

UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:)
)
CERTAIN PASSENGER VEHICLE) Investigation No.:
AND LIGHT TRUCK TIRES) TA-421-7
FROM CHINA)

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1 directed to the Secretary.

2 Finally, if you will be submitting documents
3 that contain information you wish classified as
4 business confidential your requests should comply with
5 Commission Rule 201.6.

6 I would like to begin this morning by
7 apologizing to those of you who have been held up
8 outside at the security desk. This is a very unusual
9 morning here at the Commission in that we have not
10 only this hearing with very large attendance, but two
11 trials in our Section 337 intellectual property cases,
12 each of which involve a large contingent of lawyers
13 and witnesses all trying to enter the building at the
14 same time, so we apologize for the inconvenience of
15 those of you who had to wait a long time out in the
16 front.

17 I also would like to welcome Professor
18 Williams and the students from his International
19 Business Law class who are here with us today from
20 Elizabethtown College in Elizabethtown, Pennsylvania.
21 We're very glad to have you joining us here today, and
22 we hope that you've been able to find chairs.

23 I would also like to apologize on behalf of
24 Vice Chairman Pearson, who is delayed. He will be
25 joining us later this morning. He had some unexpected

1 car trouble, which he wants you to know is not related
2 to the tires.

3 Mr. Secretary, are there any preliminary
4 matters?

5 MR. BISHOP: Yes, Madam Chairman, one
6 preliminary matter. With your permission, we will add
7 Stan Johnson, Secretary-Treasury of the USW, to page 2
8 of the witness list.

9 CHAIRMAN ARANOFF: Thank you. With that,
10 will you please announce our first congressional
11 witness?

12 MR. BISHOP: Our first congressional witness
13 is the Honorable Arlen Specter, United States Senator,
14 Pennsylvania.

15 CHAIRMAN ARANOFF: Senator Specter, welcome
16 back to the Commission.

17 MR. SPECTER: Thank you. May it please this
18 very distinguished Commission. I thank you for the
19 opportunity to appear again here today.

20 I have been before this Commission on many
21 occasions during my tenure in the United States
22 Senate, but never at a time when jobs in the United
23 States have been under such a heavy threat and so many
24 jobs have been lost. We now are looking at a decline
25 in the past two years of more than four million jobs.

1 And there are many factors at work
2 significantly beyond the control of anyone, but in the
3 proceeding today we are dealing with some 15,000 jobs
4 of the United Steelworkers on the production of tires,
5 and we are revisiting issues which have confronted the
6 United States in our relationship with China which are
7 very complicated.

8 When the application was made by China for
9 admission to the WTO, the World Trade Organization, a
10 very complex matter, and I was one of 15 United States
11 Senators who opposed the entry of China because of my
12 concern about fair dealing which we were confronted
13 with, with a long history of currency manipulation, a
14 long history of subsidizing goods, a long history of
15 dumping goods and a long history of not playing by the
16 rules of international law illustrated by the grave
17 difficulties we're having now on the global warming
18 issues.

19 So there was a provision inserted, as you
20 distinguished Commissioners well know, which provided
21 that products of reference to China being imported
22 into the United States in such increased quantities or
23 under such conditions to cause or threaten to cause
24 market disruption to the domestic producers of like or
25 directly competitive products would be restrained by

1 action of the International Trade Commission.

2 This language sets the standards. It's in
3 the disjunctive, one of two factors: Increased
4 quantity or -- either/or -- under such conditions to
5 cause or threaten to cause market disruption. It
6 doesn't have to actually cause the market disruption.
7 It can threaten the market disruption.

8 I would submit to this distinguished
9 Commission that the fact is that there has been very
10 serious market disruption as demonstrated by the
11 facts, and these are the facts:

12 Imports of consumer tires from China have
13 surged 215 percent from 2004 to 2008. China is the
14 largest single exporter of consumer tires to the
15 United States market.

16 Second, Chinese consumer tires are priced
17 well below imports from other countries. The average
18 cost of Chinese tires is less than \$40; others over
19 \$55.

20 Consumer production has declined in the
21 United States by approximately 25 percent over the
22 surge period, and since 2004 more than 4,400 domestic
23 workers have lost their jobs due to tire plant
24 closures, and there is a projection by the end of 2009
25 that more than 2,400 jobs will be lost.

1 The relief sought by this petition is I
2 think modest under the circumstances. The import
3 quota ought to be set at 21 million consumer tires per
4 year, which is the 2005 level with an adjustment of
5 five percent in each of the succeeding years.

6 The Commission has acted in a very
7 responsive way to the prior applications which have
8 been filed, and on four occasions the Commission has
9 granted relief under this section on a variety of
10 circumstances.

11 On all four of those occasions President
12 George W. Bush saw it differently, but I believe that
13 now if the Commission acts and grants this petition
14 that there will be a different response, and there
15 will be a different response from the President of the
16 United States largely because we have such a
17 disastrous economic situation and the job losses are
18 so chilling. Also we have a President who has a
19 somewhat different philosophical approach to these
20 issues.

21 So that I would suggest to you that it is
22 really imperative that these jobs be saved and,
23 perhaps even more than the jobs themselves, the
24 symbolism that the United States is not powerless to
25 deal with a serious problem.

1 We have the Secretary of the Treasury,
2 Timothy Geithner, in Beijing today, and the news
3 reports are that he has a very mild approach to the
4 Chinese for a variety of reasons. Well, that may be
5 diplomacy, but at a time when the Congress has
6 specifically anticipated this kind of a problem and in
7 the context of granting the Chinese extraordinary
8 status in the World Trade Organization it was quite a
9 gift.

10 To have a slightly balancing effect of this
11 section of law to see to it that there is basic
12 fairness is really, it seems to me, a minimal request.
13 We're dealing in a great many areas where the United
14 States can't cope with the attitude of the Chinese
15 Government in their very, very determined way by
16 whatever means they find available to deal unfairly
17 with American workers.

18 You have a very repressive society in China.
19 You have a wage rate which I do not have to describe.
20 You have the currency manipulation, which is a
21 practical matter. It's not controllable by the United
22 States.

23 You have collateral factors where in an
24 international climate trying to deal with global
25 warming they are standing fast and wanting leeway

1 which is beyond reason, but here we have a point where
2 tangibly United States law provides that there can be
3 some relief.

4 It is an occasion where we can assert
5 ourselves under a circumstance where we bargained for
6 this kind of relief in granting the WTO status to
7 China, and I think it would be very heartening. There
8 are many people watching this proceeding, many in
9 labor here.

10 Leo Gerard, the president of the United
11 Steelworkers, is here today very concerned about
12 15,000 jobs which are left and the prospects of losing
13 2,400 more jobs on top of the 4,400 which have been
14 lost, so it is a different era, distinguished
15 Commissioners, where the United Steelworkers come to
16 you as sort of a last refuge.

17 Thank you.

18 CHAIRMAN ARANOFF: Thank you.

19 Does anyone have questions for the Senator?

20 (No response.)

21 CHAIRMAN ARANOFF: Thank you very much,
22 Senator.

23 MR. SPECTER: Thank you.

24 MR. BISHOP: The Honorable Sherrod C. Brown,
25 United States Senator, Ohio.

1 CHAIRMAN ARANOFF: Good morning, Senator
2 Brown, and welcome back to the Commission.

3 MR. BROWN: Thank you, Madam Chair. It's a
4 pleasure to be here. Thank you always for your
5 responsiveness and for your public service.

6 I appear before you today in support of the
7 workers in my state and around the country, many of
8 whom I've met with this morning from Tennessee and
9 Alabama and New York and in my state of Ohio, whose
10 jobs have been lost or jobs are on the line due to a
11 surge of imports of passenger and light truck tires
12 made in the People's Republic of China.

13 I commend the Steelworkers for filing this
14 petition. In this petition before you, the USW is
15 taking a stand not only for its 850,000 active
16 members, but for the future of American manufacturing
17 generally. Americans have the skill and the
18 creativity and the work ethic to compete successfully
19 in the global marketplace. All they ask is that our
20 government fully enforce the rules agreed to among
21 trading nations.

22 An affirmative decision by the Commission
23 followed by relief by the President would signal that
24 our government intends to enforce these rules to curb
25 and dissuade anticompetitive practices. That's

1 critical not only to the future of American
2 manufacturing, but to America's economic outlook as
3 our nation competes in the global arena.

4 American manufacturing is struggling with
5 the negative effects of unfair trade practices. Some
6 40,000 factories have closed just in the last decade.
7 We've lost more than four million manufacturing jobs
8 in this millennium. The Economic Policy Institute
9 found that 2.3 million of these jobs are linked to the
10 increased trade deficit with the People's Republic of
11 China.

12 American workers must rely on us, on you, on
13 our government to enforce fair trade practices. I'm
14 hopeful you'll find the facts of this petition solid
15 and that you're convinced that a surge has occurred
16 and caused injury and that you will recommend import
17 relief to the President.

18 I'm grateful that President Obama has vowed
19 to enforce trade rules more rigorously than his
20 predecessor. In fact, President Bush never granted
21 relief under the Section 421 statute, despite the fact
22 that the data warranted relief in at least four
23 separate cases. In at least two of these cases -- one
24 for wire hangers, one for iron waterworks -- the
25 domestic industry no longer exists.

1 The case before you today represents a
2 tremendous opportunity to show the world that the
3 United States is headed in a new direction on trade
4 and ready to embrace policies that better serve
5 American business and better serve American workers
6 and our communities.

7 You'll recall I testified before you on
8 previous occasions. Last year I backed the United
9 Steelworkers in arguing in favor of applying
10 antidumping and countervailing duties on lightweight
11 thermal paper from both Germany and China. I
12 applauded your positive determination in that case.

13 Less than a year ago I asked you to
14 determine that certain off-the-road tires from China
15 were subsidized and dumped on the American market,
16 threatening that segment of the domestic tire
17 industry. Once again I was pleased you recognized the
18 compelling facts in that case.

19 I'm confident you'll find the facts of the
20 petition before you today just as compelling. The
21 data made clear that American workers are getting
22 crushed by a surge in imports from passenger car and
23 light truck tires from China. Imports of these
24 products more than doubled in volume, nearly tripled
25 in dollar value, from 2004 to the end of 2008, the

1 period covered in the petition.

2 During this time, domestic production
3 declined, manufacturers couldn't sell their high
4 quality products, and orders dropped. In many cases
5 there was no choice but to slow or in some cases even
6 halt production.

7 I'm here today on behalf of the workers of
8 the Denman Tire Company located in Leavittsburg, Ohio.
9 This plant has been in operation for 90 years and
10 produces a variety of tires. Some half of its 2,600
11 units per day capacity is dedicated to the passenger
12 and light truck tires that are the subject of this
13 investigation. Two hundred seventy men and women
14 working in good paying, skilled jobs are employed at
15 that facility.

16 I'm here today also for workers of the
17 Cooper Tire and Rubber facility in Findlay, Ohio.
18 There over 1,100 workers produce some 22,000 units per
19 day. The Cooper facility has been in operation also
20 for about 90 years.

21 Leavittsburg and Findlay are the typical of
22 towns in my state. The people there are proud to be
23 part of America's industrial heritage and determined
24 to give their children economic opportunities. Let's
25 give them that chance, and let's give the companies

1 they work for the chance to survive.

2 In the past four years, as imports of
3 Chinese tires began to increase dramatically, as many
4 as 6,000 American tire jobs have been eliminated. The
5 situation facing manufacturers of these tires is why
6 Congress added Section 421 to the Trade Act when it
7 granted permanent normal trade relations status to the
8 People's Republic of China.

9 China's WTO accession package included a
10 China-specific safeguard, which allows WTO members to
11 place limits on imports from China that cause or
12 threaten to cause market disruption to their domestic
13 industries. The safeguard applies to all industrial
14 and agricultural goods and is available until
15 December 11, 2013.

16 It is reasonable for workers to expect that
17 this remedy will be put to use when the situation
18 merits, as I believe this does today. This Section
19 421 petition doesn't seek to prove that there have
20 been unfair China trade practices, because that's not
21 the trigger for Section 421 remedies. Consistent with
22 the requirements of 421, this petition simply provides
23 the data needed to prove that a surge occurred and
24 workers have been injured.

25 I'm struck, Madam Chair, by the chorus of

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1 voices from editorial boards and from the conventional
2 wisdom think tanks that number so many in this city
3 that warn against "creeping protectionism." They
4 contend any check on trade flows will exacerbate the
5 economic downturn, even WTO consistent enforcement
6 actions that are meant to prevent American industries
7 from being undercut and the U.S. deficit from
8 ballooning even higher.

9 They are confusing protectionism with
10 pragmatism. Utilizing trade remedies under limited
11 circumstances, as provided for international trade
12 laws, is not protectionism. It's what we're asking
13 for today. Enforcement of trade remedy laws
14 consistent with WTO rules is not protectionism.

15 As you know, trade remedies typically affect
16 about one percent of trade -- just one percent of
17 trade -- in a given year. Use of the trade remedy
18 laws actually help build support in America for
19 expanded trade by reminding people that penalties
20 exist for nations that violate global trading rules.
21 If we allow trade rules to continue to be
22 circumvented, any support among the public and in the
23 House and Senate will continue to be undermined.

24 I'm sure you'll bring the same skill and
25 integrity to this investigation that you brought to

1 other investigations I have mentioned. I know the
2 workers in Leavittsburg and Findlay and other workers
3 represented today are not looking for special
4 treatment or a perpetual shield from competition.
5 They're only looking to our decision makers in this
6 city, including the President, to apply the laws on
7 the books in the manner intended.

8 They're only looking for the chance to
9 weather the current abnormal flood of imports of these
10 tires from China so the domestic production can thrive
11 in the years ahead.

12 Thank you for considering my views.

13 CHAIRMAN ARANOFF: Thank you very much.

14 Does anyone have questions for Senator
15 Brown?

16 (No response.)

17 CHAIRMAN ARANOFF: Thank you for joining us
18 today.

19 MR. BROWN: Thanks, Madam Chair.

20 MR. BISHOP: The Honorable Evan Bayh, United
21 States Senator, Indiana.

22 CHAIRMAN ARANOFF: Good morning, Senator.
23 Nice to see you.

24 MR. BAYH: It's good to be here. As you
25 know, I appeared before you on several occasions. I

1 hope you won't take it personally when I say I regret
2 that I need to appear again in this forum, but
3 violations continue, and therefore I must, but I look
4 forward to seeing you in other contexts as well.

5 Madam Chairman, is it appropriate for me to
6 submit a detailed written statement for the record? I
7 would like to.

8 CHAIRMAN ARANOFF: Absolutely.

9 MR. BAYH: It will spare you listening to me
10 read one, and it will spare me the need to read one,
11 so if I can I would rather just orally summarize my
12 written statement if that's all right.

13 CHAIRMAN ARANOFF: It would be appreciated.

14 MR. BAYH: There is a significant
15 difference, Madam Chairman, between my appearance
16 today and previous appearances. As you know very
17 well, on four previous occasions you have recommended
18 relief under Section 421. The previous administration
19 saw fit to deny that relief. It is my belief that the
20 current administration might very well look favorably
21 upon your recommendation, giving the hard-working men
22 and women of middle class families across this country
23 the kind of relief to which they deserve, and I humbly
24 request that you once again see fit to recommend such
25 relief.

1 The facts of the case as outlined by my
2 colleagues are compelling. Two hundred and ninety-
3 five percent increase in the volume of tires between
4 2004 and 2008, a 215 percent increase in the value of
5 those imports during that same period of time.

6 Correspondingly, there has been a 25 percent
7 reduction in the volume of production here in the
8 United States, and when two plants are going to be
9 closed in the foreseeable future, the number of
10 plants, the manufacturing facilities in our country
11 will have been reduced by 20 percent. There has been
12 a 13 percent decline in capacity utilization, and
13 there will have been 4,400 hard-working men and women
14 laid off during this period of time in this industry.

