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USITC Inv. Nos. 701-TA-___ and 731-TA-___
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Investigation

PUBLIC VERSION

Information for which Business Proprietary
Treatment is requested deleted from brackets on
Pages I-19, I-42 to I-43, I-46 to I-55 and I-61 and
Exhibits I-15, I-25, and I-31 to I-32.

**BEFORE THE
INTERNATIONAL TRADE ADMINISTRATION
UNITED STATES DEPARTMENT OF COMMERCE
AND THE UNITED STATES INTERNATIONAL TRADE COMMISSION**

In the Matter of:

**CERTAIN NEW PNEUMATIC OFF-THE-ROAD
TIRES FROM INDIA, THE PEOPLE'S REPUBLIC OF
CHINA, AND SRI LANKA**

**VOLUME I:
GENERAL ISSUES
AND INJURY**

**PETITIONS FOR THE IMPOSITION OF ANTIDUMPING DUTIES AND
COUNTERVAILING DUTIES ON BEHALF OF TITAN TIRE CORPORATION AND
THE UNITED STEEL, PAPER AND FORESTRY, RUBBER, MANUFACTURING,
ENERGY, ALLIED INDUSTRIAL AND SERVICE WORKERS INTERNATIONAL
UNION, AFL-CIO, CLC**

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2013 and determined to continue the orders.²⁵ The orders remain in place today. The orders do not cover imports of wheel-mounted certain OTR tires from China,²⁶ and they do not cover any imports from India or Sri Lanka.

E. Description of the Subject Merchandise (19 C.F.R. § 351.202(b)(5))

The scope of these investigations is certain OTR tires. The scope is the same as the scope of the *OTR I* orders, with the following modifications: (1) the scope includes certain OTR tires whether or not attached to wheels or rims at the time of importation, and whether or not the tires are mounted in subject countries or a third country; however, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope; and (2) any products covered by the existing antidumping and countervailing duty orders on certain OTR tires from the People's Republic of China are excluded from the scope. In addition, while the listing of HTS categories at the end of the scope description is not dispositive, the list has been updated to include new categories, categories for mounted certain OTR tires, and other categories under which mounted and unmounted certain OTR tires may be imported.

The scope description is below:

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

²⁵ See *Certain Off-The-Road Tires from China*, Inv. Nos. 701-TA-448 and 731-TA-1117 (Review), USITC Pub. 4448 (Jan. 2014) (hereinafter "*OTR I Sunset*") at 1, 23, and I-4.

²⁶ See *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 Fed. Reg. 40,485 (Dep't Commerce July 15, 2008) and accompanying Issues and Decision Memorandum at Comment 19.

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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,²⁷ combine harvesters,²⁸ agricultural high clearance sprayers,²⁹ industrial tractors,³⁰ log-skidders,³¹ agricultural implements, highway-towed implements, agricultural logging, and agricultural, industrial, skid-steers/mini-loaders;³² (2) construction vehicles and equipment, including earthmover articulated dump products, rigid frame haul trucks,³³ front end loaders,³⁴ dozers,³⁵ lift trucks, straddle carriers,³⁶ graders,³⁷ mobile cranes,³⁸ 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-

²⁷ 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.

²⁸ Combine harvesters are used to harvest crops such as corn or wheat.

²⁹ Agricultural sprayers are used to irrigate agricultural fields.

³⁰ 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.

³¹ 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.

³² 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.

³³ 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.

³⁴ 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.

³⁵ 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.

³⁶ 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.

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

³⁸ *I.e.*, "on-site" mobile cranes designed for off-highway use.

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road counterbalanced lift trucks.³⁹ The foregoing list of vehicles and equipment generally have in common that they are used for hauling, towing, lifting, and/or loading a wide variety of equipment and materials in agricultural, construction and industrial settings. Such vehicles and equipment, and the descriptions contained in the footnotes are illustrative of the types of vehicles and equipment that use certain OTR tires, but are not necessarily all-inclusive.

