the shift to an inadequate U.S. supply and a failure to adjust with changing market conditions.

Two other questions dealt with the U.S. industry as a whole. Firms were asked whether U.S. producers had reduced their prices of OTR tires in order to compete with imports since January 2004. Three firms answered "yes" and two answered "no." One firm that answered "yes" was not sure about all U.S. producers, but believed that some reduced prices because of foreign and domestic competition. Another firm reported that some producers reduced their prices because they were not competitive.

One U.S. producer, ***, provided one lost sale allegation and one lost revenue allegation. *** alleged that it lost a sale of *** tires for use on *** valued at $*** million to imports from China ***. The staff contacted *** concerning this allegation, but the company did not respond to the request for information.

*** also alleged that it was forced to lower its quote on sales of *** tires from $*** to *** due to imports from China. However, *** reported that it did not have information concerning this transaction.

[6] The companies responding were ***.

# PART VI: FINANCIAL EXPERIENCE OF THE U.S. PRODUCERS

## BACKGROUND

Seven U.S. producers reported their certain OTR tires financial results. With the exception of Michelin, U.S. producers reported their financial results on the basis of U.S. generally accepted accounting principles ("GAAP") for calendar-year periods.[1] Financial results are presented in this section for the following categories: operations on certain OTR tires, operations on nonsubject OTR construction and mining tires, and operations on combined certain OTR tires and nonsubject OTR construction and mining tires.[2] Due to changes in product mix during the period, as noted below, corresponding variance analyses are not presented. On June 2 through June 4, 2008 and June 11 through June 12, 2008, staff verified the U.S. producer questionnaire responses of Titan and BFNA, respectively. Changes pursuant to verification are reflected in this and other affected sections of this report.[3]

While certain OTR tire revenue primarily represents commercial sales, *** also reported a relatively small volume of transfers.[4] Internal consumption was reported by ***.[5] [6] As discussed in the trade section of this report, Titan acquired the OTR farm production and related assets of Goodyear at the end of 2005 and the OTR construction/industrial production and related assets of Continental in mid 2006. As presented in this and other sections of this report, Titan's OTR tire operations include the relevant Goodyear and Continental OTR tire operations prior and subsequent to Titan's acquisition.[7] The financial results reported by Goodyear represent that company's remaining OTR operations in Topeka, KS.[8]

## OPERATIONS ON CERTAIN OTR TIRES

Income-and-loss data for producers of certain OTR tires are presented in table VI-1 and on an average unit basis in table VI-2. Table VI-3 presents selected company-specific financial information.

BFNA and Titan account for the *** of sales presented in table VI-1: ***, of cumulative sales value. Goodyear, with ***. The remaining producers Specialty, Denman, Carlisle, and Michelin accounted for *** percent, respectively, of cumulative sales value.

---

[1] Michelin, whose parent company is headquartered in France, reported its financial results based on International Financial Reporting Standards ("IFRS").

[2] Associated volume information was reported on the basis of tires and pounds. ***. E-mail with attachment from Covington and Burling on behalf of Goodyear, May 21, 2008. ***.

[3] BFNA and Titan verification reports.

[4] ***.

[5] ***.

[6] ***. Titan verification report.

[7] With the exception of selected pro forma financial information, the above-referenced acquisitions are reflected in Titan's public consolidated financial results prospectively from the date of acquisition. As such and in addition to typical differences such as out-of-scope product included in a company's overall financial results, the consolidated financial results reported in Titan's 10-K are not directly comparable to the financial results reported to the Commission.

[8] ***. E-mail with attachment from Covington and Burling on behalf of Goodyear, May 21, 2008.

**Table VI-1**
**Certain OTR tires: Results of operations, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | | | **Quantity (*1,000 tires*)** | | |
| Commercial sales | *** | *** | *** | *** | *** |
| Internal consumption | *** | *** | *** | *** | *** |
| Transfers | *** | *** | *** | *** | *** |
| Total net sales quantity | 4,453 | 3,868 | 4,235 | 1,044 | 1,160 |
| | | | **Quantity (*1,000 pounds*)** | | |
| Commercial sales | *** | *** | *** | *** | *** |
| Internal consumption | *** | *** | *** | *** | *** |
| Transfers | *** | *** | *** | *** | *** |
| Total net sales quantity | 539,589 | 509,767 | 638,980 | 160,732 | 166,830 |
| | | | **Value (*$1,000*)** | | |
| Commercial sales | *** | *** | *** | *** | *** |
| Internal consumption | *** | *** | *** | *** | *** |
| Transfers | *** | *** | *** | *** | *** |
| Total net sales value | 1,010,778 | 980,611 | 1,184,627 | 288,291 | 341,719 |
| Cost of goods sold: | | | | | |
| Raw material | 500,918 | 518,653 | 629,009 | 152,057 | 186,470 |
| Direct labor | 168,999 | 151,798 | 184,338 | 44,675 | 48,260 |
| Other factory costs | 237,029 | 207,707 | 237,229 | 54,671 | 63,337 |
| Total cost of goods sold | 906,946 | 878,158 | 1,050,576 | 251,403 | 298,067 |
| Gross profit | 103,832 | 102,453 | 134,051 | 36,888 | 43,652 |
| SG&A expenses | 102,358 | 96,213 | 106,011 | 25,784 | 29,582 |
| Operating income | 1,474 | 6,240 | 28,040 | 11,104 | 14,070 |
| Interest expense | 956 | 3,482 | 4,190 | 1,312 | 793 |
| Other expenses | 2,730 | 2,936 | 6,799 | 387 | 1,265 |
| Other income items | 5,636 | 3,712 | (117) | (15) | 67 |
| Net income | 3,424 | 3,534 | 16,934 | 9,390 | 12,079 |
| Depreciation/amortization | 23,799 | 23,447 | 25,021 | 5,690 | 6,755 |
| Estimated cash flow | 27,223 | 26,981 | 41,955 | 15,080 | 18,834 |

Table continued on next page.

**Table VI-1--*Continued***
**Certain OTR tires: Results of operations, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | Ratio to net sales (*percent*) | | | | |
| Raw material | 49.6 | 52.9 | 53.1 | 52.7 | 54.6 |
| Direct labor | 16.7 | 15.5 | 15.6 | 15.5 | 14.1 |
| Other factory costs | 23.5 | 21.2 | 20.0 | 19.0 | 18.5 |
| Cost of goods sold | 89.7 | 89.6 | 88.7 | 87.2 | 87.2 |
| Gross profit | 10.3 | 10.4 | 11.3 | 12.8 | 12.8 |
| SG&A expenses | 10.1 | 9.8 | 8.9 | 8.9 | 8.7 |
| Operating income | 0.1 | 0.6 | 2.4 | 3.9 | 4.1 |
| Net income | 0.3 | 0.4 | 1.4 | 3.3 | 3.5 |
| | Number of producers reporting | | | | |
| Operating losses | 4 | 4 | 2 | 2 | 2 |
| Data | 7 | 7 | 7 | 7 | 7 |

Source: Compiled from data submitted in response to Commission questionnaires.

According to Titan's SEC filings, rubber and steel are the primary raw materials in the production of tires. Other important inputs were identified as carbon black, chemicals, and textile materials.[9] During the period examined, total raw material cost, the largest component of cost of goods sold ("COGS"), increased from 55.2 percent of COGS in 2005 to 62.6 percent in interim 2008. This pattern is generally consistent with public information which indicates that primary input costs increased throughout the period of investigation.[10] In response to higher input costs, U.S. tire producers initiated a series of price increases of varying magnitudes for all tire types.[11] In addition to passing through higher manufacturing costs, the pattern of higher average sales value was also attributed to changes in product mix.[12] As shown in table VI-3, all U.S. producers reported increasing average sales values during the period.

[9] Titan 2007 10-K, p. 6. Titan 2006 10-K, p. 6.

[10] The price of natural rubber, the largest single component of certain OTR tire raw material costs, has increased significantly since 2001 when it averaged 23 cents a pound. In 2008, the price of natural rubber averaged $1.16 per pound which is 19 cents higher compared to the 2007 average. The higher cost of petroleum, the underlying feedstock for synthetic rubbers, has also reportedly helped to fuel the increase in natural rubber prices. NR price hikes continue to plague industry, *Rubber & Plastics News*, March 24, 2008, p. 31.

[11] In general, a public source attributed tire price increases to higher raw material costs. Price hikes--yeah, there were plenty. *Tire Business*, December 17, 2007, p. 21.

[12] According to Titan, ***. Letter from Stewart and Stewart on behalf of Titan, July 12, 2007. Similarly, Goodyear stated that the ***. E-mail from Covington and Burling on behalf of Goodyear, July 20, 2007. BFNA stated that ***. Letter from King and Spalding on behalf of BFNA, July 16, 2007.

In contrast, Denman, Michelin, and Specialty described the ***. Denman stated that ***. E-mail from ***, Denman, July 10, 2007. According to Specialty ***. E-mail from ***, Specialty, July 12, 2007. Michelin stated that with regard to ***. Letter from ***, Michelin, July 19, 2007.

**Table VI-2**
**Certain OTR tires: Results of operations (*per tire* and *per pound*), 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | | | **Unit value (*per tire*)** | | |
| Commercial sales | $*** | $*** | $*** | $*** | $*** |
| Internal consumption | *** | *** | *** | *** | *** |
| Transfers | *** | *** | *** | *** | *** |
| Total net sales | 227 | 254 | 280 | 276 | 295 |
| Cost of goods sold: | | | | | |
| Raw material | 113 | 134 | 149 | 146 | 161 |
| Direct labor | 38 | 39 | 44 | 43 | 42 |
| Other factory costs | 53 | 54 | 56 | 52 | 55 |
| Total cost of goods sold | 204 | 227 | 248 | 241 | 257 |
| Gross profit | 23 | 26 | 32 | 35 | 38 |
| SG&A expenses | 23 | 25 | 25 | 25 | 26 |
| Operating income | 0 | 2 | 7 | 11 | 12 |
| | | | **Unit value (*per pound*)** | | |
| Commercial sales | $*** | $*** | $*** | $*** | $*** |
| Internal consumption | *** | *** | *** | *** | *** |
| Transfers | *** | *** | *** | *** | *** |
| Total net sales | 1.87 | 1.92 | 1.85 | 1.79 | 2.05 |
| Cost of goods sold: | | | | | |
| Raw material | 0.93 | 1.02 | 0.98 | 0.95 | 1.12 |
| Direct labor | 0.31 | 0.30 | 0.29 | 0.28 | 0.29 |
| Other factory costs | 0.44 | 0.41 | 0.37 | 0.34 | 0.38 |
| Total cost of goods sold | 1.68 | 1.72 | 1.64 | 1.56 | 1.79 |
| Gross profit | 0.19 | 0.20 | 0.21 | 0.23 | 0.26 |
| SG&A expenses | 0.19 | 0.19 | 0.17 | 0.16 | 0.18 |
| Operating income or (loss) | 0.00 | 0.01 | 0.04 | 0.07 | 0.08 |

Source: Compiled from data submitted in response to Commission questionnaires.

**Table VI-3**
**Certain OTR tires: Results of operations by firm, 2005-07, January-March 2007, and January-March 2008**

* * * * * * *

Based on responses to a follow-up question, the industry's use of contracts to ensure the supply and/or price of important raw material inputs such as natural rubber appears to be generally limited to short-term contracts.[13] Titan's 2007 10-K, for example, states that long-term contracts for the purchase of rubber, as well as steel, are not customary in the industry.[14]

Direct labor costs as a share of certain OTR tire COGS were the second largest component after raw material cost during the full-year periods, ranging from 16.2 percent of total COGS in interim 2008 to 18.6 percent in 2005. At the staff conference it was noted that the production of certain OTR tires is less automated compared to the production of passenger tires[15] and that direct labor costs generally increase along with the size of the certain OTR tire diameter.[16] Larger certain OTR tires also reportedly reflect smaller production runs and increased manufacturing overhead costs associated with more frequent changeover of equipment.[17]

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[13] According to Carlisle, ***. E-mail with attachment from ***, May 21, 2008.
Goodyear stated that ***. E-mail with attachment from Covington and Burling on behalf of Goodyear, May 23, 2008.
According to Michelin, it ***. E-mail with attachment from ***, Michelin, May 27, 2008.
Titan stated that ***. Letter from Stewart and Stewart on behalf of Titan, May 23, 2008.
***. E-mail with attachment from ***, Denman, May 22, 2008.
According to BFNA, it ***. Letter from King and Spalding on behalf of BFNA, June 5, 2008.

[14] According to Titan, "{a}s is customary in the industry, the Company does not have long-term contracts for the purchase of steel or rubber and, therefore, purchases are subject to price fluctuations." Titan 2007 10-K, p. 6. Titan further states that it ". . . does not generally enter into long-term commodity contracts and does not use derivative commodity instruments to hedge its exposures to commodity market price fluctuations. Therefore, the Company is exposed to price fluctuations of its key commodities, which consist primarily of steel and rubber. The Company attempts to pass on certain material price increases and decreases to its customers, depending on market conditions." Titan 2007 10-K, p. 32.

[15] With respect to certain OTR tire production, a U.S. industry witness at the staff conference stated that ". . . it's extremely difficult to automate completely because of the size changes . . . it's hard to get one machine to do everything, although we've done a very good job of a lot of the semi-automation, and I know that Firestone has as well. There are portions of it that you can get some labor out of, but it's not going to look anything like a passenger plant." Conference transcript, p. 105 (Kramer).

[16] "As the size of the OTR tire increases you generally will go from a single B, to a twin B, to a three B construction or even to a four B construction, all of which creates more processes internal to the plant both in the making bands component, making beads, as well as assembling them, as well as the curing of these tires will be dramatically longer." Conference transcript, pp. 95-96 (Steltman).

[17] Conference transcript, p. 47 (Burchfield), p. 96 (Kramer), and p. 194 (Ganz). While there are company-specific differences in terms of how certain OTR tires are manufactured, these differences are generally not considered fundamental. Conference transcript, pp. 99-100 (Pensler).

As shown in table VI-3, company-specific financial results varied considerably. ***,[18] [19] while ***.[20] ***.[21] ***.[22]

As shown in table VI-3, Titan's ***.[23] [24] ***.[25]

As shown in table VI-3, ***.[26]

As shown in table VI-1, total interest expense increased notably in 2006 and remained at a higher level for the rest of the period. ***.[27] Higher total other expenses in 2007 was ***.[28]

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[18] ***. E-mail from ***, Denman, July 10, 2007. ***. E-mail with attachment from ***, Denman, May 13, 2008.

[19] ***. E-mail from ***, Specialty, May 14, 2008.

***. Ibid.

[20] ***. E-mail with attachment from Covington and Burling on behalf of Goodyear, May 21, 2008.

[21] ***. Letter from King & Spalding on behalf of BFNA, May 15, 2008.

***. Letter from King and Spalding on behalf of BFNA, July 16, 2007.

***. BFNA verification report.

[22] ***. E-mail from Covington and Burling on behalf of Goodyear, June 2, 2008. ***.

[23] With regard to the ***, Titan stated that this pattern was in part ***. Letter from Stewart and Stewart on behalf of Titan, July 12, 2007. The company also noted that ***. Ibid. Notwithstanding the factors specified by Titan regarding the ***, public information *** indicates that Titan's 2006 sales were lower in part due to lower demand in the agriculture market; e.g., ". . . the company {Titan} expects to report its 2006 farm tire business-tire and wheel revenues combined fell at least $75 million from 2005 because of a down agricultural market." Titan boosting capacity for OTR tires of two sites, Tire Business, February 12, 2007, p. 3. The article further noted that, according to a Titan executive, a ". . . combination of reorganizing and a lighter farm market probably left Titan short on its expectation of $720 million to $735 million in corporate sales for 2006." Ibid. In its 2006 Annual Report, Titan noted that "{t}he agriculture tire and wheel market was down 12-13 percent in 2006 with results below the strong level we experienced in 2004 and 2005." Titan 2006 Annual Report, p. 7.

[24] The *** in Titan's *** with favorable demand conditions described in Titan's 2007 10-K. According to the company, "{i}n 2007, Titan experienced strong demand for {its} agricultural and earthmoving/construction products. This strong demand is expected to continue into 2008. The strength in the agricultural market is the result of high commodity prices, which have resulted from the continuing increase in the use of biofuels. High prices for metals, oil and gas have created a large demand for the Company's earthmoving and mining products." Titan 2007 10-K, p. 5. The 12 percent increase in Titan's 1st quarter 2008 overall establishment sales, reportedly a record sales level, compared to 1st quarter 2007 overall establishment sales ". . . was attributed to exceptionally strong demand in the Company's agricultural market." Titan 1st quarter 2008 10-Q, p. 17.

[25] ***. In 2006, the company stated that ". . . realignment costs of approximately $9 million to $11 million lowered the Company's gross profit for the fourth quarter of 2006, as labor costs that are normally dedicated to making products were instead used for retooling, retraining and movement of equipment. These costs resulted in an approximate 2% reduction in the annual {2006} gross profit percentage." Titan 2006 10-K, p. 20. In 2007, the company stated that realignment costs were approximately $22 million and $24 million. Unlike the 2006 10-K, Titan's 2007 10-K did not estimate the impact of realignment costs on annual gross profit margin. Titan 2007 10-K, p. 17.

[26] ***. BFNA verification report.

[27] Letter from King & Spalding on behalf of BFNA, May 15, 2008.

[28] Letter from Stewart and Stewart on behalf of Titan, May 23, 2008.

## OPERATIONS ON NONSUBJECT OTR CONSTRUCTION AND MINING TIRES

Income-and-loss data for producers of nonsubject OTR construction and mining tires are presented in table VI-4 and on an average unit basis in table VI-5. Table VI-6 presents selected company-specific financial information.

