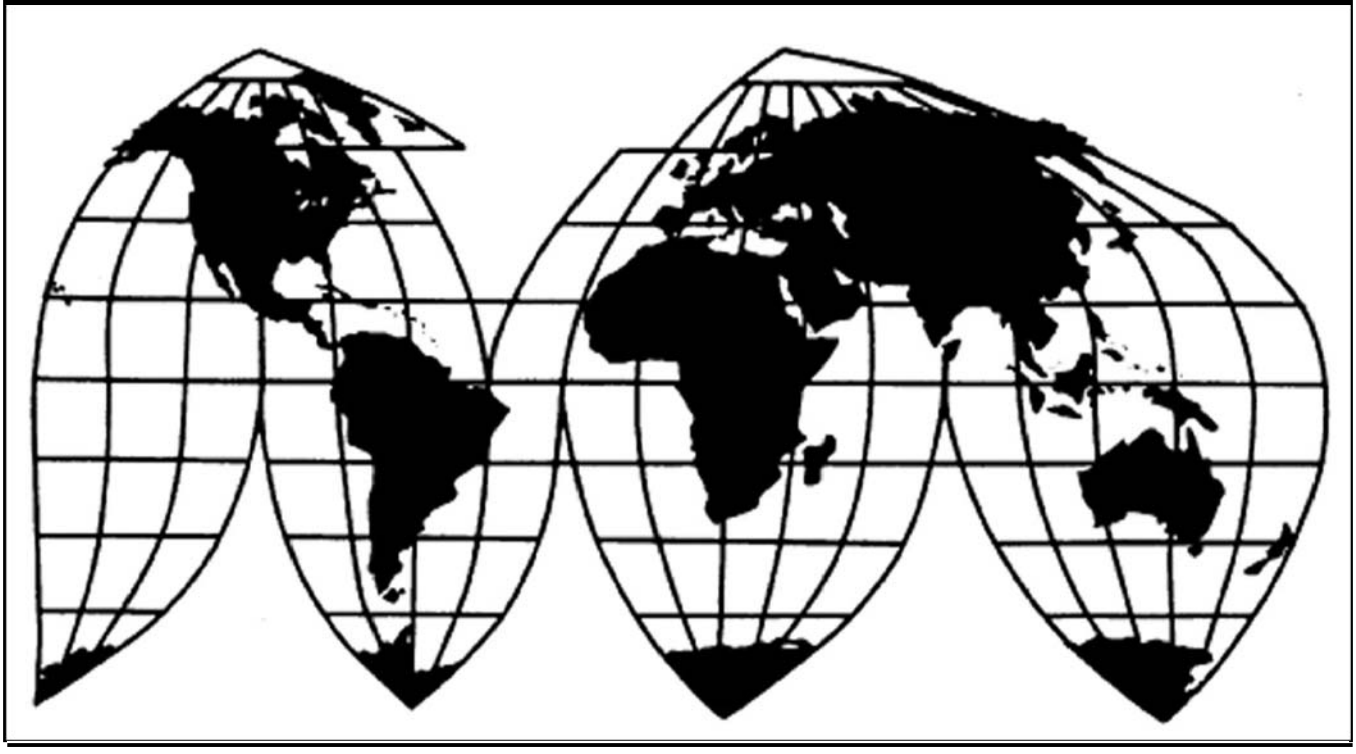
Certain Passenger Vehicle and Light Truck Tires From China

Investigation No. TA-421-7

Publication 4085 **July 2009**

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

COMMISSIONERS

Shara L. Aranoff, Chairman
Daniel R. Pearson, Vice Chairman
Deanna Tanner Okun
Charlotte R. Lane
Irving A. Williamson
Dean A. Pinkert

Robert A. Rogowsky
Director of Operations

Staff assigned

Nathanael Comly, Investigator
Amy Sherman, Investigator
Eric Land, Industry Analyst
Ray Cantrell, Industry Analyst
James Fetzer, Economist
David Boyland, Accountant
William Gearhart, Attorney
Steven Hudgens, Statistician
George Deyman, Supervisory Investigator

Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

U.S. International Trade Commission

Washington, DC 20436
www.usitc.gov

Certain Passenger Vehicle and Light Truck Tires From China

Investigation No. TA-421-7

Publication 4085

July 2009

CONTENTS

Continued.

CONTENTS

Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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 No. TA-421-7

CERTAIN PASSENGER VEHICLE AND LIGHT TRUCK TIRES FROM THE PEOPLE'S REPUBLIC OF CHINA

DETERMINATION

On the basis of information developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 421(b)(1) of the Trade Act of 1974,[1] that certain passenger vehicle and light truck tires[2] from the People's Republic of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products[3] (74 FR 30321, June 25, 2009).

RECOMMENDATION ON PROPOSED REMEDY[4]

Chairman Shara L. Aranoff and Commissioners Charlotte R. Lane, Irving A. Williamson, and Dean A. Pinkert propose that the President, for a three-year period, impose a duty, in addition to the current rate of duty, on imports of certain passenger vehicle and light truck tires from China as follows: 55 percent *ad valorem* in the first year, 45 percent *ad valorem* in the second year, and 35 percent *ad valorem* in the third year. They further propose that, if applications are filed, the President direct the U.S. Department of Labor and the U.S. Department of Commerce to provide expedited consideration of Trade Adjustment Assistance for firms and/or workers that are affected by subject imports.

BACKGROUND

The Commission instituted this investigation effective April 24, 2009 following receipt of a petition filed by the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union**,** Pittsburgh, PA. Notice of the institution of the Commission's investigation and of the scheduling of a public hearing to be held in connection therewith was given by posting a copy of the notice on the Commission's website (*www.usitc.gov*) and by publishing the notice in the *Federal Register* of April 29, 2009 (74 FR 19593). The hearing was held on June 2, 2009 in Washington, DC; all persons who requested the opportunity were permitted to appear in person or by counsel.

---

[1] 19 U.S.C. § 2451(b)(1).

[2] For purposes of this investigation, certain passenger vehicle and light truck tires are defined as new pneumatic tires, of rubber, from the People's Republic of China, of a kind used on motor cars (except racing cars) and on-the-highway light trucks, vans, and sport utility vehicles, provided for in subheadings 4011.10.10, 4011.10.50, 4011.20.10, and 4011.20.50 of the Harmonized Tariff Schedule of the United States ("HTS"). The HTS subheadings are provided for convenience and customs purposes; the written description of the product under investigation is dispositive.

[3] Vice Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun made a negative determination.

[4] Vice Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun, having made a negative determination regarding market disruption, were not eligible to vote on a proposed remedy.

VIEWS OF THE COMMISSION

VIEWS ON MARKET DISRUPTION

I. Determination

Pursuant to section 421(b)(1) of the Trade Act of 1974[1] and on the basis of the information obtained in this investigation, the Commission determines that certain passenger vehicle and light truck tires from China are being imported into the United States in such increased quantities or under such conditions as to cause market disruption to the domestic producers of certain passenger vehicle and light truck tires.[2]

II. Introduction

The petition in this investigation was filed on April 20, 2009, by the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union ("USW"). Ten domestic producers comprise the domestic industry. The responding parties to the investigation are the American Coalition for Free Trade in Tires; American Pacific Industries Inc. and Fullrun Tyre Corp. Ltd.; Cooper Tire & Rubber Company; GITI Tire (China) Investment Co., Ltd., and GITI Tire (USA) Ltd.; Les Schwab Warehouse Center, Inc.; the Subcommittee of Tire Producers of the China Chamber of Commerce of Metals, Minerals, and Chemicals Importers and Exporters; and TBC Corporation.

The domestic like product consists of tires used on passenger vehicles and light trucks. Such tires are generally mounted onto the wheels of passenger cars, sport utility vehicles, vans, and light trucks; tires of a kind mounted on the wheels of racing cars are excluded from this investigation. All passenger vehicle and light truck tires sold in the U.S. market must meet standards established by the National Highway Traffic Safety Administration and must meet U.S. Department of Transportation marking requirements. The passenger vehicle and light truck tires imported from China and those that are produced domestically can be used interchangeably.[3]

III. Background and scope of investigation

The imported passenger vehicle and light truck tires from China that are the subject of this investigation consist of the following:

> new pneumatic tires, of rubber, from China, of a kind used on motor cars (except racing cars) and on-the-highway light trucks, vans, and sport utility vehicles, provided for in subheadings

---

[1] 19 U.S.C. § 2451(b)(1).

[2] Vice Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun dissent and make a negative determination. They join section III (background and scope of investigation), section IV (statutory framework), section V (domestic industry).

[3] For purposes of clarity, throughout these views we have used the term "subject imports" to refer to the imports from China of certain passenger vehicle and light truck tires that fall within the scope of this investigation as described in the Commission's notice of investigation published in the *Federal Register*. We generally use the term "domestically produced tires" to refer to tires produced by U.S. tire manufacturers that are like the subject imports.

4011.10.10, 4011.10.50, 4011.20.10, and 4011.20.50 of the Harmonized Tariff Schedule of the United States.[4]

The tires at issue in this investigation are generally mounted onto the wheels of passenger cars, sport utility vehicles, vans, and light trucks.[5] Passenger vehicle and light truck tires overlap substantially in terms of size, as measured by the tire's rim diameter code, and the vast majority have rim diameters ranging in size from 14 to 20 inches.[6] Specifically excluded from the scope of this investigation, in addition to pneumatic racing car tires, are new pneumatic tires of a kind used on medium, large, and heavy trucks and buses; new pneumatic tires of a kind used on agricultural or forestry vehicles and machines and construction or industrial handling vehicles or machines; new pneumatic tires of a kind used on aircraft, bicycles, motorcycles, trailers, all-terrain vehicles, and vehicles for turf, lawn and garden, and golf applications; pneumatic tires that are not new, including recycled and retreaded tires; and non-pneumatic tires, such as solid rubber tires.[7] Such tires generally are produced in different plants than passenger vehicle and light truck tires.[8] Most tires for buses and medium and larger trucks have rim diameters greater than 20 inches, while tires for specialty trailers and similar vehicles have rim diameters of 12 inches or less.[9]

The Commission received information from the 10 firms that accounted for virtually all U.S. production of subject tires during 2008.[10] The Commission sent foreign producers' questionnaires to 75 firms identified in proprietary Customs data; those firms are believed to account for at least 85 percent of exports to the United States of subject tires from China from 2004 to 2008. The Commission received responses from 36 of those firms.[11] To gather additional information about market segmentation, the Commission also sent a supplemental questionnaire to all U.S. producers of subject tires and to the largest 26 importers of subject tires from China, and responses were received from all U.S. producers and 25 of the largest importers.[12] U.S. import data used by the Commission are based on official Commerce statistics.[13]

IV. Statutory framework

The determination that the Commission must make is set out in section 421(b)(1)[14] of the Trade Act, which states in part that the Commission, upon the filing of a petition or receipt of a request or resolution, shall promptly conduct an investigation –

---

[4] 74 Fed. Reg. 19593 (Apr. 29, 2009).

[5] Confidential Staff Report (CR) at I-3, Public Staff Report (PR) at I-2. Citations to the CR include revisions made pursuant to Memorandum INV-GG-052 (June 16, 2009).

[6] Petition at Annex-7-8.

[7] CR at I-5, n. 7, PR at I-3, n. 7.

[8] Petition at Annex-7.

[9] Petition at Annex-8.

[10] CR at I-4, PR at I-2.

[11] CR/PR at IV-1.

[12] CR at V-6, PR at V-5.

[13] CR at I-4, PR at I-2.

[14] 19 U.S.C. § 2451(b)(1).

to determine whether products of the People's Republic of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products.

This standard is satisfied if the following conditions are met –

(1) there is market disruption or the threat of market disruption to domestic producers of the like or directly competitive products; and
(2) imports from China are in such increased quantities or under such conditions as to cause or threaten to cause such market disruption.

The term "market disruption" is defined in section 421(c)(1)[15] to exist –

whenever imports of an article like or directly competitive with an article produced by a domestic industry are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat of material injury, to the domestic industry.

Thus, the following conditions must be satisfied to warrant a finding of market disruption –

(1) imports of the subject product from China are increasing rapidly, either absolutely or relatively;
(2) the domestic industry is materially injured, or threatened with material injury; and
(3) such rapidly increasing imports are a significant cause of the material injury or the threat of material injury.

Section 421(d)[16] provides that the Commission, in determining whether market disruption exists, shall consider objective factors, including –

(1) the volume of imports of the product which is the subject of the investigation;
(2) the effect of imports of such product on prices in the United States for like or directly competitive articles; and
(3) the effect of imports of such product on the domestic industry producing like or directly competitive articles.

Section 421(d) further provides that the presence or absence of any of these three factors "is not necessarily dispositive of whether market disruption exists."

V. Domestic industry

Section 421(c) defines the domestic industry in terms of the producers of "like or directly competitive" products. In making its determination under section 421(c), the Commission follows a two-

[15] 19 U.S.C. § 2451(c)(1).

[16] 19 U.S.C. § 2451(d).

step process of first determining what constitutes the product like or directly competitive with the imports subject to the investigation and then identifying the producers of that product (the domestic industry).[17]

A. Like or directly competitive domestic article

(1) The statutory framework and Commission practice

When assessing what constitutes the like or directly competitive product, the Commission applies the definitions of "like or directly competitive" in the legislative history of what is now section 202 of the Trade Act[18] and considers such factors as (1) the physical properties of the article, (2) its customs treatment, (3) its manufacturing process (*i.e*., where and how it is made), (4) its uses, and (5) the marketing channels through which the product is sold.[19] If the Commission finds that there is domestic production of a like product, the Commission has not found it necessary to look further and determine whether there is also domestic production of directly competitive products.[20] The Commission considers the decision regarding the like or directly competitive product to be a factual determination.[21]

After identifying the like or directly competitive goods, the Commission then determines whether there are clear dividing lines between the domestic goods and thus whether there are one or several domestic products like (or directly competitive with) the imported goods.[22]

(2) Arguments of the parties

Petitioner and respondents appear to be in general agreement as to the definition of the like or directly competitive product and agree that there is one domestic industry.

Petitioner asserts that domestic passenger vehicle and light truck tires are like the subject imports and that there is one "like" domestic product – passenger vehicle and light truck tires.[23] Petitioner argues that this is supported by information relating to the five factors that the Commission traditionally examines and has provided a factor-by-factor analysis in its pre-hearing brief.[24]

Respondents in general agree with petitioner's assertion that there is one "like" domestic product, domestic passenger vehicle and light truck tires. Although respondents argue that competition between

---

[17] *See Circular Welded Non-alloy Steel Pipe From China*, Inv. No. TA-421-6, USITC Pub. 3807 (October 2005) at 7, citing earlier decisions.

[18] Trade Reform Act of 1974, Report of the Committee on Finance, Rept. No. 93-1298, 93rd Cong., 2d Sess. (1974). The Committee report states that "'like' articles are those which are substantially identical in inherent or intrinsic characteristics (i.e., materials from which made, appearance, quality, texture, etc.), and 'directly competitive' articles are those which, although not substantially identical in their inherent or intrinsic characteristics, are substantially equivalent for commercial purposes, that is, are adapted to the same uses and are essentially interchangeable therefor." *Id*. at 122.

[19] *Circular Welded Non-alloy Steel Pipe From China*, Inv. No. TA-421-6, USITC Pub. 3807 (October 2005) at 7, citing earlier decisions.

[20] *Id.*

[21] *Id.*

[22] *Id*.

[23] Petitioner's pre-hearing brief at 6.

[24] Petitioner's pre-hearing brief at 6-8.

the imported and domestic tires is attenuated, with the domestic product consisting primarily of "Tier 1" and "Tier 2" tires and the subject imports consisting primarily of "Tier 3" tires,[25] they do not argue that there are three like products.[26] One respondent, however, argues that the "like" domestic product is not "directly competitive" with the subject imports,[27] and another respondent argues that the subject imports do not compete with U.S. tires in the OEM market.[28]

(3) Analysis

After considering the factors the Commission traditionally applies (*i.e.*, physical properties, customs treatment, production processes and facilities, uses, and marketing channels), including additional information and arguments with respect to these factors, we find that domestically produced passenger vehicle and light truck tires are like the imported passenger vehicle and light truck tires from China described in the Notice of Investigation. We also find that the various types and sizes of domestic passenger vehicle and light truck tires are part of a continuum, with no clear dividing lines between them.

We begin our analysis by examining the imported product. Our Notice of Investigation describes the imported product as follows:

> new pneumatic tires, of rubber, from China, of a kind used on motor cars (except racing cars) and on-the-highway light trucks, vans, and sport utility vehicles, provided for in subheadings 4011.10.10, 4011.10.50, 4011.20.10, and 4011.20.50 of the Harmonized Tariff Schedule of the United States.[29]

---

[25] Respondent Subcommittee of Tire Producers of the China Chamber of Commerce of Metals, Minerals and Chemical Importers and Exporters and the China Rubber Industry Association (hereafter Subcommittee of China Tire Producers) describes Tier 1 tires as consisting of "flag brands" (such as Bridgestone, Goodyear, and Michelin), Tier 2 tires as consisting of "secondary brands" (such as the former U.S. flag brands BF Goodrich, Uniroyal, and General and foreign brands), and Tier 3 tires as consisting of private brands and lower level "associate" brands owned by major producers. It asserts that the Tier 1 and Tier 2 tires command pricing premiums as compared with Tier 3 economy tires. Pre-hearing brief of Subcommittee of China Tire Producers at 16-17.

[26] Hearing tr. at 360-61 (Ms. Trossevin). In response to a question from Commissioner Okun, Ms. Trossevin, speaking on behalf of the American Coalition for Free Trade in Tires, stated: "[t]here is no argument here that these are separate like products, so it's not surprising you don't see the bright lines" (tr. at 360); "attenuated competition is recognized by the Commission as a concept within a single like product" (tr. at 360-61); and "[s]o what we are telling you is yes, you have one like product, no bright line. But you do have these three major market segments" (tr. at 361). *See also* post-hearing brief of GITI Tire (China) Investment Co., Ltd., and GITI Tire (USA) Ltd. (hereafter "GITI Tire") at 5: "[t]he distinctions between these tiers are not as clear and sharp as the distinction between holding a contract to supply a line of tires to an OEM and selling tires to a distributor for retail sale. . . . If the different tiers of replacement tires were that clearly distinguishable, respondents would be making a like product argument in this case. Instead, the same 'like product' is divided into three tiers based in significant part on brand equity."

[27] Pre-hearing brief of the American Coalition for Free Trade at 3.

[28] *See* pre-hearing brief of GITI Tire at 3. *See also* post-hearing brief of GITI Tire, at 5, where GITI Tire asserts that the distinction between tires produced for the OEM market and those produced for the replacement market is sharper than that between tires in the three tiers. GITI Tire, however, does not argue that tires produced for the OEM market are a separate like product or that the domestic tires produced for the OEM market are not "like" the subject imports.

[29] *Federal Register* of April 29, 2009, 74 F.R. 19593.

Physical properties. The evidence indicates that the physical properties of the domestic passenger vehicle and light truck tires and subject imports are substantially identical. They are produced largely from the same basic raw materials (*e.g.*, natural and synthetic rubber, carbon black, oils, etc.) and have the same basic components (*e.g.*, inner liner, body ply, sidewall beads, apex, belt package, tread, and cushion gum).[30] The evidence shows that both domestic producers and importers ship a relatively full range of passenger vehicle and light truck tires.[31] Domestic and imported tires sold in the U.S. market must meet the same National Highway Traffic Safety Administration standards and be marked in accordance with U.S. Department of Transportation requirements.[32] Tires are produced in a range of sizes to match the wheel size of the passenger vehicle or light truck, however, which is generally determined by the vehicle manufacturer. Tires of a given size are also manufactured in a variety of designs to meet customer performance preferences such as long tread wear (which may involve use of a harder rubber in the tread), better road grip (which may involve use of a softer rubber in the tread but result in faster tread wear and shorter tire life), and superior handling in winter weather (which may involve tread designs with wider and deeper grooves).[33]

Customs treatment. The subject tires are classifiable under HTS subheadings 4011.10.10, 4011.10.50, 4011.20.10, and 4011.20.50.[34]

Manufacturing process. The evidence indicates that the domestic product and the subject imports are manufactured through the same processes. An estimated 99 percent of tires are produced using a more or less conventional process, which begins with the mixing of specific chemicals (natural rubber, synthetic rubber, carbon black, and other chemicals) to form various rubber compounds (*e.g.*, the tread is made from one compound, the carcass from another, and the sidewalls from a third). The compounds are then combined with the steel cord and textiles when appropriate, and the whole is formed into a specific shape (a "green" tire). The green tire is then cooked (cured) under pressure at about 200 degrees centigrade (which leads to a non-reversible chemical change in the compound) to form the hard, resilient type of rubber found in a finished tire. Depending on the ingredients used in the various compounds, the finished tire can provide different properties, including good rolling resistance, superb grip, and so forth. Chinese tires are built on equipment purchased from Western equipment producers. Many of the leading tire producers use proprietary technology in producing their brands of tires, whether in China, the United States, or third countries.[35] Virtually all domestic producers that manufacture the subject tires produce both passenger vehicle and light truck tires in the same production facilities using the same production equipment and production-related workers.[36]

---

[30] CR at I-10, PR at I-7; and Petitioner's pre-hearing brief at 6-7.

[31] *See, e.g.*, Berra testimony, tr. at 370, stating that Community Wholesale Tire has private brand Hercules tires in its warehouse in the same sizes, lines, and quality as tires made by Cooper in plants in both the United States and China.

[32] CR at I-9, PR at I-6.

[33] *See, e.g.*, petition at Annex 2; petitioner's posthearing brief, Exh. 21 (Consumer Report, Tires and Car Care, downloaded June 5, 2009).

[34] CR at I-6, PR at I-4.

[35] *Supplier Business*, "The Tire Report," at 9, 19-20, 55-56, attached as Exhibit 18 to petitioner's pre-hearing brief, also cited in the CR at I-15, PR at I-10-11. *See also* CR at I-10-12, PR at I-7-9.

[36] Petition at Annex-6-7, listing domestic plants in which both passenger vehicle and light truck tires are made on the same equipment and with the same workers and noting domestic plants in which non-subject tires are produced.

Uses. The evidence indicates that the domestic product and the subject imports have the same uses. At least 80 percent of responding producers, importers, and purchasers indicated that domestically produced tires and the subject imports from China are at least "frequently" used interchangeably, and a majority of each group said that they are "always" used interchangeably.[37]

Marketing channels. With respect to the replacement market, the evidence indicates that the domestic and imported tires are primarily sold to warehousing distributors, who in turn sell to consuming contractors or end users.[38] In 2008, U.S. producers reported that 82.3 percent of their U.S. shipments of tires were to the replacement market and the remaining 17.7 percent were to original equipment manufacturers, and U.S. importers reported that 95.0 percent of their U.S. shipments of the subject imports from China were to the replacement market and the remaining 5.0 percent were to original equipment manufacturers.[39]

(4) Conclusions

In view of the similarities between the imported and domestically produced passenger vehicle and light truck tires in physical properties, customs treatment, manufacturing process, uses, and marketing channels, we find that domestically produced passenger vehicle and light truck tires are "like" the subject imports in that they are "substantially identical in inherent or intrinsic characteristics (*i.e.*, materials from which made, appearance, quality, texture, etc.)."[40] We also find that the various sizes and types of "like" domestic tires, including tires produced for the replacement and OEM markets, are part of a continuum of products.[41] [42]

---

[37] CR at V-20, PR at V-15.

[38] CR at I-28, PR at I-19.

[39] CR/PR Table V-2.

[40] Trade Reform Act of 1974, Report of the Committee on Finance, Rept. No. 93-1298, 93rd Cong., 2d Sess. (1974) at 122. Our finding here includes the full range of tire sizes covered by HTS subheading 4011.10.10, including tires having a rim diameter greater than 18 inches as described in HTS statistical heading 4011.10.10.70. In its prehearing brief, respondent Fullrun Tyre Corp. argues, among other things, that petitioner meant to exclude such tires from the investigation. Pre-hearing brief of Fullrun Tyre Corp., Ltd. at 2. We regard the petition and the Commission's scope of investigation as covering these larger rim diameter tires. They fall within subheading 4011.10.10 of the HTS and are not among the tire products petitioner asked to be excluded. Moreover, they are identified as passenger car tire sizes in the 2009 Tire and Rim Association report included in Appendix B of the petition. Accordingly, our domestic like product finding includes tires falling within this description.

[41] The evidence in the record does not support a finding that there are clear dividing lines among sizes and types of domestic passenger vehicle and light truck tire products, and no party made such an argument. Our finding here of no clear dividing lines is supported by responses to a supplemental Commission questionnaire relating to segmentation in the replacement tire market. Although the responses provide some evidence that the replacement market can be divided into three categories/segments (or tiers), the responses identified brand and price as the primary bases for the differentiation, not physical characteristics, uses, manufacturing process, customs treatment, or marketing channels. Of the 15 responding firms that believe the replacement market is segmented, all 15 described category 1 as consisting of major, flagship, or premium brands; 14 described category 2 as consisting of secondary, associate, or foreign producer brands; and 13 described category 3 as private label, mass-market, lesser known brands, or non-branded. Most responding firms agree on the specific brands that are in category 1, but there is less agreement as to what is included in category 2 and category 3. CR at V-6-7, PR at V-56 and CR/PR Table D-1. As the summary of respondents' arguments above makes clear, they argue that we should find that the domestic product is "like" the subject imports and that there is one like product. Their arguments with respect to segmentation in the replacement tire market relate to competition between the subject imports and the domestic tires. Our views with

(continued...)

In view of the above, we find, based on the record, that domestic passenger vehicle and light truck tires are like the subject imports from China and that there is one like product.

B. The domestic industry

Neither section 421 nor its legislative history defines the term "domestic industry." The term, however, is defined in other statutory authorities. Section 202(c)(6)(A)(i) of the Trade Act (19 U.S.C. § 2252(c)(6)(A)(i)) defines the term "domestic industry" to mean –

> with respect to an article, the domestic producers as a whole of the like or directly competitive article or those producers whose collective production of the like or directly competitive article constitutes a major proportion of the total domestic production of such article.

In previous section 421 investigations, the Commission, having found domestic production of a like product, has found the domestic industry to consist of the domestic firms and workers producing that product.

In the current investigation, the Commission identified 10 domestic producers of passenger vehicle and light truck tires[43] and collected usable financial and other data from all firms. We find that the operations of those 10 firms, and their workers, constitute the domestic industry.

VI. Rapidly increasing imports

A. Statutory framework

The first of the three statutory criteria for finding market disruption is that subject imports from China "are increasing rapidly, either absolutely or relatively." The statute suggests that the rapid increase should be recent or continuing, as opposed to in the distant past. Section 421 does not otherwise define "rapidly increasing."

---

[41] (...continued)
respect to the competition issue respondents raise are explained in detail in the causation section of these views.

[42] As indicated above, two respondents argue that the subject imports and domestic products, although "like" each other, are not "directly competitive" with each other. They argue that (1) the subject imports are sold mostly in the replacement market and do not compete directly with domestic tires sold in the OEM market and (2) the subject imports are principally sold in a different segment of the replacement market than the subject domestic tires and are not directly competitive with them. Although we need not reach this issue, having found that the subject domestic tires are "like" the subject imports from China, we nevertheless note that there is a definition of "directly competitive" in the legislative history of the Trade Act of 1974. It states that "'directly competitive' articles are those which, although not substantially identical in their inherent or intrinsic characteristics, are substantially equivalent for commercial purposes, that is, are adapted to the same uses and are essentially interchangeable therefor." Trade Reform Act of 1974, Report of the Committee on Finance, S. Rep. No. 1298, 93rd Cong., 2d Sess., at 122 (1974). Respondents do not frame their argument in terms of this definition, nor do they claim that the domestic and imported subject tires are not substantially identical. The information in the record summarized above clearly shows that the subject domestic and imported tires are adapted to the same uses and are essentially interchangeable.

[43] CR/PR Table I-2.

B. Arguments of the parties

The parties disagree with respect to whether subject imports are increasing rapidly. Citing data in the Commission's report, petitioner asserts that subject imports from China are increasing rapidly in both absolute and relative terms. Petitioner notes that (1) imports of the subject tires from China increased 215 percent by volume and nearly 300 percent by value during the period of investigation (2004-2008); (2) the rapid increase in subject imports has been both recent and continuing; (3) in percentage terms the subject imports have enjoyed double-digit increases every year since 2004; and (4) the subject imports have increased by more than 70 percent since 2006.[44] Petitioner further notes, based on data in the Commission's report, that subject imports increased by 22 percentage points relative to domestic production and more than 12 percentage points relative to apparent domestic consumption during the period examined.[45]

Respondents make various arguments to the effect that imports of the subject tires from China are not increasing rapidly. The Subcommittee of China Tire Producers asserts that the increase has been "gradual," with the largest increase occurring from 2006 to 2007, when there was a shortage in the U.S. replacement market due to the exit of U.S. producers from the Tier 3 economy segment of the market. The Subcommittee further argues that the increase in subject imports from 2007 to 2008 was "only 11 percent" and that the subject imports actually decreased by 14.7 percent in the first quarter of 2009 as compared to the first quarter of 2008.[46] Respondent GITI Tire asserts that the rate of increase "plunged" in 2008 as a result of the economic downturn and reduced levels of driving and that the increase in imports "abated" in the year preceding the filing of the petition and does not constitute the "spike" in imports the statute was intended to address.[47] The American Coalition for Free Trade asserts that none of the three scenarios for finding rapidly increasing subject imports that the Commission identified in *Brake Drums and Rotors* is present in this investigation (*i.e.*, a relatively sharp increase in one year, a steady, less dramatic increase over two or three years, or a rapid upswing after subject imports have fluctuated up and down). Instead, the Coalition asserts that there was a small annual increase from 2004 to 2006, a slightly higher increase in 2007, and then a small increase again in 2008. The Coalition also asserts that increases in subject imports from China in relative terms are derived from a small base and thus cannot be viewed as "sharp" or "dramatic."[48]

C. Analysis

In deciding whether the increasing rapidly test is met, we look to the increase and rate of increase in subject imports and focus on recent increases in subject imports. We find that the test is satisfied and that the subject imports are increasing rapidly in both absolute and relative terms.

In absolute terms, imports of the subject tires from China increased throughout the period of investigation and were the highest, in terms of both quantity and value, in 2008, at the end of the period.[49]

---

[44] Petitioner's pre-hearing brief at 9-10.

[45] Petitioner's pre-hearing brief at 11.

[46] Pre-hearing brief of the Subcommittee of China Tire Producers at 8-9.

[47] Pre-hearing brief of GITI Tire at 11-12.

[48] Pre-hearing brief of the American Coalition for Free Trade in Tires, at 19-20.

[49] In terms of quantity, the subject imports from China increased from 14.6 million tires in 2004 to 20.8 million in 2005, 27.0 million in 2006, 41.5 million in 2007, and 46.0 million in 2008. In terms of value, they increased from

(continued...)

The quantity of subject imports rose by 215.5 percent between 2004 and 2008, by 53.7 percent between 2006 and 2007, and by 10.8 percent between 2007 and 2008.[50] The value of subject imports rose even more rapidly, increasing by 294.5 percent between 2004 and 2008, by 60.2 percent between 2006 and 2007, and by 19.8 percent between 2007 and 2008.[51]

Both the ratio of subject imports to U.S. production and the ratio of subject imports to U.S. apparent consumption rose throughout the period examined, and both ratios were at their highest levels of the period in 2008.[52] The ratio of subject imports to U.S. production increased by 22.0 percentage points between 2004 and 2008, with the two largest year-to-year increases occurring at the end of the period in 2007 and 2008.[53] The ratio of subject imports to U.S. apparent consumption increased by 12.0 percentage points during the period examined, with the two largest year-to-year increases also occurring at the end of the period in 2007 and 2008.[54]

We do not agree with respondents that the increases in subject imports from China during the period examined were "gradual" or "small," or that subject imports had "abated" by the end of the period. Rather, we find that the subject imports increased, both absolutely and relatively, throughout the period by significant amounts in each year and, as stated above, were at their highest levels at the end of the period in 2008. Whether viewed in absolute or relative terms, and whether viewed in terms of the increase from 2007 to 2008 alone or the increase in the last two full years (or even the last three years), the increases were large, rapid, and continuing at the end of the period – and from an increasingly large base.[55]

In view of the above, we find that the first statutory criterion for finding market disruption – that subject imports are increasing rapidly – is fully satisfied.

---

[49] (...continued)
$453.3 million in 2004 to $691.9 million in 2005, $931.7 million in 2006, $1.493 billion in 2007, and $1.788 billion in 2008. CR/PR at Table C-1.

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

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

[52] The ratio of subject imports to U.S. production rose from 6.7 percent in 2004 to 10.0 percent in 2005, 14.6 percent in 2006, 23.0 percent in 2007, and 28.7 percent in 2008. CR/PR at Table II-2. The ratio of subject imports to U.S. apparent consumption increased from 4.7 percent in 2004 to 6.8 percent in 2005, 9.3 percent in 2006, 14.0 percent in 2007, and 16.7 percent in 2008. CR/PR at Table V-1.

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

[54] CR/PR at Table V-1.

[55] We also note that one respondent asserts, in support of its claim that the subject imports are not increasing rapidly, that the subject imports declined in actual terms during the first quarter of 2009. The data the Commission compiled and relied upon in this investigation, however, did not include first quarter 2009 data because a relatively complete data series for that period would not have been available in time for use in this investigation. The first quarter 2009 import data also are of no probative value in determining whether the subject imports are increasing rapidly in relative terms in the absence of a data series that includes first quarter 2009 data on U.S. production and U.S. apparent consumption. Thus, consideration of first quarter 2009 import data alone would not change our finding that imports of the subject imports from China are increasing rapidly, both absolutely and relatively.

VII. Material injury

A. Statutory framework

The second statutory criterion for finding market disruption is whether the domestic industry is materially injured or threatened with material injury. Neither section 421 nor its legislative history defines "material injury" or "threat," identifies the economic factors to be considered, or expressly adopts or references any definitions, factors, or Commission practice under other statutory authorities that the Commission should apply or look to for guidance. The term "material injury," however, appears in both section 406 of the Trade Act of 1974 and Title VII of the Tariff Act of 1930. Title VII of the Tariff Act of 1930 defines "material injury" to mean "harm which is not inconsequential, immaterial, or unimportant."[56] Section 406 does not define "material injury," but its legislative history contrasts the term with the "serious" injury referred to in section 201:

> the market disruption test is intended to be more easily met than the serious injury tests in section 201. . . .[T]he term "material injury" in section 406 is intended to represent a lesser degree of injury than the term "serious injury" standard employed in section 201.[57]

In the absence of express direction in section 421, the Commission has found that "material injury" in section 421 cases represents a lesser degree of injury than "serious injury" under section 202 of the Trade Act.[58] This lesser degree of injury applies to the analysis of both present injury and threat of injury. The Commission also has found it appropriate, in analyzing present material injury, to consider all relevant economic factors that have a bearing on the state of the industry, including the three broad factors in section 202(c)(1)(A) relating to the idling of productive facilities, the inability of firms to operate at a reasonable level of profitability, and unemployment or underemployment. In addition, the Commission has considered other relevant economic factors, such as production, shipments, sales, inventories, capacity and capacity utilization, market share, employment, wages, productivity, profits, capital expenditures, and research and development expenditures. It has not viewed any single factor as dispositive and has considered all relevant factors within the context of the relevant business cycle and conditions of competition that are distinctive to the affected industry.[59]

B. Arguments of the parties

The parties disagree as to whether the material injury criterion is satisfied, with petitioner arguing that the domestic industry is materially injured and threatened with further material injury and respondents arguing that it is not.

Petitioner argues that the domestic industry has experienced significant idling of productive facilities during the period examined and cites the closing of four plants, as well as declines in production

---

[56] Section 771(7)(A); 19 U.S.C. § 1677(7)(A).

[57] Trade Reform Act of 1974, Senate Report No. 93-1298, 93rd Cong., 2nd Sess., *reprinted in* 1974 U.S.C.C.A.N. 7186, 7343-44.

[58] *See, e.g., Certain Welded Non-alloy Steel Pipe From China*, Inv. No. TA-421-6, USITC Pub. 3807 (October 2005) at 15, citing earlier decisions.

[59] *See, e.g., Certain Welded Non-alloy Steel Pipe From China*, Inv. No. TA-421-6, USITC Pub. 3807 (October 2005) at 15-16, citing earlier decisions.

capacity and production.[60] Petitioner asserts that the industry is unable to operate at a reasonable level of profitability, noting that the industry's operating income and operating margins declined from positive numbers to losses.[61] In addition, petitioner notes that the industry has experienced significant unemployment and underemployment, with a loss of 4,000 jobs since 2004 and the projected loss of an additional 3,000 jobs in 2009 due to announced plant closings. Petitioner also cites other falling indicators, including declining shipments, industry market share, industry hours worked, and wages paid.[62] With respect to threat of material injury, petitioner points out the increased capacity in China to produce the subject tires, the decrease in the share of tire production in China that is shipped to the domestic Chinese market, and declines in capacity utilization in China, all of which contributed to the significant underutilized capacity that is evident from 2006 to 2008.[63] Petitioner also cites responses to Commission questionnaires indicating that tire producers in China plan to increase capacity by 19.1 million tires in 2009 and by an additional 3.5 million tires in 2010, and to increase exports to the United States by 1.32 million tires in 2009.[64]

Respondents assert that the domestic industry is not materially injured or threatened with material injury. They argue that, when viewed in the context of the business cycle and compared with other industries impacted by the general economic climate, the industry is not experiencing material injury. In their view, the industry is undergoing a positive restructuring having nothing to do with imports, and this restructuring will leave the industry more efficient and profitable when the recession ends. They characterize the restructuring as involving the shift of domestic production from Tier 3 (economy) tires to higher performance, higher value-added tires in Tier 1 and Tier 2, and the relocation of Tier 3 tire production to Mexico and other lower-cost countries, including China.[65]

Respondents further claim that even with the economic downturn and reduced U.S. driving in 2008, seven of the top 11 tire manufacturers, including U.S. producers Bridgestone and Continental, experienced increased global sales during 2008. In their view, the domestic industry achieved these results by using imports from China as part of a long-term strategic business plan to improve profitability. They contend that the domestic industry's results were even more favorable in 2007. Respondents note that while some domestic producers were closing older tire plants producing for the mass market, other domestic producers were adding new production for market niches that focus more on brand equity and higher value; they cite, in particular, Toyo's new plant that opened in 2005 and was later expanded, Kumho's announcement in January 2008 that it will build a plant in Georgia, and Continental's and Pirelli's announcement of new U.S. plant investments and production line expansions.[66]

C. Finding and analysis

For the reasons set forth below, we find that the domestic industry producing passenger vehicle and light truck tires is materially injured.

(1) Overview of the domestic industry

---

[60] Petitioner's pre-hearing brief at 12-13.

[61] Petitioner's pre-hearing brief at 15.

[62] Petitioner's pre-hearing brief at 18-19.

[63] Petitioner's pre-hearing brief at 38.

[64] Petitioner's pre-hearing brief at 39.

[65] Pre-hearing brief of Subcommittee of China Tire Producers at 10-12.

[66] Pre-hearing brief of GITI Tire at 16-19.

An indicated above, the domestic industry producing the types of tires at issue in this case consists of 10 domestic producers. The Commission collected financial and other data from *** of these firms on their U.S. operations for the period 2004-2008. The U.S. producers of such tires range from large multinational companies with global production and sales and varying levels of vertical integration to smaller producers with only domestic operations. In 2008, U.S. producers manufactured such tires in 28 plants, with most of these plants producing the tires with dedicated equipment, machinery, and workers.[67] Four U.S. producers (Bridgestone, Cooper, Goodyear, and Michelin) account for *** percent of cumulative U.S. sales.[68] In 2008, approximately 82 percent of the domestic shipments of U.S. producers went to the replacement market, and the remaining shipments went to original equipment (new car and light truck) manufacturers (OEMs).[69] Domestic producers collectively manufacture a full range of styles and sizes of passenger vehicle and light truck tires, which are sold in various price ranges.

Demand for passenger vehicle and light truck tires depends on changes in the numbers of new passenger vehicles and light trucks produced in the United States, changes in the numbers of existing passenger vehicles and light trucks that need replacement tires, and changes in the total number of miles driven. U.S. apparent consumption fluctuated during the period examined, but was highest in 2004 and lowest in 2008.[70] Demand for OEM tires declined during 2008 due to decreased passenger car production. Demand for replacement market tires also declined during 2008 because of a decrease in miles traveled, consumers' desire to get more miles out of existing tires, and the weak economy.[71]

(2) Analysis of factors

We find that the domestic industry producing the subject tires is materially injured. As explained below, the data show a continuous decline over the period examined in U.S. producers' domestic capacity, production, and shipments. The data also show continuous declines in the number of workers employed in the industry, the number of hours they worked and the amount they earned. All of these indicators were at their lowest levels in 2008, as were the industry's financial results.

U.S. producers' average production capacity fell throughout the period examined, due largely to the closures in 2006 and 2007 of four plants and other reductions in capacity.[72] Three more plants are slated to be closed in 2009.[73] The four plants that were closed had a combined capacity of 43.4 million tires a year.[74] The decline in capacity caused by these closings and capacity reductions was offset only in small part by the opening of a new, relatively small U.S. plant by Toyo in 2005 and expansions at several

[67] CR at I-16 , PR at I-11 and CR/PR Table I-2.

[68] CR at III-14, PR at III-12.

[69] CR/PR at Table V-2.

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

[71] CR at V-12, PR at V-9.

[72] Two of the plants were closed by Continental in 2006, one was closed by Bridgestone in 2006, and one was closed by Goodyear in 2007. CR/PR at Table I-3. Michelin reported capacity reductions at its U.S. plants in 2005, 2006, and 2007, and *** increase in 2008; Cooper reported *** increase in capacity in 2005, *** decline in 2006, and *** decline in 2007; and Yokohama reported capacity reductions in 2007 and 2008. CR/PR at Table III-1.

[73] CR/PR at Table I-3.

[74] CR/PR at Table I-3.

plants.[75] U.S. producers' average annual capacity fell by 17.8 percent from 226.8 million tires in 2004 to 186.4 million tires in 2008. Nearly 75 percent of this decline (28.8 million tires) occurred in the last two years of the period examined,[76] reflecting in large part the plant closures and capacity reductions noted above.

Notwithstanding the decrease in capacity, U.S. producers' capacity utilization trended downward during the period examined and was lower in 2007 and 2008 than in either 2004 or 2005, prior to the plant closures. U.S. producers' capacity utilization reached its lowest level in 2006, the year in which three plants closed. Capacity utilization rose in 2007, but to a level that was still below the 2004 and 2005 levels, and then fell sharply in 2008 almost to the 2006 level.[77]

U.S. producers' production and shipments also declined in each year of the period examined and were at their lowest levels in 2008. Production declined by 26.6 percent from 218.4 million tires in 2004 to 160.3 million tires in 2008. The largest year-to-year percentage decline in U.S. producers' production occurred in 2008 (11.1 percent), while the largest year-to-year decline in actual volume occurred in 2006.[78] U.S. producers' U.S. shipments fell by 29.7 percent from 194.7 million tires in 2004 to 136.8 million tires in 2008, with the largest decline occurring between 2007 and 2008, when such shipments fell by 12.1 percent from 155.7 million tires to 136.8 million tires.[79]

U.S. producers' inventories were moderate throughout the period, although the quantities fluctuated during the period examined. U.S. producers' ending inventories initially rose between 2004 and 2005, and then fell in 2006 to their lowest level of the period examined; they rose again in 2007 and 2008. U.S. producers' ending inventory quantity in 2008 of 21.7 million tires was below the levels reported in 2004 (22.0 million tires) and 2005 (22.8 million tires). Inventories as a percentage of total shipments, however, were at their highest level for the period at the end of 2008.[80]

U.S. employment as measured by the number of U.S. production and related workers (PRWs) declined each year during the period examined, as did the number of hours worked. Both were at their

---

[75] CR at I-20-I-25, PR at I-15-18; CR at III-1 to III-7, PR at III-1 to III-6; CR/PR at Table III-1. The annual capacity of the Toyo plant is *** million tires, well below the capacity of 43.4 million tires of the four plants that closed in 2006 and 2008. CR/PR at Table I-3. In 2004, Cooper announced it would make capital equipment investments in its plants that would increase annual capacity by more than 2.9 million tires. Toyo reported that *** and announced in May 2007 that it would expand the plant's capacity to 3.3 million tires annually by 2009. CR at I-20-25, PR at I-15-18. Pirelli reported increases in capacity in each year of the period examined, but its U.S. production was relatively small throughout the period. After reporting *** decline in capacity in 2007 as compared to 2006, Bridgestone reported *** increase in capacity in 2008. CR/PR at Table III-1.

[76] CR/PR at Table C-1. U.S. producers' capacity declined from 226.8 million tires in 2004 to 222.9 million tires in 2005, 215.2 million tires in 2006, 196.3 million tires in 2007, and 186.4 million tires in 2008. *Id.*

[77] U.S. producers' capacity utilization was at its highest during the period examined in 2004, at 96.3 percent. Capacity utilization then fell to 93.2 percent in 2005 and 85.9 percent in 2006 (the lowest level of the period), rose to 91.9 percent in 2007, and fell again to 86.0 percent in 2008. CR/PR at Table C-1.

[78] CR/PR at Table C-1. U.S. producers' production declined from 218.4 million tires in 2004 to 207.8 million tires in 2005, 184.8 million tires in 2006, 180.3 million tires in 2007, and 160.3 million tires in 2008. *Id.*

[79] CR/PR at Table C-1. U.S. producers' shipments declined from 194.7 million tires in 2004 to 181.8 million tires in 2005, 163.8 million tires in 2006, 155.7 million tires in 2007, and 136.8 million tires in 2008. *Id.*

[80] CR/PR at Table C-1. We do not regard U.S. producers' inventories as a meaningful indicator of the domestic industry's condition in view of the fact that U.S. producers generally produce subject tires in response to orders and do not hold significant inventories. ***.

lowest level of the period in 2008. U.S. producers' productivity fluctuated, but was also at its lowest level in 2008. The number of U.S. PRWs declined by 14.2 percent from 36,411 in 2004 to 31,243 in 2008. The largest one-year decline occurred in 2007, reflecting the closing of three plants in 2006; however, the number of PRWs continued to fall in 2008.[81] Hours worked by PRWs similarly fell each year during the period examined and by 17.0 percent between 2004 and 2008. The largest one-year decline occurred between 2007 and 2008, when the number of hours worked fell by 6.1 percent.[82] Total wages paid declined in each year during the period examined,[83] and, although hourly wages increased through 2006, they fell in 2007 and remained below the 2006 level in 2008.[84] U.S. producers' productivity, as measured in tires produced per hour, fluctuated during the period examined, but was at its lowest level of the period in 2008.[85]

U.S. producers' reported operating income on their domestic passenger vehicle and light truck tire operations[86] was highest in 2007, the only year during the period examined when the increase in the unit value of net sales exceeded the unit cost of goods sold. Operating income was lowest in 2008, when U.S. producers overall operated at a loss.[87] The number of producers reporting operating losses ranged from three to seven during the period examined, with the lowest number reporting operating losses in 2007, and the highest number reporting operating losses in 2006. Six firms reported operating losses in 2008. All firms reported decreases in operating income or increases in operating losses in 2008 as compared to 2007.[88]

U.S. producers' R&D expenses and capital expenditures fluctuated within relatively narrow ranges during the period examined, and both trended upwards as the domestic producers sought to

---

[81] CR/PR at Table C-1. The number of U.S. PRWs declined from 36,411 in 2004 to 35,595 in 2005, 34,037 in 2006, 31,842 in 2007, and 31,243 in 2008. *Id.*

[82] CR/PR at Table C-1. The number of hours worked declined from 76.0 million in 2004 to 73.6 million in 2005, 69.7 million in 2006, 67.2 million in 2007, and 63.1 million in 2008. *Id.*

[83] Wages paid by U.S. producers declined from $1.79 billion in 2004 to $1.78 billion in 2005, $1.76 billion in 2006, $1.65 billion in 2007, and $1.57 billion in 2008, or by 12.5 percent between 2004 and 2008, 6.3 percent between 2006 and 2007, and an additional 5.0 percent between 2007 and 2008. CR/PR at Table C-1.

[84] Wages paid by U.S. producers were $23.61 per hour in 2004 and rose to $24.19 per hour in 2005 and $25.29 per hour in 2006. Hourly wages then fell to $24.61 per hour in 2007 and rose slightly (by 1.2 percent) to $24.91 in 2008. CR/PR at Table C-1.

[85] CR/PR at Table C-1. U.S. producers' productivity was at its highest level of the period examined, 2.9 tires per hour, in 2004. It then fell to 2.8 tires per hour in 2005 and 2.6 tires per hour in 2006. Productivity rose slightly in 2007 to 2.7 tires per hour, but then fell to 2.5 tires per hour in 2008, the lowest level of the period. 2004 and 2008, productivity fell by 11.5 percent. *Id.*

[86] *** firms reported data for 2004 and 2005, and *** reported data for 2006, 2007, and 2008. CR III-14, PR III-12 and CR/PR at Table III-7.

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

[88] CR/PR at Table III-7. U.S. producers reported total operating income of $256.2 million in 2004 and $165.5 million in 2005, an operating loss of $114.5 million in 2006, operating income of $507.2 million in 2007, and an operating loss of $262.8 million in 2008. *Id.*

modernize their facilities and increase efficiency.[89] R&D expenses were at their highest level in 2007,[90] and capital expenditures were at their highest level in 2008.[91]

In summary, we find that the domestic industry producing passenger vehicle and light truck tires is materially injured. Virtually all the industry indicators declined during the period examined. U.S. producers' capacity, production, shipments, number of U.S. PRWs and hours worked, productivity, and financial performance were all at their lowest levels of the period in 2008. U.S. producers' capacity utilization, which was at its lowest in 2006, nearly equaled that level in 2008. Four plants were closed during the period examined, and in light of the current conditions, U.S. producers have announced plans to close three more plants in 2009. Only two indicators, R&D expenses and capital expenditures, appear to have increased toward the end of the period.

VIII. Significant cause

A. Statutory framework

The third statutory criterion for finding market disruption is whether the rapidly increasing imports are a significant cause of material injury or threat of material injury. The term "significant cause" is defined in section 421(c)(2) of the Trade Act of 1974 to mean "a cause which contributes significantly to the material injury of the domestic industry, but need not be equal to or greater than any other cause."[92] Section 406 of the Trade Act uses the same causation test and definition.[93] The legislative history of section 406 describes the significant cause standard as follows:

> Under this standard, the imports subject to investigation need not be the leading or most important cause of injury or more important than (or even equal to) any other cause, so long as a direct and significant causal link exists. Thus, if the ITC finds that there are several causes of the material injury, it should seek to determine whether the imports subject to investigation are a significant contributing cause of the injury or are such a subordinate, subsidiary or unimportant cause as to eliminate a direct and significant causal relationship. . . . [94]

Section 421(d) includes a list of three factors that the Commission is required to consider in determining whether market disruption exists and that relate to the Commission's causation analysis:

(1) the volume of imports of the product which is the subject of the investigation;
(2) the effect of imports of such product on prices in the United States for like or directly competitive articles; and

---

[89] CR at I-20-I-25, III-4-III-7, PR at I-15-I-18, III-4-III-6 and CR/PR Table III-8.

[90] CR/PR at Table III-8. Industry R&D expenses increased from $270.7 million in 2004 (the lowest level of the period) to $296.2 million in 2005, fell to $288.6 million in 2006, rose to $307.1 million in 2007 (the highest level of the period), and then declined slightly to $306.7 million in 2008. *Id*.

[91] CR/PR at Table III-8. Industry capital expenditures increased from $550.8 million in 2004 (the lowest level of the period) to $688.2 million in 2005, fell to $576.5 million in 2006, and rose to $597.4 million in 2007 and $729.3 million in 2008. *Id.*

[92] 19 U.S.C. § 2451(c)(2).

[93] Section 406(e)(2)(B)(ii), 19 U.S.C. § 2436(e)(2)(B)(ii).

[94] Omnibus Trade and Competitiveness Act of 1988, House Conf. Report No. 100-576, 100th Cong., 2nd Sess., *reprinted in* 1988 U.S.C.C.A.N. 1547, 1724.

(3) the effect of imports of such product on the domestic industry producing like or directly competitive articles.[95]

The presence or absence of any of these factors is not necessarily dispositive of whether market disruption exists. The three factors are similar to a list of factors in section 406(e)(2)(C) of the Trade Act of 1974[96] and parallel the criteria in Title VII of the Tariff Act of 1930 that the Commission must consider in determining whether a domestic industry is injured by reason of dumped or subsidized imports.[97]

B. Arguments of the parties

Petitioner argues that rapidly increasing imports from China are a significant cause of material injury or the threat of material injury to the domestic industry. It contends that the subject imports are significant and have increased their market share at the direct expense of the domestic industry, citing data from the Commission's report showing overall changes in market share and responses to purchaser questionnaires.[98] Petitioner disputes respondents' claims that U.S. tire producers voluntarily abandoned the lower-priced tier of the U.S. market in favor of foreign production. Instead, petitioner asserts that low-cost imports from China drove down prices and profitability to such an extent that domestic producers could no longer compete, and those producers were forced to close the plants they could no longer operate profitably.[99]

Petitioner further argues that the imported and domestic tires are highly substitutable and that the subject imports are underselling domestic tires by significant margins and suppressing domestic prices.[100] Petitioner asserts that the Commission's purchaser questionnaire responses show the extent to which domestic producers' sales have been displaced by subject Chinese imports and notes that there is a ***.[101] Petitioner also maintains that the subject imports are having a significant adverse impact on the domestic industry, citing domestic plant closings, reductions in domestic capacity and production, and declines in shipments, sales, market share, employment, net sales, gross profit and operating profit during the period examined.[102] Petitioner also claims that the increased share of the U.S. market taken by Chinese imports during the period examined has been entirely at the expense of U.S. producers, noting that imports from other principal foreign suppliers have either declined or remained flat and have significantly higher average unit values than imports from China.[103]

According to respondents, imports from China are not a significant cause of material injury or threat of material injury to the domestic industry. They present four basic arguments: (1) the main reason why Chinese imports have entered the U.S. market is to fill the void left after U.S. tire producers

---

[95] 19 U.S.C. § 2451(d).

[96] 19 U.S.C. § 2436(e)(2)(C).

[97] Section 771(7)(B)(i) of the Tariff Act of 1930, 19 U.S.C. § 1677(7)(B)(i).

[98] Petitioner's pre-hearing brief at 20-23.

[99] Petitioner's pre-hearing brief at 28-29.

[100] Petitioner's pre-hearing brief at 30-33.

[101] Petitioner's pre-hearing brief at 33-34.

[102] Petitioner's pre-hearing brief at 36.

[103] Petitioner's pre-hearing brief at 36.

voluntarily decided to reduce or eliminate their U.S. production of economy (Tier 3) replacement tires;[104] (2) competition between U.S. produced tires and the subject imports is attenuated, with the subject imports competing principally in the Tier 3 segment of the replacement market, not in the high performance Tier 1 and Tier 2 segments or the OEM market;[105] (3) because of this attenuated competition, subject Chinese imports have had little, if any, effect on the volume and price of tires in market segments in which they are not present and thus little if any effect on U.S. producers;[106] and (4) there are several factors other than subject imports, including the recent state of the economy, that have adversely affected U.S. tire production.[107]

Respondents further argue that the facts in this investigation are similar to those in *Brake Drums and Rotors*, in which the Commission made a negative determination;[108] they say that no market disruption can be found when the U.S. producers allegedly affected by the Chinese imports largely *** import restrictions or have any plans to make adjustments to their operations if relief is provided;[109] and that, given the limited extent of U.S. producers' support for the petition, the Commission should make a negative determination in line with the reasoning of the U.S. Court of International Trade in the *Suramerica* case.[110]

C. Finding

For the reasons stated below, we find that the rapidly increasing imports of passenger vehicle and light truck tires from China are a significant cause of material injury to the domestic passenger vehicle and light truck tire industry.

D. Conditions of competition

All passenger vehicle and light truck tires have the same basic components and the same basic function,[111] and domestically produced as well as imported passenger vehicle and light truck tires sold in the United States must meet certain minimum Federal performance and marking requirements.[112] They are manufactured in a range of sizes to meet the specifications of vehicle manufacturers, however, and

---

[104] *See, e.g.*, pre-hearing brief of the Subcommittee of China Tire Producers at 14; post-hearing brief of GITI Tire at 10; pre-hearing brief of the American Coalition for Free Trade in Tires at 6-7; and post-hearing brief of Les Schwab Warehouse Center at 2.

[105] *See, e.g.*, pre-hearing brief of the Subcommittee of China Tire Producers at 14; and post-hearing brief of the American Coalition for Free Trade in Tires at 18-20.

[106] *See, e.g.*, pre-hearing brief of the Subcommittee of China Tire Producers at 14.

[107] *See, e.g.*, pre-hearing brief of GITI Tire at 23, 28-33, citing the following as circumstances affecting U.S. tire production: the current recession, the contraction in the OEM tire market, sharp increases in raw material costs and raw material shortages, automation for increased productivity, imports from non-subject countries, higher gasoline prices resulting in less driving, strikes and labor actions, high legacy costs of U.S. tire producers, and other factors such as equipment restraints.

[108] Pre-hearing brief of GITI Tire at 34-35, discussing the Commission's decision in *Certain Brake Drums and Rotors From China*, Inv. No. TA-421-3, USITC Pub. 3622, August 2003.

[109] Pre-hearing brief of Les Schwab Warehouse Center at 8-10.

[110] Post-hearing brief of American Pacific Industries, Inc., at 6-7, citing *Suramerica de Aleaciones Laminadas, C.A. v. United States*, 17 C.I.T. 146 (1993).

[111] CR at I-7, PR at I-4.

[112] CR at I-9, PR at I-6.

they also vary somewhat in raw material inputs and technology that may impart different performance characteristics relating to tire wear, vehicle handling, and performance in certain road conditions.[113] Both the Chinese and U.S. producers manufacture a broad range of tire sizes and styles and various performance characteristics, and the subject tires and U.S. tires are generally used interchangeably in the U.S. market.[114]

Passenger vehicle and light truck tires are principally sold in two markets: the OEM market and the replacement market. Chinese and U.S. producers sell in both markets.[115] The replacement market is by far the more important market for both groups of producers in terms of the volume of sales, but is relatively more important for Chinese producers. In 2008, 17.7 percent of U.S. producers' U.S. shipments were to the OEM market, with the remaining 82.3 percent to the replacement market. For the subject imports from China, 5.0 percent of shipments to the U.S. market in 2008 were to the OEM market, with the remaining 95.0 percent to the replacement market. The share shipped to the OEM market by U.S. producers declined each year during the period examined, while the share of subject imports from China shipped to the OEM market increased irregularly and was at its highest in 2006 at 7.3 percent.[116]

Information in the record indicates that tires sold in the replacement market fall into three categories (or "tiers")[117] of tires based on brand and price, but there are no clear dividing lines among categories and there is no consensus among producers, importers, and purchasers as to how to define the categories, particularly as to the tires that fall into categories 2 and 3. Responses to a supplemental Commission questionnaire show that there are significant U.S. shipments of U.S.-produced tires in all three categories, with shipments in category 1 the largest, shipments in category 3 the second largest, and shipments in category 2 the smallest.[118] U.S. shipments of the subject tires from China fall into all three categories, with the largest share falling into category 3, the second largest share falling into category 2, and a very small share falling into category 1.[119] In addition, counsel for one respondent observed at the Commission's public hearing that there are no bright lines among the categories,[120] and there was disagreement among respondents' witnesses at the hearing about which brands fell into which category.[121]

---

[113] CR at I-8-I-14, V-20, PR at I-5-I-10, V-16 and CR/PR Table V-6.

