

United States International Trade Commission

**Advice Concerning  
Possible  
Modifications to the  
U.S. Generalized  
System of  
Preferences, 2009  
Review of a  
Competitive Need  
Limit Waiver**

Investigation No. 332-512

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# U.S. International Trade Commission

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# U.S. International Trade Commission

Washington, DC 20436  
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## **Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2009 Review of a Competitive Need Limit Waiver**

Investigation No. 332-512

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**THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO THE UNITED STATES TRADE REPRESENTATIVE ON MARCH 30, 2010. ALL CONFIDENTIAL NATIONAL SECURITY INFORMATION AND CONFIDENTIAL BUSINESS INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (\*\*\*)**.



# ABSTRACT

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This report contains the advice of the U.S. International Trade Commission (Commission) to the President regarding the probable economic effect of granting a competitive need limit (CNL) waiver for radial motorcar tires (HTS subheading 4011.10.10) from Thailand that are eligible for duty-free treatment under the provisions of the Generalized System of Preferences (GSP). This report provides (1) advice on whether granting the CNL waiver would adversely affect any U.S. industry; (2) the probable economic effect on the U.S. industries producing like or directly competitive articles, on total U.S. imports, and on U.S. consumers; and (3) information as to whether like or directly competitive articles were being produced in the United States on January 1, 1995.



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# Chapter 1

## Introduction and Summary of Findings

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### Introduction<sup>1</sup>

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This report provides advice related to the effect of granting a competitive need limit (CNL) waiver to Thailand for radial motorcar tires (HTS subheading 4011.10.10) eligible for duty-free treatment under the provisions of the U.S. Generalized System of Preferences (GSP). As requested by the United States Trade Representative (USTR),<sup>2</sup> this report provides (1) advice on whether any industry in the United States is likely to be adversely affected by a CNL waiver; (2) the probable economic effect of waiving the CNL on the industry producing like or directly competitive articles, on total U.S. imports, and on consumers; and (3) information as to whether like or directly competitive products were being produced in the United States on January 1, 1995.

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### Summary of Advice

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<sup>1</sup> The information in these chapters is for the purpose of this report only. Nothing in this report should be construed to indicate how the Commission would find in an investigation conducted under any other statutory authority.

<sup>2</sup> See app. A for the USTR request letter. See app. B for the Commission's *Federal Register* notice instituting the investigation. The Commission held a public hearing on this matter on February 16, 2010, in Washington, DC; see app. C for the calendar of witnesses for the public hearing.



# CHAPTER 2

## Radial Motorcar Tires

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### Competitive Need Limit Waiver (Thailand)<sup>1</sup>

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HTS subheading	Short description	Col. 1 rate of duty as of 1/1/10 (percent ad valorem)	Like or directly competitive article produced in the United States on Jan. 1, 1995?
4011.10.10 <sup>a</sup>	Radial motorcar tires	4.0	Yes
<p><sup>a</sup> Thailand has not been proclaimed by the President as non-eligible for GSP treatment for the articles included under HTS subheading 4011.10.10. However, Thailand anticipates that future export levels to the United States will exceed the competitive need limit.</p> <p>U.S. imports of the subject tires from Brazil and Argentina are excluded from the provisions of the GSP. Brazil lost its eligibility for GSP for this HTS subheading before 1989 (pre-HTS) under a GSP provision that existed in the 1980s whereby a “leading supplier” could lose GSP eligibility if it supplied 25 percent of total U.S. imports, as opposed to the current 50 percent. Brazil petitioned for reinstatement and competitive need limit waivers in 1997 and 2004, but those requests were denied. Argentina lost GSP eligibility for this HTS subheading in April 1997 as part of the implementation of sanctions against the country. U.S. imports from Brazil and Argentina are, therefore, dutiable and are included in the total U.S. imports data, but not in the data for U.S. imports from GSP-eligible countries. Indonesia was granted a waiver of the competitive need limit for the subject tires in 2008.</p>			

**Description and uses:** Radial motorcar tires are the largest volume product of all motor vehicle tires produced domestically. Radial tires (in which the tire cord runs archwise from bead to bead<sup>2</sup>) account for more than 93 percent of original-equipment passenger car tires and close to 100 percent of replacement passenger car tires in the U.S. market.<sup>3</sup> Production processes for radial motorcar tires are essentially the same throughout the world.

### Probable Economic Effect Advice

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<sup>1</sup> The petitioners are Bridgestone Americas Tire Operations, LLC, Falken Tire Corporation, Sumitomo Rubber (Thailand) Co., Ltd., and Yokohama Tire Corporation.

<sup>2</sup> Tire beads are hoops composed of high-tensile-strength steel wire; they anchor the tire’s plies and hold the tire on the rim of the wheel.

<sup>3</sup> Rubber Manufacturers Association (RMA), “2010 Tire Industry Factbook–Preliminary,” February 1, 2010.

## Profile of U.S. Industry and Market, 2005–09

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The U.S. industry producing radial passenger car tires consists of three large multinational producers and seven smaller producers. Domestic production of the subject tires decreased in terms of quantity throughout the period, while the estimated value of such production fluctuated due to increasing unit values (table 2.1). Capacity utilization levels fluctuated over the period as well, as domestic manufacturers shuttered capacity in concert with declining production trends. The production and capacity reductions affected employment levels, as average annual employment is estimated to have declined between 15-20 percent between 2005 and 2009. Shipments reported by U.S. producers consistently exceeded production levels, because many domestic producers also distribute tires imported from offshore affiliates or business partners.<sup>4</sup>