The information presented in table VI-4 represents the nonsubject OTR construction and mining tire operations of BFNA, Goodyear, Michelin, and Titan. While nonsubject OTR tires represent a substantially smaller level of total sales volume and revenue compared to certain OTR tires, nonsubject OTR tires generated consistently higher operating income in absolute terms and as a percent of sales throughout the period. In addition to lower overall SG&A expense ratios attributed to nonsubject OTR tires, the difference in financial results between certain OTR tires and nonsubject OTR construction and mining tires is primarily due to higher gross margins generated by nonsubject OTR tires. In addition to higher initial levels of gross profitability, overall gross margins on nonsubject OTR construction and mining tires widened considerably during the period: from 20.3 percent in 2005 to 39.7 percent in interim 2008. In contrast, gross margins on subject OTR only increased modestly from 10.3 percent in 2005 to 12.8 percent in interim 2008. Similar to the pattern reported for certain OTR tires, U.S. producers generally indicated that higher average sales values for nonsubject OTR tires were due to shifts in product mix to larger-size tires, as well as increases in underlying prices.[29]

As shown in table VI-6, company-specific results on nonsubject OTR mining and construction tires varied somewhat during the period. Similar to the pattern of financial results for its operations on certain OTR tires, ***. ***.[30] In absolute terms, *** than those of the other companies. *** nonsubject OTR construction and mining tires activity, unlike the other U.S. producers, was also *** compared to its corresponding certain OTR tires operations.[31]

**Table VI-4**
**Nonsubject OTR construction and mining tires: Results of operations, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | | | Quantity (*1,000 tires*) | | |
| Commercial sales | *** | *** | *** | *** | *** |
| Transfers | *** | *** | *** | *** | *** |
| Total net sales quantity | 23 | 25 | 26 | 7 | 7 |
| | | | Quantity (*1,000 pounds*) | | |
| Commercial sales | *** | *** | *** | *** | *** |
| Transfers | *** | *** | *** | *** | *** |
| Total net sales quantity | 137,895 | 156,322 | 169,847 | 43,151 | 51,458 |

Table continued on next page.

[29] Letter from Stewart and Stewart on behalf of Titan, May 23, 2008. E-mail with attachment from Covington & Burling, May 23, 2008. E-mail with attachment from ***, Michelin, May 27, 2008.

BFNA also stated that ***. Letter from King and Spalding on behalf of BFNA, June 5, 2008.

[30] ***. Titan verification report.

[31] ***. Staff telephone interview with ***, June 20, 2008.

**Table VI-4--*Continued***
**Nonsubject OTR construction and mining tires: Results of operations, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | | | **Value (*$1,000*)** | | |
| Commercial sales | *** | *** | *** | *** | *** |
| Transfers | *** | *** | *** | *** | *** |
| Total net sales value | 242,135 | 340,647 | 440,178 | 105,091 | 149,597 |
| Cost of goods sold: | | | | | |
| Raw material | 90,173 | 125,005 | 131,804 | 34,577 | 45,119 |
| Direct labor | 43,394 | 57,925 | 58,957 | 15,136 | 20,117 |
| Other factory costs | 59,466 | 75,920 | 73,783 | 17,820 | 25,036 |
| Total cost of goods sold | 193,033 | 258,849 | 264,545 | 67,532 | 90,272 |
| Gross profit | 49,102 | 81,798 | 175,634 | 37,559 | 59,325 |
| SG&A expenses | 11,933 | 18,060 | 22,343 | 5,153 | 6,552 |
| Operating income | 37,169 | 63,738 | 153,291 | 32,406 | 52,773 |
| Interest expense | 1,080 | 3,529 | 3,503 | 1,052 | 988 |
| Other expenses | 0 | 392 | 1,231 | 154 | 664 |
| Other income items | 28 | 738 | 1,578 | 0 | 2 |
| Net income | 36,118 | 60,555 | 150,135 | 31,201 | 51,123 |
| Depreciation/amortization | 23,308 | 24,183 | 25,072 | 6,001 | 7,285 |
| Estimated cash flow | 59,426 | 84,738 | 175,207 | 37,202 | 58,408 |
| | | | **Ratio to net sales (*percent*)** | | |
| Raw material | 37.2 | 36.7 | 29.9 | 32.9 | 30.2 |
| Direct labor | 17.9 | 17.0 | 13.4 | 14.4 | 13.4 |
| Other factory costs | 24.6 | 22.3 | 16.8 | 17.0 | 16.7 |
| Cost of goods sold | 79.7 | 76.0 | 60.1 | 64.3 | 60.3 |
| Gross profit | 20.3 | 24.0 | 39.9 | 35.7 | 39.7 |
| SG&A expenses | 4.9 | 5.3 | 5.1 | 4.9 | 4.4 |
| Operating income | 15.4 | 18.7 | 34.8 | 30.8 | 35.3 |
| Net income | 14.9 | 17.8 | 34.1 | 29.7 | 34.2 |
| | | | **Number of producers reporting** | | |
| Operating losses | 1 | 1 | 0 | 0 | 0 |
| Data | 4 | 4 | 4 | 4 | 4 |

Source: Compiled from data submitted in response to Commission questionnaires.

**Table VI-5**
**Nonsubject OTR construction and mining tires: Results of operations (*per tire*), 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | | | **Unit value (*per tire*)** | | |
| Commercial sales | $*** | $*** | $*** | $*** | 4*** |
| Transfers | *** | *** | *** | *** | *** |
| Total net sales | 10,731 | 13,759 | 17,241 | 15,384 | 20,188 |
| Cost of goods sold: | | | | | |
| Raw material | 3,996 | 5,049 | 5,163 | 5,062 | 6,089 |
| Direct labor | 1,923 | 2,340 | 2,309 | 2,216 | 2,715 |
| Other factory costs | 2,635 | 3,066 | 2,890 | 2,609 | 3,379 |
| Total cost of goods sold | 8,555 | 10,455 | 10,362 | 9,886 | 12,182 |
| Gross profit | 2,176 | 3,304 | 6,879 | 5,498 | 8,006 |
| SG&A expenses | 529 | 729 | 875 | 754 | 884 |
| Operating income | 1,647 | 2,574 | 6,004 | 4,744 | 7,122 |
| | | | **Unit value (*per pound*)** | | |
| Commercial sales | $*** | $*** | $*** | $*** | $*** |
| Transfers | *** | *** | *** | *** | *** |
| Total net sales | 1.76 | 2.18 | 2.59 | 2.44 | 2.91 |
| Cost of goods sold: | | | | | |
| Raw material | 0.65 | 0.80 | 0.78 | 0.80 | 0.88 |
| Direct labor | 0.31 | 0.37 | 0.35 | 0.35 | 0.39 |
| Other factory costs | 0.43 | 0.49 | 0.43 | 0.41 | 0.49 |
| Total cost of goods sold | 1.40 | 1.66 | 1.56 | 1.57 | 1.75 |
| Gross profit | 0.36 | 0.52 | 1.03 | 0.87 | 1.15 |
| SG&A expenses | 0.09 | 0.12 | 0.13 | 0.12 | 0.13 |
| Operating income | 0.27 | 0.41 | 0.90 | 0.75 | 1.03 |

Source: Compiled from data submitted in response to Commission questionnaires.

**Table VI-6**
**Nonsubject OTR construction and mining tires: Results of operations by firm, 2005-07, January-March 2007, and January-March 2008**

* * * * * * *

## COMBINED OPERATIONS ON CERTAIN OTR TIRES AND NONSUBJECT OTR CONSTRUCTION AND MINING TIRES

The following information presents the combined financial results of subject and nonsubject OTR tires. Income-and-loss data for the producers of certain OTR tires are presented in table VI-7. Table VI-8 presents selected company-specific financial information. Given the large differences in valuation between certain OTR tires and nonsubject OTR construction and mining tires, combined average unit values are not presented.

**Table VI-7**
**Certain OTR tires and nonsubject OTR construction and mining tires: Results of operations, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | Quantity (*1,000 tires*) | | | | |
| Commercial sales | *** | *** | *** | *** | *** |
| Internal consumption | *** | *** | *** | *** | *** |
| Transfers | *** | *** | *** | *** | *** |
| Total net sales quantity | 4,475 | 3,892 | 4,261 | 1,050 | 1,167 |
| | Quantity (*1,000 pounds*) | | | | |
| Commercial sales | *** | *** | *** | *** | *** |
| Internal consumption | *** | *** | *** | *** | *** |
| Transfers | *** | *** | *** | *** | *** |
| Total net sales quantity | 677,484 | 666,088 | 808,827 | 203,884 | 218,287 |

Table continued on next page.

**Table VI-7--*Continued***
**Certain OTR tires and nonsubject OTR construction and mining tires: Results of operations, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| | | | **Value (*$1,000*)** | | |
| Commercial sales | *** | *** | *** | *** | *** |
| Internal consumption | *** | *** | *** | *** | *** |
| Transfers | *** | *** | *** | *** | *** |
| Total net sales quantity | 1,252,913 | 1,321,258 | 1,624,805 | 393,382 | 491,316 |
| Cost of goods sold: | | | | | |
| Raw material | 591,091 | 643,658 | 760,813 | 186,634 | 231,589 |
| Direct labor | 212,393 | 209,723 | 243,295 | 59,811 | 68,377 |
| Other factory costs | 296,495 | 283,627 | 311,012 | 72,491 | 88,373 |
| Total cost of goods sold | 1,099,979 | 1,137,007 | 1,315,121 | 318,935 | 388,339 |
| Gross profit | 152,934 | 184,251 | 309,685 | 74,447 | 102,977 |
| SG&A expenses | 114,291 | 114,273 | 128,354 | 30,937 | 36,134 |
| Operating income | 38,643 | 69,978 | 181,331 | 43,510 | 66,843 |
| Interest expense | 2,036 | 7,011 | 7,693 | 2,364 | 1,781 |
| Other expenses | 2,730 | 3,328 | 8,030 | 541 | 1,929 |
| Other income items | 5,664 | 4,450 | 1,461 | (15) | 69 |
| Net income | 39,542 | 64,089 | 167,069 | 40,591 | 63,202 |
| Depreciation/amortization | 47,107 | 47,630 | 50,093 | 11,691 | 14,040 |
| Estimated cash flow | 86,649 | 111,719 | 217,162 | 52,282 | 77,242 |
| | | | **Ratio to net sales (*percent*)** | | |
| Raw material | 47.2 | 48.7 | 46.8 | 47.4 | 47.1 |
| Direct labor | 17.0 | 15.9 | 15.0 | 15.2 | 13.9 |
| Other factory costs | 23.7 | 21.5 | 19.1 | 18.4 | 18.0 |
| Cost of goods sold | 87.8 | 86.1 | 80.9 | 81.1 | 79.0 |
| Gross profit | 12.2 | 13.9 | 19.1 | 18.9 | 21.0 |
| SG&A expenses | 9.1 | 8.6 | 7.9 | 7.9 | 7.4 |
| Operating income | 3.1 | 5.3 | 11.2 | 11.1 | 13.6 |
| Net income | 3.2 | 4.9 | 10.3 | 10.3 | 12.9 |
| | | | **Number of producers reporting** | | |
| Operating losses | 4 | 3 | 2 | 2 | 2 |
| Data | 7 | 7 | 7 | 7 | 7 |

Source: Compiled from data submitted in response to Commission questionnaires.

**Table VI-8**
**Certain OTR tires and nonsubject OTR construction and mining tires: Results of operations by firm, 2005-07, January-March 2007, and January-March 2008**

* * * * * * *

## CAPITAL EXPENDITURES, RESEARCH AND DEVELOPMENT EXPENSES, ASSETS, AND RETURN ON INVESTMENT

Data on capital expenditures, research and development ("R&D") expenses, acquisition expenditures, assets, and return on investment for certain OTR tires, nonsubject OTR construction and mining tires, and combined certain OTR tires and nonsubject OTR construction and mining tires are presented in table VI-9, table VI-10, and table VI-11, respectively.

*** both reported notable increases in nonsubject OTR construction and mining tire capital expenditures,[32] [33] while the majority of *** capital expenditures were attributed to certain OTR tires.[34]

***. As noted previously, Titan's acquisition of Continental and Goodyear OTR assets are reflected in the financial information reported to the Commission as if Titan owned these assets throughout the period.

**Table VI-9**
**Certain OTR tires: Capital expenditures, acquisition expenditures, R&D expenses, assets, and return on investment, by firms, 2005-07, January-March 2007, and January-March 2008**

* * * * * * *

**Table VI-10**
**Nonsubject OTR construction and mining tires: Capital expenditures, acquisition expenditures, R&D expenses, assets, and return on investment, by firms, 2005-07, January-March 2007, and January-March 2008**

* * * * * * *

[32] According to ***. E-mail with attachment from ***, Michelin, May 27, 2008.

[33] ***, Titan stated in its 2007 10-K that "{i}n 2008, Titan plans to enter the giant off-the-road (OTR) tire market, which will include 57-inch and 63-inch giant radial tires, the largest tires in the world. To enter the giant OTR tire market, the Company is investing in a large capital expansion project at its Bryan, Ohio, location. The Company has also worked on adding OTR tire capacity through a production realignment of aligning synergies through retooling, retraining personnel and redistribution of equipment." Titan 2007 10-K, p. 3. ***. E-mail from ***, Titan, May 13, 2008.

[34] ***. E-mail with attachment from ***, Denman, May 13, 2008. ***. E-mail from ***, Specialty, May 14, 2008.

**Table VI-11**
**Combined certain OTR tires and nonsubject OTR construction and mining tires: Capital expenditures, acquisition expenditures, R&D expenses, assets, and return on investment, by firms, 2005-07, January-March 2007, and January-March 2008**

* * * * * * *

## CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or anticipated negative effects of imports of certain OTR tires from China on their firms' growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product).

### Actual Negative Effects

| | |
|---|---|
| BFNA | ***. |
| Carlisle | ***. |
| Denman | ***. |
| Goodyear | ***. |
| Michelin | ***. |
| Specialty | ***. |
| Titan | ***. |

### Anticipated Negative Effects

| | |
|---|---|
| BFNA | ***. |
| Carlisle | ***. |
| Denman | ***. |
| Goodyear | ***. |
| Michelin | ***. |
| Specialty | ***. |
| Titan | ***. |

# PART VII: THREAT AND *BRATSK* CONSIDERATIONS

Section 771(7)(F)(I) of the Act (19 U.S.C. § 1677(7)(F)(I)) provides that–

*In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors*[1]*--*

*(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,*

*(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,*

*(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,*

*(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,*

*(V) inventories of the subject merchandise,*

*(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,*

*(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw*

[1] Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that "The Commission shall consider [these factors] . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition."

*agricultural product or the processed agricultural product (but not both),*

*(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and*

*(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).*[2]

Information on the nature of the subsidies is presented in Part I. Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

## THE INDUSTRY IN CHINA

The petition in these investigations identified approximately 100 producers and/or exporters of certain OTR tires in China.[3] The Commission sent foreign producer questionnaires to 95 firms, and received 19 foreign producer questionnaire responses.[4] [5] Table VII-1 presents the responding subject producers in China, and quantities and shares of reported 2007 capacity and production. *** is the largest producer followed by ***.

**Table VII-1**
**Certain OTR tires: Chinese producers' reported capacity, production, shares of reported capacity and production, and estimated shares of total production in China, 2007**.

* * * * * * *

[2] Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

[3] Petition, exh. 4.

[4] One firm, ***, reported that it did not produce the subject merchandise.

[5] Counsel for the Chinese respondents assert that the foreign producer questionnaire data for the responding firms "account for the substantial majority of subject OTR tires exported from China to the United Statess" based on surveys of the Chinese Rubber Industry Association. Chinese respondents posthearing brief, p. 7. Counsel for BFNA argue that the foreign producer questionnaire data submitted to the Commission significantly understates the size of the Chinese OTR industry, citing Chinese producers identified in U.S. importer questionnaires, Chinese producers that were separate rate applicants at Commerce, and Chinese producers identified on the web. BFNA's posthearing brief, p. 7, and exh. 23A and 23B. BFNA reported that industry data published in China suggest that responding Chinese producers of certain OTR tires account for half of Chinese production of certain OTR tires in 2006. BFNA's posthearing brief, p. 48.

Table VII-2 presents data on the shares of 2007 reported exports to the United States for each respondent and their estimated shares of total exports to the United States from China in 2007. *** is the largest exporter of certain OTR tires to the United States, followed by ***.

**Table VII-2**
**Certain OTR tires: Chinese producers' production, shares of reported production, and shares of reported exports to the United States, 2007**

* * * * * * *

Table VII-3 presents information on Chinese producers' certain OTR tires operations as compiled from responses to the Commission's questionnaire. Chinese capacity grew throughout the period of investigation, and is projected to increase in 2008 and 2009.[6] [7] Production increased from 2005 to 2007, fell slightly in January-March 2008, but is projected to increase in 2008 and 2009. Capacity utilization rates registered approximately 90 percent throughout the period.[8]

Home market sales accounted for approximately 63-64 percent of total shipments of certain OTR tires during the period of investigation, and are projected to increase by an additional 3 to 5 percentage points in 2008 and 2009. Exports as a share of total shipments decreased slightly from 2005 to 2007 and are projected to decrease further in 2008 and 2009.[9] Exports to third-country markets as a share of total shipments increased slightly from 20.8 percent to 21.2 percent from 2005 to 2007, and are projected to increase to 23.8 percent of total exports in 2009.[10]

In addition to certain OTR tires, a small number of Chinese producers produce nonsubject OTR tires and truck tires on the same equipment and machinery used to produce certain OTR tires. Of the 19 Chinese producers that submitted questionnaire responses, all but three producers reported devoting production exclusively to certain OTR tires. Table VII-4 presents Chinese producers' share of subject and nonsubject tire production using the same equipment and machinery.

[6] Several firms recently began production of certain OTR tires: ***.

[7] Several firms reported expansions: ***.

[8] ***.

[9] Respondents report certain factors that will discourage Chinese producers and exporters from maintaining and/or increasing their exports of certain OTR tires to the United States: the Chinese renminbi has appreciated by approximately 20 percent against the U.S. dollar since July 2005; the July 1, 2007, VAT rebate reduction on subject products from 13 percent to 5 percent; the recent rise in ocean transportation costs, increases in global competition, and the reduction of the export tax rebates for rubber products. Chinese respondents' postchearing brief, Answers to the Commission's Questions, p. 4, and pp. 24-25. Hearing transcript, pp. 362-363 (Reilly), and p. 444 (Murphy). GPX posthearing brief, p. 13.

[10] Counsel for respondents argued that the Chinese producers are focused on the home market and exports to third countries. Chinese respondents' posthearing brief, Answers to the Commission's Questions, p. 23. Other export markets reported by Chinese producers include: Australia, Brazil, Canada, Chile, Egypt, European Union, India, Indonesia, Liberia, Malaysia, Mexico, Morocco, New Zealand, Russia, South Africa, Turkey, United Arab Emirates, and Yemen.

