

June 11, 2007

**Via Certified Return Receipt and E-Mail**

Mr. Dan Smith  
Associate Administrator for Enforcement  
National Highway Traffic Safety Administration  
Washington, D.C. 20590

Re: "Defect and Non-Compliance Report" per 49 C.F.R. 573

Dear Mr. Smith,

The undersigned represents Foreign Tire Sales, Inc. Annexed to this letter please find a "Defect and Non-Compliance Report" per 49 C.F.R. 573.

I am submitting this via mail and e-mail to Kelly Schuler.

Thank you for your consideration.

Respectfully,

LAWRENCE N. LAVIGNE  
Norris McLuaghlin & Marcus

Encl.

cc: Richard Kuskin, President, FTS

**Non-Compliance Information Report**  
**Light Truck Radial Tires**  
Submitted on behalf of Foreign Tire Sales, Inc. (“FTS”)  
per 49 C.F.R. 573.6 and 49 C.F.R. 579.26  
Docket No. NHTSA

(1) Brand Names: Westlake, Telluride, Compass, YKS

Sizes involved:

LT235/75R-15 CR861 CR857  
LT225/75R-16 CR861  
LT235/85R-16 CR860 CR861 CR857  
LT245/75R-16 CR860 CR861 CR857  
LT265/75R-16 CR860 CR861 CR857  
LT31X10.5-15 CR857 CR861

Manufacturer: Hangzhou Zhongce Rubber Co. Ltd.  
1 Haichao Road  
Hangzhou, China  
(referred herein as HZ)

Importer: Foreign Tire Sales, Inc.  
2204 Morris Avenue  
Union, New Jersey 07083  
(referred herein as “FTS”)

The manufacturer has complied with 49 U.S.C. 30164(a); FTS is the designated agent for service of Process

(2) Suspected Defect: For some period of time, these light truck radial tires (LTR) were manufactured without a gum strip or with an insufficient gum strip between the belts or other construction to keep the belts from separating. When FTS first purchased these tires, they were manufactured with .6mm gum strips. At sometime, unknown to FTS, HZ manufactured tires without gum strips and then with .3mm gum strips. Such construction is susceptible to belt and/or tread separations. HZ has never identified the DOT range of tires which have no or insufficient gum strips. FTS is not in possession of this information.

(3) Number of tires: Based on FTS’ best approximation up to 450,000 tires could be involved as this is the number of HZ LTR tires had purchased from HZ (N.B. FTS does not know the earliest DOT numbers for tires involved). FTS ceased purchasing HZ LTR tires in June 2006. FTS has

been advised by HZ that as of January 2006 some gum strip has been reintroduced into the LTR tires.

Importantly, FTS is not the only company that has imported/sold HZ LTR tires manufactured at the relevant times. Upon information and belief the following may have imported/sold tires of similar construction: Tireco located in Compton, California, Strategic Import Supply located in Wayzata, Minnesota, Omni United USA, Inc. located in Jacksonville, Florida, Orteck International, Inc located in Gaithersburg, Maryland, K&D Tire Wholesalers LLC located in Carlsbad, CA 92008 and Robinson Tire located in Laurel Mississippi. There may be other companies in the United States that have imported HZ LTR tires whose identities are not known to FTS.

FTS is not in possession of the information as to how many tires others may have imported or sold in the United States.

(4) The percentage of tires currently containing the nonconformity is unknown. Further, the number of tires in service is unknown as is the number of tires that have been taken out of service due to expiration of the allowable remaining tread or through other events that render(s) the tire(s) unserviceable.

(5) See number 2 above.

(6) Chronology of events: In or about 2000 FTS began discussions with HZ to have the latter design and manufacture light truck radial tires. FTS' full time engineer, Gary Eiber conducted numerous discussions with HZ engineers to insure that the tires were designed and manufactured correctly. HZ was responsible for conducting all tests in accordance with the Federal Motor Vehicle Safety Standards ("FMVSS"). HZ purportedly conducted such tests and the tires met or exceeded the requirements of FMVSS 119. In 2001 FTS commissioned High Q testing to conduct endurance tests on a number of the subject tires. The costs of these tests were shared between FTS and HZ. These tests revealed that the tires could be driven on for 40,000 miles without exhibiting any separations. Based in this testing as well as the fact the tires met or exceeded all FMVSS requirements, FTS agreed to purchase them and import them into the United States.

While FTS initially had the exclusive right to import HZ LTR tires into the United States, over the years, HZ revoked that exclusivity and sold such tires to others in the United States.

At some point in time, unbeknownst to FTS, HZ unilaterally changed the construction of the subject tires by omitting belt edge or gum strips between the belts. HZ did not advise FTS of this unilateral construction change.

In or about October 2005, FTS began to become concerned by a sharp increase in adjustments for the HZ LTR tires. Over time, FTS became suspicious that HZ had been manufacturing the subject tires without belt edge strips or with insufficient belt edge strips or other components to

reduce the possibility of belt separation. Shortly thereafter, FTS began questioning HZ about this issue. HZ assured FTS that there were no problems with the tire. In the interim, FTS had Standard Testing Laboratories of Massillon, Ohio cut sections from some HZ LTR tires. Visual analysis was not conclusive but seemed to indicate that there were no gum strips or insufficient gum strips in the inspected tires.

In May 2006 FTS was advised of an accident which occurred in New Mexico involving an ambulance. It was reported that the belts separated in a HZ manufactured tire causing a loss of control. There were no significant personal injuries. To the best of FTS' knowledge, no litigation has been commenced as a result of that incident. FTS made arrangements to inspect the tires. Sections of HZ tires manufactured in 2004 and 2005 removed from other ambulances owned by the same company were obtained by FTS and inspected. These sections revealed belt edge separations and that there were no or insufficient gum strips in the subject tires.