The value of radial passenger car tire imports increased from 2005–2008 before declining in 2009, and import quantities followed a similar trend. The diverging trends in production and imports caused the import share of the U.S. market to increase over most of the period, before retreating slightly in 2009. China, Japan, Canada, and Korea were the primary suppliers of subject tire imports to the U.S. market in 2009, together accounting for more than 52 percent of imports. Total import value of the subject tires increased by 20 percent over the full period, with China accounting for most of the increase. Imports from China increased by 166 percent during 2005–09, and China's share of total U.S. imports increased from 12 percent to 26 percent during that period.<sup>5</sup>

Whereas the value of U.S. exports increased during 2005–08 before declining slightly in 2009, export quantities generally fell throughout the period, with the exception of a small increase in 2008. Canada, which possesses a large automotive original equipment manufacturer market, accounted for nearly 66 percent of U.S. subject tire exports in 2009; Mexico accounted for about 8 percent.<sup>6</sup>

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<sup>4</sup> See, for example, Foley & Lardner LLP, on behalf of Yokohama Tire Corporation (“Yokohama”), written submission to the USITC, February 26, 2010, 42; Akin Gump, on behalf of Bridgestone, written submission to the USITC, February 4, 2010, 11; USITC, hearing transcript, February 16, 2010, 9 (testimony of Jim Keating on behalf of Bridgestone); and Neville Peterson LLP, on behalf of Michelin, written submission to the USITC, February 16, 2010, 8.

<sup>5</sup> After an investigation by the Commission under section 421(b) of the Trade Act of 1974, the President imposed additional duties on imports of certain passenger vehicle and light truck tires from China, including those imports that enter under HTS subheading 4011.10.10, effective September 26, 2009. The duty, which is imposed for a period of three years, is 35 percent ad valorem above the column-1 rate of duty for the first year, 30 percent ad valorem above the column-1 rate of duty for the second year, and 25 percent ad valorem above the column-1 rate of duty for the third year. (See Proclamation 8414, 74 Fed. Reg. 47861 (September 17, 2009); and USITC, *Certain Passenger Vehicle and Light Truck Tires From China*, 2009.)

<sup>6</sup> USITC, Dataweb (accessed March 25, 2010).

**Table 2.1** Radial motorcar tires: U.S. producers, employment, production, trade, consumption, and capacity utilization, 2005-09

Item	2005	2006	2007	2008	2009
Producers ( <i>number</i> )	10	10	10	10	10
Total employment ( <i>1,000 employees</i> ) <sup>a</sup>	42	41	40	39	35
Production ( <i>million units</i> ) <sup>b</sup>	176.2	158.0	154.1	137.9	118.6
Production ( <i>1,000 dollars</i> )	7,800,000	7,600,000	8,400,000	7,800,000	7,300,000
Exports ( <i>1,000 dollars</i> ) <sup>c</sup>	1,090,813	1,136,658	1,182,065	1,273,265	1,272,813
Imports ( <i>1,000 dollars</i> ) <sup>d</sup>	3,650,711	3,788,057	4,395,677	4,911,793	4,393,250
Consumption ( <i>1,000 dollars</i> )	10,359,898	10,251,399	11,613,612	11,438,528	10,520,437
Import-to-consumption ratio ( <i>percent</i> )	35.2	37.0	37.8	42.9	41.8
Capacity utilization ( <i>percent</i> ) <sup>e</sup>	93.2	85.9	91.9	86.0	( <sup>f</sup> )

<sup>a</sup> Employment information as shown represents total employment for passenger car tire production and is estimated based on data published by the Department of Commerce, U.S. Census Bureau (*2006 Annual Survey of Manufacturers, 2007 Census of Manufacturers, 2008 Annual Survey of Manufactures*, for NAICS series 32621 and 326211) and the U.S. Department of Labor, Bureau of Labor Statistics, data series CEU3232621001.

<sup>b</sup> Production quantity data for radial passenger car tires were published by the RMA in its annual *Tire Industry Factbook*, 2007–2010. Production data for 2009 are preliminary estimates.

<sup>c</sup> U.S. domestic exports, fas value.

<sup>d</sup> Imports for consumption, customs value.

<sup>e</sup> Capacity utilization rates are those developed by the Commission in its investigation No. TA-421-7, *Certain Passenger Vehicle and Light Truck Tires from China*, USITC Publication 4085, July, 2009, p. III-3. Although this investigation included both passenger car tires and light truck tires, the Commission found that virtually all domestic manufacturers of such tires manufacture both types of tires in the same production facilities using the same equipment and production-related workers (*Ibid.*, 8). According to RMA data, passenger car tires typically account for approximately 85 percent of car and light truck tire production.

<sup>f</sup> Similar capacity utilization data on an industry-wide basis were not available for 2009. \*\*\*.

*Source:* Number of producers, employment, value of production, and capacity utilization estimated by Commission staff from various industry sources unless otherwise specified; exports and imports compiled from official statistics of the Department of Commerce.

## GSP Import Situation, 2009

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U.S. imports of radial motorcar tires from GSP-eligible countries accounted for 4 percent of U.S. consumption in 2009 and 9 percent of total U.S. imports in 2009 (table 2.2). Indonesia and Thailand were the primary GSP-eligible suppliers.<sup>7</sup> In 2009, Thailand accounted for 4 percent of total U.S. imports, 40 percent of total GSP-eligible imports, and 1 percent of domestic consumption (table 2.2).

The value of U.S. imports from Thailand increased significantly from \$18.1 million in 2005 to \$154.8 million in 2009. Tires imported from Thailand are sold in the U.S. market under generally recognized brand names, including Bridgestone, Goodyear, and Michelin. Although data on imports from Thailand by tire size and markets served are unavailable, available information for another GSP-eligible country, Indonesia, indicate that the radial tires imported under GSP include a broad range of sizes and that such tires are sold in both the OEM and replacement markets.