While the physical characteristics of certain OTR tires will vary depending on the specific applications and conditions for which the tires are designed (e.g., tread pattern and depth), all of the tires within the scope have in common that they are designed for off-road and off-highway use. Except as discussed below, OTR tires included in the scope of the proceeding range in size (rim diameter) generally but not exclusively from 8 inches to 54 inches. The tires may be either tube-type⁴⁰ or tubeless, radial or non-radial, and intended for sale either to original equipment manufacturers or the replacement market.

Certain OTR tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope. Subject merchandise includes certain OTR tires produced in the subject countries whether attached to wheels or rims in a subject country or in a third country.

Excluded from the scope of this investigation are any products covered by the existing antidumping and countervailing duty orders on certain OTR tires from the People's Republic of China. *See 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*

³⁹ 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.

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

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Duty Order, 73 Fed. Reg. 51,624 (Dep't Commerce Sept. 4, 2008); *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Countervailing Duty Order*, 73 Fed. Reg. 51,627 (Dep't Commerce Sept. 4, 2008).⁴¹

In addition, 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;

⁴¹ In these prior investigations, the Department found that imports of OTR tires mounted on wheels were not within the scope of subject merchandise. See *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 Fed. Reg. 40,485 (Dep't Commerce July 15, 2008) and accompanying Issues and Decision Memorandum at Comment 19.

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

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

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

MC--Identifies tires and rims for motorcycles.

The following types of tires are also excluded from the scope: Pneumatic tires that are not new, including recycled or retreaded tires and used tires; non-pneumatic tires, including solid rubber tires; tires of a kind designed for use on aircraft, all-terrain vehicles, and vehicles for turf, lawn and garden, golf and trailer applications. Also excluded from the scope are radial and bias tires of a kind designed for use in mining and construction vehicles and equipment that have a rim diameter equal to or exceeding 39 inches. Such tires may be distinguished from other tires of similar size by the number of plies that the construction and mining tires contain (minimum of 16) and the weight of such tires (minimum 1500 pounds).

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, 4011.69.00.50, 4011.92.00.00, 4011.93.40.00, 4011.93.80.00, 4011.94.40.00, 4011.94.80.00, 8431.49.9038, 8431.49.9090, 8709.90.0020, and 8716.90.1020. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.99.4550, 4011.99.8550, 8424.90.9080, 8431.20.0000, 8431.39.0010, 8431.49.1090, 8431.49.9030, 8432.90.0005, 8432.90.0015, 8432.90.0030, 8432.90.0080, 8433.90.5010, 8503.00.9560, 8708.70.0500, 8708.70.2500, 8708.70.4530, and 8716.90.5035. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

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For ease of reference, we attached at **Exhibit I-10** the relevant excerpts from the 2015 edition of the Harmonized Tariff Schedule. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive. To the extent that tires that meet the scope description are imported under these or other HTS categories not listed above, they are intended to be covered.

The requested scope of investigations is attached at **Exhibit I-11**.

F. Names of the Countries of Manufacture of Subject Merchandise (19 C.F.R. § 351.202(b)(6))

The name of the countries in which subject merchandise are manufactured is the People's Republic of China, India, and Sri Lanka. In addition, as noted above, because certain OTR tires are covered whether they enter the United States mounted or unmounted, though in either case only the tire itself is covered, the country in which a certain OTR tire is mounted prior to export to the United States is not the country of manufacture of the subject merchandise. Instead, it is the country in which the certain OTR tire itself is manufactured, irrespective of the country of mounting, that is the country of manufacture of subject merchandise.

G. Foreign Producers and Exporters (19 C.F.R. § 351.202(b)(7)(i)(A) and (ii)(A))

The names and addresses of companies believed to sell the subject merchandise at less than fair value, and believed to benefit from countervailable subsidies, that produce the subject merchandise in China and export it to the United States from China are provided at **Exhibit I-12**. The proportion of exports to the United States that each person accounted for in the most recent 12-month period is not publicly available to the petitioners. While there is some volume reported in the Automated Manifest System, a