15 Now, it is hardly a coincidence that we've
16 seen a surge of imports, both in the volume and the
17 value, and a corresponding contractions in our own
18 domestic industry, both in production and in
19 employment. This is not a hypothetical concern.
20 Thirteen hundred hard-working men and women in Fort
21 Wayne, Indiana, in the Michelin-B.F. Goodrich facility
22 have to live with this threat to their livelihoods
23 each and every day. It's a threat to them, it's a
24 threat to their employment, it's a threat to the
25 broader community that counts on them to provide for

1 their families to participation the economic activity
2 in Allen County, Indiana.

3 As I mentioned to you before, there are also
4 broader ramifications to this case. The whole
5 question of the trade regime that we pursue as a
6 country is very much before us today. I know you have
7 to rule on the facts in the case, the equities of the
8 case, but for many of us the question is can trade
9 work.

10 I believe in trade. I believe in the laws
11 of comparative advantage. But when China acceded to
12 the world trade organization they agreed to abide by
13 the provisions of Section 421. Repeatedly we have
14 seen those provisions violated. If trade is going to
15 work, there have to be rules. The rules have to be
16 enforced, and you have seen fit on four different
17 occasions, as I mentioned, to enforce the rules. That
18 is a necessary prerequisite for trade to function and
19 for there to be support for additional trade
20 agreements before the United States Congress.

21 I simply don't believe there will be further
22 trade agreements unless the current rules that exist
23 are enforced, so that is a broader concern that is
24 before us there today; perhaps not in the specifics of
25 this case, but certainly lurking in the background.

1 A couple of final things, and it's not
2 appropriate for you to consider today, but it is
3 implicated by the kind of decisions that this body
4 will render. We have before the United States
5 Congress, we will be debating later this year the
6 question of global climate change, a cap and trade
7 regime; what to do about that.

8 Many people believe, and I think
9 appropriately so, we won't address the issue of global
10 climate change unless we can convince the developing
11 nations -- China and India in particular -- to
12 participate. There will have to be some rules for
13 their participation. There will have to be some
14 monitoring of whether they abide by the rules. If
15 they don't abide by the rules, there will have to be
16 some consequences for that. If we don't enforce the
17 rules that exist in other aspects of trade, many of us
18 will be highly skeptical about whether the global
19 climate change regime the cap and trade system, will
20 in fact be affected in addressing that.

21 So the whole question of the globalization
22 of the economy, dealing with global climate change,
23 multilateral regimes for dealing with these things,
24 there have to be rules. The rules have to be
25 enforced. If they're not enforced, we will undermine

1 support across the board for these sorts of things.
2 So in the background today is the very efficacy of
3 multilateral efforts to deal with economic,
4 environmental and other kinds of issues that come
5 before us. So the failure to enforce the rules
6 undermines the efficacy, not only here in this narrow
7 case, but for trade, for climate change and for other
8 things as well.

9 So let me jus summarize by saying this:
10 This is not the fault of this Commission. On the
11 contrary, the findings that you have made in the past
12 reenforce peoples' confidence in the rule of law, but
13 frankly, the confidence in our institutions is not
14 very high right now. There is a great degree of
15 cynicism and skepticism across the land. Many
16 ordinary Americans wonder who speaks for them. They
17 don't believe too many people in Washington do. We
18 have an opportunity to give voice to their concerns
19 today. The facts are on their side. The law is on
20 their side. The equity is on their side, and we have
21 an opportunity to not only do justice in this case
22 speak for 1,300 hard-working middle class Americans in
23 Fort Wayne, Indiana, we have a chance to speak for the
24 efficacy of global trade and the very legitimacy of
25 our own government's efforts to standby the citizens

1 of our country.

2 So I humbly ask that you do what you have
3 none on four other occasions, and that is find for the
4 Petitioner in this case, and I thank you for giving me
5 an opportunity to come before you again today.

6 CHAIRMAN ARANOFF: Thank you very much.

7 Does anyone have a question for Senator
8 Bayh?

9 Thank you for joining us this morning.

10 MR. BAYH: Thank you.

11 MR. BISHOP: The Honorable Robert P. Casey,
12 Jr., United States Senator, Pennsylvania.

13 CHAIRMAN ARANOFF: Good morning, Senator,
14 and welcome to the Commission.

15 MR. CASEY: Good morning. Thank you very
16 much. I want to thank you, Chairwoman Aranoff, and
17 Members of the Commission, and I am pleased to have
18 this chance to come before you today on behalf of
19 workers in Pennsylvania in the domestic tire industry.

20 Before I begin, I wanted to note the
21 presence in the room today of students from
22 Elizabethtown College in Pennsylvania. We are honored
23 that they are here to see these proceedings.

24 Pennsylvania has a unique and leading role
25 in the industrial history of the United States. Our

1 citizens are hard working, resilient, and ready for
2 new challenges and new opportunities, and I'm proud to
3 represent some of those great workers here today from
4 Indiana, Pennsylvania, and all they ask for is a
5 chance, a chance to compete on a level playing field
6 so they can provide the same opportunities to their
7 children that their parents did for them.

8 Indeed, workers across America, I believe,
9 all of America are justified in expecting that their
10 government take the steps necessary to restore a level
11 playing field in international trade. I am grateful
12 that the United Steelworkers filed this Section 421
13 petition before you today, and I would note as well
14 that their leader, Leo Gerard is with us, and I'm
15 grateful for his leadership on this, and so many other
16 issues that are relevant not only to steelworkers but
17 to workers across the board.

18 The United Steelworkers is making a stand for all
19 of American workers in our country's manufacturing
20 base. Today I want to express my support for the
21 workers at the Specialty Tires of America facility in
22 Indiana, Pennsylvania. The plant has ben there since
23 1915, and has changed with the times, making tires for
24 a wide variety of applications, including light trucks
25 and employs now 300 workers. Specialty Tire also

1 produces passenger car tires in plants in Tennessee,
2 so the company stake in this investigation is not
3 limited to light truck tires.

4 The workers in Indiana, Pennsylvania, like
5 the other parts of our state, share a heritage of hard
6 work and sacrifice. They value the important role
7 that they have played in the American economy.
8 Pennsylvania has played a significant role in
9 America's manufacturing and commercial history. The
10 coal and waterways of our state help make Pittsburgh
11 legendary for steelmaking and help turn the United
12 States into an industrial powerhouse, but times have
13 changed. The mills are mostly gone due, in part, to
14 trade policies. In fact, over 190,000 high-wage,
15 high-skilled manufacturing jobs have been lost in
16 Pennsylvania since 2001.

17 I attribute some, some of these job losses
18 to the failures of the previous administration's trade
19 and competitiveness policies.

20 We have seen trade deficits soar, currency
21 manipulation go unchecked, and lavish subsidies by
22 foreign governments go ignored, as well as
23 exploitation of workers in other countries go
24 overlooked. I don't want to see Indiana and towns
25 like it in Pennsylvania and states across our country

1 harmed yet again from lack of enforcement of trade
2 rules. One reason why so many of my constituents have
3 grown skeptical about trade is because they believe
4 that there has been a failure to enforce, a failure to
5 enforce the rules designed to make fair trade -- free
6 trade fair trade.

7 I understand their skepticism. If our
8 trading partners are not required to comply with the
9 internationally agreed upon rules of trade, we will
10 continue to lose jobs and industries. It is my hope
11 that the Obama administration will go in a new
12 direction and more vigorously enforce trade laws than
13 the Bush administration did over the last eight years.

14 I want to underscore the importance of using
15 the trade laws to protect our domestic tire industry.
16 Clearly there has been a surge in imports. No other
17 conclusion is possible after seeing imports almost
18 triple in volume over five years; just as clearly
19 there has been an impact on U.S. production. As
20 Chinese-made tires roll into the United States,
21 domestic production has dropped by more than 25
22 percent. Capacity utilization is down, and facilities
23 in North Carolina, Kentucky, Oklahoma, and Texas have
24 been forced to close altogether.

25 Just ask the more than 4,400 workers who

1 have lost their jobs as a result if they have been
2 injured by this surge in imports. The answer would
3 clearly be yes. Without relief more plants will
4 surely close. This outcome is not inevitable. I
5 believe we can change course by using tools already at
6 our disposal.

7 Section 421 was adopted by the Congress and
8 agreed to by China to combat certain irregularities
9 caused by global trade. It was not meant to hinder
10 fair trade. It was intended to give workers and
11 companies a chance to adjust to surges, like the one
12 we have seen over the last five years, in passenger
13 and light truck tires. The time has come to use the
14 law as Congress and China intended.

15 I want to make clear, China's presence as a
16 responsible stakeholder and member of the
17 international community is welcome, without a doubt it
18 is welcome. In fact, China has made a key decision to
19 become a member, a full member of the international
20 trading system by joining the World Trade Organization
21 in 2001. The result of this decision has brought many
22 tangible benefits to China and have helped the country
23 achieve a remarkable economic prosperity; namely,
24 bringing in over 400 million people out of poverty.
25 In exchange for the benefits of membership in the

1 international trading system, China agreed to
2 international rules and the norms to be bound by those
3 provisions or suffer the consequences, and this
4 includes Section 421.

5 Given this commitment, is it regrettable
6 that Chinese officials have tried o interfere with
7 this process by inappropriately approaching this
8 Commission. I appreciate how the Commission took
9 immediate steps to ensure fairness and transparency in
10 this process. In your careful analysis I know you
11 will look at vast amounts of data on imports, exports,
12 prices, plant capacity and other factors that will
13 help you make a decision as to whether domestic makers
14 of passenger vehicle and light truck tires have been
15 injured or threatened with injury from this surge of
16 imports from China. I'm confident that you will
17 conclude that relief is not only justified, but also
18 essential for these workers in this industry.

19 I ask the Commission to help restore a level
20 playing field in the important tire sector of the
21 American economy by making sure that the laws applied
22 and are consistent with intentional obligation. In
23 previous 421 cases you have considered the facts
24 carefully and you have recommended relief as the
25 situation warranted.

1 Madam Chairman, I believe in both free and
2 fair trade. Given a level playing field Americans can
3 compete with anyone in the world. I want to see
4 foreign barriers to American products come down
5 because I know that our workers produce high-quality
6 products that are exported around the world as long as
7 foreign markets are open to them. I am grateful that
8 President Obama is in favor of strong trade
9 enforcement, and I am also hoping, hoping for an
10 affirmative determination by this Commission and a
11 decision to provide full relief to this vital industry
12 from President Obama. Then the workers at Specialty
13 Tires in Indiana, Pennsylvania, can look forward to
14 making tires for the next generation of vehicles and
15 the next generation of Americans.

16 Thank you.

17 CHAIRMAN ARANOFF: Thank you very much.

18 Are there any questions for the Senator?

19 Thank you for joining us this morning.

20 MR. CASEY: Thank you very much.

21 MR. BISHOP: The Honorable Robert B.

22 Aderholt, United States Congressman, 4th District,

23 Alabama.

24 CHAIRMAN ARANOFF: Good morning,

25 Congressman. Welcome to the Commission.

1 MR. ADERHOLT: Thank you. Thank you, Madam
2 Chairman. Thank you for the opportunity to appear
3 before you and to have a chance to share some thoughts
4 on this issue before the Commission today, and let me
5 thank all the Commissioners for their attendance here
6 today and for having the opportunity to testify before
7 you.

8 I'm Robert Aderholt and I serve as
9 Congressman from the 4th Congressional District of
10 Alabama. I testify today to express my support for
11 the Section 421 petition that is before you today. I
12 know you will examine the data and the record
13 carefully, and I'm hopeful that you will conclude that
14 import relief is needed.

15 The United States has been the world's
16 leading proponent of the idea that trade should be as
17 free as possible. Yet free trade is possible only if
18 everyone observes the rules governing it. When other
19 countries do not follow these rules the effects on the
20 lives of the ordinary Americans can be devastating.

21 Tire manufacturing is very important to my
22 home state of Alabama. Not very long ago four
23 factories in Alabama together employed about 4,500 men
24 and women, but that number has begun to shrink. In
25 April, it was announced that B.F. Goodrich plant in

1 Opalacka, Alabama, would close at the cost of about
2 1,000 jobs.

3 The congressional district I represent is
4 the home of Goodyear Tire and Rubber Company which
5 employs more than 1,200 workers, and has been in
6 operation more than 80 years. Over the past several
7 years this plant and the entire domestic tire industry
8 has faced growing competition from imports of
9 passenger and light truck tires from countries whose
10 governments do not follow the same level of labor,
11 environmental and trade laws as is true for the
12 manufacturers in the United States of America.
13 Domestic tire producers are unable to compete with the
14 surge of dumped and subsidized imports that began to
15 enter the United States markets after China's
16 acceptance into the WTO.

17 As you know, Section 421 was created to give
18 workers and companies a chance to stay on their feet
19 and adjust when surges of foreign goods pose a swift
20 and potential fatal threat.

21 As a condition of acceptance into the WTO,
22 China agreed to the Section 421 remedy and the
23 agreement should be upheld. The law was designed to
24 allow U.S. industries and workers to obtain product-
25 specific import relief from sharp increases in imports

1 from China as that country's transition from a
2 nonmarket economy to a market economy, and I think of
3 no better example than the one that we have before the
4 Commission today.

5 China was the largest source of consumer
6 tire imports in 2008 with a 28.5 increase in Chinese
7 pneumatic tires from the previous years. Total
8 imports of consumer tires from China increased from
9 2004 to 2008 by 215 percent in volume. Such a drastic
10 increase in Chinese exports to the United States has
11 caused market disruptions in the domestic tire
12 industry. The tangible measurement of this trend is
13 the shuttered plants and idled workers around the
14 country. U.S. workers, including many in my home
15 state of Alabama, face the prospect of job losses if
16 the current trade laws are not enforced.

17 While previous Section 421 decisions have
18 not been favorable to domestic producers, I'm hopeful
19 that this administration and other trade
20 representatives will look at the facts and propose a
21 prompt solution. I urge you to rule favorably on this
22 petition that is before us today and to adopt a remedy
23 that will strengthen America's tire manufacturing
24 industry and ensure that U.S. workers continue to
25 produce quality tires for generations to come.

1 Thank you.

2 CHAIRMAN ARANOFF: Thank you.

3 Are there any questions for the Congressman?

4 Thank you very much for coming this morning.

5 MR. ADERHOLT: Thank you again.

6 MR. BISHOP: Madam Chair, at this time that
7 concludes our congressional witnesses.

8 CHAIRMAN ARANOFF: Thank you, Mr. Secretary.
9 We have several other congressional
10 witnesses who we expect to join us either later this
11 morning and perhaps this afternoon, and at the point
12 where they arrive we may need to interrupt the
13 proceedings in order to hear them, but for now we will
14 proceed to opening statements.

15 MR. BISHOP: Opening statements on behalf of
16 those in support of relief will be by Terence P.
17 Stewart, Stewart and Stewart.

18 MR. STEWART: Good morning. The USW filed
19 its 421 petition in April to address the massive
20 challenge from imported tires from China faced by its
21 members who produce passenger and light truck tires
22 here in the United States. We appreciate very much
23 the hard work of the Commission staff to date, and the
24 information of record in the staff report.

25 The public prehearing staff report

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1 identifies not only the extraordinary growth in
2 imports, up 215 percent by volume and nearly 300
3 percent by value during the period of investigation,
4 but the devastating consequences suffered by the
5 domestic producers and their workers here.

6 You have heard four plants closed with the
7 capacity of 40 and a half million tires or capacity
8 reduction of 17.8 percent. Three more plants will
9 cease production of consumer tires by the end of this
10 year. More than 5,100 workers, 14.2 percent of the
11 workforce have lost their jobs already with 3,000 more
12 workers likely to lose their jobs by the end of the
13 year. Hours and wages are both down as well, 17 and
14 12.5 percent, respectively. Production is down a
15 staggering 26.6 percent, some 58 million tires.
16 Shipments are down 29.7 percent for domestic shipments
17 and 17.9 percent on exports. Operating income,
18 whether in years of profits or losses, are far below
19 what's needed for companies and U.S. facilities to
20 remain viable.

21 I would note that the rate of increase of
22 imports and the decline in the domestic industry is a
23 share of apparent consumption is far greater than has
24 been seen by the Commission in its most recent 421
25 investigations where the Commission found market

1 disruption.