[114] CR at V-20, PR at V-15-16.

[115] CR/PR at Table V-2.

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

[117] The supplemental questionnaire relating to segmentation in the replacement tire market that the Commission sent to domestic tire producers and to certain importers of the subject tires from China framed the questions and responses in terms of "categories" rather than "tiers." The Commission report for that reason generally uses the term "category" and refers to three categories. Respondents, however, generally use the term "tier" in their briefs and refer to three tiers. For purposes of consistency with the Commission report, we use the term "category" in these views except when summarizing respondents' arguments, but we regard the terms "category" and "tier" as having substantially the same meaning.

[118] Each firm that received a questionnaire was asked to place its shipments/purchases into the three categories as it defined or perceived them. The Commission did not impose a definition on the responding firms.

[119] INV supplemental questionnaire responses.

[120] Tr. at 360-61 (Trossevin).

[121] Tr. at 368 (Berra). In response to a question from Commissioner Williamson, Mr. Berra (president of Community Wholesale Tire, Inc., testifying on behalf of the American Coalition for Free Trade in Tires) said the following: "in our area there is still substantial production of tier three tires in the U.S. Cooper Tire and Rubber

(continued...)

Demand trends for subject tires depend on changes in the number of new passenger vehicles and light trucks produced in the United States, the number of existing passenger vehicles and light trucks that need replacement tires, and the total number of miles driven. The demand for replacement tires fell in 2008 as the number of miles driven decreased, consumers tried to get more miles from current tires, and the economy weakened.[122] In addition, as domestic production of passenger cars and light trucks decreased in 2008, the demand for OEM tires for passenger cars and light trucks fell.[123]

The quantity of U.S. imports from China rose each year during the period examined and was 215.5 percent higher in 2008 than in 2004. In contrast, the quantity of U.S. imports from countries other than China has declined in each year since 2005 (after increasing initially in 2005) and was 5.4 percent lower in 2008 than in 2004. As a result, total U.S. imports of subject tires from all sources (as measured by quantity) rose by 23.2 percent from 2004 to 2008; total imports rose during the first four years of the period, but declined by 1.1 percent in 2008.[124]

E. Analysis

In performing our analysis, we first consider information relevant to the three statutory factors that relate to our causation analysis – *i.e.*, the volume of subject imports, the effect of subject imports on prices, and the effect of subject imports on the domestic industry. As the data cited above show, imports of passenger vehicle and light truck tires from China are increasing rapidly in absolute terms. The subject imports increased each year during the period examined and were at their highest level of the period in 2008. Subject imports increased by 215.5 percent from 14.6 million tires in 2004 to 46.0 million tires in 2008. The greatest and most rapid increase in subject import volume has occurred since 2006. Subject imports increased by 53.7 percent from 27.0 million tires in 2006 to 41.5 million tires in 2007, and by an additional 10.8 percent to 46.0 million tires in 2008.[125] Thus, the data show a large and rapid increase in subject imports, particularly since 2006.[126]

The large increase in the volume of subject imports is also reflected in those imports' large and growing share of the U.S. market. Subject imports increased their share of the U.S. market by 12 percentage points (more than threefold) between 2004 and 2008, from 4.7 percent in 2004 to 16.7 percent in 2008. More than half of this increase, 7.4 percentage points, has occurred since 2006.[127]

---

[121] (...continued)
Company is very active in that end of the business still. And the other manufacturers are in it to a very small degree. Much smaller degree." *See also* Berra testimony, tr. at 370, stating that Community Wholesale Tire has private brand Hercules tires in its warehouse in the same sizes, lines, and quality as tires made by Cooper in plants in both the United States and China. *But see* testimony of Ross Kogel, president of Tire Wholesalers Company, Inc., testifying on behalf of GITI Tire, tr. at 369, stating that he regarded the private brands produced by Cooper as fitting "more into the tier two bracket whereas the Chinese and the foreigns are more in the tier three." He also indicated that in his experience there is no U.S. production of Tier 3 tires. Tr. at 369.

[122] CR at V-12, PR at V-9.

[123] CR at V-12, PR at V-9; and RMA press release, Mar. 16, 2009.

[124] CR/PR at Table C-1. Imports from China grew by 42.7 percent from 2004 to 2005, by 29.9 percent from 2005 to 2006, and by 53.7 percent from 2006 to 2007, and by 10.8 percent from 2007 to 2008. *Id.*

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

[126] *See* our discussion above of rapidly increasing subject imports.

[127] CR/PR at Table V-1. As measured by the share of the quantity of apparent U.S. consumption, subject imports from China increased from 4.7 percent in 2004 to 6.8 percent in 2005, 9.3 percent in 2006, 14.0 percent in 2007, and (continued...)

We have also considered the effect of subject imports on the prices of U.S.-produced tires. Pricing data obtained by the Commission show nearly universal underselling by the subject merchandise. The Commission requested that U.S. producers and importers of subject tires provide quarterly data for the total quantity and value of six tire products shipped to unrelated OEM and replacement customers in the U.S. market during January 2004-December 2008.[128] The resulting data provide 120 instances in which prices for domestic tires and subject imports from China could be compared. In 119 of these 120 comparisons (99 percent), the subject imported product was priced below the domestic product. The margins of underselling averaged 18.9 percent and ranged from 0.4 percent to 44.9 percent.[129]

Moreover, the margins of underselling for all six products increased during the period examined and for five of the six were at their highest levels of the period in 2007 and/or 2008. The average margin of underselling for all six products increased by the greatest amount in 2007, the year in which the volume of rapidly increasing imports rose by the greatest amount.[130] In 2008, the average margin of underselling for the six products remained at nearly the same level as in 2007 (23.6 percent in 2008 as compared to 25.4 percent in 2007) and was significantly above the average for the six products in each of the years 2004-2006. These increases in the average margin of underselling coincided with increasing volumes of subject imports. Subject imports increased by 6.2 million tires in 2005 (from the 2004 level), and by an additional 6.2 million tires in 2006, 14.5 million tires in 2007, and 4.5 million tires in 2008.

The close substitutability of the domestic product and the subject imports combined with pervasive underselling by significant and growing margins enhanced the ability of subject imports to displace domestically produced tires in the U.S. market. Over 50 percent of U.S. producers, importers and purchasers responding to the Commission's questionnaires indicated that domestically produced tires and the subject imports are "always" used interchangeably. At least 80 percent of these U.S. producers, importers and purchasers stated that the domestically produced tires and the subject imports are at least "frequently" used interchangeably.[131]

With the exception of 2007, the domestic industry's operating income fell throughout the period examined. The industry operated at a loss in 2008, and that loss represented the industry's worst one-year performance of the period.[132] The decline in U.S. producers' financial condition is reflected in the

---

[127] (...continued)
16.7 percent in 2008. *Id.*

[128] CR at V-31-32, PR at V-23-24. The six pricing products included four tires for passenger vehicles and two for light trucks. For a description of the six products, *see* CR at V-31-32, PR at V-23-24. Six U.S. producers and 26 importers provided usable pricing data for sales of the requested products. Pricing data reported by these firms accounted for approximately 14 percent of U.S. producers' domestic shipments of subject tires and 36 percent of U.S. shipments of subject imports from China in 2008. CR at V-32, PR at V-24.

[129] CR at V-45, PR at V-35.

[130] The average margin of underselling for all six products in 2004 was 10.8 percent. The average margin rose to 14.8 percent in 2005, 18.8 percent in 2006, and 25.4 percent in 2007, before declining to 23.6 percent in 2008. *See* CR/PR at Tables V-9-V-14.

[131] CR at V-20, PR at V-15.

[132] CR/PR at Table III-5. U.S. producers reported an operating income of $256.2 million in 2004, an operating income of $165.5 million in 2005, an operating loss of $114.5 million in 2006, an operating income of $507.2 million in 2007, and an operating loss of $262.8 million in 2008. *** U.S. producers reported financial data for 2004 and 2005, and *** reported financial data for 2006 through 2008. *Id.*

continuous decline, throughout the period, of U.S. producers' net sales volume,[133] which reflects declining production and shipments. It is also reflected in U.S. producers' increasing per-tire costs, which rose by the largest amount of the period between 2007 and 2008. Per-tire other factory costs and general selling and administrative expenses rose between 2007 and 2008 by the largest amount of the period, which was largely attributable to a declining net sales base. The rise in domestic producers' ratio of cost of goods sold to net sales is also attributable in part to an increase in the cost of raw materials, which was mostly due to the rapid increase in the price of petroleum product inputs in synthetic rubber. There is evidence that continued underselling by the subject imports prevented domestic producers from raising prices sufficiently to offset higher production costs and thus suppressed prices. Domestic producers' ratio of cost of goods sold to net sales increased from 84.7 percent in 2004 to 90.1 percent in 2008, an increase of 5.4 percentage points over the period.[134] The sharp increase in this ratio in 2008, when the volume of subject imports was highest and the margin of underselling was nearly at its greatest, indicates that U.S. producers were experiencing a cost-price squeeze and unable to pass increasing raw material costs on to their customers. The Commission received information from three domestic producers that they either had to reduce prices or roll back announced price increases to avoid losing sales to competitors selling subject tires from China.[135]

We find that there is a direct and significant connection between the rapidly increasing imports of subject tires from China and the domestic tire industry's deteriorating financial performance and declining capacity, production, shipments, and employment. As discussed above, the volume of imports from China is significant both in absolute and relative terms, and the increase in such imports has been continuous and rapid throughout the period examined. The increase in the volume of imports has been particularly rapid since 2006. As indicated above, Chinese producers primarily compete in the lower-priced end of the U.S. market. The large and rapidly increasing volumes of subject tires from China have greatly displaced U.S. producers in that segment of the market. As subject imports' market share (measured by quantity) increased by 12.0 percentage points over the period examined, the domestic industry's market share declined by 13.7 percentage points.[136]

Furthermore, the pricing data described above show that underselling by the subject Chinese tires has been significant and continuous throughout the period examined and that the margin of underselling has increased over the period. This underselling by the large and rapidly increasing volume of subject Chinese tires eroded the domestic industry's market share, leading to a substantial reduction since 2004 in domestic capacity, production, shipments, and employment during the period examined. All of these indicators were at their lowest levels of the period in 2008 when subject imports were at their highest, and the largest declines in these indicators have occurred since 2006 when subject imports exhibited the greatest and fastest increases.[137] As imports of low-priced Chinese tires increased, U.S. producers were forced to reduce capacity so as to focus on the parts of their business in which they could expect to remain profitable despite the impact of subject imports from China. Thus, we find that the substantial reduction in domestic capacity and the closures of U.S. plants during the period examined were largely in reaction to the significant and increasing volume of subject imports from China, and were not, as

---

[133] U.S. producers' total net sales declined from 221.8 million tires in 2004 to 209.1 million tires in 2005, 190.5 million tires in 2006, 180.1 million tires in 2007, and 159.1 million tires in 2008. CR/PR at Table III-5.

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

[135] CR at V-46, PR at V-36.

[136] CR/PR at Table V-1.

[137] *Compare, e.g.*, CR/PR at Table II-1 *with* CR/PR at Tables III-1, III-2, and III-4.

respondents argue, part of a strategy by domestic tire producers to voluntarily abandon the low-priced, "value" segment of the U.S. market.

The role of increasing subject imports in the diminished performance of the U.S. industry is further confirmed by the information reported to the Commission by the Chinese producers of the subject tires. Their questionnaire responses indicate significant growth in subject Chinese producers' production capacity, production, and shipments during the period examined, as well as significant growth in exports to the U.S. market and in the share of shipments exported to the U.S. market.[138] The responses also show that the largest one-year increase in subject Chinese industry capacity, shipments, and share of shipments exported to the U.S. market occurred between 2006 and 2007,[139] just prior to the largest declines in U.S. capacity and production and approximately at the same time as three of the four U.S. plant closures. Between 2004 and 2008, subject Chinese producers' annual capacity increased from 93.2 million tires to 235.2 million tires, with a 53.8 million increase in tire capacity occurring between 2006 and 2007 alone.[140] Annual shipments similarly expanded from 84.3 million tires in 2004 to 198.7 million tires in 2008, with a one-year expansion in shipments of 48.2 million tires between 2006 and 2007.[141] Although U.S. producers' capacity and shipments were more than double subject Chinese producers' capacity and shipments in 2004,[142] subject Chinese capacity and shipments exceeded U.S. capacity and shipments by sizable margins by 2008. Moreover, the share of subject Chinese producers' shipments directed to the U.S. market increased by nearly 50 percent during the period examined, while the shares of subject Chinese producers' shipments to the home market fell.[143]

The impact of subject imports is also reflected in a comparison between the increased share of the U.S. market taken by the imports from China and the reduction in U.S. producers' U.S. market share. As noted above, between 2004 and 2008, subject imports increased their share of the U.S. market by 12.0 percentage points, while the share held by U.S. producers fell by 13.7 percentage points. Since 2006, U.S. producers' market share fell by 6.6 percentage points, while imports from China increased their U.S.

---

[138] CR/PR at Table IV-3. In their responses to a Commission questionnaire, subject Chinese tire producers reported that their capacity to produce subject tires increased from 93.2 million tires in 2004 to 118.1 million tires in 2005, 148.0 million tires in 2006, 201.8 million tires in 2007, and 235.2 million tires in 2008. They also reported that their production of subject tires rose from 83.7 million tires in 2004 to 106.9 million tires in 2005, 134.0 million tires in 2006, 182.0 million tires in 2007, and 195.6 million tires in 2008. Their shipments of subject tires rose from 84.3 million tires in 2004 to 108.6 million tires in 2005, 138.5 million tires in 2006, 186.7 million tires in 2007, and 198.7 million tires in 2008. Their exports to the United States rose from 14.1 million tires in 2004 to 19.4 million tires in 2005, 29.1 million tires in 2006, 46.4 million tires in 2007, and 47.9 million tires in 2008. They reported that the share of the total quantity of their shipments that was exported to the United States rose from 16.7 percent in 2004 to 17.9 percent in 2005, 21.0 percent in 2006, and 24.8 percent in 2007, then fell to 24.1 percent in 2008. CR/PR at Table IV-3.

[139] For supporting data see the preceding footnote.

[140] *Id.*

[141] *Id.*

[142] U.S. capacity and shipment data are based on information in CR/PR at Table C-1.

[143] Chinese producers reported that the share of total shipments sent to the U.S. market increased from 16.7 in 2004 to 17.9 percent in 2005, 21.0 percent in 2006, and 24.8 percent in 2008; it then fell to 24.1 percent in 2008. They reported that the share of the total quantity of shipments that went to the Chinese home market similarly fell from 47.0 percent in 2004 to 42.3 percent in 2005, 40.2 percent in 2006, and 38.4 percent in 2007; it then rose to 38.8 percent in 2008. They reported that the share exported to markets other than the United States initially increased, but trended downward after 2005. The reported share of shipments exported to such other markets increased from 35.3 percent in 2004 to 38.7 percent in 2005, then declined to 36.9 percent in 2006 and 34.0 percent in 2007, before increasing to 35.4 percent in 2008. CR/PR at Table IV-3.

market share by 7.4 percentage points.[144] Thus, since 2006, imports from China gained a greater share of the U.S. market than was lost by domestic producers, indicating that they also took market share away from third-country sources.

Moreover, imports continued to increase rapidly even in 2008 when U.S. apparent consumption was falling. Subject imports increased by 4.5 million tires in 2008, while U.S. apparent consumption declined by 20.4 million tires. Imports from third countries declined by 6.0 million tires in 2008, or by 6.1 percent, roughly consistent with the 6.9 percent decline in U.S. apparent consumption in 2008. Meanwhile, domestic production of subject tires declined by 20.0 million tires in 2008, or by 11.1 percent, and absorbed virtually all the decline in U.S. apparent consumption that year.[145]

We have considered the arguments of the various parties regarding the timing of the increase in subject imports and the material injury to the domestic industry and the allegedly attenuated nature of competition. We do not agree that domestic producers voluntarily abandoned the lower-priced part of the U.S. tire market and that the subject imports simply filled the void left by their departure. Imports from China were already increasing before Bridgestone, Continental, and Goodyear announced the plant closings that occurred in 2006 and 2008.[146] The three companies confirmed in statements issued at the time of the announcements that low-priced competition from Asia, including China, was an important part of their decisions.[147] Moreover, articles in trade publications referred to a surge in the purchase of Western tire production equipment by Chinese tire manufacturers during the last ten years,[148] indicating that Chinese producers were expanding their capacity to produce and export tires. U.S. producers were not among the largest importers of subject tires from China during the period examined and collectively accounted for only approximately 23.5 percent of subject imports, including purchases in 2008.[149] Thus, we find that a more reasonable explanation for U.S. producers' capacity reductions in 2006 and thereafter

---

[144] CR/PR at Table V-1.

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

[146] Subject imports from China increased from 14.6 million tires in 2004 to 20.8 million tires in 2005 (or by 42.7 percent), 27.0 million tires in 2006 (or by an additional 29.9 percent), and 41.5 million tires in 2007 (or by an additional 53.7 percent). CR/PR at Table C-1.

[147] All three companies cited import competition as a factor in their plant closings: Bridgestone cited "fierce competition from low-cost producing countries" as a factor in closing its Oklahoma City plant in 2006; Continental cited "global competition" and "manufacturing costs [that] are cheaper overseas" as contributing to the closure of its Charlotte, NC, plant in 2006; and for Goodyear, pressure from low-cost imports was cited as contributing to closure of its Tyler, TX, plant in 2008. CR at I-20-22, PR at I-15-17.

[148] *See, e.g.*, *Supplier Business*, "The Tire Report," 2008, at 20:

> It is difficult to comprehend the level of tire activity in China. Sales of tire manufacturing equipment into China have dominated the last ten years of machinery sales. During the recession in the 2001-2004 period in the western world, machinery sales into the established markets declined to low levels, while sales to China kept many machinery makers from going bankrupt. The 'China boom' has not ended, but – at least until the middle of 2008 – has been disguised by improving sales in the rest of the world. China is still the largest market by far for rubber and tire building machinery.
>
> This influx of western equipment has lifted the number of Chinese tire makers from a few dozen to over 200, most of them with a single factory. This compares with around 400 tire factories in the rest of the world today. Many of these new Chinese factories are equipped with modern equipment and have the technology to make tires suited for export around the world.

[149] CR at II-9, PR at II-7. Excluding purchases, U.S. producers' subject imports accounted for only *** percent of all subject imports in 2008. *Id.*

was a reaction to increases in subject imports from China that were already occurring and, given the size and degree of the increases, likely would continue in the future.[150]

In addition, although we agree with respondents that the record supports the view that the U.S. replacement market generally can be segmented into three categories, we find that the information in the record of this investigation does not support their claim that competition between U.S.-produced tires and the subject imports is attenuated, with the subject imports competing principally in the Tier 3 segment of the replacement market, but not in the Tier 1 and Tier 2 segments or the OEM market. Given that we do not find that competition is attenuated, we do not find that subject imports that are present in one market segment have little, if any, effect on the volume and price of U.S.-produced tires in the other market segments and thus little if any effect on U.S. producers. For the reasons set forth below, we find that U.S.-produced tires and subject imports from China both have a significant presence in the Tier 2 and Tier 3 (category 2 and category 3) segments of the replacement market, both are also present in the Tier 1 segment (category 1) and the OEM market, and there is significant competition between the subject imports and domestic tires in the U.S. market.

As noted above, the Commission gathered additional information relating to this market segmentation issue through a supplemental questionnaire sent to U.S. producers and the largest importers of subject tires from China. Although the firms submitting responses were in general agreement as to the existence of three categories, there was less agreement as to which tires were included in the two lower-priced categories. For example, three importers placed "associate" brands in category 2, while three other importers placed them in category 3.[151]

Firms responding to the supplemental questionnaire provided a wide range of estimates of the share of U.S. producers' and subject Chinese tire shipments that fall into each category. The responses reveal that the largest share of U.S. producers' shipments falls into category 1 and that the largest share of subject import shipments falls into category 3. Shipments in 2008 of both domestically produced tires and subject imports from China, however, fell into all three categories. The share of U.S. producer shipments that fell into category 3 is larger than the share that fell into category 2, and U.S. producer shipments of category 3 tires accounted for about 18.6 percent of total U.S. shipments. There were significant U.S. shipments of subject tires from China that fell into category 2. Such shipments equaled 64.3 percent *** of the quantity in category 3 (as reported by subject importers responding to the INV supplemental questionnaire).[152] In addition, there is competition between the subject imports and U.S.-produced tires in the OEM market, with the subject imports accounting for 4.9 percent of that market in 2008 and domestically produced tires accounting for 51.6 percent in 2008.[153]

---

[150] This is clear from trade publications contemporaneous with U.S. producers' actions in 2006. For example, *see* the article in *MTD Modern Tire Dealer*, "China and You: Expect more tire imports in the years to come," Mar. 1, 2006. The article noted that China exported an estimated 21 million tires to the United States in 2005, and described the overall effect on domestic supply as "profound" and likely to remain so as imports increase. The article also said, with respect to Chinese production and shipments of tires for the replacement market, that "everyone agrees there will be rapid growth in the segment, especially with all the activity from foreign investing."

[151] CR at V-6-V-7, PR at V-5-V-6.

[152] INV supplemental questionnaire responses.

[153] CR/PR at Table V-3.

We have also considered respondents' argument that the facts in this investigation are similar to those in the *Brake Drums and Rotors* investigation[154] and that we should make a negative determination on causation grounds for the same reasons cited there.[155] The facts in the present investigation, however, are very different from those in *Brake Drums and Rotors*. Not only do we find that the facts here support a finding that the domestic industry is materially injured (in *Brake Drums and Rotors* the Commission based its negative determination on a finding of no material injury or threat of material injury), but we find that they do not show the degree of product differentiation between economy and premium products that the Commission found in *Brake Drums and Rotors*. In *Brake Drums and Rotors*, the Commission found competition between the imported and domestic products to be attenuated. It found that U.S. producers marketed domestically produced brake drums and rotors as brand-name premium products, while they marketed the brake drums and rotors they purchased from Chinese and third-country producers as economy-line products. The Commission found that the effect, if any, of the subject imports on the domestic brake drum and brake rotor industries was limited and less than the effect that would be required to find causation under the statute.[156] In the present investigation, U.S. tire manufacturers market domestically produced tires in the OEM tire market and all three segments of the replacement tire market. Moreover, unlike the distinction between premium and economy brake rotors, passenger tires include a wide range of products along a quality, price, and performance spectrum. Thus, the domestically produced tires compete with the subject imports in all markets in which the subject imports are present.

We have also considered American Pacific's argument that, given the limited domestic industry support for the petition, the Commission should follow the reasoning of the U.S. Court of International Trade (CIT) in the *Suramerica* case and make a negative determination.[157] We first note that *Suramerica* involved an investigation conducted under Title VII of the Tariff Act of 1930, not section 421. Moreover, American Pacific appears to rely on the opinion of the CIT in *Suramerica*, rather than that of the U.S. Court of Appeals for the Federal Circuit, which on appeal significantly curbed the CIT's reasoning.[158] American Pacific also does not address more recent court decisions, such as the *Tropicana* case,[159] that have reached a different conclusion with respect to the issue raised in *Suramerica*. Moreover, section 421 specifically provides for investigations on the basis of a petition filed by a union that is representative of a domestic industry;[160] accordingly, a union should be able to obtain relief if the facts support an affirmative determination. Employment-related factors are among those that the Commission considers in making a determination, and the degree of producer support for the petition is not determinative. In this investigation we are aware that domestic producers representing *** of production have taken a neutral position with respect to the need for relief. Nonetheless, as in *Tropicana*, we find that the objective data

---

[154] *Certain Brake Drums and Rotors From China*, Inv. No. TA-421-3, USITC Pub. 3622 (August 2003).

[155] Pre-hearing brief of GITI Tire at 34-35.

[156] *Id*. at 34.

[157] Post-hearing brief of American Pacific Industries, Inc., at 6-7, citing *Suramerica Aleaciones Laminadas, C.A. v. United States*, 17 C.I.T. 146 (1993).

[158] For example, American Pacific cites *Suramerica* as holding that, while the opposition of a majority of the domestic industry does not compel a negative determination, the statute "requires that an ITC determination be supported by substantial evidence on the whole record. Absent compelling evidence of threat, it is not reasonable to conclude that the domestic industry is threatened when a majority opposes or does not support that finding." American Pacific Post-hearing Brief at 7, *citing* 17 C.I.T. 146 at 162-63. The Court of Appeals, however, explicitly found this language from the opinion below to be in error. *Suramerica Aleaciones Laminadas, C.A. v. United States*, 44 F.3d 978, 984 (Fed. Cir. 1994).

[159] *Certain Orange Juice from Brazil*, USITC Pub. 3930, Inv. No. 731-TA-1089 at 14 (First Remand) (June 2007). *See Tropicana Products, Inc. v. United States*, 2008 Ct. Intl. Trade LEXIS 16 at 26-28 (Feb. 5, 2008).

[160] 19 U.S.C. § 2451(b)(1) referring to the entities described in 19 U.S.C. § 2252(a).

concerning the industry's performance and its causal relation to subject imports are unequivocal and belie any claim that the domestic producers' *** is indicative of the lack of either injury or causation.

We have also considered the other possible causes of material injury cited by respondents, including the current recession, the contraction in the OEM tire market, sharp increases in raw material costs and raw material shortages, automation for increased productivity, imports from non-subject countries, higher gasoline prices resulting in less driving, strikes and labor actions, U.S. tire producers' high legacy costs, and other factors such as equipment restraints.[161] We note that section 421, unlike section 202 of the Trade Act, does not require a weighing of causes, but only that we find that rapidly increasing subject imports, in and of themselves, are a significant cause of material injury or the threat thereof to the domestic industry. As discussed above, we have found in this investigation that the rapidly increasing subject imports from China are a significant cause of material injury to the domestic industry.

CONCLUSION

As explained above, we find the existence of market disruption due to certain rapidly increasing passenger vehicle and light truck tire imports from China that are a significant cause of material injury to the domestic industry producing certain passenger vehicle and light truck tires. As further discussed above, we find that the subject passenger vehicle and light truck tire imports from China are "in such increased quantities" as to cause market disruption to domestic producers. The significant increase in the volume of such imports coincided with significant underselling of the domestic products by the subject imports. It also coincided with the sharp decline in the domestic industry's performance indicators. The rising volume of subject imports from China has displaced domestic sales, and this displacement has led to declining domestic production, shipments, capacity utilization, employment, and profitability.

We therefore make an affirmative determination that certain passenger vehicle and light truck tires from China are being imported into the United States in such increased quantities or under such conditions as to cause market disruption to the domestic producers of passenger vehicle and light truck tires.

[161] *See, e.g.*, pre-hearing brief of GITI Tire at 23, 28-33.

VIEWS ON REMEDY

A. Remedy proposal

For the reasons set forth below, we propose the following action to remedy the market disruption we have found to exist –

> That the President impose a duty, in addition to the existing rate of duty, for a three-year period, on imports of the subject tires from China, with the amount of the additional duty set at 55 percent *ad valorem* in the first year, 45 percent *ad valorem* in the second year, and 35 percent *ad valorem* in the third year.

We find that this action will remedy the market disruption we find to exist.[162]

We believe that the tariffs will significantly reduce subject imports and boost U.S. industry sales and prices, resulting in increased profitability. This profitability will lead to the preservation of jobs and the creation of new ones, as well as encourage investment. We expect that this remedy will have little or no impact on the U.S. production of automobiles and light trucks because tires account for a very small share of the total cost of those products. In addition, tires account for a relatively small share of the annual cost of owning and operating an automobile or light truck.

We also recommend that the President take such action as is within his authority to direct the U.S. Department of Commerce and the U.S. Department of Labor to expedite the consideration of petitions for trade adjustment assistance filed by domestic firms or workers producing the subject tires.

B. Statutory framework

Section 421(f) of the Trade Act of 1974[163] provides that the Commission, upon making an affirmative determination, "shall propose the amount of increase in, or imposition of, any duty or other import restrictions necessary to prevent or remedy the market disruption." It provides that only those Commissioners who made an affirmative determination are eligible to vote on remedy. Neither the statute nor its legislative history provides any further guidance or instruction on remedy.

Section 421(g)(2)(D) of the Trade Act[164] requires that the Commission include, in its report to the President and the U.S. Trade Representative, a description of –

> (i) the short- and long-term effects that implementation of the action recommended . . . is likely to have on the petitioning domestic industry, on other domestic industries, and on consumers; and
> (ii) the short- and long-term effects of not taking the recommended action on the petitioning domestic industry, its workers, and the communities where production facilities of such industry are located, and on other domestic industries.

---

[162] Chairman Aranoff does not join these views on remedy. See Separate Views on Remedy of Chairman Shara L. Aranoff.

[163] 19 U.S.C. § 2451(f)

[164] 19 U.S.C. § 2451(g)(2)(D).

C. Conditions of Competition

In evaluating the various remedy options, we considered the conditions of competition in the domestic market and likely developments affecting such conditions during the next several years. The U.S. market for passenger vehicle and light truck tires consists of two principal segments: (1) the OEM market (producers of new cars and light trucks) and (2) the replacement market.

The vast majority of shipments by U.S. tire producers and subject tire importers are to the replacement market. The share of U.S. producers' shipments to the replacement market increased throughout the period examined and rose from 76.7 percent in 2004 to 82.3 percent in 2008 as OEM market demand decreased. Subject imports, which were shipped almost exclusively to the replacement market in 2004, subsequently increased their presence in the OEM market; 7.3 percent of subject imports were shipped to the OEM market in 2006. This share decreased to 5.0 percent in 2008.[165]

U.S. producers and subject tire importers each ship a broad range of tire sizes and types through similar marketing channels. U.S. producers and subject tire importers sell in both the replacement and OEM markets. Most shipments to the replacement market are to distributors who then sell to the final consumers, whereas shipments to the OEM market are directly to new car and light truck manufacturers.

Most U.S. producers and importers responding to a supplemental Commission questionnaire agreed that the replacement market can be segmented into three categories or tiers. They generally agreed that category 1 includes major, flagship, or premium tire brands and that lesser known brands, associate brands, foreign brands, whereas unbranded tires fall into category 2 or 3. However, there was less agreement as to which tires fall into category 2 as opposed to category 3.[166] The responses, however, indicate that U.S. shipments of domestically produced tires and subject imports fall into all three categories, with the majority of shipments of domestic tires falling into category 1 and the majority of shipments of imports from China falling into category 3.[167] A greater number of domestic shipments fall into category 3 than category 2. A significant quantity of shipments of imports from China fall into category 2, and only a small amount fall into category 1. This indicates that there is a substantial overlap between domestically produced tires and the subject imports. It also indicates that there is substantial competition between domestically produced tires and the subject imports at the category 2 and 3 levels and, to a lesser degree, at the category 1 level. As indicated above, there is also competition between the domestically produced tires and the subject imports in the OEM market.

Significantly, there is a high degree of substitutability between domestically produced tires and subject tires imported from China. At least 50 percent of responding producers, importers, and purchasers stated that tires produced in the United States and tires imported from China are "always" used interchangeably.[168] At least 80 percent of responding producers, importers, and purchasers stated that subject tires produced in the United States and imports from China are at least "frequently" used

---

[165] CR/PR at Table V-2.

[166] CR at V-6-7, PR at V-5-6. As we note in the market disruption section of these views, respondents argue that the subject tires from China are concentrated in the Tier 3 (category 3) segment of the replacement market and that domestic producers have largely abandoned that market segment.

[167] Staff table entitled "U.S. Production and Imports by Category (shipments)," submitted to the Commission's EDIS system on June 18, 2009. As noted in the Market Disruption section of these views, each firm that received a questionnaire was asked to place its shipments/purchases into the three categories as it defined or perceived them. The Commission did not impose a definition on the responding firms.

[168] CR at V-20, PR at V-15.

interchangeably.[169] The U.S. product was ranked comparable with imports from China by at least half of responding purchasers with respect to delivery terms, discounts offered, extension of credit, lower transport costs, minimum quantity requirements, packaging, product consistency, quality exceeding and quality meeting industry standards, and reliability of supply. At least half of responding purchasers ranked the U.S. product superior to imports from China with respect to availability, delivery time, minimum quantity required, product range, reliability of supply, and technical support.[170]

Although the subject imports and domestically produced tires have a high degree of substitutability, the subject imports are sold at prices significantly lower than those of the domestic tires. In the questionnaire responses, the U.S. product was ranked inferior in price to imports of subject tires from China by two-thirds of responding purchasers.[171] Pricing evidence in the record supports these responses and shows significant underselling of U.S.-produced tires by the subject imports during the period examined and a widening of the margin of underselling. As discussed above, the subject imported product was priced below the domestic product in 99 percent of available comparisons.[172] The margin of underselling by the Chinese tire products widened significantly during the period examined and was at its greatest level, 25.4 percent, in 2007, the year in which the volume of subject imports from China increased by the greatest amount, then remained high at 23.6 percent in 2008, when subject imports increased by an additional 10.8 percent.[173]

(1) Demand Conditions

Demand trends for subject tires depend on the number of new passenger vehicles and light trucks produced in the United States, the number of existing passenger vehicles and light trucks that need replacement tires, and the total number of miles driven. The demand for replacement tires fell in 2008 as the number of miles driven decreased, consumers tried to get more miles from current tires, and the economy weakened.[174] In addition, as domestic production of passenger cars and light trucks decreased in 2008, the demand for OEM tires for passenger vehicles and light trucks fell.[175]

U.S. apparent consumption of subject tires, on a quantity basis, decreased in every year of the period examined except in 2007. The increase from 2006 to 2007 was only 1.6 percent, and consumption thereafter fell by 6.9 percent to 275.7 million tires in 2008, the lowest level of the period.[176] As measured in value, U.S. apparent consumption increased throughout the period except in 2008, when it fell by 0.3 percent.[177] The increase in the total value of apparent consumption despite the decline in consumption quantity reflects the significant increase in the average unit value of tires sold in the U.S. market.

A modest change in the average price of subject tires is not likely to have a significant effect on the total demand for subject tires because there are few, if any, substitutes for tires. In addition, tires

[169] CR at V-20, PR at V-15.

[170] CR at V-20-V-22, PR at V-15-V-16 and CR/PR Tables V-6 through V-8.

[171] CR/PR at Table V-8.

[172] CR at V-45, PR at V-36.

[173] Derived from data in CR/PR at Tables V-9 through V-14 and Table C-1.

[174] CR at V-12, PR at v-9.

[175] CR at V-12, PR at V-9; RMA press release, Mar. 16, 2009.

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

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

account for a relatively small share of the final cost of new automobiles and light trucks and also account for a relatively small share of the annual cost of owning and operating an automobile or light truck.[178]

(2) Domestic supply conditions

U.S. producers have the ability to respond to changes in demand with moderate changes in the quantity of shipments of U.S.-produced tires supplied to the U.S. market. U.S. producers are able to respond because they have unused capacity and some ability to produce products not within the scope of investigation.[179] In 2008, U.S. producers operated at a capacity utilization rate of 86.0 percent, which was substantially below the capacity utilization rate of 96.3 percent reported in 2004 and the capacity utilization rates above 90 percent that were reported in 2005 and 2007.[180] This unused capacity indicates that U.S. producers could readily increase their production. Moreover, at least several domestic plants are capable of producing a wide range of tire sizes and types on any given day and thus already have the ability to respond quickly to any changes in demand for specific sizes and types of tires.[181] In addition, recent reductions in employment and hours worked suggest that there is a supply of skilled labor that could be used to support increased domestic tire production. This supply responsiveness is constrained somewhat by a limited ability to divert shipments from alternate markets and a somewhat limited ability to use inventories to increase shipments to the U.S. market. Domestic producers generally manufacture tires in response to orders and do not maintain extensive inventories.[182]

(3) Import supply conditions

Subject Chinese producers have a substantial ability to increase the quantity of shipments of subject tires to the U.S. market. The main factors contributing to the responsiveness of supply for subject producers are the availability of unused tire-making capacity, projected imminent increases in capacity, the ability to divert shipments from alternate markets, and the ability to shift from production of products not within the scope of the investigation. Subject producers project that their capacity to produce the subject tires will increase by 10 percent in 2009 as compared to actual 2008 capacity, and that it will increase by an additional 5 percent in 2010. They also project that their total shipments of subject tires will increase by 13 percent in 2009 as compared to 2008 and increase by an additional 10 percent in 2010.

Subject Chinese producers project that their export shipments to the U.S. market will increase by 9 percent (4.4 million tires) in 2009 as compared to 2008 and by an additional 7 percent (3.5 million tires) in 2010.[183] Subject Chinese producers also reported that their capacity utilization has declined since 2005 and was 83.2 percent in 2008, indicating that they have a significant amount of unused capacity.

---

[178] One importer (***) reported that subject tires make up 4 percent of the final cost of a new light truck and less than 1 percent of the cost of a passenger vehicle, while another importer (***) reported this share to be 1 percent for light trucks. CR at V-15, PR at V-11.

[179] Three of the 10 U.S. producers of tires reported producing other products on the same equipment and machinery and using the same production and related workers employed to produce the subject domestic tires. CR at I-16, PR at I-11.

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

[181] For example, *** told the Commission that it currently runs *** different tire products through its *** plant on a given day and will cycle through *** types of tires over 3 or 4 days. ***.

[182] ***.

[183] CR/PR at Table IV-3. We note that the quantity of exports to the United States in 2008 reported by subject Chinese producers is higher than the amount reported in official U.S. Department of Commerce import statistics. *See* CR/PR at Table II-1.

Although they project that their capacity utilization will increase in 2009 and 2010, the projected utilization rates would still be lower than the utilization rates reported for 2004 through 2007. Moreover, the projected capacity utilization rates would be based on progressively higher levels of capacity.[184]

Countries other than China also export passenger vehicle and light truck tires to the United States. Canada, Japan, and Korea were the largest non-subject sources of tires, collectively accounting for at least half of U.S. non-subject imports each year during 2004-2008.[185] Non-subject imports held a fairly consistent share of the U.S. market during 2004-2008, accounting for approximately one-third of U.S. consumption.[186]

D. Proposed relief

As indicated above, the statute authorizes the Commission "to propose the amount of increase in, or imposition of, any duty or other import restrictions necessary to prevent or remedy the market disruption." We find that an increase in the rate of duty on imports of the subject tires, for a three-year period, with the amount of the additional duty set at 55 percent *ad valorem* in the first year, 45 percent *ad valorem* in the second year and 35 percent *ad valorem* in the third year, is necessary to remedy the existing market disruption.

In determining the form and amount of relief to propose, we took into account the submissions of the parties. In addition, we have taken into account the market disruption that we have found to exist, including the rapid increase in subject imports, the volume of those imports, and the underselling by these subject imports. We have also evaluated the various options available to us, including a tariff increase, a tariff-rate quota, and a quantitative restriction.[187] We have considered other relevant information in the record, including projections provided by Chinese producers about increases in their capacity, total shipments, and shipments to the U.S. market in 2009 and 2010.

Petitioner recommends that the Commission propose a quota on the subject tires for a three-year period in the amount of 21 million tires in the first year, with increases of 5 percent in the amount of the quota in each of the following two years.[188] Petitioner expresses a preference for a quota over a duty because of concern that Chinese government policies might undermine the effects of a duty.[189] [190]

---

[184] CR/PR at Table IV-3.

[185] CR/PR at Table II-1.

[186] CR/PR at Table V-1.

[187] Commissioners Lane and Pinkert note that, as the Commission has previously stated, "[i]n general, a simple *ad valorem* tariff is preferred over other remedy options because it tends to be less trade distorting." *Certain Steel Wire Garment Hangers From China*, Inv. No. TA-421-2, USITC Pub. 3575 (February 2003) at 28.

[188] Petitioner's pre-hearing brief at 42-43.

[189] Petitioner's final comments on remedy at 10.

[190] Cooper Tire & Rubber, which is both a domestic producer of subject tires and an importer of subject tires from China, takes no position regarding petitioner's remedy. Cooper recommends, however, that any quota be managed by the U.S. government, such as through a licensing or visa system. Cooper explains that it is concerned about how a quota would be administered procedurally because its business license for its Kushan plant in China requires Cooper to export all the tires produced in the plant during the first five years; production at the plant began in February 2008. Final comments of Cooper Tire & Rubber at 2-3.

Petitioner also recommends that the quota be administered at the 10-digit HTS level to avoid "a skewing of imports into the larger sizes."[191]

Respondents argue that no restriction on imports of subject tires is appropriate because (1) any restriction would contravene the domestic industry's strategy of moving away from the economy segment of the market, (2) there is no evidence the domestic industry would use a remedy to improve or expand its domestic production base, (3) a remedy might complicate the domestic industry's negotiations with its labor union,[192] (4) a remedy will harm tire dealers and their customers, (5) a remedy would create a safety hazard (by raising prices and thus causing consumers to delay replacing tires),[193] and (6) a remedy would only result in the U.S. market being supplied by third countries.[194] Assuming the Commission were to propose a remedy, Les Schwab Warehouse Center argues that tariffs would result in lower costs to the economy and consumers compared to a quota.[195] GITI Tire argues that the more appropriate approach is to address the plight of tire workers through the American Recovery and Reinvestment Act, the assistance program for the auto industry, as well as the Trade Adjustment Assistance program.[196] In addition, GITI Tire suggests that the Commission recommend that Chinese producers be required to comply with certain environmental and labor standards at their Chinese plants.[197]

After considering the various options, we have found in this case that an increase in duty as stated above is the most appropriate remedy to address the market disruption caused by rapidly increasing imports from China. This increase in the tariff would significantly improve the competitive position of the domestic industry, increasing domestic production, shipments, and employment and restoring the domestic industry to at least a modest level of profitability. The increase should accomplish this by reducing the quantity of subject imports and raising their price in the U.S. market. In proposing this remedy, we are mindful of record evidence that domestic producers have already significantly reduced their capacity to produce for the lower-priced end of the market in which imports from China compete most extensively. Nevertheless, there is substantial competition between U.S.-produced tires and imports from China in all segments of the market, and the imposition of higher duties will increase prices and permit U.S. producers to utilize their available capacity to increase production, sales, and employment. Additional revenue from increased prices and sales will improve the profitability.

We have recommended that the increased duties be phased down in annual 10 percentage-point increments over the three-year remedy period. This recommendation recognizes that the remedy is only temporary in nature and is designed to give the domestic industry and its workers breathing space in which to adjust to import competition, which will be encouraged by the phasing down of the duties.[198] In addition, reducing the size of the duty each year is likely to limit the extent to which non-subject suppliers may increase their exports to the United States in response to the relief on imports from China. We also expect the level of tariff protection that is necessary to offset market disruption to decrease as new

---

[191] Petitioner's pre-hearing brief at 42-43.

[192] Final comments on remedy of Subcommittee of China Tire Producers at 2.

[193] Final comments of GITI Tire at 7-9.

[194] Final comments of Les Schwab Warehouse Center at 6.

[195] Final comments of Les Schwab Warehouse Center at 9.

[196] Final comments of GITI Tire at 9-11.

[197] Id. at 11-12.

[198] We find that a more rapid phase-down would be inappropriate given both the magnitude of the market disruption at issue and the Chinese industrial policies that, at least in part, account for it. *See, e.g.*, earlier discussion of restrictions on Cooper Tire & Rubber's business license.

investments and other adjustments are implemented. The action we are recommending is not intended to address the effects of the current recession or to restore the domestic industry to a level of shipments and profitability that might prevail in a healthier national economy, but only to address the market disruption caused by the subject imports. We expect this remedy to have little or no effect on the U.S. automobile and light truck industry because tires account for a very small part of the cost of manufacturing a car or light truck.

We recommend that the remedy remain in place for a three-year period because we believe that a remedy of such duration is needed to give firms and workers in the industry the time to identify and implement needed adjustments to import competition. Although domestic producers did not identify any specific planned adjustments in their questionnaire responses, other information in the record indicates that domestic producers have put plant and equipment upgrades on hold pending more favorable market opportunities.[199] Moreover, we anticipate that the relief may encourage certain domestic producers to reconsider planned plant closures.

We have considered the quota proposed by petitioner, but believe a duty increase to be the more appropriate remedy in this case because of the nature of the competition between the imported and domestic tires and the nature of the product, including the wide variety of sizes of tires sold in the marketplace. A quota administered on a 10-digit HTS level, as proposed by petitioner, would be too inflexible because it would not take into account changes in market demand for different sizes of tires. In our view, it would likely result in quotas for some 10-digit HTS categories being quickly filled, while others are left largely unfilled. At the same time, we share petitioner's view that a single quota covering all subject tires from China would be likely to encourage a shift in the mix of tires shipped by subject Chinese producers to the United States toward the higher performance (and higher priced) tires in which the U.S. industry is currently more competitive.[200] We note that this risk would even be present with the 10-digit HTS approach advocated by the petitioner, as producers of subject imports would have an incentive to move up-market within each sub quota. Finally, our aim is to address the market disruption caused by the rapidly increasing imports, as opposed to returning the domestic industry to a condition that may have existed in 2005 or another year, as the latter would be impractical given changes in the industry in the intervening years.

We note that the United States imports a significant quantity of subject tires from countries other than China. Information in the record shows that the quantity of these imports has declined since 2006[201] and that their average unit values are much higher than those of imports from China and closer to the average unit value of U.S.-produced tires over the 2004-2008 period.[202] U.S. tire producers are significant importers of third-country tires, accounting for about 72 percent of such imports in 2008. Imports by U.S. producers of third-country tires, however, have been declining since 2005.[203] Given the recent downward trend in U.S. imports of third-country tires, their higher prices, and the role of U.S. producers

[199] For example, ***.

[200] We also note that petitioner's proposed quota has a tariff-equivalence of about 65 percent *ad valorem*, which we view to be higher than necessary to remedy the market disruption we have found.

[201] CR/PR at Table II-3.

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

[203] CR/PR at Table II-3.

in their importation, we anticipate that these imports will capture a minority of the reduction in subject imports if our proposed remedy is implemented.[204]

E. Short- and Long-Term Effects of the Recommended Remedy

The relief we are proposing would remedy the market disruption by imports from China that we have found and does not exceed the amount necessary to remedy market disruption. It is intended to increase production, shipments, sales, and prices of domestic tires, boost domestic employment,[205] and restore the domestic industry to at least a minimum level of profitability.

As explained above, in the first year we propose a 55 percent tariff on all imports of subject tires. This duty would likely reduce shipments of subject tires by 38.2 to 58.4 percent in the first year.[206] Increases in shipments by domestic producers would likely make up for most of the reduction in the volume and market share of subject imports. Although both domestic and non-subject import shipments would likely increase by 3.4 to 6.8 percent, the volume of domestic shipments is much higher than that of non-subject import shipments, and domestic shipments will thus likely enjoy a much more substantial increase.[207] Further, the increased tariff will not preclude growth if market conditions change. The tariff is likely to result in a modest increase in prices for domestic and imported tires. Domestic industry and non-subject import prices are estimated to increase by 1.3 to 2.2 percent.[208]

The increased quantity and prices of domestic industry shipments would significantly improve the domestic industry's revenues. The benefit provided by the tariff – a revenue increase of 5.1 to 8.6 percent – should allow the industry to go from incurring operating losses to earning operating profits. Any negative effects on U.S. consumers will likely be very small in absolute terms and even smaller in relative terms, given that tires are generally a small cost component in their ultimate end uses in passenger vehicles and light trucks.[209]

---

[204] Moreover, as noted above, one of the reasons we propose a reduction each year in the size of the additional tariff is to reduce any incentive there may be for third-country imports to increase.

[205] Commissioner Lane notes that in the first year of relief, the average of the outcomes from the COMPAS Model shows that the domestic industry's domestic sales are likely to increase by approximately 6.8 million units on average. Although the model does not specifically project the impact of such an increase in output on employment, at the highest level of productivity reflected in the period of investigation 6.8 million tires would equate to over 2.3 million additional hours for production related workers in the industry. While these hours may be a combination of additional hours for existing employees and new jobs, they nevertheless equate to nearly 1,200 jobs on a full-time basis. At the average 2008 wage rate, these additional hours would produce increased wages for domestic workers of $58.4 million. Commissioner Lane further notes that although this level of increased hours and wages is calculated based on a single year's average productivity, the result is consistent with other record evidence. The record indicates that the variable wage portion of producing a tire is $8.73. Applying this variable wage cost per tire to an increase in output of 6.8 million tires results in expected increased wages of over $59 million. Thus, either calculation supports the expectation that the additional volumes that will be produced by the domestic industry if the Commission's proposed remedy is implemented will lead to a substantial increase in hours worked and wages.

[206] Staff document, "Table 1: Summary effects of remedy, 55 percent tariff," June 29, 2009.

[207] Staff document, "Table 1: Summary effects of remedy, 55 percent tariff" June 29, 2009.

[208] Staff document, "Table 1: Summary effects of remedy, 55 percent tariff" June 29, 2009.

[209] CR at V-15, PR at V-11. The COMPAS economic model used by the Commission estimates the extent of market changes likely to result from import relief. The results of the model are expressed in terms of percentage changes from the most recent base period, in this case the year 2008.

The COMPAS model estimates a first-year impact on consumers of $459 million to $534 million. This

(continued...)

It is not possible to predict market effects with precision following the initial year of relief. In general, it is expected that as the volume of subject imports is restrained, the domestic industry will be able to respond by increasing production as necessary and ultimately improving capacity utilization, employment, and financial performance.

F. Short- and Long-Term Effects of Not Taking the Recommended Action

In the absence of appropriate relief, the domestic industry's negative operating income, decreasing employment and production, and other negative performance indicators can be expected to continue and likely worsen. Subject tires have increased their share of the U.S. market significantly even though U.S. consumption has declined. The U.S. producers' decreased shipments have been moderated somewhat by price increases, although these price increases have generally not covered sharply increasing raw material and other costs. In the absence of a remedy, the domestic industry producing subject tires is likely to experience substantial revenue losses, production and shipment declines, and further employment reductions.

[209] (...continued)
equates to only $1.73 to $2.00 per tire sold in the U.S. market. Moreover, after considering the increased tariff revenue, the net impact on total U.S. welfare ranges from a $71.0 million loss to a $73.3 million gain.

SEPARATE VIEWS ON REMEDY OF CHAIRMAN SHARA L. ARANOFF

The statute authorizes the Commission to "propose the amount of increase in, or imposition of, any duty or other import restrictions necessary to prevent or remedy the market disruption."[1] In order to remedy the market disruption that I have found to exist, I recommend as follows:

> That the President impose a duty, in addition to the existing rate of duty, for a three-year period, on imports of the subject tires from China, with the amount of the additional duty set at 55 percent *ad valorem* in the first year, 45 percent *ad valorem* in the second year, and 35 percent *ad valorem* in the third year.

If applications are filed, I recommend that the President direct the U.S. Department of Commerce and the U.S. Department of Labor to provide expedited consideration of any petitions for trade adjustment assistance filed by firms or workers affected by the subject imports.

Statutory Framework

Section 421(f) of the Trade Act of 1974 provides that the Commission, upon making an affirmative determination, or if it is equally divided in its determination, "shall propose the amount of increase in, or imposition of, any duty or other import restrictions necessary to prevent or remedy the market disruption."[2] It provides that only those Commissioners who agreed in the affirmative determination are eligible to vote on remedy, and that other Commissioners may provide their views on remedy. Neither the statute nor its legislative history provides any further guidance or instruction on remedy.

Section 421(f) thus authorizes the Commission to propose as a remedy any import restriction, including but not limited to an increased duty, a tariff-rate quota, a quantitative restriction, or other import restriction.[3]

Section 421(g)(2)(D)[4] requires that the Commission's report to the President and the U.S. Trade Representative include a description of –

> (i) the short- and long-term effects that implementation of the action recommended…is likely to have on the petitioning domestic industry, on other domestic industries, and on consumers; and
>
> (ii) the short- and long-term effects of not taking the recommended action on the petitioning domestic industry, its workers, and the communities where production facilities of such industry are located, and on other domestic industries.

[1] 19 U.S.C. § 2451(f).

[2] 19 U.S.C. § 2451(f).

[3] 19 U.S.C.§ 2481.

[4] 19 U.S.C.§ 2451(g)(2)(D).

Proposed Relief

In determining what remedy to propose, I took into account the nature of the market disruption that I have found to exist - specifically the rapid increase in imports of subject tires from China, the large absolute volume of those imports, and the underselling by the imports. It is my view that, in order to be effective, a remedy must address and alleviate these specific elements of market disruption, by reducing the volume of imports from China in the U.S. market and raising the prices of the remaining volume of such imports in an effective way and for an effective period of time.

The remedy that I am proposing achieves these results. According to estimates by Commission staff, a 55 percent additional tariff in the first year would reduce the volume of subject imports from China by 38 to 58 percent, and would raise prices of subject imports from China by 12 to 23 percent. This would have the effect of reducing market share of subject imports to 7.3 to 10.6 percent (from 16.7 percent), based on the quantity of apparent consumption in 2008, and of largely negating the average underselling margins of 23.6 percent associated with subject imports in 2008.

Imposition of the proposed duties is not the only possible action that would eliminate the market disruption caused by subject imports. Petitioner recommends that the Commission propose a quota on subject imports tires for a three-year period in the amount of 21 million in the first year, with a 5 percent increase in the amount of the quota in each of the second and third years.[5] Petitioner expresses a preference for a quota over a duty, arguing this would create the greatest possible certainty in the market and would provide no new incentive for Chinese producers to invest in the production of higher value tires, which petitioner believes could undermine the benefits of the remedy.[6] Although I do not disagree with petitioner that the proposed 21 million unit import quota would address the market disruption found in this investigation, and may have a somewhat larger effect on the volume and price of subject imports than the tariff scheme that I am recommending, I find that the imposition of a tariff provides a better overall remedy for this industry.

The U.S. market consumes tires representing a wide variety of sizes and performance characteristics and consumer preferences for different kinds of tires change over time based, inter alia, on the popularity of different car and light truck models. A quota administered at the HTS 10-digit level, as proposed by petitioner, is likely too inflexible to take into account changes in market demand for different sizes and types of tires. Thus, while some quota categories may be quickly filled, other categories could be left largely unfilled, which may result in an unnecessary reduction in consumer choice. By contrast, a single quota covering all subject tires from China would likely encourage a shift in the mix of tires shipped from China to the United States towards the higher performance (and higher priced) tires in which the U.S. industry is currently more competitive. Given the current economic climate and the associated uncertainty regarding the likely level of U.S. tire consumption over the next several years, I believe that a tariff scheme will provide the domestic industry and the market with greater flexibility to meet consumer needs.

I recommend that the remedy remain in place for a three-year period, in order to provide a reasonable planning horizon for domestic producers. Although domestic producers did not identify in their questionnaire responses specific adjustment projects they would undertake if relief were granted in this investigation, they did discuss plant and equipment upgrades on hold pending more favorable market

[5] Petition at 23-24.

[6] Hearing Tr. at 177 and petitioner's post-hearing brief (June 8, 2009), exhibit 43 at 42.

opportunities.[7] A three-year remedy period should provide the industry with sufficient market stability to make these deferred financial commitments, many of which are aimed at improving competitiveness at the higher end of the market.

I further recommend that the increased duties be phased down in annual 10-percentage-point increments during the remedy period. Phasing down the tariff level over time will allow a more gradual transition in the marketplace, since the relief afforded is temporary. Moreover, it will reduce the incentive for third-country producers and importers to make investments intended to expand their presence in the U.S. market.

Short- and Long-Term Effects of the Recommended Remedy

The statute requires that the Commission include, in its report to the President and the U.S. Trade Representative, a description of the short and long-term effects that implementation of the action recommended is likely to have on the petitioning domestic industry, on other domestic industries, and on consumers.

The action I am recommending is likely to raise domestic producers' revenues by 5.1 to 8.6 percent in the first year, which should be sufficient to restore the domestic industry to modest profitability. The recommended remedy is not intended to address the effects of the current recession or to restore the domestic industry to a level of shipments and profitability that prevailed in any particular year, because decreasing demand, rising raw material costs, natural disasters and other factors all affected the operating performance of the domestic industry between 2004 and 2008 in addition to the market disruption caused by imports from China. Thus, the level of profitability likely to prevail once the market disruption is remedied would not be expected to exceed that experienced by the domestic industry in the earlier years of the POI when a stronger economy contributed to healthier operating results.

The proposed remedy is likely to increase domestic production by 2.9 to 5.8 percent.[8] Making the reasonable assumption that an increase in domestic production is likely to translate into a comparable increase in employment, I would similarly expect an increase in employment of 2.9 to 5.8 percent in the first year, or approximately 900 to 1,800 jobs. To the extent that workers at some domestic tire production facilities are currently working short shifts, this positive employment effect may manifest itself at least in part in the form of an increase in hours worked, rather than jobs saved or new jobs created, due to the temporary nature of the remedy.[9]

I do not foresee any adverse effects on the domestic industry producing passenger cars and light

---

[7] Hearing Tr. at 72; trip notes, Tour of Goodyear plant in Fayetteville, NC, May 26, 2009 ***.

[8] An increase in domestic production of 5.8 percent, the maximum predicted by the Commission's model, would translate into an additional 9.3 million units. By way of comparison, the production capacity of the three domestic plants currently scheduled to close in 2009 is 22.5 million units. CR/PR at Table I-3.