**Table VII-3**
**Certain OTR tires: Chinese producers' operations, 2005-07, January-March 2007, and January-March 2008 and projected 2008-09**

| Item | Actual experience | | | January-March | | Projections | |
|---|---|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 | 2008 | 2009 |
| | | | | **Quantity (*1,000 tires*)** | | | |
| Capacity | 6,089 | 7,385 | 8,572 | 2,008 | 2,104 | 8,715 | 9,030 |
| Production | 5,823 | 6,716 | 7,922 | 1,798 | 1,729 | 8,031 | 8,296 |
| End-of-period inventories | 397 | 460 | 553 | 385 | 442 | 470 | 444 |
| Shipments: | | | | | | | |
| Internal consumption | 3 | 2 | 2 | 1 | 0 | 2 | 2 |
| Home market | 3,736 | 4,239 | 5,007 | 1,233 | 1,240 | 5,364 | 5,743 |
| Exports to-- | | | | | | | |
| The United States | 957 | 1,075 | 1,154 | 279 | 198 | 760 | 613 |
| All other markets | 1,230 | 1,346 | 1,658 | 329 | 404 | 1,897 | 1,990 |
| Total exports | 2,188 | 2,421 | 2,812 | 607 | 601 | 2,657 | 2,603 |
| Total shipments | 5,926 | 6,662 | 7,821 | 1,841 | 1,842 | 8,023 | 8,347 |
| | | | | **Ratios and shares (*percent*), except as noted** | | | |
| Capacity utilization | 95.6 | 90.9 | 92.4 | 89.5 | 82.2 | 92.1 | 91.9 |
| Average production weight (pounds per tire) | 112.5 | 116.9 | 118.8 | 124.3 | 133.0 | 130.2 | 145.9 |
| Ratio inventories to production | 6.8 | 6.8 | 7.0 | 5.4 | 6.4 | 5.9 | 5.3 |
| Ratio inventories to shipments | 6.7 | 6.9 | 7.1 | 5.2 | 6.0 | 5.9 | 5.3 |
| Share of shipments: | | | | | | | |
| Internal consumption | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Home market | 63.0 | 63.6 | 64.0 | 67.0 | 67.3 | 66.9 | 68.8 |
| Exports to-- | | | | | | | |
| The United States | 16.2 | 16.1 | 14.8 | 15.1 | 10.7 | 9.5 | 7.3 |
| All other markets | 20.8 | 20.2 | 21.2 | 17.9 | 21.9 | 23.6 | 23.8 |
| Total exports | 36.9 | 36.3 | 36.0 | 33.0 | 32.6 | 33.1 | 31.2 |
| | | | | **Value (*1,000 dollars*)** | | | |
| Shipments: | | | | | | | |
| Internal consumption | 1,160 | 1,044 | 1,102 | 167 | 220 | 694 | 548 |
| Home market | 361,899 | 453,137 | 597,880 | 147,955 | 177,913 | 718,759 | 855,515 |
| Exports to-- | | | | | | | |
| The United States | 94,958 | 137,745 | 149,144 | 40,410 | 25,145 | 117,079 | 123,447 |
| All other markets | 126,807 | 201,493 | 344,267 | 57,375 | 108,155 | 493,085 | 597,082 |
| Total exports | 221,764 | 339,238 | 493,411 | 97,784 | 133,300 | 610,164 | 720,529 |
| Total shipments | 584,823 | 793,419 | 1,092,393 | 245,907 | 311,434 | 1,329,617 | 1,576,592 |
| | | | | **Unit value (*dollars per tire*)** | | | |
| Shipments: | | | | | | | |
| Internal consumption | 438.53 | 537.10 | 540.06 | 281.14 | 484.73 | 308.17 | 294.15 |
| Home market | 96.86 | 106.91 | 119.42 | 119.98 | 143.45 | 134.00 | 148.98 |
| Exports to-- | | | | | | | |
| The United States | 99.19 | 128.08 | 129.23 | 145.00 | 127.29 | 154.09 | 201.33 |
| All other markets | 103.08 | 149.74 | 207.63 | 174.53 | 267.93 | 259.93 | 300.08 |
| Total exports | 101.38 | 140.12 | 175.46 | 160.98 | 221.72 | 229.66 | 276.81 |
| Total shipments | 98.68 | 119.10 | 139.68 | 133.56 | 169.08 | 165.73 | 188.87 |

Source: Compiled from data submitted in response to Commission questionnaires.

**Table VII-4**
**Tires: Shares of Chinese production of tires using the same equipment and machinery, 2007**

* * * * * * *

## U.S. IMPORTERS' INVENTORIES

Data collected in these investigations on U.S. importers' end-of-period inventories of certain OTR tires are presented table VII-5. U.S. importers' reported inventories of certain OTR tires from China increased by 122.8 percent from 2005 to 2007, and increased by 83.3 percent in January-March 2008 compared with January-March 2007. These inventories from China, as a share of imports, rose from 11.8 percent in 2005 to 15.4 percent in 2007, and rose from 10.2 percent in January-March 2007 to 25.7 percent in January-March 2008. U.S. importers' reported inventories of certain OTR tires from other sources decreased by 34.0 percent from 2005 to 2007, and decreased by 24.8 percent in January-March 2008 compared with January-March 2007. These inventories from other sources, as a share of imports, fell from 26.1 percent in 2005 to 16.1 percent in 2007, and fell from 18.1 percent in January-March 2007 to 11.8 percent in January-March 2008.

**Table VII-5**
**Certain OTR tires: U.S. importers' end-of-period inventories of imports, by source, 2005-07, January-March 2007, and January-March 2008**

| Item | Calendar year | | | January-March | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2007 | 2008 |
| China: | | | | | |
| Inventories (*1,000 tires*) | 97 | 142 | 217 | 133 | 243 |
| Ratio of inventories to imports (*percent*) | 11.8 | 13.2 | 15.4 | 10.2 | 25.7 |
| Ratio to U.S. shipments of imports (*percent*) | 11.4 | 14.1 | 16.7 | 9.5 | 24.9 |
| Nonsubject sources: | | | | | |
| Inventories (*1,000 tires*) | 284 | 243 | 187 | 223 | 168 |
| Ratio of inventories to imports (*percent*) | 26.1 | 20.5 | 16.1 | 18.1 | 11.8 |
| Ratio to U.S. shipments of imports (*percent*) | 26.8 | 20.8 | 16.5 | 18.3 | 12.2 |
| All sources: | | | | | |
| Inventories (*1,000 tires*) | 381 | 385 | 404 | 356 | 411 |
| Ratio of inventories to imports (*percent*) | 19.9 | 17.0 | 15.7 | 14.1 | 17.3 |
| Ratio to U.S. shipments of imports (*percent*) | 19.9 | 17.7 | 16.6 | 13.6 | 17.5 |

Source: Compiled from data submitted in response to Commission questionnaires.

## U.S. IMPORTERS' CURRENT ORDERS

Thirteen U.S. importers reported that they had placed orders for certain OTR tires from China for delivery into the United States after March 31, 2008. Table VII-6 presents U.S. importers' orders for the April 2008-March 2009 period of certain OTR tires from China.

**Table VII-6**
**Certain OTR tires: U.S. importers' orders after March 31, 2008**

* * * * * * *

## ANTIDUMPING AND COUNTERVAILING DUTY ORDERS IN THIRD-COUNTRY MARKETS

Based on questionnaire responses of U.S. producers, U.S. importers, and Chinese producers, no known antidumping or countervailing duties on subject OTR tires exist in third-country markets.[11]

## INFORMATION ON NONSUBJECT SOURCES

### "Bratsk" Considerations

As a result of the Court of Appeals for the Federal Circuit ("CAFC") decision in *Bratsk Aluminum Smelter v. United States* ("Bratsk"), the Commission is directed to:[12] [13]

> *undertake an "additional causation inquiry" whenever certain triggering factors are met: "whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market." The additional inquiry required by the Court, which we refer to as the Bratsk replacement/benefit test, is "whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers.*

All parties agreed during the preliminary phase of these investigations that the Bratsk considerations do not apply to certain OTR tires because such tires are not commodity products and the Commission determined not to apply Bratsk.[14] [15]

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[11] One firm, ***, reported that Argentina, Turkey, and South Africa all have antidumping duties on tires from China, but it is unclear at this time as to whether the tires involved are certain OTR tires. In Argentina, antidumping duties on imports of tires from China, Indonesia, and Thailand were imposed on March 21, 2003 and antidumping duties on imports of tires from Brazil were imposed on June 14, 2005. In South Africa, provisional antidumping duties on imports of tires from China were imposed on October 20, 2006. In Turkey, antidumping duties on imports of new rubber pneumatic tires from China were imposed on August 20, 2005. *** importer questionnaire response, section I-10.

[12] *Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand),* USITC Publication 3910, March 2007, p. 2; citing *Bratsk Aluminum Smelter v. United States*, 444 F.3d at 1375.

[13] In the silicon metal remand, Chairman Pearson noted "consistent with his views in *Lined Paper School Supplies From China, India, and Indonesia, Inv. Nos. 701-TA-442-443 and 731-TA-1095-1097 (Final)*, USITC Pub. 3884 (Sept. 2006) at 51, that while he agrees with the Commission that the Federal Circuit's opinion suggests a replacement/benefit test, he also finds that the Federal Circuit's opinion could be read, not as requiring a new test, but rather as a reminder that the Commission, before it makes an affirmative determination, must satisfy itself that it has not attributed material injury to factors other than subject imports." *Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand),* USITC Publication 3910, March 2007, p. 2, fn. 17. Commissioner Okun joined in those separate and dissenting views in *Lined Paper*.

[14] *Certain Off-the-Road Tires From China, Inv. Nos. 701-TA-448 and 731-TA-1117 (Preliminary),* USITC Pub. 3943 (Aug. 2007), p. 15, fn. 97. The Commission invited any party to indicate a contrary view during the final phase of the investigations and none did.

[15] Tires are not a commodity but are "highly engineered technical goods designed to meet a myriad of applications and uses." Hearing transcript, p. 264 (Ganz).

## The Global Tire Industry

The tire industry is multinational in nature; therefore, production plants are situated in virtually every geographic region, particularly in North America, Europe, Japan, other Asian countries, Oceania, Latin America, the Middle East, and Africa.[16] Strategic supplies of natural rubber integral to the production of certain OTR tires are situated near the equator in many of the Asian countries, including Malaysia, Indonesia, Thailand, India, China, and Sri Lanka; there is also significant production in Brazil, and several West African countries.[17] Tire plants of one form or another are also found in all of these countries. Large global tire plants in many regions of the world have the capability to produce a variety of tires, including passenger car, truck and bus, and certain OTR tires, variably dependent upon logistics, demand, and affiliation.

Based on 2006 new tire sales of all types, Bridgestone is the largest tire manufacturer in the world, followed by Michelin and Goodyear. Among them, they accounted for $56 billion, or about 67 percent of the aggregate $84 billion total of new tire sales by the top 10 global leaders.

[16] Retrieved from www.rubbernews.com on July 27, 2007.
[17] International Rubber Study Group, Wembley, U.K., 2007.

# APPENDIX A

# *FEDERAL REGISTER* NOTICES

5204 as soon as possible. In order to allow sufficient time to process requests, please call Mr. Hubbard no later than one week before the meeting. Information regarding this project is available in alternative formats upon request.

Dated: February 13, 2008.

**John F. Davis,**

*Deputy Regional Director, Mid-Pacific Region.*

[FR Doc. 08–912 Filed 2–29–08; 8:45 am]

**BILLING CODE 4310–MN–M**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–448 and 731–TA–1117 (Final)]**

### Certain Off-the-Road Tires From China

**AGENCY:** United States International Trade Commission.

**ACTION:** Scheduling of the final phase of countervailing duty and antidumping investigations.

**SUMMARY:** The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–448 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigation No. 731–TA–1117 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and less-than-fair-value imports from China of certain off-the-road tires, provided for in subheading 4011.20.10, 4011.20.50, 4011.61.00, 4011.62.00, 4011.63.00, 4011.69.00, 4011.92.00, 4011.93.40, 4011.93.80, 4011.94.40, and 4011.94.80 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

**EFFECTIVE DATE:** February 20, 2008.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.*—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of certain off-the-road tires, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on June 18, 2007, by Titan Tire Corporation (Des Moines, IA) and The United Steelworkers (Pittsburgh, PA)

*Participation in the investigations and public service list.*—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Staff report.*—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on June 18, 2008, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

*Hearing.*—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on July 2, 2008, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 25, 2008. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 30, 2008, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

*Written submissions.*—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is June 25, 2008. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as new pneumatic tires designed for off-the-road (''OTR'') and off-highway use, subject to exceptions identified in Commerce's Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination (73 FR 9278, February 20, 2008). 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 are used in hauling, towing, lifting, and/or loading a wide variety of equipment and materials in agricultural, construction and industrial settings.

Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 10, 2008; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before July 10, 2008. On July 31, 2008, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 4, 2008, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: February 27, 2008.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E8–3991 Filed 2–29–08; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–602]**

### In the Matter of Certain GPS Devices and Products Containing Same; Notice of Commission Determination Not To Review an Initial Determination Granting Complainant's Motion To Amend the Complaint and Notice of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 16) issued by the presiding administrative law judge (''ALJ'') granting complainant's motion to amend the complaint and notice of investigation.

**FOR FURTHER INFORMATION CONTACT:** Michelle Walters, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on May 7, 2007, based on a complaint filed by Global Locate, Inc. (''Global Locate''). 72 FR 25777 (May 7, 2007). The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain GPS devices and products containing the same by reason of infringement of claims 1 and 17 of United States Patent No. 6,417,801 (''the '801 patent''); claims 1, 3–5, 8–17, 19–21, and 23 of United States Patent No. 6,606,346 (''the '346 patent''); and various other claims of United States Patent Nos. 6,651,000, 6,704,651, 6,937,187, and 7,158,080. The complaint names five respondents: SiRF Technology, Inc.; Pharos Science & Applications, Inc.; MiTAC International Corp.; Mio Technology Ltd., USA; and E–TEN Information Systems Co., Ltd. (collectively, ''respondents'').

On December 17, 2007, Global Locate moved to amend the complaint and notice of investigation by terminating the investigation with regard to claims 1, 3, 8, 9, 10, and 23 of the '346 patent and by adding claims 2, 6, 11, 14, 18, and 19 of the '801 patent. Global Locate also sought to add Broadcom Corporation (''Broadcom'') as a complainant, because Broadcom recently acquired Global Locate. Respondents did not oppose termination of the investigation as to the claims of the '346 patent, but did oppose the addition of the claims of the '801 patent and the addition of Broadcom to the investigation. The Commission investigative attorney supported Global Locate's motion.

On February 5, 2008, the ALJ granted Global Locate's motion, finding that, pursuant to Commission Rule 210.14(b)(1) (19 CFR **210.14(b)(1)), there was good cause to amend the complaint and notice of investigation. No petitions for review of this ID were filed.

The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

By order of the Commission.

Issued: February 25, 2008.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E8–3979 Filed 2–29–08; 8:45 am]

**BILLING CODE 7020–02–P**

Public Law 108–430 was passed by Congress and signed by the President in December 2004. This Act expanded Petrified Forest National Park boundaries by approximately 125,000 acres, and directed the NPS to prepare a management plan for the new park lands within three years. Planning for the new lands is the focus of this GMP amendment and associated EIS.

The GMP amendment will establish the overall direction for park addition lands, setting broad management goals for the area for the next 15 to 20 years. Among the topics that will be addressed are protection of natural and cultural resources, protection of riparian resources, appropriate range of visitor uses, impacts of visitor uses, adequacy of park infrastructure, visitor access to the park additions area, education and interpretive efforts, and external pressures on the park. Management zones that were established in the current GMP will be applied to addition lands. These zones outline the kinds of resource management activities, visitor activities, and developments that would be appropriate in the addition lands.

A range of reasonable alternatives for managing the park, including a no-action alternative and a preferred alternative, will be developed through the planning process and included in the EIS. The EIS will evaluate the potential environmental impacts of the alternatives.

As the first phase of the planning and EIS process, the National Park Service is beginning to scope the issues to be addressed in the GMP amendment. All interested persons, organizations, and agencies are encouraged to submit comments and suggestions regarding the issues or concerns the GMP amendment should address, including a suitable range of alternatives and appropriate mitigating measures, and the nature and extent of potential environmental impacts.

**DATES:** Written comments on the scope of the GMP amendment/EIS will be accepted for 60 days beyond the publication of this Notice of Intent. In addition, a public scoping session will be held in Holbrook, Arizona in the Spring of 2008. The location, date, and time of this meeting will be provided in local and regional newspapers, and on the Internet at *http://parkplanning/nps.gov/pefo*.

**ADDRESSES:** Written comments or requests to be added to the project mailing list should be directed to: Cliff Spencer, Superintendent, Petrified Forest National Park, P.O. Box 2217, Petrified Forest, AZ 86028; telephone (928) 524–6228; e-mail: *http://parkplanning/nps.gov/pefo*.

**FOR FURTHER INFORMATION CONTACT:** Contact Cliff Spencer, Superintendent, Petrified Forest National Park, P.O. Box 2217, Petrified Forest, AZ 86028; telephone (928) 524–6228. General information about Petrified Forest National Park is available on the Internet at *http://www.nps.gov/pefo*.

**SUPPLEMENTARY INFORMATION:** Please submit Internet comments as a text file, avoiding the use of special characters and any form of encryption. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: March 21, 2008.

**Michael D. Snyder,**

*Regional Director, Intermountain Region, National Park Service.*

[FR Doc. E8–7409 Filed 4–8–08; 8:45 am]

**BILLING CODE 4310–7V–M**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–448 and 731–TA–1117 (Final)]**

### Certain Off-the-Road Tires From China

**AGENCY:** United States International Trade Commission.

**ACTION:** Revised schedule for the subject investigations.

**DATES:** *Effective Date:* April 3, 2008.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

**SUPPLEMENTARY INFORMATION:** Effective February 20, 2008, the Commission established a schedule for the conduct of the final phase of the subject investigations (73 FR 11437, March 3, 2008). One party to these investigations has identified a substantial conflict with respect to its ability to participate in the hearing. Accordingly, at the request of that party and after consideration of the positions of the other parties to the investigations, the Commission is revising its schedule.

The Commission's new schedule for the investigations is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than June 27, 2008; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on July 3, 2008; the prehearing staff report will be placed in the nonpublic record on June 20, 2008; the deadline for filing prehearing briefs is June 27, 2008; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on July 8, 2008; the deadline for filing posthearing briefs is July 15, 2008; the Commission will make its final release of information on August 5, 2008; and final party comments are due on August 7, 2008.

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Dated: April 3, 2008.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E8–7426 Filed 4–8–08; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Freeway Land Co.,* Civ. No. 07–1819–JO (D. Or.) was lodged with the United States District Court for the District of Oregon on March 27, 2008.