**Table 2.2** Radial motorcar tires: U.S. imports and share of U.S. consumption, 2009

Item	Imports (\$1,000)	% of total imports	% of GSP imports	% of U.S. consumption
Grand total	4,393,250	100	( <sup>a</sup> )	42
Imports from GSP-eligible countries:				
Total	387,318	9	100	4
Thailand	154,763	4	40	1

<sup>a</sup> Not applicable.

## U.S. Imports and Exports

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Data for total U.S. imports and exports of the subject products are found in tables 2.3 and 2.4.

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<sup>7</sup> As noted earlier, Brazil exceeded the competitive need limit for HTS subheading 4011.10.10 before 1989 and has since been excluded from GSP eligibility for this product. Argentina lost GSP eligibility for HTS subheading 4011.10.10 in April 1997 as part of the implementation of sanctions against the country. Indonesia was granted a waiver of the competitive need limit for HTS subheading 4011.10.10 in 2008.

**Table 2.3** Radial motorcar tires: U.S. imports (customs value) for consumption by principal sources, 2005–09, in dollars.

Country	2005	2006	2007	2008	2009
Imports from all suppliers:					
China	429,045,505	537,162,186	946,461,235	1,210,816,841	1,143,292,737
Japan	826,896,960	812,082,774	738,035,576	772,886,441	672,651,803
Canada	751,458,786	687,794,628	563,188,847	560,363,824	634,687,278
Korea	417,966,056	500,224,597	531,035,923	568,482,431	478,032,615
Mexico	160,760,223	123,285,672	151,045,664	209,989,831	248,619,769
Brazil	83,787,010	93,871,945	208,546,446	240,314,200	210,506,739
Indonesia	55,255,586	99,295,105	152,511,377	171,484,856	173,770,482
Thailand	18,125,453	19,845,442	71,009,251	126,661,832	154,763,362
Germany	169,491,360	153,470,414	198,849,643	189,118,501	148,303,436
Czech Republic	48,272,876	53,864,885	92,412,954	125,315,600	60,579,959
All other	689,651,242	707,159,108	742,580,269	736,358,319	468,042,273
Total	3,650,711,057	3,788,056,756	4,395,677,185	4,911,792,676	4,393,250,453
Imports from GSP-eligible countries:					
Brazil <sup>a</sup>	0	0	0	0	0
Argentina <sup>a</sup>	0	0	0	0	0
Indonesia <sup>b</sup>	55,255,586	99,295,105	152,511,377	171,484,856	173,770,482
Thailand	18,125,453	19,845,442	71,009,251	126,661,832	154,763,362
Philippines	4,292,303	22,575,807	47,688,218	53,581,704	36,219,768
Russia	0	193,975	2,009,925	3,467,338	10,726,121
South Africa	6,939,715	13,221,637	11,528,945	14,477,794	6,205,477
Turkey	7,411,298	4,618,077	2,407,352	4,654,604	4,451,801
India	170,692	68,139	606,817	351,638	1,025,076
Venezuela	32,666,431	36,230,319	27,162,690	11,528,047	103,473
All other	345,415	201,460	253,118	191,848	52,073
Total	125,206,893	196,249,961	315,177,693	386,399,661	387,317,633

Source: Official statistics of the U.S. Department of Commerce.

<sup>a</sup> As noted earlier, U.S. imports of the subject tires from Brazil and Argentina are excluded from the provisions of the GSP. Brazil lost its eligibility for GSP for this HTS subheading prior to 1989 (pre-HTS) under a GSP provision that existed in the 1980s whereby a “leading supplier” could lose GSP eligibility if it supplied 25 percent of total U.S. imports, as opposed to the current 50 percent. Brazil petitioned for reinstatement and competitive need limit waivers in 1997 and 2004, but those requests were denied. Argentina lost GSP eligibility for this HTS subheading in April 1997 as part of the implementation of sanctions against the country. U.S. imports from Brazil and Argentina are therefore dutiable and are included in the total U.S. imports data, but not in the data for U.S. imports from GSP-eligible countries.

<sup>b</sup> Indonesia was granted a waiver of the competitive need limit for the subject tires in 2008.

**Table 2.4** Radial motorcar tires: U.S. exports (f.a.s. value) of domestic merchandise, by market, 2005–09, in dollars

Country	2005	2006	2007	2008	2009
Canada	739,176,496	743,918,738	724,389,688	751,920,728	837,650,919
Mexico	79,203,459	58,380,109	30,509,864	38,423,001	99,473,630
Netherlands	28,692,041	46,652,967	64,541,462	59,767,953	44,979,765
France	10,246,805	17,037,600	30,385,684	43,655,031	26,311,655
Belgium	11,759,820	22,628,224	24,718,556	25,312,971	22,216,293
United Kingdom	19,040,695	24,557,217	20,426,336	23,299,375	21,418,333
Japan	64,440,617	71,034,262	78,756,762	69,610,481	21,013,049
United Arab Emirates	5,686,463	6,441,388	18,965,590	17,058,706	20,451,631
Australia	11,994,284	14,374,963	21,123,775	27,218,178	19,368,838
Germany	31,701,844	30,205,944	31,098,737	45,077,376	18,511,722
All other	88,870,625	101,426,197	137,148,661	171,920,964	141,417,055
Total	1,090,813,149	1,136,657,609	1,182,065,115	1,273,264,764	1,272,812,890

Source: Official statistics of the U.S. Department of Commerce.

## Position of Interested Parties

**Petitioners:** The petitioners for the CNL waiver for the subject tires are Bridgestone Americas Tire Operations, LLC (“Bridgestone”), Falken Tire Corporation (“Falken”), Sumitomo Rubber (Thailand) Co., Ltd. (“Sumitomo”), and Yokohama Tire Corporation (“Yokohama”). Bridgestone, Sumitomo, and Yokohama all operate U.S. tire production plants; Falken sells only imported tires in the U.S. market.

