

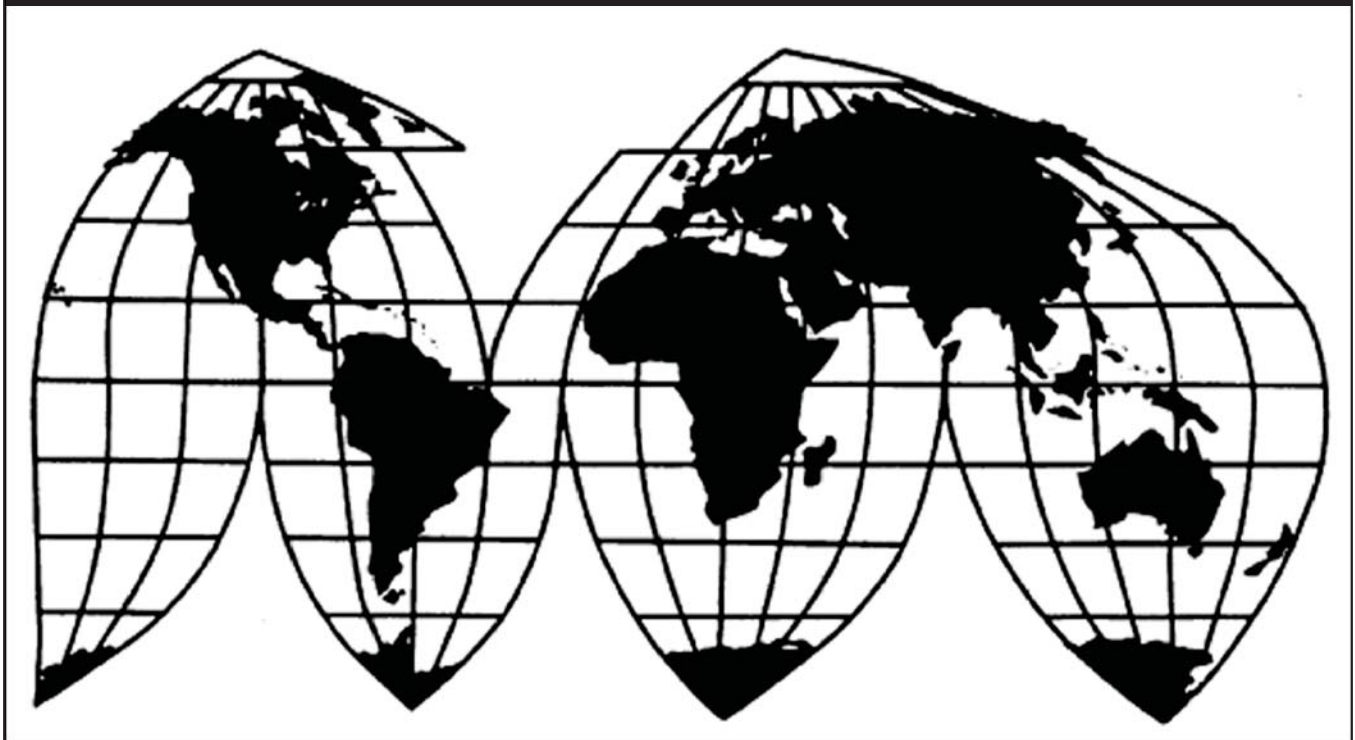
# Certain Off-The-Road Tires from China

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

Publication 4448

January 2014

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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## **UNITED STATES INTERNATIONAL TRADE COMMISSION**

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

### **CERTAIN OFF-THE-ROAD TIRES FROM CHINA**

#### **DETERMINATION**

On the basis of the record<sup>1</sup> developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), that revocation of the countervailing duty order and antidumping duty order on certain off-the-road tires from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

#### **BACKGROUND**

The Commission instituted these reviews on August 1, 2013 (78 FR 46607) and determined on November 20, 2013 that it would conduct expedited reviews (78 FR 73560, December 6, 2013).

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





## Views of the Commission

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Tariff Act”), that revocation of the antidumping and countervailing duty orders on certain off-the-road tires (“OTR tires”) from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

### I. Background

*Original Investigations:* The original investigations of OTR tires from China were initiated in response to antidumping and countervailing duty petitions filed on June 18, 2007, by Titan Tire Corporation (“Titan”), a domestic producer of OTR tires, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC (“USW”), a domestic union representing workers engaged in manufacturing OTR tires.<sup>1</sup> On August 28, 2008, the Commission issued its final determinations that the domestic industry was materially injured by reason of imports of OTR tires from China that Commerce had determined were sold at less-than-fair value and subsidized by the Government of China.<sup>2</sup> On September 4, 2008, the U.S. Department of Commerce (“Commerce”) published the corresponding antidumping and countervailing duty orders.<sup>3</sup>

Three interested parties (importers GPX International Tire Corp. and Super Grip Corp. and foreign producer/exporter Hebei Starbright Tire Co., Ltd.) (collectively “Plaintiffs”) sought review of the Commission’s final determinations by the U.S. Court of International Trade (“CIT”). They moved for injunctive relief to prevent the collection of full cash deposits during the pendency of their appeals of Commerce’s final antidumping and countervailing duty and the Commission’s final injury determinations.<sup>4</sup> The Court denied their request.<sup>5</sup> After the CIT

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<sup>1</sup> Confidential Report, Memorandum INV-LL-115 (“CR”) at I-3 (Dec. 18, 2013); Public Report, *Certain Off-the-Road Tires from China*, Inv. Nos. 701-TA-448 and 731-TA-1117 (Review), USITC Pub. 4448 (Jan. 2014) (“PR”) at I-2.

<sup>2</sup> *Certain Off-the-Road Tires from China*, Inv. Nos. 701-TA-448 and 731-TA-1117 (Final), USITC Pub. 4031 at 3 (Aug. 2008). The Commission based its determinations on data for the period January 2005 through March 2008 (the period of investigation or “POI”).

<sup>3</sup> 73 Fed. Reg. 51624 (Sept. 4, 2008) (antidumping duty order); 73 Fed. Reg. 51627 (Sept. 4, 2008) (countervailing duty order). Commerce initially found *de minimis* antidumping duty margins for producer/exporter Xuzhou Xugong Tyres Co., Ltd. and excluded this firm from the antidumping duty order. As a result of ensuing litigation, Commerce found a non *de minimis* margin and subsequently amended the order to include this firm. 75 Fed. Reg. 49459 (Aug. 13, 2010).

<sup>4</sup> In support of their request, Plaintiffs argued that errors in the Commission’s determinations were the “most critical” factor supporting the likelihood of their success on the merits, correction of which would result in negative injury determinations. Specifically, they pointed to the Commission’s decision not to define the domestic like product broader than the scope to include tires with a rim diameter of 39 (Continued...)

also denied their request for rehearing, Plaintiffs voluntarily dismissed their appeal of the Commission's determinations on March 25, 2009.

*Current Reviews:* The Commission instituted these first five-year reviews effective August 1, 2013.<sup>6</sup> On September 3, 2013, Titan and USW submitted a joint response and on August 29, 2013, Specialty Tires of America, Inc. ("Specialty Tires"), a domestic producer of OTR tires, submitted a response to the notice instituting these reviews. On November 30, 2013, the Commission found each domestic producer's response to be adequate. It further determined that the domestic interested party group response to the notice of institution was adequate because these domestic producers accounted for a substantial portion of domestic OTR tire production in 2012.<sup>7</sup>

The Commission did not receive a response to the notice of institution from any respondent interested party. Consequently, it determined that the respondent interested party group response was inadequate. In the absence of any circumstances warranting full reviews, the Commission unanimously determined to conduct expedited reviews of the orders.<sup>8</sup>

## II. Domestic Like Product

In making its determination under section 751(c) of the Tariff Act, the Commission defines the "domestic like product" and the "industry."<sup>9</sup> The Tariff Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle."<sup>10</sup> The Commission's practice in five-year reviews is to examine the domestic like product definition from the original investigations and consider whether the record indicates any reason to revisit the prior findings.<sup>11</sup>

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(...Continued)

inches or greater, its reliance on importer questionnaire data to evaluate the volume of subject imports, its finding of underselling by subject imports, and its non-attribution analysis.

<sup>5</sup> The CIT did not find that Plaintiffs were likely to succeed on the merits because they had "not demonstrated any overarching legal error in the ITC's affirmative injury determinations. Instead, plaintiffs contest the ITC's factual determinations, and the court has found that to the extent the issues have been developed here, there appears to be sufficient evidence on the record to support the ITC's factual conclusions." *GPX Int'l Tire Corp. v. United States*, 587 F. Supp.2d 1278 (Ct. Int'l Trade 2008).

<sup>6</sup> 78 Fed. Reg. 46607 (Aug. 1, 2013).

<sup>7</sup> CR at I-1 to I-2; PR at I-1; 78 Fed. Reg. 73560 (Dec. 6, 2013).

<sup>8</sup> CR at I-2; PR at I-2; 78 Fed. Reg. 73560 (Dec. 6, 2013).

<sup>9</sup> 19 U.S.C. § 1677(4)(A).

<sup>10</sup> 19 U.S.C. § 1677(10); *see, e.g., Cleo Inc. v. United States*, 501 F.3d 1291, 1299 (Fed. Cir. 2007); *NEC Corp. v. Department of Commerce*, 36 F. Supp.2d 380, 383 (Ct. Int'l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996); *Torrington Co. v. United States*, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991); *see also* S. Rep. No. 249, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 90-91 (1979).

<sup>11</sup> *See, e.g., Internal Combustion Industrial Forklift Trucks from Japan*, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 at 8-9 (Dec. 2005); *Crawfish Tail Meat from China*, Inv. No. 731-TA-752 (Continued...)

Commerce has defined the imported merchandise within the scope of the orders under review as follows:

new pneumatic tires designed for off-the-road (OTR) and off-highway use, subject to exceptions identified below. Certain OTR tires are generally designed, manufactured and offered for sale for use on off-road or off-highway surfaces, including but not limited to, agricultural fields, forests, construction sites, factory and warehouse interiors, airport tarmacs, ports and harbors, mines, quarries, gravel yards, and steel mills. The vehicles and equipment for which certain OTR tires are designed for use include, but are not limited to: (1) agricultural and forestry vehicles and equipment, including agricultural tractors, combine harvesters, agricultural high clearance sprayers, industrial tractors, log-skidders, agricultural implements, highway-towed implements, agricultural logging, and agricultural, industrial, skid-steers/mini-loaders; (2) construction vehicles and equipment, including earthmover articulated dump products, rigid frame haul trucks, front end loaders, dozers, lift trucks, straddle carriers, graders, mobile cranes, compactors; and (3) industrial vehicles and equipment, including smooth floor, industrial, mining, counterbalanced lift trucks, industrial and mining vehicles other than smooth floor, skid-steers/mini-loaders, and smooth floor off-the-road counterbalanced lift trucks. The foregoing list of vehicles and equipment generally have in common that they are used for hauling, towing, lifting, and/or loading a wide variety of equipment and materials in agricultural, construction and industrial settings. Such vehicles and equipment, and the descriptions ... are illustrative of the types of vehicles and equipment that use certain OTR tires, but are not necessarily all-inclusive. While the physical characteristics of certain OTR tires will vary depending on the specific applications and conditions for which the tires are designed (*e.g.*, tread pattern and depth), all of the tires within the scope have in common that they are designed for off-road and off-highway use. Except as discussed below, OTR tires included in the scope of the proceeding range in size (rim diameter) generally but not exclusively from 8 inches to 54 inches. The tires may be either tube-type or tubeless, radial or non-radial, and intended for sale either to original equipment manufacturers or the replacement market. The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (“HTSUS”) subheadings: 4011.20.10.25, 4011.20.10.35, 4011.20.50.30, 4011.20.50.50, 4011.61.00.00, 4011.62.00.00, 4011.63.00.00, 4011.69.00.00, 4011.92.00.00, 4011.93.40.00, 4011.93.80.00, 4011.94.40.00, and 4011.94.80.00. While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

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(Review), USITC Pub. 3614 at 4 (Jul. 2003); *Steel Concrete Reinforcing Bar from Turkey*, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (Feb. 2003).

Specifically excluded from the scope are new pneumatic tires designed, manufactured and offered for sale primarily for on-highway or on-road use, including passenger cars, race cars, station wagons, sport utility vehicles, minivans, mobile homes, motorcycles, bicycles, on-road or on-highway trailers, light trucks, and trucks and buses. Such tires generally have in common that the symbol "DOT" must appear on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Such excluded tires may also have the following designations that are used by the Tire and Rim Association:

Prefix letter designations:

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

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

ST - Identifies a special tire for trailers in highway service.

Suffix letter designations:

TR - Identifies a tire for service on trucks, buses, and other vehicles with rims having specified rim diameter of nominal plus 0.156" or plus 0.250";

MH - Identifies tires for Mobile Homes;

HC - Identifies a heavy duty tire designated for use on "HC" 15° tapered rims (used on trucks, buses, and other vehicles). This suffix is intended to differentiate among tires for light trucks, and other vehicles or other services, which use a similar designation.

Example: 8R17.5 LT, 8R17.5 HC;

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

MC - Identifies tires and rims for motorcycles.

The following types of tires are also excluded from the scope: pneumatic tires that are not new, including recycled or retreaded tires and used tires; non-pneumatic tires, including solid rubber tires; tires of a kind designed for use on aircraft, all-terrain vehicles, and vehicles for turf, lawn and garden, golf and trailer applications. Also excluded from the scope are radial and bias tires of a kind designed for use in mining and construction vehicles and equipment that have a rim diameter equal to or exceeding 39 inches. Such tires may be distinguished from other tires of similar size by the number of plies that the construction and mining tires contain (minimum of 16) and the weight of such tires (minimum 1,500 pounds).<sup>12</sup>

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<sup>12</sup> CR at I-8 to I-11; PR at I-6 to I-9 (multiple internal footnotes omitted); *Issues and Decision Memorandum for the Final Results of the Expedited Sunset Review of the Countervailing duty Order on Certain New Pneumatic Off-the-Road Tires from the People's Republic of China* from Christian Marsh, (Continued...)

In the original investigations, the Commission defined a single domestic like product consisting of OTR tires made in the United States corresponding to the OTR tires in the scope of the investigations, what the Commission referred to as “coterminous tires.” These coterminous tires included certain OTR tires for agricultural, construction, and industrial vehicles and equipment. The Commission rejected respondents’ request to define the domestic like product more broadly than the scope to include larger construction and mining tires with a rim diameter equal to or exceeding 39 inches, what the Commission referred to as “C&M tires of 39 inches and higher,” based on significant distinctions in physical characteristics and uses, lack of overlap in two critical manufacturing steps that involved differences in employee specialization and equipment, limitations in overlap of channels of distribution, and price differences.<sup>13</sup>

Domestic interested party Specialty Tires did not comment on the domestic like product definition in its response to the notice instituting these reviews. Domestic interested parties Titan and USW agree with the Commission’s domestic like product definition in the original investigations, and they argue that OTR tires serve the same end uses as in the original investigations, no other substitutes have entered the market, and the production technology and processes employed during the original investigations have not changed.<sup>14</sup> The record of

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(...Continued)

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance at 3-5 (Dec. 16, 2013).

<sup>13</sup> The Commission found significant distinctions in physical characteristics between coterminous tires and C&M tires, including that C&M tires of 39 inches and higher have more beads and plies, additional components and heavier materials, resulting in tires that are substantially heavier and have a much greater load-bearing capacity. It found that these differences in physical characteristics affected end uses, even for tires of the same rim diameter. The Commission found that the two of the ten manufacturing process steps not shared by coterminous tires and C&M tires of 39 inches and higher (tire building and vulcanization) were “critical” and that manufacturing C&M tires of 39 inches and higher required specially trained employees and specialized mounting equipment. There was some overlap in channels of distribution types (directly to wholesalers or distributors and directly to end users) for coterminous tires and C&M tires of 39 inches and higher. The Commission, however, found that some firms only sold one or the other product, and those servicing the largest of Titan’s C&M products needed additional specialized training. In terms of customer and producer perceptions, producers typically sold coterminous tires and C&M tires of 39 inches and higher using separate catalogues that referenced the other product; additionally, large-volume purchaser Caterpillar \*\*\*. It was undisputed that C&M tires of 39 inches and higher cost more to manufacture and were higher priced than coterminous tires. The record did not show interchangeability between coterminous tires and C&M tires of 39 inches and higher, but the Commission did not weigh this factor heavily because this industry involved thousands of products, each designed for a specific use. Confidential Original Views at 6-11; USITC Pub. 4031 at 6-10. In the procedural posture of reviewing a request for injunctive relief, the CIT found that the domestic like product determination “appear{ed} to be substantially supported” and that the Commission appeared “to have evaluated all of the factors and made the kind of like product determination that it normally makes when it faces a range of U.S. manufactured goods potentially corresponding to the subject imported merchandise.” *GPX Int’l Tire Corp.*, 587 F. Supp.2d at 1286-1287.