[9] Petitioner generally finds higher effects of their proposed remedy on domestic production and employment than Commission staff found of their own analysis of petitioner's remedy. This difference is largely due to different assumptions. I find that, based on the record, the supply responsiveness estimates underlying the analysis by Commission staff are more reasonable than petitioner's estimates. Assumptions made by the petitioner include relatively large domestic supply responsiveness to price changes, relatively high Chinese producer supply responsiveness, and relatively low third-country producer supply responsiveness. Memo EC-GG-004, June 19, 2008. See also Exhibit 43 of petitioner's post-hearing brief at 2-3 and 21-22.

trucks, because tires represent a very small share of the cost of producing such vehicles.[10] Nor are there likely to be significant adverse effects on domestic retailers of replacement tires or on consumer choice, because the U.S. market is served by a large variety of tires at different price points and different performance levels.[11] Moreover, although the prices of subject tires are, as noted above, likely to increase by 12 to 23 percent, prices for domestically produced and non-subject tires are likely to increase by only 1.3 to 2.2 percent.[12] Thus, it is not plausible, as respondents suggest, that consumers would be unable to afford to replace their tires thereby creating a public safety hazard as a result of the proposed remedy.[13]

I disagree with the respondents' argument that third-country imports will simply fill the demand left by restrictions imposed on imports from China. Such an argument is both legally and factually unfounded as the statute instructs the Commission to propose the relief that will prevent or remedy market disruption due to the subject tires from China. As a legal matter, it is sufficient that the proposed tariff scheme remedies the market disruption attributable to subject imports, regardless of whether the domestic industry captures most or all of the sales volume formerly served by subject imports. As a factual matter, information in the record shows that the volume of third-country imports has declined since 2005, and that unit values of third-country imports are on average well above those of imports from China and closer to those of domestic tires. U.S. tire producers are significant importers of these third-country tires, accounting for approximately 73 percent of such imports in 2008, and imports by U.S. producers of third-country tires have been declining since 2005.[14] The Commission's model takes into account the existence of these third-country imports in gauging the likely effects of the proposed remedy, and predicts that shipments of domestically produced and third-country tires are each likely to increase by 3.4 to 6.8 percent and experience similar, but small, price increases of 1.3 to 2.2 percent. For all these reasons, I do not find that third-country imports are likely to fully replace subject imports from China in the U.S. market or, to the extent that they do expand their market presence, to do so at prices as low as those associated with subject imports. In sum, a rising volume of non-subject imports is not likely to prevent a meaningful benefit to the domestic industry from the proposed relief.

It is not possible to predict with precision the market effects of the proposed remedy following the initial year of relief. In general, it is expected that, as the volume of subject imports and extent of underselling by imports from China are restrained, the domestic industry will be able to respond by increasing production and employment, improving capacity utilization and financial performance, and considering opportunities for capital investments and other plant improvements.

Short- and Long-Term Effects of Not Taking the Recommended Action

The statute further requires that the Commission include, in its report to the President and the U.S. Trade Representative, a description of the short and long-term effects of not taking the recommended action on the petitioning domestic industry, its workers, and the communities where production facilities of such industry are located, and on other domestic industries.

In the absence of appropriate relief, it is likely that subject imports from China will continue to gain market share in the U.S. market at the expense of the domestic industry despite the decline in domestic demand, particularly in light of the projected increases in capacity by Chinese tire producers and

---

[10] CR at V-15, PR at V-11.

[11] CR at V-6 to V-8, PR at V-5 to V-6.

[12] Staff document, "Table 1: Summary effects of remedy, 55 percent tariff" June 29, 2009.

[13] Final comments on remedy by GITI Tire at 8.

[14] CR/PR at Table II-3 and see Table C-1.

the continued aggressive pricing by importers of the subject tires.[15] The plant closures announced by domestic producers for 2009 will be unavoidable and may be followed by additional closures in 2010, with significant adverse effects on workers and the surrounding communities.[16] Absent a rapid and robust increase in demand in 2010, which is at best uncertain, the domestic industry will likely lack the incentive or ability to fund needed plant upgrades that would make the industry more competitive in the higher end of the market, leading to further erosion of the industry's competitiveness and market share in the long term.

[15] CR/PR at Table IV-3 and see Table V-13.

[16] At the hearing, Jim Wansley, former president of USW local 746L at the Goodyear plant in Tyler, Texas, closed in 2006, testified on the cumulative adverse effects of the plant closing on the local community, including how the tire plant directly supported local suppliers and service providers and generated taxes to support public services, and that plant employees helped sustain local restaurants and shops. *See* Hearing tr. at 87-93.

SEPARATE AND DISSENTING VIEWS OF VICE CHAIRMAN DANIEL R. PEARSON AND COMMISSIONER DEANNA TANNER OKUN

I. DETERMINATION

Pursuant to section 421(b) of the Trade Act of 1974 (19 U.S.C. § 2451(b)(1)) and on the basis of the information obtained in this investigation, we determine that certain passenger vehicle and light truck tires from China are not being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of certain passenger vehicle and light truck tires.

We join our colleagues in the discussions regarding background,[1] statutory framework, and domestic industry, including like or directly competitive domestic articles. We write separately to discuss conditions of competition and to provide our analysis of the statutory factors.

II. SUMMARY

We find that the record before the Commission does not indicate that certain passenger vehicle and light truck tires ("tires") from China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of tires. Indeed, we find that imposing a trade restrictive quota or tariff on the subject imports will be far more likely to cause market disruption than to alleviate it for domestic producers who have already undertaken significant strategic adjustments to adapt to a changing global market.

While we find that subject imports are increasing rapidly and that the domestic industry is materially injured, we do not find that subject imports from China are a significant cause of material injury to the domestic industry. Thus, we find that market disruption does not exist.

The following factors are particularly important to our conclusion that subject imports are not a significant cause of the material injury suffered by this industry and its workers. Domestic producers, who are not before the Commission, and *** on the request for relief, made significant strategic business decisions to shift U.S. production toward higher-value tires and capitalize on consumer brand loyalty. These decisions, including closing high-cost U.S. factories and factories producing small-size and lower-value tires, occurred before subject imports were a significant presence in the U.S. market. The plant closings announced for 2009 are the result of the recession and the decline in demand for tires. Significantly, the U.S. producers making these decisions ***.

Domestic producers are global competitors marketing flagship brand name tires at a premium. They shifted their focus to higher-value/premium tires, including the larger-size and performance tires, at the leading edge of the U.S. market. A majority of U.S. producers' sales are in segments, including original equipment manufacturers ("OEM") and premium/tier 1 tires, where subject imports are not

[1] The petition in this investigation was filed on April 20, 2009, by the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union ("USW"). The domestic industry is comprised of 10 domestic producers. The responding parties to the investigation are the American Coalition for Free Trade in Tires ("Coalition"); American Pacific Industries and Fullrun Tyre Corp. Ltd.; Cooper Tire & Rubber Company; GITI Tire (China) Investment Co., Ltd., and GITI Tire (USA) Ltd. ("GITI"); Les Schwab Warehouse Center, Inc.; the Subcommittee of Tire Producers of the China Chamber of Commerce of Metals, Minerals, and Chemicals Importers & Exporters ("Subcommittee"); and TBC Corporation.

competing in any meaningful manner. Nevertheless, domestic tire producers have not abandoned the tier 2 and tier 3 segments and continue to compete with subject and nonsubject imports in these segments. Nonsubjects have long played a large and important role in the U.S. market. In fact, imports from all other sources dwarfed imports of tires from China, even in 2008. Domestic producers, as result of substantial investments in foreign tire operations prior to 2004 and throughout the period examined, account for a substantial share of both subject and non-subject imports.

Domestic producers' efforts to restructure product line and capitalize on selling higher-value products were succeeding in increasing industry profitability. While Chinese imports increased in volume and market share, these increases did not correlate with industry profitability. In fact, the domestic tire industry was most profitable in 2007 when the largest increase in subject imports occurred. The domestic industry's improvement would have continued if already weak demand had not plummeted in 2008 with the recession. The near collapse of the U.S. automobile industry lent a devastating blow to the OEM tire market in 2008.

For these reasons, we find that a trade-restricting remedy will not provide relief to the domestic tire industry and its workers, and is not in the national economic interest of the United States. In an industry where domestic producers have already taken positive steps to adjust to global competition, we find that not only will trade restrictions not provide effective relief to tire industry workers but will risk disrupting the U.S. market by creating an adverse impact on U.S. producers. We are mindful that the industry adjustments during the period examined already have displaced substantial numbers of tire workers, and that the announced plant closings due to the current economic conditions will again be borne most directly by the industry's workers. That is why we respectfully urge the President to focus on providing economic adjustment assistance to displaced tire workers through continued use of the Trade Adjustment Assistance or other programs that might be available to suppliers to the battered U.S. automobile industry. If the President chooses a trade measure, we would suggest a Tariff Rate Quota, with a quota set at 41.5 million tires and an over quota tariff rate of 55 percent in the first year, 45 percent in the second year, and 35 percent in the third year. Such an approach avoids a large increase in the base cost of the tires purchased by the poorest customers, and provides greater stability in pricing in the U.S. market.

III. MARKET DISRUPTION DOES NOT EXIST

At the outset, we note that Congress added section 421 to the Trade Act of 1974 by the U.S.-China Relations Act of 2000. Section 421 implements a transitional bilateral safeguard provision (*i.e.*, the "anti-surge mechanism") in the U.S.-China Bilateral Trade Agreement relating to China's accession to the World Trade Organization. This safeguard provision applies to imports from China and, similar to other safeguard provisions, applies without regard as to whether subject imports are fairly traded or not. The legislative history to section 421 explains that this safeguard provision

> permit[s] the United States to provide relief to domestic industries and workers where products of Chinese origin are being imported in such increased quantities and under such conditions as to cause or threaten to cause market disruption to the domestic producers as a whole of like or directly competitive products. The relief is to be imposed only to the extent and for such period as the President considers necessary to prevent or remedy the market disruption.[2]

[2] U.S. House of Representatives, Committee on Ways and Means, *Permanent Normal Trade Relations with the People's Republic of China*, H.R. No. 106-632, 106th Cong., 2nd Sess., at 16.

Congress also cautioned that, "[t]his is a temporary, extraordinary trade remedy specifically designed to address concerns about potential increased import competition from China. . . ."[3]

Market disruption exists "whenever imports of an article like or directly competitive with an article produced by a domestic industry are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat of material injury, to the domestic industry."[4] Thus, the following conditions must be satisfied to determine that market disruption exists –

(1) imports of the subject product from China are increasing rapidly, either absolutely or relatively;

(2) the domestic industry is materially injured, or threatened with material injury; and

(3) such rapidly increasing imports are a significant cause of the material injury or the threat of material injury.

While subject imports increased rapidly and the domestic industry has experienced material injury, we find that such imports are not a significant cause of the material injury. Thus, we find that subject imports have not caused market disruption to the domestic producers of tires.

A. Conditions of Competition

The following conditions of competition inform our analysis of whether subject imports are increasing rapidly, the domestic industry is materially injured, and such imports are a significant cause of material injury.

Demand Considerations. Demand for passenger vehicle and light truck (except racing cars) tires is derived from the demand for new passenger vehicles and light trucks produced in the United States and the need for replacement tires for existing passenger vehicles and light trucks.[5] Apparent U.S. consumption for subject tires declined from 2004 to 2006, increased slightly in 2007, and then dropped sharply to its lowest level in 2008, as the U.S. economy slowed.[6] Questionnaire responses were mixed as to whether demand for subject tires in the U.S. market had increased or decreased since 2004. Seven of eight U.S. tire producers indicated that demand for subject tires in the U.S. market has decreased since 2004.[7] However, the majority of responding importers (21 of 26) reported that demand in the U.S. market had increased.[8]

---

[3] U.S. House of Representatives, Committee on Ways and Means, *Permanent Normal Trade Relations with the People's Republic of China*, H.R. No. 106-632, 106th Cong., 2nd Sess., at 19.

[4] 19 U.S.C. § 2451 (c)(1).

[5] CR at V-12, PR at V-9.

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

[7] CR at V-14, PR at V-9. Reasons cited for the decrease in demand included the downturn in the economy, lower vehicle production, fewer miles being driven, overstretched tire life, and more radial tire use. *Id*.

[8] CR at V-14, PR at V-9. Reasons cited for the increase included economic growth (particularly until 2008), an increased use in performance wheels, and the continued popularity of SUVs, light trucks, and crossover vehicles. *Id*.

Demand for subject tires can be broken down into demand for tires sold in OEMs and demand for replacement tires, with the replacement market accounting for over three-fourths of U.S. shipments.[9] According to the Rubber Manufacturers Association (RMA), demand for OEM tires declined during 2008 due to decreased passenger car production,[10] and increased demand for vehicles with high fuel economy, a shift to P-metric passenger tires, and increased market share of imported light trucks.[11] RMA reported that demand for replacement tires also declined during 2008 because of a decrease in miles traveled, consumers trying to get more miles out of existing tires, and the weak economy.[12] RMA expects demand for replacement and OEM market passenger vehicle and light truck tires to decrease in 2009 by 21 million tires to 261 million tires, but to increase in 2010 to 270 million tires as the economy improves.[13]

Supply Considerations. There are three sources of supply for subject tires: domestic production, subject imports, and nonsubject imports.

The domestic industry producing the subject tires consists of 10 domestic producers.[14] U.S. producers of subject tires range from large multinational companies with global production and sales and varying levels of vertical integration to smaller volume producers with only domestic operations. In 2008, U.S. producers manufactured the subject tires in 28 plants, with most of these plants producing only, or virtually only, subject tires on the equipment and machinery and with the workers used to produce the subject tires.[15] Four U.S. producers, Bridgestone, Cooper, Goodyear, and Michelin, account for *** of cumulative U.S.-produced sales.[16] These producers, with the exception of Cooper, sell into both the OEM market and the replacement market.[17] Domestic producers manufacture a full range of styles and sizes of subject tires, which are sold in various price ranges.

Six U.S. producers (***) reported a decline in U.S. production and capacity due to plant closures, supply disruptions, or strikes.[18] There were four U.S. plant closings during the period of investigation: Continental (Mayfield and Charlotte, 2006); Bridgestone (Oklahoma City, 2006); and Goodyear (Tyler,

---

[9] CR/PR at Table V-3. U.S. producers shipped 17.7 percent of their U.S. shipments to the OEM market and 82.3 percent to the replacement market in 2008. U.S. importers shipped only 5 percent of their U.S. shipments from China but 21.9 percent of their U.S. shipments from other countries to the OEM market in 2008. CR/PR at Tables V-2 and V-3. While the OEM market may be less profitable for tire manufacturers, the objective of establishing a tire in the OEM market in order to enhance subsequent sales in the replacement market appears to be the primary justification for accepting lower relative profitability on OEM sales. CR at III-14, n. 53, PR at III-12, n. 53.

[10] While use of passenger vehicles and light trucks increased in the U.S. market from 2004 to 2007, U.S. production of such vehicles decreased by 27 percent from 2004 to 2008. CR/PR at Figures V-2 and V-4.

[11] CR at V-12, PR at V-9.

[12] CR at V-12, PR at V-9.

[13] CR at I-29, n. 74 and V-12, PR at I-19, n. 74 and V-9. RMA predicts larger percentage declines in the OEM market than in the replacement market in 2009. CR at I-29, n. 74, PR at I-19, n. 74.

[14] The Commission collected data from *** of these firms on their U.S. operations during the period 2004-2008.

[15] CR at I-16, PR at I-11 and CR/PR Table I-2.

[16] CR at III-14, PR at III-12.

[17] CR at III-14, PR at III-12. ***, along with most of the smaller-volume producers in general, sell only into the replacement market. *Id*.

[18] CR/PR at III-1. For example, in July 2006, Michelin reported a reduction in production of 30 to 40 percent at its plant in Opelika, Alabama. CR at I-23, PR at I-17.

2007).[19] [20] In addition, as a result of the current economic conditions, three additional plants closings are scheduled for 2009: Cooper (Albany, announced December 2008); Bridgestone (LaVergne, announced January 2009); and Michelin (Opelika, announced April 2009).[21] Also, Bridgestone, Cooper, Goodyear, and Toyo reported some reduced production at some of their plants during the period of investigation for a variety of reasons (raw material shortage, recession, labor strike).

Seven of the ten U.S. producers (Bridgestone, Cooper, Goodyear, Michelin, Pirelli, Toyo, and Yokohama) have subject tire manufacture facilities in China.[22] All but two of these U.S. producers (Cooper in 2004 and Pirelli in 2005) had established their subject tire manufacturing operations in China prior to 2004 and the substantial increases in subject imports.[23]

In 2006, U.S. imports from China were 27.0 million tires, making it the largest foreign supplier in the U.S. market, with imports slightly higher than those from long-time supplier Canada. Imports from China continued to increase to levels at least double that of any other single foreign source in 2007 and 2008.[24] U.S. producers' imports and purchases of subject tires from China accounted for 20.9 percent of the quantity of total subject tires imported from China in 2004, 21.8 percent in 2005, 26.1 percent in 2006, 26.4 percent in 2007, and 23.5 percent in 2008.[25]

Nonsubject imports have long played a large and important role in the U.S.market. Nonsubject imports supplied about one-third of apparent U.S. consumption in each year of the period examined.[26] Total imports from all sources other than China continued to dwarf subject imports from China, even in 2008; nonsubject imports as a share of total imports by quantity declined from 87.1 percent in 2004 to 66.9 percent in 2008.[27] The majority of nonsubject imports were from Canada, Japan, Korea, Indonesia, Brazil, and Mexico.[28] U.S. producers were responsible for over *** of total nonsubject imports in each

---

[19] *See, e.g.*, CR at I-20 - I-23, III-4 - III-6, III-24 and III-25, PR at I-15-I-17, III-4-III-5and III-16 and CR/PR Table I-3. The capacity and announcements/closure dates for the four U.S. plants are: Continental (Mayfield, Kentucky), capacity of 4.0 million tires, in June 2004 announced indefinite suspension of tire production by end of 2004, and permanently closed the facility at the end of 2006; Continental (Charlotte, North Carolina), capacity of 9.3 million tires, in January 2006 announced reduction in production, in March 2006 announced indefinite suspension of production and in May 2006 announced production would cease in July 2006; Bridgestone (Oklahoma City, Oklahoma), capacity of 18.4 million tires, in July 2006 announced closure of plant by end of 2006; and Goodyear (Tyler, Texas), capacity of 11.7 million tires, in October 2006 announced closure of plant in 2007. *Id*.

[20] U.S. producers also announced expansions at some U.S. plants: Continental (Mount Vernon, 2008); Cooper (Albany, Texarkana, Tupelo, Findlay, 2004); and Toyo (White plant opened December 2005 and expansion announced May 2007).

[21] CR at I-16, n. 44, PR at I-11, n. 44.

[22] CR at IV-6 to IV-10, PR at IV-3 to IV-6.

[23] CR at IV-6, IV-7, and IV-9, PR at IV-3 to IV-6.

[24] CR/PR at Table II-1.

[25] CR at II-9, PR at II-7.

[26] CR/PR at Table C-1. Nonsubject imports accounted for 31.9 percent of apparent U.S. consumption in 2004, 33.6 percent in 2005, 34.5 percent in 2006, 33.4 percent in 2007, and 33.7 percent in 2008. *Id*.

[27] CR/PR at Table II-1.

[28] CR/PR at Table II-1.

year of the period.[29] Moreover, nonsubject imports as a share of U.S. production were substantial in each year of the period examined.[30]

Substitutability and Product/Market Considerations. The passenger vehicle and light truck tires imported from China and produced domestically can be used interchangeably.[31] All passenger vehicle and light truck tires sold in the U.S. market must meet standards established by the National Highway Traffic Safety Administration and must meet U.S. Department of Transportation marking requirements.[32]

Subject tires, however, are not a commodity product. They are produced in a range of sizes to match the wheel size of the passenger vehicle or light truck, which is generally determined by the vehicle manufacturer. Tires of a given size also are generally manufactured in a variety of designs to meet customer performance preferences such as long tread wear (which may involve use of a harder rubber in the tread), better road grip (which may involve use of a softer rubber in the tread that results in faster tread wear and shorter tire life), and superior handling in winter weather (which may involve tread designs with wider and deeper grooves). In addition to differences in design and performance, the market is differentiated to some extent by brand names, which permit certain companies to charge a higher price than others, and other segments, including the OEM and the aftermarket or replacement market.

There is consensus among the parties that the subject tire market is segmented between the OEM and replacement markets, and, to some degree, that there are categories or tiers within the replacement market.[33] However, there is no consensus on how to define what types of tires are classified in each tier, or what brands are classified in each tier within the replacement market.[34] In addition to examining industry publications placed on the record, the Commission issued supplemental questionnaires to gather additional information about competition among tiers.[35] The record indicated that in general, tier 1 comprises premium or flagship brands; tier 2 comprises mid-level, secondary/associate, or smaller producer brands; and tier 3 comprises entry-level or non-recognizable branded tires.[36] The majority of questionnaire responses classify private brands as tier 3 tires but are mixed as to where to place associate brands, with some responses placing them in tier 2 and others placing them in tier 3.[37] In addition, market participants do not agree on what specific brands are classified in each tier.[38] Other responses classify tires based on price.[39]

---

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

[30] CR/PR at Table II-4. For the largest U.S. producers, ***, nonsubject imports as a share of U.S. production ranged from a low of *** to a high of ***. *Id.*

[31] At least 80 percent of responding producers, importers, and purchasers indicated that subject tires produced in the United States and imported from China are at least "frequently" used interchangeably. CR at V-20, PR at V-15.

[32] CR at I-5 and I-9, PR at I-3, I6 and I-7.

[33] CR at V-4 and V-6, PR at V-4 and V-5.

[34] CR at V-6, PR at V-5.

[35] Not all firms that responded to the standard producer and importer questionnaires responded to the supplemental questionnaires.

[36] CR/PR at Table D-1.

[37] CR/PR at Table D-1. For example, *** classified associate brands as tier 3 but *** classified associate brands as tier 2.

[38] CR/PR at Tables D-1 and D-3. For instance, *** reported that *** percent of its U.S. shipments are tier 1 tires, yet not a single questionnaire respondent named *** as a tier 1 brand; *** listed *** as a tier 2 brand.

[39] *** classified tires solely based on price. *** all included price descriptions when describing the different tiers. CR/PR at Table D-1.

Accordingly, there are wide variations in the estimates for the share of the total U.S. market accounted for by each tier. Producers and importers reported that tier 1 ranged from 21 percent to 78 percent of the total U.S. tire market; tier 2 ranged from 7 percent to 52 percent of the market; and tier 3 ranged from 10 percent to 50 percent of the market.[40]

While not arguing that there is a clear dividing line among each of the tiers, respondents, in general, contend that competition is attenuated between domestically produced tires which are primarily in tier 1 and 2 tires for the OEM and replacement markets, and subject imports which are primarily in tier 3 tires for the replacement market.[41] [42] Whereas the U.S. product and nonsubject imports compete in both the OEM and replacement market, most subject imports are sold in the replacement market.[43] The Chinese product competes to only a limited degree in the premium or tier 1 segment of the replacement market.[44]

In narrative responses, U.S. producers *** all noted a U.S. market shift between 2004 and 2008 to U.S. production of more higher-value, premium, flag brands and fewer commodity, budget/entry-level, private/associate tires.[45] Respondents also have argued that U.S. producers have largely exited production of tier 3 tires and now import these tires from their affiliates and other producers in both China and nonsubject countries. In producer questionnaire responses, ***.[46] Also, according to some public press reports on the various U.S. plant closings during the period, one of the reasons for the closure of both Bridgestone's Oklahoma City plant and Goodyear's Tyler plant was that the plants made smaller-sized tires that were increasingly unpopular in the marketplace.[47]

---

[40] CR/PR at Table D-2.

[41] Hearing Tr. at 360-61 (Ms. Trossevin). In response to a question from Commissioner Okun, Ms. Trossevin, speaking on behalf of the Coalition stated: "So what we are telling you is yes, you have one like product, no bright line. But you do have these three major market segments" (Hearing Tr. at 361). *See also GITI's* post-hearing brief at 5: "The distinctions between these tiers are not as clear and sharp as the distinction between holding a contract to supply a line of tires to an OEM and selling tires to a distributor for retail sale. . . . If the different tiers of replacement tires were that clearly distinguishable, respondents would be making a like product argument in this case. Instead, the same 'like product' is divided into three tiers based in significant part on brand equity."

[42] *See* GITI's pre-hearing brief at 3. *See also* GITI's post-hearing brief at 5, where GITI Tire asserts that the distinction between tires produced for the OEM market and those produced for the replacement market is sharper than that between tires in the three tiers. GITI Tire, however, does not argue that tires produced for the OEM market are a separate like product or that the domestic tires produced for the OEM market are not "like" the subject imports.

[43] CR/PR at Tables V-2 and V-3. Whereas U.S. importers shipped only 5 percent of their U.S. shipments from China to the OEM market, U.S. producers shipped 17.7 percent of their U.S. shipments and U.S. importers shipped 21.9 percent of their U.S. shipments from other countries to the OEM market in 2008. U.S. producers shipped 82.3 percent of their U.S. shipments to the replacement market in 2008. *Id*.

[44] Based on the supplemental questionnaire responses, *** of total reported U.S. shipments of imports from China were tier 1 tires, *** were tier 2 tires, and *** were tire 3 tires.

[45] CR/PR at Table D-6.

[46] Responses to producer questionnaire, question II-6.

[47] *See, e.g.*, Subcommittee's posthearing brief at Exh. 6-Bridgestone's Annual Report 2006 ("During the year a decision was made to close the Oklahoma City tire plant, which produces tires in the low-end segment of the market where demand is shrinking and fierce competition from low-cost producing companies is increasing) and Exh. 7; Coalition's posthearing brief at Exhs.5 and 6; GITI's posthearing brief at Exh. 7; Petitioner's prehearing brief at Exh. 7; CR at III-25, n. 62, PR at III-16, n. 62 ("Factors also justifying the plant's closure were identified as rising costs, Goodyear's announced decision in June 2006 to exit the wholesale private label market, and reduced demand for the types of tires produced at the Tyler, TX plant.").

U.S. production is focused on the higher-value, premium branded products and the OEM market, segments in which the subject imports are not competing in any meaningful manner. Nevertheless, subject imports also are not limited to those identified as tier 3, nor has U.S. production of tier 3 tires ceased. According to data submitted in supplemental questionnaire responses, the eight U.S. producers that responded reported that overall, *** percent of their U.S. shipments in 2008 were tier 1 tires; *** percent were tier 2 tires; and *** percent were tier 3 tires.[48] Of the five U.S. producers that reported data for their imports from China in 2008, *** reported that all of their subject imports in 2008 were of tier 3 tires; *** reported higher percentages of subject imports of tier 1 and 2 tires than tier 3 tires. Of the seven U.S. producers that reported data for their imports from nonsubject countries in 2008, *** reported higher percentages of nonsubject imports of tier 1 and 2 tires than tier 3 tires.

Among responding importers, excluding U.S. producers, 10 reported that *** of their imports from China in 2008 were tier 3 tires; three importers reported some subject imports of tier 2 tires. Six importers, excluding U.S. producers, reported that *** of their nonsubject imports in 2008 were tier 3 tires; two importers reported some nonsubject imports of tier 2 tires.

Other considerations. Escalating raw material costs accounted for approximately 50.5 percent of the total cost of goods sold for U.S. producers during 2004 to 2008.[49] Natural rubber and synthetic rubber are the primary components of raw material costs.[50]

B. Rapidly increasing imports

Statutory Framework. To find market disruption, the statute requires that the Commission find that imports of a product from China "are increasing rapidly, either absolutely or relatively." Thus, the increase must be occurring "rapidly." The requirement is met if the rapid increase is in either absolute or relative terms. The use of the word "are" suggests that the rapid increase should be recent and continuing, as opposed to in the distant past. Section 421 does not otherwise define "rapidly increasing" or the timing or circumstances of the increase. In the absence of express direction, we have determined that imports are increasing rapidly if there has been a significant increase in such imports (either absolute or relative to domestic production or consumption) during a recent period of time.[51]

Although we do not regard the legislative history of section 406 to be controlling here, as it was not expressly adopted by section 421 or cited in its legislative history, it does not appear to be

---

[48] *** reported some U.S. shipments of domestically produced tier 3 tires. Note that supplemental questionnaire respondents reported shares as a percent of the total market; staff calculated data based on the reported shares in the supplemental questionnaire responses and reported U.S. shipment data from the producer questionnaire responses.

[49] CR at V-28, PR at V-21. Raw material costs increased from $4.3 billion in 2004 to $5.3 billion in 2008. CR/PR at Table III-5.

[50] CR at V-28, PR at V-21. The quarterly average prices of natural rubber and synthetic rubber increased by 29 percent and 114 percent, respectively, between the first quarter of 2004 and the fourth quarter of 2008. The quarterly average prices of natural rubber and synthetic rubber declined by 17 percent and 28 percent, respectively, between fourth of quarter 2008 and first quarter of 2009. *Id.* and Figure V-5.

[51] *See e.g., Circular Welded Non-Alloy Steel Pipe from China*, Inv. No. TA-421-6, USITC Pub. 3807 (October 2005); *Certain Brake Drums and Rotors from China*, Inv. No. TA-421-3, USITC Pub. 3622 (August 2003) at 14-16; *Certain Ductile Iron Waterworks Fittings from China*, Inv. No. TA-421-4, USITC Pub. 3657 (December 2003) at 11-12; *Uncovered Innerspring Units from China*, Inv. No. TA-421-5, USITC Pub. 3676 (March 2004) at 10. While neither section 421 nor its legislative history expressly adopts either the section 406 practice or its legislative history, we note that section 406(e)(2)(B)(I) of the Trade Act states that imports are increasing rapidly "if there has been a significant increase in such imports (either actual or relative to domestic production) during a recent period of time."

inconsistent with the conclusions we reached in previous investigations. References in the legislative history of section 406 to a "steady trend toward higher import levels" and "imports on a rapid upswing" suggest a focus on recent imports and the current situation. With regard to the rapidity of the increase, the legislative history indicates that the test can be met in one of three ways: through a relatively sharp increase when the increase is concentrated in one year; through a steady, less dramatic increase over a longer period of two to three years; or as a result of a rapid upswing after imports have fluctuated up and down.[52]

In *Uncovered Innerspring Units from China*, we stated that we would focus our analysis on the more recent time rather than the beginning of the period of investigation because it is more relevant to the purpose underlying the statute.[53] First, the legislative history to section 421 states that the legislation "implements the anti-surge mechanism established under the U.S.-China Bilateral Trade Agreement." Second, Congress specifically designed the product-specific safeguard to "address concerns about potential increased import competition from China in the future."[54] We also stated that we interpret the section 421 legislative history as providing relief only if market disruption occurs or continues to occur after China's accession to the World Trade Organization (December 2001).[55] Thus, we focus on the more recent period of time and examine whether subject imports have increased sharply in the last year.

Arguments of the parties. The parties disagree with respect to whether imports are increasing rapidly. Petitioner asserts that imports from China are increasing rapidly in both absolute and relative terms. Petitioner contends that imports of the subject tires from China increased by 215 percent by volume and nearly 300 percent by value during the period of the investigation (2004-2008), that the rapid increase in imports has been both recent and continuing, that in percentage terms the subject imports have made double digit increases every year since 2004, and that since 2006, subject imports have increased by more than 70 percent.[56] Petitioner further argues that subject imports increased by 22 percentage points

---

[52] The relevant legislative history of section 406 states as follows:

> In applying the term "rapidly", the ITC should examine whether imports have recently surged over historical levels. In conducting this inquiry, ITC should balance the amount of the increase and the period of time involved. Thus, if the ITC finds that the increase is concentrated in a single year, it should look for a relatively sharp increase. If, on the other hand, the increase has occurred over a 2-3 year period, the longer period will provide a more stable basis for comparison and may show a steady trend toward higher import levels that meets the "rapidly increasing" requirement. Thus, in the latter situation, the increase need not be as sharp or as dramatic as that required over a shorter period. If imports have fluctuated up and down, the fact that imports are on a rapid upswing can satisfy the "rapidly increasing" requirement, even though imports have not reached levels attained in a previous period. If, however, the ITC finds that imports are stable, declining in absolute terms and relative to domestic production, or increasing slowly, the "rapidly increasing" requirement would not be met.

Omnibus Trade and Competitiveness Act of 1988, House Conf. Rep. No. 100-576, 100th Congress, 2nd Sess., *reprinted in* 1988 U.S.C.A.A.N. at 1723-24.

[53] *Uncovered Innerspring Units from China*, Inv. No. TA-421-5, USITC Pub. 3676 (March 2004) at 10, n. 40 (Chairman Okun and Commissioners Koplan and Pearson).

[54] U.S. House of Representatives, Committee on Ways and Means, *Permanent Normal Trade Relations with the People's Republic of China*, H.R. No. 106-632, 106th Cong., 2nd Sess., at 16, 19 (emphasis added).

[55] *Uncovered Innerspring Units from China*, Inv. No. TA-421-5, USITC Pub. 3676 (March 2004) at 10, n. 40 (Chairman Okun and Commissioners Koplan and Pearson).

[56] Petitioner's pre-hearing brief at 9-10.

relative to domestic production and more than 12 percentage points relative to apparent domestic consumption during the period examined (2004-2008).[57]

The Chinese respondents, on the other hand, posit arguments that imports of the subject tires from China are not increasing rapidly. Chinese respondent Subcommittee of Tire Producers asserts that the increase has been "gradual," with the largest increase occurring from 2006 to 2007, when there was a shortage in the U.S. replacement market due to the exit of U.S. producers from the Tier 3 economy segment of the market. It further contends that the increase in subject imports from 2007 to 2008 was "only 11" percent, and that the subject imports actually decreased by 14.7 percent in the first quarter of 2009 as compared to the first quarter of 2008.[58] Chinese respondent GITI asserts that the rate of increase "plunged" in 2008 as a result of the economic downturn and reduced levels of driving, and that the increase in imports "abated" in the year preceding the petition and does not constitute the "spike" the statute was intended to address.[59] The American Coalition for Free Trade asserts that none of the three scenarios for finding rapidly increasing imports that the Commission identified in *Brake Drums and Rotors* (a relatively sharp increase in 1 year, a steady less dramatic increase over 2 or 3 years, or a rapid upswing after imports have fluctuated up and down) is present in this case. Instead, the Coalition contends that there was a small annual increase from 2004 to 2006, a slightly higher increase in 2007, and then a small increase again in 2008. It also asserts that increases subject imports in relative terms are derived from a small base and cannot be viewed as "sharp" or "dramatic."[60]

Analysis. We find that imports of tires from China are increasing rapidly. Our analysis looks to the increase and rate of increase in imports, and focuses on recent increases in imports.

In absolute terms, imports of the subject tires from China increased throughout the period of investigation and were the highest, in terms of quantity and value, at the end of the period, in 2008.[61] As measured in quantity, subject imports rose by 215.5 percent during the period examined (2004-2008).[62] As measured in value, subject imports rose even more rapidly, by 294.5 percent from 2004 to 2008. Focusing on the more recent period, subject imports by quantity increased by 53.7 percent from 2006 to 2007, and 10.8 percent from 2007 to 2008, and by value increased by 60.2 percent from 2006 to 2007, and 19.8 percent from 2007 to 2008.[63]

Both the ratio of subject imports to U.S. production and the ratio of subject imports to apparent U.S. consumption rose throughout the period examined and both ratios were at their highest levels of the period in 2008.[64] From 2004 to 2008, the ratio of subject imports to U.S. production increased by 22.0

---

[57] Petitioner's pre-hearing brief at 11.

[58] Subcommittee's pre-hearing brief at 8.

[59] GITI's pre-hearing brief at 10-11.

[60] Coalition's pre-hearing brief at 19-20.

[61] In terms of quantity, the subject imports from China increased from 14.6 million tires in 2004 to 20.8 million in 2005, 27.0 million in 2006, 41.5 million in 2007, and 46.0 million in 2008. In terms of value, they increased from $453.3 million in 2004 to $691.9 million in 2005, $931.7 million in 2006, $1.493 billion in 2007, and $1.788 billion in 2008. CR/PR at Table C-1.

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

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

[64] The ratio of subject imports to U.S. production rose from 6.7 percent in 2004 to 10.0 percent in 2005, 14.6 percent in 2006, 23.0 percent in 2007, and 28.7 percent in 2008. CR/PR at Table II-2. The ratio of subject imports to apparent U.S. consumption increased from 4.7 percent in 2004 to 6.8 percent in 2005, 9.3 percent in 2006, 14.0

(continued...)

percentage points.[65] Similarly, the ratio of subject imports to apparent U.S. consumption increased by 12.0 percentage points during the period examined.[66] Focusing again on the more recent period, the two largest year-to-year increases for both the ratio of subject imports to U.S. production and to apparent U.S. consumption occurred at the end of the period in 2007 and 2008, respectively.

We considered the arguments made by the parties, including the respondents. We do not agree with respondents that the increases during the period examined as whole, during 2007 and 2008, or during 2008 alone, were "gradual" or "small," or that imports had "abated" by the end of the period. Rather, we find that imports increased, both absolutely and relatively, throughout the period by significant amounts in each year and were at their highest level at the end of the period in 2008. Whether viewed in absolute or relative terms, and whether viewed in terms of the increase from 2007 to 2008 alone, or the increases during the last 2 full years (or even the last 3 years), the increases were large, rapid, and continuing at the end of the period – and from an increasingly larger base.[67]

Finding. For the reasons set forth above, we find that imports of tires from China are increasing rapidly, in either absolute or relative terms, and that the increase was significant during the recent period. Thus, this first statutory criterion is satisfied.

C. Material Injury

Statutory Framework. The second criterion concerns whether the domestic industry is materially injured or threatened with material injury. Neither section 421 nor its legislative history defines the terms "material injury" or "threat," identifies economic factors to be considered, or cross-references any definitions, factors, or Commission practice under other statutory authorities to which the Commission might look for instruction. However, the term "material injury" appears in both section 406 of the Trade Act of 1974 and Title VII of the Tariff Act of 1930. Title VII of the Tariff Act defines "material injury" to mean "harm which is not inconsequential, immaterial, or unimportant."[68] Section 406 does not define "material injury," but its legislative history contrasts the term with "serious" injury used in section 201 –

---

[64] (...continued)
percent in 2007, and 16.7 percent in 2008. CR/PR at Table V-1.

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

[66] CR/PR at Table V-1.

[67] We also note that one of the respondents asserted, in support of its claim that the subject imports are not increasing rapidly, that the subject imports declined in actual terms during the first quarter of 2009. However, the data series the Commission compiled and relied upon in this investigation did not include first quarter 2009 data because a relatively complete data series for that period would not have been available in time to use in this investigation. Even if the first quarter import data that the respondent cites are of some limited value in examining trends in actual imports, they are of no probative value in determining whether the subject imports are increasing rapidly in relative terms in the absence of a data series that includes first quarter 2009 U.S. production and apparent U.S. consumption data. Consideration of such first quarter 2009 import data does not change our finding that imports of the subject imports from China are increasing rapidly, both absolutely and relatively.

[68] Section 771(7)(A); 19 U.S.C. § 1677(7)(A).

> the market disruption test is intended to be more easily met than the serious injury tests in section 201. . . . the term "material injury" in section 406 is intended to represent a lesser degree of injury than the term "serious injury" standard employed in section 201.[69]

In the absence of express direction in section 421, the Commission has found that "material injury" in section 421 cases represents a lesser degree of injury than "serious injury" under section 202 of the Trade Act.[70] This lesser degree of injury applies for both present injury and threat of injury analyses. The Commission also has found it appropriate, in analyzing present material injury, to consider all relevant economic factors that have a bearing on the state of the industry, including the three broad factors in section 202(c)(1)(A) relating to idling of productive facilities, inability of firms to operate at a reasonable level of profitability, and unemployment or underemployment. The Commission also has considered other relevant economic factors, such as production, shipments, sales, inventories, capacity and capacity utilization, market share, employment, wages, productivity, profits, capital expenditures, and research and development expenditures. We do not view any single factor as necessarily dispositive, and have considered all relevant factors within the context of the relevant business cycle and conditions of competition that are distinctive to the affected industry.[71]

Arguments of the parties. The parties disagree as to whether the domestic industry is materially injured and threatened with further material injury.

Petitioner asserts that the domestic industry has experienced significant idling of productive facilities during the period examined and cites the closing of four plants and declines in production capacity and production.[72] According to Petitioner, the industry is unable to operate at a reasonable level of profitability and has experienced declines in operating income and operating margins from positive numbers to losses, as well as declines in other indicators including shipments, market share, hours worked, and wages paid.[73] In addition, Petitioner points out that the industry has experienced significant unemployment and underemployment, with a loss of 4,000 jobs since 2004 and the projected loss of an additional 3,000 jobs later in 2009 due to announced plant closings. Petitioner claims that increased capacity in China to produce the subject tires, a decrease in the share of tire production in China shipped to the domestic market in China, and declines in capacity utilization in China, threaten material injury to the domestic industry.[74] In addition, Petitioner cites projections in responses to Commission questionnaires indicating that tire producers in China plan to increase capacity by an additional 19.1 million tires in 2009, and another 3.5 million tires in 2010, with exports to the United States to increase by an additional 1.32 million tires in 2009.[75]

Chinese respondents contend that, when viewed in the context of the business cycle and compared to other industries impacted by the general economic climate, the U.S. industry producing

---

[69] Trade Act of 1974, Senate Report No. 93-1298, 93rd Cong., 2nd Sess., *reprinted in* 1974 U.S.C.A.A.N. 7186, 7343-44.

[70] *See, e.g., Certain Welded Non-alloy Steel Pipe From China*, Inv. No. TA-421-6, USITC Pub. 3807 (October 2005) at 15, citing earlier decisions.

[71] *See, e.g., Certain Welded Non-alloy Steel Pipe From China*, Inv. No. TA-421-6, USITC Pub. 3807 (October 2005) at 15-16, citing earlier decisions.

[72] Petitioner's pre-hearing brief at 12-13.

[73] Petitioner's pre-hearing brief at 15, 18-19. Petitioner also claims that the industry's return on assets was much lower than the average return on assets for all large U.S. rubber and plastic companies in 2008. *Id*. at 17.

[74] Petitioner's pre-hearing brief at 38.

[75] Petitioner's pre-hearing brief at 39.

subject tires is not experiencing material injury. In their view the domestic industry is undergoing a positive restructuring having nothing to do with imports, which will leave the industry more efficient and profitable when the recession ends. They characterize the restructuring as involving the shift of production from economy sector (tier 3) tires to higher performance, value-added tier 1 and tier 2 tires, with the production of tier 3 tires moved abroad to Mexico and other lower cost countries, including China.[76] Respondents claim that even with the economic downturn and fewer miles driven in 2008, 7 of the top 10 tire manufacturers, including U.S. producers ***, experienced increased sales during 2008, by using Chinese imports as part of a long-term strategic business plan to improve profitability. They maintain that the domestic industry's results were even more favorable in 2007. They also note that while some domestic producers were closing older tire plants producing for the mass market, other domestic producers were adding new production for market niches that focus more on brand equity and higher-value tires, and cite the new Toyo plant that opened in 2006 and has been further expanded; Kumho's announcement in January 2008 that it will build a plant in Georgia; and U.S. plant investments and plant line expansions announced by Continental and Pirelli.[77]

Analysis. We find that the domestic industry producing the subject tires is materially injured. The data show a continuous decline in U.S. producers' domestic capacity, production, and shipments, as well as in U.S. employment and hours worked throughout the period examined. Each of those indicators were at their lowest level in 2008.[78] Four U.S. tire plants were closed during the period examined, and three more are slated to be closed during 2009; only one new plant opened during the period of investigation, in 2005. Domestic producers' operating profits and losses and capacity utilization fluctuated during the period examined, with financial performance (operating losses) at its lowest level in 2008.

We considered U.S. producers' average production capacity, production, and capacity utilization. Domestic producers' average capacity declined throughout the period examined due largely to four plant closures and capacity reductions in other plants. U.S. producers' average capacity fell from 226.8 million tires per year in 2004 to 186.4 million tires per year in 2008, or by 40.5 million tires (17.8 percent).[79] Nearly half of the total decline (18.9 million tires) occurred from 2006 to 2007, reflecting the closure of three U.S. plants producing subject tires in 2006 (two plants were closed by Continental in 2006, and one large plant by Bridgestone in 2006). The declines caused by these closings and reductions were offset only in small part by the opening of a new U.S. plant by Toyo in 2005 and expansions at several plants.[80] During the period examined, U.S. producers' production declined from 218.4 million tires in 2004 to 160.3 million tires in 2008, or by 58.1 million tires (26.6 percent). The largest year-to-year decline in the volume of domestic producers' production occurred from 2005 to 2006 (23.0 million tires).[81] U.S. producers' capacity utilization was relatively high but trended downward during the period examined,

[76] Subcommittee's pre-hearing brief at 10-12.

[77] GITI's pre-hearing brief at 16-19.

[78] The Commission collected financial and other data from *** of the ten U.S. tire producers on their U.S. operations during the period 2004-2008.

[79] CR/PR at Table C-1. U.S. producers' capacity declined from 226.8 million tires in 2004 to 222.9 million tires in 2005, 215.2 million tires in 2006, 196.3 million tires in 2007, and 186.4 million tires in 2008. Id.

[80] CR at I-20 to I-25, III-1 to III-7, PR at I-15 to I-18, III-1 to III-6 and CR/PR at Table III-1.

[81] CR/PR at Table C-1. U.S. producers' production declined from 218.4 million tires in 2004 to 207.8 million tires in 2005, 184.8 million tires in 2006, 180.3 million tires in 2007, and 160.3 million tires in 2008. Id.

reaching its lowest level in 2006, the year in which three plants closed. Capacity utilization was higher in 2007, and then declined in 2008.[82]

Domestic producers' U.S. shipments of subject tires also declined each year during the period examined and were at their lowest levels in 2008, declining from 194.7 million tires in 2004 to 136.8 million tires in 2008, or by 57.9 million tires (29.7 percent).[83] U.S. producers' inventories as a share of total shipments fluctuated, but generally increased during the period examined.[84]

We also considered U.S. employment in the production of tires, hours worked, and productivity. U.S. employment as measured in the number of U.S. production and related workers (PRW) producing the subject tires declined each year during the period examined, as did the number of hours worked. Both were at their lowest level of the period in 2008. U.S. producers' productivity fluctuated, but was also at its lowest level in 2008. The number of U.S. PRWs declined from 36,411 in 2004 to 31,243 in 2008, or by 14.2 percent. The largest one-year decline occurred in 2007, after the plant closings; the number continued to fall in 2008.[85] Hours worked by PRWs similarly fell each year during the period examined – by 17.0 percent between 2004 and 2008. However, the largest one-year decline occurred between 2007 and 2008, when the number of hours worked fell by 6.1 percent.[86] U.S. producers' productivity, as measured in tires produced per hour, fluctuated during the period examined, but was at its lowest level of the period in 2008.[87]

We also considered U.S. producers' reported operating income and operating loss data on their domestic passenger vehicle and light truck tire operations for each of the five years examined.[88] With the exception of 2007, the domestic industry's financial performance was anemic throughout the period examined. Operating income fluctuated over the period examined, falling from $256.2 million in 2004 to a loss of $114.5 million in 2006 and then increasing to a period high of $507.2 million in 2007, before declining to another loss of $262.8 million in 2008.[89] Operating income margins followed operating income, with modest positive margins in 2004, 2005, and 2007, and negative margins in 2006 and 2008.[90]

---

[82] U.S. producers' capacity utilization was at its highest during the period examined in 2004, at 96.3 percent, and then fell to 93.2 percent in 2005, fell to its lowest level of the period in 2006 at 85.9 percent, rose to 91.9 percent in 2007, and then fell to 86.0 percent in 2008. CR/PR at Table C-1.

[83] CR/PR at Table C-1. U.S. producers' U.S. shipments declined from 194.7 million tires in 2004 to 181.8 million tires in 2005, 163.8 million tires in 2006, 155.7 million tires in 2007, and 136.8 million tires in 2008. Id.

[84] CR/PR at Table C-1. In this case we do not regard U.S. producers' inventories as a significant indicator of the domestic industry's condition. U.S. producers generally produce subject tires in response to orders and do not hold significant inventories. ***.

[85] CR/PR at Table C-1. The number of U.S. production workers declined from 36,411 in 2004 to 35,595 in 2005, 34,037 in 2006, 31,842 in 2007, and 31,243 in 2008. Id.

[86] CR/PR at Table C-1. The number of hours worked declined from 76.0 million in 2004 to 73.6 million in 2005, 69.7 million in 2006, 67.2 million in 2007, and 63.1 million in 2008.

[87] CR/PR at Table C-1. U.S. producers' productivity was at it highest level of the period examined, 2.9 tires per hour, in 2004, and then fell to 2.8 tires per hour in 2005 and fell again in 2006 to 2.6 tires per hour. U.S. producers' productivity rose slightly in 2007 to 2.7 tires per hour, and then fell to the lowest level of the period in 2008 at 2.5 tires per hour. Between 2004 and 2008, productivity fell by 11.5 percent, and between 2007 and 2008 fell by 5.3 percent. Id.

[88] *** firms reported data for 2004 and 2005, and *** reported data for 2006, 2007, and 2008. CR at III-14, PR at III-12 and CR/PR at Table III-7.

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

[90] CR/PR at Table C-1. The domestic industry had an operating income margin of *** in 2008. *Id.*

The number of producers reporting operating losses ranged from three to seven during the period examined, with the lowest number, three, reporting operating losses in 2007, and the highest number, seven, reporting operating losses in 2006. All firms reported declining operating income or increasing operating losses in 2008 as compared to 2007.[91]

We also considered industry R&D expenses and capital expenditures during the period examined. Both of these indicators fluctuated within relatively narrow ranges during the period examined, and both trended upwards. R&D expenses were at their highest level in 2007,[92] while capital expenditures were at their highest level in 2008.[93]

In summary, we find that the domestic industry producing the subject tires is materially injured. Virtually all the industry indicators declined during the period examined and were at their lowest levels in 2008. U.S. producers' average capacity, production, and shipments, the number of U.S. production and related workers and hours worked, U.S. producers' productivity, and U.S. industry financial performance were all at their lowest or worst level of the period in 2008. Four plants were closed during the period examined, and in light of the current economic conditions, U.S. producers have announced plans to close three more plants in 2009. Only two indicators, R&D expenses and capital expenditures appear to be up towards the end of the period, and a third, inventories, which is not a significant indicator for this industry, shows no discernible trend.

We note that the trends observed for plant closings, capacity, research and development, and capital expenditures are consistent with an industry undergoing a major restructuring during the period examined. The industry's performance in 2007 demonstrated that the closures of high-cost plants and the reorganization of the product line toward higher-value tires was resulting in an improving bottom line and would have continued if already weak demand had not dramatically declined in 2008 with the recession. The change in the business climate in 2008, however, reversed those positive trends. As discussed below, the fact that the industry's performance turned negative in 2008 was not the result of subject imports, but was due to the effects of the economic recession.

Finding. For the reasons set forth above, we find that the domestic industry producing passenger vehicle and light truck tires is materially injured. Thus, this second statutory criterion is satisfied.

D. Subject Imports Are Not A Significant Cause Of Material Injury

Statutory Framework. The term "significant cause" is defined in section 421(c)(2) of the Trade Act to mean "a cause which contributes significantly to the material injury of the domestic industry, but need not be equal to or greater than any other cause."[94] Section 406 of the Trade Act uses the same

---

[91] CR/PR at Table III-7. U.S. producers reported total operating income of $256.2 million in 2004 and $165.5 million in 2005, an operating loss of $114.5 million in 2006, operating income of $507.2 million in 2007, and an operating loss of $262.8 million in 2008. Id.

[92] CR/PR at Table III-8. Industry R&D expenses increased from $270.7 million in 2004 (the lowest level of the period) to $296.2 million in 2005, fell to $288.6 million in 2006, and then rose to $307.1 million in 2007, the highest level of the period, and fell slightly to $306.7 million in 2008. Id.

[93] CR/PR at Table III-8. Industry capital expenditures increased from $550.8 million in 2004 (the lowest level of the period) to $688.2 million in 2005, fell to $576.5 million in 2006, and then rose to $597.4 million in 2007 and to $729.3 million in 2008, the highest level of the period. Id.

[94] 19 U.S.C. § 2451(c)(2).

causation test and definition.[95] The legislative history of section 406 describes the significant cause standard as follows –

> Under this standard, the imports subject to investigation need not be the leading or most important cause of injury or more important (or even equal to) any other cause, so long as a direct and significant causal link exists. Thus, if the ITC finds that there are several causes of the material injury, it should seek to determine whether the imports subject to investigation are a significant contributing cause of the injury or are such a subordinate, subsidiary or unimportant cause as to eliminate a direct and significant causal relationship. . . . [96]

Section 421(d) includes a list of three objective factors that the Commission is required to consider in determining whether market disruption is exists and that relate to the Commission's causation analysis:

(1) the volume of imports of the product which is the subject of the investigation;

(2) the effect of imports of such product on prices in the United States for like or directly competitive articles; and

(3) the effect of imports of such product on the domestic industry producing like or directly competitive articles.[97]

The presence or absence of any of these factors is not necessarily dispositive of whether market disruption exists. The three factors are similar to a list of factors in section 406(e)(2)(C) of the Trade Act[98] and parallel the criteria in Title VII of the Tariff Act that the Commission must consider in determining whether a domestic industry is injured by reason of dumped imports.[99]

Arguments of the parties. Petitioner argues that the subject imports are significant and have increased their market share at the direct expense of the domestic industry.[100] It asserts that a surge in Chinese tires has displaced domestic producers at many accounts, reducing their domestic production, capacity, and employment, which in turn has forced U.S. producers to close four plants, with three more plant closures slated for the near future. According to Petitioner, the respondents are seeking to "re-write history" by "reversing the sequence of events apparent in the record" – low-cost imports from China drove down prices and profitability to such an extent that domestic producers could no longer compete, and those producers were force to close the plants they could no longer operate profitably.[101] Petitioner contends that the subject imports are underselling domestic tires by substantial margins and are suppressing domestic prices.[102] Petitioner asserts that subject imports are having a significant adverse

---

[95] Section 406(e)(2)(B)(ii), 19 U.S.C. § 2436(e)(2)(B)(ii).

[96] Omnibus Trade and Competitiveness Act of 1988, House Conf. Report No. 100-576, 100th Cong., 2nd Sess., *reprinted in* 1988 U.S.C.A.A.N. 1547, 1724.

[97] 19 U.S.C. § 2451(d).

[98] 19 U.S.C. § 2451(e)(2)(C).

[99] Section 771(7)(B)(i) of the Tariff Act of 1930, 19 U.S.C. § 1677(7)(B)(i).

[100] Petitioner's pre-hearing brief at 20-23.

[101] Petitioner's pre-hearing brief at 28.

[102] Petitioner's pre-hearing brief at 31-33.

impact on the domestic industry, and cites the large increase in subject imports and news releases that attribute domestic plant closings to low cost imports, including from Asia.[103]

Chinese respondents argue that imports are not a significant cause of material or threat of material injury to the domestic industry. The pre- and post-hearing briefs and hearing testimony of the various respondents all contained a similar theme – that main reason why Chinese imports have entered the U.S. market is to fill the void left after U.S. tire producers decided to reduce or eliminate their U.S. production of economy (tier 3) tires; that competition between U.S. produced tires and the subject imported tires is attenuated; that because of this attenuated competition, Chinese imports have little if any effect on the volume and price of tires in market segments in which they are not present and thus little if any effect on U.S. producers; and there are several other factors other than Chinese imports, including the recent state of the economy, that have affected U.S. tire production.[104]

Analysis. In performing our analysis, we first considered information relevant to the three statutory factors that relate to our causation analysis – volume of imports, the effect of imports on domestic prices, and the impact of imports on the domestic industry. For the reasons discussed below, we do not find a sufficient causal nexus between the increasing subject imports and the performance of the domestic tire producers.

Volume

As discussed above, imports of subject tires from China are increasing rapidly. The volume of subject imports increased each year both absolutely and relatively during the period examined. The largest increase in subject imports by quantity and value occurred from 2006 to 2007, 53.7 percent and 60.2 percent, respectively.[105] Subject imports as a share of apparent U.S. consumption increased from 4.7 percent in 2004 to 16.7 percent in 2008, with the largest increase occurring from 9.3 percent in 2006 to 14.0 percent in 2007.[106] U.S. producers, however, experienced a steady decline in U.S. market share from 2004 to 2007, with both subject and nonsubject imports capturing some of its share of the market from 2004 to 2006.[107]

[103] Petitioner's pre-hearing brief at 35-36.

[104] *See, e.g.*, Subcommittee's prehearing brief at 10-15 and 34-35; Les Schwab's prehearing brief at 8-12; Les Schwab's posthearing brief at 2;Coalition's prehearing brief at 1-2; API's posthearing brief at 6-7; GITI's prehearing brief at 10 and 27-33.

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

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

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

Price

Price is considered a very important factor in purchasing decisions[108] and subject tires produced in the United States and imported from China overall are frequently used interchangeably.[109] However, tires are not a commodity product and are differentiated by factors such as size, speed rating, load factor, mileage per tire, the ride and handling quality of the tire, how the tire matches up to the particular vehicle model, and a range of other factors; these factors can affect the final price of the tire.[110] Moreover, branding plays a role in the terms of price, and the major tire manufacturers have built brand equity over the years in names such as Goodyear and Michelin.[111] In addition, as described above, market participants have described the three tiers of the market by using brand names, indicating that flagship brands are tier 1, smaller brands are tier 2, and non-recognized brands are tier 3.[112]

The Commission collected pricing data on six tire products for sales to the replacement market from U.S. producers and importers, and for sales to the OEM market from U.S. producers.[113] Six U.S. producers and 26 importers provided usable pricing data, although not all firms reported pricing for all products for all quarters.[114] The pricing data for all six products show that the Chinese products consistently undersold the comparable domestic products in all but one quarterly price comparison during the period examined.[115] We recognize that these comparisons include combinations of tires with different speed ratings, load indices, and levels of performance, which may have resulted in aggregation of tires having different price points.[116] Thus, the consistent underselling could in part be a reflection of this aggregation of products. While three of 10 responding producers reported that they had lost revenues and two of eight reported that they had lost sales, no producer reported specific examples of either lost revenues or lost sales.[117]

Prices of both subject imports and the U.S.-produced tires generally increased over the period. While the increases in prices did not entirely cover increases in costs, the evidence suggests that any price suppression was not the result of subject imports. The cost-of-goods-sold (COGS) to sales ratio increased steadily from 84.7 percent in 2004 to 89.6 percent in 2006, but declined to 84.3 percent in 2007 (*i.e.*, the

---

[108] Twenty-five of 31 responding purchasers indicated that price was a very important factor in their purchasing decisions. CR at V-16, PR at V-12 and CR/PR at Table V-5.

[109] At least 80 percent of responding producers, importers, and purchasers indicated that subject tires produced in the United States and imported from China are at least "frequently" used interchangeably. CR at V-20, PR at V-18 and CR/PR at Table V-6.

[110] Hearing Tr. at 111-114, and 166-168.

[111] Hearing Tr. at 96, 157, 189, 226-227, 235, 245, 274-275, 281, 290-292.

[112] For a further discussion of possible price effects, *see infra* Section V.D. regarding Distributional effects on consumers.

[113] CR at V-31 and V-32, PR at V-23 and V-24. No sales of subject Chinese tires to the OEM market were reported.

[114] Pricing data reported by these firms accounted for approximately 14 percent of U.S. producers' shipments of subject tires and 36 percent of U.S. shipments of subject imports from China in 2008. CR at V-32, PR at V-24.

