

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-912]

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

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* September 4, 2008.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC), the Department is issuing an antidumping duty order on certain new pneumatic off-the-road tires ("OTR tires") from the People's Republic of China ("PRC"). On August 28, 2008, the ITC notified the Department of its affirmative determination of material injury to a U.S. industry and its negative determination of critical circumstances. See *Certain Off-The-Road Tires from China*, USITC Pub. 4031, Inv. Nos. 701-TA-448 and 731-TA-1117 (Final) (August 2008).

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatrian or Charles Riggle, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482-6412 or (202) 482-0650, respectively.

SUPPLEMENTARY INFORMATION:**Case History**

On July 15, 2008, the Department published its final determination of sales at less than fair value ("LTFV") in the antidumping investigation of certain new pneumatic OTR tires from the PRC. 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 FR 40485 (July 15, 2008) ("*Final Determination*").

On August 28, 2008, the ITC notified the Department of its final determination pursuant to sections 705(b)(1)(A)(i) and 735(b)(1)(A)(i) of the Tariff Act of 1930, as amended ("the Act"), that an industry in the United States is materially injured by reason of LTFV imports of subject merchandise from the PRC and by reason of

subsidized imports from the PRC. The ITC also determined that critical circumstances do not exist for the PRC.

Scope of the Order

The products covered by the order 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 and equipment, including agricultural tractors,¹ combine harvesters,² agricultural high clearance sprayers,³ industrial tractors,⁴ log-skidders,⁵ agricultural implements, highway-towed implements, agricultural logging, and agricultural, industrial, skid-steers/mini-loaders;⁶ (2) construction vehicles and equipment, including earthmover articulated dump products, rigid frame haul trucks,⁷ front end loaders,⁸ dozers,⁹ lift trucks, straddle carriers,¹⁰ graders,¹¹

¹ 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.

² Combine harvesters are used to harvest crops such as corn or wheat.

³ Agricultural sprayers are used to irrigate agricultural fields.

⁴ 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.

⁵ 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.

⁶ 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.

⁷ 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.

⁸ 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.

⁹ 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.

¹⁰ 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.

¹¹ A grader is a vehicle with a large blade used to create a flat surface. Graders are typically used

mobile cranes,¹² 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.¹³ 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 order range in size (rim diameter) generally but not exclusively from 8 inches to 54 inches. The tires may be either tube-type¹⁴ 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

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.

¹² *I.e.*, "on-site" mobile cranes designed for off-highway use.

¹³ 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.

¹⁴ 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).

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.

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 1500 pounds).

Amendment to the Final Determination

In accordance with sections 735(d) and 771(i)(1) of the Act, on July 15, 2008, the Department published its notice of final determination of sales at LTFV in the investigation of certain new pneumatic OTR tires from the PRC. See *Final Determination*, 73 FR 40485, and corresponding "Issues and Decision Memorandum" (July 7, 2008). On July 16, 2008, Titan Tire Corporation, a subsidiary of Titan International, Inc. and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC (collectively, "Petitioners"), Bridgestone Holding, Inc. and its subsidiary, Bridgestone Firestone North American Tire, LLC ("Bridgestone"), a domestic producer, as well as mandatory respondents Hebei Starbright Co., Ltd. ("Starbright"), Tianjin United Rubber International Co., Ltd. ("TUTRIC"), and Xuzhou Xugong Tyres Co., Ltd. ("Xugong") submitted timely ministerial error allegations with respect to the *Final Determination*. On July 21, 2008, Petitioners, Bridgestone and Xugong submitted rebuttal comments to Petitioners', Xugong's, and Bridgestone's ministerial error submissions, respectively. In accordance with 19 CFR 351.224(b), on August 15, 2008, the Department issued its Ministerial Error Correction Memo¹⁵ addressing the parties' ministerial error allegations. As discussed in the memorandum, the Department accepted some of the allegations as ministerial errors and stated that it would make those corrections by amending the *Final Determination*. The Department also disclosed the details of its calculation of the amended final dumping margins to all parties in this investigation (i.e., Petitioners, Bridgestone, and mandatory respondents) on August 15, 2008. On August 21, 2008, Bridgestone submitted a ministerial error allegation with respect to the Ministerial Error Correction Memo.