<sup>14</sup> Titan/USW Response to Notice of Institution at 29-30.

these reviews contains no information that would suggest any reason to revisit the Commission's domestic like product definition in the original investigations.<sup>15</sup> Therefore, we define the domestic like product as consisting of OTR tires made in the United States corresponding to the OTR tires in the scope of the investigations, as we did in the original investigations.

### III. Domestic Industry

Section 771(4)(A) of the Tariff Act defines the relevant industry as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."<sup>16</sup> In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market. If appropriate circumstances exist, the statute provides the Commission with the authority to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise, or are themselves importers.<sup>17</sup> Exclusion of such a producer from the domestic industry as a related party is within the Commission's discretion based upon the facts presented in each investigation.<sup>18</sup>

In the original investigations, the Commission defined the domestic industry as all U.S. producers of the domestic like product.<sup>19</sup> Three domestic producers were related parties because they imported subject merchandise from China.<sup>20</sup> The Commission did not find appropriate circumstances to exclude any of them from the domestic industry as related parties.<sup>21</sup>

Specialty Tires did not comment on the domestic industry definition in its response to the notice instituting these reviews. Although Titan and USW provided information suggesting that four domestic producers or their affiliates imported subject OTR tires from China during the period of review,<sup>22</sup> they nonetheless advocate that the Commission adopt the domestic

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<sup>15</sup> CR at I-12 to I-24; PR at I-10 to I-17.

<sup>16</sup> 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 apply to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. See 19 U.S.C. § 1677.

<sup>17</sup> 19 U.S.C. § 1677(4)(B); see *Torrington Co v. United States*, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), *aff'd mem.*, 991 F.2d 809 (Fed. Cir. 1993); *Sandvik AB v. United States*, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), *aff'd mem.*, 904 F.2d 46 (Fed. Cir. 1990); *Empire Plow Co. v. United States*, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

<sup>18</sup> See, e.g., *Torrington*, 790 F. Supp. at 1168.

<sup>19</sup> Confidential Original Views at 11; USITC Pub. 4031 at 11.

<sup>20</sup> Confidential Original Views at 12; USITC Pub. 4031 at 11.

<sup>21</sup> Confidential Original Views at 12-13; USITC Pub. 4031 at 11-13.

<sup>22</sup> Titan/USW Response to the Notice of Institution at 30, Exhibit 5.

industry definition from the original investigations.<sup>23</sup> Because none of the four firms named by Titan and USW submitted any information in these reviews, there are no data concerning any of these firms to exclude, even assuming *arguendo* appropriate circumstances existed to exclude one or more of them from the domestic industry as a related party. Accordingly, for purposes of these reviews, we define the domestic industry as all domestic producers of OTR tires.

#### **IV. Revocation of the Antidumping and Countervailing Duty Orders Would Likely Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time**

##### **A. Legal Standards**

In five-year reviews conducted under section 751(c) of the Tariff Act, Commerce will revoke an antidumping or countervailing duty order unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”<sup>24</sup> The Uruguay Round Agreements Act Statement of Administrative Action (“SAA”) states that “under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”<sup>25</sup> Thus, the likelihood standard is prospective in nature.<sup>26</sup> The U.S. Court of International Trade has found that “likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.<sup>27</sup>

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<sup>23</sup> Titan and Specialty Tires did not report importing any subject merchandise.

<sup>24</sup> 19 U.S.C. § 1675a(a).

<sup>25</sup> SAA at 883-84. The SAA states that “{t}he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” *Id.* at 883.

<sup>26</sup> While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

<sup>27</sup> See *NMB Singapore Ltd. v. United States*, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), *aff’d mem.*, 140 Fed. Appx. 268 (Fed. Cir. 2005); *Nippon Steel Corp. v. United States*, 26 CIT 1416, 1419 (2002) (same); *Usinor Industeel, S.A. v. United States*, 26 CIT 1402, 1404 nn.3, 6 (2002) (“more likely than not” standard is “consistent with the court’s opinion;” “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); *Indorama Chemicals (Thailand) Ltd. v. United States*, 26 CIT 1059, 1070 (2002) (Continued...)

The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”<sup>28</sup> According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”<sup>29</sup>

Although the standard in a five-year review is not the same as the standard applied in an original investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”<sup>30</sup> It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the orders under review, whether the industry is vulnerable to material injury if the orders are revoked, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).<sup>31</sup> The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination.<sup>32</sup>

In evaluating the likely volume of imports of subject merchandise if the orders under review are revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.<sup>33</sup> In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.<sup>34</sup>

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(...Continued)

(“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); *Usinor v. United States*, 26 CIT 767, 794 (2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

<sup>28</sup> 19 U.S.C. § 1675a(a)(5).

<sup>29</sup> SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

<sup>30</sup> 19 U.S.C. § 1675a(a)(1).

<sup>31</sup> 19 U.S.C. § 1675a(a)(1). Commerce has not made any duty absorption findings regarding imports of OTR tires from China. CR at I-5 to I-6; PR at I-4; CR/PR at Table I-1 to I-2.

<sup>32</sup> 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

<sup>33</sup> 19 U.S.C. § 1675a(a)(2).

<sup>34</sup> 19 U.S.C. § 1675a(a)(2)(A-D).



In evaluating the likely price effects of subject imports if the orders under review are revoked, the Commission is directed to consider whether there is likely to be significant underselling by subject imports as compared to the domestic like product and whether subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.<sup>35</sup>

In evaluating the likely impact of imports of subject merchandise if the orders under review are revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.<sup>36</sup> All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry. As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the orders under review and whether the industry is vulnerable to material injury upon revocation.<sup>37</sup>

No respondent interested party participated in these expedited reviews. The record, therefore, contains limited new information with respect to the OTR tires industry in China. There also is limited information on the OTR tires market in the United States during the period of review. Accordingly, for our determinations, we rely as appropriate on the facts available from the original investigations and the limited new information on the record in these five-year reviews.

## **B. Conditions of Competition and the Business Cycle**

In evaluating the likely impact of the subject imports on the domestic industry if an order is revoked, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to

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<sup>35</sup> See 19 U.S.C. § 1675a(a)(3). The SAA states that “{c}onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

<sup>36</sup> 19 U.S.C. § 1675a(a)(4).

<sup>37</sup> The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

the affected industry.”<sup>38</sup> The following conditions of competition, several of which also existed during the original investigations, inform our determinations.

## 1. Demand Conditions

As was the case in the original investigations, OTR tires are used on a wide variety of vehicles and equipment designed for hauling, towing, lifting, and/or loading in agricultural, forestry, construction, and industrial applications.<sup>39</sup> Agricultural and industrial applications accounted for the majority of the U.S. market in 2007.<sup>40</sup> Demand for OTR tires is derived from the sometimes cyclical demand for off-the-road vehicles used in these applications and includes demand for tires sold for “original” machinery and equipment (“OEM”) and in the replacement market.<sup>41</sup>

Between 2005 and 2007, demand for OTR tires was strong and growing, particularly in 2007, which the Commission deemed to be a “boom” year.<sup>42</sup> Demand in the agricultural and construction sectors was also strong during this period, although construction demand abated somewhat in 2007.<sup>43</sup> Demand for OTR tires in the mining, oil and gas production, and manufacturing sectors steadily grew between 2005 and 2007.<sup>44</sup>

According to Titan and USW, current demand for OTR tires has weakened and is forecast to stagnate or grow slowly.<sup>45</sup> \*\*\* response to the Commission’s questionnaire corroborates this characterization of demand stating that current OEM and end user demand in the United States both are much lower than in previous years and its expectation of continued weak demand in the next twelve months.<sup>46</sup> For its part, Specialty Tires argues that the current OTR tire business environment is recovering extremely slowly “from the deep financial recession begun in 2008.”<sup>47</sup>

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<sup>38</sup> 19 U.S.C. § 1675a(a)(4).

<sup>39</sup> Confidential Original Views at 17; USITC Pub. 4031 at 16; Titan/USW Comments on Adequacy at 6; Titan/USW Response to Notice of Institution at 29; CR at I-14 to I-16; PR at I-11.

<sup>40</sup> Confidential Original Views at 17; USITC Pub. 4031 at 16; CR at I-16; PR at I-12.

<sup>41</sup> Confidential Original Views at 17; USITC Pub. 4031 at 16, 17; Titan/USW Comments on Adequacy at 6; Titan/USW Response to Notice of Institution at 29; CR at I-33; PR at I-14.

<sup>42</sup> Apparent U.S. consumption increased from 5.8 million tires in 2005 to 6.3 million tires in 2007 and was 1.5 million tires in the first quarter of 2007 (“interim 2007”) and 1.6 million tires in the first quarter of 2008 (“interim 2008”). Confidential Original Views at 17, 18; USITC Pub. 4031 at 16, 17.

<sup>43</sup> Confidential Original Views at 17; USITC Pub. 4031 at 16.

<sup>44</sup> Confidential Original Views at 17; USITC Pub. 4031 at 16.

<sup>45</sup> Titan/USW Final Comments at 13-15; Titan/USW Response to Notice of Institution at 23-25; CR at I-34; PR at I-24.

<sup>46</sup> CR at I-34; PR at I-24 to I-25.

<sup>47</sup> Specialty Tires Response to Notice of Institution at 2.

## 2. Supply Conditions

During the original investigations, three sources supplied the U.S. market: the domestic industry, subject imports, and nonsubject imports.<sup>48</sup> At the time, the Commission had to select from three imperfect data sets (importer questionnaire data or two sets of data composites) when assessing the volume of subject and nonsubject imports.<sup>49</sup> Ultimately, the Commission utilized importer questionnaire data from 34 firms that were believed to account for \*\*\* percent, by quantity, of U.S. imports of OTR tires from China and \*\*\* percent of U.S. imports from other countries between 2005 and 2007.<sup>50</sup> During that period, the domestic industry held the largest share of apparent U.S. consumption, followed by nonsubject imports and then by subject imports from China.<sup>51</sup> The Commission observed that China was the largest foreign supplier of OTR tires to the U.S. market.<sup>52</sup> Subject imports from China were present in all segments of the U.S. market, although they were concentrated in the aftermarket.<sup>53</sup> The majority of nonsubject imports originated from Sri Lanka, Taiwan, and Thailand.<sup>54</sup>

In the current reviews, the domestic industry and imports of OTR tires from subject and nonsubject sources continued to supply the U.S. market in 2012. The limited available information impedes our ability to assess the current level of apparent U.S. consumption, let alone the precise share of the market currently attributable to each supplier, or to make comparisons of apparent U.S. consumption levels between the current period and the period

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<sup>48</sup> Confidential Original Views at 18; USITC Pub. 4031 at 18.

<sup>49</sup> The first composite consisted of Customs Net Import File data that were adjusted to exclude out-of-scope tires weighing over 1,500 pounds and tires with a landed duty value of less than \$25 and that were adjusted to avoid double-counting using information from importers submitting questionnaire responses. The second composite was identical to the first except that it excluded all OTR tires with a landed duty value of less than \$35. The Commission observed that reliance on the second composite “would omit a significant number of subject imports, as {was} evident from an examination of the data pertaining to pricing product 4.” Confidential Original Views, EDIS Doc. 519193 at 14-15 & n.91; USITC Pub. 4031 at 14 n.91.

<sup>50</sup> Whereas importer questionnaire data likely understated the absolute levels of subject and nonsubject imports, the Commission found that they did “represent the trends in such imports as experienced by the importers responding to the questionnaires.” Confidential Original Views at 14-15; *Certain Off-the-Road Tires from China*, Inv. Nos. 701-TA-448 and 731-TA-1117 (Final), USITC Pub. 4031 at 13-14 (Aug. 2008).

<sup>51</sup> Confidential Original Views at 20; USITC Pub. 4031 at 19 (indicating that subject imports’ market share increased from 14.2 percent in 2005 to 22.3 percent in 2007, while the domestic industry’s market share decreased from 67.0 percent in 2005 to 59.2 percent in 2007, and nonsubject imports’ market share remained relatively steady at 18.8 percent in 2005 and 18.5 percent in 2007).

<sup>52</sup> Confidential Original Views at 18; USITC Pub. 4031 at 18.

<sup>53</sup> Confidential Original Views at 18-19; USITC Pub. 4031 at 18.

<sup>54</sup> Confidential Original Views at 19; USITC Pub. 4031 at 18.

examined in the original determinations.<sup>55</sup> Available data do suggest that the volume of imports from all nonsubject sources in 2012 exceeded the volume of subject OTR tires imported from China in that year.<sup>56</sup>

During the original investigations, seven firms reported producing OTR tires in the United States. Domestic producer Titan purchased the Bryan, Ohio production facilities from Continental Tire North America in July 2006 and the Freeport, Illinois facilities from Goodyear in December 2005.<sup>57</sup> In 2006, Titan decided to convert one-third of its farm tire capacity in Freeport to non-farm OTR tires, to expand non-farm OTR tire output at Bryan, and to shift some of its Freeport production to its facility in Des Moines, Iowa.<sup>58</sup> During the current period, eight firms reportedly produced OTR tires in the United States, including Mitas Tires North America (“Mitas”)<sup>59</sup> but no longer Denman Tire Corporation (“Denman”), which filed for Chapter 7 bankruptcy in March 2010, closed its Leavittsburg, Ohio manufacturing plant, and liquidated its assets.<sup>60</sup>

GPX International Tire Corporation (“GPX”) was the \*\*\* of OTR tires from China during the original investigations, accounting for \*\*\* percent of reported U.S. imports from China in 2007.<sup>61</sup> As a result of the orders on OTR tire from China, GPX filed for Chapter 11 bankruptcy protection in October 2009, and under its bankruptcy restructuring plan, the firm sold most of its U.S. operation assets to Alliance Tire Corp. and shuttered its European operations but did not restructure its Dynamic Tire subsidiary in Canada or its Starbright Group Inc. subsidiary in

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<sup>55</sup> The data source the Commission used in the original investigations to evaluate imports from subject and nonsubject sources is not available for 2012, and available domestic industry data for 2012 are less inclusive than and not comparable to domestic industry data for the original investigations. Specifically, because no U.S. importer submitted questionnaire data in these reviews, the only available information on the current record regarding the volume of imports from subject and nonsubject sources for 2012 correspond to the two data composites that were presented in the original investigations but not utilized in the Commission’s determinations. CR at I-27 to I-29; PR at I-20 to I-21; CR/PR at Table I-4, Table I-6, Appendix A-5. Likewise, U.S. industry data for these reviews are based on the questionnaire responses of two of the domestic producers of OTR tires, Specialty Tires and Titan, that accounted for \*\*\* and \*\*\* percent of U.S. production, respectively, in 2007 and collectively accounted for about \*\*\* percent of domestic production in 2012, whereas U.S. industry data in the original investigations were based on questionnaire responses of seven firms accounting for \*\*\* percent of U.S. production of OTR tires in 2007. CR at I-24 to I-25; PR at I-18; CR/PR at Table I-3 at n.2.

<sup>56</sup> CR/PR at Table I-4, Table I-6, Appendix I-5.

<sup>57</sup> Confidential Original Views at 19; USITC Pub. 4031 at 18.

<sup>58</sup> Confidential Original Views at 19; USITC Pub. 4031 at 18.

<sup>59</sup> Mitas, a wholly owned subsidiary of MITAS a.s., a manufacturer of agricultural, industrial, and motorcycle tires headquartered in the Czech Republic, commenced production of radial agricultural tires in Charles City, Iowa in 2012. CR at I-26; PR at I-18.

<sup>60</sup> Titan reported that it purchased a number of Denman’s former assets. CR at I-25; PR at I-18.

<sup>61</sup> CR at I-27 to I-28; PR at I-20.

China.<sup>62</sup> The largest current suppliers of nonsubject imports of OTR tires are the industries in India, Sri Lanka, and Thailand.<sup>63</sup>

### 3. Substitutability

In the original investigations, the Commission found that price was one of the three most important factors in purchasing decisions in the OTR industry, along with availability and quality.<sup>64</sup> The Commission recognized that the U.S. market for OTR tires involved a three-tier hierarchy of brands, with the top tier consisting of large, international producers having widely recognized brands (such as Goodyear, Bridgestone, and Michelin) that sold at a premium over lower-tier products due to their sophisticated technical and manufacturing characteristics.<sup>65</sup> The second tier consisted of the Titan brands and some brands of subject imports from China that appealed to replacement buyers that did not require the level of quality and service provided from premium brands.<sup>66</sup> Subject imports from China also competed in the third tier, which was composed of so-called private brands or dealer house brands that appealed to economy-minded customers.<sup>67</sup>

In the original investigations, the Commission found subject OTR tires from China to be highly substitutable with OTR tires manufactured in the United States.<sup>68</sup> The majority of U.S. producers, importers, and purchasers reported them to be “always” or “frequently” interchangeable, and the majority or plurality of purchasers considered them to be comparable in most categories.<sup>69</sup> The Commission did not find that the longer lead times for subject merchandise materially limited competition between subject imports and the domestic like product, given the high degree of substitutability between products made in the United States and China and the large volume of subject imports from China.<sup>70</sup>

According to Titan and USW, many of these basic conditions, including the importance of price in purchasing decisions, remain unchanged.<sup>71</sup> There is also nothing on the current record indicating that the substitutability between OTR tires made in China and in the United States has changed since the original investigations. Accordingly, we again find a high degree of substitutability between OTR tires made in the United States and China.

