Before the U.S. International Trade Commission
Testimony of Salvador Behar
Legal Counsel for International Trade

September 30th, 2009

On behalf of the Government of Mexico, I would like to express my appreciation for the opportunity to present our comments with regard to the U.S. sunset review of Prestressed Concrete Steel Wire Strand (PCS) from Brazil, India, Japan, Korea, Mexico, and Thailand.

For the record, my name is Salvador Behar, Legal Counsel for International Trade at the Embassy of Mexico. As such, I am intimately involved in the antidumping and countervailing duty investigations conducted in the United States against Mexican producers. I would like to express as well that the views presented in this statement are shared by the Mexican investigating authority

I appreciate this opportunity to share with the Commission the present conditions of competition underlying our mutual benefits since the NAFTA implementation in 1994, which helps explain why it is not likely that the Commission would find any harm to the U.S. industry in the requested revocation order requested by the U.S. on PCS from Mexico.

The history and objectives the NAFTA Parties agreed to pursue are well known by the Commission and the audience, so I will only say that NAFTA was implemented in 1994 to extend the benefits of free trade flows within the territories of the United States, Mexico, and Canada. Besides NAFTA, other bilateral and trilateral initiatives have been implemented to promote regional integration.

The North American Steel Trade Committee (NASTC) was an industry driven initiative implemented in 2003 to adequately address the international challenges the steel industries of Mexico, US and Canada were facing.

In 2005, the Security and Prosperity Partnership of North America was announced by our Leaders, instructing the Ministers to "create and architecture which would further enhance the security of North America while at the same time promote the economic well-being of our citizens and position north America to face and meet future challenges."

To implement the mandate given by the Leaders, the North American Steel Strategy was developed to promote growth, competitiveness and prosperity in the region. Government representatives were incorporated toe the NASTC to develop a prospective development agenda for the North American steel industry and hence incorporated in the SPP Steel Strategy as a leading example of sectorial cooperation among governments and the industry in the region.

The objective pursued in the NASTC is to raise the level of competitiveness in the region to adequately face the more competitive and demanding international counterparts. Therefore, it is not surprising that, since the implementation of the regional strategy, almost all trade distortions adversely affecting North American Steel markets have been eliminated within the region. In the present time, the US has revoked almost all the AD/CVD investigations against Mexico, evidence of that can be seen by looking at the number of active investigations throughout NAFTA's livelihood against the substantial number of cases revoked as time went by. In other words, in the year 2000 almost all the HS categories on steel products from Mexico were subject to AD/CVD investigations, but soon after later on, with the implementation of

various regional initiatives, almost all the steel AD investigations were revoked leaving only few in course.

Trade remedies were an effective response to alleged dumped and subsidized steel imports when NAFTA was implemented. In 1994 and 2000 the ITC registered 7and 10 AD/CVD opened cases against Mexican products respectively, and in 2004 the number of AD/CVD cases reached 16 despite the economic crisis periods, in which the absolute import volumes were lower in some products, but the relative share of the overall NAFTA market held by imports was maintained stable or even grew across various product lines. However, since 2008 there have been a downstream of trade cases; AD/CVD cases have plummeted down to only 9 active cases in the present.

Now, allow me to highlight 3 important reasons why Mexican exports of PCS should be excluded from this proceeding.

1. First, given the ambitious infrastructure programs in our country, the Mexican market presents and increasing demand of PC wire strand, and therefore a sudden and rapid increase of exports to the U.S is very unlikely to happen. Mexico has consequently become a net importer of PC wire strand in the last couple of years. According to our official import data, Mexico imports a significantly higher amount of PCS, especially from the U.S., than our total exports.

2. Second, the U.S. PCS industry has a formidable future before it, and therefore the continuation or recurrence of material injury in the reasonably foreseeable future by imports from Mexico is very unlikely.

3. Third, non-subject imports are absorbing the import market at very low prices that make it hard for Mexican producers to compete for any appreciable portion of the U.S. market in a reasonably foreseeable period of time.

Let me address the first point. The Mexican National Infrastructure Program (NIP) 2007 – 2012, will demand great quantities of PC wire strand now and in the future specifically for highways, railroads, ports and airports, therefore, in the next several years, Mexican production of PCS will mostly remain in the country, as has happened in the past years, since it will have to supply the increasing market demand in Mexico.

The investment on infrastructure by the Mexican government has become a reality, especially in the creation, broadening and remodeling of highways, railroads, ports and airports.

The latter is firmly reflected in our Appropriations Bill approved each year by Congress where, since 2007, the NIP was incorporated. Consequently, the Government has increased yearly the budget for the maintenance and creation of new infrastructure projects which require substantial volumes of PCS. For example, the 2009 budget for the construction and modernization of highways, which includes construction of bridges, reflects an increase of 380% to 2007. The budget for rural highways, which also includes construction of bridges, shows the same trend with an increase of 247% to 2007, and the budget for conservation and maintenance of highway infrastructure in 2009 increased 227% in relation to 2007.