2 This case should be relatively
3 straightforward: that imports from China are a
4 significant cause of the extraordinary injury domestic
5 producers and their workers are facing should be
6 clear. In a stagnant or declining market China's
7 growth and market share accounts for roughly 90
8 percent of the U.S. lost share of apparent
9 consumption. And in the replacement tire market
10 segment, it accounts for 100 percent of the domestic
11 industry's loss -- 100 percent.

12 Producers, importers, and purchasers all
13 indicate their significant substitutability between
14 the imported and domestic products with quality of
15 product typically viewed as comparable. Purchasers
16 acknowledge that Chinese product is lower priced. The
17 data assembled by the Commission staff shows that
18 Chinese imports in fact are likely sold at or below
19 the variable cost of manufacturing alone for U.S.
20 producers, and U.S. producers have repeatedly
21 identified intense competition from low-priced Asian
22 imports as one of the major causes of the closures of
23 U.S. capacity.

24 Indeed, the plants closed have produced the
25 tire sizes most under attack by imports from China.

1 These plants also produce significant volumes of
2 private brand tires and made lower-priced tires, the
3 very volume seized by increased imports. While many
4 claims will be heard of imports simply filling a void,
5 as our members can attest and as the companies
6 repeatedly affirmed in closing facilities, it was the
7 intense pressure of low-priced imports from China
8 which made continued production of certain volumes of
9 tires extremely unprofitable, which caused the closure
10 of the facilities in question and that threaten more
11 closures in the future.

12 Thus, the facts in the staff report
13 overwhelmingly call for an affirmative determination
14 by the Commission which we respectfully ask you to
15 make. USW believes that the remedy needed to address
16 the market disruption has a quota set at 21 million
17 tires, the rough level of imports in 2005. We asked
18 in our prehearing brief and will repeat this morning
19 that if a quota is recommended, it be recommended to
20 be allocated based on the 10-digit HTS statistical
21 breakout categories based on historical distribution
22 to prevent skewing of import volumes during the period
23 of relief.

24 As reviewed in our prehearing brief, such a
25 remedy, if granted, will address the market disruption

1 and provide the relief so desperately needed by our
2 members.

3 Thank you very much.

4 MR. BISHOP: Opening remarks on behalf of
5 those in opposition to relief will be by Richie
6 Thomas, Squire, Sanders & Dempsey.

7 CHAIRMAN ARANOFF: Good morning, Mr. Thomas.

8 MR. THOMAS: Good morning, Madam Chairman.
9 With your permission I'll speak from here; I would
10 like to sit at the table.

11 CHAIRMAN ARANOFF: That's fine. We just do
12 need you to speak into a microphone please, so the
13 court reporter can hear you.

14 MR. THOMAS: Chairman Aranoff, Vice-Chairman
15 Pearson, members of the Commission, this proceeding is
16 a rare kind, a special safeguards action available
17 only in the ten years following China's accession to
18 the WTO, a period approaching its end. Petitioners
19 seek imposition of restraints on imports which are not
20 accused of being unfair. To justify restrictions on
21 fair trade, a significantly higher bar must be cleared
22 than in the Title 7 investigations that make up the
23 bulk of the Commission's trade remedy activities. The
24 bar is not as high as in ordinary safeguard
25 proceedings, but nevertheless it is high.

1 The imports from China targeted for
2 restraints must be both increasing rapidly and causing
3 market disruption in the United States, and for the
4 latter they must be a significant cause of material
5 injury to the U.S. industry. Those requirements are
6 not met here. Indeed it is puzzling the petition is
7 being filed at this time. So called consumer tire
8 imports from China are not increasing rapidly. Their
9 increase in the last calendar year can fairly be
10 described only as moderate. In the current year to
11 date, beginning well before the filing of the
12 petition, they have been falling precipitously.

13 In asserting imports are rapidly increasing,
14 Petitioners focus on changes that took place two and a
15 half years ago. Whether or not a rapid change was
16 occurring at that time would have been a question for
17 a petition filed two years ago, not this petition. No
18 rapid increase is currently occurring. Nor is the
19 domestic industry experiencing material injury when
20 account is taken of the current severe recession, the
21 experience of other comparable industries, and the
22 tire industry's own experience, which included low and
23 negative returns well before the beginning of the
24 current investigation period and the growth in imports
25 from China.

1 Finally and fatally, the critically
2 necessary significant causal link between any adverse
3 results experienced by the domestic industry and
4 imports from China is absent. Petitioners offer a
5 simplistic proposition, that consumer tire imports
6 from China increased from 2004 to 2008, the results of
7 U.S. producers deteriorated in the same period,
8 therefore, Petitioners assert, imports from China
9 caused the adverse results for the domestic industry.
10 That claim does not withstand examination.

11 As former Commissioner and Chairman
12 Brunsdale once said, it is the Commission's job to
13 untangle causation from coincidence. The coincidence
14 of increasing imports and poor industry results on
15 which Petitioners rely simply does not exist if year
16 to year changes are examined. For example, in 2007,
17 the year in which subject imports enjoyed their
18 greatest increase in the investigation period, the
19 domestic industry experienced its best operating
20 income.

21 The principal reason a direct causal line
22 cannot be drawn between increasing imports from China
23 and the U.S. industry's fortunes is that competition
24 between the two is attenuated by segmentation of the
25 U.S. consumer tire market. The market is divided

1 first into an OEM segment and a replacement segment.
2 Imports from China are not a significant presence in
3 the OEM segment. And yet over a third of the domestic
4 industry's POI volume loss occurred in the OEM
5 segment, and prices there are almost uniformly lower
6 than in the replacement segment.

7 The replacement tire segment itself is a
8 tiered market. Imports from China are not present in
9 the premium tiers where the domestic industry sales
10 are concentrated. Imports from China do compete
11 against nonsubject imports in the lowest
12 economy/private brand tier. That tier was effectively
13 abandoned by the domestic producers in pursuit of
14 higher profits in the premium tiers years ago, for the
15 most part before imports from China appeared in
16 substantial volume.

17 Petitioner's prehearing brief asserts the
18 contrary, claiming that when domestic producers were
19 unable to maintain their full level of production of
20 private brands, 'it has been due to competition from
21 Chinese imports.' The articles cited as support for
22 that assertion do not contain even a single statement
23 that imports from China were responsible for the
24 domestic industry's private brand segment withdrawals.
25 In fact, in the period concerned, non-Chinese imports

1 were a very significant presence in the U.S. tire
2 market and had been so long before tires from China
3 became a factor.

4 And given the timing of the specific brand
5 withdrawals discussed, it is clear they responded to
6 conditions extant prior to the investigation period
7 and growth of Chinese imports. Those are not
8 conditions that can be blamed on any currently surging
9 imports from China. You will hear much more about
10 these points and others in Respondent's testimony
11 later today. I will close by directing the
12 Commission's attention to the absence today of the
13 very U.S. producers who are supposed to be
14 experiencing injury from the accused imports. Their
15 absence speaks volumes about the lack of merit of
16 Petitioner's case. Thank you very much.

17 CHAIRMAN ARANOFF: Thank you.

18 Mr. Secretary, will you please call the
19 first panel?

20 MR. BISHOP: Would those in favor of
21 supportive relief please come forward and be seated?

22 Madam Chairman, all witnesses have been
23 sworn.

24 CHAIRMAN ARANOFF: Good morning, Mr.
25 Stewart. Please proceed when your ready.

1 MR. STEWART: Thank you, Madam Chairman.
2 We're going to start with Mr. Leo Gerard.

3 MR. GERARD: Good morning, Chairman Aranoff
4 and Vice Chairman Pearson, Members of the Commission.
5 My name is Leo Gerard. I'm the International
6 President of the Steel Workers' Union. I'm happy
7 again to have the opportunity to testify before the
8 Commission as I have in previous occasions. But
9 before I go much further I do want to take the
10 opportunity to recognize a number of our members who
11 are here that are employed in the tire industry. And
12 although I don't want to say something about each and
13 every one of them, I do want to say something about
14 two of them, and before I do that I'd like them to
15 stand so that we could acknowledge their presence.

16 These are the faces of the men and women
17 whose very livelihood are at stake as we go through
18 this 421, and I want to point out two in particular.
19 Jack Hefner, who's a third generation steel worker
20 whose family has been employed in the rubber industry
21 for a total of 125 years. Dave Prentice, a third
22 generation steel worker at Goodyear Tire. Dave also
23 is a person whose family has raised their kids and
24 tried to make their way through life by working in the
25 tire industry. And all of those people in the back

1 have either lost their jobs during this period that
2 we're talking about or the closure of their plants has
3 already been announced.

4 So that as we go through the material today,
5 Members of the Commission, I want you to know that
6 although I've testified here many times, this is a
7 special one and it's especially important, and let me
8 explain why. First, this case will test whether the
9 China specific safeguard is a meaningful tool for
10 addressing market disruption in the United States or
11 if it is in fact a dead letter. As you know the Steel
12 Workers Union vigorously opposed granting permanent
13 normal trade relations, PNTR, to China and allowing
14 China to accede to the WTO.

15 But at the time PNTR was being debated, the
16 President, his Administration and the Congress, as
17 testified earlier by Senator Specter, have all
18 promised us at least one thing, if our warnings were
19 correct and imports from China were to flood into our
20 market after WTO accession and harm our members, we
21 would be granted remedy. And that remedy was Section
22 421 safeguard. Congress made sure that unions have a
23 right to seek relief under the law just as much as
24 companies do, and we would not have been forced to
25 invoke that right if the situation facing our members

1 was not extremely dire as a result of these Chinese
2 imports.

3 I understand that the decision whether or
4 not to impose relief does not end with the Commission,
5 but the case will go no further if the Commission does
6 not make the right determination. After that it is up
7 to the President. This President has pledged to
8 examine these cases on their merits, and the merits of
9 this case could not be stronger. After my
10 introductory remarks, Mr. Stewart will review the
11 facts showing an explosion of imports of low priced
12 tires from China causing severe injury to the domestic
13 industry. The record is compelling and the record is
14 irrefutable.

15 Second, we ask the Commission to understand
16 in human terms as well as economic terms the depth and
17 breadth of the pain and suffering and dislocation our
18 members and our union have had to endure due to this
19 flood of Chinese tires into this country. Due to
20 those imports, the tire industry, in the words of
21 Goodyear's North American former President, John Rich,
22 is under attack as never before. The wave of low
23 priced imports from China was devastating to our
24 companies, who could no longer afford to make tires in
25 a market driven by the 'China price.'

1 In a desperate effort to cut their losses,
2 the companies have shut plant after plant with three
3 more on the chopping block as we sit here today. In
4 2004, Continental closed its Mayfield, Kentucky plant
5 eliminating 985 jobs. In 2006, Continental shut
6 another plant, this time in Charlotte, North Carolina.
7 About another 1,000 jobs were lost. Later that year
8 Bridgestone shuttered its Oklahoma City plant, leaving
9 1,400 people jobless.

10 Also in 2006, Goodyear closed its Tyler,
11 Texas plant, slashing another 1,100 jobs. All in all,
12 more than 5,100 jobs, direct jobs, in the tire
13 industry have been lost. Not to mention the
14 cumulative effect in many of these communities. And
15 there is no end in sight if relief is not granted. We
16 already know that more than 3,000 jobs are on the line
17 at three more plants: Cooper's plant in Albany,
18 Georgia; Bridgestone's facility in LaVergne,
19 Tennessee; and Michelin's Opelika plant in Alabama.

20 As Mr. Wansley will testify shortly, these
21 plant closures are shattering not only the individual
22 workers who have given their lives to their company,
23 not only to those workers' families, but to entire
24 communities. In many cases that tire plant is the
25 fundamental pillar of a local economy, especially in

1 smaller towns where skilled jobs with decent wages and
2 benefits are harder and harder to come by.

3 These plants directly support their local
4 suppliers, the service providers, the employees keep
5 restaurants and shops in the area afloat. They
6 generate taxes so that we can have firemen and
7 policemen, so that we can have taxes at the school
8 board so we can have quality schools and teachers.
9 These plants directly support as I said local
10 suppliers and service providers. When the plant shuts
11 down and shuts the door, everyone in the community
12 suffers.

13 Finally I want to close with one last
14 thought. Our union has used every tool we have at our
15 disposal to help save the industry from total
16 collapse. We have made, unfortunately, we have had to
17 make, concessions in our contracts. We've deferred
18 wage increases to support the continuation of benefits
19 for our retirees. We have cooperated to improve
20 productivity, and the list goes on and on and on as
21 Mr. Conway will testify.

22 We have secured specific commitments from
23 our companies to make needed capital investments to
24 keep our plants competitive, and we will continue to
25 seek those commitments in the future should remedy be

1 granted. As any contract negotiator will tell you,
2 every commitment you bargain for means a trade-off
3 somewhere else. For our union, such commitments to
4 the future of the domestic industry we believed were
5 worth the trade-off.

6 But all of these best efforts aren't worth a
7 dime if the market is being pulled right from under
8 us, and that is the situation we face with China. All
9 we ask for here today is a fighting chance. The small
10 window of relief we can finally gain start to build
11 something from all the sacrifices and all the hard
12 work that our members have put into this industry. A
13 lot more work will be required, but with a period of
14 relief we can once again start to build a sustainable
15 foundation for the future of the American tire
16 industry and its workers. Thank you very much for
17 your attention, and we hope that you will grant relief
18 and you will see the facts as we do, clear and
19 irrefutable. Thank you very much.

20 MR. STEWART: Thank you, Madam Chairman,
21 Members of the Commission. We're going to go through
22 a slide presentation to try to work through the
23 statutory elements that you have in front of you to
24 decide in this case, obviously the five issues,
25 whether imports have increased rapidly, whether the

1 domestic industry has suffered material injury,
2 whether imports are a significant cause of that injury
3 resulting in market disruption, whether the domestic
4 industry is further threatened with additional
5 material injury absent relief, and the remedy that we
6 would recommend.

7 Now, the Commission in prior cases has
8 turned to the legislative history of Section 406 from
9 the '88 act amendment to look at what rapidly
10 increasing imports mean. And that has been discussed
11 in a number of your prior decisions. We would say by
12 any measure, under any of the standards, imports of
13 subject tires have increased rapidly over the period
14 of investigation. If you look at volume, up 215
15 percent, if you look at value, up 294.5 percent. If
16 you look at the growth and share imports as a percent
17 of U.S. production, a growth of 328 percent. If you
18 look at the growth as a percent of U.S. consumption,
19 255 percent.

20 Imports in fact in this case have increased
21 dramatically and absolutely, up 31.4 million tires
22 over the period of investigation. They have also
23 increased relative to both domestic producer, growing
24 from something like 6.7 percent up to close to 30
25 percent of domestic production, and having increased

1 as a percent of apparent consumption from about 4.7 to
2 about 16.7 percent.

3 And in looking at whether the increase has
4 been recent and continuing in the period of
5 investigation, this looks at the rate of growth as a
6 percent of U.S. production or of U.S. consumption, and
7 what you see is that 2007, 2008 is in fact the second
8 largest increase of the five-year time producer that's
9 presented up there, and you see if you visualize a
10 line that shows a straight upward trend.

11 And if you take a look at rapid increases
12 from the point of view of how has the overall economy
13 and how have imports from China overall done, what you
14 see is that the rate of growth has in fact picked up
15 in the last two years vis-a-vis the rate of growth of
16 imports generally from China, and that rate of growth
17 overall is twice what all manufacturing in the United
18 States have experienced. So we would say that
19 compared to any benchmark, any statutory standard that
20 the Commission has looked at, there has been rapid
21 increase.

22 And if you look at the rate of growth and
23 share of apparent consumption over the period of
24 investigation, what you find is that consumer tires
25 has had a rate of growth almost twice that of garment

1 hangers, where there was an affirmative determination,
2 and close to three times that in circular welded pipe,
3 where there was an affirmative determination. That
4 brings us to the second issue of material injury.