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<sup>62</sup> CR at I-28; PR at I-20.

<sup>63</sup> CR at I-30; PR at I-22.

<sup>64</sup> Confidential Original Views at 22; USITC Pub. 4031 at 21.

<sup>65</sup> Confidential Original Views at 22; USITC Pub. 4031 at 21.

<sup>66</sup> Confidential Original Views at 22; USITC Pub. 4031 at 21; CR at I-23, I-24; PR at I-17.

<sup>67</sup> Confidential Original Views at 22; USITC Pub. 4031 at 21; CR at I-23, I-24; PR at I-17.

<sup>68</sup> Confidential Original Views at 21; USITC Pub. 4031 at 20.

<sup>69</sup> Confidential Original Views at 21; USITC Pub. 4031 at 20; CR at I-22 to I-23; PR at I-16 to I-17.

<sup>70</sup> Confidential Original Views at 22; USITC Pub. 4031 at 21.

<sup>71</sup> Titan/USW Comments on Adequacy at 6; Titan/USW Response to Notice of Institution at 29.

#### **4. Other Conditions**

In the original investigations, the Commission found that the major raw material input to manufacture OTR tires was natural rubber, and other important raw materials included synthetic rubber, carbon black, various chemicals, textiles, and steel.<sup>72</sup> The domestic industry's cost of goods sold ("COGS") increased 58.6 percent between 2005 and 2007 due to rapidly escalating raw material costs.<sup>73</sup>

#### **C. Likely Volume of Subject Imports**

##### **1. Original Investigations**

During the original investigations, the volume of subject imports of OTR tires from China increased from 825,000 tires in 2005 to 1.4 million tires in 2007.<sup>74</sup> By value, subject imports increased from \$84.9 million in 2005 to \$187.3 million in 2007.<sup>75</sup> Commensurately, their share of apparent U.S. consumption increased significantly as well, from 14.2 percent, by quantity, in 2005 to 22.3 percent in 2007, or from 7.0 percent, by value, in 2005 to 12.0 percent in 2007.<sup>76</sup>

The Commission found that the domestic industry faced significant competition from subject imports in both the agricultural sector, which accounted for the largest portion of the domestic industry's sales, and the construction sector.<sup>77</sup> U.S. shipments of agricultural OTR tires from China increased 153 percent between 2005 and 2007, and U.S. shipments of construction OTR tires imported from China increased by 34 percent during this period.<sup>78</sup>

Although the volume of subject imports in interim 2008 was lower by quantity and value than the volume of subject imports in interim 2007, the Commission found that this was due to the imposition on imports from China of provisional countervailing duties in December 2007 and provisional antidumping duties in February 2008.<sup>79</sup>

In its determinations in the original investigations, the Commission rejected respondents' argument that subject imports increased simply because the domestic industry was unable to meet demand.<sup>80</sup> Instead, the Commission found that any shortages primarily involved out-of-scope tires such as large agricultural tires and C&M tires of 39 inches and higher. Moreover, it found that subject imports were not restricted to or even concentrated in

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<sup>72</sup> Confidential Original Views at 22; USITC Pub. 4031 at 21-22.

<sup>73</sup> Confidential Original Views at 22; USITC Pub. 4031 at 21.

<sup>74</sup> Confidential Original Views at 23; USITC Pub. 4031 at 22.

<sup>75</sup> Confidential Original Views at 23; USITC Pub. 4031 at 22.

<sup>76</sup> Confidential Original Views at 23; USITC Pub. 4031 at 22.

<sup>77</sup> Confidential Original Views at 23; USITC Pub. 4031 at 22.

<sup>78</sup> Confidential Original Views at 23; USITC Pub. 4031 at 22.

<sup>79</sup> Confidential Original Views at 23 & n.164; USITC Pub. 4031 at 22 & n.164.

<sup>80</sup> Confidential Original Views at 23; USITC Pub. 4031 at 22-23.

those categories for which there were reported shortages (such as for smaller farm tires designed for older-model equipment and other small-volume models).<sup>81</sup>

Accordingly, the Commission found that the volume of subject imports from China was significant, both in absolute terms and relative to consumption and production in the United States, and it found that the increase in subject imports between 2005 and 2007 was significant.<sup>82</sup>

## 2. Current Reviews

In the current reviews, the available information indicates that the antidumping and countervailing duty orders have had a disciplining effect on the volume of subject imports of OTR tires from China. Regardless of the data source, the volume of subject imports from China in the U.S. market in 2012 is appreciably lower than the volume in 2007.<sup>83</sup>

In the original investigations, the Commission sent questionnaires to 95 possible producers/exporters of subject merchandise in China, and 18 foreign producers accounting for \*\*\* percent of OTR tire production in China in 2007 submitted questionnaire data.<sup>84</sup> No foreign producer or exporter of OTR tires participated in these expedited reviews. Nonetheless, available record data indicate that the industry in China continues to manufacture and export substantial volumes of OTR tires<sup>85</sup> and may have increased its overall capacity since the original

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<sup>81</sup> Confidential Original Views at 20, 23-24; USITC Pub. 4031 at 19-20, 22-23. Additionally, the Commission concluded that the shortages experienced by Caterpillar involved the three highest-priced premium brands, whereas subject imports predominantly supplied the two lower tiers of the U.S. market. Confidential Original Views at 21, 23-24; USITC Pub. 4031 at 20, 22-23.

<sup>82</sup> Confidential Original Views at 23-24; USITC Pub. 4031 at 22-23.

<sup>83</sup> CR/PR at Table I-6 (indicating that the volume of subject imports from China was 2.1 million tires in 2007 and 1.3 million tires in 2012, or \$275.9 million by value in 2007 and \$216.5 million by value in 2012), Table A-5 (indicating that the volume of subject imports from China was 2.3 million tires in 2007 and 1.4 million tires in 2012, or \$282.3 million by value in 2007 and \$217.7 million by value in 2012); Titan/USW Final Comments at 3; Titan/USW Response to the Notice of Institution at 11-13.

<sup>84</sup> CR at I-34 to I-37; PR at I-25.

<sup>85</sup> Total exports of OTR tires from China increased by 61.0 percent between 2008 and 2012. CR at I-35; PR at I-26; CR/PR at Table I-8, Table I-9; Titan/USW Final Comments at 9-10; Titan/USW Response to Notice of Institution at 18-19. Available data from Global Trade Atlas may overstate exports of OTR tires because they have not been adjusted to account for out-of-scope OTR tires over 1,500 pounds or lower-value OTR tires. CR/PR at Table I-8, Table I-9.

investigations.<sup>86</sup> The industry in China also continued to export a range of OTR tire products to the United States in 2012, as it had during the original investigation period.<sup>87</sup>

The United States remains an attractive market to the industry in China. Subject imports of OTR tires from China, while lower than during the original investigations, have remained in the U.S. market in substantial volumes.<sup>88</sup> Titan and USW report that some producers in China have added U.S. subsidiary distribution centers, and many producers in China have existing relationships with U.S. importers and distributors.<sup>89</sup> Available data suggest that the United States is the largest global importer of OTR tires.<sup>90</sup> Between 2008 and 2012, exports of OTR tires from China to the United States, its largest export market, increased by 74.4 percent.<sup>91</sup> Additionally, \*\*\*.<sup>92</sup>

Thus, OTR tires from China have remained in the U.S. market at substantial levels, and that industry has the ability to increase exports of subject merchandise to the United States upon revocation as it did during the original investigations and has the incentive to do so given the attractiveness of the U.S. market.<sup>93</sup> In light of these considerations, we find that subject producers in China are likely, absent the restraining effects of the orders, to direct substantial and increasing volumes of OTR tires to the U.S. market, as they did during the original investigations. We find that the likely volume of subject imports both in absolute terms and relative to production and consumption in the United States would be significant if the orders were revoked.

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<sup>86</sup> CR/PR at Table I-10. According to Titan and USW, 21 firms have participated in Commerce's administrative reviews of the antidumping and countervailing duty orders on OTR tire imports from China, and 71 firms were listed on the exhibitor's list as manufacturers and exporters of OTR tires at the 2013 China International Tire Expo. CR at I-34; PR at I-25; Titan/USW Final Comments at 8; Titan/USW Response to Notice of Institution at 17-18; Specialty Tires Response to Notice of Institution at 2.

<sup>87</sup> CR/PR at Table I-9.

<sup>88</sup> Titan and USW identified over 400 importers that they believed may have imported OTR tires during the last five years. Specialty Tires submitted a list of 24 such firms. CR at I-28; PR at I-20.

<sup>89</sup> Titan/USW Final Comments at 10; Titan/USW Response to Notice of Institution at 21-22.

<sup>90</sup> CR/PR at Table I-10.

<sup>91</sup> CR at I-35; PR at I-26; CR/PR at Table I-8, Table I-9; Titan/USW Final Comments at 9-10; Titan/USW Response to Notice of Institution at 18-19.

<sup>92</sup> Titan/USW Final Comments at 9-10; Titan/USW Response to Notice of Institution at 20-21.

<sup>93</sup> Due to the failure of any foreign producer, exporter, or importer of subject merchandise from China to participate in these reviews, the record does not contain current information regarding any existing inventories of subject merchandise, any likely increase in such inventories, or the potential for product shifting if production facilities in China which can be used to produce OTR tires are currently being used to manufacture other products. The record does not indicate the existence of tariff or non-tariff barriers on OTR tires from China in any third-country markets. CR at I-37; PR at I-27.



## D. Likely Price Effects

### 1. Original Investigations

In the original investigations, the Commission found that price was important but that purchasers had not routinely listed price as the single most important factor.<sup>94</sup> It did not find OTR tires were commodity products but instead found that OTR tires were sold under brand names in three tiers.<sup>95</sup> It found that OTR tires from China competed in two of the three tiers and generally were highly substitutable for products manufactured in the United States.<sup>96</sup>

The Commission collected pricing data for nine OTR tire products imported from China and produced in the United States.<sup>97</sup> These data showed widespread and significant underselling of the domestic like product by subject imports from China in 147 of 157 possible comparisons and at margins of 1.5 to 57.0 percent.<sup>98</sup> The Commission did not find that the existence of brand premiums explained the underselling, because most questionnaire respondents reported that brand premiums commonly ranged between 10 and 15 percent and in the clear majority of instances, margins of underselling exceeded 15 percent.<sup>99</sup> Additionally, a substantial share of domestic pricing products did not correspond to the premium-priced tier-one products.<sup>100</sup>

The Commission found that subject imports of OTR tires from China increased their share of apparent U.S. consumption at the domestic industry's expense by underselling the domestic like product at widespread and significant margins.<sup>101</sup> Rather than reduce prices to meet low-priced subject imports, the Commission found that the domestic industry held its prices firm to meet rising production costs at the expense of lost sales volume.<sup>102</sup> The Commission found that confirmed lost sales and lost revenue allegations illustrated this point, and that purchasers reported buying subject imports due to lower prices.<sup>103</sup> For these reasons,

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<sup>94</sup> Confidential Original Views at 25; USITC Pub. 4031 at 24.

<sup>95</sup> Confidential Original Views at 25; USITC Pub. 4031 at 24.

<sup>96</sup> Confidential Original Views at 25; USITC Pub. 4031 at 24.

<sup>97</sup> Confidential Original Views at 25; USITC Pub. 4031 at 24.

<sup>98</sup> Confidential Original Views at 25; USITC Pub. 4031 at 24-25.

<sup>99</sup> Confidential Original Views at 25-26; USITC Pub. 4031 at 24-25.

<sup>100</sup> Confidential Original Views at 26; USITC Pub. 4031 at 25.

<sup>101</sup> Confidential Original Views at 26; USITC Pub. 4031 at 25.

<sup>102</sup> Confidential Original Views at 26; USITC Pub. 4031 at 25.

<sup>103</sup> Confidential Original Views at 26; USITC Pub. 4031 at 25. Domestic prices for all nine pricing products generally trended upward between 2005 and 2007, so the Commission did not find significant price depression. Moreover, the domestic industry was able to meet rising raw material costs by raising its prices for the domestic like product, because the ratio of its COGS to net sales declined from 89.7 percent in 2005 to 88.7 percent in 2007. Thus, the Commission did not find that subject imports prevented price increases that otherwise would have occurred to a significant degree. Confidential Original Views at 25; USITC Pub. 4031 at 24.

the Commission concluded that there had been significant underselling of the domestic like product by a significant and increasing volume of subject imports of OTR tires from China.<sup>104</sup>

## 2. Current Reviews

As indicated above, in these reviews, we continue to find that subject imports from China are highly substitutable for OTR tires manufactured in the United States and that price is an important factor in purchasing decisions. The record does not contain current pricing comparisons due to the failure of respondent interested parties to participate and the expedited nature of these reviews. We find that the significant underselling observed during the original investigations would likely recur if the antidumping and countervailing duty orders were revoked. This in turn would likely cause the domestic industry to lower prices, or, as was the case in the original investigations, maintain prices to cover rising costs but lose sales to subject imports from China.<sup>105</sup> Given subject imports' already substantial U.S. market presence and our finding that they would likely increase in the event of revocation, we conclude that the likely significant volume of subject imports of OTR tires from China would again undersell the domestic like product to a significant degree to gain market share, and as discussed below, would likely significantly impact the domestic industry's condition if the orders were revoked.

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<sup>104</sup> Confidential Original Views at 25-26; USITC Pub. 4031 at 24-25.

<sup>105</sup> We note that domestic producer Titan reported that its raw material costs \*\*\* while the orders were in place. CR at I-24; PR at I-17. Domestic interested parties Titan and USW argue that Commerce's imposition of provisional relief caused the price of several OTR tire products made in the United States and imported from China to rise sharply and that the orders have had some disciplining effect on the price of subject imports from China. Titan/USW Final Comments at 3; Titan/USW Response to Notice of Institution at 14-15.

## E. Likely Impact<sup>106</sup>

### 1. Original Investigations

In the original investigations, the Commission found that the domestic industry's performance indicators showed mixed results despite strong demand conditions.<sup>107</sup> It concluded that the overall weight of the factors supported a finding of material injury by reason of subject imports, because several of the domestic industry's indicators that improved were affected either by the domestic industry's movement toward larger-sized tires due to competition from smaller-sized OTR tires from China or by the effects of Commerce's imposition of provisional antidumping and countervailing duties.<sup>108</sup>

The domestic industry's production, U.S. shipments, and net sales of OTR tires, by units, decreased between 2005 and 2007, but were higher in interim 2008 than in interim 2007. Its capacity utilization followed the same trends. Its production, U.S. shipments, and net sales, by weight, increased overall, but only because the domestic industry produced and shipped relatively more larger-sized tires later in the period.<sup>109</sup> Employment-related indicators such as the number of production and related workers, hours worked, and wages paid all declined.<sup>110</sup>

The Commission also found that the domestic industry's financial indicators were mixed during the original investigations.<sup>111</sup> Its operating income increased throughout, and the domestic industry was able to increase prices to meet rising raw material costs, as shown by a

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<sup>106</sup> Under the statute, "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv); *see also* SAA at 887. After conducting an expedited review of the antidumping duty order on OTR tires from China, Commerce determined that revocation of the order would likely lead to continuation or recurrence of dumping at weighted-average margins of 5.10 to 29.93 percent for individually listed exporters/producers and 210.48 percent for the PRC entity. In its expedited review of the countervailing duty order, Commerce determined that revocation of the order would likely lead to continuation or recurrence of countervailable subsidies of 2.52 to 35.13 percent for individually listed exporters/producers and 5.65 percent for all others. CR at I-5; PR at I-4; 78 Fed. Reg. 77101, 77102 (Dec. 20, 2013); 79 Fed. Reg. 2415, 2416 (Jan. 14, 2014).

<sup>107</sup> Confidential Original Views at 27, 29; USITC Pub. 4031 at 26, 28.

<sup>108</sup> Confidential Original Views at 27; USITC Pub. 4031 at 26.

<sup>109</sup> Confidential Original Views at 27-28; USITC Pub. 4031 at 26-27. The domestic industry's average production capacity increased between 2005 and 2007, and it reconfigured its production facilities to produce greater volumes of heavier-weight tires at the end of the POI than at the beginning. Confidential Original Views at 19, 21; USITC Pub. 4031 at 18, 20. The Commission observed that the utility of the domestic industry's capacity data was limited due to the wide variety of OTR tires being manufactured. Confidential Original Views at 19 at n.130; USITC Pub. 4031 at 19 at n.130.

<sup>110</sup> Confidential Original Views at 28; USITC Pub. 4031 at 27.