It is important to note that approximately 26% of the projects budgeted in the 2009 Appropriations Bill, are projects carried forward from the 2008 budget, which demonstrates

the commitment of the federal government to the steady and consistent investment in continuation of the infrastructure projects being developed.

Several of the projects contained in the NIP will require considerable amounts of PCS, like the creation of 64 railroad overpasses, and the creation of new subway lines in Mexico City. The number of public tenders made by the Secretariat of Communications and Transportation evidence the materialization of this strong commitment to the National Program of Infrastructure. For example, there were 87 projects that include construction of bridges, subject to federal public tenders in the first half of 2009. During the same period there were 65 projects of the same nature subject to State and local public tenders.

All of these actions I would like to emphasize the Federal Governments' priority for developing infrastructure. In this respect, the NIP is fundamental for the rapid economic development of Mexico.

Other evidence of the thriving development of the Mexican PCS market can be seen in the trend of exports from the U.S. to Mexico. According to the U.S. export statistics, Mexico is the second largest export market for U.S. PCS, just behind Canada and before Panama and U.S. exports to Mexico have grown considerably over recent years. Exports have increased approximately 1563% from 2007 to 2008, and roughly 37% from 2008 to 2009 (comparing January – April in those years). This increase is symptomatic of the ongoing growth of the market in Mexico for this product.

2) Second, it is also unlikely that the U.S. PC wire strand industry will be subject to the recurrence of material injury by reason of imports from Mexico within a reasonably foreseeable time. This is due to the important infrastructure investment authorized by

the American Recovery and Reinvestment Act of 2009 (Recovery Act), which will increase significantly the demand for domestically-manufactured PCS especially with the application of the "Buy American" in those projects

We believe that the Recovery Act will dramatically increase the demand of steel products – including the subject merchandise-, and the domestic production will not have the capacity to supply the market, in particular due to the fact that the PCS should have to comply with the Buy American provisions and, therefore, should be US domestic product.

The continuation of this unfounded AD investigation and, therefore, collection of any AD duty against Mexican suppliers, will also harm the US in view of the projects under the Recovery Act, as the domestic price will subsequently rise and supply will fall short.

For example, the Recovery Act provides for a 29 billion dollar investment in highway and bridge construction, repair and improvements. These appropriations will result in a rapid increase of demand for domestically-manufactured PCS since the money has to be spent within short periods of time. Specifically the Recovery Act requires that 50 percent of the highway funding to be committed within 120 days, and 50 percent of the transit formula funding to be committed within 180 days, or the Department of Transportation can reclaim some of the states' highway/transit funding in the bill.

Again, as explained before, we have to consider that all reliable forecasts indicate that demand for PCS in Mexico will continue to increase. Economic growth in key sectors that consume the subject merchandise will also continue. Petroleos Mexicanos (State own oil company), Comision Federal de Electricidad (State own Power Company), Comisión Nacional del Agua (State own National Water Commission) and subfederal government procurement includes large

projects to expand their facilities throughout the country, all of this consuming large amounts of the subject merchandise. With home market demand continuing to expand, Mexico is not likely to increase its exports volume of PCS to the US.

3) It is also important to highlight that according to official U.S. import statistics, imports of PCS from non-subject countries have dominated the U.S. import market for several years at very low prices. U.S. PCS producers are very well aware of this situation and earlier this year filed an antidumping and countervailing duty petition against imports of PCS from China. Given these conditions, it would be very onerous and difficult for Mexican producers of PCS to re-enter de U.S. market since they have lost nearly all of their customers over the years to non-subject imports.

In summary, production of PCS from Mexico would not likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time because:

1. The trilateral government –industry strategy has achieved its objective because it has benefited North American manufacturers in the steel sector by reducing distortions in commerce, facilitating trade and enhancing the steel market stability.

2. The Mexican market is presently using, and will continue to use, a strong supply of the PCS. Domestic consumption in Mexico has substantially increased within the past years due to the fact that the Mexican government is committed to finish a vast number of infrastructure projects, which might even increase in the reasonable foreseeable future as to maintain high levels of domestic demand.

3. Mexican producers will have to satisfy an increasing demand in Mexico, and will therefore not be in a position to export to the U.S in a rapid and sudden manner

4. The demand for domestically-manufactured PCS in the U.S. will increase as well and is protected by Buy America and Buy American clauses

5. Lastly, it will be too costly to re-enter the American market now dominated by very low-priced non subject imports.

The Commission should please make its determination as to Mexico with these consequential market conditions in mind. Specifically, revocation of the Mexican order will not be likely to cause any harm to the U.S. industry.

Thank you for your time and attention.