After analyzing all interested party comments and rebuttals, we have determined, in accordance with 19 CFR 351.224(e), that we made ministerial errors in our calculations performed for the final determination. As a result, the dumping margins have been amended as follows:

¹⁵ See Memorandum Re: Final Determination of Antidumping Duty Investigation on Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Allegations of Ministerial Errors, dated August 14, 2008 ("Ministerial Error Correction Memo").

	Original final margin (percent)	Amended final margin (percent)
Starbright	19.15	29.93
TUTRIC	8.09	8.44
Guizhou Tyre	4.08	5.25
Xugong	0.00	*0.00

* No change.

For detailed discussions of the ministerial error allegations, as well as the Department's analysis, see the memoranda regarding "Final Determination of Antidumping Investigation on Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Allegations of Ministerial Errors" (August 14, 2008) and "Amended Final Determination of Antidumping Investigation on Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Allegation of Ministerial Error" (August 28, 2008), and the company-specific amended final analysis memoranda: Analysis Memorandum for the Amended Final Determination: Guizhou Tyre Co. Ltd. and its affiliates (collectively, "Guizhou Tyre"); Analysis Memorandum for the Amended Final Determination: Hebei Starbright Tire Co. Ltd.; Analysis Memorandum for the Amended Final Determination: Tianjin United Tire & Rubber International Co. Ltd.; and, Analysis Memorandum for the Final Determination: Xuzhou Xugong Tyres Co., Ltd. Additionally, in the *Final Determination*, we determined that multiple companies qualified for separate-rate status. The margin we calculated in the final determination for these companies was 9.48 percent. Because the final margins of three of the mandatory respondents, Starbright, TUTRIC and Guizhou Tyre, have changed since the *Final Determination* as a result of ministerial errors corrections, we have recalculated the margin for separate-rate respondents and the amended margin is 12.91 percent. See the Memorandum to The File regarding "Weighted-Average Margin Calculation for Separate Rate Companies in the Amended Final Determination" (August 28, 2008).

Therefore, in accordance with 19 CFR 351.224 (e), we are amending the final determination of sales at LTFV in the antidumping duty investigation of certain new pneumatic OTR tires from the PRC. The revised dumping margins are listed in the chart below.

Antidumping Duty Orders

On August 28, 2008, in accordance with section 735(d) of the Act, the ITC notified the Department of its final determination that the industry in the

United States producing certain new pneumatic OTR tires is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of LTFV imports of subject merchandise from the PRC.

In accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all relevant entries of certain new pneumatic OTR tires from the PRC. These antidumping duties will be assessed on all unliquidated entries of certain new pneumatic OTR tires entered, or withdrawn from warehouse, for consumption on or after February 20, 2008, the date on which the Department published its notice of preliminary determination in the **Federal Register**.¹⁶

Section 733(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than

four months except where exporters representing a significant proportion of exports of the subject merchandise request the Department to extend that four-month period to no more than six months. At the request of exporters that account for a significant proportion of certain new pneumatic OTR tires, we extended the four-month period to no more than six months.¹⁷ In this investigation, the six-month period beginning on the date of the publication of the *Preliminary Determination* (*i.e.*, February 20, 2008) ends on August 18, 2008. Furthermore, section 737 of the Act provides that definitive duties are to begin on the date of publication of the ITC's final injury determination. Therefore, in accordance with section 733(d) of the Act and our practice, we will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of OTR Tires from the PRC entered, or withdrawn from warehouse, for consumption after August 18, 2008, and before the date of publication of the ITC's final injury determination in the

Federal Register. Suspension of liquidation will resume on or after the date of publication of the ITC's final injury determination in the **Federal Register**.

With regard to the ITC's negative critical circumstances determination, we will instruct CBP to lift suspension, release any bond or other security, and refund any cash deposit made to secure the payment of antidumping duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after November 22, 2007, but before February 20, 2008 (*i.e.*, 90 days prior to the date of publication of the preliminary determination in the **Federal Register**).

Effective on the date of the publication of the ITC's final affirmative injury determination in the **Federal Register**, CBP, pursuant to section 735(c)(3) of the Act, will require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average dumping margins as listed below.