<sup>111</sup> Confidential Original Views at 29; USITC Pub. 4031 at 28.

decline in its ratio of COGS to net sales.<sup>112</sup> Nevertheless, the domestic industry's ratio of operating income to net sales remained "quite low," and four of the seven domestic producers reported operating losses, with two of them suffering losses in each year and during both interim periods.<sup>113</sup>

Given the significant increase in the already significant volume of subject imports of OTR tires from China at the domestic industry's expense through widespread and significant underselling between January 2005 and March 2008, the Commission concluded that adverse effects by subject imports on the domestic industry's production, capacity utilization, shipments, net sales, employment, and revenues during a period of strong demand were material.<sup>114</sup>

## 2. Current Reviews

In the current reviews, the available information concerning the domestic industry's condition is limited to the data that two of the domestic producers provided in response to the notice of institution, and these producers accounted for approximately \*\*\* percent of domestic production in 2012.<sup>115</sup> Because these are expedited reviews, we also have only limited information regarding the domestic industry's financial performance.<sup>116</sup> Available information suggests some improvement in the domestic industry's condition associated with the orders.<sup>117</sup> Other positive developments for the domestic industry include the entry into the U.S. market of Mitas Tires, Bridgestone's \$77 million capacity investment in 2010, and Bridgestone's June 2013 announcement of a further \$74 million capacity expansion of its Des Moines, Iowa plant.<sup>118</sup> Nonetheless, this limited record is insufficient for us to make a finding as to whether the

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<sup>112</sup> Confidential Original Views at 29; USITC Pub. 4031 at 28.

<sup>113</sup> Confidential Original Views at 29; USITC Pub. 4031 at 28.

<sup>114</sup> Confidential Original Views at 29; USITC Pub. 4031 at 28-29. The Commission acknowledged that some of these trends were reversed when measuring the performance indicia by weight, but it attributed this to the industry's focusing of production away from the small-tire segment where it faced competition from subject imports from China and toward the larger sizes. Confidential Original Views at 29-30; USITC Pub. 4031 at 28-29.

<sup>115</sup> For 2012, Titan and Specialty Tires reported combined production capacity of \*\*\* tires, production of \*\*\* tires, capacity utilization of \*\*\* percent, and U.S. shipments of \*\*\* tires, by quantity, or \$\*\*\*, by value. CR/PR at Table I-3.

<sup>116</sup> For 2012, Titan and Specialty Tires reported combined net sales of \$\*\*\*, operating income of \$\*\*\*, and operating income as a share of net sales of \*\*\* percent. CR/PR at Table I-3.

<sup>117</sup> Titan and USW argue that Commerce's imposition of provisional relief and then antidumping and countervailing duty orders led to improvements in the domestic industry's condition, although they argue that the full benefit was not immediately apparent due to the general economic downturn that began in 2008. They point to improvements in Titan's \*\*\*, and they report that the domestic industry \*\*\*. Titan/USW Final Comments at 4-6, 12-13; Titan/USW Response to Notice of Institution at 14-17.

<sup>118</sup> CR at I-25 to I-26; PR at I-18; Titan/USW Final Comments at 4-5; Titan/USW Response to Notice of Institution at 14-16.

domestic industry is vulnerable to the continuation or recurrence of material injury in the event of revocation of the antidumping and countervailing duty orders.

Based on the record, we find that, should the orders be revoked, the likely significant volume and likely significant price effects of subject imports would likely have a significant adverse impact on the domestic industry's production, shipments, sales, market share, and revenues, particularly because available information suggests that current and projected demand conditions in the U.S. market are less favorable than during the original investigations. These declines would likely cause the domestic industry's profitability to fall.

We also considered the role of factors other than subject imports, including the presence of nonsubject imports, so as not to attribute injury from other factors to the subject imports. In the original investigations, the Commission concluded that OTR tires did not constitute a commodity product.<sup>119</sup> As indicated above, imports from nonsubject sources continue to have a sizeable U.S. market presence, as they did in the original investigations. In 2012, even though its imports were subject to antidumping and countervailing duty orders, the industry in China continued to be the largest supplier of imported OTR tires in the U.S. market, representing 34.9 percent of U.S. imports by quantity. The next largest suppliers accounted for substantially smaller shares: India (22.3 percent), Sri Lanka (12.5 percent), and Thailand (7.5 percent).<sup>120</sup> Moreover, during the original investigations, subject imports from China steadily gained U.S. market share at the domestic industry's expense while nonsubject imports maintained a relatively stable presence in the market. We thus find that upon revocation, the significant volume of subject imports would again likely take market share from the domestic industry through significant underselling.

Accordingly, we conclude that, if the antidumping and countervailing duty orders were revoked, subject imports from China would likely have a significant impact on the domestic industry within a reasonably foreseeable time.

## **V. Conclusion**

For the foregoing reasons, we determine that revocation of the antidumping and countervailing duty orders on OTR tires from China would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

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<sup>119</sup> Confidential Original Views at 30 at n.223; USITC Pub. 4031 at 29 at n.223.

<sup>120</sup> CR at I-30; PR at I-22.



# INFORMATION OBTAINED IN THE REVIEW

## INTRODUCTION

### Background

Effective August 1, 2013, the U.S. International Trade Commission (“Commission” or “USITC”) gave notice, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”),<sup>1</sup> that it had instituted reviews to determine whether revocation of the antidumping and countervailing duty orders on certain off-the-road (“OTR”) tires from China would be likely to lead to the continuation or recurrence of material injury to a domestic industry.<sup>2 3</sup> On November 20, 2013, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act.<sup>4</sup> The following tabulation presents information relating to the background and schedule of this proceeding:

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<sup>1</sup> 19 U.S.C. 1675(c).

<sup>2</sup> *Certain Off-The-Road Tires from China Institution of Five-Year Reviews*, 78 FR 46607, August 1, 2013. All interested parties were requested to respond to this notice by submitting the information requested by the Commission.

<sup>3</sup> In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of five-year reviews of the subject antidumping and countervailing duty orders concurrently with the Commission’s notice of institution. *Initiation of Five-Year (“Sunset”) Review*, 78 FR 46575, August 1, 2013.

<sup>4</sup> *Certain Off-The-Road Tires From China; Scheduling of an Expedited Five-Year Review Concerning the Countervailing Duty Order and Antidumping Duty Order On Certain Off-The-Road Tires From China*, 78 FR 73560, December 6, 2013. The Commission received two submissions in response to its notice of institution in the subject reviews. The first submission was filed on behalf of Titan Tire Corporation (“Titan”), a U.S. producer of the domestic like product, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (“USW”), a domestic union representing workers engaged in the manufacturing of OTR tires. The second submission was filed on behalf of Specialty Tires America, Inc. (“Specialty Tires”), a U.S. producer of the domestic like product. The two identified U.S. producers are believed to account for \*\*\* percent of production of the domestic like product in 2012. The Commission did not receive any responses from producers in China or importers of the subject merchandise from China. The Commission determined that the domestic interested party group response to its notice of institution was adequate and that the respondent interested party group response was inadequate. In the absence of respondent interested party responses and any other circumstances that would warrant the conduct of full reviews, the Commission determined to conduct expedited reviews.

Effective date	Action
September 4, 2008	Commerce's antidumping duty order on OTR tires from China (73 FR 51624) <a href="https://federalregister.gov/a/E8-20569">https://federalregister.gov/a/E8-20569</a>
September 4, 2008	Commerce's countervailing duty order on OTR tires from China (73 FR 51627) <a href="https://federalregister.gov/a/E8-20568">https://federalregister.gov/a/E8-20568</a>
August 1, 2013	Commission's institution of first five-year reviews (78 FR 46607) <a href="https://federalregister.gov/a/2013-18108">https://federalregister.gov/a/2013-18108</a>
August 1, 2013	Commerce's initiation of first five-year reviews (78 FR 46575) <a href="https://federalregister.gov/a/2013-18554">https://federalregister.gov/a/2013-18554</a>
November 20, 2013	Commission's determination to conduct expedited five-year reviews (78 FR 73560, December 6, 2013) <a href="https://federalregister.gov/a/2013-29181">https://federalregister.gov/a/2013-29181</a>  The press release announcing the Commission's determination concerning adequacy and the conduct of expedited reviews can be found at <a href="http://usitc.gov/press_room/news_release/2013/er1120111.htm">http://usitc.gov/press_room/news_release/2013/er1120111.htm</a> .  A summary of the Commission's votes concerning the adequacy and the conduct of expedited reviews, and the Commission's explanation of its determination can be found at <a href="http://pubapps2.usitc.gov/sunset/caseProf/show/10238">http://pubapps2.usitc.gov/sunset/caseProf/show/10238</a> .
December 20, 2013	Commerce's final results of expedited five-year review of the countervailing duty orders (78 FR 77101)
January 14, 2014	Commerce's final results of expedited five-year review of the antidumping duty order (79 FR 2415)
January 6, 2014	Commission's vote
January 15, 2014	Commission's determinations

### The original investigations

The original investigations resulted from petitions filed on June 18, 2007, by Titan, Des Moines, Iowa, and USW, Pittsburgh, PA, alleging that an industry in the United States was materially injured and threatened with material injury by reason of subsidized and less-than-fair-value ("LTFV") imports of OTR tires from China. On July 7, 2008, Commerce determined that imports of OTR tires from China were being subsidized<sup>5</sup> and sold at LTFV.<sup>6</sup> On August 28, 2008, the Commission issued its determinations that an industry in the United States was materially injured by reason of subsidized and LTFV imports of OTR tires from China.<sup>7</sup>

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<sup>5</sup> *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Determination of Critical Circumstances*, 73 FR 40480, July 15, 2008.

<sup>6</sup> *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485, July 15, 2008.

<sup>7</sup> *Certain Off-the-Road Tires from China; Determination*, 73 FR 51842, September 5, 2008.



Commerce issued antidumping and countervailing duty orders of OTR tires from China on September 4, 2008.<sup>8 9</sup>

On October 1, 2010, the CIT sustained the remand redetermination made by Commerce pursuant to the CIT's remand of the final determination in the antidumping duty investigation on OTR tires from China.<sup>10</sup> The weighted-average dumping margin calculated for subject merchandise produced by Starbright and exported by Starbright/GPX changed from 29.93 percent to 31.79 percent, the weighted-average dumping margin calculated for subject merchandise produced and exported by TUTRIC changed from 8.44 percent to 10.08 percent, and the weighted-average dumping margin calculated for separate rate companies changed from 12.19 percent to 13.92 percent. In addition, Commerce had initially excluded foreign producer/exporter Xuzhou Xugong Tyres Co., Ltd. from the order but as a result of ensuing litigation, amended the order after finding a non-*de minimis* margin of 10.01 percent for this firm.<sup>11</sup>

On October 30, 2013, the CIT affirmed a remand redetermination relating to Commerce's original CVD investigation on OTR tires from China.<sup>12</sup> In the remand determination, Commerce amended its final determination and determined that the revised total net countervailable subsidy rate calculated for Tianjin United Tire & Rubber International Co., Ltd. (TUTRIC) is 3.93 percent.<sup>13</sup> The deadline to appeal this decision has not yet expired.

The Government of China also disputed the antidumping and countervailing duty measures before the World Trade Organization.<sup>14</sup>

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<sup>8</sup> *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Notice of Amended Final Affirmative Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 73 FR 51624, September 4, 2008; and *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Countervailing Duty Order*, 73 FR 51627, September 4, 2008.

<sup>9</sup> Foreign producer/exporter Hebei Starbright Tire Co., Ltd. and importers GPX International Tire Corp. and Super Grip Corp. sought review of the Commission's final injury determinations but voluntarily dismissed their appeal after the U.S. Court of International Trade ("CIT") denied their requests for a temporary restraining order and injunctive relief and denied their requests for reconsideration or rehearing. *GPX Int'l Tire Corp. v. United States*, 587 F. supp. 2d 1278 (Ct. Int'l Trade 2008), *reh'g denied*, 593 F.supp.2d 1389 (Ct. Int'l Trade 2008).

<sup>10</sup> *GPX Int'l Tire Corp. v. United States*, 715 F. supp. 2d 1337 (Ct. Int'l Trade 2008).

<sup>11</sup> *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Notice of Amended Final Determination of Sales at Less Than Fair Value and Amended Antidumping Duty Order in Accordance With Final Court Decision*, 75 FR 49459 (August 13, 2010).

<sup>12</sup> *GPX Int'l Tire Corp. v. United States*, slip op. 13-132 (CIT Ct. No. 08-285) (Oct. 30, 2013), *see generally* *GPX Int'l Tire Corp. v. United States*, 666 F.3d 732 (Fed. Cir. 2011); 19 U.S.C. § 1671(f); *GPX Int'l Tire Corp. v. United States*, 678 F.3d 1308 (Fed. Cir. 2012).

<sup>13</sup> *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Notice of Decision of the Court of International Trade Not in Harmony and Notice of Amended Final Determination*, 78 FR 70917, November 27, 2013.

<sup>14</sup> See Panel Report, *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China*, WT/DS379R (Oct. 22, 2010), adopted on March 25, 2011, as modified by Appellate (continued...)

## Commerce's final results of expedited first five-year reviews

Commerce's results of its expedited sunset reviews of the subject antidumping and countervailing duty orders were issued on December 16, 2013. Commerce determined that revocation of the antidumping duty order on OTR tires from China would likely lead to continuation or recurrence of dumping at weighted-average margins of 5.10 to 29.93 percent for individually listed exporters/producers and 210.48 percent for the PRC-Entity rate.<sup>15</sup> Commerce determined that revocation of the countervailing duty order on OTR tires from China would likely lead to continuation or recurrence of countervailable subsidies at rates between 2.52 and 35.13 for individually listed exporters/producers, and 5.65 for all others.<sup>16</sup>

## Commerce's administrative reviews

Commerce has completed three administrative reviews of the antidumping duty order on OTR tires from China.<sup>17</sup> The results of the administrative reviews are shown in table I-1. Commerce conducted one new shipper review for the period September 1, 2011 through February 29, 2012, in which it found that Trelleborg Wheel Systems China did not make a sale of subject merchandise at less than normal value.<sup>18</sup> Commerce conducted one changed circumstances administrative review<sup>19</sup> in which it determined that Mai Shandong Radial Tyre Co., Ltd. ("Mai Shandong") is not the successor-in-interest to Shandong Jinyu Tyre Co., Ltd. ("Shandong Jinyu") for the purposes of determining the antidumping duty cash deposit rate for Mai Shandong.<sup>20</sup>

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(...continued)

Body Report WT/DS379/AB/R (Mar. 11, 2011); 77 Fed. Reg. 52683 (Aug. 30, 2012); *United States – Countervailing and Anti-Dumping Measures on Certain Products from China*, WT/DS449/1.

<sup>15</sup> *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, December 16, 2013, to be published in the *Federal Register*.

<sup>16</sup> *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Results of the Expedited Sunset Review of the Countervailing Duty Order*, December 16, 2013, to be published in the *Federal Register*.

<sup>17</sup> Commerce rescinded the administrative review for the period September 1, 2011 through August 31, 2012. 78 FR 33059 (June 3, 2013). Commerce has initiated an administrative review for the period September 1, 2012 through August 31, 2013. 78 FR 67104 (November 8, 2013).

<sup>18</sup> *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review; 2011-2012*, 78 FR 33341, June 4, 2013.

<sup>19</sup> Commerce also initiated one changed circumstances administrative review on October 30, 2013 to determine whether Shandong Linglong is the successor-in-interest to Zhaoyuan Leo Rubber Co., Ltd. ("Leo Rubber"), a separate-rate respondent in the original investigation. 78 FR 64913.

<sup>20</sup> *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Results of Changed Circumstances Review*, 75 FR 46914, August 4, 2010.

Commerce has completed one administrative review of the countervailing duty order on OTR tires from China.<sup>21</sup> The result of the administrative review is shown in table I-2.

**Table I-1**

**OTR Tires: Administrative reviews of the antidumping duty order**

<b>Date results published</b>	<b>Period of review</b>	<b>Producer or exporter</b>	<b>Weighted-average margin (percent)</b>
April 25, 2011 (76 FR 22871)	02/20/08 – 08/31/09	Hebei Starbright Tire Co., Ltd.; Hangzhou Zhongce Rubber Co., Ltd.; KS Holding Limited/KS Resources Limited; Laizhou Xiongying Rubber Industry Co., Ltd.; Qingdao Taifa Group Co., Ltd.; and Weihai Zhongwei Rubber Co., Ltd.	28.97
March 12, 2012 (77 FR 14495)	09/01/09 – 08/31/10	Tianjin United Tire & Rubber International Co., Ltd.	11.07
April 16, 2013 (78 FR 22513)	09/01/10 – 08/31/11	Hangzhou Zhongce Rubber Co., Ltd.	112.41

Source: Cited Federal Register notices.

**Table I-2**

**OTR Tires: Administrative reviews of the countervailing duty order**

<b>Date results published</b>	<b>Period of review</b>	<b>Producer or exporter</b>	<b>Weighted-average margin (percent)</b>
April 26, 2011 (76 FR 23286)	12/17/07 – 12/31/08	Hebei Starbright Tire Co., Ltd.	30.87

Source: Cited Federal Register notice.