[115] In the 120 quarterly pricing comparisons, subject imports undersold the U.S. product in 119 quarters. CR/PR at Tables V-9 to V-14 and V-17. In 69 of 78 quarterly pricing comparisons, the prices of U.S.-produced tires sold to the OEM market were lower than prices of comparable U.S.-produced tires sold to the replacement market. CR at V-45, PR at V-35 and CR/PR at Tables V-9, and V-11 to V-15.

[116] *See* CR at V-45, PR at V-35.

[117] CR at V-46 and V-47, PR at V-36.

lowest level for the period occurred when the largest increase in subject imports occurred), and then increased to 90.1 percent in 2008 – slightly higher than the 2006 level.[118]

Impact

As discussed above, we find that the domestic industry is materially injured. We conclude, however, that the effect of the subject imports on the domestic tire producers, if any, has been limited, and less than the effect that would be required to find that the rapidly increasing imports are a "significant" cause of material injury.

As an initial matter, we note that this is an industry that has been marked by poor performance, well before significant volumes of subject imports entered the U.S. market.[119] Focusing on the period of investigation, we do not find clear correlations between trends in subject import volumes and prices, and the performance of the domestic industry. In fact, when the largest increases in subject import volume and market share occurred from 2006 to 2007 (53.7 percent and 4.7 percentage points, respectively), the domestic industry experienced its strongest financial performance (operating income margin of 4.5 percent).[120] The industry's improved financial performance in 2007 to almost sustainable profit levels was the culmination of the industry's strategic decision to consolidate and focus its U.S. production on higher-value, premium products.

Faced with continued poor performance and a reduced U.S. market for smaller-sized and lower-value tires,[121] the domestic producers made strategic decisions to rationalize their production. The evidence demonstrates that U.S. producers, which are global competitors, decided to focus U.S. production on the premium flagship brand name tires and higher-value/premium tires that are at the leading edge of the U.S. market. This production shift, to some degree, followed the shift in demand by the automobile industry for larger-size tires and away from the smallest tire sizes, even for the new small-size fuel-efficient cars. U.S. producers consolidated U.S. production by closing high cost U.S. factories

---

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

[119] *See, e.g.*, Subcommittee's Posthearing Brief at Exh. 11-Goodyear's 2003 10K Report ("To maintain global competitiveness, Goodyear has implemented rationalization actions over the past several years for the purpose of reducing excess capacity, eliminating redundancies, and reducing costs...Goodyear has reduced employment levels by 16,400 from December 31, 2000 and almost 25,400 since 1998, primarily as a result of rationalization activities . . . As part of the 2003 rationalization program, Goodyear closed its Huntsville, Alabama tire facility in the fourth quarter.") and Exh. 13-Cooper's 2004 10K Report ("The business environment for the automotive industry continues to be challenging at the present time. Pricing pressure on the U.S.-based OEMs, as evidenced by continued high levels of discounting at the retail level, increased health care, pension, and other retirement-related costs, and the impact of global overcapacity have reduced the overall profitability of the industry and have resulted in continued pressure on suppliers for price concessions.").

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

[121] *See, e.g.*, responses to producer questionnaire II-6; Hearing Tr. at 159 (Gerard, "They are not as small as they used to be. My wife's car has a 13-inch tire. It was a 1987 Sprint. If you bought that same kind of vehicle today, it would probably have larger tire[s]."); 313-315 (Mayfield regarding fuel efficient cars, "The tires that will get produced and put on new vehicles, if they do in fact transform to more fuel efficient vehicles, they're going to require tires that have much more fuel efficient components in them . . . .it's going to be new technology, it's going to be new sizes that we'll see in the marketplace that going to require new technologies and new tooling and new investments in tire plants that source those products."); and 315 (Borgman, "In the last ten years we've witnessed an explosion in tire sizes and typically our foreign manufacturers have been more responsive to building those new sizes than our domestic manufacturers . . . . Yes, larger sizes."); ***.

and factories that primarily focused on small-sized or low-value tires.[122] The three U.S. plant closings in 2006, and even the one in 2007, were not a response to increased subject imports, as they occurred before subject imports were a significant presence in the U.S. market, as discussed above.[123] These closings were part of long-term decisions by the domestic producers, which began prior to 2004 and prior to the increases in subject imports, and were directly related to U.S. producers' shifting U.S. production to higher-value products to improve financial performance.

We recognize that domestic tire producers have not abandoned the tier 3 market, as respondents maintain. As discussed above, the domestic industry's tire production is concentrated in tier 1 (***) and almost evenly split between tier 2 (***) and tier 3 (***) tire production.[124] Thus, domestic product and subject imports continue to compete in the tier 2 and tier 3 markets. The evidence demonstrates that U.S. producers have shifted some of their production of lower-value/tier 3 tires from their U.S. plants to plants abroad (in both China and nonsubject countries) as they focused on the U.S. production of higher-value tires. Prior to 2004, and throughout the period examined, U.S. producers made substantial investments in foreign operations. U.S. producers accounted for over *** of total nonsubject imports in each year of the period and for a range of *** of total subject imports. In terms of volume, U.S. producers ***. Finally, the evidence indicates that the plant closings announced for 2009 are primarily the result of the recession and the decline in demand for tires.

We recognize that from 2006 to 2007 (after the 2006 plant closures), U.S. producers' shipments decreased by 5.0 percent, but also consider that U.S. producers saw an increase in the value of net sales, a decrease in COGS to net sales, an increase in productivity, and an operating loss turn to an operating profit, as subject imports increased by 53.7 percent and apparent U.S. consumption only increased by 1.6 percent. We view this as evidence that the domestic industry's efforts to restructure its product line were succeeding in increasing industry profitability and would have continued if already weak demand had not plummeted in 2008 with the recession. The near collapse of the U.S. automobile industry lent a devastating blow to the OEM tire market in 2008. Thus, the fact that the industry's performance turned negative in 2008 was not the result of subject imports (whose rate of increase had slowed), but was due to the effects of the economic recession on U.S. producers' sales to both the OEM and the replacement markets.

---

[122] *See, e.g.*, Hearing Tr. at 233-234 (James Mayfield, formerly employed by Continental, told the Commission at the hearing that the closure of Continental's two plants during the period had nothing to do with subject imports, but were rather because those two plants were the highest-cost plants of all of Continental's facilities, and he also cited a report by the USW that criticizes Continental's management but does not refer to subject imports at all) and CR at III-24 and III-25, n. 62, PR at III-16, n. 62.

[123] As discussed above, the decisions to close these plants were before the subject imports rose substantially in 2007. For Continental's Mayfield plant, indefinite suspensions were announced in 2004 and the plant permanently closed in 2006; for Continental's Charlotte plant, layoffs began in June 2005; for Bridgestone's Oklahoma City plant, it produced smaller tires at the lower-value end of the market. *See* CR at I-20 - I-23, and III-24 and III-25, n. 62, PR at I-15-I-17, and III-16, n. 62; *see also* Coalition's posthearing brief at 1-2; Subcommittee's brief at 34-35 (Respondents argue that for a causal nexus to exist between the U.S. plant closures and rapidly increasing imports from China, the surge in imports had to come first, and in this case, growth in subject imports followed plant closings. They also point out that plant closing decisions are made over a period of many months and may be delayed, for instance by union contracts. Respondents have placed numerous articles on the record regarding U.S. plant closings during the period.)

[124] Supplemental questionnaire responses.

Finally, we find it telling that U.S. tire producers, with few exceptions, have indicated that subject imports ***.[125] We are mindful that under section 421, a certified or recognized union or group of workers which is representative of an industry has a right to file a petition and seek relief. We also recognize that industry views must be weighed with views of other interested parties, including the views of the workers, and together with all other relevant economic factors as appropriate under the record of each particular investigation.[126] In doing so, we use our sound discretion to determine the weight to afford industry views and all other factors. In this investigation, we find the industry views of probative value in shedding light on the factors we must consider in our analysis. In particular, the fact that U.S. producers making the decisions about rationalizing the U.S. industry to fit the global tire marketplace reported that they were not materially injured by subject imports, and do not plan to make changes to operations if a remedy is granted, is entitled to significant weight in our analysis of whether there is a causal nexus between subject imports and the performance of the domestic industry.

Finding. For the reasons, set forth above, we find that the record does not indicate a sufficient causal link between subject import trends and the domestic industry's performance. Thus, the third statutory criterion is not satisfied and by definition market disruption does not exist.

IV. CONCLUSION

Having found, for the reasons set forth above, that while subject imports increased rapidly and the domestic industry has experienced material injury, such imports are not a significant cause of the material injury, we find that subject imports have not caused market disruption to the domestic producers of tires. Accordingly, we make a negative determination that certain passenger vehicle and light truck tires from China are not being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of certain passenger vehicle and light truck tires.

V. VIEWS REGARDING REMEDY

---

[125] Four U.S. producers, ***, responded "no" to the question of whether any increase in subject imports has been a cause of material injury to the domestic industry. An additional four producers, ***, responded that they were not in a position to answer, *** took no position, and *** did not respond to the question. *** reported that they support the petition; the other *** producers reported that they take no position on the petition. While *** reported that it supports the position, it indicated that subject imports have not caused it material injury, and it reported that it could not respond at this time to whether it would make adjustments to operations to compete more effectively with imports from China if import relief is granted as a result of this investigation.

[126] Jurisprudence regarding Title VII of the Tariff Act cases provides us some guidance on the issue of the weight to afford industry views. The Federal Circuit stated in *Suramerica de Aleaciones Laminadas, C.A. v. United States*, 44 F.3d 978, 984 (Fed. Cir. 1994):

> The views of the potentially threatened domestic industry on the nature of the threat and the views of consumers of the imports are without doubt relevant to whether the domestic industry faces a threat of material injury. The industry best knows its own economic interests and, therefore, its views can be considered an economic factor. Indeed an industry's failure to acknowledge an affirmative threat has direct significance. . . .[omitting case cite]. And in the difficult enterprise of projecting future economic harm, the industry's views take on added relevance. Moreover, publicly expressed industry support for the petition, or lack of it, is probative evidence of those views.
> . . . ITC must weigh industry views and views of other interested parties, together with all other relevant economic factors as appropriate under the record of each particular investigation. ITC may use its sound discretion in determining the weight to afford these and all other factors, but ITC cannot ignore them.

Id; *see also Allegheny Ludlum Corp. v. United States*, 287 F.3d 1365, 1375-76 (Fed. Cir. 2002).

A. Summary

Section 421(f) instructs the Commission to propose the amount of increase in or imposition of any duty or other import restrictions necessary to prevent or remedy market disruption. The same section also states: "Members of the Commission who did not agree to the affirmative determination may submit in the report" to the President and the U.S. Trade Representative "separate views regarding what action, if any, should be taken to prevent or remedy market disruption."

While we do not find market disruption to exist, we submit our views on remedy below, as has been done previously in Section 421 investigations.

In sum, we urge the President not to take any trade-restricting action in this matter. It is our view that whereas subject imports have not been a significant cause of market disruption, any trade-restricting remedy will not provide relief to the domestic tire industry and its workers, and is not in the national economic interest of the United States. In an industry where domestic producers have already taken positive steps to adjust to global competition, we find that not only will trade restrictions not provide effective relief to tire industry workers but will risk disrupting the U.S. market by creating an adverse impact on U.S. producers. We are mindful that the industry adjustments during the period examined already have displaced substantial numbers of tire workers, and that the announced plant closings due to the current economic conditions will again be borne most directly by the industry's workers. That is why we respectfully urge the President to focus on providing economic adjustment assistance to displaced tire workers through continued use of the Trade Adjustment Assistance or other programs that might be available to suppliers to the battered U.S. automobile industry. Implementing a trade restriction would be far more likely to cause market disruption than to alleviate it.

If the President chooses a trade measure, we would suggest a Tariff Rate Quota, with a quota set at 41.5 million tires and an over quota tariff rate of 55 percent in the first year, 45 percent in the second year, and 35 percent in the third year. Such an approach avoids a large increase in the base cost of the tires purchased by the poorest customers, and provides greater stability in pricing in the U.S. market.

B. Two most likely scenarios

The record in this investigation does not permit us to answer with certainty how the marketplace would respond to imposition of a restriction on the importation of tires from China. Regardless of which trade-restrictive remedy is implemented, the two most likely scenarios are:

(1) the curtailment of subject imports would limit supply in the U.S. market and raise costs for consumers significantly, at least for the short term, while providing little or no relief for the U.S. tire industry and its workers. Domestic producers have indicated that they have no plans to adjust their operations in response to a trade remedy, so they would not be expected to hire or retain many additional workers; or

(2) the global marketplace for tires is sufficiently fluid such that trade flows would be quickly redirected, consumer costs would not rise appreciably, and there would be no noticeable increase in domestic tire production. The United States would import fewer tires from China and more tires from other countries with low production costs, but the overall supply of imported tires in the United States would not change in a meaningful way.

In either case, trade restrictions will not provide effective relief to U.S. tire industry workers.

C. The proposed quota remedy

Petitioner USW has proposed a quota remedy, limiting imports of subject import tires from China to 21 million tires in the first year, with the quota total further restricted to the 2005 HTS distribution pattern.

Net welfare loss: Economic modeling available to the Commission indicates that the quota of 21 million Chinese tires suggested by the USW would raise U.S. tire prices by 1.4 to 2.9 percent, and increase U.S. producers' tire shipments by 4.9 to 6.4 percent. Given that the value of U.S. consumption of these tires was over $16 billion per year in 2007 and 2008, the price increases related to the quota would lead to a net welfare loss of between $310 million and $524 million annually.[127]

For purposes of our analysis, we assume that the quota of 21 million Chinese tires leads to a 6-percent[128] increase in U.S. producers' tire shipments relative to the roughly 137 million tires shipped by U.S. producers in 2008.[129] That would mean the manufacture of an additional 8.2 million tires in the United States. How many workers would be required to build those tires? Multiplying the 31,243 workers employed in 2008 by 6 percent yields an additional 1,875 workers.[130] This assumes that all 8.2 million extra tires are shipped by newly hired or retained workers, rather than being manufactured by existing employees working longer hours. As a practical matter, it seems reasonable to assume that a substantial portion of the tires would be made by existing employees.

In the event that 1,875 jobs are preserved (through reduced plant closures) in response to the import restriction, what would be the cost to society for each retained position? For purposes of our analysis, we assume that the net welfare loss of a 21-million-tire quota would be $400 million annually.[131] Dividing $400 million by 1,875 jobs gives an average net welfare cost to society of $213,333 for each position that is not lost, a very high cost considering that the average wage in the industry was $24.91/hour, or $51,813 for a 2,080-hour year.

Distributional effects on consumers: The record in this investigation demonstrates that the large majority of tires imported from China are relatively low in price. Testimony at the public hearing indicated that a substantial portion of consumers buying Chinese tires have fairly low incomes and often are not able to afford higher-priced tires. These consumers may not be able to afford and may delay purchasing new sets of tires, and thus would continue driving on tires that are worn out and possibly unsafe. If an import restriction is successful at limiting import supply and raising prices in the United States, lower-income people will bear a disproportionate share of the burden.

Quota rents: If quotas restrict trade in a meaningful way, they will develop value ("quota rent") that can be captured by someone in the marketing chain. It is not clear whether imposition of a quota would produce rents in this case. One reason is the timing. Any remedy would take effect fairly quickly

---

[127] Memorandum EC-GG-004 (June 19, 2009) (Public Version) at Table 3.

[128] The ITC economic model indicates a range of 4.9 to 6.4 percent for the increase in domestic shipments. EC–GG-004 at Table 3.

[129] EC-GG-004 at Table 3 and CR/PR at Table C-1.

[130] We note that petitioner has estimated that the proposed quota would save 3,000 jobs, USW prehearing brief at 44-45, but we find that the record suggests that the employment effect would be lower. We have calculated the additional jobs using the 6-percent domestic shipments figure from Table 3 of EC-GG-004. We note that the calculation of additional workers would be lower if we had used the mid-range of increases in domestic production, since based on the modeling, the range for domestic production would be lower than the range for domestic shipments. Derived from EC-GG-004 at Table 3 and CR/PR at Table C-1.

[131] EC-GG-004 at Table 3. The ITC economic model indicates a range of range $310 million to $524 million net welfare loss. *Id*.

following a White House decision to implement it. Tires currently are shipped from China on an ongoing basis. As a practical matter under a quota, tires initially would enter the United States on a first-come-first-served basis as they clear customs. Once a first-come-first-served system starts to operate, it may prove challenging to go back and establish a system with which to capture quota rents.

A second reason is the structure of the marketplace. There are a number of Chinese producers who would compete actively among themselves to ship as many tires as possible before the quota is filled. The only way to capture quota rents is if the Chinese government quickly establishes an export license regime and allocates the permission to ship some portion of the quota to individual firms. Similarly, U.S. importers are likely to scramble worldwide to find alternate suppliers and probably would view any possible quota rents as ephemeral and not worth pursuing. They also would need the assistance of the U.S. government in order to establish an import licensing regime.

Capturing the quota rents in the United States: If a quota succeeds in restricting low-priced imports, the U.S. government would have the theoretical possibility of capturing the quota rents. It might do this by setting up an auction or some other mechanism to sell the right to import some quantity of Chinese tires. However, the United States has not done this in other trade remedy cases, and it is not clear whether it could be done here with sufficient speed to be successful.[132] If a program to capture the quota rents is implemented, it could have the effect of transferring money from the relatively low-income purchasers of low-valued tires to the U.S. Treasury. This would tend to exacerbate the distributional inequities of any import restriction.

Capturing the quota rents in China: If the United States implements a quota system without a mechanism to capture quota rents in this country, the government of China would be free to try to capture the quota rents. This could be done by controlling the export of subject tires to the United States through a system of export licenses. China's extensive experience in managing export licenses for textiles and apparel may enable it to implement such a regime reasonably expeditiously. This would lead to an outcome wherein the United States implements a policy that transfers money from lower-income people in the United States to the government of China.

Moving up the value chain: Any quota system that effectively restricts U.S. imports of low-valued tires could provide an incentive for Chinese tire producers to sell more sophisticated and higher-valued tires in the United States. The record does not demonstrate the extent to which producers in China would be capable of moving up the value chain, but the imposition of quotas has led to similar results in other cases, most notably the 1980s-era agreement with Japan limiting automobile imports. If the industry in China is capable of moving up the value chain, post-remedy competition may take place across the entire range of tire quality/performance and price, potentially injuring the domestic industry in its strongest markets – the higher-valued tire markets on which the U.S. producers have focused.

A temporary band-aid: It is not clear whether having a remedy that lasts only three years would be of any lasting benefit to U.S. tire producers or their workers. A policy that only delays marketplace adjustments until somewhat later may serve to undermine the U.S. industry by discouraging rational and timely adjustments that may help the firms increase their competitiveness in the dynamic global economy, particularly in the current climate where the U.S. automobile industry and automobile suppliers are undergoing significant restructuring. The domestic industry has already made significant efforts to reorganize in the face of changing global conditions, with the adjustment efforts beginning in the 1990s.

[132] Establishing this new program within the constraints of the Administrative Procedures Act could take many months to implement.

Substitutability among low-value tires: The U.S. industry focuses on the higher-valued tires and produces substantially fewer lower-value tires. China produces lower-value tires, but it certainly is not the only country to do so. If imports into the United States of Chinese tires are restricted, it is likely that it would be easier to replace them with tires produced in other lower-value countries than with generally higher-valued tires produced in the United States.

Liquidity and flexibility in the global marketplace: The record in this investigation does not tell us enough about the global tire market to provide a sense of certainty as to whether any trade restriction would be effective. The record does indicate most major U.S. tire producers have global operations.[133] The record also tells us that nonsubject imports already have a substantial presence in the U.S. market in both the replacement and OEM markets. If the worldwide market is sufficiently flexible, it is likely that any effort to restrict the flow of Chinese tires into the United States would quickly be offset by the importation of similar lower-valued tires from other countries. At the public hearing on June 2, respondents were asked how they thought the marketplace would react in the event that a quota went into effect. An importer of subject Chinese tires answered that his first alternative would be to try to obtain tires from a firm in South Korea. His second alternative would be to seek tires from a different firm in South Korea. His third alternative would be to source tires from Mexico.[134] In other words, he did not think it would take too long or be too difficult to find lower-valued tires to replace those he currently was obtaining from China. All that would be required to render an import restriction ineffective in a market where many countries already manufacture tires and have established markets in the United States are a few adroit business decisions.

The role of multinational corporations: Several major tire companies, including U.S. producers, have manufacturing operations not only in China, but also in other countries.[135] If an import restriction serves to curtail their ability to import Chinese tires into the United States, they may be able to shift production from one country to another. As a hypothetical example, tires that previously may have been exported from Thailand to Russia might now be directed to the United States, while tires that formerly had been exported from China to the United States might be sent instead to Russia. The sophisticated nature of multinational firms makes it more likely that any effort to restrict Chinese imports into the United States will have little or no effect on aggregate imports. This outcome would be consistent with statements by some multinational firms manufacturing tires in the United States that they have no plans to adjust their U.S. operations in response to an import restriction on tires from China.[136]

Distributional effects on producers: Whether or not an import restriction targeted against Chinese tires is effective in raising prices in the United States, that restriction may have a substantive effect on U.S. firms producing tires in China. Cooper Tire is of particular concern. Cooper is a major producer of lower-valued private brand tires in the United States[137] and also operates two tire plants in China.[138] Cooper imports some of the tires it produces in China into the United States. Although the record in this investigation does not permit a definitive conclusion, those imports from China seem likely to complement Cooper's U.S. product line. The availability of Chinese imports may help to undergird and strengthen the viability of Cooper's U.S. production. Any import restriction aimed at Chinese tires is likely to prevent the shipment of at least a part of Cooper's intended imports. Such a limitation may make

---

[133] CR at IV-6 - IV-10, PR at IV-3 - IV-6 and CR/PR at Table IV-6.

[134] Hearing Tr. at 326 (Mr. Kogel).

[135] CR at IV-6-IV-10, PR at IV-3-IV-6 and CR/PR at Tables II-4 and IV-2.

[136] CR at VI-3, PR at VI-1.

[137] Hearing Tr. at 73 (Mr. Stewart), 266 (Mr. Kogel), 282, 368 (Mr. Berra).

[138] CR at IV-7, PR at IV-3-4 ***.

Cooper less competitive than other firms that manufacture tires in the United States, or other U.S. manufacturers which produce tires in nonsubject countries. It should be noted that ***. Thus, *** could receive an advantage relative to Cooper from the imposition of an import restriction against Chinese tires.

D. The proposed tariff remedy

The Commission majority has recommended to the President that a tariff of 55 percent be implemented in the first year, dropping to 45 percent and 35 percent in years two and three, respectively. Since the average unit value (AUV) of imported Chinese tires in 2008 was $38.90, a 55 percent duty would amount to $18.58 per tire at the existing value of Chinese imports.[139] Such a substantial additional cost would appear to be difficult for Chinese producers or the marketing system to absorb. Following an initial adjustment period, the duty may be high enough to exclude almost all Chinese tires from the U.S. market.

As a practical matter, tires already under contract may continue to enter the United States for a few months. As soon as importers can find other sources of supply – most likely from nonsubject countries – the inflow of tires from China may slow to a trickle. Although a 55-percent duty may lead to a slight short-term increase in U.S. tire production and higher prices for relatively lower-cost tires for a period of months, the major beneficiaries are likely to be producers in nonsubject countries.

As a general principle of trade policy, tariffs normally are preferable to quotas because tariffs will allow imports to enter a country when there is sufficient domestic demand. As domestic supplies become scarce, prices can rise high enough to make it economical to import products and pay the additional duty. A quota, on the other hand, does not allow imports to enter above the quota level, regardless of how high prices rise in the domestic market.

Despite this general principle, it is possible that a 55-percent tariff would prove to be more restrictive to imports from China than the 21-million-tire quota proposed by USW. Due to the difficulties of establishing any system for allocating quotas among importers, it would be most feasible for the United States to operate a quota on a first-come-first-served basis. That would make it likely that 21 million Chinese tires actually would enter the U.S. market. Competitive pressures and time constraints would make it difficult or impossible to capture any quota rents, so the prices of imports from China would likely not be substantially affected by the quota. Thus, a 21-million-tire quota would be likely to reduce imports from China to about half their current level, while a 55-percent duty might reduce imports from China even further, particularly after an initial period.

Distributional effects on consumers: Imposition of any import restriction may lower the net welfare of the society subject to it. In this case, lower-income consumers are most likely to be affected. Upward price pressure at the lower-value end of the tire market may have the effect of compressing the spread between prices of the lower-value tier 3 tires and the middle-value tier 2 tires. It does not seem likely that higher prices for the least-expensive tires would have a significant effect on prices at the higher-value end of the tire market. Lower-value tires appear to compete largely on the basis of price, influenced by the tire's mileage rating. On the other hand, high-end tires are marketed under different conditions of competition. Expensive tires compete in a market characterized by substantial advertising and price premiums associated with prominent brands. Prices for higher-value tires easily can be twice as high as for lower-value tires. So an increase in prices at the lower-value end of the tire spectrum is not likely to be passed through to higher-value end tires. In other words, the costs of any import restriction would likely be borne largely by lower-income people.

[139] This accounts for the existing 4 percent duty and 11.2 percent overseas transportation cost.

Distributional effects on producers: A tariff regime that makes it infeasible to import tires from China may be particularly troubling to Cooper Tire. It is clear from Cooper's submission regarding remedy that the company hopes to be able to continue importing tires from *** in China. Cooper's brief expresses specific views as to how a quota might be implemented in a manner that does not unduly disadvantage the company, assuming that a quota is the chosen remedy.[140] The effects of any trade restriction on Cooper are important because the company is not only *** importer of Chinese tires among U.S. tire producers, it also is the domestic producer most dependent on production of relatively lower-value private-brand tires in the United States.

The record in this investigation does not allow us to determine conclusively that Cooper's imports from China serve to complement its domestic production and strengthen its overall offerings in the marketplace, but that would be a logical inference. It should be noted that ***, so it would not be affected by a restriction on imports from China.[141] In fact, it will be in an advantaged position relative to other U.S. producers, especially Cooper. The highly unequal effects of any trade-restricting remedy on the various firms that constitute the U.S. tire industry should be considered carefully when deciding whether to impose a trade restriction.

E. Conclusion and proposed remedy

We continue to believe that the best remedy would be to provide economic adjustment assistance to tire workers who lose their jobs, and that implementing a trade restriction would be far more likely to cause market disruption than to alleviate it. However, if it is decided to impose a trade-restrictive remedy, we propose a tariff-rate quota.

A tariff-rate quota (TRQ) could be implemented that would allow 41.5 million Chinese tires to enter at the MFN duty rate (4.0 percent for radial tires) in the first year, with that quantity filled on a first-come-first-served basis, and increasing by 5 percent in each subsequent year.[142] Additional quantities could enter by paying a duty of 55 percent in the first year, 45 percent in the second, and 35 percent in the third.

A TRQ along these lines would provide more flexibility for the marketplace to adjust than either a quota or tariff regime on its own. That flexibility would tend to lessen the negative welfare effects and to decrease the probability that a trade restriction would create more market disruption than it alleviates.

[140] Cooper Tire & Rubber, Final Comments on Remedy, pp. 2-3.

[141] CR at III-13, n.46, PR at III-11, n. 46.

[142] The domestic industry had its most profitable year in 2007, a year in which subject import volume was 41.5 million tires. CR/PR at Table C-1.

PART I: INTRODUCTION

BACKGROUND

On April 20, 2009, a petition was filed on behalf of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union ("USW"), Pittsburgh, PA, requesting that the U.S. International Trade Commission ("USITC" or "Commission") institute an investigation under section 421(b) of the Trade Act of 1974 (19 U.S.C. § 2451(b)) ("the Act"), to determine whether certain passenger vehicle and light truck tires ("subject tires")[1] from China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products (section 421(b)(1) of the Act (19 U.S.C. § 2451(b)(1)). The Commission instituted the investigation, No. TA-421-7, on April 24, 2009. Information relating to the background of the investigation is provided below.[2]

Effective date	Action
April 20, 2009	Petition filed with the Commission
April 24, 2009	Institution of the Commission's investigation (74 FR 19593, April 29, 2009)
June 2, 2009	Commission's hearing[1]
June 18, 2009	Date of the Commission's vote on market disruption
June 19, 2009	Date of the Commission's determination to the President
June 29, 2009	Date of the Commission's vote on remedy
July 9, 2009	Commission's report transmitted to the President and the U.S. Trade Representative

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

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

Statutory Criteria

Section 421(b)(l) of the Act (19 U.S.C. § 2451(b)(1)) states that the Commission shall, upon the filing of a petition, receipt of a request or resolution, or on its own motion, promptly conduct an investigation to determine whether products of the People's Republic of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products.

Section 421(c) of the Act (19 U.S.C. § 2451(c)) states that:

> *market disruption exists whenever imports of an article like or directly competitive with an article produced by a domestic industry are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat of material injury, to the domestic industry.*

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

[2] The *Federal Register* notice cited in the tabulation is presented in app. A.

In determining whether market disruption exists, section 421(d) (19 U.S.C. § 2451(d)) requires the Commission to consider objective factors, including:

> *(1) the volume of imports of the product which is the subject of the investigation;*
> *(2) the effect of imports of such product on prices in the United States for like or directly competitive articles; and*
> *(3) the effect of imports of such product on the domestic industry producing like or directly competitive articles.*

Organization of the Report

Information on the subject articles, the like or directly competitive domestic articles, and the U.S. market for such articles is presented in *Part I*. Data pertaining to the volume of U.S. imports and the question of rapidly increasing imports are presented in *Part II*. Information relating to the question of material injury, including U.S. industry data on capacity, production, shipments, inventories, employment, and financial condition, is presented in *Part III*. Available information relating to the question of the threat of material injury, including data on capacity, production, shipments, and inventories of manufacturers in China, is presented in *Part IV*. The question of the causal relationship between the alleged injury and imports, with information on U.S. market penetration of imports, imports relative to consumption, and pricing and related information, is presented in *Part V*. Additional information regarding efforts by U.S. producers to compete is presented in *Part VI*.

U.S. MARKET SUMMARY

Subject tires generally are mounted onto the wheels of passenger cars, sport utility vehicles, vans, and light trucks. The leading U.S. producers of subject tires, in alphabetical order, are Bridgestone Americas Tire Operations, LLC ("Bridgestone"), Cooper Tire and Rubber Co. ("Cooper"), Goodyear Tire and Rubber Co. ("Goodyear"), and Michelin North America, Inc. ("Michelin"). Leading producers of subject tires in China include ***. The leading U.S. importers of subject tires from China are ***. U.S. purchasers of subject tires include both original equipment manufacturers ("OEMs") and replacement tire firms. In 2008, 84.7 percent of all U.S. shipments of subject tires were purchased by the replacement market.[3]

Apparent U.S. consumption of subject tires, by quantity, totaled 275.7 million tires ($16.5 billion) in 2008. Currently, 10 firms are known to produce subject tires in the United States. U.S. producers' U.S. shipments of subject tires totaled 136.8 million ($9.5 billion) in 2008, and accounted for 49.6 percent of apparent U.S. consumption by quantity and 57.9 percent by value. U.S. imports from China totaled 46.0 million tires ($1.8 billion) in 2008 and accounted for 16.7 percent of apparent U.S. consumption by quantity and 10.9 percent by value. U.S. imports from nonsubject sources totaled 92.9 million tires ($5.1 billion) in 2008 and accounted for 33.7 percent of apparent U.S. consumption by quantity and 31.2 percent by value.

SUMMARY DATA AND DATA SOURCES

A summary of data collected in the investigation is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on questionnaire responses of 10 firms that accounted for virtually all U.S. production of subject tires during 2008. U.S. imports are based on official Commerce statistics.

[3] Rubber Manufacturers Association ("RMA") Factbook 2009, February 2, 2009, p. 3.

PREVIOUS AND RELATED INVESTIGATIONS

Subject tires have not been the subject of any prior safeguard, antidumping duty, or countervailing duty investigations in the United States. The Commission has, however, conducted antidumping and countervailing duty investigations on a related product, namely certain off-the-road tires from China. The Commission published its affirmative final determinations in those investigations in August 2008.[4]

THE SUBJECT MERCHANDISE

Scope of the Investigation

As described in the Commission's notice of institution,[5] the imported products subject to this investigation consist of new pneumatic tires, of rubber, from China, of a kind used on motor cars (except racing cars) and on-the-highway light trucks,[6] vans, and sport utility vehicles, provided for in subheadings 4011.10.10, 4011.10.50, 4011.20.10, and 4011.20.50 of the Harmonized Tariff Schedule of the United States ("HTS").[7]

---

[4] *Certain Off-the-Road Tires From China, Invs. Nos. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008.

[5] *Certain Passenger Vehicle and Light Truck Tires From China*, 74 FR 19593, April 29, 2009.

[6] The Harmonized Commodity Description and Coding System ("HCDCS") does not utilize the term "light trucks," but includes light trucks in motor vehicles having a "gross vehicle weight rating" of less than 5 metric tons (11,023 pounds) (HCDCS, Explanatory Notes, Fourth Edition, 2007, Vol. 5, Sections XVI-XXI, Chapters 85-97, heading 87.04). The National Highway Transportation Safety Administration defines light trucks as trucks with a gross vehicle weight rating of 10,000 pounds or less, including pickups, vans, truck-based station wagons, and sport utility vehicles (http://www.nhtsa.dot.gov/people/ncsa/codes/mindata/Vehicle.html and http://www.safercar.gov/portal/site/safercar/menuitem13dd5c887c7e1358fefe0a2f35a67789/?vgnextoid=2f7c4507fe526110VgnVCM1000002fd17898RCRD).

[7] The petition requested that the scope of the investigation consist of new pneumatic tires, of rubber, of a kind used on motor cars, including station wagons, sport utility vehicles, minivans, vans or on-the-highway light trucks, the foregoing whether tube or tubeless, and including radial and other tires. Such tires have, at the time of importation, the symbol "DOT" on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Such 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;

Suffix letter designations:

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

Specifically excluded from the scope of this investigation and from the definition of subject tires are the following types of tires:

- New pneumatic tires, of rubber, of a kind used on commercial medium, large, and heavy trucks, and buses;
- New pneumatic tires, of rubber, of a kind used on racing cars;
- New pneumatic tires, of rubber, of a kind used on agricultural or forestry vehicles and machines and construction or industrial handling vehicles or machines;
- New pneumatic tires, of rubber, of a kind used on aircraft, bicycles, motorcycles, trailers, all-terrain vehicles, and vehicles for turf, lawn, and garden, and golf applications;
- Pneumatic tires, of rubber, that are not new, including recycled and retreaded tires;
- Non-pneumatic tires, such as solid rubber tires.

Tariff Treatment

Subject tires are classifiable in the Harmonized Tariff Schedule of the United States ("HTS") under subheadings 4011.10.10, 4011.10.50, 4011.20.10, and 4011.20.50. Table I-1 presents current tariff rates for subject tires.

Table I-1
Subject tires: Tariff rates, 2009

HTS provision	Article description	General[1]	Special[2]	Column 2[3]
		Rates *(percent ad valorem)*		
4011	New pneumatic tires, of rubber:			
4011.10	Of a kind used on motor cars (including station wagons and racing cars):			
4011.10.10	Radial	4.0	([4])	10.0
4011.10.50	Other	3.4	([4])	10.0
4011.20	Of a kind used on buses or trucks:			
4011.20.10 ([5])	Radial	4.0	([4])	10.0
4011.20.50 ([6])	Other	3.4	([4])	10.0

[1] Normal trade relations, formerly known as the most-favored-nation duty rate, applicable to China.
[2] Special rates not applicable when General rate is free. China receives no special tariff treatment.
[3] Applies to imports from a small number of countries that do not enjoy normal trade relations duty status.
[4] General note 3(c)(i) defines the special duty program symbols enumerated for this provision.
[5] Statistical reporting number 4011.20.1005 is applicable to radial tires for on-the-highway light trucks.
[6] Statistical reporting number 4011.20.5010 is applicable to other than radial tires for on-the-highway light trucks.

Source: Harmonized Tariff Schedule of the United States (2009).

LIKE OR DIRECTLY COMPETITIVE DOMESTIC ARTICLE

In making determinations of what constitutes the domestic product like or directly competitive with the imports subject to investigation, the Commission has considered such factors as (1) the physical properties of the article, (2) its customs treatment, (3) its manufacturing process (i.e., where and how it is made), (4) its uses, and (5) the marketing channels through which the product is sold.[8] Tariff treatment is described above, channels of distribution are described in *Part V*, and information regarding the remaining factors is presented below.

Physical Properties and Uses[9]

Pneumatic (air pressurized) rubber tires, whether passenger car or light truck, have the same basic components, as well as the same basic function. Virtually all U.S. passenger car and light truck tire production[10] is radial in design, although bias-ply tires (diagonal and belted) are still used in some

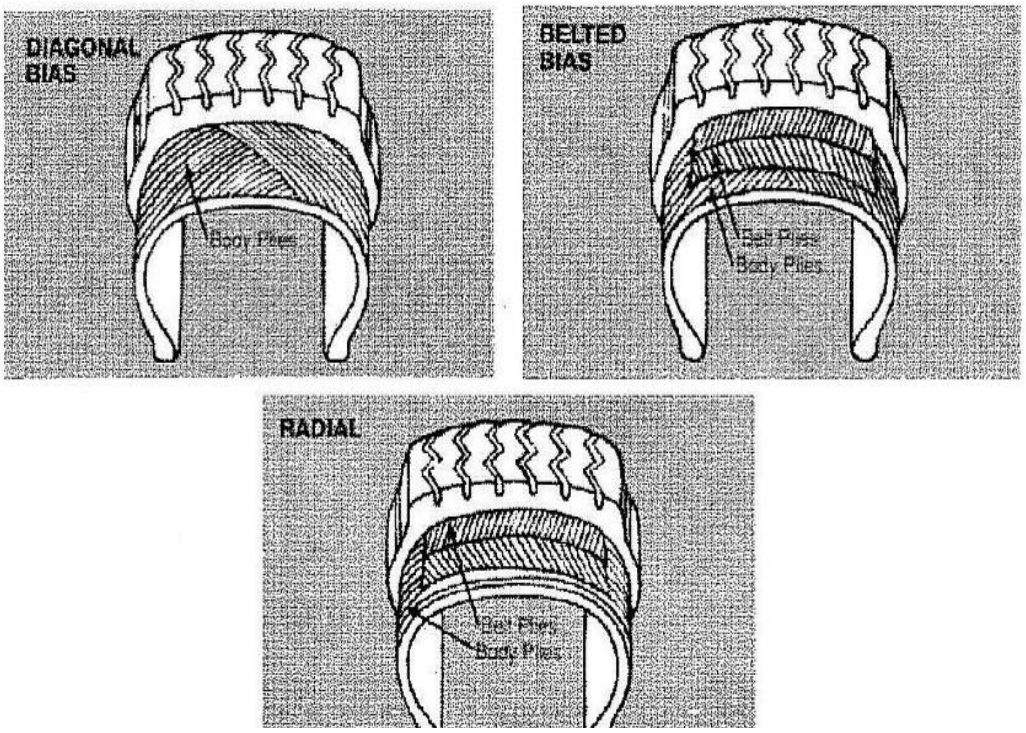
[8] *Circular Welded Non-alloy Steel Pipe From China*, Inv. No. TA-421-6, USITC Publication 3807 (October 2005), p. 7.

[9] The description of tires and the tire manufacturing process is taken primarily from The Tire Society, "The Pneumatic Tire," 2006.

[10] Statistics regarding such tires are reported to RMA.

applications domestically, as well as in emerging markets.[11] Radial tires have their body ply cords laid radially from bead to bead, perpendicular to the tread centerline. Bias-ply tires have their body ply cords laid at angles substantially less than 90 degrees to the tread centerline, as shown in figure I-1.

Figure I-1
Subject tires: Tire types

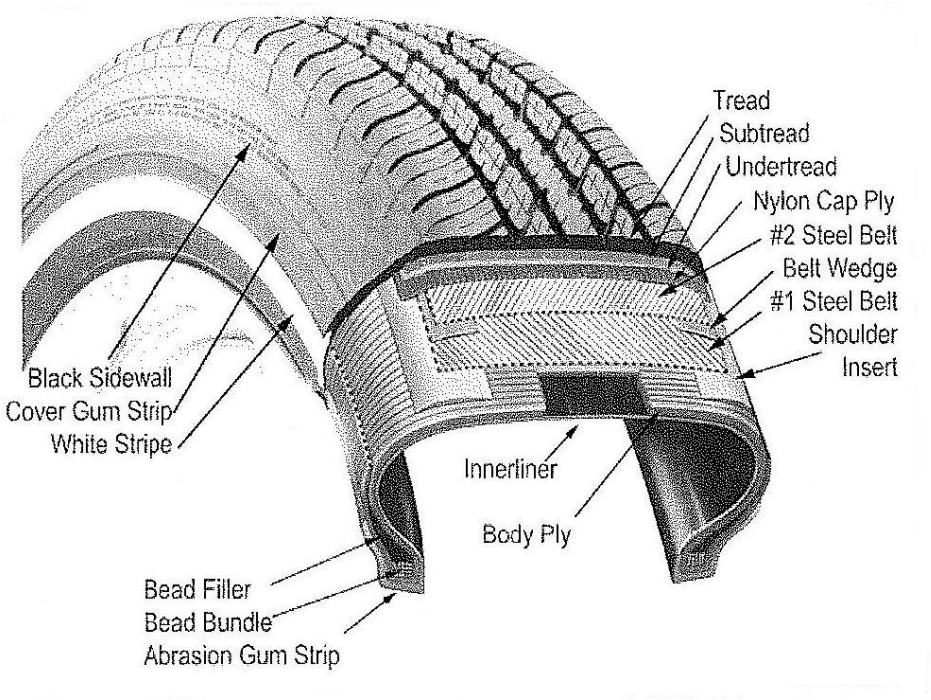


Source: The Tire Society, "The Pneumatic Tire," 2006, p. 3.

The basic components of the radial tire, as shown in figure I-2, consist of a thin innerliner for air retention; the body ply skim which encases the reinforcing cords; the body plies of cord and rubber skim that provide the strength to contain the air pressure and also provide sidewall impact resistance; bead bundles to anchor the inflated tire to the wheel rim; the abrasion gum strip that provides a layer of rubber between the body plies and the wheel rim; the bead filler to fill the space between the body plies and the body-ply ends on the outside; the tire sidewall that protects the body plies from abrasion, impact, and flex fatigue; sidewall reinforcements to improve handling or stability; the belt skim that is the rubber coating for the steel cords; the stabilizer plies (belts) that restrict expansion of the body ply cords; belt wedges and shoulder inserts that are used to maintain tire integrity as the tire moves; and the tire tread, subtread, and undertread for basic traction and stabilization.

[11] RMA, *Factbook 2009*, February 2, 2009, p. 3, and The Tire Society, "The Pneumatic Tire," 2006, pp. 3–4. RMA reports U.S. shipments of a small quantity of imported bias-ply tires for the OEM passenger car market, accounting for about 2 percent of total passenger car tire shipments.

Figure I-2
Subject tires: Components of a radial tire



Source: The Tire Society, "The Pneumatic Tire," 2006, p. 8.

The National Highway Traffic Safety Administration ("NHTSA") established the Uniform Tire Quality Grade Standards ("UTQG")[12] to provide consumers with information on the treadware, traction, and temperature capabilities of most passenger car tires sold in the U.S. market. Exceptions include deep treaded light truck tires, winter/snow tires, temporary spare tires, trailer tires, tires under 12" in diameter, and other select tires.[13] The grades for any particular tire are assigned by the tire manufacturers based on their own test results or tests conducted by an independent lab. To ensure the integrity of the testing process, the NHTSA has the right to inspect the tire data and can fine the manufacturer if inconsistencies are found.[14] Also, the NHTSA has a legislative mandate under Title 49 of the United States Code, Chapter 301, Motor Vehicle Safety, to issue Federal Motor Vehicle Safety Standards and Regulations to which manufacturers of motor vehicle and equipment items, including tires, must conform and certify

[12] 49 CFR § 575.104. The UTQG rating is made up of three components: treadwear, traction, and temperature. The treadwear grade is a comparative rating based on the wear rate of the tire when tested under controlled conditions on a specified government test track. For example, a tire graded 200 would wear twice as long on the government test course under specified test conditions as one graded 100. Traction grades, from highest to lowest, are AA, A, B, and C. They represent the tire's ability to stop on wet pavement as measured under controlled conditions on specified government test surfaces of asphalt and concrete. The temperature grades, from highest to lowest, are A, B, and C. These represent the tire's resistance to the generation of heat. For a complete overview of the tire rating system and a description of the coding required on the sidewalls of tires, see: http://www.safercar.gov/portal/site/safercar/menuitem.13dd5c887c7e1358fefe0a2f35a67789/?vgnextoid=8e1c4507fe526110VgnVCM1000002fd17898RCRD.

[13] Tire Tech Information/General Tire Information: Uniform Tire Quality Grade (UTQG) Standards, found at http://www.tirerack.com/tires/tiretech/techpage.jsp?techid=48, retrieved on May 7, 2009.

[14] Ibid.

compliance.[15] Specifically, Standard No. 119 - New Pneumatic Tires, establishes performance and marking requirements for tires for use on multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles. Its purpose is to provide safe operational performance levels for tires used on motor vehicles other than passenger cars, and to place sufficient information on the tires to permit their proper selection and use.

Respondents argue that the subject tire market in the United States is segmented into three or more categories. The precise terminology of these categories (such as Good/Better/Best; Tier 1/Tier 2/Tier 3; and Flagship/Secondary/Mass-market) varies among respondents. The petitioner contends that there is no clear dividing line among categories and that the categories are not well-defined.[16] Additional information concerning the various categories, interchangeability of subject tires between the categories, and comparisons of domestic products and subject imports is presented in *Part V.*

Manufacturing Processes

The traditional or conventional process by which tires are produced in most plants hasn't changed radically since the advent of the radial tire in the 1960s.[17] Each of the compounds used in the traditional process and the individual component parts are produced in batch processes and the tire is then assembled from those parts.[18]

The primary material used in the tire is rubber, either natural rubber or synthetic styrene-butadiene (SBR) rubber. The composition mix between the synthetic and the natural rubber has changed as the demand for radial tires increased, as the performance of radial tires benefits from a higher ratio of natural rubber to synthetic rubber than in non-radial tires.[19]

The actual assembly occurs in two stages, as shown in figure I-3. The tire carcass is assembled on a rotating collapsible drum that is slightly larger than the diameter of the tire bead. The innerliner and body plies are applied first; then the beads and bead filter are placed and the body plies are turned over the beads and rolled or stitched to the body ply lying flat on the drum. The completed tire body carcass is then removed from the collapsible drum and taken to a second machine.

---

[15] Retrieved on June 3, 2009 from http://www.nhtsa.dot.gov/cars/rules/import/fmvss/index.html#SN119.

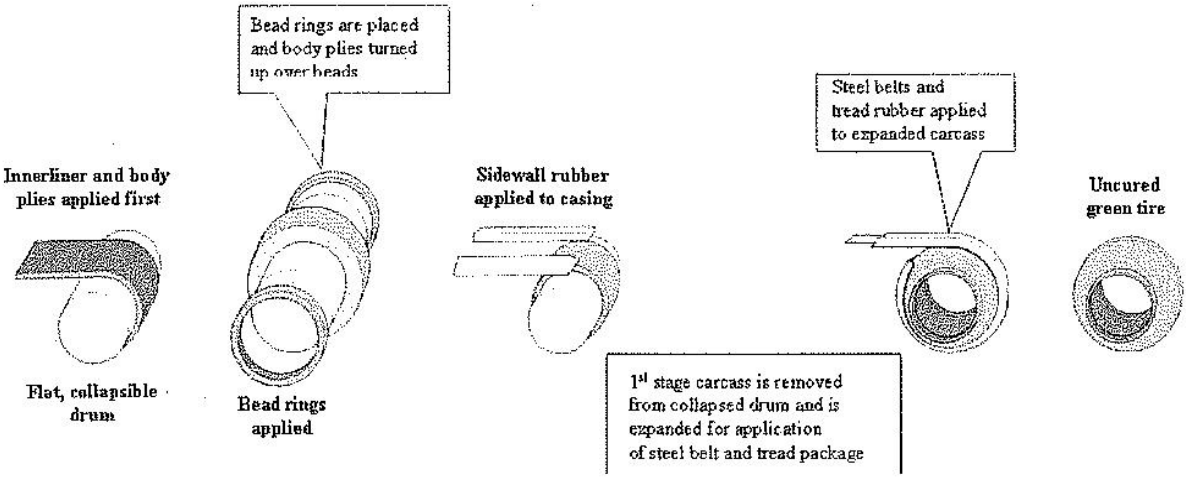
[16] Respondents argue that there is a "huge gap between these very branded products that command a premium in the market and have that market power to draw those customers, and the economy brand market, the private brand market, where you don't have that." Moreover, there is attenuated competition between these two. Hearing transcript, pp. 360-361 (Trossevin).

[17] Stefano Brusoni and Giorgia Sgalari, "New combinations in old industries: The introduction of radical innovations in tire manufacturing," Journal of Evolutionary Economics, no. 16 (2006), pp. 30-31.

[18] The Tire Society, "The Pneumatic Tire," 2006, pp. 20-26.

[19] The higher demand for natural rubber compared to SBR has been seen in both the passenger car and light truck tire markets. Other larger truck and bus tires require a different composition, with more SBR and less natural rubber content than in the subject tires.

Figure I-3
Subject tires: Tire assembly process

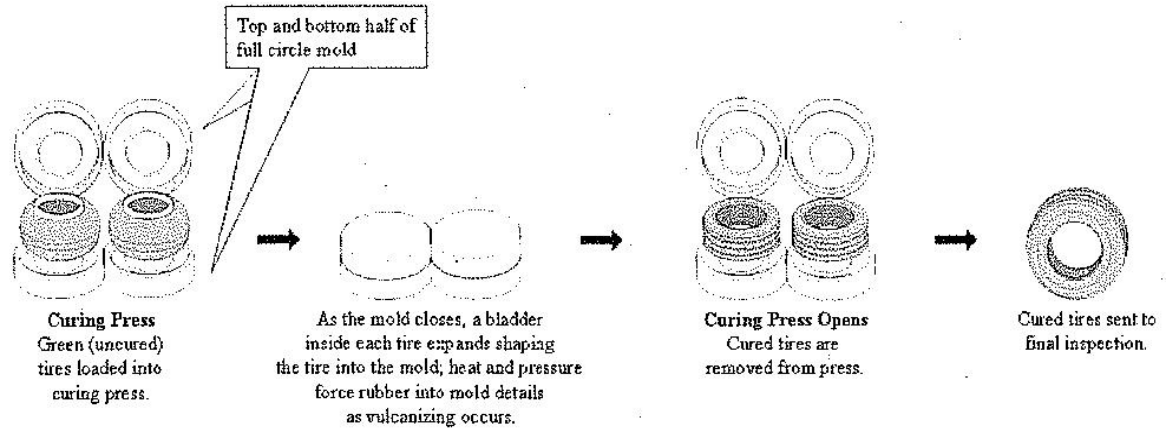


Source: The Tire Society, "The Pneumatic Tire," 2006, p. 24.

The second-stage equipment expands the first-stage body carcass and expands it into the larger tire belts and tread, which were assembled on a separate drum. The resulting "green" tire is rotated against a tread area to adhere all its components securely before it can be cured.[20]

As shown in figure I-4, the curing or vulcanizing process takes place in a curing "press" composed of two tire molds that sit side by side with inputs for the required curing materials, including water, air, vacuum, and steam. The two mold halves are attached to the curing press and the green tire is inserted between them. As the press closes, the mold closes around the green tire and forces the outside of the tire to conform to the mold. The pressure and the increased temperature created by super-heated

Figure I-4
Subject tires: Tire curing process



Source: The Tire Society, "The Pneumatic Tire," 2006, p. 25.

[20] The Tire Society, "The Pneumatic Tire," 2006, p. 24.

steam cause a chemical reaction in which the polymers within the rubber become crosslinked, thereby increasing the strength and elasticity of the finished product.[21]

Several of the domestic tire companies are now using a new production method, so that instead of multiple batch processes there is a continuous assembly process in which each of the component parts is produced as they take their place in the structure of the tire.[22] Each of the companies has its own individual versions of the process; some processes have various deposits onto the tire carcass occurring at stations, while others take place as the drum moves along a trolley system. The curing is accomplished within the same system by such means as electrical heating or internal injection of steam or nitrogen, allowing for the same molding that occurs in the older conventional methods.[23]

Michelin's continuous process, called C3M (Confection Monofilament Mondrian Michelin), was first implemented in 1993, and produces a tire in one step, instead of the seven steps in the process used by Michelin in its older plants using the conventional production process.[24] In addition, the tire is made on a single mold, allowing for improvements in the precession of the assembly.[25] In 1998, Pirelli introduced a similar production process called MIRS (Modular Integrated Robotized System).[26] In the MIRS system, robots move around the mold and the forming tire to do all the necessary steps. Unlike in Michelin's C3M process where all operations are performed in one specialized machine, the MIRS process separates the functions and creates a workstation for each within a single production cell.[27] In Pirelli's MIRS process the mold on which the tire is built is itself moved from one to another of the various work stations for each individual part of the production process, while in the Michelin C3M process different robots access the non-moving tire mold.[28] In 1998, Goodyear introduced a new production process called IMPACT (Integrated Manufacturing Precision Assembled Cellular Technology). In the IMPACT system, component formation, pre-assembly, automated tire assembly, and curing occur within a cellular system. Goodyear estimated that the system increased productivity by 135 percent, reduced material costs by 15 percent, labor costs by 35 percent, reduced cycle times by 70 percent, significantly lowered energy costs, and cut in-process inventory by half.[29] In 2002, Bridgestone introduced a new production process, named BIRD (Bridgestone Innovative and Rational Development) that reportedly improved upon the MIRS production model used by Pirelli by including an inspection step into the basic manufacturing process. Bridgestone estimates that one of its BIRD units can produce between 200,000 and 350,000 passenger car tires annually.[30] Bridgestone is reported to have two or three factories using the BIRD process, none of which are located in the United States.[31] Toyo also has an

---

[21] Ibid., p. 25.

[22] Stefano Brusoni and Giorgia Sgalari. "New combinations in old industries: The introduction of radical innovations in tire manufacturing." Journal of Evolutionary Economics, no. 16 (2006), pp. 31-33.

[23] Ibid., p. 31.

[24] Michelin, *2001 Fact Book: The passenger car and light truck market markets*, and *Tire Futures*, found at http://www.motorcyclistonline.com/howto/122_0507_tire_technology/index.html, retrieved on June 4, 2009.

[25] Tire Tech Information/Marketing, *Michelin's C3M Process*, found at http://www.tirerack.com/tires/tiretech/techpage.jsp?techid=19&, retrieved on June 4, 2009.

[26] *Tire Futures*, op. cit., and Pirelli, *History of MIRS evolution*, found at http://www.pirellityre.com/web/technology/innovation/mirs/history/default.page, retrieved on June 8, 2009.

[27] *Tire Futures*, op. cit.

[28] Ibid., p. 56.

[29] Goodyear, *Goodyear Impact Manufacturing Technology*, found at http://www.goodyeartires.com/about/testing/impact.html, retrieved on June 10, 2009.

[30] Supplier Business, *The Tire Report*, p. 56, and Bridgestone, "Bridgestone unveils next generation production systems for tires," news release, November 26, 2002.

[31] Ibid., p. 56, and hearing transcript, p. 330 (Gwinn).

automated continuous production process system, A.T.O.M. (Advanced Tire Operation Module), which was introduced at the opening of Toyo's production facility in White, GA in 2005.[32]

The reported advantage of the new technology is that it allows a producer to make shorter runs of more specialized product, with a quicker turn-around time, and at much less cost.[33] Michelin reported that plant construction has been reduced from 18 to 24 months to only a few weeks, and that start-up time is only 24 hours after delivery of a C3M module to a site.[34] In addition, these systems are scalable, allowing for production capacity flexibility in response to market demand.[35] The smaller footprint of these systems reportedly allows more compact production facilities than a conventional production process. Bridgestone estimates that its BIRD system occupies between one-fourth and one-third as much space.[36] These systems also reduce the amount of electricity used in the production process. Michelin estimates that its C3M process enables energy savings of 60 percent compared with traditional manufacturing processes, while Bridgestone estimates savings of 40 percent compared to its newest conventional production systems.[37] These systems also reduce or eliminate the intermediate inventories. Bridgestone estimates that overall productivity is more than twice as high as the conventional production process. In addition, compared with conventional production systems, continuous production systems have also reportedly allowed for increased flexibility in accommodating new kinds of tire structure and new and different kinds of tire materials. Along with the ability to produce a diverse range of tires, the new systems can also produce multiple sizes of tires simultaneously.[38]

An industry source stated that while Michelin's C3M process saved a great deal on the labor cost associated with the conventional tire production process, the increased capital cost, complexity, and higher technological risk made the overall cost of tire production by the new method very close to the cost of the conventional process.[39] The older process remains more economically viable, especially in older plants that are used for longer production runs.[40]

LIKE OR DIRECTLY COMPETITIVE PRODUCT ISSUES

The petitioner contends that the domestically produced subject tires are like or directly competitive with the subject imports.[41] The respondents do not make an argument with respect to the domestic like or directly competitive product. One respondent party argues that U.S.-produced consumer

---

[32] Toyo, "Grand opening of new tire manufacturing facility in Georgia," news release, December 12, 2005.

[33] Hearing transcript, p. 330 (Gwinn).

[34] Michelin, *2001 Fact Book*, op. cit., and Michelin, *What news on the C3M process?*, found at http://www.michelin.com/corporate/finances/en/popup.jsp?lang=EN&newsId=3046, retrieved on June 8, 2009.

[35] Toyo, "Grand opening of new tire manufacturing facility in Georgia," news release, December 12, 2005.

[36] Bridgestone, " Bridgestone unveils next generation production systems for tires," news release, November 26, 2002.

[37] Michelin, *Reducing the impact on the environment*, found at http://www.michelin.com/corporate/front/templates/affich.jsp?codeRubrique=89&codePage=PAG_REDUC_IMPCT_ENV&lang=EN, retrieved on June 8, 2009, and Bridgestone, " Bridgestone unveils next generation production systems for tires," news release, November 26, 2002.

[38] Bridgestone, "Bridgestone unveils next generation production systems for tires," news release, November 26, 2002.

[39] Supplier Business, *The Tire Report*, p. 55 (exh. 18 of petitioner's prehearing brief).

[40] Supplier Business, op. cit., p. 56.

[41] Petitioner's prehearing brief, p. 6.

tires are like products but are not directly competitive with the subject imports.[42] Respondents' arguments concerning the interchangeability of subject tires between categories and the comparisons of domestic products and subject imports are presented in *Part V*.

THE U.S. MARKET

U.S. Producers

Table I-2 presents U.S. producers' plant locations, positions on the petition, U.S. production, and shares of total reported U.S. production in 2008. Most of the producers took no position on the petition. Table I-3 presents plant openings and closings by U.S. producers during 2004-08. Table I-4 presents information on the daily production capacity and unionization status of each plant. Company profiles are presented following the tables.

