Public Version

COMMENTS OF TOYO TIRE HOLDINGS OF AMERICAS INC.

Section 421 of the Trade Act of 1974: Certain Passenger Vehicle and Light Truck Tires From the Peoples Republic of China Docket No. USTR-2009-0017

Background

1. On June 18, 2009, the U.S. International Trade Commission ("ITC") determined that there was market disruption caused by imports of passenger vehicle and light truck tires from the People's Republic of China ("China"). The four Commissioners who voted affirmatively in finding market disruption then recommended that the President impose a remedy consisting of a 55 percent *ad valorem* tariff for the first year, declining to 45 percent and 35 percent over the following two years. The two Commissioners who voted in the negative on market disruption recommended that no import relief be imposed.

2. Toyo Tire Holdings of Americas Inc. ("Toyo") would like to offer comments on the ITC remedy recommendations. Toyo does not take a position on the market disruption determination itself.

3. Toyo is a producer of tires in the United States. Toyo invested [ ] in a facility in Atlanta, Georgia and made a [ ] expansion. As noted in the ITC report, Toyo is the only company to have opened a new tire producing facility in the United States during the period of investigation. The tires that Toyo primarily produces in its new Atlanta facility are premium tires made with proprietary technology. Toyo is currently in stage three of its planned four-phase expansion of the Atlanta plant.

4. Toyo also imports tires from its facilities in Japan and from a joint venture in China. Toyo sells only high quality tires in what is described as the mid- and premium-range tire segments. The imported China-made tires fill out the mid-range product line of Toyo. Toyo's imports of replacement tires from China have increased somewhat over the period of the ITC's investigation, [ ], but Toyo's imports cannot be characterized as part of any import surge.

5. Toyo considers that there is a future for U.S. tire manufacturing and Toyo has put its money behind this conclusion with the initial investment and expansion of its Atlanta facility. Toyo does not consider the future to be in producing lower- or mid-range tires in the U.S.; the large majority of those tires are made outside of the United States.

6. The proprietary technology used in Atlanta provides superior weight uniformity and is not as necessary for less expensive tires of smaller diameters such as those

typically imported from China. The Atlanta tire manufacturing technology is particularly suited for larger premium passenger cars, SUVs and light trucks.

Impact of the Proposed Remedy

7. The ITC's proposed tariffs would prevent Toyo from importing any tires from China during the three year remedy period. The ITC's proposed remedy would, in effect, be a zero quota.

8. Toyo's customers require that Toyo sell a line of products, not just the premium range tires. Based on Toyo's internal confidential business evaluations, [ ]

9. Toyo's confidential internal reviews show that [ ]

10. [ ]

11. The confidential internal projections that Toyo has made [ ]

PUBLIC VERSION

POSITION OF COOPER TIRE & RUBBER COMPANY
FOR THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Section 421 Certain Passenger Vehicle and Light Truck Tires
From the People's Republic of China

The information deleted from the brackets below is proprietary confidential business information that is not to be publicly disclosed, either generally in any public report of the Office of the United States Trade Representative or under any request made under the Freedom of Information Act.

FACTS

1. The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW) filed a petition on April 20, 2009 with the U.S. International Trade Commission (ITC) alleging that Chinese tires are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. The ITC made an affirmative market disruption determination on June 18, 2009. Four of the six Commissioners voted affirmative; the other two Commissioners voted negative. The four Commissioners voting in the affirmative recommend as a remedy that the President impose a three-year tariff on tire imports from China at 55 percent *ad valorem* in the first year, 45 percent *ad valorem* in the second year, and 35 percent *ad valorem* in the third year. The two Commissioners voting in the negative recommend that no import relief remedy be imposed.

2. Cooper Tire & Rubber Company (Cooper Tire) is a U.S. producer of tires subject to the ITC's investigation and remedy recommendations. Cooper Tire is the fourth largest tire manufacturer in North America, and the ninth largest globally. Cooper Tire does not make original equipment tires in North America, but rather focuses exclusively on light vehicle replacement tires. Cooper Tire has production plants in Findlay, Ohio and Texarkana, Arkansas where the workers are under union contracts. It has a non-union plant in Tupelo, Mississippi and another non-union plant that is being discontinued in Albany, Georgia (and will be closed by year-end 2009). Cooper Tire has a joint-venture plant called Corporación de Occidente in Guadalajara, Mexico.

3. Cooper Tire also is a U.S. importer of tires made in the People's Republic of China at plants in which it has investments. Cooper Tire entered the Chinese market in 2004 by establishing a joint venture with Taiwan Kenda Rubber Industrial Co., Ltd. (Taiwan Kenda) and announcing that Hangzhou Zhongce Rubber Co. located in Hangzhou, China would be supplying passenger radial tires to Cooper Tire for sale in the U.S. market. Cooper Tire started construction in 2005 on a new plant in Kunshan, Jiangsu province to produce radial passenger and light truck tires as Cooper-Kenda (Kunshan) Co., Ltd. (Cooper-Kenda). The first tire from the Cooper-Kenda plant was produced in February 2008. **[**

]

4. Cooper Tire has not abandoned the U.S. tire market, and intends to continue some production in the United States. Cooper Tire invested in China because it could not compete on costs with lower-cost tires being imported by other U.S. producers and importers from many different countries, not just China. Cooper Tire's customers were demanding lower-priced tires. The tires produced in China are made at a lower cost and allow Cooper Tire to even-out its overall production costs, compete for sales in the United States, and meet its customers demands. The reason the tires in China can be made at a lower costs is due to lower labor costs (including hourly rates and benefits), some (but not all) lower raw material; and much lower litigation costs (for not only product liability issues, but also U.S. regulatory issues and other contractual disputes).

5. Cooper Tire believes in free and fair trade. Cooper Tire did not ask for the Section 421 action, and did not want to be involved in the process. Cooper Tire entered an appearance in the ITC investigation through counsel solely to track the investigation. Cooper Tire took a neutral position before the ITC because of the need to maintain good relations with the USW and its members who work for Cooper Tire. Cooper Tire like the other tire producers faces stagnant to declining overall demand in these difficult economic times. Cooper Tire sold 5.5 million fewer tires in 2008 than in 2007. Shipments of tires in the United States decreased 21.8% in the first six months of 2009 compared to the same period in 2008. Cooper Tire had a 2008 operating loss of $217 million. Cooper Tire has lost $34 million through June 2009.

6. Cooper Tire would be particularly burdened by any remedy that places restraints on the import of tires from China. **[**

] Cooper-Kenda would have no place to export those tires, as any import relief remedy would force other China producers to ship to countries other than the United States and overwhelm demand in those third-country markets. A remedy that restricted imports of tires from China also would undermine Cooper Tire's strategy of producing certain types of tires in China and other tires in the United States. Not only would Cooper Tire lose the current advantage of rationalized production costs, but it also would not be able to easily maintain its full complement of tire types in the U.S. market.

<u>CONCLUSIONS</u>

7. The internal position of Cooper Tire is that it strongly urges that the recommendation to the President **[**

]

8. Cooper Tire strongly believes that the ITC's proposed high tariff remedy is not reasonable or rational. Such a high tariff would prohibit Cooper Tire from importing any tires from the People's Republic of China. The added costs of the duties would make any such imports economically unfeasible. Based on its proprietary knowledge and assessment of the U.S. and global tire markets, Cooper Tire believes a tariff of 55%
[

]

9. Cooper Tire has **[**

]

10. Based on its confidential internal deliberations, Cooper Tire **[**

]

11. Cooper Tire firmly believes based on its confidential internal deliberations **[**

]

12. Cooper Tire after confidential internal deliberations, **[**

]