5 The domestic industry has in fact suffered
6 broad and deep material injury during this period.
7 Take a look at slide 10. You have seldom had cases
8 where the decline in domestic manufacturing has been
9 this severe across the board. Capacity reduction,
10 over 17 percent, 40.5 million tires. Production down
11 26.6 percent, 58 million tires. Capacity utilization
12 down more than 10 percentage points, shipments down
13 close to 30 percent, U.S. shipments, 62 million tires.
14 Workers, more than 5,100 jobs lost, hours down, 12.9
15 million hours of work, and wages down close to a
16 quarter of a billion dollars.

17 There can be no doubt that this industry is
18 suffering material injury. When you look at the
19 massive loss in profitability, you have a swing from a
20 very small profit in 2004 to a loss 2.6 percent in
21 2008, something that is measured on operating income
22 as more than 200 percent. If you look at the returns
23 operating income over the five-year time period and
24 compare it to other industries, plastics and rubber
25 industry, of which obviously consumer tires is a part,

1 had a 5.6 average return operating income as a percent
2 of sales versus a 0.8 percent for this industry, all
3 manufacturing 6.5.

4 So the test whether the industry is earning
5 a reasonable level of profitability, whether companies
6 are able to operate at a reasonable level of
7 profitability, has a resounding answer of no. If you
8 look at costs of capital, we have provided an estimate
9 based on public information, the public Staff Report
10 does not show the industry total assets, so we took
11 the ratio from the 2008 Goodyear annual report of
12 sales to assets and applied that to what is in the
13 public Staff Report for the five-year period.

14 Using that as a proxy you come up with an
15 estimated return on investment over the five-year
16 period of 1.1 percent per year, versus a cost of
17 capital for large rubber companies of 10.67 percent.
18 Under any of these measures, this industry is unable
19 to operate at a reasonable level of profitability we
20 would submit. The next slide takes a look at the
21 losses leading to retrenchment.

22 MR. STEWART: If you take a look, and the
23 Staff Report of course is limited to the period of
24 investigation, but if you look at the period that
25 precedes the period of investigation, what you find is

1 that imports were 10 million versus the 14.6 million
2 in 2004 from China. They were 8 million the year
3 before, 6 million the year before that. There was a
4 major plant closure in 2003 during USW negotiations.
5 So before and through this period, as you've had the
6 increased imports and low cost volume from China,
7 domestic companies have not been able to operate at
8 reasonable profitability.

9 That has forced the companies to look at how
10 do they reduce their capacity to bring it in line with
11 demand since part of that demand has been cut off for
12 them, which plants to close, and that has been the
13 repeated pattern that you have seen. One of the
14 issues that we presumably will talk about later is
15 that the union works hard to see that the companies
16 will keep the plants open, and so often plants can
17 only be shut following the end of a contract cycle,
18 and that is the reason that 2003 plant closing, 2006
19 plant closings, and why you are now seeing plants
20 announced to be closed in 2009 as they go through a
21 new cycle.

22 The normal criteria you look at in a 421
23 case is whether there's been an idling of productive
24 facilities. We believe that that table basically says
25 it all. You've had significant contraction in

1 capacity, production has contracted even faster, with
2 the result that capacity utilization has also fallen
3 by more than 10 percentage points. So massive
4 capacity reduction, dramatic production reductions,
5 resulting in even lower capacity utilization with more
6 pressure to close more facilities in a high cost
7 business to get your business back operating at a high
8 level of utilization.

9 That has meant massive unemployment for the
10 workers, the vast majority of whom have been USW
11 members who have been laid off. 5,168 in the period
12 of review, 3,000 more lined up, as I said before, 13
13 million hours of work and a loss of roughly a quarter
14 billion dollars. Sacrificed wages and benefits in
15 contract negotiations also occurred to help the
16 industry compete. Now, how do these reductions in the
17 domestic industry performance compare to other recent
18 cases under 421 where there were affirmative
19 determinations? Well this slide tells you what
20 happened.

21 The decline in the domestic industry is far
22 more severe, far sharper in consumer tires than it was
23 in either wire garment hangers or circular welded
24 pipe, the last two affirmative determinations by the
25 Commission. The third issue, whether increased

1 imports are a significant cause of material injury
2 creating market disruption. Most people start from
3 the relatively simple analysis in a stagnant market,
4 which this market has been either stagnant or
5 declining. If I lose market share to you, it probably
6 is a good indication that somehow or other you are
7 part of the reason that I am suffering.

8 If you look at the loss of market share, the
9 domestic industry is down 13.7 percent. 87.6 percent
10 of that was to the benefit of imports from China which
11 grew 12 percent. Our friends on the other side claim,
12 well you have to segment the market, we're really
13 concentrated in the replacement market, ignore the
14 growth that we've had in the OEM market. Okay, let's
15 take a look at the replacement market.

16 They only captured 100 percent of the loss
17 that the domestic industry suffered in the replacement
18 market. So 100 percent of what we lost in the
19 replacement market is directly attributable to,
20 directly captured by increased imports from China.
21 Not 10 percent, not 5 percent, not 30 percent, not 70
22 percent, 100 percent of the loss.

23 Then there was a lot made by our opponents
24 about whether there is price underselling in this
25 market, despite the fact that the pricing comparisons

1 which the Commission obtained showed massive price
2 underselling, and despite the fact that the purchasers
3 in checking their boxes on the questionnaire as to
4 whether the U.S. product is lower priced than the
5 China product almost universally checked the box that
6 said, no the Chinese product is lower.

7 And in fact the arguments of our opponents
8 is, their not producing these products in the U.S.
9 because they can buy them cheaper in the U.S., yet
10 they claim that there's not price underselling, a
11 circular logic which is contradicted by the facts of
12 record before the Commission. The underselling that
13 we said, you have an extraordinary coverage in what
14 the Commission Staff went out to get. They only went
15 out for six part numbers and a couple of speed
16 ratings.

17 The information provided accounts for 32
18 percent of imports and 14 percent of domestic
19 shipments in those price comparisons. And you had 119
20 out of 120 comparisons where there was underselling,
21 margins go up to 45 percent whether or not there is
22 price premiums as you found in other cases like OTR
23 tires from China, for the brands, the premiums tend to
24 be in the 10 to 15 percent range, that's what Michelin
25 says in its annual report is what they try to get for

1 their premium brands.

2 These are far greater margins of
3 underselling and of course the domestic industry
4 remains involved across the board in all segments of
5 the market. When you look at the average unit price
6 from imports from China, and the Staff Report shows
7 the landed cost duty paid, we took it back to FAS just
8 to try to get a sense of what the price from China
9 looked like versus the raw material cost for producers
10 in the U.S., and this won't be an exact match because
11 there will be product mix differences, so there will
12 be some difference as to comparability.

13 But what you come away with is the price of
14 the imports from China are so low, they come close to
15 being at the raw material cost to produce a tire in
16 the U.S., and these are raw materials which are
17 globally sourced by the Chinese and by us and by
18 everyone else in the world. When you look at the
19 variable costs, the average price of the products from
20 China, on landed cost duty paid price, are below the
21 variable costs identified in the cost of goods sold
22 section of the Staff Report with the percentages for
23 fixed and variable reported by the domestic industries
24 for labor and other factory costs, excluding SG&A.

25 If you want to know why domestic producers

1 are losing market share, why they are unable to
2 produce many of the products that they are losing and
3 having to close facilities, this table tells it all.
4 What producer will produce a product if it is below
5 their variable cost of manufacture. Yet these same
6 facilities years ago before the influx of Chinese
7 products could make these products and make a product
8 or at least make a significant contribution to fixed
9 overhead at the plants. That's the causation. So you
10 have rapidly increasing imports.

11 CHAIRMAN ARANOFF: Mr. Stewart, I very much
12 hate to interrupt you, but we have Senator Lincoln who
13 has just arrived and I thought this might be a good
14 moment to pause.

15 MR. BISHOP: The Honorable Blanche Lambert
16 Lincoln, United States Senator, Arkansas.

17 CHAIRMAN ARANOFF: Good morning, Senator
18 Lincoln, and welcome back to the Commission.

19 MS. LINCOLN: Good morning to all of you
20 all. It's great to see you again, and I thank you for
21 that welcome return, as I do find myself down here a
22 good bit. But thanks to all of you all for your hard
23 work, and we appreciate it very much. Madam
24 Chairwoman and Members of the Commission, I do truly
25 appreciate the chance to be here, your certainly

1 accommodating me to testify today, and to express my
2 sincere support for the United Steel Workers' petition
3 before you. So very proud to be here supporting the
4 hard working Arkansans from particularly Texarkana,
5 Arkansas.

6 I'm here because I believe the workers at
7 the Cooper Tire and Rubber Company facility in
8 Texarkana, Arkansas are truly entitled to compete on a
9 fair playing field in our global marketplace. As some
10 may recall I've been here on many other occasions. In
11 2005 I testified in support of the last 421 petition
12 on circular welded non-alloy steel pipe which resulted
13 in a 4 to 2 affirmative determination from you all. I
14 was extremely disappointed when President Bush did not
15 follow through on your recommendation and grant that
16 relief.

17 As you may know, I formally chaired the
18 Senate Finance Subcommittee on International Trade and
19 Global Competitiveness, and in that position and in my
20 years of public service, I've become well acquainted
21 with the important role that trade plays in our
22 economic life in the United States. I believe in the
23 benefits of trade and I'm a strong supporter of
24 opening up new markets for American businesses and
25 consumers. Trade has benefitted my home state of

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1 Arkansas. One in ten manufacturing sector workers in
2 my state depends on exports.

3 Some 1,300 companies in Arkansas export
4 nearly \$6 billion worth of merchandise to countries
5 around the world each year. Everything from chemicals
6 to food products to motors. On the import side,
7 consumers in my state and across our great nation
8 benefit from having a wide range of choices of
9 affordable goods, from fresh vegetable and fruit in
10 the winter to shoes and clothes for growing children.

11 To note, I'm not opposed to trade with
12 China. I supported the permanent normal trade
13 relations with China and the Trade Promotion
14 Authority. However, I also recognize that trade has
15 its adverse impact as well. Trade can disrupt and it
16 can dislocate people. Global competition can throw
17 people out of work almost overnight and quickly
18 overwhelm entire sectors of our country and certainly
19 of our communities across the states that we
20 represent.

21 Fortunately we have in place mechanisms for
22 coping with these market realities. When we trade, we
23 must rely on internationally recognized rules,
24 including trade remedies to cover the potentially
25 harmful effects of unfair trade practices and

1 unforeseen import surges that inflict injury on our
2 domestic industry and its workers. These are our
3 families, those that we represent all across our
4 state, and although we push hard for many trade
5 initiatives, we also want to make sure that those
6 remedies exist if things are not followed.

7 I strongly believe that domestic businesses
8 and producers should be able to trust the government
9 to do what is required, to do what it needs to do when
10 it comes to leveling that playing field and protecting
11 them when our trading partners fail to abide by the
12 rules that we've established. I have long argued that
13 we need to step up enforcement of our trade laws. One
14 challenge we face is that our trade enforcement
15 mechanisms fail to provide timely relief.

16 Our trading partners know our rules and know
17 how to game the system until it is too late for the
18 workers, farmers, ranchers, or companies that have
19 been adversely affected. Section 421 is an exception
20 to these weaknesses. It creates a speedy and a
21 necessary process to review the facts and deliver
22 relief to those businesses and those working families.
23 I voted to establish this 421 safeguard in conjunction
24 with my support for China's PNTR in 2000. I thought
25 it made sense to bring China into the rules based

1 trading system, but also bring greater accountability
2 to its trade practices and encourage greater
3 compliance over time with the world trading system.

4 As an elected representative of working
5 people in my state I thought it imperative to put the
6 brakes on China in such a situation as the one
7 presented in the petition under your consideration
8 today. Of course, trade remedies are only useful if
9 they are applied. On four occasions this Commission
10 recommended import relief under Section 421 and the
11 previous Administration rejected your advice. That's
12 unfortunate.

13 I am hopeful that history will not repeat
14 itself. The facts in the petition before you today
15 paint a stark picture of injury from an import surge
16 and illustrate exactly what Congress had in mind when
17 it created this safeguard. I have tremendous faith in
18 you all, you and your able Staff to carry out a
19 thorough and objective review. You've always
20 presented that to me. The facts of this case are well
21 known. From 2004 to the end of last year, imports of
22 passenger vehicle and light truck tires went up a
23 staggering 295 percent in terms of dollar value and
24 215 percent in terms of volume.

25 I know you've seen charts and I know that

1 there has been plenty of presentation during this same
2 period domestic production dropped significantly. All
3 together since this surge started, six plants have
4 closed. Up to 4,400 workers face job loss. I am very
5 concerned that if nothing is done, the surge will
6 swallow up more jobs and wipe away more of our
7 manufacturing base.

8 In Texarkana, Arkansas, over 1,700 workers
9 produce proudly over 31,000 tires per day of the kinds
10 of tires covered in this petition. Their jobs
11 continue to be especially vulnerable to a continued
12 surge of these products from China. Each job loss
13 touches a family, a neighborhood, and indeed the
14 entire community, particularly in these economic
15 times.

16 Texarkana has just over 30,000 people. The
17 loss of jobs in this sector would ripple through this
18 community and negatively impact coffee shops,
19 retailers, service providers, churches, all throughout
20 the Texarkana community, unnecessarily and
21 unwarranted. An affirmative determination that
22 validates the union's petition is of critical
23 importance not only to the tire workers at the Cooper
24 facility, but to those across this great nation as
25 well.

1 Of course it must be accompanied by
2 meaningful relief recommended by you and adopted by
3 our President. If that happens, it will have a
4 positive ripple effect on the businesses in those
5 communities, not just economically but also in their
6 sense of trust that we as a government will continue
7 to work for an environment that is fair. We are
8 living through a time where more and more people
9 continue to lose faith in trade, and just now as we
10 move into our own being a part of a global economy,
11 it's a critical time to rebuild that trust.

12 Currently only a minority of Americans only
13 believe free trade presents an opportunity for
14 economic growth. I believe one reason people are
15 losing faith in trade is because they're losing faith
16 in our government's ability or willingness to enforce
17 rules and use tools such as the 421 safeguard. We
18 need to make sure our trade remedy laws such as this
19 one work effectively to level the playing field for
20 our workers, not just for their families, not just for
21 those jobs, but for our future ability to engage in a
22 global economy and do so with the respect that we need
23 of our trading partners to be a success in that global
24 economy.

25 President Obama has signaled that the United

1 States will stay engaged as a leading trading nation.
2 We look forward to his comments this summer on this
3 Administration's proposals on trade, he's promised to
4 enforce trade laws more vigorously and to promote
5 America's interest in the welfare of workers and the
6 protection of the environment. I believe an
7 affirmative determination of injury in this case and a
8 recommendation for the import relief of the USW that
9 they seek in this petition will enable him to make
10 good on that very promise.

11 Once again I want to thank all of you all
12 for the opportunity to be here today to support the
13 hard working men and women of my state, especially
14 those in Texarkana, Arkansas, but also how much I
15 appreciate you, the deliberation that you take, the
16 hard work with you and your Staff in being thorough
17 and making sure that as you investigate that you truly
18 are looking for that level playing field and the right
19 decisions that not only help American business and
20 American workers, but help America's stand globally in
21 that global economic community that we are now such a
22 very active part of.

23 So I appreciate your consideration of the
24 views that I've expressed today. I apologize that I
25 have a vote myself, and may have to excuse myself, but

1 would be more than happy to answer any questions if
2 you had those of me. But more importantly I'm
3 grateful to you for the work that you do. Thank you,
4 Madam Chairman.

5 CHAIRMAN ARANOFF: Thank you very much,
6 Senator. Are there any questions for the Senator?

7 (No response.)

8 CHAIRMAN ARANOFF: Thank you, Senator.
9 We'll let you get back to your vote. Thank you very
10 much.

11 MS. LINCOLN: Thank you so much to all of
12 you.

13 CHAIRMAN ARANOFF: Mr. Stewart, we're going
14 to pick up the time. We apologize for the
15 interruption.

16 We don't have any more congressional
17 witnesses at this time, do we, or do we?

18 MR. BISHOP: No, we do not, Madam Chairman.

19 CHAIRMAN ARANOFF: Okay. I know there's two
20 expected within the hour, so there may be another
21 interruption.

22 MR. STEWART: That's fine. Thank you very
23 much, Madam Chairman.

24 We were on causation, and the slide that is
25 up takes a look at the logical causation: Rapidly

1 increasing imports, prices below variable cost, mean
2 domestic producers are going to lose volume, which
3 they have. They're going to have unutilized capacity,
4 which they have had, and when they can they will try
5 to close plants, which they have done.