Producers were asked whether they experienced any plant openings, relocations, expansions, acquisitions, consolidations, closures, prolonged shutdowns, curtailments of production, or any other changes in the character of their operations or organization relating to the production of subject tires during the period for which data were collected. *** reported the expansions of existing facilities or the installation of a new plant,[43] *** reported plant closures,[44] *** reported layoffs, *** reported reduced production or temporary shutdowns, *** reported prolonged shutdowns because of strikes, and *** reported raw material shortages or disruptions. Three producers reported producing other products on the same equipment and machinery, and using the same production and related workers employed to produce subject tires; *** reported that ***, while *** reported producing ***, and *** reported producing ***. *** reported producing *** on the same equipment, but not using the same production and related workers as those used in the production of subject tires.

[42] American Coalition for Free Trade in Tires, prehearing brief, p. 3, and hearing transcript, pp. 360-361 (Trossenvin).

[43] Kumho Tire Co., Inc. ("Kumho"), which currently does not have production facilities in the United States, commenced construction of a plant in Macon, GA in May 2008. The plant will have an annual production capacity of 2.1 million tires and will reportedly manufacture ultra-high-performance tires for the OEM and replacement market. In November 2008, Kumho suspended the construction of the plant, and pushed plans for the plant back a year, citing the faltering U.S. auto industry as the reason for its re-evaluation of the project. Kumho, "Kumho Tires expands manufacturing base to U.S.," news release, May 13, 2008, and Rubber and Plastics News, "Kumho Tire delays U.S. plant 1 year," February 9, 2009.

[44] In addition, in December 2008, Cooper announced the pending closure of its manufacturing facility in Albany, GA. In January 2009, Bridgestone announced the pending closure of the passenger and light truck tire portion of its LaVergne, TN facility and in April 2009, Michelin announced the pending closure of its Opelika, AL facility. Further information concerning U.S. producer plant closings is presented in *Part III*.

Table I-2
Subject tires: U.S. producers, their positions on the petition, plant locations, U.S. production, and shares of U.S. production, 2008

Firm	Position on the petition	Plant location(s)	Subject product share of total establishment sales (*percent*)	Production (*1,000 tires*)	Share of reported U.S. production (*percent*)
Bridgestone[1]	***	La Vergne, TN; Wilson City, NC; Aiken County, SC	***	***	***
Continental[2]	***	Mt. Vernon, IL	([3])	***	***
Cooper[4]	***	Findlay, OH; Texarkana, AR; Tupelo, MS; Albany, GA	***	***	***
Denman[5]	***	Leavittsburg, OH	***	***	***
Goodyear[6]	***	Akron, OH; Fayetteville, NC; Gadsden, AL; Lawton, OK; Topeka, KS; Union City, TN; West Amherst, NY	***	***	***
Michelin[7]	***	Ardmore, OK; Dothan, AL; Greenville, SC (Antioch Church Rd.); Greenville, SC (Perimeter Rd.); Lexington, SC; Opelika, AL; Tuscaloosa, AL; Woodburn, IN	***	***	***
Pirelli[8]	***	Rome, GA	***	***	***
Specialty Tires[9]	***	Indiana, PA	***	***	([10])
Toyo[11]	***	White, GA	***	***	***
Yokohama[12]	***	Salem, VA	***	***	***
Total				160,310	100.0

* * * * * * *

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

Table I-3
Subject tires: U.S. producers' plant closures and openings, plant locations, and capacity, 2004-08

Year	Firm	Plant location	Capacity (*tires*)[1]
Openings			
2005	Toyo	White, GA	***
Closings			
2006	Bridgestone	Oklahoma City, OK	18.4 million
	Continental	Mayfield, KY	4.0 million
	Continental	Charlotte, NC	9.3 million
2007	Goodyear	Tyler, TX	11.7 million
2009	Bridgestone	LaVergne, TN (announced January 2009)	3.4 million
	Cooper	Albany, GA (announced December 2008)	9.6 million
	Michelin	Opelika, AL (announced April 2009)	9.5 million
Total, closings			65.9 million

[1] Annual capacity calculations for plant closing are calculated using Modern Tire Dealer's daily capacity at year of closing, assuming 365 production days per year.

Source: Compiled from data submitted in response to Commission questionnaires and various public documents.

Table I-4
Subject tires: U.S. producers' plants and capacity, 2008

Firm	Union	Plant location(s)	Daily capacity (*1,000 tires*)	Share of total U.S. capacity (*percent*)
Bridgestone	USW	La Vergne, TN	9.4	1.5
	None	Wilson City, NC	33.1	5.2
	None	Aiken, SC	25.0	3.9
Continental	None	Mount Vernon, IL	36.0	5.7
Cooper	USW	Findlay, OH	22.0	3.5
	USW	Texarkana, AR	32.0	5.0
	None	Tupelo, MS	41.0	6.4
	None	Albany, GA	26.3	4.1
Denman	USW	Warren, OH	1.4	0.2
Goodyear	USW	Fayetteville, NC	45.0	7.1
	USW	Gadsden, AL	25.0	3.9
	None	Lawton, OK	65.0	10.2
	USW	Topeka, KS	1.0	0.2
	USW	Union City, TN	48.0	7.5
	USW	Buffalo, NY	9.7	1.5
Michelin	None	Ardmore, OK	43.0	6.8
	None	Dothan, AL	5.0	0.8
	None	Greenville, SC	28.0	4.4
	None	Greenville, SC (C3M)	7.0	1.1
	None	Lexington, SC	19.0	3.0
	USW	Opelika, AL	26.0	4.1
	USW	Tuscaloosa, AL	28.0	4.4
	USW	Fort Wayne, IN	28.0	4.4
Pirelli	None	Rome, GA	1.5	0.2
Specialty Tires	None	Indiana, PA	0.4	0.1
Toyo	None	White, GA	7.0	1.1
Yokohama	USW	Salem, VA	23.1	3.6
Total			635.9	100.0

Source: Modern Tire Dealer.

Bridgestone

Bridgestone, headquartered in Nashville, TN, is a *** business unit of Bridgestone Americas, Inc., whose parent company is Bridgestone Corp., Japan. Bridgestone Corp. operates 48 new tire plants throughout the world, including three subject tire manufacturing plants in the United States. These three subject tire plants had a combined average production capacity of *** subject tires in 2008. Bridgestone closed a subject tire plant in Oklahoma City, OK in December 2006, due to *** and a shrinking of demand for low-end tires the plant produced, which was facing increasing "fierce competition from low-cost producing countries."[45] In January 2009, Bridgestone announced the *** closure of the passenger and light truck manufacturing portion of its LaVergne, TN tire plant. Bridgestone attributed the closure to reduced demand for subject tires due to "negative economic conditions."[46] In addition to these plant closures, Bridgestone also experienced a shortage of raw material, specifically ***, in late 2005 due to hurricanes Katrina and Rita.[47] Bridgestone also reported ***.

Continental

Continental, headquartered in Lancaster, SC, is a subsidiary of Continental AG, Hannover, Germany. Continental currently operates one subject tire manufacturing facility in Mount Vernon, IL, which has a production capacity of *** passenger and light truck tires. In June 2004, Continental announced the indefinite suspension of tire production at its facility in Mayfield, KY by the end of 2004.[48] Continental permanently closed the facility at the end of 2006, citing declining business conditions as well as the escalating cost for energy and raw materials.[49] In July 2006, Continental ceased tire production at its Charlotte, NC facility which produced 6.5 million tires per year and had a reported production capacity of 9.3 million passenger and light truck tires.[50] Continental attributed the closure to "global competition putting pressure on us as our manufacturing costs are cheaper overseas," the "skyrocketing costs of energy, raw materials, and health care," and its inability to successfully restructure its labor agreement with the USW.[51] In 2008, Continental announced a $60 million investment in its plant in Mount Vernon, IL over the next three years, more than $40 million of which will be invested in its passenger and light truck tire operations.

---

[45] The plant commenced production in 1969. *** Bridgestone, "Bridgestone Firestone to close Oklahoma City tire plant," news release, July 13, 2006.

[46] The plant commenced production in 1972, and in 1983 was purchased from The Firestone Tire & Rubber Co.. Bridgestone, "Bridgestone Firestone Addresses Decrease In Demand For Passenger And Light Truck Tires," news release, December 1, 2008, and Bridgestone, "Bridgestone Americas Tire Operations announcement regarding LaVergne, Tenn., tire plant," news release, January 22, 2009.

[47] *** Bridgestone, "Firestone Industrial Products' Force Majeure Notice – Hurricane Rita," news release, October 12, 2005.

[48] The plant commenced production in 1960 and was acquired as part of General Tires in 1987. Continental, "Continental suspends tire production at Mayfield plant," news release, June 29, 2004.

[49] "Continental Tire to close Kentucky plant," Charlotte Business Journal, August 2, 2006, found at http://charlotte.bizjournals.com/charlotte/stories/2006/07/31/daily31.html, retrieved on May 14, 2009.

[50] The plant commenced production in 1967 and was acquired as part of General Tires in 1987. "Continental Tire speeds up layoffs; to cut 481 jobs in July," Charlotte Business Journal, May 8, 2006, found at http://charlotte.bizjournals.com/charlotte/stories/2006/05/08/daily8.html, retrieved on May 14, 2009, and Modern Tire Dealer, *Plant capacities*, found at www.moderntiredealer.com%2ffiles%2fstats%2fPlant-capacity-3.pdf, retrieved on May 14, 2009.

[51] Continental, "CTNA to reduce production at Charlotte plant," new release, January 9, 2006, and Continental, "CTNA announces indefinite suspension of tire production at Charlotte plant," news release, March 10, 2006.

Cooper

Cooper, headquartered in Findlay, OH, with a stated strategic focus on light vehicle replacement tires[52] (i.e., no OEM tires), currently operates four subject tire manufacturing facilities in the United States, with a production capacity of *** subject tires in 2008.[53] In December 2008, Cooper announced the closure of its plant in Albany, GA by the end of 2009, mentioning "increased lower-priced imports and the softening domestic demand for {its} products."[54] In 2004, Cooper announced $33.9 million in capital equipment investments for its U.S. plants, with a reported increase in production capacity of more than 2.9 million tires.[55] Cooper reported a strike at its Texarkana plant that temporarily shut down and disrupted production at the plant in 2005.[56] In September 2005, Cooper announced that its plants in Texarkana, AR and Tupelo, MS, would temporarily operate at reduced production due to raw material shortages caused by Hurricane Rita.[57] Cooper reported another reduction in production for the second quarter of 2008, due to decreased tire demand and projected shortages in certain raw materials.[58]

Denman

Denman, headquartered in Leavittsburg, OH, has a tire manufacturing facility at the same location, with a production capacity of *** subject tires. Denman is owned by Pensler Capital Corp.[59] Denman reported that it *** plant openings, closures, expansions, or any other changes in the character of its operations or organization relating to the production of subject tires since January 1, 2004.

Goodyear

Goodyear, headquartered in Akron, OH, operates over 30 tire manufacturing facilities throughout the world, including seven plants in the United States with a production capacity of *** subject tires in 2008. *** of these plants are operated under the joint venture Goodyear Dunlop Tires North America, Ltd. ("Goodyear Dunlop"), which is *** owned by Goodyear. In 2007, Goodyear closed one of its plants in Tyler, TX, which had a production capacity of approximately 9 million subject tires, reportedly due to pressure from low-cost imports which competed with the plant's small-diameter passenger car tires and to

[52] Cooper reportedly remains one of the largest private brand tire manufacturers in the United States. Most of the company's private brand products are reported to be still made in the United States, but a growing percentage of production is being transferred to the firm's low-cost plants in Asia. Modern Tire Dealer, "What does the future hold for private brands?", May 12, 2009.

[53] Cooper, "Investor Presentation, April 2009," and Cooper's response to the U.S. producers' questionnaire.

[54] The plant commenced production in 1967, and was acquired in 1990. Previously, Firestone had operated the plant, but had ceased production in 1986. Cooper, "Cooper Tire announces intent to close Albany, GA facility," news release, December 17, 2008.

[55] Cooper, "Cooper Tire announces increased investment in manufacturing facilities," news release, January 16, 2004, and Cooper, "Cooper Tire increases capacity at Findlay, OH tire plant," news release, February 18, 2004.

[56] Cooper, "Cooper Tire's Texarkana plant halts production," news release, March 14, 2005, and Cooper, "Cooper Tire & Rubber Company announces ratification of contract with union," news release, April 11, 2005.

[57] Cooper, "Cooper Tire production affected by hurricane damage," news release, September 28, 2005.

[58] Cooper, "Cooper Tire adjusts production in challenging industry environment," news release, June 23, 2008.

[59] Modern Tire Dealer, *Plant capacities*, found at www.moderntiredealer.com%2ffiles%2fstats%2fPlant-capacity-3.pdf, retrieved on May 14, 2009.

its decision to exit certain segments of the private-label tire business.[60] In addition to this plant closure, Goodyear reported that subject tire production was disrupted in 2005 as a result of hurricanes Katrina and Rita, and in 2006 as a result of a labor strike.[61] In November 2008, Goodyear Dunlop announced plans to curtail production at its Tonawanda, NY plant, due to lower demand.[62]

Michelin

Michelin, headquartered in Greenville, SC, is wholly owned by Michelin Corp., Greenville, SC, which is a part of Compagnie Generale des Etablissements Michelin, France ("CGEM"). CGEM operates 69 plants in 19 countries, including eight subject tire production facilities in the United States operated by Michelin with an average production capacity of *** subject tires in 2008. In 2006 Michelin reported a reduction in production of 30 to 40 percent at its plant in Opelika, AL, due to "shrinking demand in the mass market tire market and to intense cost pressure due to imports from competitors in lower-cost countries."[63] In April 2009, Michelin announced the October 2009 closure of its plant at Opelika, AL, due to lower demand as a result of the "continuing economic crisis, which has created significant overcapacity in the North American tire markets."[64]

Pirelli

Pirelli, headquartered in Rome, GA, is wholly owned by Pirelli North America, Inc., which is a subsidiary of Pirelli Tyre S.p.A, Milan, Italy, a division of Pirelli Group, Milan, Italy. Pirelli Tyre has 23 manufacturing facilities in 12 countries around the world, including one in Rome, GA which has a production capacity of *** subject tires. Pirelli reported that ***.[65] Pirelli reported that it *** plant openings, closures, expansions, or any other changes in the character of its operations or organization relating to the production of subject tires since January 1, 2004.

Specialty Tires

Specialty Tires, headquartered in Indiana, PA, is wholly owned by Polymer Enterprises, Inc., Greensburg, PA. Specialty Tires has one manufacturing facility for subject tires in Indiana, PA, with a production capacity of *** subject tires in 2008.[66] Specialty Tires reported that it *** plant openings, closures, expansions, or any other changes in the character of its operations or organization relating to the production of subject tires since January 1, 2004.

---

[60] The plant commenced production in 1962. Goodyear, "Goodyear announces planned closing of Tyler facility," news release, October 30, 2006.

[61] Goodyear, "Goodyear expects temporary impact from hurricane Rita," news release October 3, 2005, and Goodyear, "Goodyear & USW reach tentative agreement on new labor contract," December 22, 2006.

[62] Rubber and Plastics News, "Goodyear Dunlop to cut 150 at N.Y. facility," November 17, 2008.

[63] Michelin, "BFGoodrich Tire Manufacturing's Opelika Plant to Reduce Production Beginning Fourth Quarter 2006," news release, July 11, 2006.

[64] The plant commenced production in 1963. Michelin, "BFGoodrich tire manufacturing plant in Opelika, Ala. to close," news release, April 13, 2009.

[65] Pirelli, *About Pirelli Tyre*, found at http://www.pirellityre.com/web/company/about-pirelli-tyre/default.page, retrieved on May 14, 2009, and e-mail from ***, May 12, 2009.

[66] Specialty Tire, *Company information*, found at http://stausaonline.com/company-information/index.html, retrieved on May 14, 2009.

Toyo

Toyo, headquartered in White, GA, is a wholly owned subsidiary of Toyo Tire Holdings of Americas Inc., Cypress, CA, which is a wholly owned subsidiary of Toyo Tire & Rubber Co., Ltd., Osaka, Japan. Toyo has one subject tire manufacturing facility in White, GA with capacity of *** subject tires. The plant commenced production in December 2005 with a target annual production capacity of 2 million passenger and light truck tires. Toyo invested approximately $180 million.[67] Toyo reported that it built the new plant in response to the "robust overseas demand, mainly in North America," noting that Toyo's existing plants in Japan had little capacity for further expansion.[68] In May 2007, Toyo announced a $50 million expansion to increase capacity to about 3.3 million tires per year by 2009. Toyo stated that the expansion was to "help Toyo to expand North American sales of its 16-to-24 inch UHP tires, and meet anticipated future demand from local auto manufacturers for OEM tires."[69] Toyo reported that ***.[70] In addition to the expansion to its production facility, Toyo also experienced the curtailment of production in late 2008, due to the economic downturn and raw material shortages due to Hurricane Ike.[71]

Yokohama

Yokohama, headquartered in Fullerton, CA is a wholly owned subsidiary of Yokohama Corp. of America of Fullerton, CA, which is owned by The Yokohama Rubber Co., Tokyo, Japan. Yokohama operates one subject tire production facility in the United States located in Salem, VA with a production capacity of *** subject tires in 2008.[72] Yokohama reported that it *** plant openings, closures, expansions, or any other changes in the character of its operations or organization relating to the production of subject tires since January 1, 2004.

U.S. Importers

Importer questionnaires were sent to 44 firms identified in proprietary Customs data that represented at least 90 percent of total imports of subject tires from China in 2008 and during 2004-08. Thirty-five firms responded to the questionnaire, accounting for the great majority of imports of subject tires from China in 2008. Information from the major importers regarding their U.S. imports from China and shares of total imports from China during 2008 is presented in table I-5.

The top five importers of subject tires from China between 2004-08, based on proprietary Customs data, are ***. ***. ***. *** and *** did not report any plant or warehouse openings, relocations, expansions, acquisitions, consolidations, closures, or prolonged shutdowns.

Table I-5
Subject tires: U.S. importers of subject tires from China, their locations, reported U.S. imports from China, and shares of total reported U.S. imports from China, by firms, 2008

* * * * * * *

[67] Toyo, "Grand opening of new tire manufacturing facility in Georgia," news release, December 12, 2005.

[68] Toyo, "Toyo announces tire production in the United States," news release, February 17, 2004.

[69] Toyo, "Toyo to expand North America tire production," news release, May 15, 2007.

[70] Toyo response to the U.S. producers' questionnaire, section II-2.

[71] Rubber and Plastics News, "Tire makers hit hard by declining demand," November 7, 2008.

[72] Yokohama, *Global network*, found at http://www.yrc.co.jp/english/profile/overseas3.html, retrieved on May 14, 2009.

U.S. Purchasers

Consumer tires are primarily sold to warehousing distributors, who in turn sell to consuming contractors or end users. Questionnaires were sent to 57 firms identified as purchasers by known importers and producers. Approximately 31 purchasers provided useable responses to the questionnaire. Nine purchasers identified themselves as distributors, nine identified themselves as OEMs, seven identified themselves as replacement market resellers and distributors, four identified themselves as replacement market resellers, one identified itself as a private brand marketer, and one identified itself as part of a buying group.[73]

Apparent U.S. Consumption

As shown in table I-6 and figure I-5, the quantity of apparent U.S. consumption of subject tires decreased in each year during 2004-06, increased slightly in 2007, and then decreased in 2008 to a level 10.3 percent below that of 2004. The value of apparent U.S. consumption increased in each year other than 2008. See *Part V* for a discussion of demand considerations during the period examined.[74]

[73] Responses were not included for several firms that responded to the purchaser questionnaire but identified themselves solely as importers or reported only suppliers in foreign countries.

[74] RMA projects total tire shipments in 2009 to decline by 21 million tires to 261 million tires, but begin to turn around in 2010, increasing to 270 million tires. RMA predicts that shipments of OEM passenger tires will decline by nearly 22 percent to 29 million tires in 2009, but rebound in 2010 by 6 million tires, and shipments of OEM light truck tires will decline by 900,000 tires from 2.9 million in 2008, but increase by 300,000 tires in 2010. Shipments of replacement passenger and light truck tires are projected to follow a similar pattern, declining in 2009 by approximately 3.5 percent and 8 percent, respectively, before increasing in 2010 by less than 2 percent and nearly 6 percent, respectively. RMA, found at http://www.rma.org/newsroom/release.cfm?ID=260, retrieved on June 12, 2009.

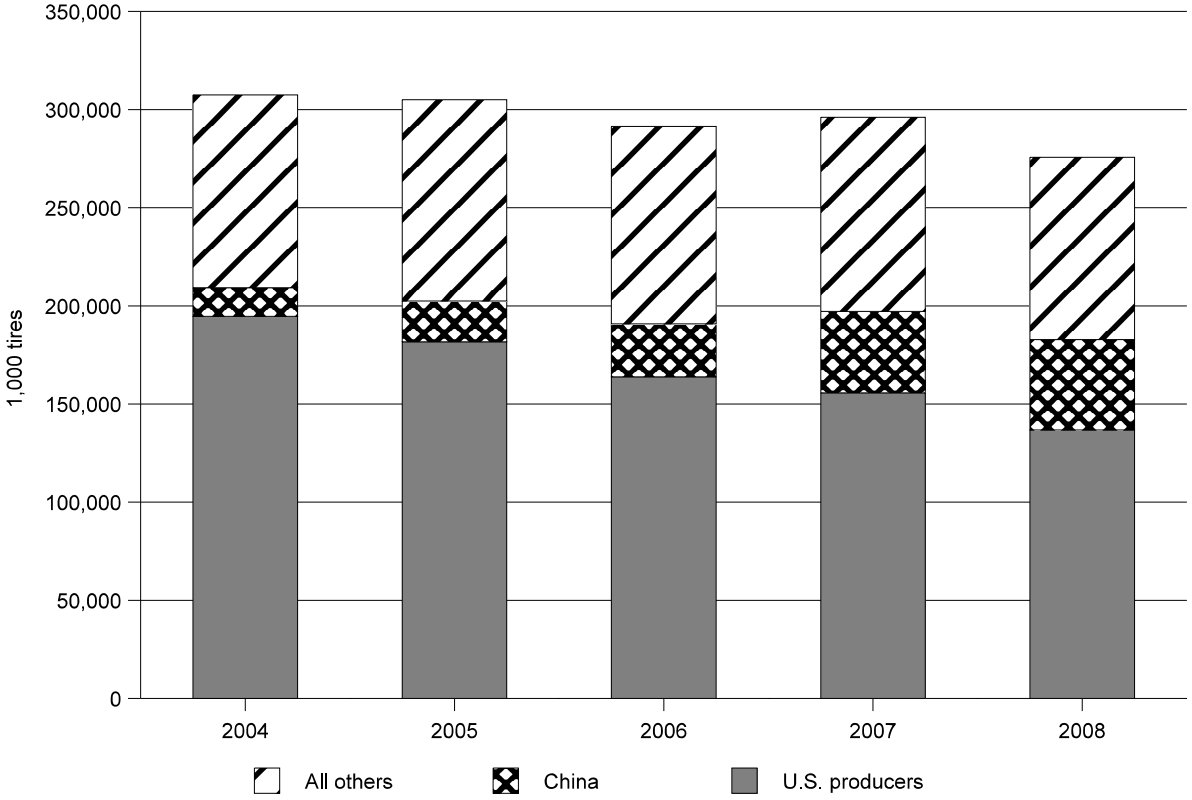
Table I-6
Subject tires: Apparent U.S. consumption, 2004-08

Item	Calendar year				
	2004	2005	2006	2007	2008
	Quantity (*1,000 tires*)				
U.S. producers' shipments	194,731	181,756	163,814	155,675	136,825
U.S. imports from--					
China	14,574	20,790	27,005	41,503	45,975
All other sources	98,179	102,424	100,601	98,913	92,902
Total U.S. imports	112,753	123,214	127,606	140,416	138,877
Apparent consumption	307,484	304,970	291,420	296,091	275,702
	Value (*$1,000*)				
U.S. producers' shipments	9,424,164	9,490,860	9,480,330	9,964,359	9,534,664
U.S. imports[1] from--					
China	453,288	691,924	931,704	1,493,052	1,788,387
All other sources	3,968,366	4,625,833	4,826,687	5,045,295	5,137,015
Total U.S. imports	4,421,654	5,317,756	5,758,391	6,538,347	6,925,402
Apparent consumption	13,845,818	14,808,616	15,238,721	16,502,706	16,460,066

[1] Landed, duty-paid.

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

Figure I-5
Subject tires: Apparent U.S. consumption, 2004-08



Source: Table I-6.

PART II: THE QUESTION OF RAPIDLY INCREASING U.S. IMPORTS

U.S. IMPORTS

Importer questionnaires were sent to 44 firms believed to be U.S. importers of subject tires, as well as to all U.S. producers of subject tires.[1] Usable questionnaire responses were received from 35 companies, representing the great majority of total U.S. imports from China in 2008 and during 2004-08 under the relevant statistical reporting numbers of HTS subheadings 4011.10.10, 4011.10.50, 4011.20.10, and 4011.20.50.[2] For complete data coverage, U.S. imports of subject tires in this report are based on official Commerce statistics. Table II-1 presents data for U.S. imports of subject tires from China and all other sources.

U.S. imports from China increased in each year during 2004-08, by both quantity and value.[3] U.S. imports from all other sources decreased in quantity in each year other than 2005, but increased in value in each year. Total U.S. imports increased in both quantity and value in each year, except for a small decrease in quantity in 2008. Five of the top 15 importing firms in 2008 began importing during 2004-08.[4] ***, reported that it started importing in 2004. ***, another of the top five importers, stated that while it only became the importer of record in 2006, the company was previously purchasing subject tires from China from other importers in the United States.[5]

U.S. producer *** was the seventh-largest importer of subject tires from China in 2004 and dropped to number 32 in 2008. In 2007, *** discontinued a brand of Chinese-manufactured tires in order to free up the capacity in its Chinese facilities to produce and sell more *** branded tires to the local Chinese market.[6] U.S. producer *** reported that it *** importing *** subject tires from China in 2008 as a result of a ***[7]. U.S. producer *** reported that it formed a joint venture with *** of China in 2004, as well as a ***-percent acquisition of *** in 2006.

Table II-1

---

[1] The Commission sent questionnaires to those firms identified in the petition, along with firms that, based on a review of data provided by U.S. Customs and Border Protection ("Customs"), may have imported at least 90 percent of total imports of subject tires from China in 2008 and between 2004-08 under HTS statistical reporting numbers 4011.10.1010, 4011.10.1020, 4011.10.1030, 4011.10.1040, 4011.10.1050, 4011.10.1060, 4011.10.1070, 4011.10.5000, 4011.20.1005, and 4011.20.5010.

[2] HTS subheading 4011.10.10 includes tires used on racing cars, but these are believed to represent a very small share of tires imported under this subheading. Nine importers reported that they imported tires used on racing cars from nonsubject countries in 2008, which represented less than one percent of total imports by quantity.

[3] U.S. import data submitted in response to Commission questionnaires followed a similar trend as data in official Commerce statistics, with the quantity and value of U.S. imports and U.S. shipments of imports from China increasing between 2004 and 2008, and the quantity and value of U.S. imports and U.S. shipments of imports from all other sources declining slightly and increasing, respectively. Similarly, the unit values of imports from questionnaire data increased over the period for which data were collected, although the actual values were ***, increasing, between 2004 and 2008, from $27.33 to $37.83 for imports from China. The unit values of U.S. shipments of imports from China from questionnaire data were $33.66 in 2004 and $42.86 in 2008.

[4] Respondents argued that this was as a result of the imports from China filling the void created by the U.S. producers exiting the lower end of the subject tire market in the United States, as well as the increased investments made by the Chinese producers to be able to produce the necessary products. Hearing transcript, pp. 317-318 (DeIorio and Mayfield).

[5] Staff telephone interview with ***, May 14, 2009.

[6] E-mail from ***, May 15, 2009.

[7] E-mail from ***, May 12, 2009.

Subject tires: U.S. imports, by sources, 2004-08

Source	Calendar year				
	2004	2005	2006	2007	2008
	Quantity (*1,000 tires*)				
China	14,574	20,790	27,005	41,503	45,975
Canada	28,028	29,287	26,426	21,209	19,196
Japan	18,285	21,206	20,228	17,976	16,212
Korea	14,790	13,385	14,711	14,509	14,020
Indonesia	2,027	2,497	4,344	5,976	5,957
Brazil	4,485	4,425	3,903	5,888	5,725
Mexico	4,559	4,471	4,122	4,720	5,170
All other	26,005	27,153	26,867	28,634	26,622
Subtotal, nonsubject countries	98,179	102,424	100,601	98,913	92,902
Total	112,753	123,214	127,606	140,416	138,877
	Value (*1,000 dollars*)[1]				
China	453,288	691,924	931,704	1,493,052	1,788,387
Canada	1,109,264	1,270,348	1,292,469	1,201,284	1,133,467
Japan	971,404	1,198,060	1,218,246	1,055,432	1,023,383
Korea	575,994	615,659	714,601	765,013	786,615
Indonesia	47,821	65,145	113,897	173,212	191,208
Brazil	114,667	127,141	139,171	247,534	280,128
Mexico	157,713	204,383	194,379	248,834	290,897
All other	991,501	1,145,097	1,153,925	1,353,986	1,431,317
Subtotal, nonsubject countries	3,968,366	4,625,833	4,826,687	5,045,295	5,137,015
Total	4,421,654	5,317,756	5,758,391	6,538,347	6,925,402

Table continued on next page.

Table II-1--*Continued*
Subject tires: U.S. imports, by sources, 2004-08

Source	Calendar year				
	2004	2005	2006	2007	2008
	Unit value (*per tire*)[1]				
China	$31.10	$33.28	$34.50	$35.97	$38.90
Canada	39.58	43.38	48.91	56.64	59.05
Japan	53.12	56.50	60.23	58.71	63.13
Korea	38.95	46.00	48.58	52.73	56.11
Indonesia	23.59	26.09	26.22	28.98	32.10
Brazil	25.57	28.73	35.66	42.04	48.93
Mexico	34.60	45.71	47.16	52.72	56.26
All other	38.13	42.17	42.95	47.29	53.76
Average, nonsubject countries	40.42	45.16	47.98	51.01	55.29
Average	39.22	43.16	45.13	46.56	49.87
	Share of quantity (*percent*)				
China	12.9	16.9	21.2	29.6	33.1
Canada	24.9	23.8	20.7	15.1	13.8
Japan	16.2	17.2	15.9	12.8	11.7
Korea	13.1	10.9	11.5	10.3	10.1
Indonesia	1.8	2.0	3.4	4.3	4.3
Brazil	4.0	3.6	3.1	4.2	4.1
Mexico	4.0	3.6	3.2	3.4	3.7
All other	23.1	22.0	21.1	20.4	19.2
Subtotal, nonsubject countries	87.1	83.1	78.8	70.4	66.9
Total	100.0	100.0	100.0	100.0	100.0

Table continued on next page.

Table II-1--*Continued*
Subject tires: U.S. imports, by sources, 2004-08

Source	Calendar year				
	2004	2005	2006	2007	2008
	Share of value (*percent*)				
China	10.3	13.0	16.2	22.8	25.8
Canada	25.1	23.9	22.4	18.4	16.4
Japan	22.0	22.5	21.2	16.1	14.8
Korea	13.0	11.6	12.4	11.7	11.4
Indonesia	1.1	1.2	2.0	2.6	2.8
Brazil	2.6	2.4	2.4	3.8	4.0
Mexico	3.6	3.8	3.4	3.8	4.2
All other	22.4	21.5	20.0	20.7	20.7
Subtotal, nonsubject countries	89.7	87.0	83.8	77.2	74.2
Total	100.0	100.0	100.0	100.0	100.0

[1] Landed, U.S. port of entry, duty-paid.

Source: Compiled from official Commerce statistics, HTS subheadings and statistical reporting numbers 4011.10.10, 4011.10.50, 4011.20.1005, and 4011.20.5010.

U.S. IMPORTS RELATIVE TO PRODUCTION

Information concerning the ratios of imports to U.S. production of subject tires is presented in table II-2 and figure II-1. The ratios of imports from China, all other sources, and all sources to U.S. production each increased in each year during 2004-08. Table II-3 presents information concerning the imports by U.S. producers and other importers. Information regarding import market shares is presented in *Part V* of this report.

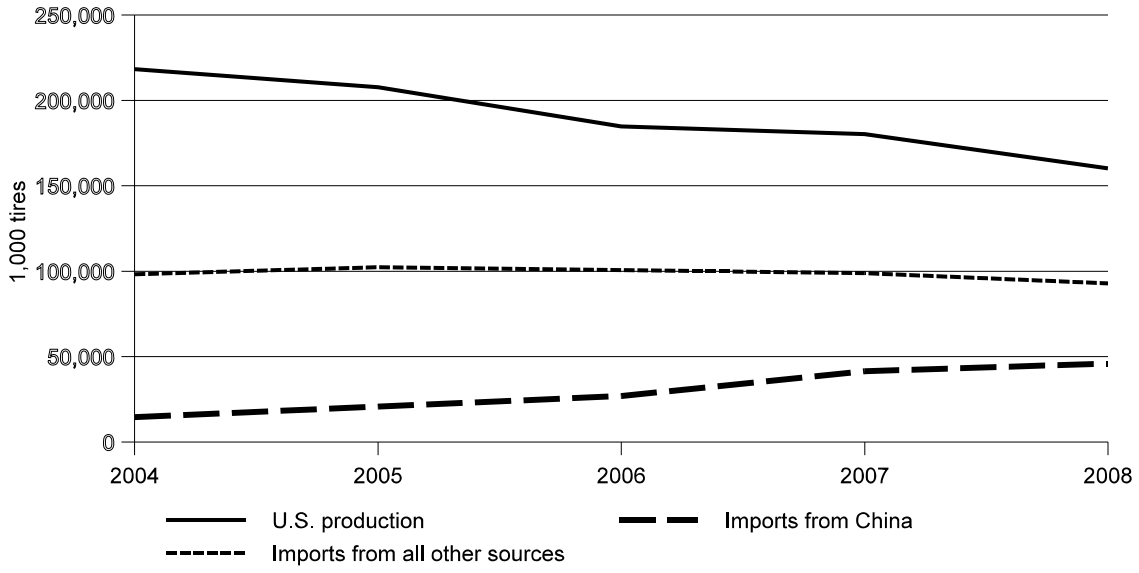
Table II-2
Subject tires: U.S. production, U.S. imports, and ratios of imports to U.S. production, 2004-08

Item	Calendar year				
	2004	2005	2006	2007	2008
	Quantity (*1,000 tires*)				
U.S. production	218,363	207,780	184,843	180,334	160,310
Imports from:					
China	14,574	20,790	27,005	41,503	45,975
All other sources	98,179	102,424	100,601	98,913	92,902
Total imports	112,753	123,214	127,606	140,416	138,877
	Ratio of U.S. imports to production (*percent*)				
Imports from:					
China	6.7	10.0	14.6	23.0	28.7
All other sources	45.0	49.3	54.4	54.8	58.0
Total imports	51.6	59.3	69.0	77.9	86.6

Note.–Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics, HTS subheadings and statistical reporting numbers 4011.10.10, 4011.10.50, 4011.20.1005, and 4011.20.5010.

Figure II-1
Subject tires: U.S. production, and U.S. imports from China and all other sources, 2004-08



Source: Table II-2.

Table II-3
Subject tires: U.S. imports, by sources, 2004-08

Item	Calendar year				
	2004	2005	2006	2007	2008
	Quantity (*1,000 tires*)				
Imports from China:					
U.S. producers	3,041	4,525	5,785	5,996	8,009
All other	11,533	16,265	21,220	35,507	37,966
Total imports	14,574	20,790	27,005	41,503	45,975
Imports from all other sources:					
U.S. producers	71,528	76,652	75,450	72,260	67,145
All other	26,651	25,772	25,151	26,653	25,757
Total imports	98,179	102,424	100,601	98,913	92,902
	Unit value (*per tire*)[1]				
Imports from China:					
U.S. producers	$26.25	$28.31	$33.36	$35.67	$39.45
All other	32.38	34.66	34.81	36.03	38.78
Total imports	31.10	33.28	34.50	35.97	38.90
Imports from all other sources:					
U.S. producers	39.39	42.76	46.64	51.33	55.18
All other	43.19	52.32	51.98	50.12	55.61
Total imports	40.42	45.16	47.98	51.01	55.29
	Share of quantity (*percent*)				
Imports from China:					
U.S. producers	20.9	21.8	21.4	14.4	17.4
All other	79.1	78.2	78.6	85.6	82.6
Total imports	100.0	100.0	100.0	100.0	100.0
Imports from all other sources:					
U.S. producers	72.9	74.8	75.0	73.1	72.3
All other	27.1	25.2	25.0	26.9	27.7
Total imports	100.0	100.0	100.0	100.0	100.0

[1]Landed, U.S. port of entry, duty-paid.

Note.–Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics, HTS subheadings and statistical reporting numbers 4011.10.10, 4011.10.50, 4011.20.1005, and 4011.20.5010.

U.S. PRODUCERS' IMPORTS AND PURCHASES

U.S. producers' imports and purchases of subject tires are presented in table II-4. Six U.S. producers ***[8] and *** imported subject tires from China in one or more years during 2004-08, and *** purchased Chinese tires from another importer. *** indicated that ***.[9] *** did not import or purchase subject tires from China from 2004-08.

U.S. producers' imports and purchases of subject tires from China accounted for 20.9 percent of the quantity of total subject tires imported from China in 2004, 21.8 percent in 2005, 26.1 percent in 2006, 26.4 percent in 2007, and 23.5 percent in 2008.

Table II-4
Subject tires: U.S. producers' imports and purchases, 2004-08

* * * * * * *

[8] *** reported that it imports from China as its U.S. manufacturing facility has limited capacity and is insufficient to fulfill total market demand. In addition, it produces a different product mix, serving a different market segment, in the United States than it imports from China. Specifically, *** reported that the U.S.-produced subject tires are directed to the ***, while its imports of subject tires from China are directed to the ***. *** reported that it *** importing subject tires from China in *** due to ***. (E-mail from ***, May 12, 2009.)

[9] The amounts of *** purchases (in 1,000 tires) are *** in 2004; *** in 2005; *** in 2006; *** in 2007; and *** in 2008.

PART III: THE QUESTION OF MATERIAL INJURY

The Information in this section of the report was compiled from responses to the Commission's questionnaires. Ten firms, accounting for virtually all U.S. production of subject tires during the period for which data were collected, supplied information on such operations.

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

U.S. producers' capacity, production, and capacity utilization data for subject tires are presented in table III-1 and figure III-1.[1] U.S. production capacity declined by 17.8 percent from 2004 and 2008, while production fell by 26.6 percent. Capacity utilization declined from 96.3 percent in 2004 to 86.0 percent in 2008. U.S. production capacity was well below the apparent U.S. consumption of subject tires in each of the years 2004-08.

Seven U.S. producers reported constraints that set the limit on their production capacity and ability to shift production capacity between products. U.S. producers generally reported that production capacity is limited by the combination of equipment and product mix. Examples included equipment constraints such as for tire building machines, for the curing process, and for tire molds which are usually limited to specific sizes, and cycle times which are generally longer for larger tires and/or more complex tires. As described in *Part I*, four U.S. producers reported producing other products on the same equipment and machinery, and three U.S. producers reported using the same production and related workers employed to produce subject tires.

Six U.S. producers (***) reported a decline in production and capacity due to plant closures, supply disruptions, or strikes. Toyo *** reported an increase in production due to the addition of a subject tire manufacturing facility.

[1] Staff notes that reported U.S. producers' capacity is lower than that reported by Modern Tire Dealer, presented in *Part I*, and in the petition. As noted in the footnotes to table III-1, this difference can be partially explained by the multitude of factors that must be taken into account in order to calculate capacity for the different plants.

Table III-1
Subject tires: U.S. capacity, production, and capacity utilization, 2004-08

Firm	Calendar year				
	2004	2005	2006	2007	2008
	Capacity (*1,000 tires*)				
Bridgestone[1]	***	***	***	***	***
Continental	***	***	***	***	***
Cooper[2]	***	***	***	***	***
Denman	***	***	***	***	***
Goodyear[3]	***	***	***	***	***
Michelin[4]	***	***	***	***	***
Pirelli[5]	***	***	***	***	***
Specialty Tires of America[6]	***	***	***	***	***
Toyo[7]	***	***	***	***	***
Yokohama[8]	***	***	***	***	***
Total	226,849	222,895	215,172	196,292	186,395
	Production (*1,000 tires*)				
Bridgestone	***	***	***	***	***
Continental	***	***	***	***	***
Cooper	***	***	***	***	***
Denman	***	***	***	***	***
Goodyear	***	***	***	***	***
Michelin	***	***	***	***	***
Pirelli	***	***	***	***	***
Specialty Tires of America	***	***	***	***	***
Toyo	***	***	***	***	***
Yokohama	***	***	***	***	***
Total	218,363	207,780	184,843	180,334	160,310

Table continued on next page.

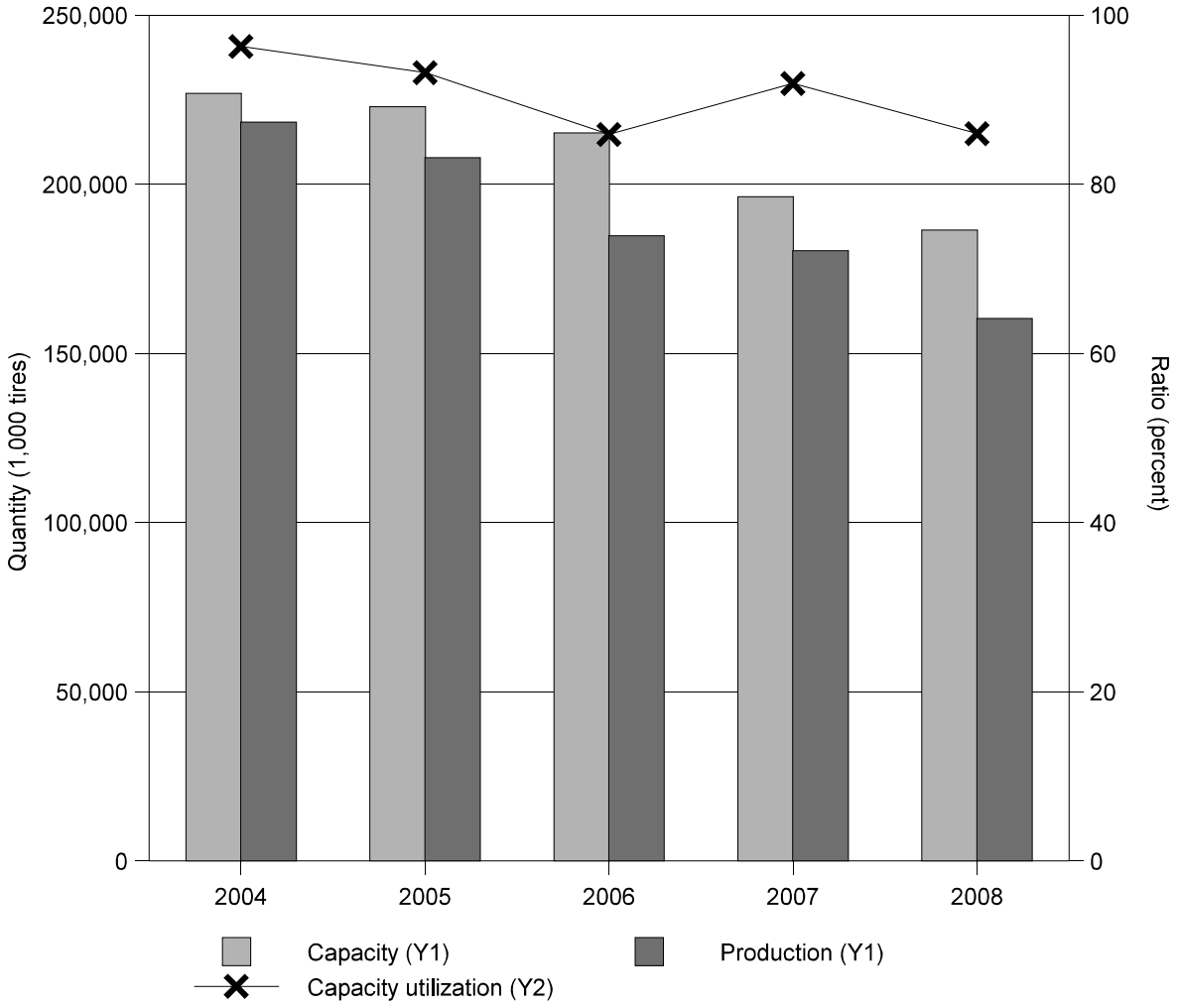
Table III-1--*Continued*
Subject tires: U.S. capacity, production, and capacity utilization, 2004-08

Firm	Calendar year				
	2004	2005	2006	2007	2008
	Capacity utilization (*percent*)				
Bridgestone	***	***	***	***	***
Continental	***	***	***	***	***
Cooper	***	***	***	***	***
Denman	***	***	***	***	***
Goodyear	***	***	***	***	***
Michelin	***	***	***	***	***
Pirelli	***	***	***	***	***
Specialty Tires of America	***	***	***	***	***
Toyo	([9])	([9])	***	***	***
Yokohama	***	***	***	***	***
Average	96.3	93.2	85.9	91.9	86.0

[1] ***.
[2] ***. ***.
[3] ***.
[4] ***.
[5] ***.
[6] ***.
[7] ***.
[8] ***.
[9] Not applicable.

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

Figure III-1
Subject tires: U.S. producers' capacity, production, and capacity utilization, 2004-08



Source: Table III-1.

Bridgestone closed a subject tire plant in Oklahoma City, OK, in December 2006, which had a production capacity of approximately 18.4 million subject tires.[2] In January 2009, Bridgestone announced the *** closure of the passenger and light truck manufacturing portion of the LaVergne, TN tire plant, with a capacity of approximately 3.4 million subject tires.[3] Bridgestone also reported ***.

[2] Modern Tire Dealer, "Plant capacities," found at www.moderntiredealer.com%2ffiles%2fstats%2fPlant-capacity-3.pdf, retrieved on May 14, 2009.

[3] Ibid.

In June 2004, Continental announced the indefinite suspension by the end of 2004 of tire production at its facility in Mayfield, KY, with a production capacity of 4 million tires.[4] Continental permanently closed the facility at the end of 2006.[5] In July 2006, Continental ceased tire production at its Charlotte, NC facility which produced 6.5 million tires per year and had a reported production capacity of 9.3 million passenger and light truck tires.[6] In 2008, Continental announced a $60 million investment in its plant in Mount Vernon, IL over the next three years, more than $40 million of which will be invested in its passenger and light truck tire operations, increasing the plant's production capacity by 2 million tires.[7]

In January 2004, Cooper announced additional investments in three of its four plants, adding an additional passenger and light truck tires production capacity of 1.4 million at its Albany, NY plant, 560,000 at its Texarkana, AR facility, and 511,000 at its Tupelo, MS plant.[8] In February 2004, Cooper announced plans to add an additional passenger and light truck tires production capacity of 500,000 tires at its Findlay, OH plant.[9] In September 2005, Cooper announced that its plants in Texarkana, AR and Tupelo, MS, would temporarily operate at a reduced production of about 30,000 tires per day, due to raw material shortages caused by Hurricane Rita.[10] Cooper reported another reduction in production for the second quarter of 2008.[11] In December 2008, Cooper announced the closure by the end of 2009 of its plant in Albany, GA, with an estimated production capacity of 9.6 million passenger and light truck tires.[12]

In 2007, Goodyear closed one of its plants in Tyler, TX, which had a production capacity of approximately 9 million subject tires, reportedly due to pressure from low-cost imports which competed with the plant's small-diameter passenger car tires.[13] In addition to this plant closure, Goodyear's subject tire production was disrupted in 2005 as a result of hurricanes Katrina and Rita, resulting in a production reduction of approximately 30 percent or *** subject tires.[14] Production was also disrupted in 2006 as a

---

[4] Continental, "Continental suspends tire production at Mayfield plant," news release, June 29, 2004, and Modern Tire Dealer, "Plant capacities," found at www.moderntiredealer.com%2ffiles%2fstats%2fnorth_american_plant_capability.pdf, retrieved on May 14, 2009.

[5] "Continental Tire to close Kentucky plant," Charlotte Business Journal, August 2, 2006, found at http://charlotte.bizjournals.com/charlotte/stories/2006/07/31/daily31.html, retrieved on May 14, 2009.

[6] "Continental Tire speeds up layoffs; to cut 481 jobs in July," Charlotte Business Journal, May 8, 2006, found at http://charlotte.bizjournals.com/charlotte/stories/2006/05/08/daily8.html, retrieved on May 14, 2009, and Modern Tire Dealer, "Plant capacities," found at www.moderntiredealer.com%2ffiles%2fstats%2fPlant-capacity-3.pdf, retrieved on May 14, 2009.

[7] "Continental Tire to invest $60M in Illinois plant," Charlotte Business Journal, July 16, 2008, found at http://www.bizjournals.com/charlotte/stories/2008/07/14/daily34.html, retrieved on May 14, 2009.

[8] Cooper, "Cooper Tire announces increased investment in manufacture facilities," news release, January 16, 2004.

[9] Cooper, "Cooper Tire increases capacity at Findlay, OH tire plant," news release, February 19, 2004.

[10] Cooper, "Cooper Tire production affected by hurricane damage," news release, September 28, 2005.

[11] Cooper, "Cooper Tire adjusts production in challenging industry environment," news release, June 23, 2008.

[12] Cooper, "Cooper Tire announces intent to close Albany, GA facility," news release, December 17, 2008, and Modern Tire Dealer, "Plant capacities," found at www.moderntiredealer.com%2ffiles%2fstats%2fPlant-capacity-3.pdf, retrieved on May 14, 2009.

[13] Goodyear, "Goodyear announces planned closing of Tyler facility," news release, October 30, 2006.

[14] Goodyear, "Goodyear expects temporary impact from hurricane Rita," news release October 3, 2005, and Goodyear's response to U.S. producers' questionnaire, section II-2.

result of a labor strike, resulting in a production loss of *** subject tires.[15] In November 2008, Goodyear Dunlop announced plans to curtail production at its Tonawanda, NY plant, due to lower demand.[16]

In 2006 Michelin reported a reduction in production of 30 to 40 percent at its plant in Opelika, AL, and in April 2009 Michelin announced the October 2009 closure of the plant, with its production capacity of 9.5 million subject tires.[17] Michelin also reported that its U.S. production and shipments ***.[18]

Toyo's subject tire manufacturing facility in White, GA commenced production in December 2005. In May 2007, Toyo announced a $50 million expansion to increase capacity to about 3.3 million tires per year by 2009. Toyo reported that ***.[19] In addition to the expansion to its production facility, Toyo also experienced the curtailment of production in late 2008, *** due to the economic downturn and *** due to raw material shortages resulting from Hurricane Ike.[20]

Yokohama reported that its production ***.[21]

U.S. PRODUCERS' U.S. SHIPMENTS, COMPANY TRANSFERS, AND EXPORT SHIPMENTS

Data on U.S. producers' shipments of subject tires are presented in table III-2. U.S. shipments between 2004 and 2008 declined by 29.7 percent, in terms of quantity, and increased by 1.2 percent in terms of value. As described above, several U.S. producers reported changes in U.S. shipments as a result of plant closures or openings, supply disruptions, and strikes. *** of the U.S. producers reported internal consumption for use in the production of subject tires during 2004-08. Exports ranged from 12.3 to 14.1 percent of total shipments between 2004 and 2008. Canada and Mexico were reported as the most frequent export destinations, with four of the six U.S. producers reporting exports to both countries and *** reporting exports to Canada.

---

[15] Goodyear, "Goodyear & USW reach tentative agreement on new labor contract," December 22, 2006, and Goodyear's response to U.S. producers' questionnaire, section II.

[16] Rubber and Plastics News, "Goodyear Dunlop to cut 150 at N.Y. facility," November 17, 2008.

[17] Michelin, "BFGoodrich Tire Manufacturing's Opelika Plant to Reduce Production Beginning Fourth Quarter 2006," news release, July 11, 2006, and Modern Tire Dealer, "Plant capacities," found at www.moderntiredealer.com%2ffiles%2fstats%2fPlant-capacity-3.pdf, retrieved on May 14, 2009.

[18] E-mail from ***, May 14, 2009.

[19] Toyo's response to the U.S. producers' questionnaire, section II-2.

[20] Rubber and Plastics News, "Tire makers hit hard by declining demand," November 7, 2008, and Toyo's response to the U.S. producers' questionnaire, section II-2.

[21] E-mail from ***, May 12, 2009.

Table III-2
Subject tires: U.S. producers' shipments, by types, 2004-08

Item	Calendar year				
	2004	2005	2006	2007	2008
			Quantity (*1,000 tires*)		
Commercial shipments	181,344	169,347	150,571	145,195	127,499
Internal consumption	0	0	0	0	0
Transfers to related firms	13,387	12,409	13,243	10,480	9,326
U.S. shipments	194,731	181,756	163,814	155,675	136,825
Export shipments	27,303	27,520	26,809	24,574	22,409
Total shipments	222,034	209,276	190,623	180,249	159,234
			Value (*1,000 dollars*)		
Commercial shipments	8,803,716	8,945,515	8,875,680	9,359,207	8,831,430
Internal consumption	0	0	0	0	0
Transfers to related firms	620,448	545,345	604,650	605,152	703,234
U.S. shipments	9,424,164	9,490,860	9,480,330	9,964,359	9,534,664
Export shipments	1,229,964	1,322,693	1,380,106	1,421,418	1,397,312
Total shipments	10,654,128	10,813,553	10,860,436	11,385,777	10,931,976
			Unit value (*per tire*)		
Commercial shipments	$48.55	$52.82	$58.95	$64.46	$69.27
Internal consumption	-	-	-	-	-
Transfers to related firms	46.35	43.95	45.66	57.74	75.41
U.S. shipments	48.40	52.22	57.87	64.01	69.69
Export shipments	45.05	48.06	51.48	57.84	62.35
Total shipments	47.98	51.67	56.97	63.17	68.65
			Share of quantity (*percent*)		
Commercial shipments	81.7	80.9	79.0	80.6	80.1
Internal consumption	0.0	0.0	0.0	0.0	0.0
Transfers to related firms	6.0	5.9	6.9	5.8	5.9
U.S. shipments	87.7	86.8	85.9	86.4	85.9
Export shipments	12.3	13.2	14.1	13.6	14.1
Total shipments	100.0	100.0	100.0	100.0	100.0

Note.–Because of rounding, figures may not add to the totals shown.

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

U.S. PRODUCERS' INVENTORIES

Table III-3, which presents end-of-period inventories for subject tires, shows that inventories in terms of quantity decreased by 1.6 percent between 2004 and 2008.[22] The ratio of inventories to production as well as to total shipments increased between 2004 and 2008 by 3.4 and 3.7 percentage points, respectively.

Table III-3
Subject tires: U.S. producers' end-of-period inventories, 2004-08

Item	Calendar year				
	2004	2005	2006	2007	2008
Inventories (*1,000 tires*)	22,030	22,784	19,023	20,548	21,685
Ratio to production (*percent*)	10.1	11.0	10.3	11.4	13.5
Ratio to U.S. shipments (*percent*)	11.3	12.5	11.6	13.2	15.8
Ratio to total shipments (*percent*)	9.9	10.9	10.0	11.4	13.6

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

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

The U.S. producers' aggregate employment data for subject tires are presented in table III-4. The number of production and related workers ("PRWs") decreased by 5,168 between 2004 and 2008. A number of U.S. producers reported a reduction in employees due to plant closures and to other reasons.

Bridgestone reported that it closed a subject tire plant in Oklahoma City, OK in December 2006. This plant employed about 1,400 workers.[23] In December 2008, Bridgestone announced that it would lay off 158 employees at its LaVergne, TN tire plant.[24] Then, in January 2009, Bridgestone announced the *** closure of the passenger and light truck manufacturing portion of the LaVergne, TN tire plant, resulting in the permanent reduction of an additional 385 workers.[25]

[22] *** reported that its inventory data did not reconcile since ***, tracking of inventory and shipments by source location did not exist.

[23] Bridgestone, "Bridgestone Firestone to close Oklahoma City tire plant," news release, July 13, 2006.

[24] Bridgestone, "Bridgestone Firestone addresses decrease in demand for passenger and light truck tires," news release, December 1, 2008.

[25] Bridgestone, "Bridgestone Americas Tire Operations announcement regarding LaVergne, Tenn., tire plant," news release, January 22, 2009.

Table III-4
Subject tires: U.S. producers' employment-related data, 2004-08

Item	Calendar year				
	2004	2005	2006	2007	2008
Production and related workers (PRWs)	36,410	35,594	34,037	31,842	31,242
Hours worked by PRWs (*1,000 hours*)	75,989	73,599	69,726	67,163	63,050
Hours worked per PRW	2,087	2,068	2,049	2,109	2,018
Wages paid to PRWs (*1,000 dollars*)	1,794,378	1,780,661	1,763,715	1,653,152	1,570,858
Hourly wages	$23.61	$24.19	$25.29	$24.61	$24.91
Productivity (*tires produced per hour*)	2.9	2.8	2.6	2.7	2.5
Unit labor costs (*per tire*)	$8.23	$8.58	$9.55	$9.18	$9.81
Source: Compiled from data submitted in response to Commission questionnaires.					

In June 2004, Continental announced the indefinite suspension of tire production at its facility in Mayfield, KY by the end of 2004, affecting 827 employees.[26] Continental permanently closed the facility at the end of 2006, eliminating a total of 985 employees.[27] In January 2006, Continental announced the planned layoff at its Charlotte, NC plant of 241 employees on March 15, 2006 and 272 employees on June 30, 2006.[28] In July 2006, Continental ceased tire production at its Charlotte, NC facility, resulting in the layoff of 481 employees.[29] In addition, in January 2006 Continental also announced a 10-percent reduction in wages for its Mount Vernon, IL plant employees.[30] Continental announced, in July 2008, an additional investment in its Mount Vernon, IL plant over the next 3 years, including an additional 75 jobs.[31]

Cooper announced in January 2004 an additional investment in three of its four plants, resulting in the addition of at least 90 employees.[32] In February 2004, Cooper announced plans to invest in its Findlay, OH plant, adding at least 30 additional jobs.[33] In September 2005, Cooper announced that its plants in Texarkana, TX and Tupelo, MS, would temporarily operate at reduced production due to raw material shortages caused by Hurricane Rita.[34] Cooper reported another reduction in production for the

[26] Continental, "Continental suspends tire production at Mayfield plant," news release, June 29, 2004.

[27] "Continental closing tire plant in Kentucky," New York Times, September 30, 2004.