In or about September 2006, HZ finally admitted that it had unilaterally decided to omit the gum strips in its LTR tires for an undisclosed period of time. In September 2006 FTS and its counsel met with HZ in an attempt to determine when HZ omitted belt edge strips, how many tires were affected, what the DOT range of said tires was and what HZ was going to do about it. HZ was generally unresponsive. FTS also requested that HZ provide design and construction documents. While HZ permitted FTS to view some of these documents at the September meeting, HZ would not provide FTS with copies contending that the documents were proprietary and confidential. FTS also requested that HZ conduct tests pursuant to FMVSS 139 to determine if FTS would resume purchasing LTR tires.

For several months FTS continued its inquiries along these lines with HZ. At the same time, FTS continued its own investigation into this issue. FTS spent considerable amounts of time communicating with HZ to learn the extent of the problem in order to determine what it could do. HZ continued to be generally unresponsive.

In March 2007, FTS located tires manufactured by HZ in 2005 and commissioned High Q testing to again conduct endurance testing. Shearography analysis revealed belt separations in the tested tires and the tests were halted at 25,000 miles. HZ was alerted to these findings.

In May 2007, FTS was served with complaints captioned *Joao Paulo DaSilva v. General Motors et als.* Docket 004374, Court of Common Pleas, Philadelphia, Pa. and *Robert McCulley v. Genreal Motors, Corp. et als.* Docket 004376. Court of Common Pleas, Philadelphia, Pa. These complaints allege that the tread of an HZ LTR, Tellurid [sic] size 245/75R16 tire had separated causing a van to roll over. According to the complaints, two deaths and a significant brain injury resulted from the roll over. Per 49 C.F.R. 579.26, this incident must be reported; hence the within report. Instead of waiting for its normal reporting period, FTS now files this report.

On May 30 2007, FTS filed suit against HZ in the United States District Court for the District of New Jersey. An amended complaint was filed on June 4, 2007.

(7) See attached shearography reports from Standard Testing Laboratories.

(8) Remedy program: FTS does not have a remedy program in this instance. Given the nature of the suspected defect, FTS recognizes that a complete product recall might be in order. FTS however, is not in a position to conduct such a recall. First, FTS does not have the financial resources to conduct such a recall, replace the offending tires, collect the tires and dispose of them in an environmentally acceptable manner per the applicable regulations. Such a recall would force FTS to file for bankruptcy. Second, as noted above, FTS is not the only entity that has imported the potentially defect tires into the United States. FTS does not know how many tires of similar construction have been imported into the United States by others. Third, as noted above, FTS currently has no information as to the date range (as identified in the DOT numbers) of tires involved. Lastly, FTS has received very few product registration cards from consumers of the affected tires.

FTS seeks N.H.T.S.A. assistance in causing HZ to identify the universe of affected tires, the identity of all those who purchased/imported the subject tires and to conduct a proper recall if same is required. In furtherance of this request, FTS states that it will fully cooperate with N.H.T.S.A. and respectfully requests an immediate in-person meeting.

(9) See number 8 above. Additionally, FTS has absolutely no ability to assure that the mandates of 49 U.S.C. 301 and the regulations thereunder shall be met or that any recalled tires shall not be resold. FTS does not have any manufacturer owned or controlled outlets.

(10) Not applicable

(11) Currently not applicable.

(12) FTS has not assigned a campaign number.

Respectfully submitted:

/s/  
Lawrence N. Lavigne, Esq.  
Norris McLaughlin & Marcus  
Counsel for Foreign Tire Sales, Inc.

Dated: June 11, 2007



**STL**  
**STANDARDS**  
**TESTING LABS**

*Tough On Testing.*

1845 Harsh Ave. S.E., PO Box 758, Massillon, OH 44648-0758  
 Phone: 330-833-8548 Fax: 330-833-7902 e-mail: [bmarlowe@stllabs.com](mailto:bmarlowe@stllabs.com)

May 11, 2007

Mr. Richard Kuskin  
 Foreign Tire Sales, Inc.  
 2204 Morris Ave.  
 Union, NJ 07083  
 Email [kuskin@worldnet.att.net](mailto:kuskin@worldnet.att.net)

Mr. Kuskin:

We received 4 tested LT235/85R16 "E" load range tires sent to Standards Testing Laboratories, Inc., Massillon, Ohio from a "High Q" Outdoor Tire Testing Company in Pearsall, Texas. The tires received were all branded Westlake CR857 with serial numbers as follows:

<u>STL #</u>	<u>Texas #</u>	<u>Size</u>	<u>Design</u>	<u>Serial No.</u>
FTS7-0025	A-1	LT235/85R16 "E"	Westlake CR857	7DT2FTS3605
FTS7-0026	A-2	LT235/85R16 "E"	Westlake CR857	7DT2FTS3605
FTS7-0023	A-3	LT235/85R16 "E"	Westlake CR857	7DT2FTS3605
FTS7-0024	A-4	LT235/85R16 "E"	Westlake CR857	7DT2FTS3705

The above tires were checked for internal separations using a laser photography technique called Shearography. Results of these photographs as shown in the test report show separations at the belt edges on all 4 tires. Cross sections were cut from each tire for a closer examination. The actual cut sections confirm results as shown by the shearography photographs. From a visual examination of the cut sections as taken from each of the tires, it appears that there is no additional gum strip in the belt edge area.

If there are any additional tests that need to be conducted, please contact us at any time.

Always At Your Service,  
 Standards Testing Labs

*Bob Marlowe*

Marketing  
 BM/bjc