6 You see the quotes that are there from
7 various executives within the various tire companies
8 who either have announced plant closures or who have
9 announced them in the past that tie part of the
10 problem that they were facing to extreme pricing
11 pressure in the marketplace. If you have prices that
12 are down around your variable cost of production,
13 you're in an untenable position.

14 With regard to interchangeability, you
15 actually have U.S. producers, U.S. importers and
16 purchasers all saying the same thing; namely the
17 product is highly interchangeable. You find 87
18 percent of importers who say that U.S. and Chinese
19 subject are either always or frequently
20 interchangeable. Ninety-four percent of purchasers
21 said quality of Chinese tires meet or exceed industry
22 standards.

23 In fact, if you go down the list that's in
24 your Table V-7 in the staff report you will find that
25 other than delivery and low price -- delivery favors

1 domestics; low price favors the Chinese -- purchasers
2 tend to view the products as basically comparable
3 regardless of the attribute that's being looked at.

4 There are claims that domestic producers
5 don't compete in all markets. This is factually
6 inaccurate. Take a simple example. Private labels or
7 private brands. There are various press articles that
8 say a certain number of private brands have been
9 discontinued. That has happened as they have closed
10 plants.

11 But here are some examples of private brands
12 that are offered by these various companies. Much or
13 all of them are offered from domestic facilities. For
14 the USW facilities there is a large number of
15 facilities that make private brands that have USW
16 members that have been identified.

17 So red herring number one, the U.S. has
18 abandoned private markets. Simply not accurate,
19 certainly not accurate for a company like Cooper where
20 their entire domestic production typically goes into
21 those types of products, but not true for Goodyear,
22 not true for Michelin, not true for the other
23 companies identified.

24 Imports in fact affect all consumer tires.
25 Here's a quote from a major distributor group:

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1 There's little doubt that these products, low cost
2 imports, are having some impact. They are having an
3 impact on sales in general, not just private brands.

4 So the argument of those who will be
5 testifying this afternoon that this is a segment and
6 market where there is not competition even between
7 alleged peers is simply factually inaccurate as public
8 statements from members of their own sector have said
9 in the past.

10 And products compete regardless of brand.
11 Here's a statement from Michelin's former president
12 about one of the issues he felt was needed for his
13 company to do a better job, and he was talking about
14 the Michelin brand, that they needed to do a better
15 job of convincing their customers of why their
16 customers should be selling customers the Michelin
17 brand versus a lower priced product from some other
18 source because of the greater value over the life of
19 the tire.

20 So the concept that top tier products don't
21 compete with other tier products is contradicted. If
22 you take a look at pages 22 and 23 of our petition and
23 Exhibit 24 to our petition you will find information
24 that we took off the website of a larger retailer that
25 lists the competing products and identifies the

1 country of origin of the products. You can see for
2 yourself that the domestic and Chinese product compete
3 across products, across brands in that particular
4 situation.

5 Imports forced the closure of U.S.
6 facilities making directly competitive items. In
7 2006, a lot was made by our opponents that the
8 Goodyear announced closure that it was going to both
9 terminate 10 private brands that it had been producing
10 in the past -- that was 10 of 50 that they in fact
11 were producing at the time -- and they were planning
12 to close one of five facilities that they had that in
13 fact produced private brand tires, along with other
14 brand tires.

15 Yet at the time of that announcement a major
16 distributor's vice president of procurement had this
17 to say: This wasn't news that they were going to do
18 this. It didn't come as a surprise because most
19 American manufacturers are really having difficulty
20 when it comes to this cross segment and producing the
21 product that can compete with some of the offshore
22 merchandise that's coming in.

23 What was the offshore merchandise? The
24 Chinese merchandise. What's the problem? The price.
25 Why was it a problem? Because it was down close to

1 the cost of raw materials and below variable cost to
2 manufacture. That is the reason the plants have
3 closed. That is the reason lines get terminated.
4 That is the reason there was a direct causal nexus in
5 this case.

6 Threat. We shouldn't need to talk about
7 threat, but we decided we would cover it anyway.
8 Absent relief, there's no doubt that the industry is
9 threatened with more material injury. From the staff
10 report, you see that capacity grew in China over the
11 period of review 151 percent.

12 At the same time, Chinese exports, the vast
13 majority of which went to the U.S. or the largest
14 portion of which went to the U.S., grew 169 percent --
15 obviously to the U.S. they went up 215 percent -- and
16 there was growth in the underutilization of facilities
17 by 239 percent, so there's a large amount of
18 underutilized capacity.

19 We would note that that amount of
20 underutilized capacity is likely understated based on
21 the lack of response. You had only 32 of 75 companies
22 that were queried who provided information, and in
23 fact press accounts say there are more than 200
24 companies in China producing consumer tires, so the 75
25 is a small part of the overall segment.

1 Now, we have put in our prehearing brief in
2 Exhibit 19 information that is confidential, but I
3 would refer each of the Commissioners to that exhibit
4 to take a look at the issue of threat in this case.

5 The U.S. remains an attractive target for
6 excess capacity. We would note one error in the staff
7 report. That in fact can be identified from Table
8 IV-3. The staff report indicates that U.S. prices are
9 lower than prices in Europe and Korea. In fact, the
10 table shows that the prices from China to the U.S. are
11 significantly higher across the period of review so
12 that the U.S. remains an important target market.

13 Moreover, the Chinese Government is working
14 hard to try to see that Chinese exporters continue to
15 export. They increased the VAT rebate from five
16 percent to nine percent on consumer tires in December
17 of 2008, and in July of last year they informally put
18 a halt to the movement of the Chinese currency.

19 If you take a look at the Chinese currency,
20 you will find that once they started to let the
21 currency appreciate they let it appreciate until July
22 or August last year, at which point in time it
23 flatlined again, as it had done previously.

24 Are we back up? This is a chart of the
25 data, and you will see that somewhere in the summer of

1 2008 the government indicated informally that it was
2 going to stop permitting significant movement of the
3 currency and so once again you have an effective
4 flatline in terms of where the currency is.

5 All of these things support a conclusion
6 that there is a desire on the part of the companies
7 and the government is helping them create an
8 environment where exports will continue to boom absent
9 relief.

10 So what is the remedy that we need? We
11 believe a quota is required to address the problem.
12 The key elements of the quota would be 21 million
13 tires over three years with a five percent increase
14 allocated as you would find the allocation back in
15 2005 at the 10 digit HTS statistical category level.

16 In our prehearing brief we include a summary
17 that ECS provided us of an analysis they did as to
18 what type of benefit that would mean for the domestic
19 industry for domestic workers and for the communities
20 in which the workers worked, and it is significant as
21 reviewed in the prehearing brief.

22 With that I will stop and turn it over to
23 Tom Conway.

24 MR. CONWAY: Good morning, Chairman Aranoff,
25 Vice Chairman Pearson, members of the Commission. My

1 name is Tom Conway. I'm the vice president of the
2 United Steelworkers Union. I thank you for the
3 opportunity to appear before you again.

4 Part of my responsibility for the union is
5 to serve as chairman of the USW Bargaining Committee
6 at Goodyear. Contract negotiations with Goodyear in
7 2006 were the first I served in this role. Since at
8 least 2003, Goodyear has been talking to the union
9 about the increasing volumes of low-cost imports from
10 China and the severe challenge they pose for the
11 company.

12 At the end of 2002, the union obtained
13 access to senior management and financial data for the
14 company to study options for addressing the
15 difficulties it was facing. Ron Hoover and Chad
16 Apaliski, here with me today, were members of the
17 study team. A key finding of the study was that low-
18 cost Asian imports in consumer and commercial tires
19 are eroding Goodyear's market share.

20 In 2003, the company launched a new strategy
21 to turn its financial situation around, and it
22 identified low-cost imports as one of the threats to
23 its North American operations that required a new
24 approach.

25 In light of the difficulties the company is

1 facing, the union made major sacrifices in the 2003
2 contract negotiations with Goodyear, including
3 agreeing to lose the 1,300 jobs at our Huntsville,
4 Alabama, plant. Goodyear's 2003 annual report notes
5 that the closure of Huntsville was part of its
6 strategy to compete with increasing volumes of tires
7 being imported.

8 Since that time, the volume of low-priced
9 imports from China has exploded. In interim meetings
10 with Goodyear since 2003, we've had open discussions
11 about imports from China. In presentations to the
12 union, Goodyear specifically identified low-priced
13 Asian imports as a threat to our facilities, and they
14 show that China's share of these imports are rising
15 steadily.

16 At the opening of our 2006 contract
17 negotiations, the message could not have been clearer.
18 Then president of Goodyear North America Jon Rich said
19 in his opening statement: We are under attack as
20 never before by foreign competitors. He argued that
21 part of the solution was for the union to give up job
22 security, to give up wages and benefits.

23 In particular, Goodyear demanded that the
24 plant in Tyler, Texas, had to close due to what they
25 called intense pressure from low-cost imports. After

1 a very difficult battle, we did make major sacrifices
2 in the 2006 contract. We agreed to a lot of painful
3 restructuring in that agreement.

4 In addition to the closure of Tyler, which
5 Jim Wansley is here to discuss today, we agreed to
6 significant wage and benefit cuts. That contract also
7 established a voluntary employee benefit association
8 or VEBA to fund our retiree health care, and Ron
9 Hoover will explain that in more detail.

10 I want to focus on what our union won in
11 these contracts, not just what we were forced to give
12 up. To help the company survive the onslaught of
13 tires from China, it was not enough to just cut costs.
14 There was simply no way to compete with China on cost
15 alone. Their prices are so far below any rational
16 level you would get in a functioning market that even
17 if we came to work for free we couldn't compete on the
18 basis of cost.

19 Instead of just chasing China on cost, the
20 union believes we need an aggressive strategy of
21 investing and upgrading our plants and for the future.
22 At the USW we recognize the contract commitments on
23 wages, benefits and job security are only meaningful
24 if our plants are able to survive and thrive over the
25 long term.

1 When we sit down at the negotiating table we
2 know that preserving hard-fought gains for our
3 members, much less making new gains, will be virtually
4 impossible if our industry is bleeding and there is no
5 clear path forward towards recovery.

6 That's why as a matter of principle we work
7 with our employers to secure enforceable commitments
8 regarding future investments in our plants. This is a
9 standard part of the bargaining tool kit we've used in
10 our entire negotiations since 2003.

11 We question our employers on their capital
12 expenditure plans and their vision for ensuring our
13 plants remain ahead of the curve. We seek specific
14 and detailed contract commitments that require the
15 companies to invest in America and to upgrade our
16 facilities.

17 More information on these commitments is
18 available in a certified statement I submitted as part
19 of our prehearing brief. The capital expenditure
20 commitments on our contracts are binding provisions.
21 We regularly monitor the company's compliance through
22 periodic meetings and ensure the company is on target
23 to meet its commitment.

24 Our union has made painful sacrifices to
25 keep our companies afloat in the sea of cheap imports

1 from China. We have also worked hand-in-hand with our
2 companies to ensure that they keep investing in our
3 facilities so we can stay on the cutting edge of
4 technology and innovation.

5 But the tide is rising and it threatens to
6 overwhelm all the hard work we've put into this
7 industry. We're here today to ask the Commission to
8 give us enough breathing room that we can start to
9 build on that hard work and create a stronger, more
10 resilient industry for the future.

11 I look forward to any questions you may have
12 and thank you again for the opportunity to be here.

13 MR. HOOVER: Chairman Aranoff, Vice Chairman
14 Pearson, members of the Commission, thank you for
15 giving me the opportunity to be here with you this
16 morning.

17 My name is Ron Hoover, and I'm the executive
18 vice president for the Rubber and Plastics Industry
19 Conference for the United Steelworkers Union. I have
20 more than 40 years' experience in the tire industry,
21 starting when I went to work at Goodyear's plant in
22 Topeka, Kansas, and joined the Rubber Workers Union
23 then.

24 I have been involved in numerous contract
25 negotiations with our tire companies since that time,

1 both for the rubber workers and then for the USW after
2 our unions merged in 1995.

3 As Tom mentioned, I want to address one
4 important aspect of our tire company contracts: Our
5 voluntary employee benefits associations or VEBAs. I
6 believe the Commission is familiar with these
7 arrangements already as they are also a common feature
8 of our contracts in the steel industry.

9 The VEBAs provide health care and other
10 important benefits to our tire industry retirees and
11 their families. More than 35,000 retired tire
12 workers, together with their spouses and their
13 children, depend on these VEBAs to cover medical
14 bills, pay for their prescription drugs and provide
15 other essential benefits.

16 While the companies make a fixed
17 contribution to the VEBAs under the terms of our
18 contracts, these contributions alone are not
19 sufficient to keep the trust viable so the union has
20 made its own sacrifices to keep the plants afloat.
21 First, our retirees have borne an increase in the
22 premiums they must pay in order to relieve the VEBAs
23 of some of their payout obligations.

24 Second, in a number of cases we have agreed
25 to defer payments owed to active employees in order to

1 maintain funding of the VEBAs. For example, workers
2 have given up part of the hourly cost of living
3 adjustments they would receive in their wages to
4 support the trust.

5 In addition, in those cases where our active
6 employees are entitled to benefits from profit sharing
7 arrangements in our contracts, those benefits have
8 also been deferred to shore up the retiree health care
9 funding.

10 These are painful concessions for our active
11 members, but they do it out of solidarity with their
12 retired brothers and sisters and out of the
13 recognition that they too depend on a stable VEBA for
14 their own future retiree benefits.

15 The difficult restructuring and deferrals we
16 have agreed to are necessary to keep sufficient funds
17 flowing into the VEBAs and thus to guarantee our
18 retirees' access to the health care benefits their
19 companies promised them.

20 But these commitments will only be effective
21 if our companies can sustain and grow their place in
22 the market and do so at a reasonable profit. When our
23 companies can't profitably compete because the market
24 is flooded by low-priced imports, there are at least
25 two things that happen.

1 First, profits shrink or even disappear.
2 Second, in a scramble to cut these losses companies
3 cut back production hours and start to eliminate jobs,
4 if not entire facilities. Both results directly
5 impact our VEBAs.

6 First, any VEBA contributions generated
7 through profit sharing are obviously only meaningful
8 if there are profits to share. When those profits
9 shrink or when companies operate at a loss our profit
10 sharing contributions to the VEBAs take a hit as well.

11 Second, the cost of living adjustments we
12 contribute to the VEBAs is keyed to the number of
13 active members we have that are working the hours
14 needed to earn those hourly COLAs. Every time hours
15 are rolled back, members are laid off or a plant is
16 shut down, our base for calculating the COLA
17 contribution shrinks.

18 Thus, it is not only the active workers who
19 bear the brunt of the loss of hours, layoff or plant
20 closure. Our retirees also suffer as they lose part
21 of the funding stream that is so essential to
22 maintaining their benefits.

23 Our union has fought long and hard to
24 protect our members' right to a decent and dignified
25 retirement after a lifetime of hard work. When we

1 originally negotiated retiree health care benefits it
2 represented a cost to the employers that reduced our
3 economic package somewhere else. When the companies
4 were in such dire financial straits that they couldn't
5 meet these obligations, we again stepped up to the
6 plate, this time to make our own contributions.

7 Active workers have sacrificed benefits
8 they're entitled to today in order to make good on
9 these commitments to our retired workers and in order
10 to invest in their own retirement benefits for the
11 future, but the ability to deliver on these
12 commitments is at risk if the influx of imports from
13 China is not stemmed.

14 If our companies are not able to get relief
15 and not able to invest and retool to regain market
16 share and resume profitability, our ability to
17 continue supporting our retirees and their families
18 will be in grave danger.