OTR TIRES FROM THE PRC

Exporter	Producer	Weighted-average margin (percent)
Guizhou Tyre Co., Ltd.	Guizhou Advance Rubber	5.25
Guizhou Tyre Co., Ltd.	Guizhou Tyre Co., Ltd.	5.25
Hebei Starbright Co., Ltd./GPX International Tire Corporation, Ltd..	Hebei Starbright Co., Ltd.	29.93
Tianjin United Tire & Rubber International Co., Ltd. ("TUTRIC")	Tianjin United Tire & Rubber International Co., Ltd. ("TUTRIC")	8.44
Xuzhou Xugong Tyres Co., Ltd.	Xuzhou Xugong Tyres Co., Ltd. =	0.00
Aeolus Tyre Co., Ltd.	Aeolus Tyre Co., Ltd.	12.91
Double Coin Holdings Ltd.	Double Coin Holdings Ltd.	12.91
Double Coin Holdings Ltd.	Double Coin Group Rugao Tyre Co., Ltd.	12.91
Double Coin Holdings Ltd.	Double Coin Group Shanghai Donghai Tyre Co., Ltd.	12.91
Double Happiness Tyre Industries Corp., Ltd.	Double Happiness Tyre Industries Corp., Ltd.	12.91
Jiangsu Feichi Co., Ltd.	Jiangsu Feichi Co., Ltd.	12.91
Kenda Rubber (China) Co., Ltd./Kenda Global Holding Co., Ltd (Cayman Islands).	Kenda Rubber (China) Co., Ltd.	12.91
KS Holding Limited	Oriental Tyre Technology Ltd.	12.91
KS Holding Limited	Shandong Taishan Tyre Co., Ltd.	12.91
KS Holding Limited	Xu Zhou Xugong Tyres Co., Ltd.	12.91
Laizhou Xiongying Rubber Industry Co., Ltd.	Laizhou Xiongying Rubber Industry Co., Ltd.	12.91
Oriental Tyre Technology Limited	Midland Off the Road Tire Co., Ltd.	12.91
Oriental Tyre Technology Limited	Midland Specialty Tire Co., Ltd.	12.91
Oriental Tyre Technology Limited	Xuzhou Hanbang Tyres Co., Ltd.	12.91
Qingdao Aonuo Tyre Co., Ltd.	Qingdao Aonuo Tyre Co., Ltd.	12.91
Qingdao Etyre International Trade Co., Ltd.	Shandong Xingda Tyre Co. Ltd.	12.91
Qingdao Etyre International Trade Co., Ltd.	Shandong Xingyuan International Trade Co. Ltd.	12.91
Qingdao Etyre International Trade Co., Ltd.	Shandong Xingyuan Rubber Co. Ltd.	12.91
Qingdao Free Trade Zone Full-World International Trading Co., Ltd..	Qingdao Eastern Industrial Group Co., Ltd.	12.91
Qingdao Free Trade Zone Full-World International Trading Co., Ltd..	Qingdao Qihang Tyre Co., Ltd.	12.91
Qingdao Free Trade Zone Full-World International Trading Co., Ltd..	Qingdao Shuanghe Tyre Co., Ltd.	12.91

¹⁶ See *Certain New Pneumatic Off-The-Road Tires From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and*

Postponement of Final Determination, 73 FR 9278 (February 20, 2008) ("*Preliminary Determination*").

¹⁷ See *Id.* at 9278.