Bridgestone is a multinational manufacturer, importer, and exporter of tires with U.S. headquarters in Nashville, TN. Bridgestone operates plants producing the subject tires in Wilson City, NC, and Aiken County, SC. Bridgestone stated in its prehearing brief that granting a CNL waiver for Thailand would be highly unlikely to harm the U.S. industry for three reasons: subject imports play a vital role in filling U.S. demand; imports from Thailand represent a negligible percentage of total U.S. imports and a trivial percentage of the total U.S. market; and imports from Thailand will not adversely affect U.S. producers, given the current and projected conditions of competition in the domestic market.<sup>8</sup> Bridgestone also maintained that the balance within its own global network of production facilities includes considerations such as the availability of GSP treatment for the Bridgestone-produced Thai tires that are imported into the U.S. market to supplement Bridgestone’s domestic production.<sup>9</sup> In its posthearing brief, Bridgestone cited industry forecasts of rising domestic demand for the subject tires following the bottoming out of shipments (in terms of quantity) in 2009.<sup>10</sup> Bridgestone also stated that a denial of the requested CNL waiver “would not result in any increase in U.S. production.”<sup>11</sup> With respect to the probable economic effect on U.S. consumers of a denial of the CNL waiver, Bridgestone stated that its ability to pass the cost of the duty to consumers would

<sup>8</sup> Akin Gump, on behalf of Bridgestone Americas Tire Operations, LLC (“Bridgestone”), written submission to the USITC, February 4, 2010, 2; Akin Gump, on behalf of Bridgestone, written submission to the USITC, February 26, 2010, 2–3.

<sup>9</sup> Akin Gump, on behalf of Bridgestone, written submission to the USITC, February 4, 2010, 11; USITC, hearing transcript, February 16, 2010, 9 (testimony of Jim Keating on behalf of Bridgestone).

<sup>10</sup> Akin Gump, on behalf of Bridgestone, written submission to the USITC, February 26, 2010, 13.

<sup>11</sup> Akin Gump, on behalf of Bridgestone, written submission to the USITC, February 26, 2010, 15.

be very small because the cost increase would only apply to a supplier country with a small role in the highly competitive U.S. market.<sup>12</sup> Bridgestone noted that to the extent that it could pass the duty to consumers, the impact on the consumer would be negative, in the form of higher prices for radial motorcar tires.<sup>13</sup>

Falken stated in its prehearing brief that imports from Thailand have been a significant factor in Falken's ability to supply its U.S. customers with the subject tires, although Thai imports make up a small portion of the U.S. passenger tire market.<sup>14</sup> Therefore, Falken maintained that importers of the subject tires do not have the power to influence large-scale economic forces in the U.S. market, such as employment and pricing.<sup>15</sup> Falken said that as none of Falken's lower-priced competitors are U.S.-based tire manufacturers, the denial of the CNL waiver for Thailand would not benefit U.S. industry, since any decrease in imports of tires from Thailand would lead to increased imports from other countries.<sup>16</sup> With regard to the probable economic effect on U.S. consumers, Falken stated that recent experience makes it believe that it could not pass the cost of the 4 percent tariff on tires from Thailand onto its customers.<sup>17</sup> Falken would have to absorb much, if not all, of the 4 percent increase, which would adversely impact the company's financial condition and could result in lower payrolls, workforce reductions, or postponement/scaling down of investment in facilities.<sup>18</sup> Falken noted that the products that primarily compete with its products in the domestic market are sourced from other Asian countries, primarily China, South Korea, and Taiwan.<sup>19</sup> Falken said it believes that in the absence of the CNL waiver, it would not be able to compete with its "primary competitors, Kumho, Hankook, Nexen, and Maxxis."<sup>20</sup>

Sumitomo, in its petition to the USTR, stated that although Thai tire production capacity is relatively small compared to that of other major producing nations, particularly China, it provides multiple benefits to the Thai economy. Sumitomo stated that the export-oriented Thai tire industry has provided Thailand an opportunity to use its wealth of natural rubber as well as develop multiple support industries related to tire production. Sumitomo anticipates that if the requested CNL waiver is not granted, its plans for future development may be adversely affected and its U.S. market presence may decline.<sup>21</sup>

Yokohama stated that the company both produces the subject tires in Thailand and imports them from Thailand and other sources, including Vietnam and GSP-eligible nations such as the Philippines.<sup>22</sup> Yokohama maintained that the conditions of

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<sup>12</sup> Akin Gump, on behalf of Bridgestone, written submission to the USITC, February 26, 2010, 23.

<sup>13</sup> Akin Gump, on behalf of Bridgestone, written submission to the USITC, February 4, 2010,

Footnote 16.

<sup>14</sup> McGuire Woods, on behalf of Falken Tire Corporation ("Falken"), written submission to the USITC, February 4, 2010, 2 and 4; USITC, hearing transcript, February 16, 2010, 19 (testimony of Richard Smallwood on behalf of Falken).

<sup>15</sup> McGuire Woods, on behalf of Falken, written submission to the USITC, February 4, 2010, 4.

<sup>16</sup> McGuire Woods, on behalf of Falken, written submission to the USITC, February 4, 2010, 6.

<sup>17</sup> McGuire Woods, on behalf of Falken, written submission to the USITC, February 26, 2010, 5.

<sup>18</sup> McGuire Woods, on behalf of Falken, written submission to the USITC, February 4, 2010, 7.

<sup>19</sup> McGuire Woods, on behalf of Falken, written submission to the USITC, February 26, 2010, 4.

<sup>20</sup> McGuire Woods, on behalf of Falken, written submission to the USITC, February 26, 2010, 5.