19 I ask the Commission to help us avoid this
20 tragic result by recommending meaningful relief to our
21 industry. Thank you.

22 MR. WANSLEY: Chairman Aranoff, Vice
23 Chairman Pearson, members of the Commission, good
24 morning. My name is Jim Wansley, and I was the
25 president of our USW local at the Goodyear plant in

Heritage Reporting Corporation
(202) 628-4888

1 Tyler, Texas, when the plant was shut down beginning
2 in 2006.

3 I worked in the Tyler plant for 39 years, my
4 entire adult life. I started out in a number of
5 different production positions in the plant, obtained
6 a degree and some additional training and eventually
7 became an electrician in the plant. At the time the
8 plant closed, I had been the local union president for
9 seven years.

10 I want to give you a little background on
11 why Goodyear shut down our plant, what we did to try
12 to save it and how the closure has affected my former
13 co-workers and the community of Tyler, Texas. I'm
14 here today in the hopes that my brothers and sisters
15 at other plants around the country will not have to
16 suffer the same fate our plant did.

17 Imports from China closed our plant, and
18 they'll close more if the industry does not get
19 relief. From the very beginning, Goodyear told us the
20 Tyler plant was at risk because of low-priced imports.
21 As Tom already mentioned, in presentations to us the
22 company repeatedly identified imports from Asia,
23 including fast-growing imports from China, as a threat
24 to our plant.

25 The reason our plant was vulnerable was

1 because we made the lower price point, smaller size
2 tires. These were wholesale private label tires.
3 This is where China entered the market first. They've
4 already begun to climb up the value chain. We were at
5 the front line.

6 At Tyler, we were lucky to have a culture of
7 strong employee participation. We worked very closely
8 with local management to make Tyler a cutting edge
9 facility. We came up with our own improvements to
10 convert our machines to make larger, more value added
11 tires.

12 Our plant became a leader within the company
13 in all of the categories Goodyear tracked --
14 productivity, safety, waste, et cetera. We were the
15 second most technologically advanced plant in the
16 company. The problem wasn't the plant. The problem
17 was that the tires we were making were directly
18 competing with imports from China.

19 As the public staff report shows, the
20 average unit value of tires from China seemed to be
21 only slightly above raw material costs. As Tom
22 discussed, Goodyear opened the 2006 negotiations by
23 citing the threat posed by imports and insisting that
24 Tyler had to close as a result.

25 After a protracted battle, the plant was

1 eventually shut down in several phases with most
2 workers gone by the end of 2007. The closure put
3 hundreds of workers, many of whom had given decades of
4 service to the plant, out of work.

5 To understand how difficult it is for
6 these workers to recover, it's important to understand
7 a little bit about Tyler, Texas. Tyler has a
8 population of about 100,000. Like many small and
9 medium sized towns that depend on manufacturing for
10 middle class jobs, the loss of these jobs over the
11 past 10 years or so has taken its toll.

12 A local company some of the Commissioners
13 may be familiar with, Tyler Pipe, which made pipe
14 fittings, cut jobs dramatically. Other plants have
15 also lost jobs or closed. We are fortunate to have a
16 very active economic counsel, and they are hoping to
17 transform Tyler into a retirement community and focus
18 on medical services, but these transformations take
19 time.

20 The Goodyear plant and the skilled jobs it
21 provided were vital to the economic health of Tyler
22 and the surrounding area. The plant had a direct
23 impact in terms of the suppliers it used and services
24 it paid for. Small businesses in the area depended on
25 the plant as an important part of their customer base.

1 Jobs at the plant also paid good wages and benefits,
2 enabling workers to lead decent middle class lives,
3 buy homes, send their kids to college and save for
4 retirement.

5 These are the kind of jobs that support an
6 entire community as families are able to pay their
7 medical bills, buy school supplies, get their cars
8 serviced, even spend a little here and there on a
9 restaurant meal or a movie. The plant and its workers
10 were also an important source of tax revenue for the
11 city, the county and the state, supporting everything
12 from school teachers' salaries to road construction.

13 The Tyler Economic Development Council
14 commissioned a study of the impact of the Goodyear
15 plant to build support for the facility when it was
16 threatened with closure. The study is available in
17 our prehearing brief, including the staggering
18 financial loss in dollars resulting from the closure.

19 Among the findings of the study was the fact
20 that each job at the Tyler plant was estimated to
21 support three to five more jobs in the community. The
22 Goodyear workers who were laid off have struggled to
23 find anything even comparable to the jobs we had at
24 Goodyear.

25 A lot of people went back to school and are

1 still getting training. Some of them signed up for
2 training to work in the oil field in Kilgore, but that
3 has since declined. A few of our workers were able to
4 get jobs at other manufacturing facilities in the
5 area, but virtually all those plants have now had
6 layoffs as well. A number of people just moved away
7 in the hopes of finding better opportunities
8 elsewhere.

9 The real impact of the closure has been
10 cushioned somewhat by the severance and unemployment
11 benefits we've been drawing down, but as those
12 benefits have run out the economic reality will really
13 start to sink in for the rest of the community.

14 I don't know what the future holds for
15 Tyler, but I do believe that other plants and other
16 communities can avoid the pain we've suffered. Our
17 industry can compete and it can thrive, but it cannot
18 do so if the surge of imports from China is allowed to
19 continue at its current pace.

20 With a small window of relief, the kinds of
21 improvements we were making in our plant can start to
22 take hold elsewhere. Investments can have the time
23 they need to reap their return in the marketplace, and
24 the industry can get back on its feet.

25 Without relief, however, I'm afraid that the

1 story of our plant in Tyler, Texas, will be doomed to
2 repeat itself in communities across this country.
3 With the help of the Commission, we can avoid that
4 outcome.

5 Thank you for your attention.

6 MR. STEWART: Madam Chairman, that concludes
7 our direct testimony.

8 CHAIRMAN ARANOFF: Thank you very much. I
9 want to express a welcome to this morning's panel and
10 thank you all for taking the time and making the
11 effort to be with us today to answer our questions.

12 I still don't see either of the other two
13 congressional witnesses that we were expecting before
14 noon. They may turn up, but for now we will begin the
15 questioning with Commissioner Okun.

16 COMMISSIONER OKUN: Thank you, Madam
17 Chairman, and I join the Chairman in welcoming all of
18 you here today, in particular those workers who have
19 joined us, students and other interested observers.

20 I hope you appreciate, as I do, that we
21 conduct these investigations with public hearings and
22 transparent procedures, and at the end of the
23 investigation there will be a public opinion that
24 you'll have the opportunity to read that explains our
25 reasoning, whatever that is.

1 With that, Mr. Stewart, I'd like to start
2 with you and your witnesses. To help me better
3 understand the conditions of competition in the tire
4 market as I perform my analysis and also to evaluate
5 both the arguments you've made and the arguments that
6 we have heard and will hear from those opposing the
7 petition, let me start.

8 I know that as part of your presentation on
9 causation you went through some of the Respondents'
10 arguments about what this market looks like, so I
11 wanted to start there because again when I read the
12 different information in the tire market reports and
13 the various publications that have been presented this
14 looks like a market where there is --

15 Well, I'd like that market described for me,
16 and help me understand where different tires or the
17 size of the different markets. Let me just use some
18 of the ways it's been described, and you and your
19 witnesses can help me understand what's the best way
20 to look at it.

21 It's a market where some of the market
22 information describes this as a good, better, best
23 market. There's a lot of talk about the major or the
24 flagship brands versus private labels, which you've
25 talked about, versus associate brands. A number of

1 the attachments have given market share that would be
2 associated with those different tiers you might call
3 them, or the Respondents have called them that.

4 Let me open it up to you to say first help
5 me understand this market and where the domestic
6 producers are focused. Do they have more tires going
7 into the major flagship brands? Has private label
8 grown or shrunk overall? Direct me to what I should
9 be looking at in the record to figure that out.

10 MR. STEWART: Thank you for the question.
11 Let me take a first swipe at it, if you will.

12 Starting with the petition, we had pulled
13 off of the web page actual product availability in a
14 particular account, and that account happened to show
15 the country of origin so it was useful for us in terms
16 of petition purposes trying to see whether or not
17 product that came from China appeared to be lower
18 priced than the domestic product.

19 You'll find that information summarized on
20 pages 22 and 23 of the petition, and the raw data is
21 contained in Exhibit 24.

22 COMMISSIONER OKUN: I have that.

23 MR. STEWART: This case, as far as we
24 understand it, and obviously we have the limitation
25 that we are here representing the workers, not the

1 companies, and so your staff has just sent out a
2 supplemental questionnaire asking information on all
3 of the points that I think you're going to cover,
4 which I believe will provide you the answer.

5 We understand that different companies look
6 at the market differently. Some companies may think
7 that there's a good, better, best. Some may think
8 there's four categories. What you will see in the
9 information if you look at it, for example, in the
10 petition is that companies on their flagship brands,
11 and this is similar to what you saw in the OTR Tire
12 case that we had for Titan and that Bridgestone was a
13 supporter in, is that you do have "flag" brands.

14 Obviously Goodyear and Bridgestone and
15 Michelin put a lot of money into their brands.
16 Michelin has said in their annual report that they
17 think that they get a 10 to 15 percent premium. But
18 those companies also have associate brands.

19 In the case of Bridgestone they bought
20 Firestone. In the case of Goodyear they bought
21 Uniroyal and Kelly. In the case of Michelin they have
22 Uniroyal and B.F. Goodrich. Those tend to be kind of
23 viewed by some as second tier. Whether they're really
24 second tier or not, is unclear.

25 All of these companies also provide to

1 certain distributors or retailers private brands,
2 whether that be Sears Roebuck, whether that be
3 WalMart, whether it be Costco, whether it be some of
4 the people who will be testifying this afternoon.

5 How many private brands you choose to
6 produce or not produce will vary over time and will
7 vary by company in terms of whether or not you can
8 make money on the private brand. Those private brands
9 have been identified by distributors as also having
10 good, better, best products.

11 If you look at what we had in the petition,
12 one of the examples that is on the third page of
13 Exhibit 24: what you would see is that the flagship
14 brands of these companies have good, better, best
15 products that they sell so as is typically true in
16 markets with brands, brands end up covering a wide
17 waterfront.

18 COMMISSIONER OKUN: Okay. Help me just in
19 that so I understand that. So the companies have --
20 let's say even the flagship brands all have --
21 different tires which have different size, speed
22 rating, load factors and others, right?

23 MR. STEWART: Yes, but what I'm talking
24 about is if you take the same tire, same load rating,
25 same speed rating, okay?

1 Let me just give you two examples that were
2 in our petition that came off of this one web page,
3 and I'm sure that if you got other web pages or you
4 got distributors to identify every product that they
5 handled you'd find that everybody has a variety of
6 brands that they carry and that they come in a variety
7 of price points.

8 But on page 3 we show a whole series of
9 products for a product that is listed as 225/60R16,
10 and there were two Goodyear products. One is the
11 Goodyear Eagle LS, and it's for a 97S, and this
12 retailer is offering it for \$98. Well, we believe the
13 Eagle LS is kind of either the better or best in the
14 Goodyear offering on this particular tire type.

15 If you go down the page you will find that
16 Goodyear has another product that they call their
17 Integrity -- same item, same 97S -- which is offered
18 by this same retailer for \$85.

19 So our understanding is that Goodyear brand
20 will have Product A saying Goodyear that fits a
21 certain tire, has a certain speed rating, certain load
22 rating, that will have certain characteristics that
23 they will say is kind of our good product, and they
24 have other products that will have other
25 characteristics, but the same speed rating, same load

1 rating, that will have a different name for the
2 product, the Eagle LS in this case, that carries the
3 premium product.

4 COMMISSIONER OKUN: Do you think, Mr.
5 Stewart, that it is the case that a flagship brand
6 with what has been described in the literature as an
7 ultra high performance tire is competing at this time
8 with Chinese product in this market?

9 MR. STEWART: Well, first, the ultra high
10 performance tires are about a quarter -- I believe are
11 about a quarter -- of the market as we understand what
12 has been in the public data, and there are Chinese
13 products that are ultra high performance. The
14 products that are --

15 COMMISSIONER OKUN: Do you know what percent
16 that is? Have you seen anything that would --

17 MR. STEWART: I don't know whether we have
18 put that in our materials or whether we have seen that
19 in data that we've looked at, but the Chinese products
20 are across the spectrum at this point.

21 My point in looking at these two, the two
22 examples that are on that page, is as you get
23 information back from the producers in the
24 supplemental questionnaire as to what percentage they
25 have in the tiers you will have better answers than I

1 can divine for you on behalf of the workers.

2 What we do know from the USW is that all of
3 these companies produce products, whether they are
4 their "premium" brand or their flagship brand. They
5 have other brands that they have bought and inherited
6 through mergers, and they all produce private brands
7 as well, and within those brands the companies may
8 market them on a good, better, best within a single
9 brand.

10 COMMISSIONER OKUN: And so let me just make
11 sure. As you know, one of the cases that the
12 Commission has seen at the 421 was Brake Drums and
13 Rotors where the Commission found there was a premium
14 and an economy line.

15 Is it your testimony that no such division
16 can be made in this case and that the U.S. is
17 producing the tires that the Chinese are bringing?
18 Can you give me any percentages of where the Chinese
19 are competing with the U.S. tires?

20 MR. STEWART: Well, if you take a look at
21 the tire factories that have been closing, these have
22 been tire factories that in many cases have produced
23 exactly the tires that are coming in from China. The
24 Tyler, Texas, plant, which was a nine point --

25 COMMISSIONER OKUN: Right. Which was an 06

1 tire. So I guess I'm trying to understand.

2 Well, my red light has come on. I will come
3 back to that with regard to the plant closings and the
4 sizes. Thank you very much for all those answers.

5 CHAIRMAN ARANOFF: Commissioner Lane?

6 COMMISSIONER LANE: Good morning. I too
7 welcome all of you to this hearing today.

8 Mr. Stewart, I'm going to start with you and
9 perhaps Mr. Gerard. Why are a number of producers not
10 here today in support of this petition?

11 MR. GERARD: I want to answer this as
12 truthfully as I can.

13 COMMISSIONER OKUN: And that's why I'm
14 asking you. That's what I expect from you, Mr.
15 Gerard.

16 MR. GERARD: A number of them aren't here
17 because they also have facilities in China producing
18 various products, not just tires. To be very blunt, a
19 number of them have said that they're concerned about
20 Chinese retaliation. Period. End of story.

21 The data that you have is data that we
22 gleaned from them, and they were willing to cooperate
23 in helping to provide us the data, but they didn't
24 want to be asked questions about it. That's about as
25 straightforward as I can be.

1 Fundamentally I'm both disheartened and
2 angry about that; that for me to believe that America
3 has gotten to the point where domestic producers are
4 intimidated by another country at the request to
5 enforce the trade rules that both our Congress and
6 that country agreed to, that as at least two or three
7 Senators testified today were conditions upon which
8 they promoted and supported China's accession into the
9 WTO and PNTR.

10 I'm not surprised by it because I've had to
11 deal with that from a number of other producers in the
12 glass industry, in auto parts industries, who have
13 come to the union and asked us to take their case
14 because they're intimidated by that environment. I
15 think the fact that they're not here speaks volumes.

16 And also I would argue that some of the
17 recent activities by China in attempting to circumvent
18 this process in coming to talk to the Commission I
19 think improperly -- and I congratulate you for doing
20 your job on that -- by going to meet the Chinese
21 Ambassador of America -- America's Ambassador to China
22 I should say -- and I believe in trying to intimidate
23 us through that process. I'm offended by it, I'm
24 angry about it, and I'm disappointed by it.

25 COMMISSIONER LANE: Okay. Mr. Stewart, do

1 you want to add something, and then I have a question
2 for you.

3 MR. STEWART: Thank you. Why companies are
4 not here today under the statute -- at the end of the
5 day -- I respectfully suggest is not a relevant
6 consideration.

7 Back in 1958, there was uncertainty whether
8 or not workers could bring a case, and the entire
9 Tariff Commission at that time was in a hearing on the
10 Trade Agreements Act renewal before then chairman of
11 the Ways and Means Committee, Wilbur Mills.