**Previous and related title VII investigations**

The Commission has not previously conducted import injury investigations on OTR tires. In 2009, however, the Commission determined, pursuant to section 421(b)(1) of the Trade Act of 1974, that certain passenger vehicle and light truck tires<sup>22</sup> from the People’s Republic of China were 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. USITC commissioners voting in the affirmative recommended

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<sup>21</sup> Commerce rescinded the administrative review for the period January 1, 2009 through December 31, 2009. 76 FR 7816 (February 11, 2011). Commerce rescinded the administrative review for the period January 1, 2010 through December 31, 2010. 77 FR 4996 (February 1, 2012). Commerce has initiated an administrative review for the period January 1, 2012 through December 31, 2012. 78 FR 67104 (November 8, 2013).

<sup>22</sup> For purposes of this safeguard investigation, certain passenger vehicle and light truck tires were 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”).

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.<sup>23</sup> The President proclaimed that in the first year (effective September 26, 2009) the additional duty shall be in the amount of 35 percent *ad valorem* above the column 1 general rate of duty. For the second year, the additional duty shall be in the amount of 30 percent *ad valorem* above the column 1 general rate of duty, and in the third year, the additional duty shall be in the amount of 25 percent *ad valorem* above the column 1 general rate of duty.<sup>24</sup> The Government of China disputed this determination but a World Trade Organization dispute settlement panel and the Appellate Body both rejected China's claims that the United States had acted inconsistently with its obligations.<sup>25</sup>

## THE PRODUCT

### Commerce's scope

In its final results of the expedited first five year reviews of the antidumping and countervailing duty orders, Commerce defined the subject merchandise as:<sup>26</sup>

The products covered by the scope are new pneumatic tires designed for off-the-road (OTR) and off-highway use, subject to exceptions identified below. Certain OTR tires are generally designed, manufactured and offered for sale for use on off-road or off-highway surfaces, including but not limited to, agricultural fields, forests, construction sites, factory and warehouse interiors, airport tarmacs, ports and harbors, mines, quarries, gravel yards, and steel mills.

The vehicles and equipment for which certain OTR tires are designed for use include, but are not limited to: (1) agricultural and forestry vehicles

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<sup>23</sup> *Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China*, 74 FR 34363, July 15, 2009; *Certain Passenger Vehicle and Light Truck Tires from China*, Inv. TA-421-7, USITC Pub. 4085 (July 2009).

<sup>24</sup> *Proclamation 8414—To Address Market Disruption From Imports of Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China*, 74 FR 47861, September 17, 2009.

<sup>25</sup> *United States – Measures Affecting Imports of Certain Passenger Vehicle and Light Truck Tyres from China*, Panel Report WT/DS399R (Dec. 13, 2010), Appellate Body Report (Sept. 5, 2011), adopted October 5, 2011.

<sup>26</sup> *Issues and Decision Memorandum for the Final Results of Expedited First Sunset Review of the Antidumping Duty Order on New Pneumatic Off-The-Road Tires from the People's Republic of China*, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, December 16, 2013.

and equipment, including agricultural tractors,<sup>27</sup> combine harvesters,<sup>28</sup> agricultural high clearance sprayers,<sup>29</sup> industrial tractors,<sup>30</sup> log-skidders,<sup>31</sup> agricultural implements, highway-towed implements, agricultural logging, and agricultural, industrial, skid-steers/miniloaders;<sup>32</sup> (2) construction vehicles and equipment, including earthmover articulated dump products, rigid frame haul trucks,<sup>33</sup> front end loaders,<sup>34</sup> dozers,<sup>35</sup> lift trucks, straddle carriers,<sup>36</sup> graders,<sup>37</sup> mobile cranes,<sup>38</sup> compactors; and (3) industrial vehicles and equipment, including smooth floor, industrial, mining, counterbalanced lift trucks, industrial and mining vehicles other than smooth floor, skid-steers/miniloaders, and smooth floor off-the-road counterbalanced lift trucks.<sup>39</sup>

The foregoing list of vehicles and equipment generally have in common that they are used for hauling, towing, lifting, and/or loading a wide

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<sup>27</sup> Agricultural tractors are dual-axle vehicles that typically are designed to pull farming equipment in the field and that may have front tires of a different size than the rear tires.

<sup>28</sup> Combine harvesters are used to harvest crops such as corn or wheat.

<sup>29</sup> Agricultural sprayers are used to irrigate agricultural fields.

<sup>30</sup> Industrial tractors are dual-axle vehicles that typically are designed to pull industrial equipment and that may have front tires of a different size than the rear tires.

<sup>31</sup> A log-skidder has a grappling lift arm that is used to grasp, lift and move trees that have been cut down to a truck or trailer for transport to a mill or other destination.

<sup>32</sup> Skid-steer loaders are four-wheel drive vehicles with the left-side drive wheels independent of the right-side drive wheels and lift arms that lie alongside the driver with the major pivot points behind the driver's shoulders. Skid-steer loaders are used in agricultural, construction and industrial settings.

<sup>33</sup> Haul trucks, which may be either rigid frame or articulated (i.e., able to bend in the middle) are typically used in mines, quarries and construction sites to haul soil, aggregate, mined ore, or debris.

<sup>34</sup> Front loaders have lift arms in front of the vehicle. They can scrape material from one location to another, carry material in their buckets, or load material into a truck or trailer.

<sup>35</sup> A dozer is a large four-wheeled vehicle with a dozer blade that is used to push large quantities of soil, sand, rubble, etc., typically around construction sites. They can also be used to perform "rough grading" in road construction.

<sup>36</sup> A straddle carrier is a rigid frame, engine-powered machine that is used to load and offload containers from container vessels and load them onto (or off of) tractor trailers.

<sup>37</sup> A grader is a vehicle with a large blade used to create a flat surface. Graders are typically used to perform "finish grading." Graders are commonly used in maintenance of unpaved roads and road construction to prepare the base course on to which asphalt or other paving material will be laid.

<sup>38</sup> i.e., "on-site" mobile cranes designed for off-highway use.

<sup>39</sup> A counterbalanced lift truck is a rigid framed, engine-powered machine with lift arms that has additional weight incorporated into the back of the machine to offset or counterbalance the weight of loads that it lifts so as to prevent the vehicle from overturning. An example of a counterbalanced lift truck is a counterbalanced fork lift truck. Counterbalanced lift trucks may be designed for use on smooth floor surfaces, such as a factory or warehouse, or other surfaces, such as construction sites, mines, etc.

variety of equipment and materials in agricultural, construction and industrial settings. Such vehicles and equipment, and the descriptions contained in the footnotes are illustrative of the types of vehicles and equipment that use certain OTR tires, but are not necessarily all-inclusive. While the physical characteristics of certain OTR tires will vary depending on the specific applications and conditions for which the tires are designed (e.g., tread pattern and depth), all of the tires within the scope have in common that they are designed for off-road and off-highway use. Except as discussed below, OTR tires included in the scope of the order range in size (rim diameter) generally but not exclusively from 8 inches to 54 inches. The tires may be either tube-type<sup>40</sup> or tubeless, radial or non-radial, and intended for sale either to original equipment manufacturers or the replacement market.

The subject merchandise is currently classifiable under HTSUS subheadings: 4011.20.10.25, 4011.20.10.35, 4011.20.50.30, 4011.20.50.50, 4011.61.00.00, 4011.62.00.00, 4011.63.00.00, 4011.69.00.00, 4011.92.00.00, 4011.93.40.00, 4011.93.80.00, 4011.94.40.00, and 4011.94.80.00. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope is dispositive.

Specifically excluded from the scope are new pneumatic tires designed, manufactured and offered for sale primarily for on-highway or on-road use, including passenger cars, race cars, station wagons, sport utility vehicles, minivans, mobile homes, motorcycles, bicycles, on-road or on-highway trailers, light trucks, and trucks and buses. Such tires generally have in common that the symbol "DOT" must appear on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Such excluded tires may also have the following designations that are used by the Tire and Rim Association:

Prefix letter designations:

- P - Identifies a tire intended primarily for service on passenger cars;
- LT - Identifies a tire intended primarily for service on light trucks; and,
- ST - Identifies a special tire for trailers in highway service.

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<sup>40</sup> While tube-type tires are subject to the scope of this proceeding, tubes and flaps are not subject merchandise and therefore are not covered by the scope of this proceeding, regardless of the manner in which they are sold (e.g., sold with or separately from subject merchandise).

Suffix letter designations:

- TR - Identifies a tire for service on trucks, buses, and other vehicles with rims having specified rim diameter of nominal plus 0.156" or plus 0.250";
- MH - Identifies tires for Mobile Homes;
- HC - Identifies a heavy duty tire designated for use on "HC" 15° tapered rims used on trucks, buses, and other vehicles. This suffix is intended to differentiate among tires for light trucks, and other vehicles or other services, which use a similar designation.
- Example: 8R17.5 LT, 8R17.5 HC;
- LT - Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service; and
- MC - Identifies tires and rims for motorcycles.

The following types of tires are also excluded from the scope: pneumatic tires that are not new, including recycled or retreaded tires and used tires; non-pneumatic tires, including solid rubber tires; tires of a kind designed for use on aircraft, all-terrain vehicles, and vehicles for turf, lawn and garden, golf and trailer applications. Also excluded from the scope are radial and bias tires of a kind designed for use in mining and construction vehicles and equipment that have a rim diameter equal to or exceeding 39 inches. Such tires may be distinguished from other tires of similar size by the number of plies that the construction and mining tires contain (minimum of 16) and the weight of such tires (minimum 1,500 pounds).

### **U.S. tariff treatment**

Imports of OTR tires subject to these reviews are currently imported under the following Harmonized Tariff Schedule of the United States ("HTSUS") statistical reporting numbers: 4011.20.1025, 4011.20.1035, 4011.20.5030, 4011.20.5050, 4011.61.0000, 4011.62.0000, 4011.63.0000, 4011.69.0000, 4011.92.0000, 4011.93.4000, 4011.93.8000, 4011.94.4000, and 4011.94.8000. The column 1-general (normal trade relations) rate of duty for subheadings 4011.20.10, 4011.93.40, and 4011.94.40 is 4 percent *ad valorem*; the general rate for subheadings 4011.20.50 and 4011.93.80 is 3.4 percent *ad valorem*; and the general rate for all other subheadings is "free".

## Domestic like product and domestic industry

In the final phase of the original investigations, the Commission found a single domestic like product comprised of certain OTR tires for agricultural, construction and industrial vehicles and equipment that corresponded to the scope of the investigations. The Commission rejected respondents' request to include larger construction and mining tires with a rim diameter equal to or exceeding 39 inches that were excluded from scope in the definition of the domestic like product. The Commission found that these tires differ greatly from the coterminous tires in terms of physical characteristics and uses, common manufacturing facilities and employees, channels of distribution, and price.<sup>41</sup> The Commission defined a single domestic industry producing the domestic like product.<sup>42</sup>

In its notice of institution for these reviews, the Commission solicited comments from interested parties regarding the appropriate domestic like product and domestic industry. In Titan's response to the Commission's notice of institution, it indicated that it agrees with the Commission's definition of the domestic like product and domestic industry as defined by the Commission in the original investigations.<sup>43</sup> Specialty Tires did not comment on the definition of the domestic like product or domestic industry in its response to the notice of institution.

## Description and uses<sup>44</sup>

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

Compared to the more familiar on-the-road passenger and truck tires, most certain OTR tires are designed for more rugged use where physical strength is imperative to absorb the

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<sup>41</sup> *Certain Off-The-Road Tires from China, Investigation Nos. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, p. 10.. *Ibid.*, pp. 6-10.

<sup>42</sup> *Certain Off-The-Road Tires from China, Investigation Nos. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, p. 11.

<sup>43</sup> *Titan's Response to the Commission's Notice of Institution*, September 3, 2013, p. 30.

<sup>44</sup> Unless otherwise noted this information is based on the following publication: *Certain Off-The-Road Tires from China, Inv. Nos. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008. Titan reported that the end uses of OTR tires have remained the same since the original investigations and no other substitutes have entered the market. *Titan's Response to the Notice of Institution*, September 3, 2013, p. 29.



abuses experienced in off-the-road applications, and where heavier load-bearing characteristics are required. For this reason, a generally higher content and ratio of stronger, more durable natural rubber is used in certain OTR tires, whereas the more supple synthetic rubbers are used in higher proportions in on-the-road tires. Also, more substantial internal reinforcement is required for OTR tires, including rubberized textile and steel tire cord plies and belts, heavy duty steel bead bundles for rim construction, and carbon black pigment reinforcement.

Certain OTR tires are produced in a wide variety of types and sizes depending upon end-use. They range from relatively small agricultural implement and industrial forklift tires, to larger tires found on the more familiar farm tractors and harvesting equipment. OTR tires are produced for earthmover/construction equipment used in mining and construction, such as haulage and dump trucks, front end loaders, dozers, graders, lift trucks, and mobile cranes, for example. The rim diameter (inside diameter) of certain OTR tires may range from 8 to 72 inches, and the weight of a large agricultural tire may be up to 1,200 pounds.<sup>45 46</sup> Subject OTR mining and construction tires less than 39 inches in rim diameter are typically much heavier in weight, some more than 3,000 pounds. Unlike on-the-road tires, certain OTR tires are typically designed for speeds no higher than 25-30 miles per hour. These tires may be of bias ply or radial construction depending upon the end use, and consist of multiple tread types depending on the types of equipment and end-use requirements.<sup>47 48</sup> Certain OTR tires may be of the tubeless or tube variety, but are predominately tubeless, while all are pneumatic (air pressurized) in nature, as defined in the scope.

In the United States, OTR producers have generally adopted The Tire and Rim Association (“TRA”) standards, which define off-the-road tires as those used principally on

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<sup>45</sup> Titan prehearing brief, p. 3.

<sup>46</sup> Titan’s agricultural tire rims range in diameter from 9 to 54 inches, with the 54-inch diameter being the largest agricultural wheel manufactured in North America; Titan’s agricultural tires range from about 1 foot to 7 feet in outside diameter height, and from 5 to 49 inches in width. Earthmoving/construction tires range from 20 to 63 inches in rim diameter, with the 63-inch rim diameter being the largest in North America. The outside diameter of these tires range from 3 feet to 13 feet in height, and in weight from 50 pounds to 12,500 pounds. Titan Form 10-K for the fiscal year ended December 31, 2012, Securities and Exchange Commission.

<sup>47</sup> Bias ply construction is one in which the reinforcing rubber-coated tire cords run diagonally from rim bead to rim bead, with each successive ply running at equal, but opposite angles. In radial construction, the reinforcing rubber-coated tire cord ply runs parallel from bead to bead, or perpendicular to the direction of travel. Bias ply tires are typically used in lower-speed applications where sidewall strength, stiffness, and heavy load and lifting applications are important. Radial tires typically have a longer tire life and speed rating (up to 40 mph) than bias ply tires; a wider footprint affording excellent traction and superior performance in the field, including reduced soil compaction and improved handling, a smoother ride and improved fuel economy; higher resistance to cuts, punctures, and tears. Both bias and radial tires are used on agricultural, mining and construction, and industrial equipment.

<sup>48</sup> During the final investigations, bias-type tires were estimated to account for 65 to 70 percent of the U.S. market for certain OTR tires. Hearing transcript, p. 62 (Vasichek).

earthmover and other construction vehicles; agricultural tires on farm tractors, farm implements, and other agricultural machinery; and industrial tires on counterbalanced lift trucks for mining and industrial applications. TRA standards identify the type of equipment on which the tire is used, the tire type and size, the speed and load carrying ply ratings, designations which typically are molded into the sidewall. Foreign tires may not conform to TRA standards, but usually carry a tire size and country-of-origin markings. Examples of TRA tire standards described in the following tabulation compare the physical properties of a radial OTR construction and mining tire to smaller bias ply agricultural and industrial tires.

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

As described in the scope language, certain OTR tires are generally designed, manufactured, and offered for sale for use on off-road or off-highway surfaces, including but not limited to agricultural fields, forests, construction sites, factory and warehouse interiors, airport tarmacs, ports and harbors, mines, quarries, gravel yards, and steel mills. Shipment and import data were gathered during the final phase original investigations regarding end uses in terms of the agricultural/forestry, construction/industrial, and other off-the-highway applications. The data indicated that the domestic industry and imports from China were present in all applications during the period of investigation. During 2007, the majority of U.S. producers' shipments (72.8 percent by quantity and 61.4 percent by value) were for agricultural/forestry applications, and the majority of shipments of imports from China were for construction/industrial applications (58.3 percent by quantity and 54.7 percent by value).