<sup>21</sup> Akin Gump, on behalf of Sumitomo Rubber (Thailand) Co., Ltd., written submission to the United States Trade Representative, November 17, 2009, 1-7.

<sup>22</sup> Foley & Lardner LLP, on behalf of Yokohama Tire Corporation ("Yokohama"), written submission to the USITC, February 26, 2010, 42.

competition in the U.S. tire market have changed since the imposition of duties on tire imports from China in September 2009.<sup>23</sup> Imports from China are decreasing, while U.S. production and imports from other sources are increasing.<sup>24</sup> Yokohama stated that imports from Thailand are likely to exceed the CNL by only a small amount, primarily owing to the increases in unit values for tires resulting from increased raw material costs.<sup>25</sup> Also, since the Section 421 tariff was put in place, both U.S.-produced tires as well as all other foreign-sourced tires in the U.S. market, including those imported from Thailand, have become more competitive.<sup>26</sup> Yokohama maintained that “there would be no significant impact on U.S. producers” from granting a CNL waiver for Thailand.<sup>27</sup> Regarding the probable economic effect on consumers, Yokohama stated that denial of the CNL waiver would have a direct impact on U.S. customers, increasing costs for distributors and resellers who could only pass those costs onto their customers with the expectation of a significant decrease in sales.<sup>28</sup>

**Support:** The TBC Corporation (“TBC”) is a U.S.-based marketer of tires for the replacement market. TBC markets tires through approximately 1,200 company-owned service centers in 42 states, operating under a variety of names. TBC also supplies tires to more than 10,000 distributors, dealers, regional tire chains, and independent retailers throughout the United States, Canada, and Mexico. TBC markets major tire brands, as well as independent label tires. TBC supported the granting of the CNL waiver for imports of the subject tires from Thailand and stated that the positions stated in the petitions filed with the USTR are sound and valid.<sup>29</sup>

The American Coalition for Free Trade in Tires (“Coalition”) comprises U.S. tire distributors and retailers. The Coalition stated that the granting of the CNL waiver would be good for the United States because imports from “lower cost countries such as Thailand” are particularly important to fill U.S. demand for private label and entry-level tires.<sup>30</sup>

**Opposition:** The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (“USW”) stated that it is “very concerned about what a granting of a waiver would mean and that it would adversely affect our domestic industry” and have an adverse effect on domestic workers.<sup>31</sup> The

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<sup>23</sup> Foley & Lardner LLP, on behalf of Yokohama, written submission to the USITC, February 4, 2010, 2.

<sup>24</sup> Foley & Lardner LLP, on behalf of Yokohama, written submission to the USITC, February 4, 2010, 8–9.

<sup>25</sup> Foley & Lardner LLP, on behalf of Yokohama, written submission to the USITC, February 4, 2010, 12–13.

<sup>26</sup> USITC, hearing transcript, February 16, 2010, 15 (testimony of Rex Simpson on behalf of Yokohama).

<sup>27</sup> Foley & Lardner LLP, on behalf of Yokohama, written submission to the USITC, February 26, 2010, 12.

<sup>28</sup> Foley & Lardner LLP, on behalf of Yokohama, written submission to the USITC, February 4, 2010, 22; Foley & Lardner LLP, on behalf of Yokohama, written submission to the USITC, February 26, 2010, 21.

<sup>29</sup> TBC Corporation, written submission to the USITC February 4, 2010, 1.

<sup>30</sup> James J. Jochum, on behalf of The American Coalition for Free Trade in Tires, written submission to the USITC, February 26, 2010, 2.

<sup>31</sup> USITC, hearing transcript, February 16, 2010, 28 (testimony of Linda Andros on behalf of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (“USW”)) and Stewart & Stewart, on behalf of the USW, written submission to the USITC, February 26, 2010, 6.

USW also stated that it disagrees strongly with the petitioners' claim that Thai imports are unlikely to have a significant impact on the domestic industry.<sup>32</sup> USW maintained that replacing imports that would have been sourced from China (but for the duties imposed by Section 421 relief) with imports from other sources, instead of product from the domestic producers, subverts the intent of the Section 421 relief. The granting of a CNL waiver would only allow further growth in imports at the expense of U.S. production. USW also expressed its belief that the Thai industry is already thriving and does not need additional support under the GSP.<sup>33</sup> USW stated that the domestic industry has more than sufficient capacity to meet anticipated increases in domestic demand for the foreseeable future.<sup>34</sup>

Michelin North America Inc. ("Michelin") is a U.S. manufacturer of tires with North American headquarters in Greenville, SC. Michelin maintains that a waiver of the CNL is not appropriate in this case because the Thai tire manufacturing industry has obtained a full and modern level of development and no longer requires preferential access to the U.S. market.<sup>35</sup> Michelin indicates that its own imports of tires from Thailand remained steady during 2005–08 and then declined in 2009, owing to the global economic downturn and the business setbacks within the U.S. automobile industry.<sup>36</sup>

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<sup>32</sup> USITC, hearing transcript, February 16, 2010, 29 (testimony of Linda Andros on behalf of the USW).

<sup>33</sup> USITC, hearing transcript, February 16, 2010, 27–30 (testimony of Linda Andros on behalf of the USW).

<sup>34</sup> Stewart & Stewart, on behalf of the USW, written submission to the USITC, February 26, 2010, 7.

<sup>35</sup> Neville Peterson LLP, on behalf of Michelin North America Inc. ("Michelin"), written submission to the USITC, February 16, 2010, 2.

<sup>36</sup> Neville Peterson LLP, on behalf of Michelin, written submission to the USITC, February 16, 2010, 8.