12 The dialogue was going back and forth as to
13 do you permit workers to bring cases, and the
14 Commission was asking well, why would we do that when
15 the company could do it; the fact we had a case and we
16 denied the workers the ability to bring a case because
17 we figured if the companies didn't show up we couldn't
18 get the data.

19 The chairman had a very perceptive reason
20 why workers ought to be able to bring cases, which may
21 sound familiar 51 years later. "I can conceive of a
22 situation wherein the only people working for the
23 particular industry who might be concerned in an
24 investigation being made of whether imports were
25 affecting the industry because the management of the

1 industry itself might have interests both abroad and
2 here."

3 We're in a globalized market environment
4 where lots of companies have that situation. The law
5 was changed in '58 to give you subpoena power for the
6 express purpose to permit workers to come forward when
7 they perceived there was a problem to be able to get a
8 factual determination and the imposition of a
9 safeguard, if necessary.

10 COMMISSIONER OKUN: Okay. Mr. Stewart, do
11 you believe that in the absence of some producers
12 testifying today that the Commission will have an
13 accurate record and an accurate portrayal of what is
14 happening in the marketplace today?

15 MR. STEWART: The Commission staff has done
16 a great job in collecting information on an issue that
17 we believe is a red herring issue raised by those in
18 opposition. They have done the correct thing which is
19 to go out with a supplemental questionnaire. So yes,
20 I believe you will have all the information you need
21 to make a correct decision.

22 As is true in any situation, you have in a
23 questionnaire both facts and you have articulation of
24 views, and presumably as you should do you will give
25 more weight to the facts than you will to our

1 articulation of views where people may have conflicted
2 views.

3 COMMISSIONER OKUN: So you think with the
4 supplemental questionnaires we will be able to get
5 accurate facts on the argument about the peers and
6 where the competition is?

7 MR. STEWART: Yes, you have a lot of
8 information that's already in the record on that issue
9 and the confidential questionnaire responses, many of
10 which have price lists attached to them, and so there
11 is a great deal of information that is already in the
12 record and we have supplied a lot of information both
13 in the petition and in our prehearing brief, so we
14 believe you already have enough information to resolve
15 the questions that have been raised but certainly the
16 supplemental questionnaire will provide you
17 information from the companies and from the import
18 community.

19 COMMISSIONER OKUN: Okay. The staff report
20 indicates that a number of the facilities in the
21 companies make substantial investments in their
22 facilities and then at a later time they had to close
23 those same facilities.

24 Could you give me some sort of a sense as to
25 why that happened? Did people misread the market or

1 misread demand, or why did that happen?

2 MR. GERARD: I can start and Tom can finish.
3 That was a function of our collective bargaining
4 strategy as the union with our major sectors, we have
5 put investment back in the facilities on what we would
6 call the top tier of our negotiating agenda. And so
7 in many of these where we've negotiated that, whether
8 it was '03 or '06, when those companies made the
9 investments we absolutely didn't have the huge kind of
10 surges that we've seen over the last three to four
11 years.

12 And although some of those investments were
13 made, the cost of making the investment was more than
14 the return the company would make when we saw our
15 facts showed in the slide presentation the collapse of
16 pricing and the collapse of the market. And so when
17 we couldn't sell tires at even slightly above the cost
18 of raw material, as Tom said, in some of these cases
19 under these conditions our members could work for free
20 and the company couldn't earn the cost of capital let
21 alone the cost of raw material.

22 So I don't think we misread the market. We
23 underestimated the surge. Tom.

24 MR. CONWAY: We're facing closure now on
25 some plants where there has been some investments

1 going on, and we're working our way through those
2 closure agreements, and I guess that's what the staff
3 may be talking about; some capital investments done in
4 past year at Union City and at Opelika, and others
5 where we have bargained a lot of major capital
6 commitment. That's still going on. Some of the pace
7 has been slowed. Frankly, that's kind of '09, year-
8 to-date stuff, and cash flow not really during the
9 period of investigation. But you know, you can have
10 the best of equipment and you can have the best of the
11 facilities there, and as our charts show if your cost
12 of materials are nearly the cost of the tire coming in
13 you can invest in it all day long and not get there.

14 So in spite of bargaining, what we think
15 have been, you know, very good capital investment
16 numbers in places and, you know, giving management a
17 lot of sort of latitude and allocation and how to best
18 apply that capital we still struggle with what goes on
19 in the market.

20 COMMISSIONER OKUN: Okay, thank you.

21 Madam Chair, I will wait until the next
22 round to start my other questions.

23 CHAIRMAN ARANOFF: Commissioner Williamson.

24 COMMISSIONER WILLIAMSON: Thank you, Madam
25 Chairman. I join my fellow Commissioners in welcoming

1 you to this hearing, and my appreciation for taking
2 time to come here.

3 I would like to start by getting a better
4 understanding about trends and the nature of the
5 production in China versus the tires that are produced
6 in the United States to the extent that you can
7 generalize it, and are there significant differences
8 between the composition of tires produced in the U.S.
9 and those imported from China in terms of B ratings,
10 size, load indexes, et cetera?

11 MR. STEWART: Anytime you have a major
12 foreign supplier choosing to go after market share
13 from a long distance you usually find a scenario where
14 a handful of high-volume part numbers are the first
15 part numbers that are attacked. This was happening in
16 cases that our firm was handling way back in the
17 1970s. Not surprisingly, in 2009, it remains the
18 case.

19 As I mentioned earlier, the staff report
20 shows -- we had identified in the petition what were
21 identified as the top 10 selling replacement tires in
22 the United States by one of the journals that follows
23 that, and the Commission sent out information on six
24 of those 10, and to give you an idea of how focused
25 the imports had been, you had 32 percent of imports

1 from China were in those six tire sizes, possibly with
2 different low-gradings and possibly with different
3 speed ratings, although because there were some
4 flexibility in the product designation, and 14 percent
5 of domestic tires were in that same zone.

6 Our understanding from what we have seen in
7 price lists and seeing from catalogues and seen on the
8 web pages of particular retailers is that the Chinese
9 offer quite a full range of products. If you look at
10 imports, the imports started concentrating in the
11 smaller sizes and have been moving their way up to
12 where they are shipping more of the larger sizes, and
13 as far as we can tell from the listings they do, a
14 variety of speed ratings and a variety of load
15 ratings.

16 So we believe that they have the ability to
17 be quite comprehensive in terms of what they can
18 export here, but like more exporters they have focused
19 first on high-volume part numbers, and those high-
20 volume part numbers are also high-volume part numbers
21 for U.S. producers.

22 The staff report, public staff report does
23 not provide you a summary of the volume reported in
24 the questionnaire responses on those six part numbers.
25 We would urge the staff to include that summary in its

1 final staff report as we think you will find that
2 enlightening to take a look at.

3 COMMISSIONER WILLIAMSON: What about in
4 terms of nonsubject imports?

5 MR. STEWART: Nonsubject imports have been
6 flat to declining. Over the five years they haven't
7 declined as rapidly as the domestic industry so there
8 is a slight pick up in terms of market share overall.

9 COMMISSIONER WILLIAMSON: Actually I was
10 thinking more about the composition. The analysis you
11 just --

12 MR. STEWART: Our understanding is that
13 those products are also across the board, so full-size
14 range, in fact this size range breakouts that show up
15 in the import statistics are reasonably comparable
16 between nonsubject and subject, and certainly on speed
17 ratings and that sort of thing. Because some of the
18 products imported are also from the big multinational
19 companies, you could have Ultra I performance just as
20 you could from China, but you don't have statistical
21 breakouts on that so we don't know what the volume
22 would be in that category. We know the overall volume
23 of a subset like Ultra I performance is 25 percent or
24 less.

25 COMMISSIONER WILLIAMSON: For things like

1 speed ratings, how difficult is it for a plant to say
2 maybe move up the speed rating scale or down the speed
3 rating scale?

4 MR. JOHNSON: Stan Johnson. I'm
5 International Secretary-Treasurer of the Steelworkers
6 Union.

7 I have experience in the rubber industry
8 since about 1975. Speed rating is based upon the
9 composition of components within the tire typically,
10 and those components can be modified relatively easy
11 within the manufacturing process. So the ability to
12 go up or down in speed rating would be a relative easy
13 accomplishment until you get to the extreme speed
14 rated tires, you know, 150 mile an hour plus. But
15 anything beyond the extreme would be relatively easy
16 to make a shift from one to the other.

17 COMMISSIONER WILLIAMSON: Okay. And that
18 would be true in Chinese plants as well as in U.S.
19 plants, to your knowledge.

20 MR. JOHNSON Yes. It's a matter of
21 technical change and component change and I'm certain
22 the Chinese would have the same ability to make those
23 tires as anyone else anywhere else in the world. All
24 of the components are sourced worldwide typically
25 within a tire, and China would certainly have access

1 to those same components, the same components that
2 anyone in the U.S. would have access to.

3 COMMISSIONER WILLIAMSON: So that means that
4 say the U.S. plants that have been moving upscale if
5 the market weren't there they could move back down?

6 MR. JOHNSON: Yes. I believe that most of
7 the facilities could very quickly modify and pick up
8 through existing capacity the ability to pick up these
9 tires that are currently being produced outside, yes,
10 particularly going down in speed rating and size would
11 be easier than going up, I guess.

12 MR. GERARD: I just want to make sure that
13 we don't leave you with the impression that speed
14 rating is the only way you move up and down the value
15 chain.

16 COMMISSIONER WILLIAMSON: I was thinking
17 about that.

18 MR. GERARD: Yes. It's one of many, many
19 different components in the tire, and as Stan said,
20 it's a function of how you build the tire. Tires are
21 actually built and the kind of structure you put into
22 the chemical compound of the inputs to make it a
23 certain quality of rubber, then how you put those
24 different strands -- use that term, or bands of rubber
25 on the tire as you build it. So although it's a

1 technically easily understood process, it's not the
2 only thing that determines the quality of the tire.

3 COMMISSIONER WILLIAMSON: Okay. What would
4 be the other important considerations that -- in
5 addressing the question of the flexibility to move
6 between different types of tires?

7 MR. STEWART: If I may, I think maybe to
8 provide some more clarity, typically speed rating or
9 load rating, most people go to purchase a tire will go
10 to purchase a tire in a specific size, and they will
11 price that tire, and so these tires that are coming
12 from China are directly in competition with any tire
13 that exists within that specific size in the U.S.
14 regardless of good, better best or anything in
15 between.

16 So most producers are currently producing
17 these types, sizes of tires in some range of good,
18 better best that is in direct competition, so they can
19 change the product mix of that particular unit up or
20 down, and meet any alleged void that would be left in
21 the market. Does that go to your question?

22 COMMISSIONER WILLIAMSON: Okay.

23 MR. HOOVER: If I could, Mr. Williamson.
24 When a customer goes into the store to buy a tire,
25 they look at how many miles they can get out of that

1 tire. That is an important consideration more so
2 typically than load or speed rating. They are also
3 extremely interested in the ride the tire brings them,
4 how the tire matches up to the particular car they own
5 as far as handling. So I'd tell you that the mileage
6 out of the tire and the ride are probably the biggest
7 indicators.

8 COMMISSIONER WILLIAMSON: Okay. And that's
9 not something that strictly -- you can't point to a T
10 or an S or something like that to determine that.
11 Okay, thank you.

12 MR. HOOVER: That's right.

13 COMMISSIONER WILLIAMSON: I just want to
14 express my appreciation. Most of us have visited tire
15 plants in the last months and have gotten a feel for
16 it and that's been extremely helpful for us in terms
17 of understanding it.

18 My yellow light is on so why don't I save my
19 questions for later. Thank you.

20 CHAIRMAN ARANOFF: Okay. Before we continue
21 with the questioning, we have two additional
22 congressional witnesses present. So we will proceed
23 to hear those witnesses.

24 MR. BISHOP: The Honorable Louise M.
25 Slaughter, United States Congresswoman, 28th District,

1 New York.

2 CHAIRMAN ARANOFF: Good morning,
3 Congresswoman, and welcome to the Commission. I can
4 still say good morning for three more minutes. Can
5 you please turn on your microphone?

6 MS. SLAUGHTER: All right, let me say again
7 how happy I am to be here with you this morning.
8 Thanks for the invitation.

9 My name is Louise McIntosh Slaughter. I
10 represent the people of the 28th District of New York,
11 which includes Rochester, Niagara Falls and parts of
12 Buffalo.

13 Goodyear-Dunlop Tires of North America has a
14 major facility in my district, and on behalf of the
15 over 1,000 workers at that facility as well as their
16 families and their neighbors I welcome the opportunity
17 to appear before you today to express my strong
18 support for United Steelworkers' Section 421 petition
19 on certain passenger vehicle and light truck tires
20 from China.

21 When the petition was brought to my
22 attention, I was able to examine the facts, and I
23 immediately thought this should be a no-brainer. If
24 the surge in consumer tires has an adverse affect on
25 American workers, they do not justify relief under

1 this statute, then what will?

2 I hope you will come to the same conclusion
3 as what I know will be a thoughtful and thorough
4 investigation.

5 In 2008, China exported nearly 46 million
6 consumer tires with a value of more than \$1.7 billion.
7 This was 215 percent more than the 2004 level of
8 imports by a volume and 295 percent more by dollar
9 value. In this period the domestic production of
10 consumer tires declined by over 25 percent, and the
11 domestic industry's share of U.S. tire market declined
12 from 63 percent in 2004 to below 50 percent in 2008,
13 meanwhile, Chinese producers' share of U.S. consumer
14 tire market rose from less than 5 percent to more than
15 17 percent.

16 As an inevitable result, American plants
17 closed. American workers were sent home with an
18 uncertain fate. Over 4,400 workers lost their jobs
19 during the four years stretch, and an addition 2,400
20 faced imminent job loss in 2009. These layoffs are
21 coming during the worst economic crisis since the
22 Great Depression, and the plight of these workers the
23 bottom line is that it was no mere coincidence that
24 these plant closings occurred over the exact same
25 period as the flood of Chinese imports claimed an ever

1 larger share of the U.S. market.

2 As I witnessed these disturbing trends, my
3 heart is with the workers at the Goodyear-Dunlop plant
4 in Buffalo. The plant opened in 1923. More than
5 1,000 men and women worked there producing a variety
6 of tires, including those that are the subject of this
7 investigation. They are hard-working skilled
8 productive employees who make high-quality products,
9 and now they're looking at the very real possibility
10 of job loss, not because they can't compete, but
11 because the import surge from China caused market
12 destruction, exactly the type of situation that
13 Congress had in mind when Section 421 was adopted in
14 2000. Indeed, just last November Goodyear announced
15 it was laying off 150 workers and scaling back
16 production.

17 For this reason, I support the USW's request
18 for an annual import quota of 21 million consumer
19 passenger tires for a three-year period. This would
20 simply return imports from China to the 2005 level and
21 give U.S. producers a chance for a change to adjust.
22 they can use this time to restore their operating
23 income to reasonable levels, and invest in needed
24 plant and equipment upgrades and avoiding layoffs or
25 shutdowns. This will not only help workers in my

1 district but also tire manufacturing facilities
2 throughout the country. They will all benefit from
3 having a domestic source of high-quality competitively
4 priced tires.

5 Madam Chairman and Members of the
6 Commission, my district has seen more than its share
7 of job losses as a result of unfair foreign
8 competition and dumping. Once great companies have
9 downsized, moved to China and other countries, or
10 simply closed their doors, leaving people struggling
11 to make ends meet. The ripple effect on small local
12 businesses has resulted in even more job losses.

13 We are told so often by economists and
14 corporate executives and political leaders from both
15 parties that "free trade" in quotes is good for the
16 country in a broad sense, even when particular regions
17 or sectors are sacrificed. It is not good for the
18 country as a whole if manufacturing continues on the
19 current downward spiral of over 4 million jobs lost
20 since 2001. I do not believe that any country can
21 consider itself a super power if it produces nothing
22 that it needs but is absolutely intent to have to buy
23 from manufacturers elsewhere, and in many cases, and
24 as I said, extra cost to our own producers, if we have
25 any left.