[28] Continental, "CTNA to reduce production at Charlotte plant," news release, January 9, 2006.

[29] "Continental Tire speeds up layoffs; to cut 481 jobs in July," Charlotte Business Journal, May 8, 2006, found at http://charlotte.bizjournals.com/charlotte/stories/2006/05/08/daily8.html, retrieved on May 14, 2009.

[30] Continental, " CTNA announces plant to secure, strengthen Mt. Vernon tire plant," news release, January 12, 2006.

[31] "Continental Tire to invest $60M in Illinois plant," Charlotte Business Journal, July 16, 2008, found at http://www.bizjournals.com/charlotte/stories/2008/07/14/daily34.htm, retrieved on May 14, 2009.

[32] Cooper, "Cooper Tire announces increased investment in manufacturing facilities," news release, January 16, 2004.

[33] Cooper, "Cooper Tire increases capacity at Findlay, OH tire plant," news release, February 19, 2004.

[34] Cooper, "Cooper Tire production affected by hurricane damage," news release, September 28, 2005.

second quarter of 2008.[35] In December 2008, Cooper announced the closure of one of its plants located in Albany, GA by the end of 2009, affecting the approximately 1,400 employees at the plant.[36]

In 2007, Goodyear closed one of its plants in Tyler, TX, resulting in the elimination of about 1,100 employees.[37] In addition to this plant closure, in November 2008, Goodyear Dunlop announced plans to curtail production at its Tonawanda, NY plant, eliminating around 150 jobs.[38]

In 2006 Michelin reported a reduction in production of 30 to 40 percent at its plant in Opelika, AL, resulting in the layoff of 30 to 40 percent of the plant's employees, with an actual reduction of *** employees.[39] In April 2009 Michelin announced the October 2009 closure of the Opelika plant, which employs approximately 1,000 employees.[40]

Toyo's subject tire manufacturing facility in White, GA commenced production in December 2005, with *** PRWs. In 2007, Toyo announced a $50 million expansion to increase capacity, and reported an additional *** employees. Toyo reported that ***.[41] In addition to the expansion to its production facility, Toyo also experienced the curtailment of production in late 2008, but that did not result in any layoffs.[42]

U.S. PRODUCERS' AND IMPORTERS' COMMENTS REGARDING WHETHER IMPORTS OF SUBJECT TIRES FROM CHINA HAVE BEEN A CAUSE OF MATERIAL INJURY TO THE DOMESTIC INDUSTRY

U.S. producers and importers were asked if any increase in imports of subject tires from China, either actual or relative to domestic production, has been a cause of material injury to the domestic industry. Four U.S. producers (***) reported "No," four U.S. producers (***) responded that they were not in a position to answer,[43] ***,[44] ***.[45]

---

[35] Cooper, "Cooper Tire adjusts production in challenging industry environment," news release, June 23, 2008.

[36] Cooper, "Cooper Tire announces intent to close Albany, GA facility," news release, December 17, 2008.

[37] Goodyear, "Goodyear announces planned closing of Tyler facility," news release, October 30, 2006.

[38] Rubber and Plastics News, "Goodyear Dunlop to cut 150 at N.Y. facility," November 17, 2008.

[39] Michelin, "BFGoodrich Tire Manufacturing's Opelika Plant to Reduce Production Beginning Fourth Quarter 2006," news release, July 11, 2006, and e-mail from ***, May 12, 2009.

[40] Michelin, "BFGoodrich tire manufacturing's Opelika plant to close," news release, April 13, 2009.

[41] Toyo's response to the U.S. producers' questionnaire, section II-2.

[42] Rubber and Plastics News, "Tire makers hit hard by declining demand," November 7, 2008.

[43] *** stated that there has been a significant increase in imports of subject tires from China. *** response to the U.S. producers' questionnaire, section II-14.

[44] *** reported that imported tires comprised an increasing share of the U.S. market for subject tires. It noted that while imports of tires from China have increased during 2004-08, in 2008, China still only accounted for approximately one-third of the imports, with the other two-thirds coming from other countries. Moreover, *** stated that although these impacts are not inconsequential or unimportant, it is not possible to isolate the impact of imports between China and non-China sources, nor is it possible to isolate the impact of Chinese imports or non-Chinese imports on the domestic industry. Given this, *** stated that it is not possible to quantify the specific incremental impact of imports from China on the overall domestic industry or specifically on ***. *** response to the U.S. producers' questionnaire, section II-14.

[45] *** reported that ***. "As evidenced by the information submitted by ***, and by the information in the USW's petition, the U.S. original equipment and replacement tire markets have experienced unprecedented declines during the last five years, which has resulted in a corresponding erosion of its domestic industrial base. This erosion has manifested itself in many forms and no domestic tire manufacturer is immune to the industrial challenges

(continued...)

Twenty seven importers responded "No."[46] [47] [48] Six importers responded that they were not in a position to answer, while one importer (***) took no position.

[45] (...continued)
presented by current market declines and related production overcapacity, which have fed the deterioration of the domestic tire market against the backdrop of a marked increase in tire import levels. The localized impact of rising import levels, and any market disruptions caused thereby, is ripe for review." *** response to the U.S. producers' questionnaire, section II-14.

[46] *** reported that the U.S. replacement market for subject tires is characterized by three tiers. The top tier ("Tier 1") is occupied by flag brands like Michelin, Bridgestone, or Goodyear. The middle tier ("Tier 2") is occupied by secondary brands that either used to be flag brands in the past in the United States (e.g., Firestone, BF Goodrich, Uniroyal, General) or foreign brands which are flag brands in their country of origin, but have not become flag brands in the United States yet (e.g., Continental, Pirelli, Yokohama, Toyo). The lowest tier ("Tier 3") is occupied by brands which have lower brand equity and mainly address the needs of the mass market segment; that is, consumers who are very price-conscious. The main difference between each tier, besides the brand equity, is price and profit margin. The prices and profits on Tier 1 tires are greater than the prices and profits on Tier 2 tires, which in turn, are higher than the prices and profits on Tier 3 tires. All subject tires under investigation are being sold in Tier 3 and don't compete directly with Tier 1 and Tier 2 tires. At some point in the late 1990s and early 2000s, the U.S. tire industry decided to abandon the production of Tier 3 tires in the United States and, instead, to concentrate on the production of Tier 1 and Tier 2 tires in the United States. In many cases, these same companies started importing Tier 3 tires into the United States and selling them under their own brands and labels or as exclusive brands. For example, ***. ***. These tires are manufactured in ***. ***. In short, many of the subject tires under investigation in this proceeding are being "pulled" into the United States by the domestic industry itself and the rest are filling a void created by the domestic industry. Finally, to the extent the domestic industry is suffering material injury, that harm is being caused primarily by the slowdown in the U.S. auto industry, not imports of subject tires. People are simply driving less due to, inter alia, the recession and the price of gasoline. An example of this can be seen in the closure of Michelin's plant in Opelika, Alabama. An April 13, 2009 article reporting on the closure, attached to the petition at exh. 13, quotes Michelin, including its Chairman, Dick Wilkerson. Michelin describes the reason for the closure as a "drop in demand -- attributed to consumers' driving fewer miles, purchasing fewer vehicles and delaying tire replacement purchases." *** response to the U.S. importers' questionnaire, section II-7.

[47] *** reported that its preference has been to source tires from domestic production. Domestic producers reportedly made decisions to not offer tires to it. Their reasoning for not offering *** tires was that the domestic producers did not have available capacity. This forced it to source tires from foreign producers. *** response to the U.S. importers' questionnaire, section II-7.

[48] *** reported that it is not aware of any material injury to domestic production. In its experience, the relative roles of imports (from China and other countries) and the domestic trends in serving the U.S. market over the past several years reflect a combination of factors, including increased aftermarket demand, technological advances that resulted in longer-lasting vehicles and higher demand for replacement tires, and a proliferation of sizing, applications, and OEM sizes. As domestic production focused on capturing certain high-margin segments of those emerging markets, opportunities in commodity and other market segments opened up for foreign production from many countries, including China. *** response to the U.S. importers' questionnaire, section II-7.

FINANCIAL EXPERIENCE OF U.S. PRODUCERS

Background

The financial results of the subject tires operations of the following *** U.S. producers are presented in this section of the report: ***. With the exception of ***, all U.S. producers reflected in this section of the report had operations throughout the period.[49] U.S. producers reported their financial results on a calendar-year basis using generally accepted accounting principles ("GAAP").[50]

U.S. producers range from large multinational companies with global production/sales and varying levels of vertical integration to smaller-volume producers with only domestic operations.[51] While the reported financial results reflect *** U.S. producers, the following four U.S. producers account for *** percent of cumulative sales: Bridgestone, Cooper, Goodyear, and Michelin.[52] These producers, with the exception of Cooper, sell into both the OEM market and the replacement market. In contrast and along with most of the smaller-volume producers in general, Cooper sells only into the replacement market.[53]

Commercial sales, which represent the majority of the sales activity reported to the Commission, generally represent sales to OEM customers or unrelated distributors. Transfers reflect sales to related distributors.[54]

Operations on Subject Tires

Income-and-loss data for U.S. producers are presented in table III-5 and on an average-per-tire basis in table III-6. Table III-7 presents selected company-specific data as referenced in this section of the report. Given changes in product mix during the period, as discussed below, a variance analysis of the overall financial results is not presented.

---

[49] ***. Auditor prehearing notes.

[50] *** specified that the basis of their reported financial results was International Financial Reporting Standards (IFRS).

[51] Segment reporting for public financial purposes indicates that most multinational producers manage their worldwide tire operations on the basis of regional segments (Bridgestone, Cooper, Goodyear). In contrast, the primary segments of Continental and Michelin are organized on a product-line basis. With respect to larger-volume U.S. producers reporting public financial results, the financial results reported to the Commission fall under/within the following segments: the Americas (Bridgestone); Passenger and Light Truck Tires (a primary Continental product line segment) and NAFTA region (a secondary Continental geographic segment); North American Tire Operations (Cooper); North American Tire (Goodyear); Passenger and Light Truck Tires and related distribution activities (a primary Michelin product line segment) and North America (a secondary Michelin geographic segment). While the segment financial results and accompanying narrative are useful for comparison purposes, it should be noted that they do not directly correspond to the information reported to the Commission.

[52] The four largest U.S. producers account for the following shares of total sales on a cumulative basis: ***.

[53] ***. Auditor prehearing notes. While the industry's financial results specific to the OEM market and the replacement market are not presented, anecdotal information indicates that OEM sales are less profitable in general than replacement market sales. The objective of establishing a tire in the OEM market in order to enhance subsequent sales in the replacement market appears to be the primary justification for accepting lower relative profitability on OEM sales. Hearing transcript, p. 185 (Stewart), pp. 186-187 (Conway). Continental Tire's Failure in North America, USW, April 2007, p. 1. Auditor prehearing notes.

[54] ***. ***.

Table III-5
Subject tires: Results of U.S. producers' operations, calendar years 2004-08

Item	Calendar year				
	2004	2005	2006	2007	2008
	Quantity (*1,000 tires*)				
Commercial sales	203,053	191,298	172,431	165,388	147,147
Transfers	18,763	17,792	18,032	14,683	11,927
Total net sales	221,816	209,090	190,463	180,071	159,074
	Value (*$1,000*)				
Commercial sales	9,759,576	9,985,192	9,977,412	10,516,957	10,029,314
Transfers	864,692	803,996	861,853	845,659	882,140
Total net sales	10,624,268	10,789,188	10,839,265	11,362,616	10,911,454
Raw material	4,314,767	4,636,646	4,909,695	4,871,304	5,308,444
Direct labor	2,203,319	2,247,191	2,272,165	2,201,788	2,047,740
Other factory costs	2,479,776	2,499,065	2,526,932	2,500,391	2,474,781
Total cost of goods sold	8,997,862	9,382,902	9,708,792	9,573,483	9,830,965
Gross profit	1,626,406	1,406,286	1,130,473	1,789,133	1,080,489
Selling expenses	495,322	472,149	446,468	433,325	390,695
General and administrative expenses	874,852	768,590	798,554	848,567	952,628
Total SG&A expenses	1,370,174	1,240,739	1,245,022	1,281,892	1,343,323
Operating income or (loss)	256,232	165,547	(114,549)	507,241	(262,834)
Interest expense	95,550	116,989	136,872	138,928	124,672
Other expenses	395,205	241,361	267,825	291,022	291,969
Other income items	209,319	227,998	158,404	79,140	51,321
Net income or (loss)	(25,204)	35,195	(360,842)	156,431	(628,154)
Depr. and amortization (incl. above)	525,516	560,158	545,681	550,188	591,996
Est. cash flow from operations	500,312	595,353	184,839	706,619	(36,158)
	Ratio to net sales (*percent*)				
Raw material	40.6	43.0	45.3	42.9	48.7
Direct labor	20.7	20.8	21.0	19.4	18.8
Other factory costs	23.3	23.2	23.3	22.0	22.7
Total cost of goods sold	84.7	87.0	89.6	84.3	90.1
Gross profit	15.3	13.0	10.4	15.7	9.9
Total SG&A expenses	12.9	11.5	11.5	11.3	12.3
Operating income or (loss)	2.4	1.5	(1.1)	4.5	(2.4)
Net income or (loss)	(0.2)	0.3	(3.3)	1.4	(5.8)
	Number of firms reporting				
Data	***	***	***	***	***
Operating losses	4	5	7	3	6

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

Table III-6
Subject tires: Results of U.S. producers' operations (per tire), calendar years 2004-08

Item	Calendar year				
	2004	2005	2006	2007	2008
	Unit value (*per tire*)				
Commercial sales	$48.06	$52.20	$57.86	$63.59	$68.16
Transfers	46.09	45.19	47.80	57.59	73.96
Total net sales	47.90	51.60	56.91	63.10	68.59
Raw material	19.45	22.18	25.78	27.05	33.37
Direct labor	9.93	10.75	11.93	12.23	12.87
Other factory costs	11.18	11.95	13.27	13.89	15.56
Total cost of goods sold	40.56	44.88	50.97	53.17	61.80
Gross profit	7.33	6.73	5.94	9.94	6.79
SG&A expenses	6.18	5.93	6.54	7.12	8.44
Operating income or (loss)	1.16	0.79	(0.60)	2.82	(1.65)

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

Sales volume

As shown in table III-5, absolute sales volume declined throughout the period, while table III-7 shows that the company-specific changes in sales volume varied. Narrative information accompanying public financial statements generally indicates that company-specific changes in sales volume during the period were due to a variety of factors such as changes in brand focus, countervailing demand within specific product categories, demand patterns within OEM and replacement channels, strike-related disruptions, and declines in overall tire demand.[55] [56] The elimination and/or reconfiguration of passenger and light truck tire production capacity in the United States, as described earlier in this report, is also presumably reflected directly or indirectly in underlying changes in sales volume.[57]

[55] Bridgestone 2004 annual report, p. 14. Bridgestone 2005 annual report, p. 41. Bridgestone 2006 annual report, p. 16. Bridgestone 2007 annual report, p. 20. Bridgestone 2008 annual report, p. 12. Continental 2005 annual report, p. 52. Continental annual report, p. 65. Continental 2007 annual report, p. 87. Continental 2008 annual report, p. 81. Cooper 2004 10-K, p. 13. Cooper 2005 10-K, p. 17. Cooper 2006 10-K, p. 22. Cooper 2007 10-K, p. 23. Cooper 2008 10-K, p. 24. Goodyear 2004 10-K, p. 45. Goodyear 2005 10-K, p. 44. Goodyear 2006 10-K, p. 47. Goodyear 2007 10-K, p. 42. Goodyear 2008 10-K, p. 42. Michelin 2004 annual report, p. 7. Michelin 2005 annual report, p. 46. Michelin 2006 annual report, p. 42. Michelin 2007 annual report, p. 38. Michelin 2008 annual report, p. 46.

[56] With respect to the larger-volume producers, ***.

[57] For example, at the beginning of the period Bridgestone noted that the effort to improve the profitability of North American tire operations ". . . has included a reduced emphasis on market share and a sharpened focus on high value-added products." Bridgestone 2004 annual report, p. 14. The company's subsequent decision in 2006 to eliminate its Oklahoma City, OK plant is consistent with this strategy. According to Bridgestone, "{d}uring the year {2006} a decision was made to close the Oklahoma City tire plant, which produces tires in the low-end segment of the market where demand is shrinking and fierce competition from low-cost producing countries is increasing."

(continued...)

Table III-7
Subject tires: Selected financial information on U.S. producers' operations, calendar years 2004-08

* * * * * * *

Sales value

Notwithstanding consistent declines in sales volume, total sales revenue increased throughout the period until 2008. The higher average sales values which explain this pattern were generally attributed to price increases to cover higher raw material costs, as well as to changes in underlying product mix and the reorientation of brand focus.[58] While changes in brand emphasis presumably took different forms depending on the producer, several companies indicated that private label tires were de-emphasized in favor of premium house brand tires.[59] While table III-7 shows that the majority of U.S. producers reported higher average sales values during the period, company-specific differences in average sales value generally appear to reflect factors such as product mix, channels of distribution, and the extent to which specific brands have been positioned to command a premium.[60] [61]

[57] (...continued)
Bridgestone 2006 annual report, p. 16. ***. Auditor prehearing notes.

Similarly, Cooper indicated that one of its goals during the period was to produce more high performance and ultra-high-performance premium tires. To achieve this goal, the company stated that part of its strategy would be to free up capacity in the United States by outsourcing the production of opening-price-point and economy-type tires to manufacturers in Asia and Mexico. Cooper 2008 10-K, p. 3.

[58] Auditor prehearing notes. Bridgestone 2004 annual report, pp. 14, 16. Bridgestone 2005 annual report, p. 18. Bridgestone 2006 annual report, pp. 16, 17. Bridgestone 2007 annual report, p. 20. Cooper 2004 10-K, p. 13. Cooper 2005 10-K, p. 17. Cooper 2006 10-K, p. 22. Cooper 2007 10-K, p. 23. Cooper 2008 10-K, p. 24. Goodyear 2004 10-K, p. 45. Goodyear 2005 10-K, p. 44. Goodyear 2006 10-K, p. 47. Goodyear 2007 10-K, p. 42. Goodyear 2008 10-K, p. 42. Michelin 2004 annual report, p. 45. Michelin 2005 annual report, pp. 4, 11. Michelin 2006 annual report, p. 8. Michelin 2007 annual report, p. 40. Michelin 2008 annual report, p. 63.

[59] Goodyear 2006 10-K, p. 47. Goodyear 2007 10-K, p. 42. Goodyear 2008 10-K, pp. 33, 34. In 2004, Michelin noted that "{i}n North America, Michelin and BFGoodrich's sales in the Sports and Leisure (SUV, Recreational), 4x4 and High Performance segments rose considerably in an overall market marked by weak 1.6 percent growth, at the expense of certain private brands as Michelin took a selective approach in close consultation with the Group's retail sales partners." Michelin 2004 annual report, p. 25. ***. Auditor prehearing notes.

[60] During the period examined and with respect to the larger-volume producers, Michelin generally reported *** sales values. In its 2006 annual report, Michelin stated that it generally commands a 10-percent to 15-percent premium above market sales prices for its passenger and light truck tires which it attributed to "product and service quality and performance, powerful brands and capacity for innovation." Michelin 2006 annual report, p. 32. Among the larger-volume producers, Cooper, which only sells in the replacement market, generally reported *** sales values. While describing other factors, narrative information accompanying Cooper's public financial statements emphasized the importance of price in order to be successful in its channel. Cooper 2008 10-K, p. 3.

[61] ***. Auditor prehearing notes. Auditor posthearing notes.

Cost of goods sold

As noted in a previous section of this report, the closures of five U.S. tire plants either took place or were announced during the period for which data were collected. Directly or indirectly, changing/altering cost structure was a common theme related to all of these closings.[62]

On a cumulative basis, raw material costs represented the largest component of total cost of goods sold ("COGS") at 50.6 percent and are presumed by definition to be entirely variable. As described in more detail in a previous section, while natural and synthetic rubber are the principal raw materials used for tire production, other raw materials also include nylon and polyester yarns, steel wire, carbon black, pigments, chemicals, and bead wire.[63] Consistent with the pattern shown in table III-6, narrative information accompanying public financial statements indicates that raw material costs increased throughout the period. As with average sales value, the differences in company-specific average raw material costs presented in table III-7 are presumed primarily to reflect differences in product mix, as well as process-specific factors related to manufacturing. It is also reasonable to conclude that average raw material costs reflect differences in company-specific procurement activities and the level of vertical integration for key inputs.[64]

---

[62] Bridgestone: The 2006 announced closure of Bridgestone's Oklahoma City, OK plant was reportedly related to both the plant's product mix (low-end segment of the market) and intense competition from lower-cost sources – low-cost Korean and Chinese-made tires specifically cited. According to a Bridgestone company official, even with substantial new investment it was unlikely that the Oklahoma City, OK plant could ever be cost competitive. Petitioner's prehearing brief, exhibit 7.

Continental: The 2004 decision to close Continental's Mayfield, KY tire plant was reportedly made after the company failed to secure cost reductions from the union. In general, Continental's overall strategy has been to reduce costs by relocating production to lower-wage countries. Petitioner's prehearing brief, exhibit 7. Testimony during the Commission's hearing also described Continental's Mayfield, KY plant as consistently having the company's highest costs. Hearing transcript, p. 233 (Mayfield). In 2006, Continental announced the closure of its Charlotte, NC plant referencing its higher costs relative to overseas plants. Petitioner's prehearing brief, exhibit 7.

Cooper: In late 2008 Cooper announced the closure of its Albany, GA plant, reportedly to match capacity and projected demand. Some of the Albany, GA plant's production was to be transferred to Cooper's remaining facilities. In conjunction with capacity rationalization and along with other projects, Cooper indicated that it expected the cost competitiveness of its North American Tire Operations segment to improve. Cooper 2008 10-K, p. 26.

Goodyear: The 2006 announced closure of Goodyear's Tyler, TX plant was reportedly made in order to reduce costs, as well as to improve the company's competitive position. Like Bridgestone's Oklahoma City, OK plant, Goodyear's Tyler, TX plant produced passenger tires in the small-size range that was reportedly experiencing "considerable pressure from low-cost imports." Petitioner's prehearing brief, exhibit 7. Factors also justifying the plant's closure were identified as rising costs, Goodyear's announced decision in June 2006 to exit the wholesale private label market, and reduced demand for the types of tires produced at the Tyler, TX plant. Ibid.

[63] Goodyear 2004 10-K, p. 12. Although described in different levels of detail, narrative information accompanying the annual public financial information of Bridgestone, Cooper, and Michelin reported the same basic raw materials. Bridgestone 2004 annual report, p. 6. Cooper 2008 10-K, p. 4. Michelin 2008 annual report, p. 7.

[64] With the exception of Cooper, the larger-volume producers are to varying degrees vertically integrated with respect to at least some key inputs. Bridgestone 2005 annual report, p. 15. Michelin 2008 annual report, p. 7. Goodyear 2008 10-K, p. 7. During the period examined the extent of the vertical integration of Goodyear and Michelin was reduced somewhat; e.g., in 2005 Goodyear sold its natural rubber plantation in Indonesia and Michelin outsourced its U.S. steel cord operations. Goodyear 2005 10-K, p. 31. Michelin 2005 annual report, p. 19. ***.

While Cooper does not appear to be vertically integrated in a traditional sense, narrative information accompanying the company's public financial statements describes a procurement consortium to which it belongs and that has reportedly reduced the company's costs for certain materials and services. Cooper 2008 10-K, p. 4.

The second-largest component of COGS is other factory costs, which represented 26.3 percent of the total. In aggregate and based on estimates provided by U.S. producers for 2008, 31.7 percent of total other factory costs are variable, while 68.3 percent are fixed. Notwithstanding differences in company-specific plant operations/plant configurations, lower fixed cost absorption, notably at the end of the period, affected the level of average other factory costs reported by U.S. producers. As shown in table III-6, average other factory costs, like average raw material costs, reached their highest level in 2008.[65]

Direct labor was the smallest component of COGS, representing 23.1 percent on a cumulative basis. Variable costs represented the majority of total 2008 direct labor costs at 68.0 percent, while fixed costs represented 32.0 percent. In addition to regional differences and union and non-union variations in company-specific wage rates, average company-specific direct labor costs, as shown in table III-7, also likely reflect differences in both product mix and levels of automation and corresponding labor intensity.

Financial Results

Notwithstanding the positive impact of higher revenue due to favorable changes in product mix and price increases to pass through higher raw material costs, profitability declined throughout much of the period, with 2007 being the notable exception. As shown in table III-7, the pattern of change in company-specific gross profit was not uniform. Among the four largest producers, ***. As noted below, however, *** selling, general and administrative ("SG&A") expense ratios which in turn resulted in ***.[66] Although corresponding public segment financial results were not reported, *** appear to be generally consistent with narrative information accompanying the company's public financial statements.[67] ***. As shown in table III-7, *** reported its ***.[68]

Based on estimates provided by U.S. producers for 2008, the majority of SG&A expenses are fixed at 84.8 percent, while 15.2 percent are variable. Despite notable variations in company-specific SG&A

---

[65] The decline in demand at the end of the period resulted in unused capacity and fixed costs which could not be absorbed by production or eliminated in the short run. According to Goodyear, "{o}ur 2008 results were impacted unfavorably by the recessionary economic conditions, particularly in the fourth quarter, resulting in lower sales that prompted us to reduce our global production. For the year we reduced global production capacity by 30 million units, of which 17 million units were reduced in the fourth quarter. As a result, we incurred significant under-absorbed fixed overhead costs in the fourth quarter." Goodyear 2008 10-K, p. 28.

[66] Bridgestone's annual reports generally indicate that "the Americas" segment was underperforming at the beginning of the period. As the period progressed and until 2008, the financial results of this segment generally improved. Auditor posthearing notes.

[67] Continental 2004 annual report, p. 49. Continental 2005 annual report, pp. 6, 10. Continental 2006 annual report, p. 10. ***. Fax from ***, May 18, 2009. ***. The previously cited USW study asserts that financial losses experienced by Continental's North American operations were in large part due to issues such as the company's focus on the less profitable OEM market and a poor relationship with distributors. Continental Tire's Failure in North America, USW, April 2007, pp. 1-2.

[68] Goodyear's North American Tire segment reported a $233 million operating loss in 2006 compared to operating income of $167 million in 2005. With regard to this pattern, Goodyear's 2006 10-K states that 2006 was ". . . unfavorably impacted by increased raw material costs of approximately $373 million, increased costs of approximately $313 as a result of the USW strike, increased conversion costs of approximately $135 million, primarily driven by lower volume and higher energy costs, lower volume of approximately $45 million and approximately $34 million of income related to divested businesses. Partially offsetting these were favorable price and product mix of approximately $367 million, and lower SAG costs of approximately $55 million, which includes lower wages and benefits of approximately $20 million, approximately $17 million of lower advertising expenses, and approximately $9 million of savings from rationalization plans, partially offset by $15 million in increased general and product liability expenses. In addition, approximately $21 million of favorable settlements with certain raw material suppliers, increased operating income in chemical and other tire related businesses of approximately $22 million, and approximately $15 million of lower depreciation expense as a result of the increased estimated useful lives of our tire mold equipment favorably impacted operating income." Goodyear 2006 10-K, p. 47.

expense ratios during the period, overall SG&A expense ratios moved within a relatively narrow range.[69] The combination of contracting gross profit margins and relatively static SG&A expense ratios throughout most of the period resulted in declining operating income in 2005 and operating losses in 2006 and 2008, as shown in table III-5. 2007, as noted above, was a notable exception to the general pattern of declining profitability during the period.[70]

Operating results reflect the impact of various non-recurring charges included in the COGS and SG&A expenses reported by ***.[71] In contrast, the non-recurring charges reported by ***. ***.[72] [73]

Research and Development Expenses, Capital Expenditures, Assets, and Return on Investment

The responding producers' data on research and development (R&D) expenses, capital expenditures, total assets, and return on investment are shown in table III-8.

The majority of U.S. producers, as shown in table III-8, reported R&D expenses, and all reported capital expenditures. As with their share of total sales, the four largest U.S. producers in terms of sales

---

[69] ***. Auditor posthearing notes. ***.

[70] Absolute gross profit and corresponding gross profit margin increased in 2007 due to a larger relative increase in average sales value compared to the corresponding increase in average COGS. Michelin, which as shown in table III-7 reported *** in 2007, noted that 2007 was ". . . marked by generally favorable market conditions and a deceleration of raw material prices . . .". Michelin 2007 annual report, p. 10. In addition to the positive impact of a lower relative increase in raw material costs in 2007 compared to 2006, the relative improvement in 2007 financial results compared to 2006, as shown in table III-7, can also be attributed in part to the reduced impact in 2007 of ***.

[71] ***.

Based on the information reported by companies regarding non-recurring charges included in COGS and SG&A, staff estimates that the U.S. industry's pro forma operating income (loss) margins would be as follows if all non-recurring charges were eliminated from COGS and SG&A expense:

	2004	2005	2006	2007	2008
	Ratio to net sales (*percent*)				
Pro forma operating income (loss) margin	***	***	***	***	***
Operating income (loss) margin as reported	2.4	1.5	(1.1)	4.5	(2.4)

Auditor posthearing notes.

[72] E-mail from Covington & Burling on behalf of Goodyear, May 21, 2009. ***. Based on this information, staff estimates that the U.S. industry's pro forma net income (loss) margins would be as follows had ***:

	2004	2005	2006	2007	2008
	Ratio to net sales (*percent*)				
Pro forma net income (loss) margin	***	***	***	***	***
Net income (loss) margin as reported in table III-5. . .	(0.2)	0.3	(3.3)	1.4	(5.8)

Auditor posthearing notes.

[73] ***. E-mail with attachment from ***, May 14, 2009.

Table III-8
Subject tires: Research and development (R&D) expenses, capital expenditures, total assets, and return on investment for calendar years 2004-08

Item	Calendar year				
	2004	2005	2006	2007	2008
R&D expenses (*$1,000*)					
* * * * * * *					
Total R&D expenses	270,689	296,194	288,570	307,075	306,731
Capital expenditures (*$1,000*)					
* * * * * * *					
Total capital expenditures	550,780	688,153	576,497	597,387	729,300
	Total assets (*$1,000*)				
* * * * * * *					
Total assets	8,420,310	8,932,834	9,062,212	10,551,135	9,936,106
Return on investment[1] (*percent*)					
* * * * * * *					
Average return on investment	3.0	1.9	(1.3)	4.8	(2.6)

[1] Return on investment, as presented in this table, is the ratio of annual operating income to total assets.

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

volume accounted for the majority of the industry's total R&D expenses and capital expenditures: *** percent and *** percent, respectively, on a cumulative basis.[74]

With respect to the overall tire operations of the larger volume producers, R&D expenses were generally described as efforts directed at both product innovation and the development/improvement of

[74] On a cumulative basis, Goodyear accounted for *** percent of total capital expenditures. According to petitioner, ***. Petitioner's prehearing brief, footnote 58 and exhibit 5.

manufacturing processes/efficiencies.[75] With the exception of ***, U.S. producers with R&D expenses reported higher levels at the end of the period compared to the beginning.

As shown in table III-8, capital expenditures increased during the period and were consistently higher compared to corresponding total depreciation expense, ranging from 104.8 percent to 123.2 percent of annual depreciation.[76] Unlike the pattern noted above with respect to R&D expenses, one of the smaller-volume U.S. producers, Toyo, accounted for a relatively large share of cumulative capital expenditures as the result of its establishment and subsequent expansion of a greenfield manufacturing facility.[77]

Actual or Anticipated Negative Effects on U.S. Producers of Imports of Subject Tires from China

The Commission requested U.S. producers to describe any actual or anticipated negative effects due to imports of subject tires from China on their 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), or the scale of capital investments. The following responses were received (the company names are not in alphabetical order so that their answers, which are being made public, cannot be matched to any specific company).

Actual Negative Effects

***	Responded that the company has experienced the following negative effects: reduction in the size of capital investments and lowering of credit rating.
***	Responded that the company has not experienced negative effects.
***	Did not respond to this question, stating that it takes no position.
***	Responded that the company has not experienced negative effects.
***	Responded that the company has not experienced negative effects.
***	Responded that the company has experienced the following negative effect: "{r}eduction in U.S. production of certain tire models."
***	Responded that the company has not experienced negative effects.
***	Responded that the company has not experienced negative effects.
***	Responded that the company has experienced the following negative effects: cancellation, postponement, or rejection of expansion projects; denial or rejection of investment proposal; and reduction in the size of capital investments. The company also stated that "***, on its own, like other domestic manufacturers has experienced some of the negative effects outlined above, but it is difficult to determine whether these effects are directly related to the imports of subject tires from China. As evidenced by the information submitted by *** herein, and by the information in the USW's petition, the U.S. original equipment and replacement tire markets have experienced unprecedented declines during the last five years, which has resulted in a corresponding erosion of ***'s domestic industrial base. No domestic tire manufacturer is immune to the industrial challenges by current market declines and related production overcapacity, which have fed the deterioration of the domestic tire market against the backdrop of a

[75] Bridgestone 2008 annual report, p. 36. Cooper 2008 10-K, p. 5. Goodyear 2008 10-K, p. 8. Michelin 2008 annual report, p. 5.

[76] ***. Petitioner's prehearing brief, footnote 58.

[77] ***. Auditor prehearing notes.

	marked increase in tire import levels. The localized impact of rising import levels, and any market disruptions caused thereby, is ripe for review."
***	Responded that the company has not experienced negative effects.

Anticipated Negative Effects

***	Responded that the company does not anticipate negative effects.
***	Responded that the company does not anticipate negative effects.
***	The company did not respond to this question, stating that "*** cannot make a determination about future negative effects resulting from the imports of subject tires from China."
***	The company did not respond to this question, stating that it takes no position.
***	Responded that the company does not anticipate negative effects.
***	The company did not respond to this question, stating that "{n}ot enough market intelligence on this particular product line to comment."
***	Responded that the company anticipates the following negative effects: "{a}s sales of certain tire models are undercut in price by cheaper competitors from China, we may need to further reduce production of those tires."
***	Responded that the company does not anticipate negative effects.
***	Responded that the company anticipates the following negative effects: "{t}he tire industry is a highly competitive, global industry. Some of the Company's competitors are large overseas companies with greater financial resources. The company also competes against low-cost producers in Asia and South America. Increased competitive activity in the replacement tire industry has caused, and will continue to cause, pricing pressures on the Company's business."
***	Responded that the company does not anticipate negative effects.

PART IV: THE QUESTION OF THREAT OF MATERIAL INJURY

THE CHINESE INDUSTRY AND MARKET

Foreign producers' questionnaires were sent to 75 firms identified in proprietary Customs data and by a review of publicly available sources that represent at least 85 percent of total exports to the United States of subject tires from China in 2008 and between 2004 and 2008. Thirty-six firms responded to the questionnaire; information regarding their production and exports to the United States during 2008 is presented in table IV-1.

Producers in China

There are 97 companies identified as operating tire production facilities in China as of September 2008. Of these firms, there are 70 companies operating plants producing subject tires.[1] Of these facilities producing subject tires, 19 began operating before 1990, 27 began operating between 1990 and 1999, 7 began operating between 2000 and 2003, and 8 plants have begun operating since 2004.[2] Sixteen tire manufacturing firms based in China rank within the top 75 tire-producing firms in the world. GITI (China), headquartered in Shanghai, China, is reportedly the largest tire manufacturer in China, accounting for approximately 15 percent of total tire production in 2007. GITI (China) reportedly has seven plants with a total capacity of 44 million tires per year. GITI (China)'s sales were valued at $1.8 billion in 2007, an increase of more than 25 percent over its sales in 2006.[3] In 2007, GITI (China) sold roughly 17 million tires in China and exported another 17 million tires to over 100 countries, including the United States. In 2005 GITI (China) had established sales and marketing subsidiaries in the United States (Rancho Cucamonga, CA) and in Europe (the Netherlands) with the reported intent to expand export sales. In 2007, GITI (China) established a manufacturing facility in Anhui, China to further expand its production capacity.[4]

GITI (China), along with Triangle Tyre (tire production capacity of 28 million tires per year), Hangzhou Zhongce (capacity of 26 million tires per year), Shangdon Linglong[5] (capacity of 17 million tires per year), and Double Coin (capacity of 9 million tires per year), all of which reported tire sales of over $1 billion in 2007, together account for over 50 percent of China's tire sales in 2007. All five of these tire companies are ranked in the top 20 producing companies worldwide.[6] The following tabulation lists the plants of the nine largest Chinese tire producers that produce subject tires and when those plants became operational.[7]

---

[1] Data compiled from statistics published in Rubber News, http://www.rubbernews.com, retrieved on May 13, 2009.

[2] Ibid. The opening dates of the remaining plants were unknown.

[3] Ibid.

[4] Information retrieved from GITI (China)'s corporate website, http://www.gititire.com/english/milestones.asp, retrieved on May 11, 2009.

[5] Shangdon Linglong owns Zhaoyuan Leo Rubber. *** and found at http://www.szkl.net/ebusiness/companye/210/00528.htm, retrieved on June 12, 2009.

[6] Rubber News, op. cit.

[7] Retrieved on May 13, 2009 from http://www.rubbernews.com/subscriber/rankings/lgstchinesetire08.html.

Firm	Number of subject tire plants	Years plants opened
GITI Tire Investment Co., Ltd.	4	1988, 1993, 2000, 2007
Triangle Group Co., Ltd.	2	1993
Hangzhou Zhongce Rubber Co., Ltd.	1	1958
Shandong Linglong Rubber Co., Ltd.	1	2001
Double Coin Holdings Co., Ltd.	5	1927, 1928, 1961, 1991, 2005
Aeolus Tyre Co., Ltd.	1	1999
Qingdao Doublestar Industrial Co., Ltd.	1	1995
Qingdao Yellow Sea Rubber Co., Ltd.	1	1986
Guangzhou Pearl River Rubber Tyre Ltd.	1	1970

Table IV-1
Subject tires: Reporting Chinese manufacturers/exporters, their production in China, and exports to the United States, by firms, 2008

* * * * * * *

Ten foreign producers reported plans to add, expand, curtail, or shut down production capacity and/or production of subject tires in China. *** reported that it will add capacity of *** tires per day (approximately *** tires per year)[8] at its *** plant to meet the increasing demand of the Chinese domestic market. *** plans to *** for new products in the United States, European, Australian, South African, and Middle Eastern markets. The new equipment will reportedly increase capacity to *** in 2009. *** plans to expand the production capacity by investing in production equipment as well as "de-bottlenecking" to enhance production efficiency. The increased capacity is estimated to be *** percent, and will supply both domestic and export markets. *** plans to increase capacity from *** tires per day (*** tires per year) to *** tires per day (*** tires per year) in 2011, and up to *** tires per day (*** tires per year) in 2012 in order to meet rising demand in China and to be more competitive in the Asian Pacific market in general. *** reported that it plans to shut down its ***, with a total capacity of *** tires, at the end of 2009. *** plans to increase its current annual production capacity from *** tires to *** tires in 2009, and *** tires in 2010. *** plans to add *** tires to its production capacity, citing the need to meet market requirements in China (*** percent), Europe (*** percent), United States (*** percent), and other countries (*** percent). *** plans to expand its production capacity in China by 2010. *** will add capacity in the future, and will export to the United States, Australia, and Europe. *** plans to expand its production by *** tires each year, totaling *** tires in 2010.

Although there is still growth seen in demand for tires in China, there are reported problems facing producers in China. For example, according to Ju Hongzhen, chairman of the China Rubber Industrial Association, the rapid increase in tire output has led to the potential for shortages of necessary raw materials. Other problems include the rapid blind investment leading to excess capacity, increasing

[8] Annual calculations are assuming 365 production days per year.

dominance of large multinational and foreign-funded enterprises, and weak independent R&D capabilities.[9]

U.S. Producers' Subject Tire Manufacturing Facilities in China

Seven of the ten U.S. producers have subject tire manufacture facilities in China. All but two of these U.S. producers' had established subject tire manufacturing in China prior to the period for which data were collected. Table IV-2 presents information on the plant openings in China by U.S. producers during 2004-08.

Table IV-2
Subject tires: U.S. producers' China plant openings, plant locations, and capacity, 2004-08

Year	Firm	Plant location in China	Capacity (*tires*)
2004	Bridgestone	Wuxi, Jiangsu	2.9 million
2007	Pirelli	Yangzhou City, Shandong	3.0 million
	Cooper	Kunshan, Jiangsu	0.7 million

Note: Annual capacity calculations are assuming 365 production days per year.

Source: Compiled from data submitted in response to Commission questionnaires and various public documents.

Bridgestone

Bridgestone entered the Chinese market in 1996 when it established the Bridgestone (Shenyang) Tire Co. Ltd., which produces radial tires for buses and trucks. In 2000, Bridgestone expanded its Chinese operations when it purchased the Tianjin Kumho Tire Co. for $94 million and invested an additional $8 million to raise production at the Tianjin plant to 14,000 passenger car tires per day (5.1 million tires per year).[10] In 2004, Bridgestone opened a tire manufacturing facility in Wuxi to manufacture radial tires for passenger cars. With an investment of nearly $100 million, the plant in Wuxi represented Bridgestone's third tire plant in China and the first that the company has built there.[11] The Wuxi plant, which operates as Bridgestone (Wuxi) Tire Co., Ltd., currently has the capacity to produce 8,000 radial tires per day (2.9 million tires per year). However, in April 2009, Bridgestone announced that, in response to the expected increase in demand for radial passenger car tires in the China market, it would invest $98 million to expand daily output at the Wuxi plant to approximately 12,000 tires (4.4 million tires per year). Bridgestone intends to start increased production in the second half of 2011.[12]

Cooper Tire

Cooper entered the Chinese market in 2004, establishing a joint venture with Taiwan Kenda Rubber Industrial Co., Ltd.[13] In that same year, Cooper announced that Hangzhou Zhongce Rubber Co. located in Hangzhou, China would be supplying approximately one million passenger radial tires to

[9] Danmex China Business Resource, "Four problems may threaten tire industry in 2007," January 23, 2007.

[10] *The dragon lures tyre giants*, found at http://www.rubbere.com/en/view.asp?f=27, retrieved on May 14, 2009.

[11] Bridgestone, "Bridgestone holds official opening for new tire plant in china's jiangsu province," news release, September 24, 2004.

[12] Ibid., and ***.

[13] *The dragon lures tyre giants*, found at http://www.rubbere.com/en/view.asp?f=27, retrieved on May 14, 2009.

Cooper for sale in the U.S. market.[14] In 2005, construction was started on a new plant in Kushan, Jiangsu province to produce radial passenger and light truck tires under Cooper Kenda (Kushan) Co., Ltd., with the first tire produced in February 2008.[15] Cooper noted that all the tires by this joint venture produced in the first five years will be available to Cooper, and "will most likely be exported to North America and Europe to improve our margins on entry-level tires."[16] In 2006, Cooper finalized a deal in which it invested $70 million to obtain a 51-percent ownership of China's third-largest domestic producer, Shandong Chengshan Tire Co., to produce Cooper-branded tires for the Chinese market.[17] According to reports, Cooper has over 200 distributors and 2,000 retailers in China for its truck tire business, and 50 distributors and 1,000 retailers for its passenger car tire business. In addition, Cooper aims to spend around $200 million in China in the next three to five years in manufacturing, product development, and sales channels expansion.[18]

Goodyear

U.S. producer Goodyear currently has a manufacturing facility in Dalian, China which commenced production in 1995, and was later expanded in 2001.[19] The facility produces both consumer and light truck tires, and has a reported annual production capacity of 17,000 tires per day (6.2 million tires per year).[20] In 2008, Goodyear announced a further investment of up to $500 million for relocation and expansion to facilitate increased production, from its current production of *** tires per day, to ***[21]. The new facility is scheduled to be completed in ***. Goodyear Dalian reported that ***.[22]

Michelin

Michelin established its manufacturing presence in China when it partnered with Shenyang Tire Factory in 1995. By 2001, the four tire production plants operating within the joint venture and producing mainly radial tires for sedans and trucks were merged into one company, Shenyang Michelin Tire Co., Ltd. In that same year, Michelin moved its headquarters from Beijing to Shanghai and partnered with the Shanghai Tire and Rubber Co., Ltd. The $200 million joint venture, known as Shanghai Michelin Warrior Tire Co., Ltd., focused on the manufacture and sale of radial passenger car tires. In the transaction, Michelin acquired 70 percent control of the shares, the first time foreign control

---

[14] Cooper, "Cooper Tire announces outsourcing agreement with Hangzhou," news release, February 24, 2004.

[15] Kenda USA, "History of Kenda," found at http://www.kendausa.com/aboutkenda/history.html, retrieved on June 4, 2009.

[16] Cooper reported that the eventual first phase capacity of the plant will be 6.5 million tires. Cooper April 5, 2007 8-K, p. 29.

[17] Cooper, "Cooper Tire races into China," news release, March 31, 2006.

[18] Cooper, "Won't tire of growth strategy, market avenue," found at http://www.marketavenue.cn/upload/news/NEWS_38872.htm, retrieved on May 14, 2009. Cooper Chengshan Tire in its response to the foreign producers' questionnaire reported that ***.

[19] Goodyear, *History by Year*, found at http://www.goodyear.com/corporate/history/history_byyear.html, retrieved on May 14, 2009.

[20] Rubber and Plastics News, found at http://rubberandplastics.texterity.com/rubberandplastics/20090126/?pg=12, retrieved on May 14, 2009.

[21] Goodyear, "Goodyear announces growth strategies, investment plans," news release, June 26, 2008, and Goodyear Dalian response to the foreign producers' questionnaire, section II-1.

[22] Goodyear Dalian reported that ***. Goodyear Dalian response to the foreign producers' questionnaire, section II-1.

went beyond the Chinese official policy limit on foreign ownership.[23] In 2004, Michelin announced a $300 million expansion of its tire facility in Shenyang, to boost output at that plant from two to three million units a year. There have also been reports that Michelin aims to expand its capacity of Shanghai Michelin Warrior Tire Co. to 14 million units.[24]

Pirelli

In 2005, Pirelli established a joint venture with Shandong Roadone Tyre, to create Pirelli Tyre Ltd. (China), with Pirelli possessing a 60-percent stake. According to reports, the factory in Yangzhou City is capable of producing 1.2 million radial truck tires a year for the local market.[25] In 2007, Pirelli began producing passenger car tires destined for the domestic Chinese market and the main markets in the Asia-Pacific area. According to reports, Pirelli invested nearly $100 million in the factory, which is located in the same Shandong Province industrial park where it produces truck tires. The new plant focused on producing high-performance car tires and is said to have a manufacturing capacity of 3 million tires per year.[26] In 2008, Pirelli announced its plans to double capacity in China. By 2011, Pirelli will reportedly have the ability to make 11 million tires annually.[27]

Yokohama

Yokohama established its manufacturing presence in China when it established a joint venture with the Chinese tire maker, Hangzhou Rubber (Group) Co., creating the Hangzhou Yokohama Tire Co., Ltd. in 2001. The plant, which is located in Hangzhou City in Zhejiang Province, began producing radial tires for passenger cars in May 2003.[28] In 2006, Yokohama announced the establishment of its second plant in China. Suzhou Yokohama Tire Co., Ltd., an affiliate located in Suzhou City, began operations in 2007 producing steel radial tires for trucks and buses. Prior to the establishment of the plant, Yokohama exported its trucks and buses-use steel radial tires from Japan for use in the China market.[29]

Toyo

In 1993, Taiwan's Cheng Shin Rubber set up a subsidiary in China's Jiangsu province, which it called Cheng Shin Tire Co., Ltd.. Three years later, Toyo Tires, the Japanese tire maker, acquired a 30-percent stake in the subsidiary. Production began at the plant located in the Kun Shan Economic and

---

[23] *Michelin expands market with new environmental protection technology*, Entrepreneur, found at http://www.entrepreneur.com/tradejournals/article/95908106.html, retrieved on May 14, 2009.

[24] *Michelin to build world's largest tire base in China*, found at http://www.expansionmanagement.com/cmd/articledetail/articleid/19178/default.asp, retrieved on May 12, 2009, and *Michelin plans to expand capacity at two China plants*, found at http://www.aftermarketnews.com/Item/34503/michelin_plans_to_expand_capacity_at_two_china_plants.aspx, retrieved on May 14, 2009.

[25] *Pirelli's new China plant to start production*, Tire Business, found at http://www.tirebusiness.com/subscriber/international2.phtml?cat=7&id=1196197975, retrieved on May 14, 2009.

[26] *Pirelli begins production at new China plant*, found at http://www.manufacturing.net/Pirelli-Starts-Chinese-Production.aspx?menuid=766, retrieved on May 14, 2009.

[27] *Tire demand slows in China, but optimism reigns*, Rubber and Plastics News, found at http://rubberandplastics.texterity.com/rubberandplastics/20090126/?pg=12, retrieved on May 14, 2009.

[28] *Japan's Yokohama Rubber to produce tires in China*, People's Daily, November 2, 2001, found at http://english.peopledaily.com.cn/english/200111/02/eng20011102_83766.html, retrieved on May 14, 2009.

[29] Yokohama, "Suzhou Yokohama Tire holds groundbreaking ceremony for its plant in China," news release, August 24, 2006.

Technical Development Zone in 1997.[30] In 2003, Toyo established a joint venture in Shanghai called Toyo Tire (Shanghai) Co., Ltd.[31]

Operations in China

Aggregate data with respect to subject tires operations of the 35 responding firms in China are presented in table IV-3. Capacity to produce and production of the subject product in China increased by approximately 152.5 percent and 133.6 percent, respectively, during 2004-08. During the period for which data were collected, internal consumption, home market shipments, exports to the United States, and exports to other third-country markets also increased. The largest increase in absolute terms between 2004 and 2008 was exports to all other markets (40.6 million tires); exports to the U.S. market and shipments to the home market also increased by 33.8 million and 37.4 million tires, respectively.

Five Chinese producers reported producing other products on the same equipment and machinery used to produce subject tires; *** reported producing ***, *** reported producing ***, *** reported producing ***, *** reported producing ***, and *** reported producing other nonsubject tires ***.

[30] *Joint venture established for production of passenger car radials in China*, found at http://www.toyocanada.com/abouttoyo/china_plant_EN.asp, retrieved on May 14, 2009.

[31] Toyo company information, found at http://www.toyo-rubber.co.jp/english/company/enkaku.html, retrieved on May 15, 2009.

Table IV-3
Subject tires: Reported Chinese production capacity, production, shipments, and inventories, 2004-08, and projections for 2009 and 2010

Item	Calendar years					Projections	
	2004	2005	2006	2007	2008	2009	2010
Quantity (*1,000 units*)							
Capacity	93,153	118,062	147,990	201,825	235,172	258,445	272,622
Production	83,734	106,911	133,963	182,018	195,643	217,826	236,552
End-of-period inventories	9,081	11,528	12,281	14,660	17,191	17,743	17,813
Shipments:							
Internal consumption	785	1,191	2,580	5,151	3,261	2,687	2,739
Home market	39,677	45,983	55,750	71,646	77,114	93,582	104,736
Exports to--							
The United States[1]	14,117	19,417	29,105	46,371	47,916	52,356	55,888
All other markets	29,768	42,013	51,099	63,564	70,396	75,319	81,887
Total exports	43,885	61,430	80,203	109,935	118,312	127,675	137,775
Total shipments	84,348	108,605	138,533	186,731	198,687	223,944	245,250
Ratios and shares (*percent*)							
Capacity utilization	87.5	88.1	87.7	87.7	83.2	84.3	86.8
Inventories to production	10.8	10.8	9.2	8.1	8.8	8.1	7.5
Inventories to total shipments	10.8	10.6	8.9	7.9	8.7	7.9	7.3
Share of total quantity of shipments:							
Internal consumption	0.9	1.1	1.9	2.8	1.6	1.2	1.1
Home market	47.0	42.3	40.2	38.4	38.8	41.8	42.7
Exports to--							
The United States	16.7	17.9	21.0	24.8	24.1	23.4	22.8
All other markets	35.3	38.7	36.9	34.0	35.4	33.6	33.4
Total exports	52.0	56.6	57.9	58.9	59.5	57.0	56.2

[1] Staff notes that reported Chinese exports to the United States are larger than U.S. imports as reported in official Commerce statistics, presented in *Part II*.
Note.–*** provided projections for capacity and exports to the United States in 2010, *** only provided projections for capacity, *** did not provide projections for any data in 2010, and *** did not provide projections for ending inventories in 2009 and 2010. In this table, the data not provided were assumed to remain the same as those of the last year provided.

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

China's Export Markets

Information regarding China's export markets for motor car, truck, and bus tires under HTS six-digit subheadings 4011.10 and 4011.20 are presented in table IV-4 and figure IV-1.[32] The data are based on import records of China's trading partners.

The United States was the principal destination for China's exports of motor car, truck, and bus tires during the period of investigation. The share of China's exports of such tires where the United States was the ultimate destination was 33.5 percent in 2004 and 37.4 percent in 2008. Other large export markets during 2008 were the United Kingdom (6.0 percent of total exports), the United Arab Emirates (3.9 percent), South Korea (3.1 percent), and Australia (2.9 percent). Average unit values of exports to the United States were generally higher than those of exports to Europe (specifically Belgium, Germany and the United Kingdom) and South Korea.

China increased the value added tax ("VAT") rebate on tire exports from five percent to nine percent, effective December 1, 2008.[33]

[32] HTS subheading 4011.10 is a broader tariff classification that includes other products that are not subject to this investigation. Specifically, new pneumatic tires, of rubber, used on racing cars, covered under HTS subheading 4011.10, as well as tires used on buses and trucks that are not light trucks, reported under HTS subheading 4011.20, are not subject to this investigation.

[33] "MOF releases details about VAT rebate," China Internet Information Center, found at http://www.china.org.cn/video/2008-11/18/content_16784101.htm, retrieved on May 14, 2009.

Table IV-4
Motor car, truck, and bus tires:[1] China's exports to major trading partners, 2004-08

Destination	Calendar year				
	2004	2005	2006	2007	2008
	Quantity (*1,000 tires*)				
United States[2]	23,061	32,163	41,461	54,956	56,067
United Kingdom	3,930	4,352	6,095	8,728	8,951
United Arab Emirates	3,319	3,633	3,918	5,119	5,906
South Korea	771	1,996	3,264	3,974	4,693
Australia	1,530	2,143	2,811	3,907	4,395
Belgium	2,105	2,564	3,391	4,927	4,076
Germany	1,862	2,804	3,824	4,301	3,825
Brazil	337	1,012	1,891	2,582	3,625
All other	31,832	41,123	44,453	55,702	58,267
Total	68,748	91,792	111,108	144,195	149,805
	Value ($*1,000*)				
United States[2]	$692,551	$1,168,699	$1,643,405	$2,082,853	$2,185,209
United Kingdom	80,031	101,193	162,884	256,924	269,094
United Arab Emirates	98,209	131,796	176,445	224,501	313,724
South Korea	37,513	50,714	71,389	90,888	121,535
Australia	68,291	99,372	133,569	193,771	233,492
Belgium	50,383	64,090	91,016	135,543	122,328
Germany	35,302	62,243	91,156	125,024	128,009
Brazil	11,224	38,820	61,745	102,816	182,470
All other	1,048,380	1,565,961	1,923,122	2,748,015	3,344,375
Total	2,121,882	3,282,889	4,354,732	5,960,336	6,900,234

Table continued on next page.

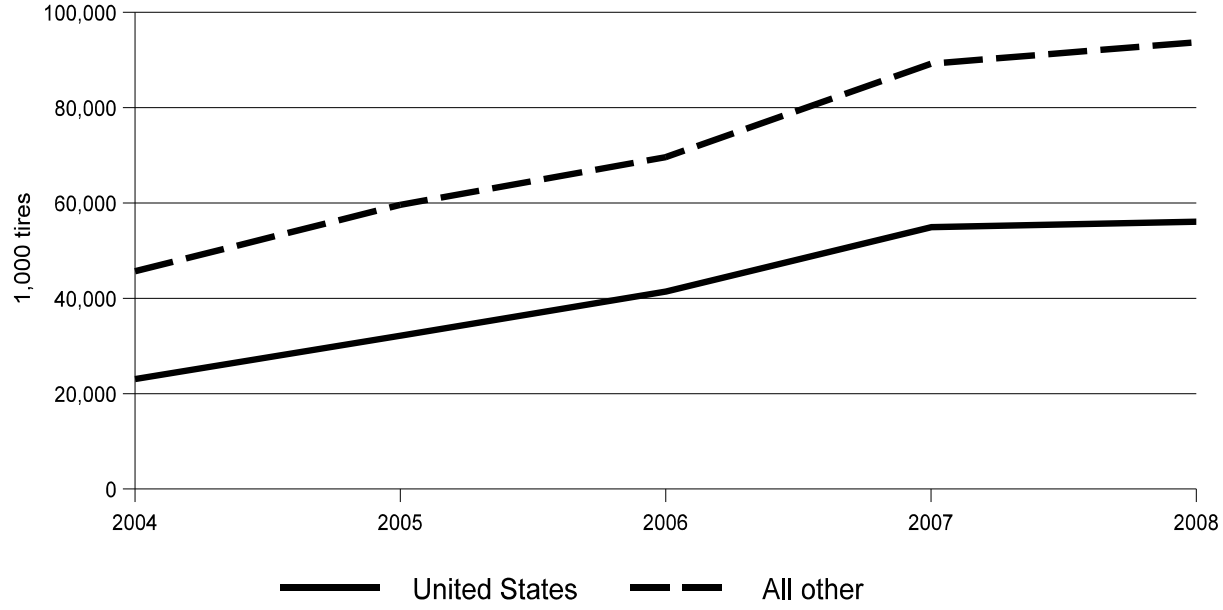
Table IV-4--*Continued*
Motor car, truck, and bus tires:[1] China's exports to major trading partners, 2004-08

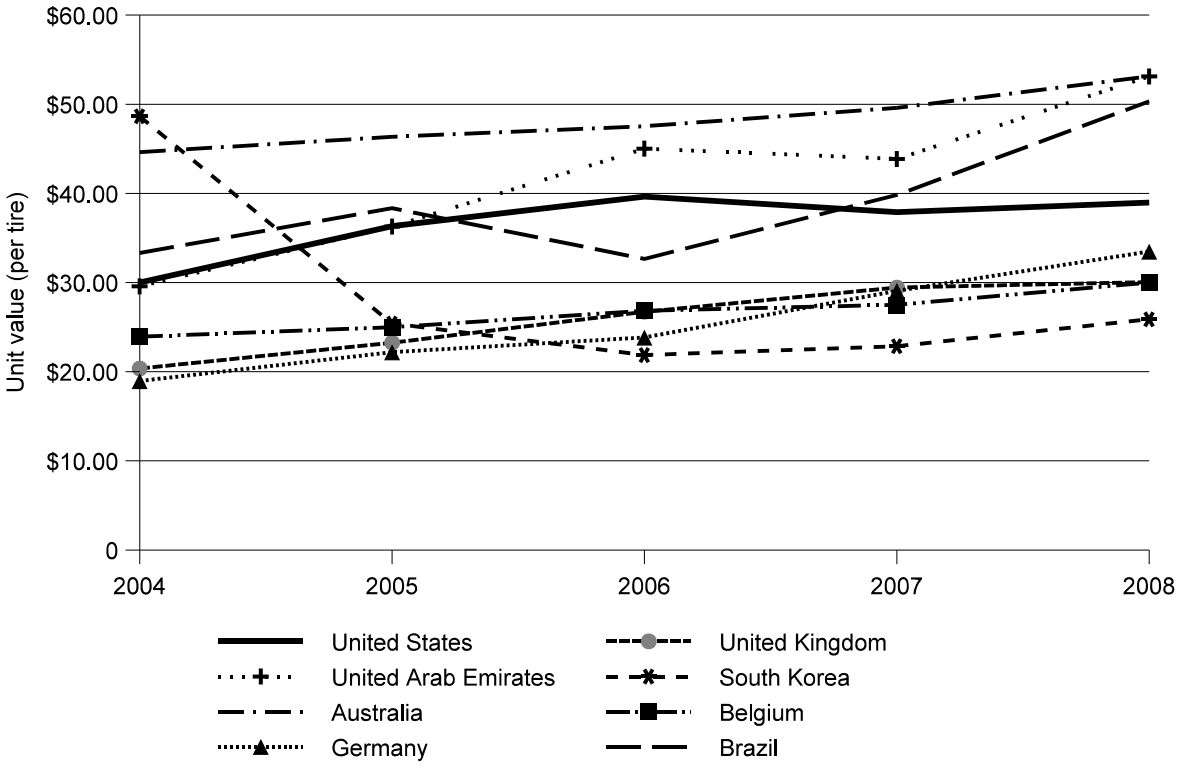
Destination	Calendar year				
	2004	2005	2006	2007	2008
	Unit value (*per tire*)				
United States[2]	$30.03	$36.34	$39.64	$37.90	$38.98
United Kingdom	20.36	23.25	26.72	29.44	30.06
United Arab Emirates	29.59	36.28	45.03	43.86	53.12
South Korea	48.64	25.41	21.87	22.87	25.89
Australia	44.63	46.36	47.52	49.59	53.13
Belgium	23.94	24.99	26.84	27.51	30.01
Germany	18.95	22.20	23.84	29.07	33.47
Brazil	33.31	38.35	32.65	39.83	50.34
All other	32.93	38.08	43.26	49.33	57.40
Average	30.86	35.76	39.19	41.34	46.06
	Shares of quantity (*percent*)				
United States[2]	33.5	35.0	37.3	38.1	37.4
United Kingdom	5.7	4.7	5.5	6.1	6.0
United Arab Emirates	4.8	4.0	3.5	3.6	3.9
South Korea	1.1	2.2	2.9	2.8	3.1
Australia	2.2	2.3	2.5	2.7	2.9
Belgium	3.1	2.8	3.1	3.4	2.7
Germany	2.7	3.1	3.4	3.0	2.6
Brazil	0.5	1.1	1.7	1.8	2.4
All other	46.3	44.8	40.0	38.6	38.9
Total	100.0	100.0	100.0	100.0	100.0

[1] Includes an undetermined number of tires that are not subject to this investigation. HTS subheading 4011.10 is a broader tariff classification that includes other products that are not subject to this investigation. Specifically, new pneumatic tires, of rubber, used on racing cars are covered under HTS subheading 4011.10. In addition, tires used on buses and trucks that are not light trucks, reported under HTS subheading 4011.20, are not subject to this investigation.
[2] Includes Puerto Rico.