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- Foley & Lardner LLP, on behalf of Yokohama Tire Corporation. Written submission to the USITC, February 4, 2010.
- , on behalf of Yokohama Tire Corporation. Written submission to the USITC, February 26, 2010.
- Jochum, James J., on behalf of the American Coalition for Free Trade in Tires. Written submission to the USITC, February 26, 2010.
- McGuire Woods, on behalf of Falken Tire Corporation. Written submission to the USITC, February 4, 2010.
- , on behalf of Falken Tire Corporation. Written submission to the USITC, February 26, 2010.
- Neville Peterson LLP, on behalf of Michelin North America Inc. Written submission to the USITC, February 16, 2010.
- Rubber Manufacturers Association (RMA). *Tire Industry Factbook* [annual], 2007–2010.
- Stewart & Stewart, on behalf of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union. Written submission to the USITC, February 26, 2010.
- TBC Corporation. Written submission to the USITC, February 4, 2010.
- U.S. International Trade Commission (USITC). *Certain Passenger Vehicle and Light Truck Tires from China*, USITC Publication 4085. Washington, DC: USITC, 2009.
- . Hearing transcript in connection with inv. no. 332-512, *Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2009 Review of a Competitive Need Limit Waiver*, February 16, 2010.
- . Interactive Tariff and Trade Dataweb (Dataweb). <http://dataweb.usitc.gov/> (accessed March 25, 2010).



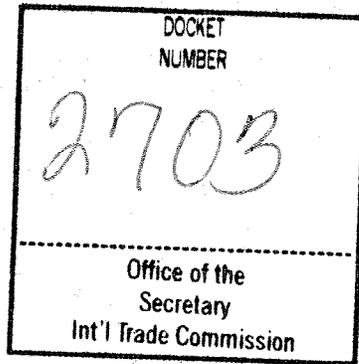
**APPENDIX A**  
**USTR Request Letter**

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EXECUTIVE OFFICE OF THE PRESIDENT  
THE UNITED STATES TRADE REPRESENTATIVE  
WASHINGTON, D.C. 20508

The Honorable Shara Aranoff  
Chairman  
United States International Trade  
Commission  
500 E Street, S.W.  
Washington, D.C. 20436



DEC 30 2009

Dear Chairman Aranoff:

The Trade Policy Staff Committee (TPSC) has recently decided and will announce in the *Federal Register* the acceptance of a petition to grant a waiver of the competitive need limitation (“CNL”) for a specific product under the Generalized System of Preferences (“GSP”) program. Pursuant to section 503(c)(2) of the Trade Act of 1974, if import levels of a GSP article from a beneficiary country exceed certain thresholds, or CNLs, in a calendar year, the President must terminate GSP benefits for that article from that beneficiary country. However, the President can waive the CNLs for particular articles if he receives the advice of the International Trade Commission (“Commission”) on whether the waiver will adversely affect any domestic industry, determines that the waiver is in the national economic interest, and publishes the determination in the *Federal Register*. Any modification to the GSP program that may result from this review will be announced in the spring of 2010 and become effective in the summer of 2010.

Accordingly, I request that, under the authority delegated by the President, pursuant to section 332(g) of the Tariff Act of 1930 and in accordance with section 503(d)(1)(A) of the 1974 Act, the Commission provide advice on whether any industry in the United States is likely to be adversely affected by a waiver of the CNL specified in section 503(c)(2)(A) of the 1974 Act for the country specified with respect to the article in the enclosed Annex. I also request that the Commission provide advice as to the probable economic effect on U.S. industries producing like or directly competitive articles, on total U.S. imports, as well as on consumers. Also, please provide information as to whether like or directly competitive products were being produced in the United States on January 1, 1995. With respect to the CNL in section 503(c)(2)(A)(i)(I) of the 1974 Act, the Commission is requested to use the dollar value limit of \$140,000,000.

Please provide the requested advice by no later than 90 days from receipt of this letter.

The report should be classified and marked in accordance with Section 1.6 of Executive Order 13292, as amended. With respect to the article identified in the enclosed annex, the sections of the report that analyze the probable economic effects as well as other information that would reveal aspects of the probable economic effects advice should be classified as Confidential pursuant to Section 1.4(e) of Executive Order 13292, as amended. The declassification date should be ten years from the date of your report. Background, public data, and other portions of the report that do not provide or reveal aspects of the probable economic effects advice or conclusions should not be classified. The probable economic effects advice, the probable effect model results, the non-public data used in the model and the model parameters as a whole would normally be classified Confidential. Chapters containing the positions of interested parties,

previously released public documents (e.g., the request letter and Federal Register notice), and tables containing public data (unless the selection of data on the table would reveal the probable effects advice) should be unclassified. The overall classification marked on the front and back covers of the report should be "Confidential" to conform with the confidential sections contained therein. All business confidential information contained in the report should be clearly identified.

Once the Commission's confidential report is provided to my Office, the Commission should issue, as soon as possible thereafter, a public version of the report containing only the unclassified information, with any business confidential information deleted.

The Commission's assistance in this matter is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Demetrios J. Marantis". The signature is fluid and cursive, with a prominent initial "D" and a long, sweeping tail.

Demetrios J. Marantis  
Acting

Annex

The Harmonized Tariff Schedule of the United States (HTS) subheading listed below has been accepted as a Competitive Need Limitation waiver petition for the 2009 Generalized System of Preferences (GSP) Annual Review for modification of the (GSP). The tariff nomenclature in the HTS for the subheading listed below is definitive; the product description in this list is *for informational purposes only*. The description below is not intended to delimit in any way the scope of the subheading. The HTS may be viewed on <http://www.usitc.gov/tata/index.htm>.