This proposed Consent Decree concerns a complaint filed by the

**ADDRESSES:** Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW177016): Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003; and, Bureau of Land Management, Casper Field Office, 2987 Prospector Drive, Casper, WY 82604. The written notice should be sent to the following addresses: Kiewit Mining Properties Inc., Attn: Greg Todd, Project Engineer, Buckskin Mining Co., P.O. Box 3027, Gillette, WY 82717–3027, and the Bureau of Land Management, Wyoming State Office, Branch of Solid Minerals, Attn: Julie Weaver, P.O. Box 1828, Cheyenne, WY 82003.

**SUPPLEMENTARY INFORMATION:** All of the coal in the above-described land consists of unleased Federal coal within the Powder River Basin Known Coal Leasing Area. The purpose of the exploration program is to obtain geological and other pertinent data concerning the coal deposits.

This notice of invitation will be published in *News-Record* of Gillette, WY once each week for two consecutive weeks beginning the week of July 7, 2008, and in the **Federal Register**.

The foregoing is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c)(1).

Dated: June 24, 2008.

**Larry Claypool,**

*Deputy State Director, Minerals and Lands.*

[FR Doc. E8–14853 Filed 7–3–08; 8:45 am]

**BILLING CODE 4310–22–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[WY–920–1430–FR; WYW–138016]**

### Corrected Notice of Realty Action: Recreation and Public Purposes Act Classification of Public Lands in Sweetwater County, WY

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice corrects the legal description of the Notice of Realty Action published on May 23, 2002, which classified land under the Recreation and Public Purposes Act in Sweetwater County for a county jail facility.

**FOR FURTHER INFORMATION CONTACT:** Tamara Gertsch, Realty Officer, Bureau of Land Management, Wyoming State Office, at (307) 775-6115.

**SUPPLEMENTARY INFORMATION:** The Notice of Realty Action published on May 23, 2002 (FR 67 36223), had an incomplete legal description. The correct legal description is:

**Sixth Principal Meridian, Wyoming**

T. 18 N., R. 105 W.,

Sec. 18, lot 7, NE¼SW¼, NW¼SE¼

The land described contains 105.00 acres, more or less.

All other aspects of the notice remain in effect as published.

Dated: June 27, 2008.

**Tamara J. Gertsch,**

*Realty Officer.*

[FR Doc. E8–15373 Filed 7–3–08; 8:45 am]

**BILLING CODE 4310–22–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–448 and 731–TA–1117 (Final)]**

### Certain Off-the-Road Tires From China

**AGENCY:** United States International Trade Commission.

**ACTION:** Revised schedule for the subject investigations.

**DATES:** *Effective Date:* June 27, 2008.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

**SUPPLEMENTARY INFORMATION:** Effective April 3, 2008, the Commission established a revised schedule for the conduct of the final phase of the subject investigations (73 FR 19249, April 9, 2008).

The Commission has decided to revise its schedule with respect to the starting time of the hearing and the date for filing posthearing briefs. The hearing will begin at 1 p.m., Tuesday, July 8, 2008. At that time, the Commission will hear the presentation of those in support of the imposition of countervailing and antidumping duties and will question that panel. At the conclusion of questioning by the Commission and others, the hearing will be recessed and will reconvene at 9:30 a.m., Wednesday, July 9, 2008. At that time, the Commission will hear the presentation of those in opposition to the imposition of countervailing and antidumping duties, to be followed by questioning of that panel. As a result of this change, posthearing briefs will be due Wednesday, July 16, 2008.

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: June 30, 2008.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E8–15139 Filed 7–3–08; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–991 (Review)]**

### Silicon Metal From Russia

#### Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines,[2] pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty order on silicon metal from Russia would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

#### Background

The Commission instituted this review on February 1, 2008 (73 FR 6204) and determined on May 6, 2008 that it would conduct an expedited review (73 FR 28153, May 15, 2008).

The Commission transmitted its determination in this review to the Secretary of Commerce on June 30, 2008. The views of the Commission are contained in USITC Publication 4018

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioner Okun did not participate in this determination.

**ADDRESSES:** Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 212, Arlington, Virginia 22203; fax 703/358–2281.

**FOR FURTHER INFORMATION CONTACT:** Division of Management Authority, telephone 703/358–2104.

**SUPPLEMENTARY INFORMATION:**

**Endangered Species**

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

*Applicant:* Molecular Anthropology Laboratory, Arizona State University, Tempe, AZ, PRT–185767.

The applicant requests a permit to acquire from Coriell Cell Repositories, Camden, NJ, in interstate commerce thirteen DNA samples from gorillas (*Gorilla gorilla*) and one DNA sample from red-capped mangabey (*Cercocebus torquatus*) for the purpose of scientific research.

*Applicant:* Byron G. Sadler, Lake Jackson, TX, PRT–187324.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

*Applicant:* Hollis B. Higginbothan, McMurray, PA, PRT–185730.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

**Endangered Marine Mammals**

The public is invited to comment on the following application for a permit to conduct certain activities with endangered marine mammals and/or marine mammals. The application was submitted to satisfy requirements of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing endangered species (50 CFR Part 17) and marine mammals (50 CFR Part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

*Applicant:* ABR, Inc.-Environmental Research & Services, Fairbanks, AK, PRT–187053.

The applicant requests a permit to conduct on-shore, boat-based and aerial surveys of northern sea otters (*Enhydra lutris kenyoni*) at various locations in the coastal waters of Alaska for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a five-year period.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Dated: June 27, 2008.

**Michael L. Carpenter,**

*Senior Permit Biologist, Branch of Permits, Division of Management Authority.*

[FR Doc. E8–16712 Filed 7–21–08; 8:45 am]

**BILLING CODE 4310–55–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–448 and 731–TA–1117 (Final)]**

### Certain Off-the-Road Tires From China

**AGENCY:** United States International Trade Commission.

**ACTION:** Revised schedule for the subject investigations.

**DATES:** *Effective Date:* July 17, 2008.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:** Effective April 3, 2008, the Commission established a revised schedule for the conduct of the final phase of the subject investigations (73 FR 19249, April 9, 2008).

The Commission has decided to revise its schedule with respect to the date for its final release of information and the date for final party comments. The Commission will make its final release of information on August 7, 2008 and final party comments are due on August 11, 2008.

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: July 17, 2008.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E8–16764 Filed 7–21–08; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Safe Drinking Water Act

Notice is hereby given that on July 16, 2008, a proposed Consent Decree (the ''Decree'') in *United States* v. *City of Middletown, New York*, Civil Action No. 08 Civ. 6369 (SCR) (LMS) was lodged with the United States District Court for the Southern District of New York.

In a complaint, filed simultaneously with the Decree, the United States charged that the City of Middletown (the ''City'') violated the Safe Drinking Water Act, 42 U.S.C. 300f, *et seq.*, by violating the Interim Enhanced Surface Water Treatment Rule, found at 40 CFR part 141, subpart P; 40 CFR 141.170–141.175 (''IESWTR''), and specifically failing to comply with the February 28, 2006 deadline, set in an Administrative Order issued by EPA against the City on

## BROADCASTING BOARD OF GOVERNORS

### Sunshine Act Meeting

**DATE AND TIME:** Wednesday, July 16, 2008, 2:45 p.m.–4 p.m.

**PLACE:** Cohen Building, Room 3321, 330 Independence Ave., SW., Washington, DC 20237.

**CLOSED MEETING:** The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6))

**CONTACT PERSON FOR MORE INFORMATION:** Persons interested in obtaining more information should contact Timi Nickerson Kenealy at (202) 203–4545.

**Timi Nickerson Kenealy,**

*Acting Legal Counsel.*

[FR Doc. 08–1432 Filed 7–11–08; 8:57 am]

**BILLING CODE 8610–01–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–836]**

### Notice of Extension of Time Limit for Final Results of the Antidumping Duty Administrative Review: Glycine from the People's Republic of China

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

**EFFECTIVE DATE:** July 15, 2008.

**FOR FURTHER INFORMATION CONTACT:** Erin Begnal or Toni Dach, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1442 and (202) 482–1655, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

On April 4, 2008, the Department of Commerce (''the Department'') published the preliminary results of the antidumping duty administrative review of glycine from the People's Republic of China, covering the period March 1, 2006, through February 28, 2007. *See Glycine from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission*, 73 FR 18503 (April 4, 2008).

#### Extension of Time Limits for Final Results

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), and section 351.213(h)(1) of the Department's regulations, the Department shall issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of the date of publication of the order. The Act and the regulations further provide that the Department shall issue the final results of review within 120 days after the date on which the notice of the preliminary results was published in the **Federal Register**. See section Error! Main Document Only.751(a)(3)(A) of the Act and section 351.213(h)(1) of the Department's regulations. However, if the Department determines that it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations allow the Department to extend the 245-day period to 365 days and the 120-day period to 180 days.

The Department extended the deadline for parties to submit case briefs and rebuttal briefs in order to address several issues raised by interested parties. As a result of these extensions and to allow more time to analyze issues raised in the case briefs and rebuttal briefs, the Department has determined that it is not practicable to complete the administrative review within the current time limit.

Section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations allow the Department to extend the deadline for the final results of a review to a maximum of 180 days from the date on which the notice of the preliminary results was published. For the reasons noted above, the Department is extending the time limit for the completion of these final results by 30 days, from the current deadline of August 2, 2008, until no later than September 2, 2008.[1]

This notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: July 8, 2008.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. E8–16155 Filed 7–14–08; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–570–913]**

### Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Determination of Critical Circumstances

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

**SUMMARY:** The Department of Commerce (the Department) has reached a final determination that countervailable subsidies are being provided to producers/exporters of certain new pneumatic off-the-road tires (OTR tires) from the People's Republic of China (PRC). For information on the final subsidy rates, *see* the ''Final Determination'' section of this notice.

**DATES:** *Effective Date:* July 15, 2008.

**FOR FURTHER INFORMATION CONTACT:** Mark Hoadley, Jun Jack Zhao, Nicholas Czajkowski, or Toni Page, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3148, (202) 482–1396, (202) 482–1395, or (202) 482–1398, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Case History

Since the publication of the preliminary determination in the **Federal Register** on December 17, 2007, the following events have occurred. *See Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination,* 72 FR 71360 (December 17, 2007)

[1] An extension of 30 days from the current deadline of August 2, 2008, would result in a new deadline of September 1, 2008. However, since September 1, 2008, is a federal holiday, the deadline will be the next business day, September 2, 2008.

(*Preliminary Determination*). At the request of Petitioners,[1] the Department aligned the final determination in this countervailing duty investigation with the final determination in the companion antidumping duty investigation. *See Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination,* 73 FR 3238 (January 17, 2008).

In the *Preliminary Determination,* we invited Petitioners, Bridgestone, and all of the Respondents [2] to comment on land use rights. We received comments from all parties regarding this issue on January 7, 2008. The Petitioners, Bridgestone and the Respondents also submitted factual information and arguments prior to the final determination based on various deadlines for submissions of factual information and/or arguments established by the Department subsequent to the *Preliminary Determination*.

On January 9, 2008, the Department issued supplemental questionnaires to the GOC, GTC, Starbright, and TUTRIC. We received responses to our January 9, 2008 supplemental questionnaire from all Respondents on February 6, 2008. We issued another supplemental questionnaire to all respondent parties on January 25, 2008 for which we received responses from all Respondents on February 15, 2008. The Department issued a supplemental questionnaire to the GOC on February 13, 2008 for which the GOC filed a response on February 27, 2008. The Department issued a supplemental questionnaire to GTC on February 15, 2008 for which GTC filed a response on February 28, 2008. The Department also issued supplemental questionnaires to TUTRIC and Starbright on February 19, 2008, pursuant to which the companies filed responses on February 27, 2008.

The Department received requests for a hearing from the Petitioners, Bridgestone, the GOC, Starbright, and GTC on January 9, 2008 and on January 16, 2008 from TUTRIC. The Department had scheduled the hearing for June 19, 2008; however, on June 16, 2008 the Department received a letter from Bridgestone stating that all interested parties agreed that a hearing was not necessary. *See* Letter to the Department, ''New Pneumatic Off-the-Road Tires From the People's Republic of China: Consent Withdrawal of All Hearing Requests'' (June 16, 2008), on file in the Department's Central Records Unit (CRU) (Room 1117 in the HCHB Building).

From March 3 through March 13, 2008, we conducted verification of the questionnaire responses submitted by the GOC, including the national, provincial, and local governments, GTC, and TUTRIC. The Department issued verification reports on April 22, 2008 and April 24, 2008. *See* Memorandum to Thomas Gilgunn, Program Manager, *Countervailing Duty Investigation: New Pneumatic Off-the-Road Tires from the People's Republic of China: Verification of the Questionnaire Responses Submitted by the Government of the People's Republic of China (GOC) (GOC Verification Report);* Memorandum to Thomas Gilgunn, Program Manager, *Countervailing Duty Investigation: New Pneumatic Off-the-Road Tires from the People's Republic of China: Verification of the Questionnaire Responses Submitted by GTC Co., Ltd. (GTC Verification Report);* Memorandum to Thomas Gilgunn, Program Manager, *Countervailing Duty Investigation: New Pneumatic Off-the-Road Tires from the People's Republic of China: Meetings with the Government of the Guizhou Province Regarding GTC Co., Ltd. and Affiliates (Guizhou Province Verification Report);* Memorandum to Thomas Gilgunn, Program Manager, *Countervailing Duty Investigation: New Pneumatic Off-the-Road Tires from the People's Republic of China: Verification of the Questionnaire Responses Submitted by Tianjin United Tire & Rubber International Co., Ltd. (TUTRIC Verification Report);* and Memorandum to Thomas Gilgunn, Program Manager, *Countervailing Duty Investigation: New Pneumatic Off-the-Road Tires from the People's Republic of China: Meetings with the Government of Tianjin Municipality Regarding Tianjin United Tire & Rubber International Co., Ltd. and Affiliates (Tianjin Government Verification Report).*

On March 7, 2008, the Department decided not to verify Starbright because the company had repeatedly declined to provide requested information. *See* Letter to Starbright, *Countervailing Duty Investigation: New Pneumatic Off-the-Road Tires from the People's Republic of China* (March 7, 2008), on file in the Department's CRU. On March 11 and March 12, 2008, Starbright and the GOC, respectively, filed letters objecting to the Department's decision. On March 12, 2008, Petitioners and Bridgestone filed letters stating that the Department should not verify Starbright. The Department held several meetings with Starbright officials and GOC officials. *See* Memoranda to the File, ''Ex-parte Meeting with Representatives of Hebei Starbright Tire Co., Ltd.'' (March 11, 2008), ''Meeting with Chinese Ministry of Commerce Bureau of Fair Trade Director General Li Ling'' (March 12, 2008), ''Ex-Parte Meeting with Representatives of Hebei Starbright Tire Co., Ltd.'' (March 24, 2008), on file in the Department's CRU.

After evaluating all of the parties' submissions and arguments on the matter, the Department stated that it would conduct a limited verification of Starbright's recurring subsidies received after Starbright's change in ownership. *See* Letter to Starbright, *Countervailing Duty Investigation of New Pneumatic Off-the-Road Tires from the People's Republic of China* (March 12, 2008). The Department then issued the GOC and Starbright a supplemental questionnaire providing them a final opportunity to provide the information previously requested. *See* the Department's questionnaires to the GOC and Starbright (March 24, 2008). The Department stated that it would reconsider its decision not to verify Starbright and the local governments that have jurisdiction over the company if Starbright and the GOC provided complete responses to the Department's March 24, 2008 questionnaire concerning Starbright's change in ownership. In the cover letter to the questionnaire, we stated that we needed the information regarding Starbright's purchase of Hebei Tire Co., Ltd. to analyze fully Starbright's claim that the sale at issue was at arm's length and for fair market value. The Department informed Starbright that, if the company or the GOC decided not to provide the information requested, the Department would use facts otherwise available with possible adverse inferences. *See* the Cover Letter of the Department's March 24, 2008 Questionnaire to Starbright. The GOC and Starbright filed responses to these questionnaires, respectively, on April 8 and April 9, 2008.

Based on our examination of these responses, the Department decided to verify. *See* Letter to the GOC, *Countervailing Duty Investigation: New Pneumatic Off-the-Road Tires from the People's Republic of China* (April 18, 2008) and Letter to Starbright, *Countervailing Duty Investigation: New*

[1] Titan Tire Corporation and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy Allied Industrial and Service Workers International Union, AFL-CIO-CLC (collectively, Petitioners). The domestic interested party is Bridgestone Americas Holding, Inc. and its subsidiary, Bridgestone Firestone North America Tire, LLC (collectively, Bridgestone).

[2] The Government of The People's Republic of China (GOC), Guizhou Tire Co., Ltd. (GTC), Hebei Starbright Tire Co., Ltd. (Starbright), and Tianjin United Tire & Rubber International Co., Ltd. (TUTRIC) (collectively, Respondents).