OTR TIRES FROM THE PRC—Continued

Exporter	Producer	Weighted-average margin (percent)
Qingdao Free Trade Zone Full-World International Trading Co., Ltd.	Qingdao Yellowsea Tyre Factory	12.91
Qingdao Free Trade Zone Full-World International Trading Co., Ltd.	Shandong Zhentai Tyre Co., Ltd.	12.91
Qingdao Hengda Tyres Co., Ltd.	Qingdao Hengda Tyres Co., Ltd.	12.91
Qingdao Milestone Tyre Co., Ltd.	Qingdao Shuanghe Tyre Co., Ltd.	12.91
Qingdao Milestone Tyre Co., Ltd.	Shandong Zhentai Tyre Co., Ltd.	12.91
Qingdao Milestone Tyre Co., Ltd.	Shifeng Double-Star Tire Co., Ltd.	12.91
Qingdao Milestone Tyre Co., Ltd.	Weifang Longtai Tyre Co., Ltd.	12.91
Qingdao Qihang Tyre Co., Ltd.	Qingdao Qihang Tyre Co., Ltd.	12.91
Qingdao Qizhou Rubber Co., Ltd.	Qingdao Qizhou Rubber Co., Ltd.	12.91
Qingdao Sinorient International Ltd.	Qingdao Hengda Tyres Co., Ltd.	12.91
Qingdao Sinorient International Ltd.	Shifeng Double-Star Tire Co., Ltd.	12.91
Qingdao Sinorient International Ltd.	Tengzhou Broncho Tyre Co., Ltd.=	12.91
Shandong Huitong Tyre Co., Ltd.	Shandong Huitong Tyre Co., Ltd.	12.91
Shandong Jinyu Tyre Co., Ltd.	Shandong Jinyu Tyre Co., Ltd.	12.91
Shandong Taishan Tyre Co., Ltd.	Shandong Taishan Tyre Co., Ltd. =	12.91
Shandong Wanda Boto Tyre Co., Ltd.	Shandong Wanda Boto Tyre Co., Ltd.	12.91
Shandong Xingyuan International Trading Co., Ltd.	Shandong Xingda Tyre Co., Ltd.	12.91
Shandong Xingyuan International Trading Co., Ltd.	Xingyuan Tyre Group Co., Ltd.	12.91
Techking Tires Limited	Shandong Xingda Tyre Co. Ltd.	12.91
Techking Tires Limited	Shandong Xingyuan International Trade Co. Ltd.	12.91
Techking Tires Limited	Shandong Xingyuan Rubber Co. Ltd.	12.91
Triangle Tyre Co., Ltd.	Triangle Tyre Co., Ltd.	12.91
Wendeng Sanfeng Tyre Co., Ltd.	Wendeng Sanfeng Tyre Co., Ltd.	12.91
Zhaoyuan Leo Rubber Co., Ltd.	Zhaoyuan Leo Rubber Co., Ltd.	12.91
PRC-Entity	210.48

Because the Department continues to find that the weighted-average dumping margin for subject merchandise produced and exported by Xugong is zero, we are instructing CBP to terminate suspension of liquidation of all imports of subject merchandise produced and exported by Xugong, entered, or withdrawn from warehouse, for consumption on or after February 20, 2008, the date of publication of the preliminary determination. CBP shall refund any cash deposit and release any bond or other security previously posted in connection with merchandise produced and exported by Xugong.

This notice constitutes the antidumping duty order with respect to certain new pneumatic OTR tires from the PRC, pursuant to section 736 (a) of the Act. Interested parties may contact the Department's Central Records Unit, Room 1117 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is issued and published in accordance with section 736 (a) of the Act and 19 CFR 351.211 (b).

Dated: August 29, 2008.

David M. Spooner

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-913]

Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: Based on an affirmative final determination by the U.S. International Trade Commission (ITC), the Department of Commerce (the Department) is issuing a countervailing duty order on certain new pneumatic off-the-road tires from the People's Republic of China (PRC). On August 28, 2008, the ITC notified the Department of its affirmative determination of material injury to a U.S. industry. *See Certain Off-the-Road Tires From China*, USITC Pub. 4031, Inv. Nos. 701-TA-448 and 731-TA-1117 (Final) (August 2008).

DATES: *Effective Date:* September 4, 2008.

Contact Information: Mark Hoadley, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482-3148.

SUPPLEMENTARY INFORMATION:

Case History

In accordance with section 705(d) of the Tariff Act of 1930, as amended (the Act), on July 15, 2008, the Department published its final determination in the countervailing duty investigation of certain new pneumatic off-the-road tires from the PRC. *See 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).

On July 18, 2008, Starbright timely filed a ministerial error allegation. No other party to the proceeding filed a ministerial error allegation. After analyzing all interested party comments and rebuttals regarding the alleged ministerial error, the Department determined that it did not make a ministerial error. *See Memorandum to Barbara Tillman, "Countervailing Duty Investigation of Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Allegations of a Ministerial Error in the Final Determination"* (July 30, 2008).

Scope of the Order

The products covered by the order are new pneumatic tires designed for off-