Petition for granting of a waiver of a Competitive Need Limitation for a product on the list of eligible products for the Generalized System of Preferences

<u>Case No.</u>	<u>HTS Subheading</u>	<u>Brief Description</u>	<u>Petitioner</u>
USTR-2009-08	4011.10.10 (Thailand)	New pneumatic radial tires, of rubber, of a kind used on motor cars (including station wagons and racing cars)	Bridgestone Americas Tire Operations, Yokohama Tire Corporation, Sumitomo Tire (Thailand) Company, Falken Tire Corporation



## **APPENDIX B**

# **Commission's *Federal Register* Notice of Institution**

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**IOWA****Clay County**

Spencer High School and Auditorium, 104 E. 4th St., Spencer, 10000002

**Wapello County**

Garner, J.W., Building, (Ottumwa MPS) 222-224 E. 2nd St., Ottumwa, 10000003

**MASSACHUSETTS****Norfolk County**

Pond Street School, 235 Pond St., Weymouth, 10000004

**MISSOURI****Jackson County**

George, Todd M., Sr., House, (Lee's Summit, Missouri MPS) 408 SE. 3rd St., Lee's Summit, 10000007

**NEW YORK****Essex County**

Mt. Van Hoevenberg Olympic Bobsled Run, 220 Bob Run Ln., Lake Placid, 10000008

**Kings County**

Jewish Center of Kings Highway, 1202-1218 Ave. P., Brooklyn, 10000009  
Kingsway Jewish Center, 2810 Nostrand Ave., Brooklyn, 10000010  
Young Israel of Flatbush, 1012 Ave. I, Brooklyn, 10000011

**New York County**

Chinatown and Little Italy Historic District, Roughly bounded by Baxter St., Centre St., Cleveland Pl. and Lafayette St. to the W.; Jersey St. and E. Houston, New York, 10000012

**Onondaga County**

Skoler, Louis and Celia, Residence, The, 213 Scottholm Terrace, Syracuse, 10000013

**Ulster County**

Cumming-Parker House, 50 Appletree Rd., Esopus, 10000014

**OREGON****Marion County**

Salem Southern Pacific Railroad Station, 500 13th Ave. SE, Salem, 10000015

**Multnomah County**

Arnold-Park Log Home, 12000 SW. Boones Ferry Rd., Portland, 10000016  
In the interest of preservation the comment period for the following resource has been shortened to three (3) days:

**MASSACHUSETTS****Worcester County**

Lancaster Mills, 1-55, 75, 99, 1-R Green St., 20 Cameron St., Clinton, 10000005

[FR Doc. 2010-906 Filed 1-19-10; 8:45 am]

**BILLING CODE P****DEPARTMENT OF THE INTERIOR****National Park Service****National Register of Historic Places; Weekly Listing of Historic Properties**

Pursuant to 36 CFR 60.13(b) and (c) and 36 CFR 63.5, this notice, through publication of the information included herein, is to apprise the public as well as governmental agencies, associations and all other organizations and individuals interested in historic preservation, of the properties added to, or determined eligible for listing in, the National Register of Historic Places from October 26 to October 30.

For further information, please contact Edson Beall via: United States Postal Service mail, at the National Register of Historic Places, 2280, National Park Service, 1849 C St., NW., Washington, DC 20240; in person (by appointment), 1201 Eye St., NW., 8th Floor, Washington, DC 20005; by fax, 202-371-2229; by phone, 202-354-2255; or by e-mail, [Edson\\_Beall@nps.gov](mailto:Edson_Beall@nps.gov).

Dated: January 13, 2010.

**J. Paul Loether,**

Chief, National Register of Historic Places/  
National Historic Landmarks Program.

**KEY: State, County, Property Name, Address/Boundary, City, Vicinity, Reference Number, Action, Date, Multiple Name**

**COLORADO****Delta County**

Hotchkiss Methodist Episcopal Church, 285 N. 2nd St., Hotchkiss, 09000853, LISTED, 10/28/09

**Weld County**

Land Utilization Program Headquarters, 44741 Weld Co. Rd. 77, Briggsdale Vicinity, 09000854, LISTED, 10/29/09 (New Deal Resources on Colorado's Eastern Plains MPS)

**CONNECTICUT****New London County**

House at 130 Mohegan Avenue, 130 Mohegan Ave., New London, 08001379, LISTED, 10/28/09

**MISSOURI****Clay County**

First Methodist Church, 114 N. Marietta St., Excelsior Springs, 09000856, LISTED, 10/28/09

**Dunklin County**

Birthright, Charles and Bettie, House, 109 S. Main St., Clarkton, 09000857, LISTED, 10/30/09

**St. Louis County**

Downtown Kirkwood Historic District, 105-133 E. Argonne, 100-159 W. Argonne, 108-212 N. Clay, 105-140 E. Jefferson,

100-161 W. Jefferson, Kirkwood, 09000859, LISTED, 10/28/09

**NEW YORK****Queens County**

Rego Park Jewish Center, 97-30 Queens Blvd., Rego Park, 09000864, LISTED, 10/28/09

**OREGON****Wallowa County**

Wallowa Ranger Station, 602 W. 1st St., Wallowa, 09000865, LISTED, 10/28/09 (Depression-Era Buildings TR)

**TEXAS****Harris County**

Farnsworth & Chambers Building, 2999 S. Wayside, Houston, 09000866, LISTED, 10/29/09

[FR Doc. 2010-905 Filed 1-19-10; 8:45 am]

**BILLING CODE P****INTERNATIONAL TRADE COMMISSION**

[Investigation No. 332-512]

**Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2009 Review of a Competitive Need Limit Waiver**

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of investigation and scheduling of hearing.

**SUMMARY:** Following receipt of a request on December 30, 2009 from the United States Trade Representative (USTR) under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332 (g)), the U.S. International Trade Commission (Commission) instituted investigation No. 332-512, *Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2009 Review of a Competitive Need Limit Waiver*.