*Pneumatic Off-the-Road Tires from the People's Republic of China* (April 21, 2008) to which the verification outlines were attached, on file in the Department's CRU. The Department then verified Starbright as well as the governments of Hebei province and the city of Xingtai from April 24 through May 1, 2008. We issued verification reports on May 13, 2008 and May 14, 2008. See Memorandum to Thomas Gilgunn, Program Manager, *Countervailing Duty Investigation: New Pneumatic Off-the-Road Tires from the People's Republic of China: Meetings with the Government of Hebei Province and Xingtai Municipality Regarding Hebei Starbright Tire Co., Ltd. (Starbright) and Hebei Tire Co., Ltd. (Hebei Tire) (Hebei Province Verification Report)* and Memorandum to Thomas Gilgunn, Program Manager, *Countervailing Duty Investigation: New Pneumatic Off-the-Road Tires from the People's Republic of China: Verification of the Questionnaire Responses Submitted by Hebei Starbright Tire Co., Ltd. (Starbright) (Starbright Verification Report).*

On May 2, 2008, we issued our post-preliminary analysis for certain programs for which the Department stated in the *Preliminary Determination* additional information was needed. *See* Memorandum to David M. Spooner, Assistant Secretary for Import Administration, *Countervailing Duty Investigation of New Pneumatic Off-the-Road Tires from the People's Republic of China; Post-Preliminary Analysis of Non-Tradable Share Reform; Provision of Water to FIEs for Less than Adequate Remuneration; Grants to the Tire Industry for Electricity; and Various Provincial/Municipal Programs* (May 2, 2008) (*Post-Preliminary Analysis*), on file in the Department's CRU. The Department then issued a post-preliminary analysis regarding the change in ownership for Starbright. *See* Memorandum to David M. Spooner, Assistant Secretary for Import Administration, *Countervailing Duty Investigation of Certain New Pneumatic Off-the-Road Tires (OTR Tires) from the People's Republic of China; Analysis of Change in Ownership* (May 28, 2008) *(CIO Memorandum).*

Due to the decision to conduct verification of Starbright, the Department set up two separate briefing schedules: one for all issues except Starbright-specific issues and one for Starbright issues. *See* Memorandum to the File, *Countervailing Duty Investigation of Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Briefing and Hearing Schedules* (April 3, 2008) and Memorandum to the File, *Countervailing Duty Investigation of Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Briefing and Hearing Schedules* (May 28, 2008). In accordance with the briefing schedules, we received case briefs from Petitioners, Bridgestone, the GOC, GTC, and TUTRIC on May 9 and 12, 2008. The same parties submitted rebuttal briefs on May 15, 2008. The Department then received case briefs regarding Starbright-specific issues on June 4 and June 5, 2008 from Petitioners, Bridgestone, the GOC, and Starbright. On June 6, 2008, the Department determined that Starbright's brief contained untimely new factual information and requested that Starbright submit replacement pages with all references to this information removed. *See* Letter to Starbright, *New Factual Information* (June 6, 2008). Starbright submitted replacement pages without the untimely filed new factual information on June 9, 2008. Petitioners, Bridgestone, the GOC, and Starbright submitted rebuttal briefs pertaining to Starbright-specific issues on June 9 and June 10, 2008.

On June 10, 2008, both Bridgestone and Starbright filed letters with the Department alleging that the other party had included new factual information on the record in both the case briefs and the rebuttal briefs. On June 13, 2008, the Department issued a memorandum to the file addressing all allegations of new factual information. *See* Memorandum to the File, *Various Allegations Concerning Case and Rebuttal Briefs Regarding Hebei Starbright Tire Co., Ltd. (Starbright),* on file in the Department's CRU. In the June 13, 2008 memorandum, the Department: (1) Determined that we would not address Petitioners' or Bridgestone's uncreditworthiness allegation against Starbright that both raised in their respective briefs; (2) determined that information in Starbright's rebuttal brief was not new factual information; (3) determined that information submitted by Bridgestone in its rebuttal brief was not new factual information; and (4) clarified that Bridgestone's comments regarding market distortions in its June 9, 2008 rebuttal brief were allowed as part of the arguments concerning whether the sale of Hebei Tire was for fair market value.

**Period of Investigation**

The period of investigation (POI) for which we are measuring subsidies is calendar year 2006.

**Scope of the Investigation**

The products covered by the scope of this investigation are new pneumatic tires designed for off-the-road (OTR) and off-highway use, subject to certain exceptions. In the *Preliminary Determination,* we stated that we had received comments on the scope of the investigation from a number of parties and that all comments raised by the parties would be addressed in the companion antidumping investigation. On May 14, 2008, the Department issued a memorandum regarding the scope of both the AD and CVD Investigations on OTR Tires from the PRC, addressing the scope comments submitted by multiple interested parties. *See Preliminary Determination: Comments on the Scope of the Investigations (Preliminary Scope Determination).*

In the *Preliminary Scope Determination,* we made certain modifications to the scope of the investigation and invited interested parties to comment on these modifications. Interested parties submitted comments on the *Preliminary Scope Determination* on May 22, 2008 and rebuttal comments on May 27, 2008. Based on these comments, we have made certain clarifications to the scope of the investigation. These clarifications, as well as a complete description of all products covered by the scope of this investigation, and a list of excluded products, are reflected in the *Final Scope of the Investigation* which is appended to this notice at Appendix I.

All comments submitted on the *Preliminary Scope Determination* are addressed in the *Scope Comments* section of the *Issues and Decision Memorandum for the Final Affirmative Countervailing Duty Determination: Certain New Pneumatic Off-the-Road Tires from the People's Republic of China (Issues and Decision Memorandum)*, which is issued concurrently with this notice.

**Critical Circumstances**

On March 11, 2008, Petitioners submitted a timely critical circumstances allegation. On April 22, 2008, the Department preliminarily determined that critical circumstances did not exist for imports of OTR tires from the PRC. *See Notice of Preliminary Negative Determination of Critical Circumstances: Certain New Pneumatic Off-the-Road Tires From the People's Republic of China,* 73 FR 21588 (April 22, 2008) (*Critical Circumstances Notice*). Pursuant to section 705(a)(2) of the Tariff Act of 1930, as amended (the

Act), in order for critical circumstances to exist, the Department must find that there are countervailable subsidies that are inconsistent with the World Trade Organization Agreement on Subsidies and Countervailing Measures (*SCM Agreement*) (*i.e.*, import substitution subsidies or export subsidies), and that there have been massive imports over a relatively short period (*i.e.*, whether there was a surge in imports). Based on our analyses of the results of verification and the comments submitted by the parties, we have determined that none of the respondents have received subsidies inconsistent with the *SCM Agreement.* We therefore need not reach the issue of whether there have been massive imports over a relatively short period of time. Since the requirements of section 705(a)(2) of the Act have not been met, we determine that critical circumstances do not exist with respect to imports of OTR tires from the PRC.

**Analysis of Subsidy Programs and Comments Received**

The subsidy programs under investigation and the issues raised by interested parties in their case briefs and rebuttal briefs on the *Preliminary Determination,* the *Post-Preliminary Analysis,* and the *CIO Memorandum,* are discussed in the *Issues and Decision Memorandum.* A list of the subsidy programs and of the issues that parties have raised is attached to this notice as Appendix II. Parties can find a complete discussion of all of the subsidy programs and issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Department's CRU. A complete version of the *Issues and Decision Memorandum* is available at *http://www.trade.gov/ia* under the heading ''**Federal Register** Notices.'' The paper copy and the electronic version of the *Issues and Decision Memorandum* are identical in content.

**Final Determination**

In accordance with section 705(c)(1)(B)(i) of the Act, we determine the total net countervailable subsidy rates to be:

| Producer/Exporter | Net subsidy rate (percent) |
|---|---|
| Guizhou Tire Co., Ltd. (GTC) ... | 2.45 |
| Hebei Starbright Tire Co., Ltd. (Starbright) ..... | 14.00 |
| Tianjin United Tire & Rubber International Co., Ltd. (TUTRIC) ..... | 6.85 |
| All-Others ..... | 5.62 |

In accordance with section 705(c)(5)(A)(ii) of the Act, we have calculated the all others rate based on a weighted average of the three mandatory respondents' calculated rates.

**Suspension of Liquidation**

In accordance with sections 703(d)(1)(B) and (2) of the Act, we directed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of OTR tires from the PRC that were entered, or withdrawn from warehouse, for consumption on or after December 17, 2007. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation for countervailing duty purposes for subject merchandise entered, or withdrawn from warehouse, on or after April 15, 2008, but to continue the suspension of liquidation of all entries from December 17, 2007 through April 14, 2008.

If the ITC issues a final affirmative determination of injury, we will issue a countervailing duty order, reinstate suspension of liquidation under section 706(a) of the Act for all entries, and require a cash deposit of estimated countervailing duties for such entries of merchandise at the rates indicated above. If the ITC determines that material injury to, threat of material injury to, or material retardation of, the domestic industry does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

**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 it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

**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 APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Failure to comply is a violation of the APO.

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

Dated: July 7, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

**Appendix I: Final Scope of the Investigation**

The products covered by the scope are new pneumatic tires designed for off-the-road (OTR) 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,[3] combine harvesters,[4] agricultural high clearance sprayers,[5] industrial tractors,[6] log-skidders,[7] agricultural implements, highway-towed implements, agricultural logging, and agricultural, industrial, skid-steers/mini-loaders;[8] (2) construction vehicles and equipment, including earthmover articulated dump products, rigid frame haul trucks,[9] front end loaders,[10] dozers,[11] lift trucks,

[3] 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.

[4] Combine harvesters are used to harvest crops such as corn or wheat.

[5] Agricultural sprayers are used to irrigate agricultural fields

[6] 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.

[7] 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.

[8] 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.

[9] 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.

[10] 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.

[11] 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.

straddle carriers,[12] graders,[13] mobile cranes,[14] 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.[15] 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 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 proceeding range in size (rim diameter) generally but not exclusively from 8 inches to 54 inches. The tires may be either tube-type[16] 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 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).

## Appendix II: Issues and Decision Memorandum



[12] 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.

[13] 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 onto which asphalt or other paving material will be laid.

[14] *i.e.*, ''on-site'' mobile cranes designed for off-highway use.

[15] 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.

[16] 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).

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**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–912]**

### Certain New Pneumatic Off–The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances

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

**EFFECTIVE DATE:** July 15, 2008.

**SUMMARY:** On February 20, 2008, the Department of Commerce (the ''Department'') published its preliminary determination of sales at less than fair value (''LTFV'') in the antidumping investigation of certain new pneumatic off–the-road tires (''OTR tires'') from the People's Republic of China (''PRC''). The period of investigation (''POI'') is October 1, 2006, to March 31, 2007. We invited interested parties to comment on our preliminary determination of sales at LTFV and the post–preliminary determinations. Based on our analysis of the comments we received, we have made changes to our calculations for the mandatory respondents. We determine that OTR tires from the PRC are being, or are likely to be, sold in the United States at LTFV as provided in section 735 of the Tariff Act of 1930, as amended (''the Act''). The estimated margins of sales at LTFV are shown in the ''Final Determination Margins'' section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Lilit Astvatsatrian or Charles Riggle, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–6412 or (202) 482–0650, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Case History

The Department published its preliminary determination of sales at LTFV on February 20, 2008. *See Certain New Pneumatic Off–The-Road Tires from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 9278 (February 20, 2008) (''*Preliminary Determination*''). The Department issued a ministerial error allegation memorandum, in which it agreed to correct several ministerial errors for the final determination. *See* Memorandum entitled ''Preliminary Determination of Antidumping Duty Investigation on Certain New Pneumatic Off–The-Road Tires from the People's Republic of China: Allegations of Ministerial Errors,'' dated March 28, 2008 (''Ministerial Error Memo''). On April 21, 2008, the Department published an affirmative preliminary determination of critical circumstances. *See Certain New Pneumatic Off–The-Road Tires from the People's Republic of China: Affirmative Preliminary Determination of Critical Circumstances*, 73 FR 21312, (April 21, 2008), (''*Affirmative Preliminary Determination of Critical Circumstances*'').

Between March 25 and April 25, 2008, the Department conducted verifications of Starbright,[1] Tianjin United Tire & Rubber International Co., Ltd. (''TUTRIC''),[2] Xugong,[3] and Guizhou Tyre Co., Ltd. (''Guizhou Tyre'').[4] *See* the ''Verification'' section below for additional information.

On May 14, 2008, the Department issued a memorandum regarding the scope of both the AD and CVD Investigations on OTR Tires from the PRC, addressing the scope comments submitted by multiple interested parties. *See Preliminary Determination: Comments on the Scope of the Investigations (''Preliminary Scope Determination'')*.

The Department issued a post–preliminary determination on May 19, 2008, in which it applied a new targeted dumping methodology. See Memorandum entitled ''Post–Preliminary Determinations on Targeted

[1] *See* Verification of the Factors Response of Hebei Starbright Co., Ltd. in the Antidumping Duty Investigation of Certain New Pneumatic Off-The-Road Tires from the People's Republic of China, dated May 5, 2008 (''Starbright Verification Report''); and Verification of Constructed Export Sales (''CEP'') for Hebei Starbright Tire Co., Ltd. (''Starbright'') at GPX International Tire Corporation (''GPX7rdquo;), dated May 15, 2008 (''Starbright CEP Verification Report'').

[2] *See* Verification of the Sales and Factors Response of TUTRIC in the Antidumping Investigation of Certain New Pneumatic Off-The-Road Tires from the People's Republic of China, dated May 2, 2008 (''TUTRIC Verification Report'').

[3] *See* Verification of the Sales and Factors Response of Xuzhou Xugong Tyres Co., Ltd. in the Antidumping Duty Investigation of Certain New Pneumatic Off-The-Road Tires from the People's Republic of China dated May 12, 2008 (''Xugong Verification Report'').

[4] *See* Verification of the Sales and Factors Response of Guizhou Tyre in the Antidumping Investigation of Certain New Pneumatic Off-The-Road Tires from the People's Republic of China dated May 9, 2008 (''Guizhou Tyre Verification Report'').

Dumping,'' dated May 19, 2008 (''Targeted Dumping Determination'').

On May 19, 2008, the Department also preliminarily granted separate–rate status to two separate rate applicants, Qingdao Aonuo Tyre Co., Ltd. (''Aonuo'') and Kenda Rubber (China) Co., Ltd. (''Kenda China''). *See* Memorandum entitled ''Preliminary Determination of Separate–Rate Status of Qingdao Aonuo Tyre Co., Ltd. and Kenda Rubber (China) Co., Ltd. in the Antidumping Investigation of Certain New Pneumatic Off–the-Road Tires from the People's Republic of China,'' dated May 19, 2008.

We invited interested parties to comment on the *Preliminary Determination, Affirmative Preliminary Determination of Critical Circumstances*, and the post–preliminary scope, targeted dumping, and separate rate determinations. On May 22, 2008, multiple interested parties filed case briefs with respect to the scope of the AD and concurrent countervailing duty (CVD) proceeding. On May 27, 2008, many of these same parties filed rebuttal comments regarding the scope of these two proceedings. In addition, on May 27, 2008, multiple interested parties filed case briefs with respect to issues specific to the AD proceeding. These same parties filed rebuttal briefs on June 2, 2008. The Department held two hearings on June 12, 2008, one solely related to the scope of the AD and CVD proceedings and the second to address issues related solely to the AD investigation.

**Verification**

As provided in section 782(i) of the Act, we verified the information submitted by Starbright, Guizhou Tyre, TUTRIC, and Xugong for use in our final determination. *See* the Department's verification reports on the record of this investigation in the Central Records Unit (''CRU''), Room 1117 of the main Department building, with respect to these entities. For all verified companies, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by respondents.

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the ''Investigation of Certain New Pneumatic Off–The-Road Tires from the People's Republic of China: Issues and Decision Memorandum,'' dated concurrently with this notice and, which is hereby adopted by this notice (''Issues and Decision Memorandum''). A list of the issues which parties raised and to which we respond in the Issues and Decision Memorandum is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file in the CRU, and is accessible on the Web at ia.ita.doc.gov/frn. The paper copy and electronic version of the memorandum are identical in content.

**Changes Since the Preliminary Determination**

Based on our analysis of information on the record of this investigation, we have made changes to the margin calculations for the final determination for all mandatory respondents.

**General Issues**

- We have updated the wholesale price index adjustor for the POI, which modified the inflated values for steam, water, electricity, brokerage and handling, marine insurance, and truck freight rate. *See* ''Certain New Pneumatic Off–The-Road Tires from the People's Republic of China: Surrogate Value Memorandum,'' dated July 7, 2008 (''Final SV Memo'').
- We have corrected linking errors in the inflator adjustments for marine insurance and Essar Steel's brokerage and handling. *See* Final SV Memo.
- We corrected an averaging error in the calculation of the surrogate value for water. *See* Final SV Memo.
- We corrected the rail rate used in the company–specific rail freight to be based on metric ton. *See* Analysis Memorandum for the Final Determination: Xuzhou Xugong Tyres Co., Ltd. (''Xugong''), dated July 7, 2008 (''Xugong Final Analysis Memo'') and Analysis Memorandum for the Final Determination: Guizhou Tyre and its affiliates, dated July 7, 2008 (''Guizhou Tyre Final Analysis Memo'').
- We have updated the PRC labor wage rate. *See* Final SV Memo.
- We have used the following four financial statements to calculate the surrogate financial ratios: CEAT Limited (''Ceat''); Falcon Tyres Ltd. (''Falcon''); Goodyear India Limited (''Goodyear''); and TVS Srichakra (''TVS''). See Comments 17.A and 17.B in the Issues and Decision Memo dated concurrently with this notice.
- We have valued steam using the natural gas price reported in a May 2005 publication of *Financial Express*. We have inflated the resulting steam value by applying the appropriate WPI inflator.
- We have made the following changes to the surrogate financial ratio calculations:
  - *CEAT:* 1) We treated a) Sale of Scrap and b) Miscellaneous income as SG&A; and 2) we excluded Rebates and Discounts from the surrogate ratio calculations. *See* Final SV Memo, and Issues and Decision Memorandum at Comments 18.B and 18.C.
  - *Falcon:* 1) We treated a) Sale of Scrap and b) Miscellaneous income as SG&A; and 2) we excluded Discount from the surrogate ratio calculations. *See* Final SV Memo and Issues and Decision Memorandum at Comments 18.B and 18.C.
  - *Goodyear:* 1) We treated a) Scrap Sale, b) One time settlement from vendor(s), and c) Unidentified Miscellaneous Income as SG&A; 2) we excluded Target Plus Export Incentives from the surrogate ratio calculations; 3) we treated Retirement Gratuities as direct labor; and 4) we included Purchase of Finished Goods in the denominator of Goodyear's SG&A and profit ratio calculations. *See* Final SV Memo, and Ministerial Error Memorandum, and Issues and Decision Memorandum at Comments 18.B and 18.G.
  - *TVS:* 1) We treated a) Miscellaneous Sales and b) Miscellaneous Income as part of SG&A; and 2) we treated Gratuity as direct labor. *See* Final SV Memo and Issues and Decision Memorandum at Comment 18.B and 18.G.
- We have revised the calculation of U.S. price for Guizhou Tyre and Starbright to include a deduction for warehousing expenses based on the average days subject merchandise is in inventory. See Final SV Memo, Guizhou Tyre Final Analysis Memo, and Starbright Final Analysis Memo.

**Company–Specific Changes Since the Preliminary Determination**

Xugong: *See* Xugong Final Analysis Memo.

Guizhou Tyre: *See* Guizhou Tyre Final Analysis Memo.

Starbright: *See* Analysis Memorandum for the Final Determination: Hebei Starbright Co., Ltd., dated July 7, 2008.

TUTRIC: *See* Analysis Memorandum for the Final Determination: Tianjin United Tire & Rubber International

Co., Ltd., dated July 7, 2008.