## Production process<sup>49</sup>

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

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

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

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

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

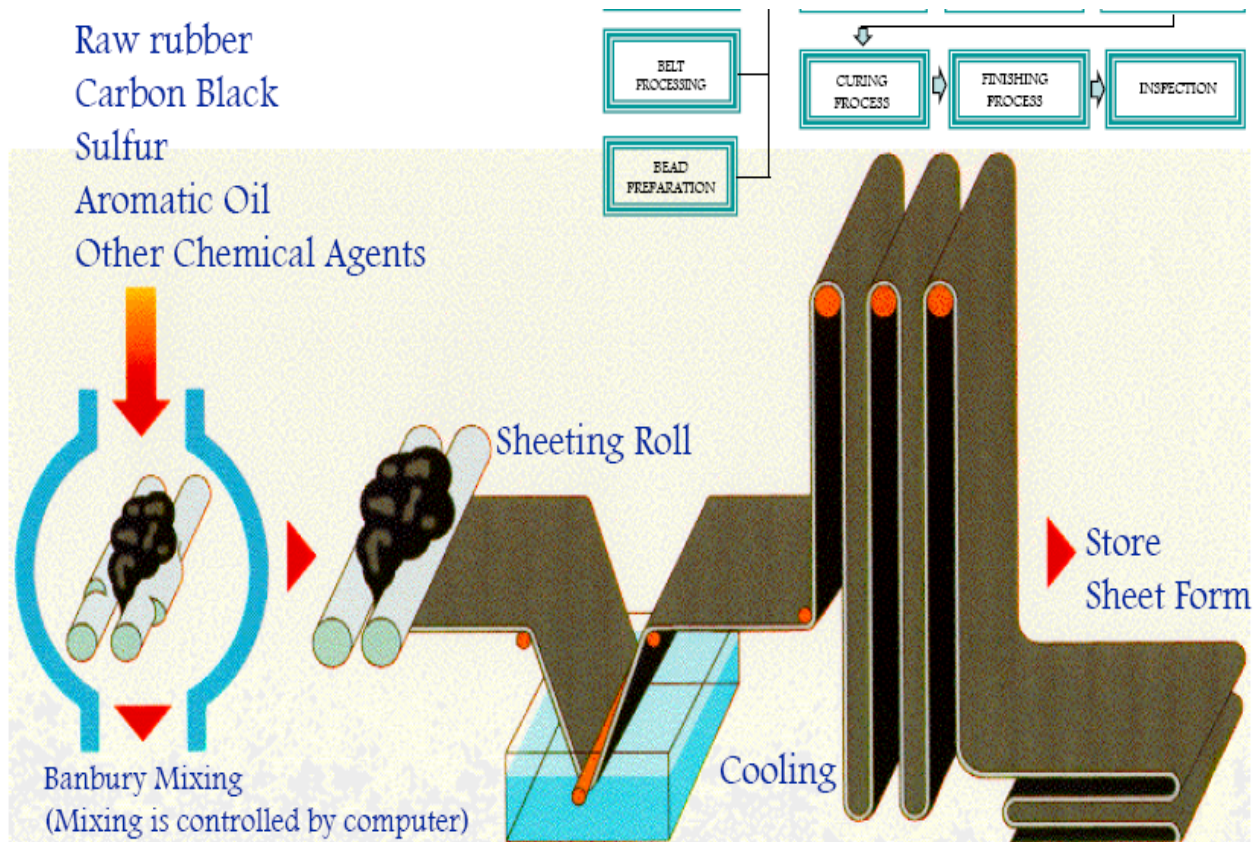
Machines called wire winders are used to apply a given rubber batch coating to the bead wire and wrap it into an exact circular dimension needed to hold the tubeless tire securely

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<sup>49</sup> Unless otherwise noted this information is based on the following publication: *Certain Off-The-Road Tires From China, Inv. Nos. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008. Titan reported that no major changes in production technology or production methods have occurred since the original investigations. Titan's Response to the Notice of Institution, September 3, 2013, p. 29.

to the steel wheel. The smooth rubber pieces that will eventually become treads and sidewalls are produced with machines called extruders which force various softened rubber compounds through a die to produce the desired configurations.

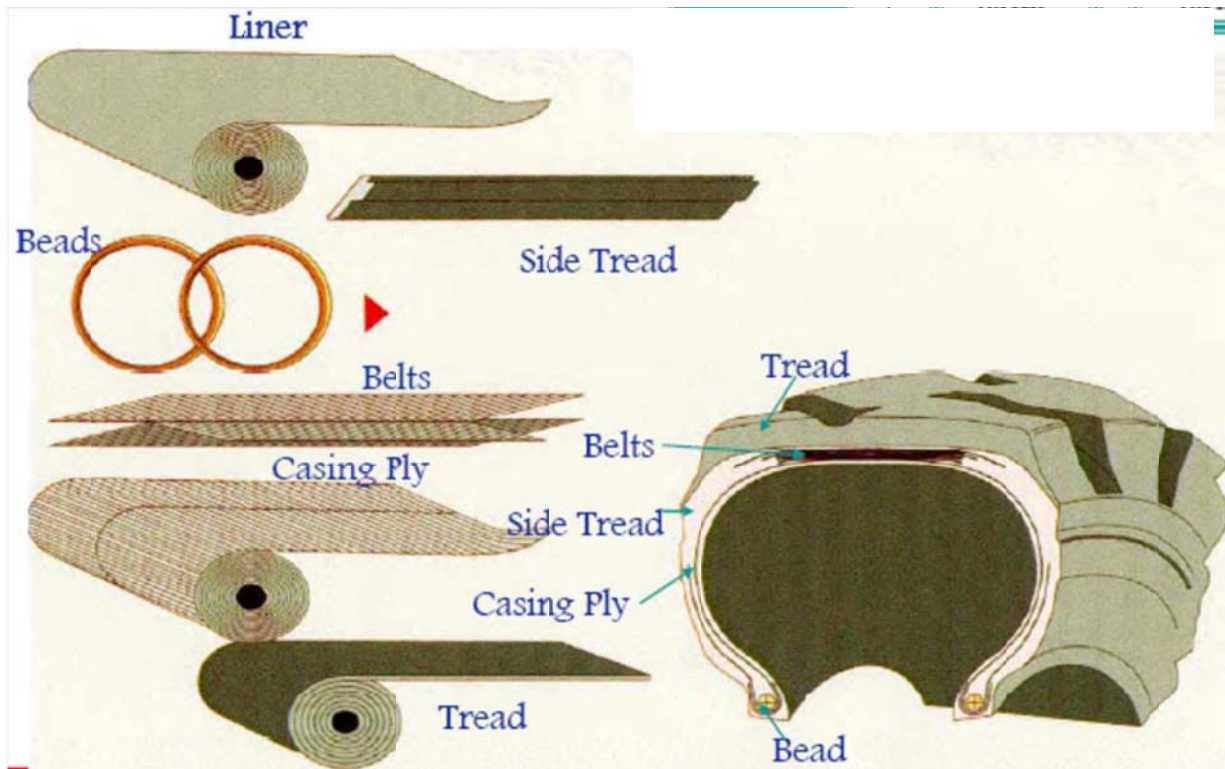
**Figure 1-1**  
**OTR tires: Rubber mixing process**



Source: *Certain Off-The-Road Tires From China, Inv. Nos. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, figure I-1; staff field trip, BFNA, July 19, 2007.

The next step involves a process known as tire building in which all of the individual components that make up the tire are assembled, as shown in figure I-2. Certain OTR tire building is typically performed manually by an employee known as a tire builder who places the various components in sequence about a horizontally positioned cylindrical drum. The time necessary to complete a single tire building cycle can vary from a few minutes or longer depending upon the type of tire being assembled. The tire builder first positions the bottom interlining about the drum and proceeds sequentially upwards with the reinforcing tire cord plies, sidewall, and tread stock, ending with the positioning of the bead rims into each side of the assembly. Certain OTR tire assemblies also typically contain steel wire or textile belt material situated directly between the tire body (casing) and the tread area for added stability and impact resistance.

**Figure I-2**  
**OTR tires: Tire assembly components**



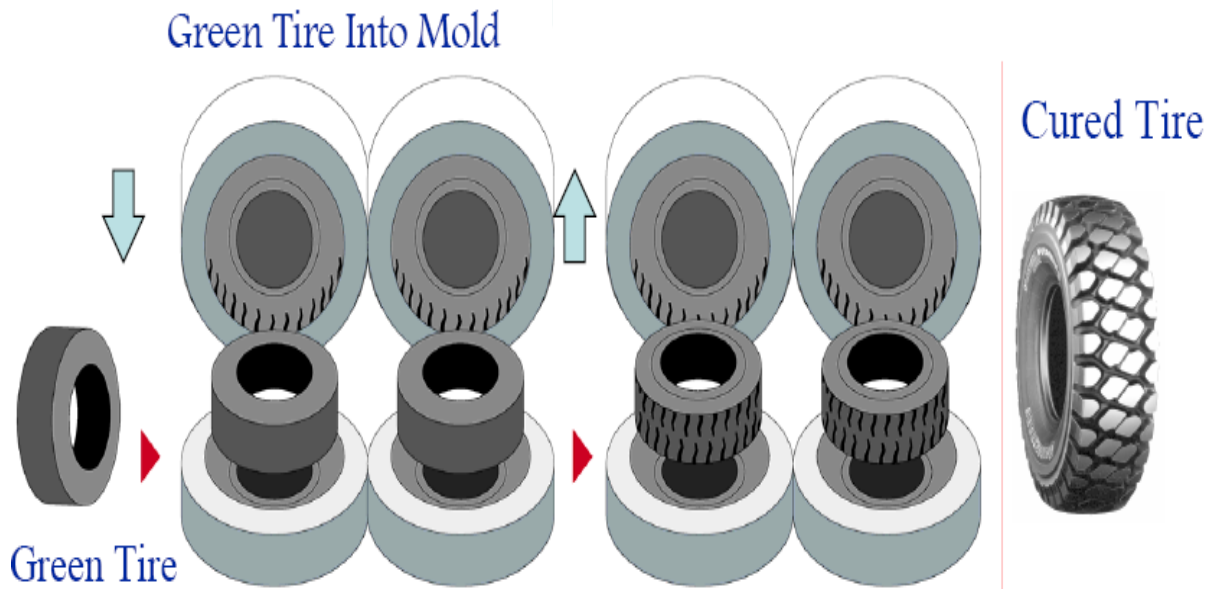
Source: *Certain Off-The-Road Tires From China, Inv. Nos. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, figure I-2; staff field trip, BFNA, July 19, 2007.

In bias ply tire building, the tire cord reinforcement plies are placed at alternating angles around the drum circumference as the assembly proceeds so its configuration in the finished tire will result in a crisscross herringbone reinforcement pattern running from bead to bead at angles to the direction of travel; otherwise, radial construction involves placing parallel steel or fabric piles that run “radially” from bead to bead at right angles to the direction of tire travel. The green (uncured) tire assembly is removed from the drum and positioned with several others for transfer to the final molding and curing process.

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

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

**Figure I-3**  
**OTR tires: Tire curing process**



*Source: Certain Off-The-Road Tires From China, Inv. Nos. 701-TA-448 and 731-TA-1117 (Final), USITC Publication 4031, August 2008, figure I-2; staff field trip, BFNA, July 19, 2007.*

### **Interchangeability and customer and producer perceptions**

In its original investigations, both petitioners and respondents believed that OTR tires were not a commodity product. A strong majority of questionnaire respondents (6 of 6 domestic producers, 15 of 23 importers, and 30 of 43 purchasers) stated that domestically produced tires and subject imports from China were either “always” or “frequently” interchangeable. While domestically produced OTR tires and subject Chinese imports were reported to be “comparable” across a wide range of characteristics by a majority of purchasers (including “packaging,” “extension of credit,” “product consistency,” “discounts offered,” “U.S. transportation costs,” “quality exceeds industry standards,” “able to source multiple products from supplier,” “product range,” and “warranty service”), the domestic product was reported to be “superior” by a majority of purchasers with regard to “delivery terms” and “delivery time”

and the subject imports were found to be “superior” by a majority of purchasers only with regard to “price.”<sup>50</sup>

### **Channels of distribution**

OTR tires greater or equal to 39 inches in rim diameter are sold directly to original equipment manufacturers (“OEM”s) and tire distributors for the aftermarket. During 2005-07, U.S. producers’ U.S. shipments tended to be about equally divided between OEMs and distributors, ranging from 47.6 to 48.6 percent of shipments to distributors and from 51.4 to 52.4 percent of shipments to end users. U.S. importers’ U.S. shipments from China were more focused on distributors, ranging from 79.0 to 80.8 percent to distributors and from 19.2 to 21.0 to end users.<sup>51</sup>

### **Pricing and related information**

In the original investigations, the Commission collected price data for nine products. In the 157 quarterly price comparisons between U.S.-produced and imported Chinese products, prices for the Chinese OTR tires were lower than those for U.S. OTR tires in 147 quarters and higher in 10 quarters. The margins of underselling ranged from 1.5 to 57.0 percent and the margins of overselling ranged from 2.1 to 92.6 percent.<sup>52</sup> The Commission noted that OTR tires are not commodity products and while price was listed by purchasers as one of the most important factors in making purchasing decisions, it was not the single most important factor. Brand names command a premium and the hierarchy of brands comprises three tiers. The Chinese product is found in two of the three tiers and generally is highly substitutable for domestic OTR tires.<sup>53</sup>

Raw materials accounted for approximately 58.6 percent of the cost of subject OTR tires during 2005-07. The primary raw material used in the production of OTR tires in the United States is natural rubber; other materials include synthetic rubber, carbon black, various chemicals, textiles, and steel.<sup>54</sup> Titan indicated that its raw materials costs as a percentage of net sales have \*\*\*.<sup>55</sup>

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<sup>50</sup> *Certain Off-The-Road Tires from China, Investigation Nos. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, p. 37.

<sup>51</sup> *Certain Off-The-Road Tires from China, Investigation Nos. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, table I-4.

<sup>52</sup> *Certain Off-The-Road Tires from China, Investigation Nos. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, pp. V-4-6.

<sup>53</sup> *Certain Off-The-Road Tires from China, Investigation Nos. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, p. 24.

<sup>54</sup> *Certain Off-The-Road Tires from China, Investigation Nos. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, p. V-1.

<sup>55</sup> Titan's Response to the Commission's Notice of Institution, September 3, 2013, p. 15.

(continued...)

## THE INDUSTRY IN THE UNITED STATES

### U.S. producers

In the original investigations, the Commission issued questionnaires to seven producers cited in the petition, and received questionnaire responses with usable data from all seven firms accounting for \*\*\* percent of U.S. production of the domestic like product in 2007. The producers' share of 2007 U.S. production for each firm were as follows: (1) Bridgestone (\*\*\* percent), (2) Carlisle (\*\*\* percent), (3) Denman (\*\*\* percent), (4) Goodyear (\*\*\* percent), (5) Michelin (\*\*\* percent) (6) Specialty Tires (\*\*\* percent), and (7) Titan (\*\*\* percent).<sup>56</sup>

In its response to the Commission's notice of institution, Titan identified the following seven known and currently operating OTR tire producers: Bridgestone, Carlisle, Goodyear, Michelin, Mitas Tires North America ("Mitas"), Specialty Tires, and Titan.<sup>57</sup> Specialty Tires also named Maine Industrial Tire Co. as a current producer of OTR tires in the United States.<sup>58</sup> Titan estimates that its share of domestic production in 2012 is \*\*\* percent<sup>59</sup> and Specialty Tires estimates that its share is \*\*\*.<sup>60</sup>

The U.S. OTR tire industry has experienced a mix of expansion, plant closure, and plant opening over the past several years. In March 2010, Denman filed for Chapter 7 bankruptcy, closed its Leavittsburg, Ohio manufacturing plant, and liquidated its assets. Titan reported that it purchased a number of these assets in the form of machinery, manufacturing equipment, specifications, molds, and patents.<sup>61</sup>

Mitas Tires North America, Inc., a wholly owned subsidiary of MITAS a.s., a manufacturer of agricultural, industrial and motorcycle tires headquartered in the Czech Republic, commenced production of radial agricultural tires in Charles City, Iowa in 2012.<sup>62</sup>

In June 2013, Bridgestone announced that it would be investing \$74 million to expand the capacity of its Des Moines, Iowa manufacturing facility, following a \$77 million dollar investment in 2010.<sup>63</sup>

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(...continued)

<sup>56</sup> *Certain Off-The-Road Tires from China, Investigation Nos. 701-TA-448 and 731-TA-1117 (Final)*, Staff Report, INV-FF-094, August 4, 2008, p. III-2, table III-1.

<sup>57</sup> Titan's Response to the Notice of Institution, September 3, 2013, exh. 4.

<sup>58</sup> Specialty Tires Response to the Notice of Institution, August 29, 2013, p. 2.

<sup>59</sup> Titan's Response to the Notice of Institution, September 3, 2013, exh. 2.

<sup>60</sup> Specialty Tires Response to the Notice of Institution, August 29, 2013, exh. C.

<sup>61</sup> Titan's Response to the Commission's Notice of Institution, September 3, 2013, pp. 16-17;

"Titan Tire Announces Purchase of Denman Tire Assets," Reuters, May 20, 2010.