**DATES:**

February 2, 2010: Deadline for filing requests to appear at the public hearing.

February 4, 2010: Deadline for filing pre-hearing briefs and statements.

February 16, 2010: Public hearing.

February 26, 2010: Deadline for filing post-hearing briefs and statements and other written submissions.

March 30, 2010: Transmittal of report to the Office of the United States Trade Representative.

**ADDRESSES:** All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington,

DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://www.usitc.gov/secretary/edis.htm>.

**FOR FURTHER INFORMATION CONTACT:**

Information specific to this investigation may be obtained from Philip Stone, Project Leader, Office of Industries (202-205-3424 or [philip.stone@usitc.gov](mailto:philip.stone@usitc.gov)). For information on the legal aspects of these investigations, contact William Gearhart of the Commission's Office of the General Counsel (202-205-3091 or [william.gearhart@usitc.gov](mailto:william.gearhart@usitc.gov)). The media should contact Margaret O'Laughlin, Office of External Relations (202-205-1819 or [margaret.olaughlin@usitc.gov](mailto:margaret.olaughlin@usitc.gov)). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

*Background:* As requested by the USTR, under the authority delegated by the President, pursuant to section 332(g) of the Tariff Act of 1930, and in accordance with sections 503(d)(1)(A) of the Trade Act of 1974 (1974 Act) (19 U.S.C. 2463(d)(1)(A)), the Commission will provide advice on whether any industry in the United States is likely to be adversely affected by a waiver of the competitive need limits specified in section 503(c)(2)(A) of the 1974 Act for the following country and article provided for in the noted subheading of the Harmonized Tariff System (HTS): Thailand for HTS subheading 4011.10.10 (pneumatic radial tires). As requested, the Commission will also provide advice as to the probable economic effect on U.S. industries producing like or directly competitive articles, on total U.S. imports, and on consumers, of the petitioned waiver. In addition, as requested, the Commission will also provide information as to whether like or directly competitive products were being produced in the United States on January 1, 1995. As requested by the USTR, the Commission will use the dollar value limit of \$140,000,000 for purposes of section 503(c)(2)(A)(i)(I) of the 1974 Act.

As requested by the USTR, the Commission will provide its advice by March 30, 2010. The USTR indicated that those sections of the Commission's report and related working papers that contain the Commission's advice will be classified as "confidential."

*Public Hearing:* A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on February 16, 2010. Requests to appear at the public hearing should be filed with the Secretary no later than 5:15 p.m. on February 2, 2010. Any pre-hearing briefs and other statements relating to the hearing should be filed with the Secretary not later than 5:15 p.m. on February 4, 2010, and all post-hearing briefs and statements and any other written submissions should be filed with the Secretary not later than 5:15 p.m. on February 26, 2010. All requests to appear and pre- and post-hearing briefs and statements must be filed in accordance with the requirements in the "Written Submissions" section below. In the event that, as of the close of business on February 2, 2010, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Persons interested in learning whether the hearing has been canceled should call the Office of the Secretary after February 2, 2010, at 202-205-2000.

*Written Submissions:* In lieu of or in addition to participating in the hearing, interested parties are invited to file written submissions concerning this investigation. All such submissions should be addressed to the Secretary and should be received not later than 5:15 p.m. on February 26, 2010 (see earlier dates for filing requests to appear and for filing pre-hearing briefs and statements). All written submissions must conform with the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 requires that a signed original (or a copy so designated) and fourteen (14) copies of each document be filed. In the event that confidential treatment of a document is requested, at least four (4) additional copies must be filed in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, [http://www.usitc.gov/secretary/fed\\_reg\\_notices/rules/](http://www.usitc.gov/secretary/fed_reg_notices/rules/)

*documents/handbook\_on\_electronic\_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202-205-2000). Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "non-confidential" version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties. The Commission may include some or all of the confidential business information submitted in the course of the investigation in the report it sends to the USTR.

As requested by the USTR, the Commission will publish a public version of the report, which will exclude portions of the report that the USTR has classified as well as any confidential business information.

Issued: January 12, 2010.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 2010-903 Filed 1-19-10; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 701-TA-463 (Final)]

### Certain Oil Country Tubular Goods From China

#### Determination

On the basis of the record<sup>1</sup> developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act), that an industry in the United States is threatened with material injury by reason of imports from China of certain oil country tubular goods ("OCTG"), primarily provided for in subheadings 7304.29, 7305.20, and 7306.29 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce

<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)).

**APPENDIX C**  
**Calendar of Witnesses for the**  
**February 16, 2010 Hearing**

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**ORGANIZATION AND WITNESS:**

Foley & Lardner LLP  
Washington, D.C.  
on behalf of

(Petitioner; In favor of waiver)

Yokohama Tire Corporation

**Rex Simpson**, Vice President, Yokohama Tire Corporation

**Gregory Husisian**

) – OF COUNSEL

McGuire Woods LLP  
Washington, D.C.  
on behalf of

(Petitioner; In favor of waiver)

Falken Tire Corporation (“Falken”)

**Richard Smallwood**, President and COO, Falken

**Steven M. Nakasone**

)

) – OF COUNSEL

**Annie W. Reisinger**

)

United Steel, Paper and Forestry, Rubber,  
Manufacturing, Energy, Allied Industrial and  
Service Workers International Union (“USW”)  
Washington, D.C.

(In opposition to waiver)

**Linda Andros**, Legislative Counsel, USW

**Eric P. Salonen**, Counsel, Stewart and Stewart

**-END-**

## **APPENDIX D**

# **Model for Evaluating the Probable Economic Effect of Changes in the GSP**

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**MODEL FOR EVALUATING THE  
PROBABLE ECONOMIC EFFECT OF CHANGES IN GSP STATUS**

\* \* \* \* \*