**Scope of Investigation**

The products covered by the scope of this investigation are new pneumatic tires designed for off–the-road (OTR) and off–highway use, subject to certain exceptions. In the *Preliminary Determination*, we stated that we had received comments on the scope of the investigation from a number of parties and that all comments raised by the parties would be addressed in a post–preliminary scope determination. On May 14, 2008, the Department issued a memorandum regarding the scope of both the AD and CVD Investigations on OTR Tires from the PRC, addressing the scope comments submitted by multiple interested parties. *See Preliminary Scope Determination*.

In the *Preliminary Scope Determination*, we made certain modifications to the scope of the investigation and invited interested parties to comment on these modifications. Interested parties submitted comments on the *Preliminary Scope Determination* on May 22, 2008 and rebuttal comments on May 27, 2008. Based on these comments, we have made certain clarifications to the scope of the investigation. These clarifications, as well as a complete description of all products covered by the scope of this investigation, and a list of excluded products, are reflected in the *Final Scope of the Investigation* which is appended to this notice at Appendix I. All comments submitted on the *Preliminary Scope Determination* are addressed in the *Scope Comments* section of the Issues and Decision.

**Targeted Dumping**

We have analyzed the case and rebuttal briefs with respect to targeted dumping issues submitted for the record in this investigation. As a result of our analysis, we made certain changes in the targeted dumping test we applied for purposes of the final determination. These changes result in a finding of targeted dumping for Xugong, but not for Guizhou Tyre, Starbright, and TUTRIC. For further discussion, *see* Comments 23.A through 23.H in the Issues and Decision Memorandum. As indicated below, for Guizhou Tyre, Starbright, and TUTRIC, we continue to find overall dumping margins above *de minimis*. *See* Guizhou Tyre Final Analysis Memo, Starbright Final Analysis Memo, and TUTRIC Final Analysis Memo, respectively. Further, as indicated below, we find that Xugong's overall margin is zero. *See* Xugong Final Analysis Memo.

**Surrogate Country**

In the *Preliminary Determination*, we stated that we had selected India as the appropriate surrogate country to use in this investigation for the following reasons: (1) it is a significant producer of comparable merchandise; (2) it is at a similar level of economic development comparable to that of the PRC; and (3) we have reliable data from India that we can use to value the factors of production. *See Preliminary Determination*. For the final determination, we received no comments and made no changes to our findings with respect to the selection of a surrogate country.

**Separate Rates**

In proceedings involving non–market-economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. *See Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (''*Sparklers*''), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*''), and 19 CFR 351.107(d).

In the *Preliminary Determination*, we found that Starbright, Guizhou Tyre, TUTRIC, Xugong and 23 separate rate–applicants demonstrated their eligibility for separate–rate status (collectively, ''Separate–Rate Recipients''). On May 19, 2008, as discussed above, we granted separate–rate status to two additional applicants, Aonuo and Kenda China; thus, they are now part of the pool of Separate–Rate Recipients. For the final determination, we continue to find that the evidence placed on the record of this investigation by Starbright, Guizhou Tyre, TUTRIC, Xugong and the remaining Separate Rate Recipients demonstrate both a *de jure* and *de facto* absence of government control, with respect to their respective exports of the merchandise under investigation, and, thus are eligible for separate rate status.

Additionally, based on comments received from certain Separate Rate Recipients, and a review of the record, we found that the combination rates or the spelling of names for certain exporters were not properly included in the *Preliminary Determination*. Because these errors pertain to the identification of the proper separate rates recipients for this investigation, the Department is making these corrections effective as of February 20, 2008, the date of the *Preliminary Determination*. The companies whose names have been corrected are identified with an ''='' in the ''*Final Determination Margins*'' section, below. Any liquidation instructions for the provisional measures period will reflect these corrections.

**Use of Facts Available**

Section 776(a)(2) of the Act, provides that, if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that if an interested party ''promptly after receiving a request from {the Department} for information, notifies {the Department} that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information,'' the Department may modify the requirements to avoid imposing an unreasonable burden on that party.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information deemed ''deficient'' under section 782(d) if: (1) the information is submitted by the

established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Furthermore, section 776(b) of the Act states that if the Department ''finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission ..., in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.'' *See also Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act (URAA)*, H.R. Rep. No. 103–316, Vol. 1 at 870 (1994).

For this final determination, in accordance with sections 773(c)(3)(A) and (B) of the Act and section s776(a)(2)(A), (B) and (D) and 776(b) of the Act, we have determined that the use of adverse facts available (''AFA'') is warranted for the PRC entity, as discussed below.

**The PRC–Wide Rate**

Because we begin with the presumption that all companies within an NME country are subject to government control and because only the companies listed under the ''Final Determination Margins'' section below have overcome that presumption, we are applying a single antidumping rate - the PRC–wide rate - to all other exporters of subject merchandise from the PRC. *See, e.g., Synthetic Indigo from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000). The PRC–wide rate applies to all entries of subject merchandise except for entries from the respondents identified as receiving a separate rate in the ''Final Determination Margins'' section below. In the *Preliminary Determination*, the Department found that the PRC–wide entity did not respond to our requests for information because record evidence indicates there were more exporters of OTR tires from the PRC during the POI than those that responded to the Q&V questionnaire or the full antidumping questionnaire. Therefore, in the *Preliminary Determination* we treated these PRC producers/exporters as part of the PRC–wide entity because they did not demonstrate that they operate free of government control over their export activities. No additional information was placed on the record with respect to these entities after the *Preliminary Determination*. In addition, because the PRC–wide entity has not provided the Department with the requested information; pursuant to section 776(a)(2)(A) and (C) of the Act, the Department continues to find that the use of facts available is appropriate to determine the PRC–wide rate. Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold–Rolled Flat–Rolled Carbon–Quality Steel Products from the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000). *See also, SAA* at 870. We have determined that, because the PRC–wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department finds that, in selecting from among the facts otherwise available, an adverse inference is warranted.

**Corroboration**

Section 776(c) of the Act provides that, when the Department relies on secondary information in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. We have interpreted ''corroborate'' to mean that we will, to the extent practicable, examine the reliability and relevance of the information submitted. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold–Rolled Flat–Rolled Carbon–Quality Steel Products From Brazil*, 65 FR 5554, 5568 (February 4, 2000); see, *e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996).

At the *Preliminary Determination*, in accordance with section 776(c) of the Act, we corroborated our adverse facts available (''AFA'') margin by comparing the U.S. prices and normal values from the petition to the U.S. price and normal values for the respondents. *See* Memorandum ''Corroboration of the PRC–Wide Facts Available Rate for the Preliminary Determination,'' dated February 5, 2008. Similarly, for the final determination, we have also compared the U.S. prices and normal values from the petition to the U.S. prices and normal values for the respondents. We found that the U.S. prices and normal values used to calculate the petition margin were within the range of net U.S. prices and normal values, respectively, used in our margin calculations for the mandatory respondents in this investigation.

Because no parties commented on the selection of the PRC–wide rate, we continue to find that the margin of 210.48 percent has probative value. Accordingly, we find that the rate of 210.48 percent is corroborated within the meaning of section 776(c) of the Act.

**Critical Circumstances**

In the *Preliminary Determination*, we found that critical circumstances exist for the PRC entity, however, we did not find that critical circumstances exist with respect to the mandatory respondents or the Separate Rate Recipients. We continue to find that critical circumstances exist for the PRC entity, and we continue to find that critical circumstances do not exist for the mandatory respondents or the remaining Separate Rate Recipients. *See* Issues and Decision Memorandum at Comment 24.

**Final Determination Margins**

We determine that the following percentage weighted–average margins exist for the POI:

OTR TIRES FROM THE PRC

| Exporter | Producer | Weighted–Average Margin (Percent) |
|---|---|---|
| Guizhou Tyre Co., Ltd.* | Guizhou Advance Rubber | 4.08 |
| Guizhou Tyre Co., Ltd.* | Guizhou Tyre Co., Ltd. | 4.08 |
| Hebei Starbright Co., Ltd./GPX International Tire Corporation, Ltd. ^ | Hebei Starbright Co., Ltd. | 19.15 |
| Tianjin United Tire & Rubber International Co., Ltd. (“TUTRIC”)* | Tianjin United Tire & Rubber International Co., Ltd. (“TUTRIC”). | 8.09 |
| Xuzhou Xugong Tyres Co., Ltd. * = | Xuzhou Xugong Tyres Co., Ltd. = | 0.00 |
| Aeolus Tyre Co., Ltd. * | Aeolus Tyre Co., Ltd. | 9.48 |
| Double Coin Holdings Ltd. * | Double Coin Holdings Ltd. | 9.48 |
| Double Coin Holdings Ltd. * | Double Coin Group Rugao Tyre Co., Ltd. | 9.48 |
| Double Coin Holdings Ltd. * | Double Coin Group Shanghai Donghai Tyre Co., Ltd.. | 9.48 |
| Double Happiness Tyre Industries Corp., Ltd. * | Double Happiness Tyre Industries Corp., Ltd. | 9.48 |
| Jiangsu Feichi Co., Ltd. * | Jiangsu Feichi Co., Ltd. | 9.48 |
| Kenda Rubber (China) Co., Ltd./Kenda Global Holding Co., Ltd (Cayman Islands). | Kenda Rubber (China) Co., Ltd. | 9.48 |
| KS Holding Limited ^ | Oriental Tyre Technology Ltd. | 9.48 |
| KS Holding Limited ^ | Shandong Taishan Tyre Co., Ltd. | 9.48 |
| KS Holding Limited ^ | Xu Zhou Xugong Tyres Co., Ltd. | 9.48 |
| Laizhou Xiongying Rubber Industry Co., Ltd. * | Laizhou Xiongying Rubber Industry Co., Ltd. | 9.48 |
| Oriental Tyre Technology Limited + | Midland Off the Road Tire Co., Ltd. | 9.48 |
| Oriental Tyre Technology Limited + | Midland Specialty Tire Co., Ltd. | 9.48 |
| Oriental Tyre Technology Limited + | Xuzhou Hanbang Tyres Co., Ltd. | 9.48 |
| Qingdao Aonuo Tyre Co., Ltd. | Qingdao Aonuo Tyre Co., Ltd. | 9.48 |
| Qingdao Etyre International Trade Co., Ltd. * | Shandong Xingda Tyre Co. Ltd. | 9.48 |
| Qingdao Etyre International Trade Co., Ltd. * | Shandong Xingyuan International Trade Co. Ltd. | 9.48 |
| Qingdao Etyre International Trade Co., Ltd. * | Shandong Xingyuan Rubber Co. Ltd. | 9.48 |
| Qingdao Free Trade Zone Full–World International Trading Co., Ltd. * | Qingdao Eastern Industrial Group Co., Ltd. | 9.48 |
| Qingdao Free Trade Zone Full–World International Trading Co., Ltd. * | Qingdao Qihang Tyre Co., Ltd. | 9.48 |
| Qingdao Free Trade Zone Full–World International Trading Co., Ltd. * | Qingdao Shuanghe Tyre Co., Ltd. | 9.48 |
| Qingdao Free Trade Zone Full–World International Trading Co., Ltd. * | Qingdao Yellowsea Tyre Factory | 9.48 |
| Qingdao Free Trade Zone Full–World International Trading Co., Ltd. * | Shandong Zhentai Tyre Co., Ltd. | 9.48 |
| Qingdao Hengda Tyres Co., Ltd. * | Qingdao Hengda Tyres Co., Ltd. | 9.48 |
| Qingdao Milestone Tyre Co., Ltd.* | Qingdao Shuanghe Tyre Co., Ltd. | 9.48 |
| Qingdao Milestone Tyre Co., Ltd.* | Shandong Zhentai Tyre Co., Ltd. | 9.48 |
| Qingdao Milestone Tyre Co., Ltd.* | Shifeng Double–Star Tire Co., Ltd. | 9.48 |
| Qingdao Milestone Tyre Co., Ltd.* | Weifang Longtai Tyre Co., Ltd. | 9.48 |
| Qingdao Qihang Tyre Co., Ltd. * | Qingdao Qihang Tyre Co., Ltd. | 9.48 |
| Qingdao Qizhou Rubber Co., Ltd. * | Qingdao Qizhou Rubber Co., Ltd. | 9.48 |
| Qingdao Sinorient International Ltd. * | Qingdao Hengda Tyres Co., Ltd. | 9.48 |
| Qingdao Sinorient International Ltd. * | Shifeng Double–Star Tire Co., Ltd. | 9.48 |
| Qingdao Sinorient International Ltd. * | Tengzhou Broncho Tyre Co., Ltd.= | 9.48 |
| Shandong Huitong Tyre Co., Ltd. * | Shandong Huitong Tyre Co., Ltd. | 9.48 |
| Shandong Jinyu Tyre Co., Ltd. * | Shandong Jinyu Tyre Co., Ltd. | 9.48 |
| Shandong Taishan Tyre Co., Ltd. *= | Shandong Taishan Tyre Co., Ltd. = | 9.48 |
| Shandong Wanda Boto Tyre Co., Ltd.* | Shandong Wanda Boto Tyre Co., Ltd. | 9.48 |
| Shandong Xingyuan International Trading Co., Ltd. * | Shangdong Xingda Tyre Co., Ltd. | 9.48 |
| Shandong Xingyuan International Trading Co., Ltd. * | Xingyuan Tyre Group Co., Ltd. | 9.48 |
| Techking Tires Limited *= | Shandong Xingda Tyre Co. Ltd. | 9.48 |
| Techking Tires Limited *= | Shandong Xingyuan International Trade Co. Ltd. | 9.48 |
| Techking Tires Limited *= | Shandong Xingyuan Rubber Co. Ltd. | 9.48 |
| Triangle Tyre Co., Ltd. * | Triangle Tyre Co., Ltd. | 9.48 |
| Wendeng Sanfeng Tyre Co., Ltd.* | Wendeng Sanfeng Tyre Co., Ltd. | 9.48 |
| Zhaoyuan Leo Rubber Co., Ltd. * | Zhaoyuan Leo Rubber Co., Ltd. | 9.48 |
| PRC–Entity | | 210.48 |

**Disclosure**

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

**Continuation of Suspension of Liquidation**

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all imports of subject merchandise entered or withdrawn from warehouse, for consumption on or after the following dates: (1) for Starbright, TUTRIC, Guizhou Tyre and the separate rate companies, on or after February 20, 2008, the date of publication of the *Preliminary Determination* in the **Federal Register**, (2) for the PRC–wide entity, on or after November 22, 2007, which is 90 days prior to the publication of the *Preliminary Determination* (consistent with our finding that critical circumstances exist for the PRC–wide entity). We will instruct CBP to continue to require a cash deposit or the posting of a bond for all companies based on the estimated weighted–average dumping margins shown above. The suspension of

liquidation instructions will remain in effect until further notice.

Because the Department found that the weighted–average dumping margin for subject merchandise produced and exported by Xugong is zero, we are instructing CBP to terminate suspension of liquidation of all imports of subject merchandise produced and exported by Xugong, entered, or withdrawn from warehouse, for consumption on or after February 20, 2008, the date of publication of the *Preliminary Determination*. CBP shall refund any cash deposit and release any bond or other security previously posted in connection with merchandise produced and exported by Xugong. These suspension of liquidation instructions will remain in effect until further notice.

**ITC Notification**

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

**Notification Regarding APO**

This notice also serves as a reminder to the parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: July 7, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

**Appendix I**

**Scope of the Proceeding Antidumping and Countervailing Duty Investigations On Off–The-Road Tires from the PRC**

The products covered by the scope are new pneumatic tires designed for off–the-road (OTR) 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,[5] combine harvesters,[6] agricultural high clearance sprayers,[7] industrial tractors,[8] log–skidders,[9] agricultural implements, highway–towed implements, agricultural logging, and agricultural, industrial, skid–steers/mini–loaders;[10] (2) construction vehicles and equipment, including earthmover articulated dump products, rigid frame haul trucks,[11] front end loaders,[12] dozers,[13] lift trucks, straddle carriers,[14] graders,[15] mobile cranes,[16] 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.[17] 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 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 proceeding range in size (rim diameter) generally but not exclusively from 8 inches to 54 inches. The tires may be either tube–type[18] 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,

[5] 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.

[6] Combine harvesters are used to harvest crops such as corn or wheat.

[7] Agricultural sprayers are used to irrigate agricultural fields

[8] 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.

[9] 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.

[10] 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.

[11] 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.

[12] 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.

[13] 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.

[14] 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.

[15] 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 onto which asphalt or other paving material will be laid.

[16] *i.e.*, ''on-site'' mobile cranes designed for off-highway use.

[17] 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.*

[18] 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).

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 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).