<sup>62</sup> [www.mitas-tires.com/index.php](http://www.mitas-tires.com/index.php), retrieved on October 31, 2013; Titan's Response to the Commission's Notice of Institution, September 3, 2013, p. 16.

<sup>63</sup> Titan's Response to the Notice of Institution, September 3, 2013, p. 16 and exh. 3b.



## Related party issues

During the original period of investigation, \*\*\* imported subject merchandise and qualified as “related parties” under 19 U.S.C. § 1677(4)(B). However, the Commission found that “appropriate circumstances” did not exist to exclude these firms from the domestic industry mostly because of the \*\*\*.<sup>64</sup> Therefore, all seven firms were considered members of the U.S. industry.

## U.S. producers’ trade and financial data

The Commission requested domestic interested parties to provide trade and financial data in their response to the notice of institution of the five-year reviews of the subject orders. Table I-3 presents the data reported by responding seven U.S. producers from the original investigation (2005-07) and the responses to the notice of institution (2012) from Titan and Specialty Tires.

**Table I-3**  
**OTR Tires: U.S. producers’ trade and financial data, 2005-07 and 2012**

Item	2005 <sup>1</sup>	2006 <sup>1</sup>	2007 <sup>1</sup>	2012 <sup>2</sup>
Capacity (1,000 tires)	9,996	10,049	10,202	***
Production (1,000 tires)	4,676	3,818	4,009	***
Capacity utilization (percent)	46.8	38.0	39.3	***
U.S. shipments				
Quantity (1,000 tires)	3,881	3,383	3,720	***
Value (\$1,000)	861,224	835,550	1,006,044	***
Unit value (dollars per tire)	221.90	246.97	270.45	***
Net sales value (\$1,000)	1,010,778	980,611	1,184,627	***
Cost of goods sold (COGS) (\$1,000)	906,946	878,158	1,050,576	***
Gross profit or (loss) (\$1,000)	103,832	102,453	134,051	***
SG&A (\$1,000)	102,358	96,213	106,011	***
Operating income or (loss) (\$1,000)	1,474	6,240	28,040	***
COGS/sales (percent)	89.7	89.6	88.7	***
Operating income or (loss)/sales (percent)	0.1	0.6	2.4	***

<sup>1</sup> Data for seven producers.

<sup>2</sup> Data for Titan and Specialty Tires, collectively representing \*\*\* of the domestic industry in 2012.

Source: *Certain Off-The-Road Tires from China, Inv. No. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, Tables III-2, III-6 and VI-1. Titan’s Response to the Notice of Institution, September 3, 2013, exh. 2. Specialty Tire’s Response to the Notice of Institution, August 29, 2013, exh. C.

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<sup>64</sup> *Certain Off-The-Road Tires from China, Investigation Nos. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031(August2008), pp. 11-13.

## U.S. IMPORTS AND APPARENT CONSUMPTION

### U.S. importers

In the original investigations, the Commission received U.S. importer questionnaires from 34 firms that were believed to account for \*\*\* percent of the quantity of U.S. imports from China, and \*\*\* percent of U.S. imports from other countries during the period for which data were collected. GPX International Tire Corporation (“GPX”) was the \*\*\* of OTR tires from China during the period, accounting for \*\*\* percent of reported U.S imports from China in 2007.<sup>65</sup> As a result of the antidumping duty order on OTR tires, GPX filed for Chapter 11 bankruptcy protection in October 2009. Under its bankruptcy restructuring plan, GPX sold most of the assets of its U.S. operations to Alliance Tire Corp. GPX shuttered its European operations. The bankruptcy filing did not restructure GPX’s other foreign subsidiaries including Dynamic Tire in Canada and Starbright Group, Inc. in China.<sup>66</sup>

In its response to the Commission’s notice of institution in these reviews, Titan identified over 400 importers which it believes imported OTR tires during the last five years.<sup>67</sup> Specialty Tires provided a list of 24 such firms.<sup>68</sup>

### U.S. imports

In its original investigations, the Commission presented import data based on questionnaire data modified to exclude (1) the 34 firms that returned usable importer questionnaires, (2) the nine firms that reported they did not import subject merchandise or mining/construction tires during the period of investigation, (3) out-of-scope imports of OTR tires that weigh more than 1,500 pounds per tire,<sup>69</sup> and (4) out-of-scope imports of OTR tires less than \$25 per unit. In their posthearing brief, Petitioners proposed raising the per-unit cutoff to \$35. Thus, the Commission presented three sets of import data: (1) adjusted official import data as presented above with a \$25 per-unit cutoff; (2) adjusted official import data as presented above with a \$35 per-unit cutoff; and (3) questionnaire data. In its final determinations, The Commission decided to rely on data obtained from the importer questionnaire responses in reaching its injury and critical circumstances determinations, acknowledging that while the data only represented an estimated \*\*\* percent of subject imports, they did represent the trends in such imports as experienced by the importers

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<sup>65</sup> *Certain Off-The-Road Tires from China, Inv. No. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, p. IV-1 and Table IV-1.

<sup>66</sup> “GPX Intl Tire U.S. Operations File for Bankruptcy,” Reuters, October 27, 2009.

<sup>67</sup> Titan’s Response to the Notice of Institution, September 3, 2013, exh 4.

<sup>68</sup> Specialty’s Response to the Commission’s Notice of Institution, August 29, 2013, exh. A.

<sup>69</sup> The petitions (as revised) excluded from the scope OTR tires used on mining and construction vehicles and equipment that have a rim diameter equal to or exceeding 39 inches, with a weight of 1,500 pounds or more.

responding to questionnaires.<sup>70</sup> Appendix A presents questionnaire import data from 2005 through 2007, as presented in the final original investigations.

In response to the notice of institution in these five-year reviews, Titan presented import data based on adjusted Department of Commerce data on imports of OTR tires to remove shipments of tires with an import value under \$35 or a tire weight over 1,500 pounds. Data regarding U.S. imports of OTR tires, as reported in the final original investigations (using adjusted official import statistics with a \$35 per-unit cutoff), as well as data from 2012, are presented in table I-4. Appendix A presents import and apparent consumption data from the final original investigations and from 2012 using adjusted official import statistics with a \$25 per-unit cutoff.

**Table I-4**  
**OTR tires: U.S. import data, by source, 2005-07 and 2012**

Item	Calendar year			
	2005	2006	2007	2012
<b>Quantity (1,000 tires)</b>				
China	1,768	2,086	2,116	1,323
All other sources	1,699	1,796	1,709	2,465
Total imports	3,467	3,882	3,825	3,788
<b>Value (\$1,000)</b>				
China	173,903	274,410	275,907	216,548
All other sources	366,909	434,630	505,282	1,268,657
Total imports	540,812	709,040	781,189	1,485,205
<b>Unit value (dollars per tire)</b>				
China	98.35	131.53	130.41	163.69
All other sources	215.97	241.96	295.68	514.60
Total imports	155.98	182.63	204.26	392.06
<b>Share of quantity (percent)</b>				
China	51.0	53.7	55.3	34.9
All other sources	49.0	46.3	44.7	65.1
Total imports	100.0	100.0	100.0	100.0
<b>Share of value (percent)</b>				
China	32.2	38.7	35.3	14.6
All other sources	67.8	61.3	64.7	85.4
Total imports	100.0	100.0	100.0	100.0

Source: *Certain Off-The-Road Tires from China, Inv. No. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, app. E, and compiled from official Commerce statistics, HTS numbers 4011.20.10.25, 4011.20.10.35, 4011.20.50.30, 4011.20.50.50, 4011.61.00.00, 4011.62.00.00, 4011.63.00.00, 4011.69.00.00, 4011.92.00.00, 4011.93.40.00, 4011.93.80.00, 4011.94.40.00, and 4011.94.80.00, adjusted to exclude merchandise that had a less than \$35 unit value or greater than 1,500 lb. shipping weight per unit except when antidumping or countervailing duties were applied.

<sup>70</sup> *Certain Off-The-Road Tires from China, Inv. No. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, p. 14.

According to official Commerce import data, China was the largest importer of OTR tires in 2012, representing 34.9 percent of U.S. imports, by quantity. The next largest importers were India, representing 22.3 percent, Sri Lanka representing 12.5 and Thailand representing 7.5 percent.

### Ratio of imports to U.S. production

According to Titan’s methodology (adjusting official import data using a \$35 per-unit value cutoff), imports of OTR tires from China ranged from 37.8 percent to 54.6 percent of reported U.S. production during 2005-07. Imports from nonsubject sources ranged from 36.3 percent to 47.0 percent of reported U.S. production. Total imports ranged from 74.1 percent to 101.7 percent of total reported U.S. production during 2005-07. The ratios of imports from China and nonsubject countries during 2005-07 and 2012 are shown in table I-5 below.

**Table I-5**  
**OTR tires: Ratio of U.S. imports to U.S. production, 2005-07 and 2012**

Item	Calendar year			
	2005 <sup>1</sup>	2006 <sup>1</sup>	2007 <sup>1</sup>	2012 <sup>2</sup>
	<b>Ratio of imports to U.S. production (percent)</b>			
China	37.8	54.6	52.8	***
All other sources	36.3	47.0	42.6	***
All countries	74.1	101.7	95.4	***

<sup>1</sup> Data for seven producers.

<sup>2</sup> Data for Titan and Specialty Tires, representing \*\*\* percent of the domestic industry in 2012.

*Source: Certain Off-The-Road Tires from China, Inv. No. 701-TA-448 and 731-TA-1117 (Final), USITC Publication 4031, August 2008, app. E, and compiled from official Commerce statistics, HTS numbers 4011.20.10.25, 4011.20.10.35, 4011.20.50.30, 4011.20.50.50, 4011.61.00.00, 4011.62.00.00, 4011.63.00.00, 4011.69.00.00, 4011.92.00.00, 4011.93.40.00, 4011.93.80.00, 4011.94.40.00, and 4011.94.80.00, adjusted to exclude merchandise that had a less than \$35 unit value or greater than 1,500 lb. shipping weight per unit except when antidumping or countervailing duties were applied.*

### Apparent U.S. consumption and market shares

Table I-6 shows U.S. shipments of domestic product, U.S. imports and apparent U.S. consumption in 2005-07 and 2012 (applying Titan’s methodology of adjusting official import data using a \$35 per-unit value cutoff). Table I-7 shows U.S. market shares during 2005-07 and 2012. Apparent U.S. consumption increased from 7.3 million tires in 2005 to approximately 7.5 million tires in 2007.

**Table I-6**

**OTR tires: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 2005-07 and 2012**

Item	2005 <sup>1</sup>	2006 <sup>1</sup>	2007 <sup>1</sup>	2012 <sup>2</sup>
	<b>Quantity (1,000 tires)</b>			
U.S. producers' U.S. shipments	3,881	3,383	3,720	***
U.S. imports from--				
China	1,768	2,086	2,116	1,323
All other sources	1,699	1,796	1,709	2,465
Total imports	3,467	3,882	3,825	3,788
Apparent U.S. consumption	7,348	7,266	7,544	***
	<b>Value (1,000 dollars)</b>			
U.S. producers' U.S. shipments	861,224	835,550	1,006,044	***
U.S. imports from--				
China	173,903	274,410	275,907	216,548
All other sources	366,909	434,630	505,282	1,268,657
Total imports	540,812	709,040	781,189	1,485,205
Apparent U.S. consumption	1,402,035	1,544,590	1,787,233	***

<sup>1</sup> Data for seven producers.

<sup>2</sup> Data for Titan and Specialty Tires, representing \*\*\* percent of the domestic industry in 2012.

Source: *Certain Off-The-Road Tires from China, Inv. No. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, app. E, and compiled from official Commerce statistics, HTS numbers 4011.20.10.25, 4011.20.10.35, 4011.20.50.30, 4011.20.50.50, 4011.61.00.00, 4011.62.00.00, 4011.63.00.00, 4011.69.00.00, 4011.92.00.00, 4011.93.40.00, 4011.93.80.00, 4011.94.40.00, and 4011.94.80.00, adjusted to exclude merchandise that had a less than \$35 unit value or greater than 1,500 lb. shipping weight per unit except when antidumping or countervailing duties were applied.

**Table I-7**  
**OTR tires: U.S. market shares, 2005-07 and 2012**

Item	2005 <sup>1</sup>	2006 <sup>1</sup>	2007 <sup>1</sup>	2012 <sup>2</sup>
<b>Quantity (1,000 tires)</b>				
Apparent U.S. consumption	7,348	7,266	7,544	***
<b>Value (1,000 dollars)</b>				
Apparent U.S. consumption	1,402,035	1,544,590	1,787,233	***
<b>Share of quantity (percent)</b>				
U.S. producers' U.S. shipments	52.8	46.6	49.3	***
U.S. imports from--				
China	24.1	28.7	28.0	***
All other sources	23.1	24.7	22.7	***
Total imports	47.2	53.4	50.7	***
<b>Share of value (percent)</b>				
U.S. producers' U.S. shipments	61.4	54.1	56.3	***
U.S. imports from—				
China	12.4	17.8	15.4	***
All other sources	26.2	28.1	28.3	***
Total imports	38.6	45.9	43.7	***

<sup>1</sup> Data for seven producers.

<sup>2</sup> Data for Titan and Specialty Tires, representing \*\*\* percent of the domestic industry in 2012.

Source: *Certain Off-The-Road Tires from China, Inv. No. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, app. E, and compiled from official Commerce statistics, HTS numbers 4011.20.10.25, 4011.20.10.35, 4011.20.50.30, 4011.20.50.50, 4011.61.00.00, 4011.62.00.00, 4011.63.00.00, 4011.69.00.00, 4011.92.00.00, 4011.93.40.00, 4011.93.80.00, 4011.94.40.00, and 4011.94.80.00, adjusted to exclude merchandise that had a less than \$35 unit value or greater than 1,500 lb. shipping weight per unit except when antidumping or countervailing duties were applied.

Since certain OTR tires are used principally in vehicles in agricultural, construction, and industrial applications, the overall demand in the United States for certain OTR tires depends upon demand in those industries.<sup>71</sup> In its original determinations, the Commission found that OTR tire demand had increased in light of rising farm income, rising export demand for U.S.-manufactured machines that use certain OTR tires and high prices for oil, corn and mining commodities (such as copper, gold and silver). Demand had increased globally as well as domestically.<sup>72</sup> In the reasonably foreseeable future, Titan projected that demand will either stagnate or achieve only slow growth because of the slow recovery of the economy.<sup>73</sup> In its response to the Commission's purchaser questionnaire, \*\*\* stated that both OEM and end user

<sup>71</sup> *Certain Off-The-Road Tires from China, Inv. No. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, p. II-3.

<sup>72</sup> *Certain Off-The-Road Tires from China, Inv. No. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, p. 17.

<sup>73</sup> *Titan's Response to the Commission's Notice of Institution*, September 3, 2013, pp. 23-25.

demand in the United States are much lower than in previous years. It also expects a continued period of weak demand and available supply globally for the next 12 months.

## THE INDUSTRY IN CHINA

### Background

During the original investigations, the petitions identified approximately 100 producers and/or exporters of OTR tires in China. The Commission sent questionnaires to 95 firms and received 18 usable foreign producer questionnaire responses, accounting for \*\*\* percent<sup>74</sup> of total OTR tire production in China during 2007.<sup>75</sup>

Titan indicated in its response to the Commission's notice of institution that the Chinese industry may have since expanded. It listed 21 firms in China that have participated in administrative reviews at Commerce and an additional 71 Chinese firms that were listed on the exhibitors list as manufacturers and exporters of OTR tires at the 2013 China International Tire Expo.<sup>76</sup> Titan cited export statistics that show that the value of total global exports from China have increased from \$502.7 million in 2009 to \$1.055 billion in 2012, an increase of 109 percent.<sup>77</sup>

### Capacity and production

During the original investigations, the industry in China consisted of multiple manufacturers, none of which estimated that they produced more than \*\*\* percent of total Chinese production. \*\*\* was the largest reporting producer, estimated to account for \*\*\* percent of total Chinese production in 2007, followed by \*\*\*, which accounted for approximately \*\*\* percent and \*\*\* percent of total Chinese production of OTR tires in 2007, respectively. In 2007, total reported capacity in China was \*\*\* tires, with \*\*\* tires exported to the United States valued at (\$149 million).<sup>78</sup>

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<sup>74</sup> As estimated by reporting firms. *Certain Off-The-Road Tires from China, Investigation Nos. 701-TA-448 and 731-TA-1117 (Final)*, Staff Report, INV-FF-094, August 4, 2008, pp. VII-1 and VII-4.

<sup>75</sup> *Certain Off-The-Road Tires from China, Inv. No. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, p. VII-2.

<sup>76</sup> *Titan's Response to the Commission's Notice of Institution*, September 3, 2013, exh. 6.

<sup>77</sup> Titan relies on Chinese Customs data at the six-digit product level. A level of specificity it concedes contains some merchandise outside the definition of OTR tires. *Titan's Response to the Commission's Notice of Institution*, September 3, 2013, p. 18 & exh. 7.