Source: Global Trade Atlas, importer records (HTS subheadings 4011.10 and 4011.20).

Figure IV-1
Motor car, truck, and bus tires: China's exports to major trading partners, 2004-08





Source: Table IV-4.

U.S. IMPORTERS' INVENTORIES

Data on U.S. importers' inventories of subject tires are presented in table IV-5. U.S. importers' inventories of subject tires from China increased in each year during 2004-08. Inventories of subject tires from all other sources also increased, albeit irregularly. The ratio of inventories of subject tires from China to imports of subject tires from China increased irregularly between 2004 and 2008, as did all other ratios between 2004 and 2008.

Table IV-5
Subject tires: U.S. importers' end-of-period inventories of imports, 2004-08

Item	Calendar year				
	2004	2005	2006	2007	2008
Imports from China:					
Inventories (*1,000 units*)	2,091	3,031	4,914	6,273	9,099
Ratio to imports (*percent*)	20.1	18.5	18.8	16.5	21.1
Ratio to U.S. shipments of imports (*percent*)	21.4	19.7	20.4	17.2	22.9
Imports from all other sources:					
Inventories (*1,000 units*)	15,762	16,364	16,726	15,382	18,700
Ratio to imports (*percent*)	17.2	17.2	17.4	17.0	22.0
Ratio to U.S. shipments of imports (*percent*)	18.7	18.8	18.5	17.4	23.7
Imports from all sources:					
Inventories (*1,000 units*)	17,853	19,395	21,640	21,655	27,799
Ratio to imports (*percent*)	17.5	17.4	17.7	16.8	21.7
Ratio to U.S. shipments of imports (*percent*)	19.0	18.9	18.9	17.4	23.5

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

U.S. IMPORTS AFTER DECEMBER 31, 2008

The Commission requested importers to indicate whether they imported or arranged for the importation of subject tires from China after December 31, 2008. Thirteen importers responded in the affirmative; two reported they import on an on-going basis throughout the year, but did not provide quantities, and the remaining eleven importers reported a total of 5.3 million subject tires from China, as presented in the following tabulation. The five importers reporting the largest total imports were ***.

Item	2009			
	January-March	April-May	June-September	October-December
Quantity (*1,000 tires*)	3,454	1,223	306	277

IMPORT RESTRICTIONS OR REMEDIES IN OTHER COUNTRIES

Subject tires from China have not been subject to any import relief investigations in the United States, but are subject to antidumping measures in Brazil and Egypt.[34]

U.S. producers and importers were asked if the U.S. market for subject tires has been the focal point for diversion of exports of subject tires, by reason of restraints on exports to or imports into third-country markets of subject tires. Seven U.S. producers (***) responded "No", while three U.S. producers (***) reported that they were either unable to determine or not in a position to answer. Thirty-one importers reported "No,"[35] while two importers (***) responded that they were not in a position to respond, and one importer (***) reported that it was unknown.

THE GLOBAL TIRE INDUSTRY

The global tire industry is made up of large multinational producers that are active throughout the world, with plants located in both the developed and developing nations. The most recent production and sales data, by company and country, available from any one data source are presented in table IV-6 and table IV-7, respectively. Regionally, the European passenger car and light truck tire market remains the largest world market, by volume, accounting for an estimated 32 percent of global sales in 2008.[36] The North American market accounted for an estimated 29 percent of world sales, while the Asian market accounts for approximately 28 percent.[37]

[34] Petition, p. 19.

[35] *** noted that "***." *** reported that ***. *** and *** responses to the U.S. importers' questionnaire, section II-6.

[36] Michelin, *Factbook 2009,* retrieved on June 1, 2009 from http://www.michelin.com/corporate/front/templates/affich.jsp?codeRubrique=20050310113052&lang=EN.

[37] Ibid.

Table IV-6
Tires: Global passenger and light truck tire production, by firm, 2006-07

2007 Rank	Firm and headquarters location	Estimated value of tire sales (*$million*)		Share of global sales (*percent*)
		2006	2007	2007
1	Group Michelin, Clermont-Ferrand, France	19,300	21,750	17.1
2	Bridgestone Corp., Tokyo, Japan[1]	19,400	21,500	16.9
3	Goodyear Tire & Rubber Co., Akron, OH[2]	18,000	18,900	14.9
4	Continental A.G., Hanover, Germany[3]	6,800	7,500	5.9
5	Pirelli & C. S.p.A., Milan, Italy	4,956	5,693	4.5
6	Sumitomo Rubber Industries Ltd., Kobe, Japan[2]	3,703	4,062	3.2
7	Yokohama Rubber Co. Ltd., Tokyo, Japan	3,186	3,672	2.9
8	Hankook Tire Co. Ltd., Seoul, South Korea	3,110	3,466	2.7
9	Cooper Tire & Rubber Co., Findlay, OH	2,676	2,933	2.3
10	Kumho Tire Co. Inc., Seoul, South Korea	2,448	2,604	2.1
11	Toyo Tire & Rubber Co. Ltd., Osaka, Japan	1,867	2,208	1.7
12	Maxxis International/Cheng Shin Rubber, Yuanlin, Taiwan	1,481	2,121	1.7
13	GITI Tire Co. Ltd., Singapore	1,424	1,792	1.4
14	Triangle Group Co. Ltd., Shandong, China	900	1,300	1.0
15	Hangzhou Zhongce Rubber Co. Ltd., Hangzhou, China[4]	1,082	1,295	1.0
	Subtotal	90,333	100,795	79.4
	Others	22,193	26,205	20.6
	Total	112,525	127,000	100.0

Table footnotes appear on next page.

Table IV-6--*Continued*
Tires: Global passenger and light truck tire production, by firm, 2006-07

[1] Bridgestone also owns 19 percent of Finland's Nokian Tyres P.L.C. (number 16 on 2008 ranking) and 44 percent of Turkey's BRISA/Bridgestone-Sabanci Tire Mfg. (number 30).
[2] Goodyear and Sumitomo operate 75/25 joint ventures in North America and western Europe, incorporating Sumitomo's Dunlop tire activities in those regions.
[3] Continental acquired a 51-percent ownership of Slovak Republic's Matadador A.S. ($385 million tire-related sales) during the second quarter of 2007.
[4] This company formerly was part of China Enterprises Ltd.

Note: Where possible, non-tire revenue from company-owned retail operations is excluded.

Source: Rubber News.

Table IV-7
Tires:[1] Passenger and light truck tire production by country, 2005-06

Country	2005	2006	Change 2005-06
	Quantity (*1,000 tires*)		(*percent*)
China	154,500	205,500	33.0
United States	158,729	176,500	11.2
Japan	134,802	134,594	-0.2
South Korea	65,655	65,231	-0.6
Germany	67,575	63,900	-5.4
France	52,800	54,000	2.3
Brazil	29,622	29,212	-1.4
All other	270,831	263,834	-2.6
Total	934,514	992,771	6.2

[1] Data for some countries, including China, are estimated and include truck & bus tires.

Source: Rubber News (International Rubber Study Group; Rubber Manufacturers Association; Japan Automobile Tire Manufacturers Association; Korea Tire Manufacturers Association; Rubber Association of Canada; National Tire Industry Association-Brazil; Consorcio Nacional de Industriales del Caucho-Spain; Automobile Tyre Manufacturers Association-India).

The shares of the 2008 world market, by tire size and speed rating,[38] are shown in the following tabulation.[39]

Item	Share of 2008 world market *(percent)*
Rim Diameter:	
Less than or equal to 13"	15
14"	18
15"	26
16"	26
Greater than or equal to 17"	15
Speed Rating:	
Recreational	16
Commercial	10
Winter	10
VZ	15
H	18
ST	31

Although the demand for the subject tires is declining in most world markets, particularly in North America and Europe, the decline is reported to be less pronounced in China and South America. In China, demand for replacement tires was reported to have increased in late 2008 and early 2009.[40] As a result of the declining demand in certain markets, production is being shifted by multinationals to serve the markets in which demand is expected to grow. For example, Pirelli is planning on cutting 1,500 jobs in Europe and moving production to lower cost plants; Pirelli is reported to be weathering the demand slump for tires better than other firms owing to its strong presence in South America and China.[41]

[38] A tire's speed rating represents the maximum recommended serviceable speed that a specific tire should be driven. The speed rating is determined by manufacturer testing to meet the minimum standards as specified by the U.S. Department of Transportation (DOT) for reaching and sustaining a specific speed level. The rating codes described in the tabulation are: ST - Special trailer tires that are rated for speeds up to 65 mph, H - Passenger car tires that are rated for speeds up to 130 mph, VZ - Passenger car tires that are rated for speeds up to and greater than 186 mph. Recreational tires are specifically designed for SUV, 4-WD and Crossover vehicles, Winter tires are designed for traction in winter weather, and Commercial tires are those tires designed for use on light trucks.

[39] Michelin, *Factbook 2009*, op. cit.

[40] Rubber News, *Michelin: N.A., European tire demand fell in January,* February 26, 2009, found at http://www.globaltirenews.com/headlines2.html?id=1235680558, retrieved on May 18, 2009.

[41] Rubber News, *Pirelli to shift production, cut jobs in Europe,* February 12, 2009, found at http://www.globaltirenews.com/headlines2.html?id=1234448982, retrieved on May 18, 2009.

Overall, the global tire producers are expected to commit to spending nearly $10 billion on capital projects, including new plants, expanded capacity, and plant modernizations.[42] More than half of the planned capital expenditures are expected from two companies, Michelin and Goodyear. The largest portion of the total planned expenditures is targeted for Europe, followed by projects in Asia and then North America.[43]

[42] Rubber News, *Tire makers still bullish on spending*, September 8, 2008, found at http://www.rubbernews.com/subscriber/features2.html?cat=10&id=1220885450, retrieved on May 18, 2009.

[43] Ibid.

PART V: THE QUESTION OF THE CAUSAL RELATIONSHIP BETWEEN THE ALLEGED INJURY AND IMPORTS

U.S. MARKET PENETRATION OF IMPORTS

Data concerning apparent U.S. consumption and U.S. market shares of subject tires during 2004-08 are shown in table V-1 and figure V-1. U.S. producers' market share based on quantity decreased in each year during 2004-08, for an overall decrease of 13.7 percentage points. The market share of imports from China based on quantity increased in each year, for an overall increase of 11.9 percentage points (based on unrounded data); the market share of imports from all other sources increased in each year other than 2007, for an overall increase of 1.8 percentage points.

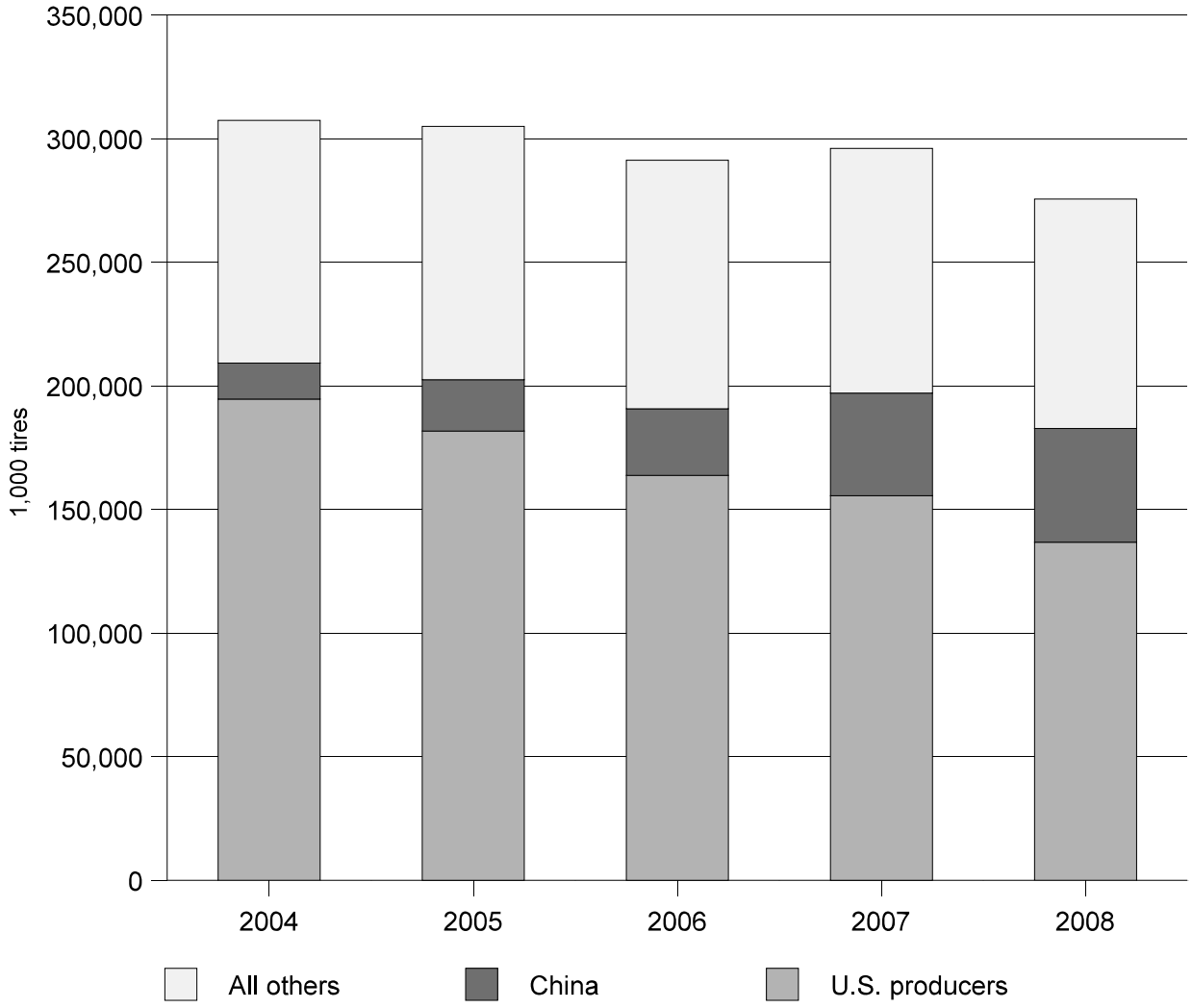
Table V-1
Subject tires: U.S. consumption and market shares, 2004-08

Item	Calendar year				
	2004	2005	2006	2007	2008
	Quantity (*1,000 tires*)				
Apparent U.S. consumption	307,484	304,970	291,420	296,091	275,702
	Value (*1,000 dollars*)				
Apparent U.S. consumption	13,845,818	14,808,616	15,238,721	16,502,706	16,460,066
	Share of quantity (*percent*)				
U.S. producers' U.S. shipments	63.3	59.6	56.2	52.6	49.6
U.S. imports from--					
China	4.7	6.8	9.3	14.0	16.7
All other sources	31.9	33.6	34.5	33.4	33.7
All countries	36.7	40.4	43.8	47.4	50.4
	Share of value (*percent*)				
U.S. producers' U.S. shipments	68.1	64.1	62.2	60.4	57.9
U.S. imports from--					
China	3.3	4.7	6.1	9.0	10.9
All other sources	28.7	31.2	31.7	30.6	31.2
All countries	31.9	35.9	37.8	39.6	42.1

Note.–Because of rounding, figures may not add to the totals shown.

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

Figure V-1
Subject tires: Apparent U.S. consumption, by sources, 2004-08



Source: Table I-6.

Information concerning the ratio of imports to U.S. production of subject tires is presented in *Part II* of this report.

PRICES AND RELATED INFORMATION

Channels of Distribution

Subject tires are primarily sold to the replacement market. According to data from the Rubber Manufacturers Association, about 85 percent of all U.S. shipments in 2008 of subject tires went to the replacement market.[1] As shown in table V-2, in each period, over three-fourths of shipments of U.S. product and imports from countries other than China were to the replacement market and almost all of the remaining shipments were made to OEMs. Also, in each period, 92 percent or more of U.S shipments of imports from China were to the replacement market and the remaining shipments were made to OEMs. Table V-3 shows the channels of distribution for U.S. producers' and U.S. importers' U.S. shipments. Shipments for U.S. importers were constructed from the shares of quantity to each channel of distribution based on importer questionnaire responses and official U.S. import statistics.

Table V-2
Subject tires: U.S. producers' and U.S. importers' U.S. shipments, by channels of distribution, 2004-08

Item	Calendar year				
	2004	2005	2006	2007	2008
	Shares of U.S. shipments (*percent*)				
U.S. producers:					
Original equipment manufacturers	23.3	22.0	20.8	20.0	17.7
Replacement market	76.7	78.0	79.2	80.0	82.3
Other	0.0	0.0	0.0	0.0	0.0
Imports from China:					
Original equipment manufacturers	0.8	3.6	7.3	4.9	5.0
Replacement market	99.2	96.4	92.7	95.1	95.0
Other	0.0	0.0	0.0	0.0	0.0
Imports from other countries:					
Original equipment manufacturers	20.0	21.4	22.0	23.2	21.9
Replacement market	78.9	77.8	77.3	75.7	77.3
Other	1.0	0.9	0.7	1.1	0.7

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

[1] RMA factbook 2009, p. 3. (*See* petition, p. 21 and exh. 5.)

Table V-3
Subject tires: U.S. producers' U.S. shipments and U.S. importers' constructed U.S. shipments, by channels of distribution, 2004-08

Item	Calendar year				
	2004	2005	2006	2007	2008
	Quantity (*1,000 tires*)				
U.S. producers:					
Original equipment manufacturers	45,351	40,075	34,090	31,090	24,211
Replacement market	149,380	141,680	129,724	124,585	112,614
Other	0	0	0	0	0
Imports from China:					
Original equipment manufacturers	121	751	1,961	2,029	2,281
Replacement market	14,453	20,040	25,045	39,474	43,694
Other	0	0	0	0	0
Imports from other countries:					
Original equipment manufacturers	19,660	21,875	22,115	22,992	20,387
Replacement market	77,499	79,672	77,799	74,870	71,854
Other	1,021	877	687	1,051	661

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

Market Segmentation

Both petitioner and respondents agree that the subject tire market is segmented between the OEM and replacement markets. However, respondents argue that the replacement market is further segmented into specific categories that command different prices. Respondents indicate that the market can generally be categorized into the premier and economy segments, although the labeling for market segments vary among producers and importers.[2] They state that the premier market consists of two parts or tiers, with Tier 1 as a market segment with flagship brands such as Bridgestone, Goodyear, and Michelin and Tier 2 as a market segment with secondary or former Tier 1 brand tires such as BF Goodrich, Uniroyal, and General, or foreign brands, such as Pirelli, that are flag brands in their own country but do not yet have the brand equity in the United States to be Tier 1 brands.[3] Respondents characterize a Tier 3 market segment with economy or mass-market tires that consist of private brands

[2] CCCMC respondents' brief, p. 6.

[3] Ibid.

and lower level "associate" brands owned by major producers.[4] While respondents categorize most private brand tires as Tier 3 tires, they stated that there is some private label production in Tier 2.[5]

A case study on the global tire industry in 2004 indicated that U.S. producers sold tires under good/better/best brand names in the U.S. market.[6] For Michelin the good/better/best brands were its Uniroyal, BF Goodrich, and Michelin brands respectively, and for Bridgestone these brands were its Firestone, Dayton, Bridgestone brands respectively.[7] The study indicated that Goodyear lacked a middle-market brand but would soon have Sumitomo's Dunlop brand.[8]

Respondents indicate that the main reasons that tires in the Tier 3 market segment are less expensive is that no money is spent to build brand recognition and because the tires tend to be purchased for older vehicles.[9] Respondents also indicate that there are also some differences between the various tiers in raw material inputs and the degree of technological development, including differences in traction capabilities, higher UTQG system gradings, and mileage warranties, but that all segments of the subject tire market meet the same U.S. safety and quality standards and there are no "bright lines" between market segments.[10]

The petitioner claims that there is no clear definition of market segments in the replacement market for subject tires and that there is competition among all brands.[11] It states that there is a continuum of prices within premium and so-called associate brands[12] and that differences exist within the same flagship brand, signifying a good/better/best segmentation even among brands.[13] The petitioner also indicates that private brand tires often are confused with associate brands and low-cost imports, and sometimes even major brands by tire dealerships.[14]

A supplemental questionnaire was sent to all U.S. producers of subject tires and the largest 26 importers of subject tires from China to gather additional information about market segmentation, category descriptions used at each firm, and, if such segments/categories do exist, whether the U.S. market for subject tires has shifted between the three categories between 2004 and 2008. Supplemental questionnaire responses were received from all U.S. producers and 25 of the largest importers. Responses are presented in appendix D. The supplemental questionnaire data indicate that most of the responding firms believe that the subject tire market is generally segmented into three categories; however, the responses illustrate that there is no consensus on terminology used to define those segments. Five of the responding importers reported that the U.S. subject tire market cannot be segmented. Fifteen importers

---

[4] Ibid.

[5] Hearing transcript, p. 362 (Keeler), GITI posthearing brief, p. 6.

[6] Riad A. Ajami, Karel Cook, G. Jason Goddard, and Dara Khambata, International Business: Theory and Practice, (2nd ed.; published by M.E. Sharpe, 2006), "Case Study 1: The Global Tire Industry and Michelin in 2004," p. 407.

[7] Ibid.

[8] Ibid.

[9] Hearing transcript, p. 281 (Berra) and p. 272 (Mayfield).

[10] Hearing transcript, pp. 275-276, 281 (Berra) and pp. 272-273 (Mayfield), hearing transcript, pp. 360-61 (Trossevin).

[11] Petitioner's prehearing brief, p. 7, and posthearing brief, p. 1.

[12] Hearing transcript, p. 188 (Stewart).

[13] The petitioner cites exhibit 24 of its petition in which two flagship brand products, the Goodyear Eagle LS and Goodyear Integrity with the same size of 225/60R16 and same service description of 97S, are sold at different prices. Hearing transcript, pp. 98-99 (Stewart).

[14] Petitioner's posthearing brief, p. 1 and p. 41, Modern Tire Dealer, "Brands of confusion," May 1, 2008.

reported that the market is indeed segmented, generally on brands, with all 15 reporting major, flagship, or premium brands as category 1; 14 describing category 2 as secondary, associate, or foreign producer brands; and 13 describing category 3 as private label, mass-market, lesser known brands, or nonbranded. Most of these importers agreed on what type of brand was in category 1, although there was less agreement as to what was included in category 2 and category 3. For example, three importers placed "associate brands" in category 2, while three placed them in category 3. There was a wide range of estimated shares represented by each category.

Of the four largest U.S. producers, two, ***, reported that the U.S. subject tire market is segmented along brands with 65-70 percent in category 1, approximately 10 percent in category 2, and around 25 percent in category 3. *** reported that there was no consensus in the marketplace on how to divide the U.S. market and *** reported that the U.S. market is segmented based using price.

Modern Tire Dealer reports that between 2006 and 2008, the share of tires sold under a major brand name decreased from 73.0 percent to 72.6 percent and the share of tires sold under a private brand label fell from 17.0 percent to 14.1 percent.[15]

Eighteen firms, including all but two U.S. producers, ***, reported that there was a shift in the U.S. market for subject tires among the three categories, with a shift towards value tires in category 3 being the most common occurrence cited (by five firms). Six firms noted that the U.S. producers had shifted away from production of category 3 tires, while several of these firms noted that imports from China had increased in category 3. Five firms reported that there had been no shift in the U.S. market for subject tires.

Six U.S. producers reported that there was a shift in their firm's U.S. production of subject tires, three reporting an increase in category 1, three reporting a decline in category 3, and two noting that they produce according to market demand. Four U.S. producers, ***, reported that there was no shift in their firm's U.S. production of subject tires.

Two firms, ***, reported that their firm's U.S. imports of subject tires from China had shifted among the three categories between 2004 and 2008. *** noted that it had *** while *** reported that its imports of subject tires from China had ***. Twenty-one firms reported that their firm's imports of subject tires from China had not changed between 2004 and 2008.

Six firms, including ***, reported that their firm's U.S. imports of subject tires from all other sources had shifted among the three categories between 2004 and 2008. Three firms noted a decline in the imports of category 3 during 2004-08. Seventeen firms reported that their firm's imports of subject tires from all other sources had not changed between 2004 and 2008.

Respondents cite a Modern Tire Dealer article that states that most flagship brands held their market share in 2008 because they don't compete against low-cost radials. Associate and private brands lost market share, but some companies with production bases in China still benefitted.[16] The same article states that U.S. producers have put more emphasis on their ultra-high performance, touring, and winter tire offerings during the last few years and that by focusing on the production of higher-value tires, and leaving low-cost radial production to overseas manufacturers, they can increase sales and improve profitability.[17] Michelin indicates that there have been some dramatic shifts in the past in Tier 2 and 3 brands—involving lower-profile brands, such as BF Goodrich and Yokohama, and emerging brands from

[15] Modern Tire Dealer, "No smoke or mirrors," January 2009.

[16] CCCMC respondents' prehearing brief, p. 18; Modern Tire Dealer, "No smoke or mirrors," January 2009, p. 24.

[17] Modern Tire Dealer, "No smoke or mirrors," January 2009, p. 22.

China and elsewhere—but it does not see private and associate brands growing significantly.[18] Len Lewin, President of American Car Care Centers, a large U.S. private brand tire marketer, also stated that there has been a significant shift away from private brands by a number of major tire manufacturers in the past few years and that he expects the trend to continue.[19] Goodyear also states in its 2008 10-K Report that it made the decision to exit certain segments of the private label tire business in June 2006.[20]

Supply Considerations

Domestic Production

Based on available information, U.S. producers have the ability to respond to changes in demand with moderate changes in the quantity of shipments of U.S.-produced subject tires supplied to the U.S. market. The main factors contributing to the moderate degree of responsiveness of supply are the availability of some unused capacity and some ability to produce alternate products; supply responsiveness is constrained by a limited ability to divert shipments from alternate markets and a somewhat limited ability to use inventories to increase shipments to the U.S. market.

Industry capacity

Capacity utilization for U.S. producers decreased from 96.3 percent in 2004 to 86.0 percent in 2008. This level of capacity utilization indicates that the U.S. producers have some unused capacity with which they could increase production of subject tires in the event of a price change.

Alternative markets

Exports by U.S. producers, as a share of total shipments, increased from 12.3 percent in 2004 to 14.1 percent in 2008. These data indicate that U.S. producers have a somewhat limited ability to divert shipments to or from alternative markets in response to changes in the price of subject tires.

Inventory levels

The ratio of U.S. producers' end-of-period inventories to their total shipments increased from 9.9 percent in 2004 to 13.6 percent in 2008. These data indicate that U.S. producers have a somewhat limited ability to use inventories as a means of increasing shipments of subject tires to the U.S. market.

Production alternatives

Four of nine responding producers indicated that they produce other products on the same equipment and machinery used in the production of subject tires. *** indicated that it produces commercial tires, off-the-road tires, and motorcycle tires with about *** percent of the same machinery used to produce subject tires, and *** indicated that it uses *** percent of the same machinery used to

[18] Tire Business, "Michelin brand strong despite the recession, executives say," May 11, 2009.

[19] Modern Tire Dealer, "Private brand Q&A: ACCC's Lewin discusses the private brand 'squeeze'," May 14, 2009.

[20] Goodyear 2008 10-K, p. 33 and p. 43.

produce subject tires to produce nonsubject tires. Therefore, U.S. producers have some ability to produce alternative products.

Subject Imports

Based on available information, Chinese producers have the ability to respond to changes in demand with moderate changes in the quantity of shipments of subject tires to the U.S. market. The main factors contributing to the moderate degree of responsiveness of supply for Chinese producers are the ability to divert shipments from alternate markets, the availability of some unused capacity, and some ability to produce alternate products; responsiveness is constrained by a limited ability to use inventories to increase shipments to the U.S. market.

Industry capacity

During the period for which data were collected, the capacity utilization rate for Chinese producers of subject tires decreased irregularly from 87.5 percent in 2004 to 83.2 percent in 2008. These levels of capacity utilization indicate that Chinese producers have some unused capacity with which they could increase production of subject tires in the event of a price change.

Alternative markets

Shipments of subject tires from China to markets other than the United States (both exports to alternative markets and shipments to their home market) decreased from approximately 82.3 percent of total shipments in 2004 to 74.2 percent in 2008. Thus, available data indicate that subject producers in China have the ability to divert shipments to or from their home market and alternative markets in response to changes in the price of subject tires.

Inventory levels

Chinese producers' inventories, as a share of their total shipments, decreased from 10.8 percent in 2004 to 8.7 percent in 2008. These data indicate that Chinese producers have a somewhat limited ability to use inventories as a means of increasing shipments of subject tires to the U.S. market.

Production alternatives

Five of 36 responding subject Chinese producers indicated that they produce other products on the same equipment and machinery used in the production of subject tires. Three Chinese producers (***) reported they also produce products such as spare tires, trailer tires, off-the-road tires, and forklift tires with up to 30 percent of the same machinery used to produce subject tires. One Chinese producer (***) reported that it also produces other products on about *** percent of the same machinery used to produce subject tires. One Chinese producer (***) reported that it also produces light truck bias-ply tires on an unspecified percent of the same machinery used to produce subject tires. Therefore, Chinese producers are believed to have a limited ability to produce alternative products.

Nonsubject Imports

Subject tires were imported from a large number of nonsubject countries during the period for which data were collected. Imports of the subject product from nonsubject countries as a share of the quantity of apparent U.S. consumption increased from 31.9 percent in 2004 to 33.7 percent in 2008.

Demand Considerations

Based on available information, it is likely that changes in the price of subject tires will result in a small change in the quantity of subject tires demanded. The main factors contributing to the small degree of responsiveness of demand to changes in the price of subject tires are the limited substitutability of other products for subject tires and the low cost share of subject tires in the total cost of passenger vehicles and light trucks.

Demand Characteristics

Demand for subject tires depends on changes in the numbers of new passenger vehicles and light trucks produced in the United States and changes in the number of existing passenger vehicles and light truck that need replacement tires. The RMA reported that a decrease in miles traveled, consumers trying to get more miles out of their current passenger car tires, and the weak economy contributed to a decrease in demand for replacement market subject tires during 2008.[21] It also reported that decreases in domestic passenger car production decreased the demand for OEM tires for passenger cars in 2008, and the increased demand for vehicles with high fuel economy, a shift to P-metric passenger car tires, and increased market share of imported light trucks led to a decrease in demand for OEM tires for light trucks in 2008.[22] RMA reported that it expects demand for replacement and OEM market passenger vehicle and light truck tires to decrease in 2009, but to increase in 2010 due to expected fluctuations in the economy.[23]

Figure V-2 shows that passenger vehicles and light trucks in use in the U.S. market have increased by about 7 percent between 2004 and 2007, with a 2-percent increase for passenger vehicles and a 14-percent increase for light trucks. Figure V-3 shows that the median age of passenger cars increased by 6 percent and that the average age of light trucks increased by 17 percent between 2004 and 2008. Figure V-4 shows that U.S. production of passenger vehicles and light trucks has decreased by 27 percent, with about an 11-percent decrease for passenger vehicles and a 37-percent decrease for light trucks between 2004 and 2008.

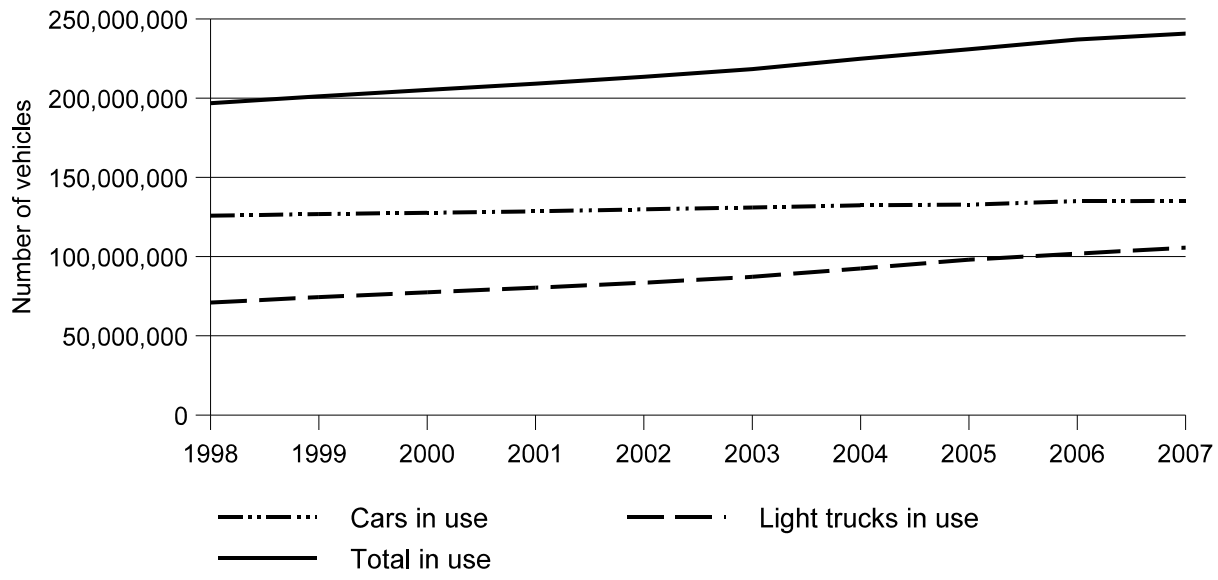
Seven of eight responding U.S. producers and three of 26 responding importers indicated that demand for subject tires in the U.S. market has decreased since 2004. Reasons cited for the decrease in demand included the downturn in the economy, lower vehicle production, fewer miles being driven, over-stretched tire life, and more radial tire use. However, 21 of 26 responding importers and the remaining responding producer indicated that demand in the U.S. market has increased since 2004. Reasons cited for the increase included economic growth (particularly until 2008), an increased use in performance wheels, and the continued popularity of SUVs, light trucks, and crossover vehicles. Three of four responding producers and 16 of 20 responding importers indicated that demand for subject tires outside

[21] RMA press release, March 16, 2009.

[22] Ibid.

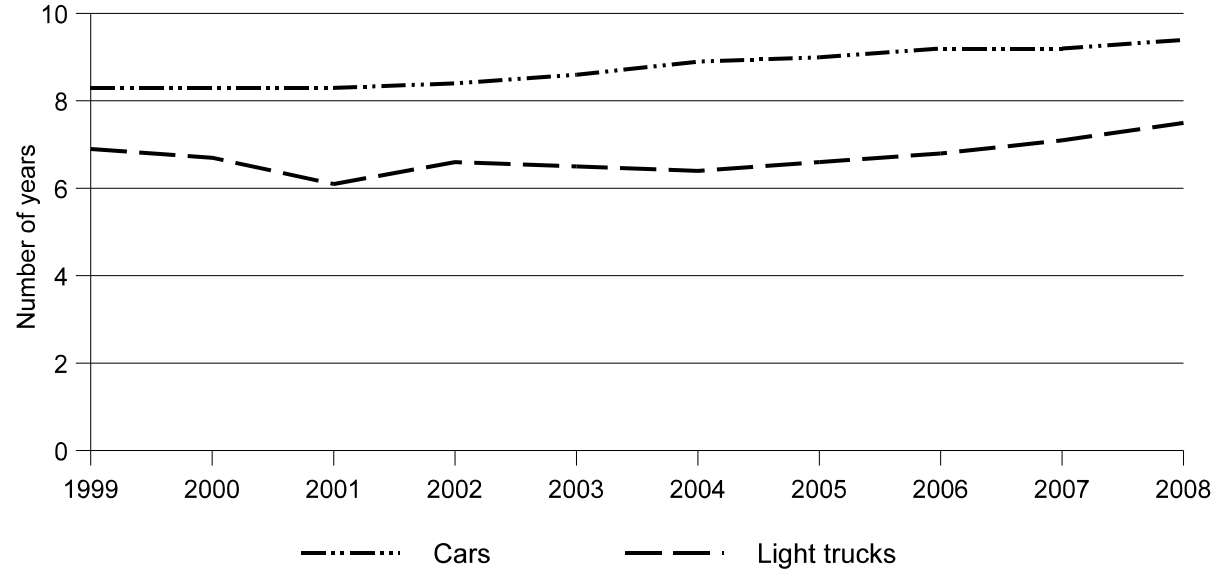
[23] RMA notes that its projection does not account for any changes to the auto industry as a result of federal intervention and/or bankruptcy. Ibid.

Figure V-2
U.S. passenger vehicle and light trucks in use, 1998-2007



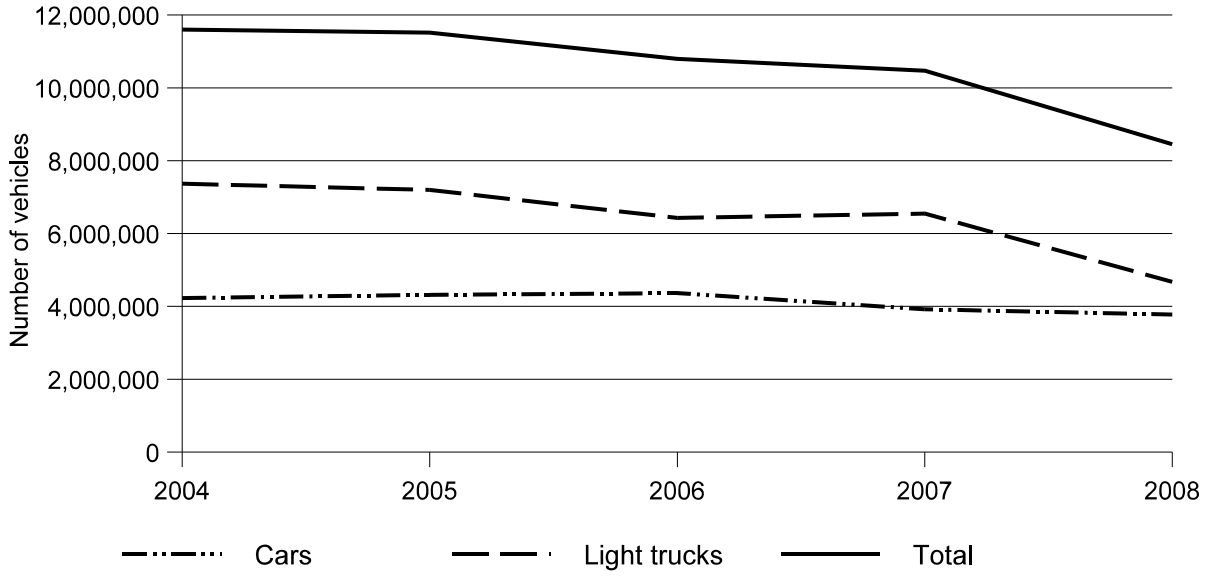
Source: R.L. Polk & Co. in Supplement to Automotive News, May 26, 2008. Reproduced with permission of R.L. Polk & Co. Reproduction in whole or in part is prohibited without written permission of R.L. Polk & Co.

Figure V-3
Median age of U.S. passenger vehicles and light trucks, 1999-2008



Source: R.L. Polk & Co., press release, March 9, 2009.

Figure V-4
U.S. passenger vehicle and light truck production, 2004-08



Source: Ward's AutoInfoBank.

the U.S. market has increased since 2004. Reasons cited for the increase in demand include the global economy, population growth, and vehicle production growth.

Substitute Products

All responding producers and all but one responding importer indicated that there are no substitutes for subject tires. However, the Tire Retread Information Bureau indicates that with proper maintenance, retreaded tires can be just as safe to use as new tires.[24] CCCMC respondents indicate that the real substitute for subject tires is deferring the purchase of new tires and that the low cost share of subject tires in the total cost of passenger vehicles and light trucks has a minor effect on demand since over 80 percent of sales subject tires are to the replacement market.[25]

Cost Share

Tires generally make up a small share of the final cost of passenger vehicles and light trucks. One importer (***) indicated that subject tires make up 4 percent of the final cost of a light truck and less than 1 percent of the cost of a passenger vehicle. Another importer (***) indicated that subject tires make up about one percent of the total cost of a light truck.

[24] For example, see http://www.retread.org/Government/index.cfm/ID/13.htm.

[25] CCCMC respondents' prehearing brief, p. 21.

Substitutability Issues

The degree of substitution between domestic and imported subject tires depends upon such factors as relative prices, quality (e.g., grade standards, reliability of supply, defect rates, etc.), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product services, etc.). Based on available data, staff believes that there is a high degree of substitutability between domestically produced subject tires and subject tires imported from China.

Factors Affecting Purchasing Decisions

Purchasers[26] report that they consider a variety of factors to be important when selecting among competing subject tires suppliers, including availability, price, and quality. As indicated in table V-4, quality was named by 18 of 30 responding purchasers as the number one factor generally considered in deciding from whom to purchase subject tires and the number two factor by six purchasers. Also, as indicated in table V-5, 30 of 31 responding purchasers indicated that quality meeting industry standards was a "very important" factor in their purchase decisions for subject tires and 18 of 31 responding purchasers indicated that quality exceeds industry standards is a "very important" factor in their purchase decisions. Quality characteristics that purchasers consider when determining the quality of subject tires include balance, uniformity of materials, durability, ride handling, braking ability, and tire noise. Several purchasers indicated that they consider whether tires meet U.S. DOT requirements; purchasers noted that to ensure quality, they rely on their own and third party tests of subject tires, references from other purchasers and suppliers, industry ratings, warranties provided, and historical returns for the tire and the supplier overall. When qualifying a new supplier, purchasers indicated that they consider factors such as quality, price, and availability. Purchasers estimate that it can take from one month to four years to qualify a new supplier.

Price was named by three of 30 responding purchasers as the number one factor generally considered in deciding from whom to purchase subject tires, as the number two factor by 10 responding purchasers, and as the number three factor by eight other responding purchasers. Also, as indicated in table V-5, 25 of 31 responding purchasers indicated that price was a "very important" factor in their purchasing decisions for subject tires. Twenty of 30 responding purchasers indicated that the lowest-priced subject tires "sometimes" will win a sale, six reported "usually," four reported "never," and no purchaser reported "always."

[26] Eleven firms indicated that they were purchasers of subject tires, but listed foreign producers as suppliers or otherwise indicated that they were direct importers of subject tires and not purchasers. These eleven firms are ***. Also, one firm (***) indicated that it only purchases a limited number of tires for vehicles in its corporate fleet. Staff interview with ***, May 21, 2009. These 12 firms' responses to the purchaser questionnaire were not included in this report.

Table V-4
Subject tires: Ranking of factors used in purchasing decisions, as reported by unrelated U.S. purchasers

Factor	Number of firms reporting		
	Number one factor	Number two factor	Number three factor
Availability	1	6	4
Brand	2	0	1
Delivery time	1	0	0
Performance	2	0	0
Price	3	10	8
Product consistency	0	3	1
Product range	0	1	4
Production capabilities	0	0	2
Quality	18	6	0
Reliability of supply	1	3	2
Support/service	0	0	3
Technology	0	0	2
Traditional supplier	1	0	0
Other[1]	2	1	3

[1] Other factors include “specifications match that of an OEM tire,” “warranty,” ”ability to expand product range,” “delivery,” and “automatic replenishment order cycle.”

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

Table V-5
Subject tires: Importance of factors used in purchasing decisions, as reported by U.S. purchasers

Factor	Number of firms reporting		
	Very important	Somewhat important	Not important
Availability	26	5	0
Delivery terms	13	16	2
Delivery time	27	4	0
Discounts	10	14	7
Extension of credit	5	15	11
Minimum quantity requirements	3	17	11
Packaging	1	11	19
Price	25	6	0
Product consistency	30	1	0
Product range	14	16	1
Quality exceeds industry standards	18	11	2
Quality meets industry standards	30	1	0
Reliability of supply	30	1	0
Technical support	15	14	2
U.S. transportation costs	3	24	4

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

Based on the available information presented in the tabulation on the next page, more than one-half of responding purchasers always know the manufacturer of the subject tires they purchase and whether the product is imported and all but one responding purchaser at least sometimes knows the manufacturer and if the product is imported. Seventeen of 28 responding purchasers reported that their customers sometimes are aware of and/or are interested in the country of origin; five purchasers reported always; five purchasers reported usually, and one purchaser reported never.

Purchaser/customer decision	Always	Usually	Sometimes	Never
Purchaser is aware if product is imported.....	16	6	7	0
Purchaser is aware of the manufacturer.....	20	5	5	0
Purchaser's customer is aware of and/or interested in the country of origin.....	5	5	17	1

Reliability of supply was cited as a "very important" factor by all but one responding purchaser and was cited as one of the top three factors used in purchasing decisions by six purchasers. Twenty-six of 31 responding purchasers indicated that availability was a "very important" factor in their subject tire purchasing decisions. One of 30 responding purchasers reported that availability was the most important factor in its purchasing decisions, six purchasers reported that it was the number two factor, and four purchasers reported that it was the number three factor. All but one responding purchaser indicated that product consistency was a "very important" factor in their purchasing decisions of subject tires, and four purchasers reported it as its either their second or third most important factor used in purchasing decisions.

Comparisons of Domestic Products and Subject Imports

Respondents argue that imports of subject tires from China are concentrated in the Tier 3 segment of the replacement market and that domestic producers have largely abandoned this market segment. They also indicate that imports of subject tires from China are not present in significant volumes in the OEM or premier (tiers 1 and 2) segment of the replacement market[27] and that it takes many years or even decades for Chinese brands for tires to build brand recognition and move to higher tiers.[28] However, Len Lewin, CEO and President of American Car Care Centers, indicates that due to the current economic climate, low-cost imports are having an impact on sales in general, not just private brands, since more consumers just want the tire for the least amount of money.[29]

Petitioner claims that because there is no clear definition of market segments in the U.S. subject tire market that imports of subject tires from China of the same or comparable size, load index, speed rating, etc., are directly interchangeable with each other.[30]

As indicated in table V-6, five of seven responding U.S. producers, 13 of 25 responding importers, and 12 of 22 purchasers indicated that subject tires produced in the United States and imported from China are "always" used interchangeably. At least 80 percent of responding producers, importers, and purchasers indicated that subject tires produced in the United States and imported from China are at least "frequently" used interchangeably. One producer (***), one importer (***), and one purchaser (***) indicated that subject tires produced in the United States and imported from China are "never" used interchangeably. *** indicated that product range is the main factor limiting interchangeability.

As indicated in table V-7, six of seven responding U.S. producers indicated that differences other than price between subject tires produced in the United States and imported from China were

[27] American Pacific Industries' prehearing brief, p. 7; CCCMC prehearing brief, p. 14, hearing transcript, p. 46 (Thomas).

[28] Hearing transcript, p. 290 (Mayfield).

[29] Modern Tire Dealer, "Private brand Q&A: ACCC's Lewin discusses the private brand 'squeeze'," May 14, 2009.

[30] Petitioner's prehearing brief, p. 7.

Table V-6
Subject tires: Perceived degree of interchangeability of product produced in the United States and in other countries[1]

Country comparison	Number of U.S. producers reporting				Number of U.S. importers reporting				Number of U.S. purchasers reporting			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. China	5	1	0	1	13	8	3	1	12	6	3	1
U.S. vs. other countries	6	2	0	1	13	6	3	1	11	6	6	1
China vs. other countries	4	1	0	1	13	6	3	0	11	3	3	1

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

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

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

Table V-7
Subject tires: Differences other than price between products from different sources[1]

Country comparison	Number of U.S. producers reporting				Number of U.S. importers reporting			
	A	F	S	N	A	F	S	N
U.S. vs. China	1	0	6	0	8	8	6	2
U.S. vs. other countries	1	1	6	1	7	6	4	5
China vs. other countries	1	0	4	0	7	6	5	2

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

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

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

"sometimes" a significant factor in their sales of the products. All but two responding importers indicated that differences other than price between subject tires produced in the United States and imported from China were at least "sometimes" a significant factor in their firm's sales of the products.

As indicated in table V-8, the U.S. product was ranked comparable with imports of subject tires from China by at least half of responding purchasers for delivery terms, discounts offered, extension of credit, lower transport costs, minimum quantity requirements, packaging, product consistency, both quality exceeding and meeting industry standards, and reliability of supply. The U.S. product was ranked superior to imports of subject tires from China by at least half of responding purchasers for availability, delivery time, minimum quantity required, product range, reliability of supply, and technical support. The U.S. product was ranked inferior to imports of subject tires from China by three-quarters of responding purchasers for lower price.

Table V-8
Subject tires: Purchasers' comparisons of domestic and subject products

Factor	U.S. vs. China		
	S	C	I
Availability	7	6	1
Delivery terms	6	8	0
Delivery time	11	3	0
Discounts offered	0	12	2
Extension of credit	6	8	0
Lower price[1]	0	4	10
Lower transport costs	3	11	0
Minimum quantity requirements	7	7	0
Packaging	2	12	0
Product consistency	4	10	0
Product range	8	5	1
Quality exceeds industry standards	2	12	0
Quality meets industry standards	0	13	1
Reliability of supply	7	7	0
Technical support	9	5	0

[1] A rating of "S" indicates that the U.S. product generally has a lower price while a rating of "I" indicates that the Chinese product generally has a lower price.

Note.–S = domestic product superior, C = domestic product comparable, I = domestic product inferior.

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

Comparisons of Domestic Products and Nonsubject Imports

As indicated in table V-6, six of nine responding U.S. producers, 13 of 23 responding importers, and 11 of 24 purchasers indicated that subject tires produced in the United States and imported from nonsubject countries are "always" used interchangeably. At least 70 percent of responding producers, importers, and purchasers indicated that subject tires produced in the United States and imported from nonsubject countries are at least "frequently" used interchangeably.

As indicated in table V-7, six of nine responding U.S. producers indicated that differences other than price between subject tires produced in the United States and imported from nonsubject countries were "sometimes" a significant factor in their sales of the products. Seventeen of 22 responding importers indicated that differences other than price between subject tires produced in the United States and imported from nonsubject countries were at least "sometimes" a significant factor in their firm's sales of the products.

Comparisons of Imports from China and Nonsubject Imports

As indicated in table V-6, four of six responding U.S. producers, 13 of 22 responding importers and 11 of 18 purchasers indicated that subject tires imported from China and from nonsubject countries are "always" used interchangeably. At least 75 percent of responding producers, importers, and purchasers indicated that subject tires imported from China and from nonsubject countries are at least "frequently" used interchangeably.

As indicated in table V-7, four of five responding U.S. producers indicated that differences other than price between subject tires imported from China and from nonsubject countries were "sometimes" a significant factor in their sales of the products. All but two responding importers indicated that differences other than price between subject tires imported from China and from nonsubject countries were at least "sometimes" a significant factor in their firm's sales of the products.

Elasticity Estimates

This section discusses elasticity estimates; parties were encouraged to comment on these estimates in their prehearing and posthearing briefs.[31]

U.S. Supply Elasticity[32]

The domestic supply elasticity for subject tires measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of subject tires. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced subject tires.

Petitioner estimates the domestic supply elasticity to be in the range of 5 to 7.[33] It indicates that although U.S. producers report moderately high levels of capacity utilization, *** and that three of the U.S. plants scheduled for closure in 2009 could be kept open to provide additional capacity.[34] CCCMC respondents indicate that the domestic supply elasticity "with respect to subject imports" should be near zero since an adoption of protection will not cause an increase in domestic production of Tier 3 tires.[35] No other parties commented on the domestic supply elasticity.

While the industry may be able to *** and keeping plants scheduled to be closed open, it is more likely that it would take more than just a temporary change in price for this to occur. Also, the attenuated competition claimed by CCCMC respondents would not affect the supply response of domestic industry to price changes since it is a supply elasticity for all subject tires produced by U.S. producers. Based on the available information and party comments, the U.S. industry is likely to be able to somewhat increase or decrease shipments to the U.S. market; an estimate in the range of 2 to 4 is still suggested.

---

[31] Prehearing report, p. V-17 and hearing transcript, p. 385 (Okun).

[32] A supply function is not defined in the case of a non-competitive market.

[33] Petitioner's prehearing brief, p. 53.

[34] Ibid., pp. 52-53.

[35] CCCMC respondents' posthearing brief, exh. 1, p. 14.

Chinese Supply Elasticity

The elasticity of Chinese supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for Chinese-produced subject tires. Petitioner estimates the elasticity of Chinese supply to be in the range of 5 to 10.[36] It indicates that the Chinese producers have demonstrated their ability to increase shipments rapidly to the U.S. market by the increasing of both imports to the United States and production capacity between 2004 and 2008, as well as the level of Chinese producers' shipments to other markets and the U.S. market in 2008.[37] No other parties commented on the Chinese supply elasticity.

While both imports into the United States and Chinese production capacity have increased recently, it is less likely that these changes can be sustained over time. Based on the available information and party comments, the Chinese industry is likely to be able to somewhat increase or decrease shipments to the U.S. market; an estimate in the range of 2 to 4 is still suggested.

Nonsubject-Country Supply Elasticity

The elasticity of nonsubject supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for subject tires produced in nonsubject countries.[38] Petitioner assumes a nonsubject supply elasticity of 0.1. Petitioner indicates that nonsubject suppliers have maintained a relatively stable market share in the U.S. market by adjusting their shipment volumes to changes in consumption and assumes that nonsubject suppliers would continue to do this in the future. No other parties commented on the nonsubject supply elasticity.

While the U.S. market share of nonsubject imports has been stable since 2004, this elasticity measures the responsiveness of volumes of shipments, not market shares to changes in price. The fact that the volume of nonsubject imports has adjusted to market conditions indicates that nonsubject imports will respond to changes in price. Analysis of these factors earlier and comments by parties indicate that the industries in nonsubject countries are likely to be able to somewhat increase or decrease shipments to the U.S. market; an estimate in the range of 2 to 4 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for subject tires measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of subject tires. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of the subject tires in the production of any downstream products. CCCMC respondents indicate that the demand elasticity provided in the prehearing staff report should be revised upward, although they do not indicate how much higher the demand elasticity should be.[39] They indicate that the real substitute for subject tires is deferring the purchase of new tires and that the low cost share of

[36] Ibid., p. 53.

[37] Ibid.

[38] Petitioner's posthearing brief, exh. 42, p. 21.

[39] CCCMC respondents' prehearing brief, p. 21.

subject tires in the total cost of passenger vehicles and light trucks has a minor effect on demand since over 80 percent of sales of subject tires are to the replacement market.[40]

Although not explicitly identified as a substitute product, the fact that some consumers may try to get more miles out of subject tires as prices for tires increase was accounted for in the estimate of the aggregate demand elasticity for the prehearing staff report. The low cost share of subject tires in the total cost of passenger vehicles and light trucks is important in the replacement market since it essentially ensures that all consumers will choose to replace their tires rather than replace their vehicles.[41] Based on the available information and party comments, the aggregate demand for subject is still likely to be inelastic; a range of -0.25 to -0.50 is suggested.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.[42] 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.). CCCMC respondents indicate that the demand elasticity provided in the prehearing staff report should be revised downward, and suggest a substitution elasticity range of 0.5 to 2.0.[43] They claim that the estimate in the prehearing report failed to address the effect of market segmentation from tire brand tiering and that retail consumers do not base their purchases on actual quality as much as they do on their perception of quality of the brand. No other parties commented on the substitution elasticity.[44]

Responses to the purchaser questionnaire indicate that quality is a very important factor for almost all purchasers, irregardless of whether retail purchasers explicitly take quality into account. American Car Care Centers CEO and president Len Lewin believes that the vast majority of sales are controlled by the salesperson at the counter, not the consumer.[45] Mr. Lewin also indicates that due to the current economic climate, low-cost imports are having an "impact" on sales in general, not just private brands, since more consumers just want the tire for the least amount of money.[46] Based on available information and party comments, the elasticity of substitution between U.S.-produced subject tires and imported subject tires is still likely to be in the range of 4 to 6.