**Appendix II**

**I. General Issues**

*Comment 1:* Whether the Department Should Apply Market–Economy Calculation Methodologies in this Investigation
*Comment 2:* Whether the Dual Application of the Non–Market Economy AD Methodology and the Market–Economy CVD Methodology Results in Double Remedies
*Comment 3:* Treatment of Corrections from Verifications
*Comment 4:* Ministerial Error Corrections
*Comment 5:* Wage Rate Methodology
*Comment 6:* Adjustment for Un–refunded Value Added Taxes
*Comment 7:* Treatment of Respondents' Packing Labor

*General Surrogate Value Issues*

*Comment 8:* Standard for Accepting Respondents' Proposed HTS Categories
*Comment 9:* Treatment of Aberrational Data in Certain Surrogate Values
*Comment 10:* Reliability of *Infodrive India* Data
*Comment 11:* Surrogate Value Source for Steam
*Comment 12:* Natural Rubber Surrogate Value
*Comment 13:* Steam Coal Surrogate Value
*Comment 14:* Carbon Black Surrogate Value
*Comment 15:* Surrogate Value Source for Electricity
*Comment 16:* Use of Electricity–Specific Inflation Index

*Surrogate Financial Statements*

*Comment 17:* Selection of Surrogate Financial Statements
*Comment 17.A:* Use of Financial Statements of Surrogate Companies That May Have Received Government Subsidies
*Comment 17.B:* Use of TVS's Financial Statement
*Comment 18:* Calculation of Surrogate Financial Ratios
*Comment 18.A:* Treatment of Rental Receipts in TVS's Financial Statement
*Comment 18.B:* Treatment of ''Miscellaneous Income'' in Goodyear's Financial Statements
*Comment 18.C:* Treatment of Discounts and Rebates in the SG&A Ratio Calculation based on CEAT's Financial Statement
*Comment 18.D:* Offset for Interest Revenue in Goodyear's Financial Statement
*Comment 18.E:* Treatment of ''Less transfer from revaluation reserve'' in Falcon's Financial Statement
*Comment 18.F:* Treatment of ''Conversion Charges'' in CEAT, Falcon, and Goodyear's Financial Statements
*Comment 18.G:* Treatment of ''Labor Costs'' in CEAT, Falcon, Goodyear and TVS's Financial Statements
*Comment 18.H:* Treatment of Non–Production-Related Energy and Utility Consumption

**II. Scope Issues**

*Comment 19:* Imported Wheel Mounted Tires Certifications
*Comment 20:* OTR Agricultural Tires, Including for Highway–Towed Implements
*Comment 21:* Tubes and Flaps
*Comment 22:* Earthmoving, Mining, and Construction Tires

**III. Targeted Dumping Issues**

*Comment 23:*Targeted Dumping
*Comment 23.A:* Whether the Department Should Reject the Targeted Dumping Allegation Filed by Bridgestone
*Comment 23.B:* Whether the Targeted Dumping Test Used by the Department is Flawed and Should be Replaced
*Comment 23.C:* Whether the Department Should Use the ''P/2 Test'' to Test for Targeted Dumping
*Comment 23.D:* Whether the Department Should Use the ''T–Test'' to Test for Targeted Dumping
*Comment 23.E:* If the Department Continues to Use its *Nails* Test, Whether it Should Permit Certain Margins to be Offset with Negative Margins
*Comment 23.F:* Treatment of Xugong's Sales
*Comment 23.G:* Programming Errors
*Comment 23.H:* Changes based on *TD Methodology*

**IV. Critical Circumstances**

*Comment 24:* Critical Circumstances

**V. Issues Specific to Guizhou Tyre**

*Comment 25:* Guizhou Tyre's Eligibility for a Separate Rate
*Comment 26:* Treatment of Guizhou Tyre's Guangzhou Warehouse Expenses
*Comment 27:* Treatment of Guizhou Tyre's Reported Manufacturing Overhead Materials
*Comment 28:* Calculation of Guizhou Tyre's Domestic Movement Expenses
*Comment 29:* Treatment of Guizhou Tyre's Demurrage Charge
*Comment 30:* Distance from Guizhou Tyre's Factory to the Guangzhou Warehouse

*Comment 31:* Appropriate Unit of Measure for Guizhou Tyre's Reported Water Consumption
*Comment 32:* Treatment of Guizhou Tyre's Unreported Labor Hours Discovered at Verification
*Comment 33:* Classification of Guizhou Tyre's Sales Made to a Certain U.S. Customer
*Comment 34:* Byproduct Offset for Guizhou Tyre
*Comment 35:* Treatment of Guizhou Tyre's International Freight Costs
*Comment 36:* Appropriate Classification for Certain Guizhou Tyre Material Inputs
*Comment 37:* Calculation of Value of Guizhou Tyre's Carbon Black
*Comment 38:* Treatment of Guizhou Tyre's Sales Made Through TED
*Comment 39:* Whether to Include Licenses and Taxes in Guizhou Tyre's Indirect Selling Expense Ratio
*Comment 40:* Treatment of Guizhou Tyre's Billing Adjustment for Tubes and Flaps

**VI. Issues Specific to Xugong**

*Comment 41:* Treatment of Xugong and Its Chinese Affiliates as a Single Entity
*Comment 42:* Treatment of Xugong's Sales to API
*Comment 43:* Use of Xugong's Upstream Inputs
*Comment 43.A:* Rejection of Armour Rubber's Upstream Inputs
*Comment 43.B:* Adjustments of Xugong's Upstream Inputs
*Comment 44:* Valuation of Xugong's FOPs from Intermediate Inputs Database
*Comment 45:* Valuation of Xugong's FOPs from Upstream Inputs Database
*Comment 46:* Treatment of Sales with Improperly Reported Tread Code
*Comment 47:* Treatment of Xugong's Factor as Wood Tar or Pine Oil

**VII. Issues Common to Starbright and TUTRIC**

*Comment 48.A:* Whether TUTRIC and GPX are Affiliated
*Comment 48.B:* Whether TUTRIC and Starbright Should be Collapsed
*Comment 49:* Surrogate Value Sources for Scrap Rubber, Reclaimed Rubber, Rubber Powder and Wire
*Comment 50:* The Application of AFA for Sales of Tires Greater Than 39 Inches for Starbright and TUTRIC

**VIII. Issues Specific to Starbright**

*Comment 51:* Start–Up Adjustment for Starbright
*Comment 52:* Starbright Argues that the Department Should Adjust Normal Value for a CEP Offset and Differences in Circumstances of Sale
*Comment 53:* Investigation of Starbright's Sales Below Cost Should the Department Determines that Starbright Warrants MOE Treatment
*Comment 54:* Treatment of Unreported Sales of Subject Merchandise
*Comment 55:* Reliability of Starbright's Reported U.S. Sales Prices
*Comment 56:* Treatment of Starbright's Early Payment Discounts
*Comment 57:* Treatment of Tanggu Warehouse Expenses as an Adjustment to U.S. Price
*Comment 58:* Minor Correction to Freight–In Expenses
*Comment 59:* The Nature of WARR2U
*Comment 60:* Expenses Included in U.S. Duty
*Comment 61:* U.S. Warehousing Expenses
*Comment 62:* Dutiable Assists
*Comment 63:* Direct Labor Hours
*Comment 64:* Starbright's Indirect Labor Hours
*Comment 65:* Ministerial Errors With Respect to U.S. Credit Expenses
*Comment 66:* Marine Insurance
*Comment 67:* Correct Names for Certain Separate Rates Parties for Customs Instructions
*Comment 68:* Time Period for Measuring Starbright's U.S. Indirect Selling Expenses
*Comment 69:* Inclusion of Post–POI Credit Notes in the Section C Database
*Comment 70:* Purchases of Market–Economy Inputs from PRC Trading Companies as Market Economy Purchases
*Comment 71:* Allocation Methodology for U.S. Indirect Selling Expenses
*Comment 72:* Expenses Excluded from the Calculation of ISE
*Comment 73:* Starbright's U.S. Inland Freight Expense
*Comment 74:* The Adequacy of Starbright's Reported Material Consumption Standards, Variance Calculations and FOP Consumption Rate
*Comment 75:* Market–Economy Methodology for Starbright
*Comment 76:* Time Period For Determining ICC For Starbright's Retail Stores

**IX. Issues Specific to TUTRIC**

*Comment 77:* TUTRIC's Eligibility for a Separate Rate
*Comment 78:* TUTRIC's Sales to GPX Delivered to the Tanggu Warehouse
*Comment 79:* Sales and FOPs for Tubes and Flaps for TUTRIC
*Comment 80:* Treatment of Indirect Labor Hours for TUTRIC
*Comment 81:* Additional Calculation Errors With Respect to TUTRIC
*Comment 82:* The Adequacy of TUTRIC's Reported Material Consumption Standards, Variance Calculations and FOP Consumption Rate

[FR Doc. E8–16156 Filed 7–14–08; 8:45 am]
**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–533–840]**

### Certain Frozen Warmwater Shrimp From India: Final Results and Partial Rescission of Antidumping Duty Administrative Review

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

**SUMMARY:** On March 6, 2008, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain frozen warmwater shrimp (shrimp) from India. This review covers 201 producers/exporters of the subject merchandise to the United States. The period of review (POR) is February 1, 2006, through January 31, 2007. We are rescinding the review with respect to four companies because these companies had no reportable shipments of subject merchandise during the POR.

Based on our analysis of the comments received, we have made certain changes in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled ''Final Results of Review.''

**DATES:** *Effective Date:* July 15, 2008.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Eastwood, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3874.

**SUPPLEMENTARY INFORMATION:**

### Background

This review covers 201 producers/exporters.[1] The respondents which the Department selected for individual review are Devi Sea Foods Limited (Devi) and Falcon Marine Exports Limited (Falcon). The respondents which were not selected for individual review are listed in the ''Final Results of Review'' section of this notice.

[1] This figure does not include those companies for which the Department is rescinding the administrative review.

# APPENDIX B

# HEARING WITNESSES

## CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

**Subject:** Certain Off-the-Road Tires from China

**Inv. Nos.:** 701-TA-448 and 731-TA-1117 (Final)

**Date and Time:** July 8, 2008 - 1:00 p.m.

Sessions were held in connection with these investigations in the Main Hearing Room, 500 E Street (room 101), SW, Washington, D.C.

**CONGRESSIONAL APPEARANCES:**

**The Honorable Donald A. Manzullo, U.S. Congressman, U.S. House of Representatives, 16th District, State of Illinois**

**The Honorable Leonard Boswell, U.S. Congressman, U.S. House of Representatives, 3rd District, State of Iowa**

**The Honorable Phil Hare, U.S. Congressman, U.S. House of Representatives, 17th District, State of Illinois**

**OPENING REMARKS:**

Petitioner (**Terence P. Stewart**, Stewart and Stewart)
Respondents (**James P. Durling**, Heller Ehrman LLP)

**In Support of the Imposition of the Antidumping and Countervailing Duty Orders:**

Stewart and Stewart
Washington, D.C.
on behalf of

Titan Tire Corporation ("Titan")
United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC ("USW")

**Maurice M. Taylor, Jr.**, Chairman and Chief Executive Officer, Titan

**Jeff Vasichek**, Vice President, Marketing, Titan

**Paul Hawkins**, Vice President, Operations, Titan

**Ron Hoover**, Executive Vice President, Rubber and Plastic Industry Conference, USW

**Linda Andros**, Legislative Representative, USW

**Don Mateer, III**, President, Speciality Tires of America

**Tracy Leslie**, President, Leslie Tire Service *and* Executive Vice President, Michigan Tire Distributors

**Kelly Monthei**, Owner and General Manger, Graham Tire

**Terence P. Stewart** )
**Eric P. Salonen** ) – OF COUNSEL
**Elizabeth A. Argenti** )

**In Support of the Imposition of the Antidumping and Countervailing Duty Orders (continued):**

King & Spalding, LLP
Washington, D.C.
on behalf of

Bridgestone Firestone North American Tire, LLC

**Kenneth Allen**, Vice President, Firestone North American Tire, LLC, Firestone Agricultural Tire

**T. Shawn Rasey**, Vice President North America, Bridgestone Firestone Off-Road Tire Division

**Joseph Ivy**, Director, Manufacturing, Firestone Farm Tires

**Kenneth R. Button. Ph.D.**, Consultant, Economic Consulting Services, LLC

**Jennifer Lutz**, Consultant, Economic Consulting Services, LLC

**Michael G. Szustakowski**, Consultant, King & Spalding LLP

**Joseph W. Dorn** )
**Stephen A. Jones** ) – OF COUNSEL
**Stephen J. Narkin** )

## CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

**Subject:** Certain Off-the-Road Tires from China

**Inv. Nos.:** 701-TA-448 and 731-TA-1117 (Final)

**Date and Time:** July 9, 2008 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room, 500 E Street (room 101), SW, Washington, D.C.

**CONGRESSIONAL APPEARANCES:**

**The Honorable Sherrod Brown, United States Senator, United States Senate, State of Ohio**

**The Honorable Lincoln Davis, U.S. Congressman, U.S. House of Representatives, 4th District, State of Tennessee**

**In Opposition to the Imposition of Antidumping and Countervailing Duties:**

Heller Ehrman LLP
Washington, D.C.
on behalf of

GPX International Tire Group ("GPX")

**Bryan S. Ganz**, Chairman, Board of Directors, GPX

**M. William Macey**, Member, Board of Directors, GPX

**Domenic E. Mazzola**, Executive Vice President, GPX

**Joel De Glopper**, Vice President, Ridal Tire Engineering, GPX

**In Opposition to the Imposition of Antidumping and Countervailing Duties (continued):**

**Mary P. O'Toole**, Legal Counsel, GPX

**Daniel Denis**, After-Market Dealer, VIP Inc./Quirk Tires and Services

**Ned Edwards**, After-Market Dealer, Star Tire Co. Ltd.

**John Kline**, After-Market Dealer, Old Dominion Tire Services Inc.

**Maggie Koester**, After-Market Dealer, Donald B. Rice Tire Co. Inc.

**Aaron Murphy**, Importer and After-Market Dealer, CMA LLC

**Daniel Klett**, Economist, Capital Trade, Inc.

**Charles Anderson**, Economist, Capital Trade Inc.

**James P. Durling** )
) – OF COUNSEL
**Daniel L. Porter** )

Howrey LLP
Washington, D.C.
on behalf of

Trelleborg Wheel Systems Americas, Inc. ("Trelleborg")

**Ydo Doornbos**, Managing Director, Trelleborg

**David Fleischhauer**, Marketing Manager, Trelleborg

**Juliana M. Cofrancesco** ) – OF COUNSEL

**In Opposition to the Imposition of Antidumping and Countervailing Duties (continued):**

Greenberg Traurig LLP
Washington, D.C.
on behalf of

American Pacific Industries Inc. ("API")

**Jeff Kreitzman**, President, API

**Philippe M. Bruno** )
) – OF COUNSEL
**Rosa S. Jeong** )

Hogan & Hartson LLP
Washington, D.C.
on behalf of

Aeolus Tyre Co., Ltd.; Guizhou Tyre Co., Ltd.; Hangzhou Zhongce Rubber Co., Ltd.; Haohua South Rubber Corp., Ltd.; Jiangsu Feichi Co., Ltd.; Laizhou Xiongying Rubber Industry Co., Ltd.; Shandong Taishan Tyre Co., Ltd.; Shandong Wanda Boto Tyre Co., Ltd.; Shandong Xingyuan International Trading Co., Ltd.; Techking Tires Limited, Tianjin United Tire & Rubber International Co., Ltd.; Triangle Tyre Co., Ltd.; Wendeng Sanfeng Tyre Co., Ltd.; Zhaoyuan Leo Rubber Co., Ltd.; Tire Engineering & Distribution, Inc.; and Guizhou Tyre I/E Corp (collectively the "Chinese Respondents")

**Mark Lammlein**, Vice President, Sales and Marketing, Great Lakes Tire Company

**Paul Copen**, Director, Sales, Great Lakes Tire Company

**In Opposition to the Imposition of Antidumping and Countervailing Duties (continued):**

**John Reilly**, Economist, Nathan Associates, Inc.

**Craig A. Lewis** )
) – OF COUNSEL
**Jonathan T. Stoel** )

Sidley Austin LLP
Washington, D.C.
on behalf of

Caterpiller Inc. ("Caterpillar")

**Jack M. Koch**, Indirect/Direct Manager, Caterpillar

**Neil R. Ellis** )
) – OF COUNSEL
**Yvonne M. Hilst** )

Rodriguez O'Donnell Gonzalez & Williams, P.C.
Chicago, IL
on behalf of

Super Grip Corporation

**Dexter Christenberry**, Chief Executive Officer, Super Grip Corporation

**Nick Sticklin**, General Manager, Appalachian Tire Products

**R. Kevin Williams** )
) – OF COUNSEL
**Thomas J. O'Donnell** )

**REBUTTAL/CLOSING REMARKS:**

Petitioner (**Joseph W. Dorn**, King & Spalding, LLP )
Respondents (**Craig A. Lewis**, Hogan & Hartson LLP)

# APPENDIX C

# SUMMARY DATA

**Table C-1**
**Certain OTR tires: Summary data concerning the U.S. market, 2005-07, January-March 2007, and January-March 2008**

(Quantity=1,000 tires, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per tire; period changes=percent, except where noted)