<sup>78</sup> *Certain Off-The-Road Tires from China, Investigation Nos. 701-TA-448 and 731-TA-1117 (Final)*, Staff Report, INV-FF-094, August 4, 2008, pp. VII-2-VII -4 & table VII-3.

## Exports

Table I-8 presents data for the top ten markets for Chinese exports of OTR tires. The United States is the largest market for Chinese product. Total Chinese exports increased from 2008 to 2012, by 61.0 percent, while Chinese exports to the United States increased by 74.4 percent. Table I-9 presents a summary of Chinese exports to the world and United States, by tire type, in 2012.

**Table I-8**  
**OTR tires: Chinese exports, by country, 2008-12**

Country	Value (\$1,000)				
	2008	2009	2010	2011	2012
United States	135,602	131,009	199,228	270,552	236,502
Australia	40,762	21,873	20,194	43,207	107,317
Canada	19,681	17,415	26,545	41,744	48,095
Brazil	13,773	10,848	25,510	36,233	47,794
Saudi Arabia	24,995	21,837	27,024	40,909	45,679
Mexico	17,063	19,922	22,454	34,020	40,134
Indonesia	14,514	10,011	12,509	22,091	38,368
South Africa	33,964	15,252	23,143	42,098	34,787
Russia	8,545	5,406	14,482	36,751	33,853
United Arab Emirates	23,293	23,655	20,721	30,201	30,773
All others	346,043	250,184	284,082	387,662	428,902
World	678,236	527,412	675,893	985,469	1,092,202

Source: Global Trade Information Service ("Global Trade Atlas"), HS codes 4011.61, 4011.62, 4011.63, 4011.69, 4011.92, 4011.93, and 4011.94. These HS codes may be over inclusive of subject OTR tires since they include OTR tires with no value cutoff and OTR tires over 1,500 pounds. Data exported under HS code 4011.20 is not included because it primarily contains nonsubject bus and truck tires; however, some subject product may be included in this HS number.



**Table I-9****OTR tires: Chinese exports to world and United States, by tire type, 2012**

HTS	Tire Type	Tread Type	Tire Rim Size	World	U.S.	U.S.
				Value (\$1,000)		Percent
4011.61	AG & Forestry	Herringbone	NA	251,741	92,958	36.9
4011.92	AG & Forestry	Other	NA	43,950	22,697	51.6
4011.69	Other (end use unknown)	Herringbone NES	NA	36,555	28,610	78.3
Subtotal	AG & Other			332,246	144,265	43.4
4011.94	Construction/Industrial	Radial & Other	Above 24"	399,427	25,596	6.4
4011.63	Construction/Industrial	Herringbone	Above 24"	173,498	19,273	11.1
4011.93	Construction/Industrial	Radial & Other	24" and Less	116,359	27,195	23.4
4011.62	Construction/Industrial	Herringbone	24" and Less	70,672	20,173	28.5
Subtotal	Construction/Industrial			759,956	92,237	12.1
Total				1,092,202	236,502	21.7

Source: Global Trade Information Service ("Global Trade Atlas"), HS codes 4011.61, 4011.62, 4011.63, 4011.69, 4011.92, 4011.93, and 4011.94. These HS codes may be over inclusive of subject OTR tires since they include OTR tires with no value cutoff and OTR tires over 1,500 pounds. Data exported under HS code 4011.20 is not included because it primarily contains nonsubject bus and truck tires; however, some subject product may be included in this HS number.

### Tariff or non-tariff barriers to trade

During the original investigations, no producer, importer, or foreign producer reported any countervailing or antidumping duty orders on OTR tires from China in third-country markets.<sup>79</sup>

### THE GLOBAL MARKET

Table I-10 shows the ten largest exporting countries of OTR tires. Total world exports increased by 52.9 percent from 2008 to 2012.

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<sup>79</sup> *Certain Off-The-Road Tires from China, Inv. No. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, p. VII-6.

**Table I-10****OTR tires: Exports by reporting country, 2008-12**

Country	Value (\$1,000)				
	2008	2009	2010	2011	2012
Japan	1,299,602	1,192,359	1,542,345	2,151,729	2,575,966
China	678,236	527,412	675,893	985,469	1,092,202
United States	520,727	531,393	605,558	809,692	933,040
France	597,005	382,636	468,289	709,670	758,045
Spain	531,807	392,161	463,444	710,782	704,079
Belarus	362,750	186,051	257,526	412,759	473,772
Czech Republic	335,469	249,141	303,962	436,672	410,405
Brazil	121,301	118,887	197,575	285,232	332,682
Poland	160,464	120,211	157,086	204,371	218,983
Turkey	159,632	133,407	163,701	224,706	214,373
All others	1,564,272	971,724	1,232,035	1,865,568	1,964,885
World	6,331,265	4,805,382	6,067,415	8,796,650	9,678,432

Source: Global Trade Information Service ("Global Trade Atlas"), HS codes 4011.61, 4011.62, 4011.63, 4011.69, 4011.92, 4011.93, and 4011.94. These HS codes may be over inclusive of subject OTR tires since they include OTR tires with no value cutoff and OTR tires over 1,500 pounds. Data exported under HS code 4011.20 is not included because it primarily contains nonsubject bus and truck tires; however, some subject product may be included in this HS number.

Table I-11 shows the ten largest importers of OTR tires. Total world imports increased by 52.9 percent from 2008 to 2012.

**Table I-10****OTR tires: Imports by reporting country, 2008-12**

Country	Value (\$1,000)				
	2008	2009	2010	2011	2012
United States	766,909	480,262	586,232	1,058,233	1,386,319
Australia	541,708	471,798	576,212	950,751	1,190,940
Germany	663,093	443,904	496,206	747,653	720,423
Canada	383,650	372,574	434,756	572,397	653,858
Chile	235,401	220,366	223,755	316,111	438,771
Sweden	413,745	106,543	255,522	413,935	419,593
Mexico	237,069	221,940	208,680	305,317	387,393
France	393,873	234,186	269,059	393,419	386,542
Indonesia	-	94,305	132,339	207,097	380,285
Russia	151,868	67,272	128,850	254,643	367,515
All others	2,907,280	2,078,818	2,633,065	3,736,686	3,990,010
World	6,694,598	4,791,968	5,944,677	8,956,243	10,321,649

Source: Global Trade Information Service ("Global Trade Atlas"), HS codes 4011.61, 4011.62, 4011.63, 4011.69, 4011.92, 4011.93, and 4011.94. These HS codes may be over inclusive of subject OTR tires since they include OTR tires with no value cutoff and OTR tires over 1,500 pounds. Data exported under HS code 4011.20 is not included because it primarily contains nonsubject bus and truck tires; however, some subject product may be included in this HS number.



**APPENDIX A**  
**SUPPLEMENTAL DATA**



**Table A-1**

**Certain OTR tires: U.S. imports, by sources, 2005-07, January-March 2007, and January-March 2008**

Item	2005	2006	2007	January-March	
				2007	2008
Quantity (1,000 tires)					
China . . . . .	825	1,079	1,403	325	237
All other sources . . . . .	1,087	1,183	1,163	308	357
Total . . . . .	1,912	2,262	2,567	632	593
Quantity (1,000 pounds)					
China . . . . .	74,503	124,587	130,418	29,806	21,670
All other sources . . . . .	194,807	197,418	228,429	53,404	70,035
Total . . . . .	269,310	322,005	358,847	83,210	91,705
Value (\$1,000)					
China . . . . .	84,907	175,618	187,347	45,216	32,505
All other sources . . . . .	265,426	294,816	362,099	81,983	106,441
Total . . . . .	350,333	470,435	549,446	127,199	138,946
Unit value (dollars per tire)					
China . . . . .	102.89	162.78	133.52	139.30	137.28
All other sources . . . . .	244.15	249.28	311.25	266.51	298.56
Average . . . . .	183.20	208.02	214.08	201.20	234.19
Share of quantity [based on tires] (percent)					
China . . . . .	43.2	47.7	54.7	51.3	39.9
All other sources . . . . .	56.8	52.3	45.3	48.7	60.1
Total . . . . .	100.0	100.0	100.0	100.0	100.0
Share of value (percent)					
China . . . . .	24.2	37.3	34.1	35.5	23.4
All other sources . . . . .	75.8	62.7	65.9	64.5	76.6
Total . . . . .	100.0	100.0	100.0	100.0	100.0
Ratio of imports to U.S. production quantity (percent)					
China . . . . .	17.6	28.3	35.0	35.2	21.9
All other sources . . . . .	23.2	31.0	29.0	33.3	32.9
Total . . . . .	40.9	59.2	64.0	68.5	54.8

Note.--Firms not providing data on weight include Allied Wheel, Super Grip, Goodyear, China Manufacture and Sutong China Tire.

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

**Table A-2**

**Certain OTR tires: U.S. shipments of domestic product, U.S. imports, by sources, apparent U.S. consumption and market shares, 2005-07, January-March 2007, and January-March 2008**

Item	2005	2006	2007	January-March	
				2007	2008
Quantity (1,000 tires)					
U.S. producers' shipments . . . . .	3,881	3,383	3,720	910	995
U.S. imports from--					
China . . . . .	825	1,079	1,403	325	237
All other sources . . . . .	1,087	1,183	1,163	308	357
Total U.S. imports . . . . .	1,912	2,262	2,567	632	593
Apparent consumption . . . . .	5,793	5,645	6,286	1,543	1,588
Value (\$1,000)					
U.S. producers' shipments . . . . .	861,224	835,550	1,006,044	252,393	286,384
U.S. imports from--					
China . . . . .	84,907	175,618	187,347	45,216	32,505
All other sources . . . . .	265,426	294,816	362,099	81,983	106,441
Total U.S. imports . . . . .	350,333	470,435	549,446	127,199	138,946
Apparent consumption . . . . .	1,211,557	1,305,985	1,555,490	379,592	425,329
Share of quantity (percent)					
U.S. producers' shipments . . . . .	67.0	59.9	59.2	59.0	62.7
U.S. imports from--					
China . . . . .	14.2	19.1	22.3	21.0	14.9
All other sources . . . . .	18.8	21.0	18.5	19.9	22.4
Total U.S. imports . . . . .	33.0	40.1	40.8	41.0	37.3
Share of value (percent)					
U.S. producers' shipments . . . . .	71.1	64.0	64.7	66.5	67.3
U.S. imports from--					
China . . . . .	7.0	13.4	12.0	11.9	7.6
All other sources . . . . .	21.9	22.6	23.3	21.6	25.0
Total U.S. imports . . . . .	28.9	36.0	35.3	33.5	32.7

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



**Table A-3**  
**OTR tires: U.S. import data, by source, 2005-07 and 2012**

Item	Calendar year			
	2005	2006	2007	2012
<b>Quantity (1,000 tires)</b>				
China	2,333	2,521	2,337	1,360
All other sources	1,760	1,831	2,337	2,534
Total imports	4,093	4,352	4,070	3,894
<b>Value (\$1,000)</b>				
China	190,444	287,316	282,390	217,704
All other sources	368,629	435,633	505,975	1,270,757
Total imports	559,073	722,949	788,365	1,488,460
<b>Unit value (dollars per tire)</b>				
China	81.63	113.97	120.84	160.04
All other sources	209.41	237.89	292.00	501.45
Total imports	136.59	166.11	193.72	382.20
<b>Share of quantity (percent)</b>				
China	57.0	57.9	57.4	34.9
All other sources	43.0	42.1	42.6	65.1
Total imports	100.0	100.0	100.0	100.0
<b>Share of value (percent)</b>				
China	34.1	39.7	35.8	14.6
All other sources	65.9	60.3	64.2	85.4
Total imports	100.0	100.0	100.0	100.0

Source: *Certain Off-The-Road Tires from China, Inv. No. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, Table IV-2, and compiled from official Commerce statistics, HTS numbers 4011.20.10.25, 4011.20.10.35, 4011.20.50.30, 4011.20.50.50, 4011.61.00.00, 4011.62.00.00, 4011.63.00.00, 4011.69.00.00, 4011.92.00.00, 4011.93.40.00, 4011.93.80.00, 4011.94.40.00, and 4011.94.80.00, adjusted to exclude merchandise that had a less than \$25 unit value or greater than 1,500 lb. shipping weight per unit except when antidumping or countervailing duties were applied.

**Table A-4**  
**OTR tires: Ratio of U.S. imports to U.S. production, 2005-07 and 2012**

Item	Calendar year			
	2005 <sup>1</sup>	2006 <sup>1</sup>	2007 <sup>1</sup>	2012 <sup>2</sup>
<b>Ratio of imports to U.S. production (percent)</b>				
China	49.9	66.0	58.3	***
All other sources	37.6	48.0	43.2	***
All countries	87.5	114.0	101.5	***

<sup>1</sup> Data for seven producers.

<sup>2</sup> Data for Titan and Specialty Tires, representing \*\*\* percent of the domestic industry in 2012.

Source: *Certain Off-The-Road Tires from China, Inv. No. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, Table IV-7, and compiled from official Commerce statistics, HTS numbers 4011.20.10.25, 4011.20.10.35, 4011.20.50.30, 4011.20.50.50, 4011.61.00.00, 4011.62.00.00, 4011.63.00.00, 4011.69.00.00, 4011.92.00.00, 4011.93.40.00, 4011.93.80.00, 4011.94.40.00, and 4011.94.80.00, adjusted to exclude merchandise that had a less than \$25 unit value or greater than 1,500 lb. shipping weight per unit except when antidumping or countervailing duties were applied.

**Table A-5****OTR tires: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 2005-07 and 2012**

Item	2005 <sup>1</sup>	2006 <sup>1</sup>	2007 <sup>1</sup>	2012 <sup>2</sup>
	<b>Quantity (1,000 tires)</b>			
U.S. producers' U.S. shipments	3,881	3,383	3,720	***
U.S. imports from--				
China	2,333	2,521	2,337	1,360
All other sources	1,760	1,831	2,337	2,534
Total imports	4,093	4,352	4,070	3,894
Apparent U.S. consumption	7,974	7,735	7,790	***
	<b>Value (1,000 dollars)</b>			
U.S. producers' U.S. shipments	861,224	835,550	1,006,044	***
U.S. imports from--				
China	190,444	287,316	282,390	217,704
All other sources	368,629	435,633	505,975	1,270,757
Total imports	559,073	722,949	788,365	1,488,460
Apparent U.S. consumption	1,420,296	1,558,498	1,794,409	***

<sup>1</sup> Data for seven producers.<sup>2</sup> Data for Titan and Specialty Tires, representing \*\*\* percent of the domestic industry in 2012.

Source: *Certain Off-The-Road Tires from China, Inv. No. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, Table IV-5, and compiled from official Commerce statistics, HTS numbers 4011.20.10.25, 4011.20.10.35, 4011.20.50.30, 4011.20.50.50, 4011.61.00.00, 4011.62.00.00, 4011.63.00.00, 4011.69.00.00, 4011.92.00.00, 4011.93.40.00, 4011.93.80.00, 4011.94.40.00, and 4011.94.80.00, adjusted to exclude merchandise that had a less than \$25 unit value or greater than 1,500 lb. shipping weight per unit except when antidumping or countervailing duties were applied.

**Table A-6**  
**OTR tires: U.S. market shares, 2005-07 and 2012**

Item	2005 <sup>1</sup>	2006 <sup>1</sup>	2007 <sup>1</sup>	2012 <sup>2</sup>
	<b>Quantity (1,000 tires)</b>			
Apparent U.S. consumption	7,974	7,735	7,790	***
	<b>Value (1,000 dollars)</b>			
Apparent U.S. consumption	1,420,296	1,558,498	1,794,409	***
	<b>Share of quantity (percent)</b>			
U.S. producers' U.S. shipments	48.7	43.7	47.8	***
U.S. imports from--				
China	29.3	32.6	30.0	***
All other sources	22.1	23.7	22.2	***
Total imports	51.3	56.3	52.2	***
	<b>Share of value (percent)</b>			
U.S. producers' U.S. shipments	60.6	53.6	56.1	***
U.S. imports from—				
China	13.4	18.4	15.7	***
All other sources	26.0	28.0	28.2	***
Total imports	39.4	46.4	43.9	***

<sup>1</sup> Data for seven producers.

<sup>2</sup> Data for Titan and Specialty Tires, representing \*\*\* percent of the domestic industry in 2012.

Source: *Certain Off-The-Road Tires from China, Inv. No. 701-TA-448 and 731-TA-1117 (Final)*, USITC Publication 4031, August 2008, Table IV-6, and compiled from official Commerce statistics, HTS numbers 4011.20.10.25, 4011.20.10.35, 4011.20.50.30, 4011.20.50.50, 4011.61.00.00, 4011.62.00.00, 4011.63.00.00, 4011.69.00.00, 4011.92.00.00, 4011.93.40.00, 4011.93.80.00, 4011.94.40.00, and 4011.94.80.00, adjusted to exclude merchandise that had a less than \$25 unit value or greater than 1,500 lb. shipping weight per unit except when antidumping or countervailing duties were applied.