---

[40] Ibid.

[41] For vehicle components which make up a larger share of the final cost of their vehicle (such as an engine), consumers will often chose to replace their vehicles rather than replace or repair the component.

[42] 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.

[43] CCCMC respondents' prehearing brief, pp. 28-29, fn. 95 and CCCMC respondents' posthearing brief, exh. 1, p. 15.

[44] However, petitioner justifies using a substitution of elasticity of 7 in its remedy analysis because it is analyzing subgroups that have a smaller range of differentiated products. Petitioner's posthearing brief, exh. 43, pp. 2-21.

[45] Modern Tire Dealer, "Private brand Q&A: ACCC's Lewin discusses the private brand 'squeeze'," May 14, 2009.

[46] Ibid.

Factors Affecting Pricing

Raw Material Costs

Raw material costs accounted for approximately 50.5 percent of the total cost of goods sold for U.S. producers during 2004 to 2008. Natural rubber and synthetic rubber are the primary components of raw material costs. According to the RMA, a typical passenger car tire is made up of almost twice as much synthetic rubber as compared to natural rubber, while a typical truck tire is made up of almost twice as much natural rubber as synthetic rubber.[47] The quarterly average prices of natural rubber and synthetic rubber increased by 29 percent and 114 percent, respectively, between the first quarter of 2004 and the fourth quarter of 2008 (see figure V-5). Also, the quarterly average prices of natural rubber and synthetic rubber decreased by 17 percent and 28 percent, respectively, between the fourth quarter of 2008 and the first quarter of 2009. In some instances the price of synthetic rubber was higher relative to the price of natural rubber and in other instances it had a lower relative price.

Transportation Costs to the U.S. Market

Transportation costs for subject tires from China to the United States (excluding U.S. inland costs) are estimated to be approximately 11 percent of the total cost for subject tires. These estimates are derived from official import data and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.

U.S. Inland Transportation Costs

Transportation costs for U.S. inland shipments of subject tires generally account for a small-to-moderate share of the delivered price of these products. U.S. producers reported that the costs ranged from 3.5 to 15.0 percent of the delivered price for subject tires, while U.S. importers that reported the costs ranged from less than one to 28 percent of the delivered price for subject tires.[48]

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Chinese currency appreciated by 21.1 percent relative to the U.S. dollar from January-March 2004 to January-March 2009 (figure V-6).

Pricing Practices

Pricing Methods

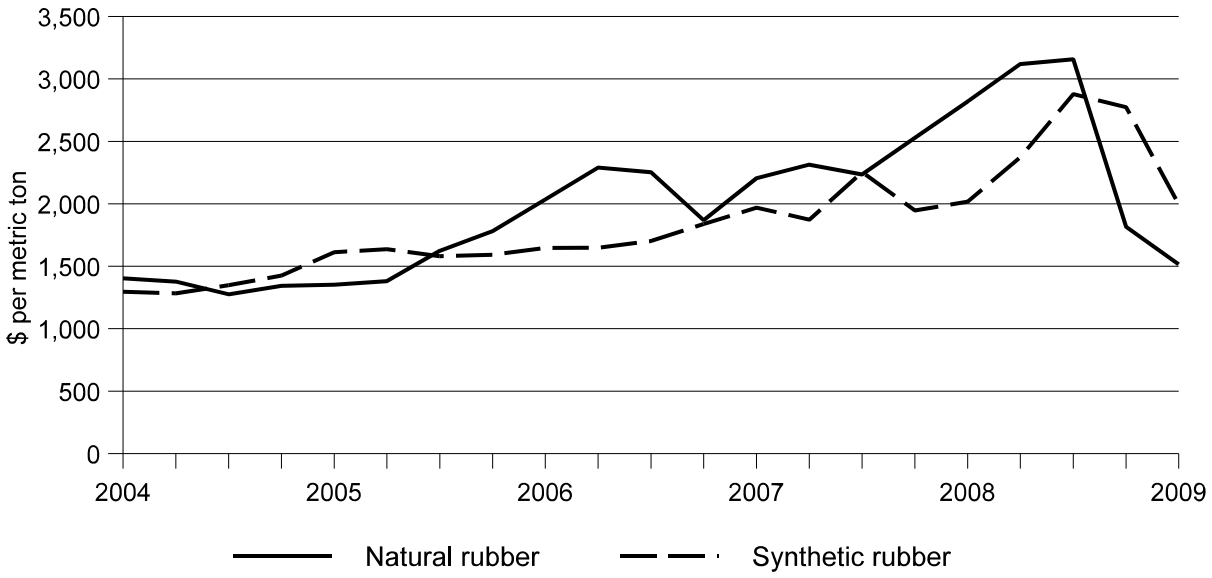
Most producers and importers reported that the prices that they charge for their sales of subject tires are determined using price lists, although a few reported using transaction-by-transaction negotiations. Over one-half of reporting producers and importers reported making all of their sales of subject tires on some type of delivered basis. The remaining responding producers and importers make their sales on only an f.o.b. basis or both f.o.b. and delivered bases. Eight of nine producers and 17 of 30 importers reported that at least 70 percent of their sales of subject tires were from inventory. Twelve of 30 responding importers reported that at least 80 percent of their sales are made to order.

---

[47] http://www.rma.org/scrap_tires/scrap_tire_markets/scrap_tire_characteristics/, retrieved on May 18, 2009.

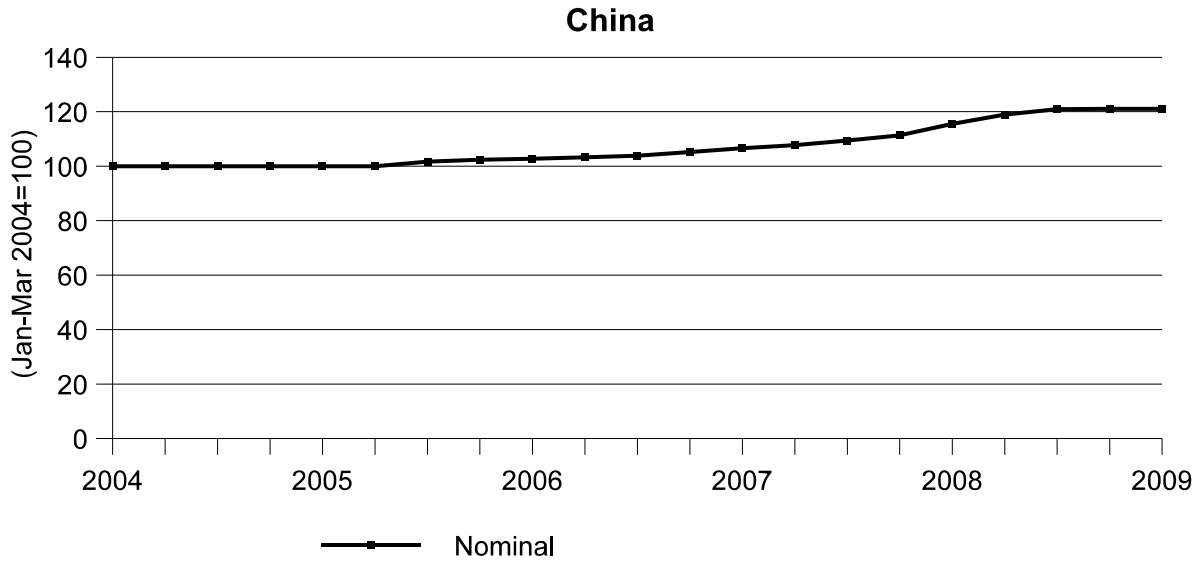
[48] In addition, one producer (***) and two importers (***) reported transportation costs of 100 percent.

Figure V-5
Rubber prices: Natural rubber (TSR 20) and synthetic rubber (U.S. unit export values for SBR), by quarters, January 2004 to March 2009



Source: International Rubber Study Group.

Figure V-6
Exchange rates: Index of the nominal exchange rate between the Chinese currency and the U.S. dollar, by quarters, January 2004-March 2009



Source: International Monetary Fund, *International Financial Statistics*, May 11, 2009.

Six of eight responding producers and 14 of 22 responding importers reported making at least 80 percent of their sales on a spot market basis. One producer (***) and four of 19 responding importers reported making at least 75 percent of their sales on a short-term contract basis, with contracts lasting from two months to one year. Five importers reported making at least 76 percent of their sales on a long-term contract basis.

Lead Times

U.S. producers reported lead times from inventory ranging from two days to 30 days and lead times for sales to order of up to six months.[49] Lead times for delivery for all but one responding U.S. importer ranged from one day to 14 days on sales from inventory and up to six months on sales produced to order. All responding producers and importers reported that they generally arrange for the transportation to their customers' locations. All seven responding U.S. producers and 13 of 27 importers reported making between 50 percent and 89 percent of their sales within 101 to 1,000 miles of their storage or production facilities. Eight of 27 responding importers reported making at least 70 percent of their sales over 1,000 miles from their storage or production facilities. All responding producers and all but three responding importers reported that they sell subject tires nationally. Importers *** and *** reported selling only to the Midwest, Southeast, and Southeast regions and importer *** reported selling to all regions except the Northwest.

Sales Terms and Discounts

Five of six responding producers and 21 of 29 responding importers indicated that they have discount policies for their sales of subject tires. Many of these producers and importers reported the use of quantity discounts and annual volume discounts.

Price Data

The Commission requested U.S. producers and importers of subject tires to provide quarterly data, f.o.b. U.S. point of shipment, for the total quantity and value of subject tires shipped to unrelated OEM and replacement customers in the U.S. market. Data were requested for the period January 2004-December 2008. The products for which pricing data were requested are as follows:

> ***Product 1***.--**Subject tires, tire size P225/60R16, 97-98 load index, speed ratings S or T, all-season grand touring/standard touring/passenger**
>
> ***Product 2***.--**Subject tires, tire size P235/75R15, 105-108 load index, speed ratings S or T, all-season grand touring/standard touring/passenger**
>
> ***Product 3***.--**Subject tires, tire size P205/65R15, 92-94 load index, speed ratings S, T, or H, all-season grand touring/standard touring/passenger**
>
> ***Product 4***.--**Subject tires, tire size P215/70R15, 97-98 load index, speed ratings S or T, all-season grand touring/standard touring/passenger**

[49] In addition, one producer and importer *** reported that it had a ***-day lead time from inventory for its direct overseas deliveries.

Product 5.--**Subject tires, tire size LT245/75R16, 111-116 load index, speed ratings R or S, on/off-road all terrain**

Product 6.--**Subject tires, tire size LT265/75R16, 112-116 load index, speed ratings R, S, or T, on/off-road all terrain**

Six U.S. producers and 26 importers provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters. All of these firms provided data for sales to the replacement market and three of the six U.S. producers also reported data for sales to OEMs; no sales of subject Chinese tires to the OEM market were reported. Pricing data reported by these firms accounted for approximately 14 percent of U.S. producers' shipments of subject tires and 36 percent of U.S. shipments of subject imports from China in 2008.

Price Trends

Weighted-average prices of subject tires are presented in tables V-9 through V-15 and figure V-7. Weighted-average sales prices for U.S.-produced tires sold to the replacement market increased by 27.2 percent to 43.6 percent, while weighted-average sales prices for products imported from China and sold to the replacement market increased by 5.0 percent to 22.7 percent (table V-16). Weighted-average sales prices for U.S.-produced products sold to the OEM market increased for all but one product for the period for which price data were available.[50]

[50] Hearing transcript, p. 304 (Berra).

Table V-9
Subject tires: Weighted-average f.o.b. prices and quantities of domestic and imported product 1[1] and margins of underselling/(overselling) for sales to the replacement market, by quarters, January 2004-December 2008

Period	United States		China		
	Price (*per tire*)	Quantity (*1,000 tires*)	Price (*per tire*)	Quantity (*1,000 tires*)	Margin (*percent*)
2004:					
Jan.-Mar.	$48.31	1,118	$***	***	***
Apr.-June	49.09	1,182	***	***	***
July-Sept.	50.12	1,397	43.54	74	13.1
Oct.-Dec.	50.22	1,525	44.35	77	11.7
2005:					
Jan.-Mar.	49.80	1,407	45.03	88	9.6
Apr.-June	50.03	1,334	44.38	93	11.3
July-Sept.	52.88	1,440	43.71	89	17.4
Oct.-Dec.	52.59	1,472	44.47	97	15.4
2006:					
Jan.-Mar.	52.83	1,382	44.00	122	16.7
Apr.-June	52.09	1,306	45.24	111	13.1
July-Sept.	54.39	1,366	43.43	140	20.2
Oct.-Dec.	54.79	1,397	44.80	163	18.2
2007:					
Jan.-Mar.	57.41	1,318	42.53	315	25.9
Apr.-June	57.27	1,370	41.48	344	27.6
July-Sept.	57.52	1,361	41.40	297	28.0
Oct.-Dec.	59.70	1,395	42.63	401	28.6
2008:					
Jan.-Mar.	59.70	1,186	46.09	450	22.8
Apr.-June	60.54	1,276	45.53	672	24.8
July-Sept.	63.06	1,234	45.70	1,148	27.5
Oct.-Dec.	64.74	1,077	46.31	855	28.5

[1] Subject tires, tire size P225/60R16, 97-98 load index, speed ratings S or T, all-season grand touring/standard touring/passenger.

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

Table V-10
Subject tires: Weighted-average f.o.b. prices and quantities of domestic and imported product 2[1] and margins of underselling/(overselling) for sales to the replacement market, by quarters, January 2004-December 2008

Period	United States		China		
	Price (*per tire*)	Quantity (*1,000 tires*)	Price (*per tire*)	Quantity (*1,000 tires*)	Margin (*percent*)
2004:					
Jan.-Mar.	$40.77	1,549	$43.95	66	(7.8)
Apr.-June	39.85	1,569	39.70	73	0.4
July-Sept.	40.85	1,805	39.27	71	3.9
Oct.-Dec.	41.83	1,596	39.10	86	6.5
2005:					
Jan.-Mar.	41.00	1,461	36.18	125	11.7
Apr.-June	41.61	1,358	34.60	108	16.8
July-Sept.	41.29	1,420	39.58	118	4.2
Oct.-Dec.	43.52	1,341	37.42	133	14.0
2006:					
Jan.-Mar.	43.02	1,090	37.62	172	12.6
Apr.-June	44.20	1,070	36.70	188	17.0
July-Sept.	45.23	1,128	38.89	184	14.0
Oct.-Dec.	49.71	1,070	37.50	278	24.6
2007:					
Jan.-Mar.	48.71	910	38.54	261	20.9
Apr.-June	48.15	930	39.15	374	18.7
July-Sept.	49.48	978	42.08	356	15.0
Oct.-Dec.	51.12	831	43.21	382	15.5
2008:					
Jan.-Mar.	51.90	720	42.89	399	17.4
Apr.-June	53.03	669	43.67	405	17.7
July-Sept.	54.90	575	46.77	446	14.8
Oct.-Dec.	57.20	454	46.16	1,299	19.3

[1] Subject tires, tire size P235/75R15, 105-108 load index, speed ratings S or T, all-season grand touring/standard touring/passenger.

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

Table V-11
Subject tires: Weighted-average f.o.b. prices and quantities of domestic and imported product 3[1] and margins of underselling/(overselling) for sales to the replacement market, by quarters, January 2004-December 2008

Period	United States		China		
	Price (*per tire*)	Quantity (*1,000 tires*)	Price (*per tire*)	Quantity (*1,000 tires*)	Margin (*percent*)
2004:					
Jan.-Mar.	$38.49	1,041	$35.41	82	8.0
Apr.-June	38.84	1,038	35.83	64	7.8
July-Sept.	38.47	1,165	31.78	105	17.4
Oct.-Dec.	39.25	1,132	33.68	94	14.2
2005:					
Jan.-Mar.	37.92	1,136	33.28	109	12.2
Apr.-June	39.26	1,034	34.06	150	13.2
July-Sept.	37.44	1,123	35.41	157	5.4
Oct.-Dec.	39.51	1,131	34.76	177	12.0
2006:					
Jan.-Mar.	39.54	1,029	34.06	234	13.9
Apr.-June	39.81	934	34.37	210	13.7
July-Sept.	40.86	978	34.09	257	16.6
Oct.-Dec.	42.70	968	33.78	296	20.9
2007:					
Jan.-Mar.	42.53	893	33.50	347	21.2
Apr.-June	43.75	893	33.09	457	24.4
July-Sept.	44.48	805	33.98	443	23.6
Oct.-Dec.	44.92	876	35.12	414	21.8
2008:					
Jan.-Mar.	44.91	749	35.79	478	20.3
Apr.-June	46.74	743	35.62	592	23.8
July-Sept.	47.93	687	36.52	1,115	23.8
Oct.-Dec.	48.96	647	37.52	726	23.4

[1] Subject tires, tire size P205/65R15, 92-94 load index, speed ratings S, T, or H, all-season grand touring/standard touring/passenger.

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

Table V-12
Subject tires: Weighted-average f.o.b. prices and quantities of domestic and imported product 4[1] and margins of underselling/(overselling) for sales to the replacement market, by quarters, January 2004-December 2008

Period	United States		China		
	Price (*per tire*)	Quantity (*1,000 tires*)	Price (*per tire*)	Quantity (*1,000 tires*)	Margin (*percent*)
2004:					
Jan.-Mar.	$36.97	1,136	$***	***	***
Apr.-June	36.82	1,197	***	***	***
July-Sept.	37.78	1,357	***	***	***
Oct.-Dec.	38.13	1,321	***	***	***
2005:					
Jan.-Mar.	38.67	978	29.48	63	23.8
Apr.-June	39.06	909	29.90	72	23.4
July-Sept.	40.29	1,089	31.31	71	22.3
Oct.-Dec.	40.47	1,179	32.02	88	20.9
2006:					
Jan.-Mar.	40.12	1,020	32.26	123	19.6
Apr.-June	40.37	942	33.44	122	17.2
July-Sept.	41.86	1,075	32.96	131	21.3
Oct.-Dec.	43.46	927	31.74	194	27.0
2007:					
Jan.-Mar.	43.60	880	33.86	255	22.3
Apr.-June	43.92	1,015	33.11	258	24.6
July-Sept.	45.20	931	35.48	259	21.5
Oct.-Dec.	46.62	956	36.55	302	21.6
2008:					
Jan.-Mar.	47.57	770	37.35	383	21.5
Apr.-June	48.30	800	38.24	522	20.8
July-Sept.	50.15	808	39.79	853	20.7
Oct.-Dec.	53.08	648	***	***	***

[1] Subject tires, tire size P215/70R15, 97-98 load index, speed ratings S or T, all-season grand touring/standard touring/passenger.

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

Table V-13
Subject tires: Weighted-average f.o.b. prices and quantities of domestic and imported product 5[1] and margins of underselling/(overselling) for sales to the replacement market, by quarters, January 2004-December 2008

Period	United States		China		
	Price (*per tire*)	Quantity (*1,000 tires*)	Price (*per tire*)	Quantity (*1,000 tires*)	Margin (*percent*)
2004:					
Jan.-Mar.	$72.73	633	$59.09	32	18.7
Apr.-June	72.97	634	60.87	30	16.6
July-Sept.	73.71	763	61.51	41	16.5
Oct.-Dec.	74.03	780	63.16	34	14.7
2005:					
Jan.-Mar.	73.30	699	57.58	59	21.4
Apr.-June	74.60	644	58.47	43	21.6
July-Sept.	80.74	770	63.09	53	21.9
Oct.-Dec.	78.45	755	60.14	58	23.3
2006:					
Jan.-Mar.	78.69	651	57.24	99	27.3
Apr.-June	79.59	614	58.21	84	26.9
July-Sept.	80.63	770	60.60	87	24.8
Oct.-Dec.	76.96	727	***	***	***
2007:					
Jan.-Mar.	83.64	620	58.15	293	30.5
Apr.-June	84.79	641	***	***	***
July-Sept.	85.88	713	***	***	***
Oct.-Dec.	87.96	829	***	***	***
2008:					
Jan.-Mar.	88.12	604	***	***	***
Apr.-June	89.70	673	***	***	***
July-Sept.	92.57	692	***	***	***
Oct.-Dec.	94.29	690	***	***	***

[1] Subject tires, tire size LT245/75R16, 111-116 load index, speed ratings R or S, on/off-road all terrain.

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

Table V-14
Subject tires: Weighted-average f.o.b. prices and quantities of domestic and imported product 6[1] and margins of underselling/(overselling) for sales to the replacement market, by quarters, January 2004-December 2008

Period	United States		China		
	Price (*per tire*)	Quantity (*1,000 tires*)	Price (*per tire*)	Quantity (*1,000 tires*)	Margin (*percent*)
2004:					
Jan.-Mar.	$72.89	655	$69.95	65	4.0
Apr.-June	74.23	695	71.50	54	3.7
July-Sept.	76.39	811	70.59	70	7.6
Oct.-Dec.	77.00	898	70.31	67	8.7
2005:					
Jan.-Mar.	77.26	775	69.29	85	10.3
Apr.-June	78.62	659	73.90	61	6.0
July-Sept.	83.89	799	77.59	66	7.5
Oct.-Dec.	83.69	820	76.40	72	8.7
2006:					
Jan.-Mar.	82.67	707	74.08	80	10.4
Apr.-June	84.98	653	76.39	72	10.1
July-Sept.	86.22	785	73.61	101	14.6
Oct.-Dec.	84.00	811	***	***	***
2007:					
Jan.-Mar.	88.06	700	66.04	342	25.0
Apr.-June	89.86	703	65.80	445	26.8
July-Sept.	91.13	749	68.03	307	25.3
Oct.-Dec.	94.11	820	***	***	***
2008:					
Jan.-Mar.	91.88	639	***	***	***
Apr.-June	95.62	667	***	***	***
July-Sept.	98.82	629	75.40	249	23.7
Oct.-Dec.	103.64	607	79.41	165	23.4

[1] Subject tires, tire size LT265/75R16, 112-116 load index, speed ratings R, S, or T, on/off-road all terrain.

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

Table V-15
Subject tires: Weighted-average f.o.b. prices and quantities of domestic products 1, 3, 4, 5, and 6 sold to OEMs, by quarters, January 2004-December 2008

Period	Product 1		Product 3		Product 4	
	Price (*per tire*)	Quantity (*1,000 tires*)	Price (*per tire*)	Quantity (*1,000 tires*)	Price (*per tire*)	Quantity (*1,000 tires*)
2004:						
Jan.-Mar.	$31.56	65	$29.91	790	$***	***
Apr.-June	31.97	43	29.84	840	***	***
July-Sept.	***	***	29.82	665	***	***
Oct.-Dec.	***	***	29.72	646	***	***
2005:						
Jan.-Mar.	***	***	29.87	823	***	***
Apr.-June	***	***	29.75	678	***	***
July-Sept.	***	***	30.55	401	***	***
Oct.-Dec.	***	***	30.74	418	***	***
2006:						
Jan.-Mar.	***	***	30.23	268	***	***
Apr.-June	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***
2007:						
Jan.-Mar.	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***
Oct.-Dec.	***	***	-	-	***	***
2008:						
Jan.-Mar.	***	***	-	-	***	***
Apr.-June	***	***	-	-	***	***
July-Sept.	***	***	-	-	***	***
Oct.-Dec.	-	-	-	-	***	***

[1] Less than 1,000 tires.

Table continued on the following page.

Table V-15–*Continued*
Subject tires: Weighted-average f.o.b. prices and quantities of domestic products 1, 3, 4, 5, and 6 sold to OEMs, by quarters, January 2004-December 2008

* * * * * * *

Figure V-7
Subject tires: Weighted-average f.o.b. prices of products 1-6 sold to the replacement market, 2004-08

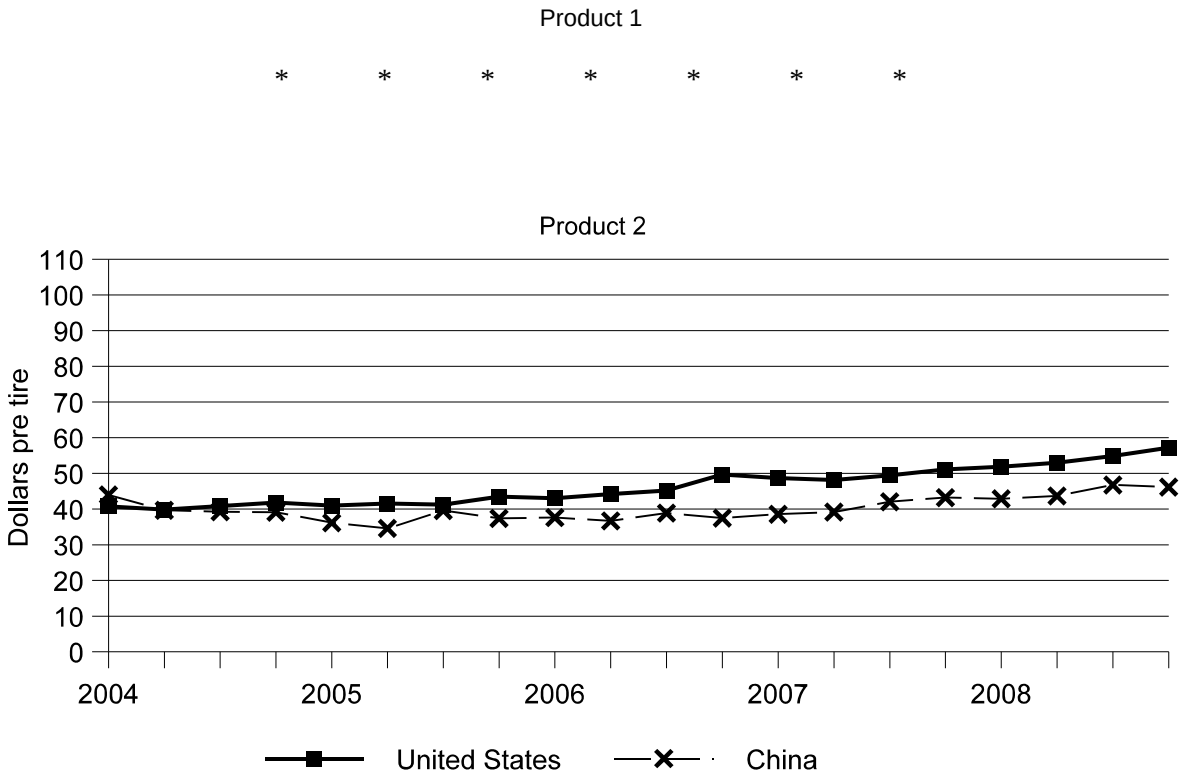
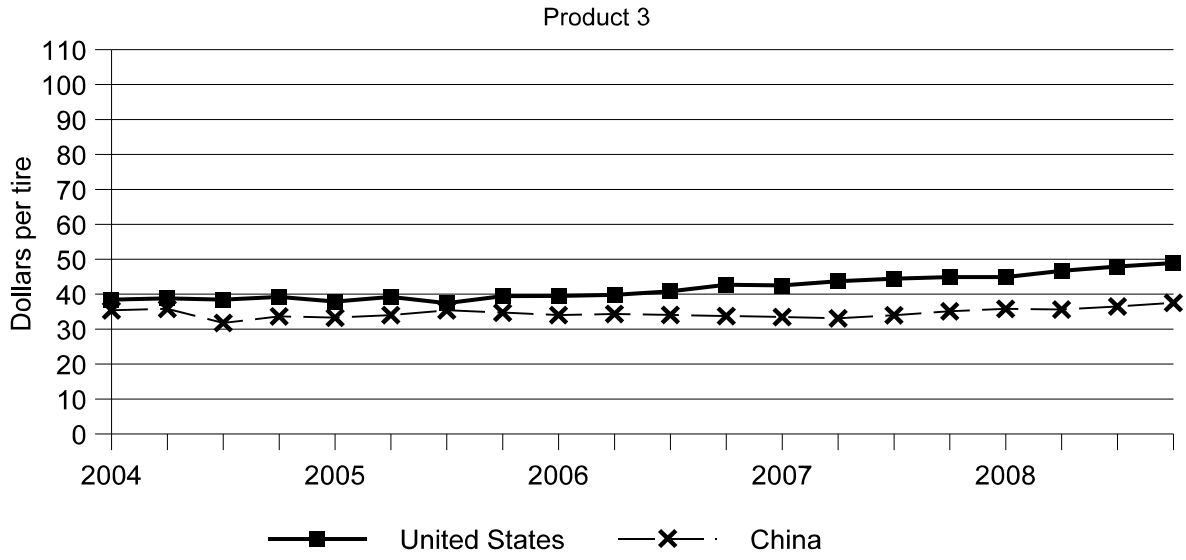


Figure continued on the following page.

Figure V-7--*Continued*
Subject tires: Weighted-average f.o.b. prices of products 1-6 sold to the replacement market, 2004-08



Product 4

* * * * * * *

Product 5

* * * * * * *

Product 6

* * * * * * *

Source: Tables V-9 to V-14.

Table V-16
Subject tires: Summary of weighted-average f.o.b. prices for products 1-6, by country and by market, 2004 to 2008

Product/country	Number of quarters	Lowest price (*per pound*)	Highest price (*per pound*)	Change in price:[1] (*percent*)
Sales to replacement market				
Product 1				
U.S.	20	$48.31	$64.74	34.0
China	20	***	***	***
Product 2				
U.S.	20	39.85	57.20	40.3
China	20	34.60	46.77	5.0
Product 3				
U.S.	20	37.44	48.96	27.2
China	20	31.78	37.52	5.9
Product 4				
U.S.	20	36.82	53.08	43.6
China	20	***	***	***
Product 5				
U.S.	20	72.73	94.29	29.7
China	20	***	***	***
Product 6				
U.S.	20	72.89	103.64	42.2
China	20	***	***	13.5
Sales to OEM market (U.S. producers only)				
Product 1	19	***	***	***
Product 3	15	***	***	***
Product 4	20	***	***	***
Product 5	18	***	***	***
Product 6	6	***	***	***

[1] Percentage change from the first quarter in which price data were available to the last quarter in which price data were available, based on unrounded data.

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

Price Comparisons

Overall, there were 120 instances where prices for domestic subject tires and imports from China of subject tires could be compared. Of these 120 comparisons, there were 119 instances (99 percent) where the subject imported product was priced below the domestic product (table V-17). Margins of underselling averaged 18.9 percent, ranging from 0.4 percent to 44.9 percent. In one instance, the subject imported product was priced above the comparable domestic product. The margin of overselling was 7.8 percent. In 69 of 78 quarters, the prices of U.S. produced tires sold to the OEM market were lower than the prices of comparable U.S.-produced tires sold to the replacement market.

CCCMC respondents indicate that the fact that prices of subject imports were almost always below the prices of U.S.-produced subject tires does not indicate underselling, but reflects normal price relationships in a tiered market.[51] They indicate the persistent difference in prices and the fact that prices of U.S.-produced products increased by more than those of subject imports between the first quarter of 2004 and the fourth quarter of 2008 are both evidence of tiering of the market.[52]

CCCMC respondents also indicated that the pricing data have differences in product mix since the products for which data were requested have various speed ratings.[53] They indicated that the consequence of combining tires with different speed ratings is that the data will represent an aggregation of selling prices of tires of different levels of performance which have different price points.[54] GITI respondents also indicate that model-specific price comparisons proposed by petitioner are also misleading because they fail to reflect differences in speed ratings and load indices.[55] However, Philip Berra, President of Community Wholesale Tire, indicated that product 3 (which is the only passenger vehicle tire price product with three speed ratings) is a commodity tire size and that there is little difference in the S, T, and H speed ratings in that particular size.[56] He also indicate that the tires with an S speed rating have "pretty much gone away," T is a standard passenger rating, a touring rating, and the H speed rating is not really a high performance rating.[57]

Table V-17
Subject tires: Instances of underselling/overselling and the range and average of margins for products 1-6, January 2004 to December 2008

Country	Underselling			Overselling		
	Number of instances	Range (*percent*)	Average margin (*percent*)	Number of instances	Range (*percent*)	Average margin (*percent*)
China	119	0.4 to 44.9	18.9	1	7.8	7.8

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

[51] CCCMC respondents' posthearing brief, p. 28.

[52] Ibid.

[53] Correspondence from CCCMC respondents, May 19, 2009, p. 2.

[54] Ibid., p. 4.

[55] GITI's prehearing brief, p. 21.

[56] Hearing transcript, p. 304 (Berra).

[57] Ibid.

Lost Sales and Lost Revenues

The Commission requested U.S. producers of subject tires to report any instances of lost sales or revenues they experienced due to competition from imports of subject tires from China during 2004-08. Of the 10 responding U.S. producers, three producers (***) reported that they had to either reduce prices or roll back announced price increases to avoid losing sales to competitors selling subject tires from China. None of these three producers reported specific allegations of lost revenues. One of these producers (***) reported that it does not conduct business on a transactional basis that would allow for it to reported specific lost revenue allegations. Two of eight responding U.S. producers (***) reported that they lost sales of subject tires to imports of subject tires from China. One producer (***) that did not respond to the question, reported that it cannot say with certainty that any lost sales can be directly attributed to imports from China.

In addition, one producer (***) reported that it "took no position" with regard to having to reduce prices to avoid losing sales to competitors selling subject tires from China or having lost sales of subject tires to imports of subject tires from China. This producer indicated that although the impact of the increase in imports of subject tires from China is not inconsequential or unimportant, it is not possible to quantify the specific incremental impact of imports of subject tires from China on the overall domestic industry or on its firm.

The petitioner indicated that it does not have access to information concerning specific instances of lost sales and lost revenue since it does not represent any individual domestic producers of subject tires.[58] However the petitioner indicates that the large decline in the market share held by U.S. producers of subject tires and the concurrent large increase in imports of subject tires from China is a strong indicator that domestic companies have lost sales and revenue.[59]

[58] Petition, p. 28.

[59] Ibid.

PART VI: U.S. PRODUCERS' EFFORTS TO COMPETE AND REQUESTED RELIEF

EFFORTS BY U.S. PRODUCERS TO COMPETE

U.S. firms were requested in the Commission's producer questionnaire to provide information on their competitive efforts since January 2004 and the adjustments they would make in their subject tire operations if import relief were granted. Their verbatim responses are presented in tables VI-1 and VI-2, respectively. Most firms reported either capital expenditures as well as cost reduction initiatives. *** reported that they did not undertake any efforts to compete more effectively during 2004-08.

Table VI-1
Subject tires: Responses regarding efforts undertaken to compete since January 1, 2004, by firm

* * * * * * *

*** said they have no plans to make adjustments if import relief is granted. *** responded that they cannot predict what adjustments they would make.

Table VI-2
Subject tires: Responses regarding adjustments to operations if import relief were provided, by firm

* * * * * * *

REQUESTED IMPORT RELIEF

The petitioner requested that the Commission recommend to the President that he impose a quota on imports of subject tires from China at a level of 21 million subject tires[1] annually for a period of three years, with the quota increasing by 5 percent per annum.[2] The petitioner further proposed that the quota be administered at the 10-digit level of the HTS.[3] The Commission's producer questionnaire requested that in the event that the Commission should find market disruption to the U.S. industry producing subject tires, firms were to provide information on what form of import relief they would support (ranked in order of preference). *** did not respond to this question. The following responses were received (the company names are not in alphabetical order so that their answers, which are being made public, cannot be matched to any specific company).

[1] Twenty-one million tires is the amount (rounded) of U.S. imports of subject tires from China in 2005.

[2] Petition, p. 23.

[3] Petitioner's prehearing brief, p. 43.

***

*** takes no position on this matter.

***

No restrictions

***

Quota level: The USW's petition recommends imposing a quota on the imports of subject tires from China. We trust the information contained in the USW petition represents a thorough and independent review of market data related to tire imports and accordingly we support the remedy suggested in the petition. However, we believe it is fair that the ITC consider not recommending any remedy/relief that would incentivize the Chinese to aggressively pursue more complex therefore higher value products -- which could exacerbate market disruption.

Other: *** lacks sufficient information to make a preference decision regarding other possible trade remedies.

***

No restrictions

***

Quota level

Increased tariff rate

Tariff rate quota level

Orderly marketing arrangements

***

No restrictions

Quota level

Increased tariff rate

Tariff rate quota level

Orderly marketing arrangements

***

Other: "Strict adherence to the Tread {Transportation Recall Enhancement, Accountability and Documentation} Act"

***

Increased tariff rate: Based upon substantiated price advantage

Quota level: Year 2000 levels

Tariff rate quota level: As the two combined above

Orderly marketing arrangements

Other: Total ban

APPENDIX A

FEDERAL REGISTER NOTICES

Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000). Any submissions that contain confidential business information must also conform to the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the confidential business information is clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission anticipates that the reports it sends to the committees in this investigation will be made available to the public in their entirety. Consequently, the reports that the Commission sends to the committees will not contain any confidential business information. Any confidential business information received by the Commission in this investigation and used in preparing its report will not be published in a manner that would reveal the operations of the firm supplying the information.

By order of the Commission.

Issued: April 23, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. E9–9705 Filed 4–28–09; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–421–7]

Certain Passenger Vehicle and Light Truck Tires From China

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a hearing.

SUMMARY: Following receipt of a petition filed on April 20, 2009, on behalf of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, the Commission instituted investigation No. TA–421–7 under section 421(b) of the Trade Act of 1974 (19 U.S.C. 2451(b)) to determine whether new pneumatic tires, of rubber, from China, of a kind used on motor cars (except racing cars) and on-the-highway light trucks, vans, and sport utility vehicles, provided for in subheadings 4011.10.10, 4011.10.50, 4011.20.10, and 4011.20.50 of the Harmonized Tariff Schedule of the United States (HTS), are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products.[1]

DATES: Not later than seven days following the publication of this notice in the **Federal Register**: Deadline for filing entries of appearance.

May 26, 2009: Deadline for filing request to appear at the public hearing.

May 28, 2009: Deadline for filing prehearing briefs.

June 2–3, 2009: Public hearing.

June 8, 2009: Deadline for filing posthearing briefs.

June 16, 2009: Deadline for submitting final comments on market disruption.

June 19, 2009: Transmittal of Commission determination on market disruption to the President and the U.S. Trade Representative.

June 24, 2009: Deadline for submitting final comments on remedy.

July 9, 2009: Transmittal of Commission report to the President and the U.S. Trade Representative.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street, SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://www.usitc.gov/secretary/edis.htm.*

FOR FURTHER INFORMATION CONTACT: Nathanael Comly (202–205–3174), or Amy Sherman (202–205–3289), 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.

[1] The HTS subheadings are provided for convenience and customs purposes; the written description of the product under investigation is dispositive.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION:

Participation in the investigation and service list.—Persons wishing to participate in the investigation 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, not later than seven days after publication of this notice in the **Federal Register.** The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Confidential business information (CBI).—Any submissions that contain confidential business information must also conform with the requirements of sections 201.6 and 206.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.6 and 206.8). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information and except as provided for below, will be made available for inspection by interested parties.

Limited disclosure of CBI.—Pursuant to section 206.47 of the Commission's rules, the Secretary will make CBI gathered in this investigation available to authorized applicants under an Administrative Protective Order (APO) issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register.** A separate service list will be maintained by the Secretary for those parties authorized to receive CBI under the APO. In addition, the Commission may include CBI in the report it sends to the President and to the U.S. Trade Representative.

Hearing.—The Commission has scheduled a hearing in connection with this investigation beginning at 9:30 a.m. on June 2, 2009, at the U.S. International Trade Commission Building. Subjects related to both market disruption or threat thereof and remedy may be addressed at the hearing. Requests to appear at the hearing should be filed in writing with the Secretary on or before May 26, 2009. All persons desiring to appear at the hearing and make oral

presentations should attend a prehearing conference to be held at 9:30 a.m. on May 28, 2009 at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the hearing are governed by sections 201.6(b)(2) and 201.13(f) of the Commission's rules.

Written submissions.—Each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is May 28, 2009. Parties may also file posthearing briefs. The deadline for filing posthearing briefs is June 8, 2009. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the consideration of market disruption or threat thereof and/or remedy on or before June 8, 2009. Parties may submit final comments on market disruption on or before June 16, 2009 and on remedy on or before June 24, 2009. Final comments shall contain no more than ten (10) double-spaced and single-sided pages of textual material. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's rules. The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (*see* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

In accordance with section 201.16(c) of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the 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.

Remedy.—No separate hearing on the issue of remedy will be held. Those parties wishing to present arguments on the issue of remedy may do so orally at the hearing or in their prehearing or posthearing briefs or other written submissions.

Authority: This investigation is being conducted under the authority of section 421 of the Trade Act of 1974; this notice is published pursuant to section 206.3 of the Commission's rules.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

Issued: April 24, 2009.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. E9–9760 Filed 4–28–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

This is notice that on March 10, 2009, Penick Corporation, 33 Industrial Park Road, Pennsville, New Jersey 08070, made application by renewal to the Drug Enforcement Administration (DEA) for registration as an importer of the basic classes of controlled substances listed in schedule II.

Drug	Schedule
Coca Leaves (9040)	II
Raw Opium (9600)	II
Poppy Straw (9650)	II
Concentrate of Poppy Straw (9670)	II

The company plans to import the listed controlled substances to manufacture bulk controlled substance intermediates for sale to its customers.

As noted in a previous notice published in the **Federal Register** on September 23, 1975 (40 FR 43745), all applicants for registration to import a basic class of any controlled substances in schedule I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: April 17, 2009.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E9–9778 Filed 4–28–09; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under 21 U.S.C. 952(a)(2) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Title 21 Code of Federal Regulations § 1301.34(a), this is notice that on February 20, 2009, Meridian Medical Technologies, 2555 Hermelin Drive, St. Louis, Missouri 63144, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Morphine (9300), a basic class of controlled substance listed in schedule II.

The company plans to import products for research experimentation or clinical use and analytical testing.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic class of controlled substance may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than May 29, 2009.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975 (40 FR 43745–46), all applicants for registration to import a basic class of any controlled substance listed in schedule I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 USC § 823(a), and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

written submissions must be filed no later than close of business on July 3, 2009. Reply submissions must be filed no later than the close of business on July 13, 2009. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See section 201.6 of the Commission's Rules of Practice and Procedure, 19 CFR 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

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 sections 210.16 and 210.75 of the Commission's Rules of Practice and Procedure (19 CFR 210.16 and 210.75).

By order of the Commission.

Issued: June 19, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–14941 Filed 6–24–09; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–421–7]

Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China; Determination

On the basis of information developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 421(b)(1) of the Trade Act of 1974,[1] that certain passenger vehicle and light truck tires [2] from the People's Republic of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products.[3]

Background

The Commission instituted this investigation following receipt, on April 20, 2009, of a petition filed by the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union. Notice of the institution of the Commission's investigation and of the scheduling of a public hearing to be held in connection therewith was given by posting a copy of the notice on the Commission's Web site (*http://www.usitc.gov*) and by publishing the notice in the **Federal Register** of April 29, 2009 (74 FR 19593). The hearing was held on June 2, 2009 in Washington, DC; all persons who requested the opportunity were permitted to appear in person or by counsel.

By order of the Commission.

Issued: June 19, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–14943 Filed 6–24–09; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–667 and Investigation No. 337–TA–673]

In the Matter of Certain Electronic Devices, Including Handheld Wireless Communications Devices; Notice of Commission Determination Not To Review an Initial Determination Granting Motion To Amend the 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 the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 14C) in consolidated Inv. Nos. 337–TA–667 and 337–TA–673, *Certain Electronic Devices Including Handheld Wireless Communications Devices,* granting a motion to amend the notice of investigation.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–2301. 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 Inv. No. 337–TA–667 (''the 667 Investigation'') on January 23, 2009, based on a complaint filed by Saxon Innovation, LLC of Tyler, Texas (''Saxon''). 74 FR 4231. The complaint, as amended and supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 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 electronic devices, including handheld wireless communications devices, by reason of infringement of certain claims of U.S. Patent Nos. 5,235,635 (''the '635 patent''); 5,530,597 (''the '597 patent''); and 5,608,873 (''the '873 patent''). The complaint further alleges the existence of a domestic industry related to each patent. The Commission's notice of investigation named various respondents, including High Tech Computer Corp. of Taoyuan, Taiwan and HTC America, Inc. of Bellevue, Washington (collectively ''HTC''). On April 28, 2009, the Commission determined not to review an ID granting under Commission Rule 210.21(b) a joint motion filed by Saxon and HTC to terminate the investigation as to respondent HTC.

The Commission instituted Inv. No. 337–TA–673 (''the 673 Investigation'') on March 31, 2009, based on a complaint filed by Saxon. 74 FR 14578–9. The complaint, as amended and supplemented, alleges violations of

[1] 19 U.S.C. 2451(b)(1).

[2] For purposes of this investigation, certain passenger vehicle and light truck tires are defined as new pneumatic tires, of rubber, from China, of a kind used on motor cars (except racing cars) and on-the-highway light trucks, vans, and sport utility vehicles, provided for in subheadings 4011.10.10, 4011.10.50, 4011.20.10, and 4011.20.50 of the Harmonized Tariff Schedule of the United States (''HTS''). The HTS subheadings are provided for convenience and customs purposes; the written description of the product under investigation is dispositive.

[3] Vice Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun made a negative determination.

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 Passenger Vehicle and Light Truck Tires from China

Inv. No: TA-421-7

Date and Time: June 2, 2009 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room (Room 101), 500 E Street, SW, Washington, DC.

CONGRESSIONAL APPEARANCES:

The Honorable Arlen Specter, United States Senator, Pennsylvania

The Honorable Blanche Lambert Lincoln, United States Senator, Arkansas

The Honorable Evan Bayh, United States Senator, Indiana

The Honorable Sherrod C. Brown, United States Senator, Ohio

The Honorable Robert P. Casey, Jr., United States Senator, Pennsylvania

The Honorable Louise M. Slaughter, U.S. Congresswoman, 28th District, New York

The Honorable Robert B. Aderholt, U.S. Congressman, 4th District, Alabama

The Honorable Carolyn C. Kilpatrick, U.S. Congresswoman, 13th District, Michigan

The Honorable Tom Cole, U.S. Congressman, 4th District, Oklahoma

The Honorable Timothy J. Ryan, U.S. Congressman, 17th District, Ohio

OPENING REMARKS:

In Support of Relief (**Terence P. Stewart**, Stewart and Stewart)
In Opposition to Relief (**Ritchie Thomas**, Squire, Sanders & Dempsey LLP)

In Support of Relief:

Stewart and Stewart
Washington, DC
on behalf of

United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union ("USW")

Leo W. Gerard, International President, USW

Thomas R. Conway, International Vice President, USW

Stan Johnson, Secretary-Treasurer, USW

Ron Hoover, Executive Vice President, Rubber and Plastics Industry Conference, USW

Les Wilson, Time Study Chairman, USW Local 715

Jim A. Wansley, Former President, USW Local 746L

Chad Apaliski, Technician Corporate Research, Industry Analysis and Pattern Bargaining Department, USW

Dr. Kenneth R. Button, Senior Vice President, Economic Consulting Services

Jennifer Lutz, Senior Economist, Economic Consulting Services

Kathryn Kobe, Director of Price, Wage, and Productivity Analysis, Economic Consulting Services

Carl R. Moyer, Senior Trade Analyst, Stewart and Stewart

Terence P. Stewart)
Eric P. Salonen) – OF COUNSEL
Elizabeth J. Drake)

In Opposition to Relief:

Greenberg Traurig LLP
Washington, DC
on behalf of

American Pacific Industries Inc. ("API")
Fullrun Tire Co., Ltd.

Thomas Burkhardt, Secretary and General Manager, API

Philippe M. Bruno)
) – OF COUNSEL
Robert D. Stang)

Jochum Shore & Trossevin, PC
Washington, DC
on behalf of

American Coalition for Free Trade in Tires

Phillip Berra, President, Community Wholesale Tire, Inc.

James Mayfield, President, Del-Nat Tire Corporation

Marguerite Trossevin) – OF COUNSEL

Perkins Coie LLP
Washington, D.C.
on behalf of

Les Schwab Warehouse Center, Inc.

Dick Borgman, Chairman and Chief Executive Officer, Les Schwab Tire Centers

Michael P. House) – OF COUNSEL

In Opposition to Relief (continued):

Mayer Brown LLP
Washington, DC
on behalf of

GITI Tire (China) Investment Co., Ltd. ("GITI Tire")
GITI Tire (USA) Ltd. ("GITI Tire USA")

Ross W. Kogel, Jr., President, Tire Wholesalers Company, Inc.

Vic DeIorio, Executive Vice President, Sales and Business Development, GITI Tire USA

Edward Gwinn, Senior Advisor, DE Global Limited

Timothy Keeler) – OF COUNSEL

Squire, Sanders & Dempsey LLP
Washington, DC
on behalf of

Subcommittee of Tire Producers
of the China Chamber of Commerce
of Metals, Minerals & Chemical
Importers & Exporters ("CCCMC") and
the China Rubber Industry Association

John G. Reilly, Economist, Nathan Associates, Inc.

Ritchie Thomas) – OF COUNSEL

In Opposition to Relief (continued):

Hinshaw & Culbertson LLP
Minneapolis, MN
on behalf of

Shandong Yongtai Chemical Group Co. Ltd.
Durum Tire International, Inc.

Thomas G. Wallrich) – OF COUNSEL

REBUTTAL/CLOSING REMARKS:

In Support of Relief (**Terence P. Stewart**, Stewart and Stewart)
In Opposition to Relief (**Marguerite Trossevin**, Jochum Shore & Trossevin, PC)

APPENDIX C

SUMMARY DATA

Table C-1
Passenger tires: Summary data concerning the U.S. market, 2004-08

(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				
Item	2004	2005	2006	2007	2008	2004-08	2004-05	2005-06	2006-07	2007-08
U.S. consumption quantity:										
Amount	307,484	304,970	291,420	296,091	275,702	-10.3	-0.8	-4.4	1.6	-6.9
Producers' share (1)	63.3	59.6	56.2	52.6	49.6	-13.7	-3.7	-3.4	-3.6	-2.9
Importers' share (1):										
China	4.7	6.8	9.3	14.0	16.7	11.9	2.1	2.4	4.8	2.7
Other sources	31.9	33.6	34.5	33.4	33.7	1.8	1.7	0.9	-1.1	0.3
Total imports	36.7	40.4	43.8	47.4	50.4	13.7	3.7	3.4	3.6	2.9
U.S. consumption value:										
Amount	13,845,818	14,808,616	15,238,721	16,502,706	16,460,066	18.9	7.0	2.9	8.3	-0.3
Producers' share (1)	68.1	64.1	62.2	60.4	57.9	-10.1	-4.0	-1.9	-1.8	-2.5
Importers' share (1):										
China	3.3	4.7	6.1	9.0	10.9	7.6	1.4	1.4	2.9	1.8
Other sources	28.7	31.2	31.7	30.6	31.2	2.5	2.6	0.4	-1.1	0.6
Total imports	31.9	35.9	37.8	39.6	42.1	10.1	4.0	1.9	1.8	2.5
U.S. imports from:										
China:										
Quantity	14,574	20,790	27,005	41,503	45,975	215.5	42.7	29.9	53.7	10.8
Value	453,288	691,924	931,704	1,493,052	1,788,387	294.5	52.6	34.7	60.2	19.8
Unit value	$31.10	$33.28	$34.50	$35.97	$38.90	25.1	7.0	3.7	4.3	8.1
Ending inventory quantity	2,091	3,031	4,914	6,273	9,099	335.2	45.0	62.1	27.7	45.1
All other sources:										
Quantity	98,179	102,424	100,601	98,913	92,902	-5.4	4.3	-1.8	-1.7	-6.1
Value	3,968,366	4,625,833	4,826,687	5,045,295	5,137,015	29.4	16.6	4.3	4.5	1.8
Unit value	$40.42	$45.16	$47.98	$51.01	$55.29	36.8	11.7	6.2	6.3	8.4
Ending inventory quantity	15,762	16,364	16,726	15,382	18,700	18.6	3.8	2.2	-8.0	21.6
All sources:										
Quantity	112,753	123,214	127,606	140,416	138,877	23.2	9.3	3.6	10.0	-1.1
Value	4,421,654	5,317,756	5,758,391	6,538,347	6,925,402	56.6	20.3	8.3	13.5	5.9
Unit value	$39.22	$43.16	$45.13	$46.56	$49.87	27.2	10.1	4.6	3.2	7.1
Ending inventory quantity	17,853	19,395	21,640	21,655	27,799	55.7	8.6	11.6	0.1	28.4

Table continued on next page.

Table C-1--Continued
Passenger tires: Summary data concerning the U.S. market, 2004-08

(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				
Item	2004	2005	2006	2007	2008	2004-08	2004-05	2005-06	2006-07	2007-08
U.S. producers':										
Average capacity quantity	226,849	222,895	215,172	196,292	186,395	-17.8	-1.7	-3.5	-8.8	-5.0
Production quantity	218,363	207,780	184,843	180,334	160,310	-26.6	-4.8	-11.0	-2.4	-11.1
Capacity utilization (1)	96.3	93.2	85.9	91.9	86.0	-10.3	-3.0	-7.3	6.0	-5.9
U.S. shipments:										
Quantity	194,731	181,756	163,814	155,675	136,825	-29.7	-6.7	-9.9	-5.0	-12.1
Value	9,424,164	9,490,860	9,480,330	9,964,359	9,534,664	1.2	0.7	-0.1	5.1	-4.3
Unit value	$48.40	$52.22	$57.87	$64.01	$69.69	44.0	7.9	10.8	10.6	8.9
Export shipments:										
Quantity	27,303	27,520	26,809	24,574	22,409	-17.9	0.8	-2.6	-8.3	-8.8
Value	1,229,965	1,322,693	1,380,106	1,421,418	1,397,312	13.6	7.5	4.3	3.0	-1.7
Unit value	$45.05	$48.06	$51.48	$57.84	$62.35	38.4	6.7	7.1	12.4	7.8
Ending inventory quantity	22,030	22,784	19,023	20,548	21,685	-1.6	3.4	-16.5	8.0	5.5
Inventories/total shipments (1)	9.9	10.9	10.0	11.4	13.6	3.7	1.0	-0.9	1.4	2.2
Production workers	36,411	35,595	34,037	31,842	31,243	-14.2	-2.2	-4.4	-6.4	-1.9
Hours worked (1,000s)	75,989	73,599	69,726	67,163	63,050	-17.0	-3.1	-5.3	-3.7	-6.1
Wages paid ($1,000s)	1,794,378	1,780,661	1,763,715	1,653,152	1,570,858	-12.5	-0.8	-1.0	-6.3	-5.0
Hourly wages	$23.61	$24.19	$25.29	$24.61	$24.91	5.5	2.5	4.6	-2.7	1.2
Productivity (tires per hour)	2.9	2.8	2.6	2.7	2.5	-11.5	-1.7	-6.1	1.3	-5.3
Unit labor costs	$8.23	$8.58	$9.55	$9.18	$9.81	19.2	4.3	11.3	-3.9	6.9
Net sales:										
Quantity	221,816	209,090	190,463	180,071	159,074	-28.3	-5.7	-8.9	-5.5	-11.7
Value	10,624,268	10,789,188	10,839,265	11,362,616	10,911,454	2.7	1.6	0.5	4.8	-4.0
Unit value	$47.90	$51.60	$56.91	$63.10	$68.59	43.2	7.7	10.3	10.9	8.7
Cost of goods sold (COGS)	8,997,862	9,382,902	9,708,792	9,573,483	9,830,965	9.3	4.3	3.5	-1.4	2.7
Gross profit or (loss)	1,626,406	1,406,286	1,130,473	1,789,133	1,080,489	-33.6	-13.5	-19.6	58.3	-39.6
SG&A expenses	1,370,174	1,240,739	1,245,022	1,281,892	1,343,323	-2.0	-9.4	0.3	3.0	4.8
Operating income or (loss)	256,232	165,547	(114,549)	507,241	(262,834)	(2)	-35.4	(2)	(2)	(2)
Capital expenditures	550,780	688,153	576,497	597,387	729,300	32.4	24.9	-16.2	3.6	22.1
Unit COGS	$40.56	$44.88	$50.97	$53.16	$61.80	52.4	10.6	13.6	4.3	16.2
Unit SG&A expenses	$6.18	$5.93	$6.54	$7.12	$8.44	36.7	-3.9	10.2	8.9	18.6
Unit operating income or (loss)	$1.16	$0.79	($0.60)	$2.82	($1.65)	(2)	-31.5	(2)	(2)	(2)
COGS/sales (1)	84.7	87.0	89.6	84.3	90.1	5.4	2.3	2.6	-5.3	5.8
Operating income or (loss)/ sales (1)	2.4	1.5	(1.1)	4.5	(2.4)	-4.8	-0.9	-2.6	5.5	-6.9

(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.

APPENDIX D

SUPPLEMENTAL QUESTIONNAIRE RESPONSES ON MARKET SEGMENTATION

The Commission asked all U.S. producers and top U.S. importers to respond to the following questions:

1. Information developed so far in the investigation of subject tires from China has indicated that there may be several categories of subject tires in the United States (e.g., Good/Better/Best; Tier 1/Tier 2/Tier 3; Flagship/Secondary/Mass-market). Do you agree that the U.S. subject tire market can be divided into three categories? If no, please provide a description of how, if at all, the U.S. market for subject tires can be categorized. If yes, please describe each category.

2. Approximately what share of the total U.S. market for subject tires, based on quantity, did each of these categories represent in 2008?

3. Approximately what share of your firm's U.S. sales of subject tires in 2008, based on quantity, were to each category? Please provide this for your firm's U.S. sales of U.S.-produced subject tires, subject tires imported from China, and subject tires imported from all other sources.

4. Between 2004 and 2008, has the U.S. market for subject tires shifted between the three categories?

5. U.S. producers only: Between 2004 and 2008, has your firm's U.S. production of subject tires shifted between the three categories?

6. U.S. importers only: Between 2004 and 2008, have your firm's U.S. imports of subject tires from China shifted between the three categories?

7. U.S. importers only: Between 2004 and 2008, have your firm's U.S. imports of subject tires from all other sources shifted between the three categories?

The responses to questions 1-4 are reported in tables D-1-6 below. The responses are discussed further in *Part V*.

Table D-1
Subject tires: U.S. producers' and top importers' responses to segmentation of the U.S. market for subject tires

* * * * * * *

Table D-2
Subject tires: Estimated shares, based on quantity, of the total U.S. market for subject tires, 2008

* * * * * * *

Table D-3
Subject tires: Estimated shares, based on quantity, of each firm's U.S. sales of U.S. produced subject tires, 2008

* * * * * * *

Table D-4
Subject tires: Estimated shares, based on quantity, of each U.S. importer's U.S. sales of subject tires from China, 2008

* * * * * * *

Table D-5
Subject tires: Estimated shares, based on quantity, of each U.S. importer's U.S. sales of subject tires from all other sources, 2008

* * * * * * *

Table D-6
Subject tires: U.S. producers' and top importers' responses to shift in the U.S. market for subject tires among the three segments

* * * * * * *