| | Reported data | | | | | Period changes | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | January-March | | | | | Jan.-Mar. |
| Item | 2005 | 2006 | 2007 | 2007 | 2008 | 2005-07 | 2005-06 | 2006-07 | 2007-08 |
| U.S. consumption quantity: | | | | | | | | | |
| Amount | 7,974 | 7,735 | 7,790 | 1,907 | 1,822 | -2.3 | -3.0 | 0.7 | -4.5 |
| Producers' share (1) | 48.7 | 43.7 | 47.8 | 47.7 | 54.6 | -0.9 | -4.9 | 4.0 | 6.9 |
| Importers' share (1): | | | | | | | | | |
| China | 29.3 | 32.6 | 30.0 | 27.4 | 20.9 | 0.7 | 3.3 | -2.6 | -6.6 |
| Other sources | 22.1 | 23.7 | 22.2 | 24.8 | 24.5 | 0.2 | 1.6 | -1.4 | -0.3 |
| Total imports | 51.3 | 56.3 | 52.2 | 52.3 | 45.4 | 0.9 | 4.9 | -4.0 | -6.9 |
| U.S. consumption value: | | | | | | | | | |
| Amount | 1,420,296 | 1,558,498 | 1,794,409 | 440,326 | 468,927 | 26.3 | 9.7 | 15.1 | 6.5 |
| Producers' share (1) | 60.6 | 53.6 | 56.1 | 57.3 | 61.1 | -4.6 | -7.0 | 2.5 | 3.8 |
| Importers' share (1): | | | | | | | | | |
| China | 13.4 | 18.4 | 15.7 | 15.9 | 9.3 | 2.3 | 5.0 | -2.7 | -6.6 |
| Other sources | 26.0 | 28.0 | 28.2 | 26.8 | 29.6 | 2.2 | 2.0 | 0.2 | 2.8 |
| Total imports | 39.4 | 46.4 | 43.9 | 42.7 | 38.9 | 4.6 | 7.0 | -2.5 | -3.8 |
| U.S. imports from: | | | | | | | | | |
| China: | | | | | | | | | |
| Quantity | 2,333 | 2,521 | 2,337 | 523 | 380 | 0.2 | 8.1 | -7.3 | -27.3 |
| Value | 190,444 | 287,316 | 282,390 | 70,037 | 43,692 | 48.3 | 50.9 | -1.7 | -37.6 |
| Unit value | $81.63 | $113.97 | $120.84 | $133.82 | $114.88 | 48.0 | 39.6 | 6.0 | -14.2 |
| Ending inventory quantity | 97 | 142 | 217 | 133 | 243 | 122.8 | 46.1 | 52.4 | 83.3 |
| All other sources: | | | | | | | | | |
| Quantity | 1,760 | 1,831 | 1,733 | 473 | 447 | -1.6 | 4.0 | -5.4 | -5.6 |
| Value | 368,629 | 435,633 | 505,975 | 117,896 | 138,851 | 37.3 | 18.2 | 16.1 | 17.8 |
| Unit value | $209.41 | $237.89 | $292.00 | $248.99 | $310.77 | 39.4 | 13.6 | 22.7 | 24.8 |
| Ending inventory quantity | 284 | 243 | 187 | 223 | 168 | -34.0 | -14.5 | -22.9 | -24.8 |
| All sources: | | | | | | | | | |
| Quantity | 4,093 | 4,352 | 4,070 | 997 | 827 | -0.6 | 6.3 | -6.5 | -17.0 |
| Value | 559,073 | 722,949 | 788,365 | 187,933 | 182,543 | 41.0 | 29.3 | 9.0 | -2.9 |
| Unit value | $136.59 | $166.11 | $193.72 | $188.52 | $220.69 | 41.8 | 21.6 | 16.6 | 17.1 |
| Ending inventory quantity | 381 | 385 | 404 | 356 | 411 | 6.0 | 1.0 | 4.9 | 15.5 |
| U.S. producers': | | | | | | | | | |
| Average capacity quantity | 9,997 | 10,049 | 10,202 | 2,569 | 2,718 | 2.1 | 0.5 | 1.5 | 5.8 |
| Production quantity | 4,677 | 3,819 | 4,009 | 923 | 1,083 | -14.3 | -18.3 | 5.0 | 17.3 |
| Capacity utilization (1) | 46.8 | 38.0 | 39.3 | 35.9 | 39.8 | -7.5 | -8.8 | 1.3 | 3.9 |
| U.S. shipments: | | | | | | | | | |
| Quantity | 3,881 | 3,383 | 3,720 | 910 | 995 | -4.2 | -12.8 | 10.0 | 9.3 |
| Value | 861,224 | 835,550 | 1,006,044 | 252,393 | 286,384 | 16.8 | -3.0 | 20.4 | 13.5 |
| Unit value | $221.90 | $246.97 | $270.45 | $277.23 | $287.76 | 21.9 | 11.3 | 9.5 | 3.8 |
| Export shipments: | | | | | | | | | |
| Quantity | 572 | 483 | 515 | 134 | 158 | -9.9 | -15.5 | 6.6 | 18.6 |
| Value | 150,625 | 146,603 | 180,504 | 38,439 | 56,037 | 19.8 | -2.7 | 23.1 | 45.8 |
| Unit value | $263.33 | $303.40 | $350.36 | $287.51 | $353.99 | 33.0 | 15.2 | 15.5 | 23.1 |
| Ending inventory quantity | 935 | 887 | 663 | 767 | 593 | -29.1 | -5.1 | -25.3 | -22.6 |
| Inventories/total shipments (1) | 21.0 | 22.9 | 15.6 | 18.4 | 12.9 | -5.4 | 1.9 | -7.3 | -5.5 |
| Production workers | 4,073 | 3,844 | 3,856 | 3,777 | 3,853 | -5.3 | -5.6 | 0.3 | 2.0 |
| Hours worked (1,000s) | 8,529 | 7,751 | 8,072 | 2,015 | 2,159 | -5.4 | -9.1 | 4.1 | 7.1 |
| Wages paid ($1,000s) | 246,336 | 231,296 | 239,685 | 59,821 | 64,767 | -2.7 | -6.1 | 3.6 | 8.3 |
| Hourly wages | $28.88 | $29.84 | $29.70 | $29.69 | $30.00 | 2.8 | 3.3 | -0.5 | 1.1 |
| Productivity (tires per hour) | 0.55 | 0.49 | 0.50 | 0.46 | 0.50 | -9.4 | -10.2 | 0.8 | 9.5 |
| Unit labor costs | $52.68 | $60.57 | $59.79 | $64.81 | $59.80 | 13.5 | 15.0 | -1.3 | -7.7 |
| Net sales: | | | | | | | | | |
| Quantity | 4,453 | 3,868 | 4,235 | 1,044 | 1,160 | -4.9 | -13.1 | 9.5 | 11.1 |
| Value | 1,010,778 | 980,611 | 1,184,627 | 288,291 | 341,719 | 17.2 | -3.0 | 20.8 | 18.5 |
| Unit value | $227.01 | $253.54 | $279.70 | $276.27 | $294.69 | 23.2 | 11.7 | 10.3 | 6.7 |
| Cost of goods sold (COGS) | 906,946 | 878,158 | 1,050,576 | 251,403 | 298,067 | 15.8 | -3.2 | 19.6 | 18.6 |
| Gross profit or (loss) | 103,832 | 102,453 | 134,051 | 36,888 | 43,652 | 29.1 | -1.3 | 30.8 | 18.3 |
| SG&A expenses | 102,358 | 96,213 | 106,011 | 25,784 | 29,582 | 3.6 | -6.0 | 10.2 | 14.7 |
| Operating income or (loss) | 1,474 | 6,240 | 28,040 | 11,104 | 14,070 | 1802.3 | 323.3 | 349.4 | 26.7 |
| Capital expenditures | 20,369 | 22,715 | 33,454 | 3,437 | 4,820 | 64.2 | 11.5 | 47.3 | 40.2 |
| Unit COGS | $203.69 | $227.05 | $248.05 | $240.92 | $257.04 | 21.8 | 11.5 | 9.3 | 6.7 |
| Unit SG&A expenses | $22.99 | $24.88 | $25.03 | $24.71 | $25.51 | 8.9 | 8.2 | 0.6 | 3.2 |
| Unit operating income or (loss) | $0.33 | $1.61 | $6.62 | $10.64 | $12.13 | 1899.9 | 387.4 | 310.4 | 14.0 |
| COGS/sales (1) | 89.7 | 89.6 | 88.7 | 87.2 | 87.2 | -1.0 | -0.2 | -0.9 | 0.0 |
| Operating income or (loss)/ sales (1) | 0.1 | 0.6 | 2.4 | 3.9 | 4.1 | 2.2 | 0.5 | 1.7 | 0.3 |

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Undefined.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

**Table C-2**
**OTR tires > 39": Summary data concerning the U.S. market, 2005-07, January-March 2007, and January-March 2008**

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**Table C-3**
**OTR tires (including tires > 39"): Summary data concerning the U.S. market, 2005-07, January-March 2007, and January-March 2008**

* * * * * * *

# APPENDIX D

# COMMENTS REGARDING LIKE PRODUCT FACTORS

**Comparability of Certain OTR Tires and OTR Tires For Mining And Construction With A Rim Diameter >= 39"**

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# APPENDIX E

# SUPPLEMENTAL DATA

**Table E-1**
**Certain OTR tires: U.S. imports, by sources, 2005-07, January-March 2007, and January-March 200**

| Item | 2005 | 2006 | 2007 | January-March 2007 | January-March 2008 |
|---|---|---|---|---|---|
| | | | Quantity (1,000 tires) | | |
| China | 825 | 1,079 | 1,403 | 325 | 237 |
| All other sources | 1,087 | 1,183 | 1,163 | 308 | 357 |
| Total | 1,912 | 2,262 | 2,567 | 632 | 593 |
| | | | Quantity (1,000 pounds) | | |
| China | 74,503 | 124,587 | 130,418 | 29,806 | 21,670 |
| All other sources | 194,807 | 197,418 | 228,429 | 53,404 | 70,035 |
| Total | 269,310 | 322,005 | 358,847 | 83,210 | 91,705 |
| | | | Value ($1,000) | | |
| China | 84,907 | 175,618 | 187,347 | 45,216 | 32,505 |
| All other sources | 265,426 | 294,816 | 362,099 | 81,983 | 106,441 |
| Total | 350,333 | 470,435 | 549,446 | 127,199 | 138,946 |
| | | | Unit value (dollars per tire) | | |
| China | 102.89 | 162.78 | 133.52 | 139.30 | 137.28 |
| All other sources | 244.15 | 249.28 | 311.25 | 266.51 | 298.56 |
| Average | 183.20 | 208.02 | 214.08 | 201.20 | 234.19 |
| | | | Share of quantity [based on tires] (percent) | | |
| China | 43.2 | 47.7 | 54.7 | 51.3 | 39.9 |
| All other sources | 56.8 | 52.3 | 45.3 | 48.7 | 60.1 |
| Total | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |
| | | | Share of value (percent) | | |
| China | 24.2 | 37.3 | 34.1 | 35.5 | 23.4 |
| All other sources | 75.8 | 62.7 | 65.9 | 64.5 | 76.6 |
| Total | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |
| | | | Ratio of imports to U.S. production quantity (percent) | | |
| China | 17.6 | 28.3 | 35.0 | 35.2 | 21.9 |
| All other sources | 23.2 | 31.0 | 29.0 | 33.3 | 32.9 |
| Total | 40.9 | 59.2 | 64.0 | 68.5 | 54.8 |

Note.--Firms not providing data on weight include Allied Wheel, Super Grip, Goodyear, China Manufacture and Sutong China Tire.

Source: Compiled from data submitted in response to Commission questionnaires.

**Table E-2**
**Certain OTR tires: U.S. shipments of domestic product, U.S. imports, by sources, apparent U.S. consumptio and market shares, 2005-07, January-March 2007, and January-March 2008**

| Item | 2005 | 2006 | 2007 | January-March 2007 | January-March 2008 |
|---|---|---|---|---|---|
| | Quantity (1,000 tires) | | | | |
| U.S. producers' shipments | 3,881 | 3,383 | 3,720 | 910 | 995 |
| U.S. imports from-- | | | | | |
| China | 825 | 1,079 | 1,403 | 325 | 237 |
| All other sources | 1,087 | 1,183 | 1,163 | 308 | 357 |
| Total U.S. imports | 1,912 | 2,262 | 2,567 | 632 | 593 |
| Apparent consumption | 5,793 | 5,645 | 6,286 | 1,543 | 1,588 |
| | Value ($1,000) | | | | |
| U.S. producers' shipments | 861,224 | 835,550 | 1,006,044 | 252,393 | 286,384 |
| U.S. imports from-- | | | | | |
| China | 84,907 | 175,618 | 187,347 | 45,216 | 32,505 |
| All other sources | 265,426 | 294,816 | 362,099 | 81,983 | 106,441 |
| Total U.S. imports | 350,333 | 470,435 | 549,446 | 127,199 | 138,946 |
| Apparent consumption | 1,211,557 | 1,305,985 | 1,555,490 | 379,592 | 425,329 |
| | Share of quantity (percent) | | | | |
| U.S. producers' shipments | 67.0 | 59.9 | 59.2 | 59.0 | 62.7 |
| U.S. imports from-- | | | | | |
| China | 14.2 | 19.1 | 22.3 | 21.0 | 14.9 |
| All other sources | 18.8 | 21.0 | 18.5 | 19.9 | 22.4 |
| Total U.S. imports | 33.0 | 40.1 | 40.8 | 41.0 | 37.3 |
| | Share of value (percent) | | | | |
| U.S. producers' shipments | 71.1 | 64.0 | 64.7 | 66.5 | 67.3 |
| U.S. imports from-- | | | | | |
| China | 7.0 | 13.4 | 12.0 | 11.9 | 7.6 |
| All other sources | 21.9 | 22.6 | 23.3 | 21.6 | 25.0 |
| Total U.S. imports | 28.9 | 36.0 | 35.3 | 33.5 | 32.7 |

Source: Compiled from data submitted in response to Commission questionnaires.

**Table E-3**
**Certain OTR tires: U.S. imports, by sources, 2005-07, January-March 2007, and January-March 2008**

| Item | 2005 | 2006 | 2007 | January-March 2007 | January-March 2008 |
|---|---|---|---|---|---|
| | Quantity (1,000 tires) | | | | |
| China | 1,768 | 2,086 | 2,116 | 479 | 334 |
| All other sources | 1,699 | 1,796 | 1,709 | 471 | 436 |
| Total | 3,467 | 3,882 | 3,825 | 951 | 770 |
| | Value ($1,000) | | | | |
| China | 173,903 | 274,410 | 275,907 | 68,699 | 42,380 |
| All other sources | 366,909 | 434,630 | 505,282 | 117,831 | 138,548 |
| Total | 540,812 | 709,040 | 781,189 | 186,531 | 180,929 |
| | Unit value (dollars per tire) | | | | |
| China | 98.35 | 131.53 | 130.41 | 143.33 | 126.90 |
| All other sources | 215.97 | 241.98 | 295.68 | 250.05 | 317.44 |
| Average | 155.98 | 182.63 | 204.26 | 196.24 | 234.85 |
| | Share of quantity (percent) | | | | |
| China | 51.0 | 53.7 | 55.3 | 50.4 | 43.3 |
| All other sources | 49.0 | 46.3 | 44.7 | 49.6 | 56.7 |
| Total | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |
| | Share of value (percent) | | | | |
| China | 32.2 | 38.7 | 35.3 | 36.8 | 23.4 |
| All other sources | 67.8 | 61.3 | 64.7 | 63.2 | 76.6 |
| Total | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |
| | Ratio of imports to U.S. production quantity (percent) | | | | |
| China | 37.8 | 54.6 | 52.8 | 51.9 | 30.8 |
| All other sources | 36.3 | 47.0 | 42.6 | 51.1 | 40.3 |
| Total | 74.1 | 101.7 | 95.4 | 103.0 | 71.1 |

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics (adjusted using proprietary Customs data). [Questionnaire data + adjusted Customs data using $35 UV cutoff for nonresponding firms

**Table E-4**
**Certain OTR tires: U.S. imports, by sources, 2005-07, January-March 2007, and January-March 2008**

| Item | 2005 | 2006 | 2007 | January-March 2007 | January-March 2008 |
|---|---|---|---|---|---|
| | Quantity (1,000 tires) | | | | |
| China: | | | | | |
| Commission questionnaires | 825 | 1,079 | 1,403 | 325 | 237 |
| Adjusted CNIF data | 943 | 1,007 | 713 | 155 | 97 |
| Total | 1,768 | 2,086 | 2,116 | 479 | 334 |
| All other sources: | | | | | |
| Commission questionnaires | 1,087 | 1,183 | 1,163 | 308 | 357 |
| Adjusted CNIF data | 612 | 613 | 546 | 164 | 80 |
| Total | 1,699 | 1,796 | 1,709 | 471 | 436 |
| All sources: | | | | | |
| Commission questionnaires | 1,912 | 2,262 | 2,567 | 632 | 593 |
| Adjusted CNIF data | 1,555 | 1,621 | 1,258 | 318 | 177 |
| Total | 3,467 | 3,882 | 3,825 | 951 | 770 |
| | Value ($1,000) | | | | |
| China: | | | | | |
| Commission questionnaires | 84,907 | 175,618 | 187,347 | 45,216 | 32,505 |
| Adjusted CNIF data | 88,996 | 98,792 | 88,561 | 23,483 | 9,875 |
| Total | 173,903 | 274,410 | 275,907 | 68,699 | 42,380 |
| All other sources: | | | | | |
| Commission questionnaires | 265,426 | 294,816 | 362,099 | 81,983 | 106,441 |
| Adjusted CNIF data | 101,483 | 139,813 | 143,182 | 35,849 | 32,108 |
| Total | 366,909 | 434,630 | 505,282 | 117,831 | 138,548 |
| All sources: | | | | | |
| Commission questionnaires | 350,333 | 470,435 | 549,446 | 127,199 | 138,946 |
| Adjusted CNIF data | 190,479 | 238,605 | 231,743 | 59,332 | 41,983 |
| Total | 540,812 | 709,040 | 781,189 | 186,531 | 180,929 |
| | Unit value (dollars per tire) | | | | |
| China: | | | | | |
| Commission questionnaires | 102.89 | 162.78 | 133.52 | 139.30 | 137.27 |
| Adjusted CNIF data | 94.36 | 98.06 | 124.29 | 151.77 | 101.63 |
| Total | 98.35 | 131.53 | 130.41 | 143.33 | 126.90 |
| All other sources: | | | | | |
| Commission questionnaires | 244.15 | 249.28 | 311.25 | 266.51 | 298.56 |
| Adjusted CNIF data | 165.89 | 227.90 | 262.47 | 219.10 | 401.61 |
| Total | 215.97 | 241.98 | 295.68 | 250.05 | 317.44 |
| All sources: | | | | | |
| Commission questionnaires | 183.20 | 208.02 | 214.08 | 201.20 | 234.19 |
| Adjusted CNIF data | 122.51 | 147.20 | 184.21 | 186.38 | 237.04 |
| Total | 155.98 | 182.63 | 204.26 | 196.24 | 234.85 |

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics (adjusted using proprietary Customs data) [using $35 UV cutoff].

**Table E-5**
**Certain OTR tires: U.S. shipments of domestic product, U.S. imports, by sources, apparent U.S. consumption, and market shares, 2005-07, January-March 2007, and January-March 2008**

| Item | 2005 | 2006 | 2007 | January-March 2007 | January-March 2008 |
|---|---|---|---|---|---|
| | Quantity (1,000 tires) | | | | |
| U.S. producers' shipments | 3,881 | 3,383 | 3,720 | 910 | 995 |
| U.S. imports from-- | | | | | |
| China | 1,768 | 2,086 | 2,116 | 479 | 334 |
| All other sources | 1,699 | 1,796 | 1,709 | 471 | 436 |
| Total U.S. imports | 3,467 | 3,882 | 3,825 | 951 | 770 |
| Apparent consumption | 7,348 | 7,266 | 7,544 | 1,861 | 1,766 |
| | Value ($1,000) | | | | |
| U.S. producers' shipments | 861,224 | 835,550 | 1,006,044 | 252,393 | 286,384 |
| U.S. imports from-- | | | | | |
| China | 173,903 | 274,410 | 275,907 | 68,699 | 42,380 |
| All other sources | 366,909 | 434,630 | 505,282 | 117,831 | 138,548 |
| Total U.S. imports | 540,812 | 709,040 | 781,189 | 186,531 | 180,929 |
| Apparent consumption | 1,402,035 | 1,544,590 | 1,787,233 | 438,924 | 467,312 |
| | Share of quantity (percent) | | | | |
| U.S. producers' shipments | 52.8 | 46.6 | 49.3 | 48.9 | 56.4 |
| U.S. imports from-- | | | | | |
| China | 24.1 | 28.7 | 28.0 | 25.8 | 18.9 |
| All other sources | 23.1 | 24.7 | 22.7 | 25.3 | 24.7 |
| Total U.S. imports | 47.2 | 53.4 | 50.7 | 51.1 | 43.6 |
| | Share of value (percent) | | | | |
| U.S. producers' shipments | 61.4 | 54.1 | 56.3 | 57.5 | 61.3 |
| U.S. imports from-- | | | | | |
| China | 12.4 | 17.8 | 15.4 | 15.7 | 9.1 |
| All other sources | 26.2 | 28.1 | 28.3 | 26.8 | 29.6 |
| Total U.S. imports | 38.6 | 45.9 | 43.7 | 42.5 | 38.7 |

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics (adjusted using proprietary Customs data). [Calculated using $35 UV cutoff for nonresponding firms.]