1 Manufacturing provides high-wage jobs for
2 millions of Americans. Manufacturing make possible
3 the creation of a strategic industrial base of
4 products that are crucial to national security, and
5 that I think is something that is often but should not
6 be overlooked. Manufacturing is the leading employer
7 in thousands of communities across America, but that
8 is fading very fast. I think now manufacturing
9 amounts to less than 10 percent of GDP.

10 Restoring and sustaining a healthy
11 manufacturing sector is essential for our long-term
12 national economic prosperity, and the nation is, as I
13 said before, will not be a super power if it produces
14 nothing. Trade remedies must be used in accordance
15 with what those of us in Congress spelled out for you
16 without fear of retaliation when they are fairly
17 applied.

18 Trade remedies impact less than 1 percent of
19 our trade in a typical year. However, these laws that
20 provide redress against egregious foreign trade
21 practices are a critical component of our economic
22 recovery. All national rely on remedies to address
23 distortions that are inevitable in a world where every
24 year trillions of dollars worth of goods and services
25 move between well over 100 diverse countries at

1 various stages of economic development.

2 WTO was created not only to promote trade
3 but also to ensure that rules that govern trade are
4 available to all, and mechanisms for settling disputes
5 are as well. Essentially trading nations have
6 neutrally agreed that there must be ways to ensure
7 some level of fairness and to protect their citizens
8 from potential economic catastrophe.

9 Clearly the 421 investigation before you is
10 entirely consistent with U.S. rights under the rules
11 of the WTO, rules agreed to by China as a condition of
12 their accession to the WTO. Section 421 was put in
13 place when Congress voted to extent the permanent
14 normal trade relations to China almost 10 years ago.
15 I opposed China's entrance. I worried that the trade
16 deficit with China was already disturbingly would
17 continue to ramp up to extraordinarily levels, and it
18 has.

19 Section 421 was created for precisely the
20 kind of import surges and the impact on jobs that we
21 see now in the domestic consumer and light truck tire
22 market. In the case before you the proper application
23 of this statute would help save this important sector
24 of our economy. The cost of not asking is simply too
25 great.

1 Earlier in this decade I watched as another
2 company in the Buffalo area, Buffalo Color fell victim
3 to predatory trade practices. Buffalo Color, the last
4 company in the United States that produced indigo dye
5 for denim, the very last one was forced to close its
6 doors, not because of inferior product, but because it
7 couldn't compete on a level playing field. It closed
8 because my government failed to enforce its own trade
9 laws and to provide relief from the dumping that they
10 deserve. Even though this case had been decided in
11 their favor, we were totally unable before that
12 company went under to save it and to give it the
13 relief that it had won.

14 Now I want to be able to go back to my
15 district and the people at the Goodyear-Dunlop plant
16 in Buffalo and tell them that this time the rules of
17 trade have been fairly applied for their benefit, and
18 I urge you to make an affirmative determination and
19 recommend the remedy requested from President Obama
20 who campaigned on the promise that our trade laws
21 would be vigorously enforced. If you do your part, I
22 have faith that he will do his.

23 Thank you so much for giving me the
24 opportunity to testify.

25 CHAIRMAN ARANOFF: Thank you very much.

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1 Are there questions for the congresswoman?

2 Thank you for coming today.

3 MR. BISHOP: The Honorable Tom Cole, United
4 States Congressman, 4th District, Oklahoma.

5 CHAIRMAN ARANOFF: Good morning,
6 Congressman. Welcome to the Commission. Please turn
7 your microphone on.

8 MR. COLE: Good afternoon, Commissioners,
9 and thank you for having me here today. I appreciate
10 the opportunity to come before you and express my
11 support for the Section 421 petition on passenger car
12 and light truck tires. I appear before you today on
13 behalf of 4,200 workers in my state whose jobs could
14 well depend on your determination in this
15 investigation. I believe Section 421 must finally be
16 enforced the way that Congress intended it to be
17 enforced.

18 I believe in free trade. Open markets and
19 growing trade relationship have served our country
20 well, and will continue to do so in the future. The
21 United States has always been one of the most open
22 markets in the world. Competition helps spur
23 innovation and creativity that has kept America on the
24 cutting edge. To continue to do so, we must be really
25 smart about the way in which we conduct our trade.

1 Being smart about trade also means enforcing the rules
2 that our trading partners have agreed to. One of
3 those rules is Section 421 safeguard that Congress
4 adopted as enforcement mechanism when it approved the
5 extension of the permanent normal trade relations to
6 China in 2000.

7 That was not an easy vote for many members
8 of Congress. While they saw the benefits of China
9 becoming part of the World Trade Organization and
10 being held accountable to its rules, they also
11 recognized that China was in some sense a special
12 case. China's size, its government in directing the
13 economy with subsidies and other means, and a
14 staggering rate of growth as a manufacturing nation
15 made it likely that there would be surges of various
16 products. These surges could quickly overwhelm
17 corresponding domestic industries and destroy in a few
18 years jobs that had sustained communities for
19 literally generations.

20 The only way many members of Congress could
21 vote for the PNTR with China was to have a safeguard
22 against surges that could be proved to be injurious.
23 The Chinese government understood the weight with
24 which members cast their vote and China agreed to
25 abide by the terms of these safeguard provisions now

1 contained but never enforced in 421.

2 Now let me illustrate why the timely
3 application of Section 421 is so important in the
4 matter before you. As is well detailed in the
5 petition, from 2004 to 2008, there was a rapid
6 increase in passenger vehicle and light truck tires
7 from China. Imports surged by 215 percent in terms of
8 volume and by nearly 300 percent in terms of dollar
9 value. That had a huge impact on domestic producers.
10 Suddenly the high-quality and competitively-priced and
11 safe tires made in U.S. factories went unsold. This
12 made it impossible to keep factories going.

13 In the five-year period covered in the
14 petition, four factories shut their doors, including
15 the Bridgestone Firestone plant in Oklahoma City.
16 That closure cost 1,454 workers their jobs. Today two
17 more U.S. facilities are slated to close and many more
18 may be imperiled if the surge is allowed to continue.

19 In my state there is a Goodyear facility in
20 Lawton which makes tires for passenger cars. Some of
21 the tire production facilities make a variety of
22 products, but at Lawton all they make is the kind of
23 tires that are the subject of this particular 421
24 investigation. This means that facility could be
25 especially vulnerable to new spikes in the volume of

1 Chinese imports. There are 2,400 men and women who
2 work there. I am here today because I do not want to
3 see them lose their jobs because of our failure to
4 enforce our trade laws.

5 In Admore, Oklahoma, a Michelin factory
6 makes passenger and light truck tires, again the very
7 type of tires that are subject to this investigation.
8 There are 1,800 workers in that facility.

9 The bottom line is that the recent surge of
10 Chinese-made imports has already cost over 1,400
11 Oklahomans their jobs. If we do not implement the
12 remedy the law provides another 4,200 in my state
13 could lose their jobs. During a deep recession, I
14 think it's both unfair and reckless to sit back and
15 watch people lose their jobs when there are legitimate
16 ways to prevent that.

17 Section 421 was devised for the kind of
18 unique distortions in global trade we knew would be
19 possible when China entered the WTO. If we apply this
20 safeguard, we can give these facilities a chance to
21 weather the disruption caused by this abnormal glut of
22 imports and stay in business. Communities like Lawton
23 and Ardmore deserve the chance to compete on a level
24 playing field. I am asking you to apply these
25 safeguards to restore that level field, and if you do

1 so, I urge the President to follow through by applying
2 the relief recommended in the petition, and I'm quite
3 certain that he will.

4 As I stated at the beginning of my
5 testimony, I have always supported free trade. I
6 believe in the future of American work and I believe
7 the future of American workers depends on gaining
8 access to new markets, and that includes China. China
9 is the United States's fourth largest export market,
10 and Oklahoma's seventh largest market. Oklahoma State
11 Government operates an international trade office in
12 China where over 100 Oklahoma companies are currently
13 conducting business.

14 I look forward to a strong and growing trade
15 relationship between Oklahoma businesses and China,
16 but if injurious import surges are occurring from
17 there, we must use the tools to which our two
18 countries have agreed to make sure that the
19 relationship operates in a fair and more balanced
20 manner.

21 We need to make sure we sustain and grow our
22 manufacturing base so hard-working people and
23 competitive companies can make the products that will
24 go to these growing markets. If we allow our
25 industrial base to crumble because we fail to use the

1 tools we have to preserve it, it would be a tremendous
2 disappointment. For the sake of the 4,200 workers in
3 Oklahoma and the country's manufacturing heritage, let
4 us not make that mistake.

5 Thank you very much, Commissioners.

6 CHAIRMAN ARANOFF: Thank you very much.

7 Are there questions for the Congressmen?

8 Thank you for coming this afternoon.

9 MR. COLE: Thank you.

10 CHAIRMAN ARANOFF: We will now resume where
11 we left off and continue the questioning with
12 Commissioner Pinker.

13 COMMISSIONER PINKERT: Thank you, Madam
14 Chairman, and I, too, would like to thank the panel
15 for appearing here today and helping us to understand
16 what's going on in this industry.

17 I'd like for somebody on the panel to
18 respond to the argument that the domestic industry has
19 voluntarily abandoned the mass market segment of the
20 market.

21 MR. STEWART: Well, let me start. I believe
22 that the testimony that you heard from Mr. Conway and
23 others this morning goes directly to that issue, which
24 is if you look at the history of this case, the time
25 period covered. As volume was being lost, you end up

1 with plants that are being underutilized. If you look
2 at the pressure that's on the industry today, which is
3 obviously also related to recessionary effects,

4 You have a lot of underutilized capacity.
5 The union has been forced to negotiate reduced work
6 hours at many of the facilities during this particular
7 time, but as the contracts have come up on union
8 facilities at least the pressure has been, look, we're
9 losing -- we have lost market share. We have
10 underutilized capacity. We can't keep five facilities
11 running or nine facilities running or three facilities
12 running. We have to take one out, and the cause is
13 underutilized capacity and increased imports and we
14 can't find a way to make the product at a price cheap
15 enough for us to capture that business back. That has
16 been the story for plant after plant after plant that
17 has closed down.

18 It's not, gee, we're getting out of the
19 business because it's a profitable business, but we
20 don't want to be in it because we have other
21 profitable business that we'd be in. And from the
22 union's point of view, they don't agree to have plants
23 close that could be made viable, which is the reason
24 that they work as hard as they do with the companies
25 to look for ways to try to find to keep a facility

1 open.

2 MR. CONWAY: this cycle has been going on,
3 and as far as a business strategy, I mean, we are
4 clearly at an odd place here where we are here with
5 ourselves. Typically we have our management
6 counterparts with us to explain the markets and
7 explain their own business strategies and what's going
8 on. But in each one of these rounds of negotiations
9 that we struggled through with these series of plant
10 closures no one is saying to us, our plan is to walk
11 away from this. What they are saying is we just can't
12 do this. We just cannot compete in this climate
13 against this pressure, and against what is, you know,
14 what I believe is really tremendous cohesive pressure,
15 frankly, too, and as these companies expand
16 relationships, global relationships, it puts them in
17 difficult positions.

18 So this, I guess, could be characterized as
19 some sort of a chicken and an egg thing. Did the
20 imports get here first and force the first plant
21 closing, and then does that tumbling begin, and that's
22 the tumbling we've been struggling with just over each
23 round of bargaining, and as we now approach this one
24 too. We are now right in the midst of closing plants,
25 rescheduling plants, taking time off the mills, maybe

1 not directly connected to all the subject tires but
2 certainly connected to what's going on.

3 My point is it gives us a lot of capacity on
4 those plants and in those factories where now we have
5 vital tire machine time. We have many, many, many
6 laid off rubber workers who make tires, who know how
7 to make tires in capacity to come in and pick this up,
8 and the quota will give us the breathing period, as we
9 had in steel to give us a chance to recover, the rest
10 of the pieces are in place and we're sort of poised to
11 do it.

12 Now, it's kind of unfortunate that we don't
13 have a real willing management who seems to be hiding
14 in the shadows on this thing, but they are there and
15 they are alive. I just don't know where they are at
16 today, and we do have a structure and a plan to move
17 forward, and I think it's appropriate that, you know,
18 we think this law is available to us without a
19 management sitting beside us, and I don't think you
20 guys think anything different. So we're not here just
21 for the sport of it as a theater. We have a way to
22 move through, and we have an opportunity to keep some
23 plants open.

24 MR. GERARD: I want to add to the two
25 comments and going back to Commissioner Lane's

1 question to me. I mean, I've been told directly to my
2 face by people who I don't have to name why they won't
3 be here, and that is what it is. But the fact of the
4 matter is that the presentation we made is as a result
5 of data collected from your questionnaires and our
6 analysis of what we've been provided, and you can
7 follow Mr. Stewart's presentation.

8 These plants have been closed as a direct
9 result of the surge of Chinese tires, and that as a
10 result of the closures of these facilities and he
11 reduction in hours there is the unused capacity that
12 with relief we'd be able to put that capacity back to
13 work, and if we don't get relief, and the surge is
14 allowed to continue, I can rest assured that we will
15 end up in the same boat as a result of your decision
16 that we ended up in the coat hanger position, and
17 we're on our way in the welded tube division as a
18 result of President Bush's decisions.

19 This industry is at a tipping point, and if
20 the surge continues and we get drive out of three more
21 facilities, then there won't be the earning capacity
22 to meet the requirements of what both Tom Conway and
23 Ron Hoover have testified about; that we went to the
24 bargaining table and we bargained that company revenue
25 had to be put back into these plants, and we didn't

1 want to be driven out because we were uncompetitive.

2 But damn it all I don't want to be driven
3 out because the people that are shipping into the
4 market are doing so at our cost of raw material. How
5 much more simple can it be? We're having the
6 industrial base of America destroyed by rotten trade
7 deals, and unfair trade.

8 I'm sorry to be emotional about it, but
9 we've lost 7,000 members, and there are other workers
10 sitting back there with 3,000 more that are on their
11 way out the door, and towns and communities are being
12 destroyed. We've put millions of dollars into
13 sacrifice to provide retiree health care. They are
14 not going to get that health care when these plants
15 are destroyed, and we are doing this in a way that if
16 there was ever a reason to grant us a 421, this is it.
17 This is worse. I mean, I'm rambling on, but this is
18 worse, this is worse than what happened to the steel
19 industry and the 210 that you granted us whenever that
20 was, six or seven years ago, and we turned the steel
21 industry around so that it could make steel at one man
22 hour per ton. Now it's on its back again, not as a
23 result of what it has done, and not as a result of
24 what you have done. This is going to be one of the
25 most important decisions that this Commission is going

1 to make.

2 COMMISSIONER PINKERT: Mr. Salonen.

3 MR. SALONEN: Thank you, Commissioner
4 Pinkert,

5 In other proceedings in other Title 7 cases
6 a number of Commissioners have stated that they like
7 companies to provide copies of their business plans
8 because one of the reasons is they want to see what
9 was the company thinking contemporaneously at an
10 earlier period of time when certain events were taking
11 place.

12 I would suggest to you that the
13 contemporaneous statements made by John Rich and the
14 other senior management that accompanied the
15 announcement that plants are going to close reflects
16 what their business plans were; that their business
17 plans were to close those plants because they couldn't
18 compete with the low-cost imports from China.

19 COMMISSIONER PINKERT: I understand that
20 answer and I guess part of my question had to do with
21 whether or not the domestic industry is still in the
22 mass market segments of the market.

23 MR. STEWART: The answer to that is yes,
24 they still are, Commissioner.

25 COMMISSIONER PINKERT: Thank you.

1 My yellow light has come on but perhaps you
2 can address this in the post-hearing. I'm wondering
3 whether given the language of Section 421 we are
4 supposed to be focusing on a very recent period in
5 which there is an increase in imports or whether we
6 should b looking at the entire period.

7 MR. STEWART: Be happy to address that in a
8 post-hearing. I would note that in the case cited by
9 those in opposition there is a lengthy discussion of
10 the 1988 amendment to Section 406 which uses the same
11 language of rapid increase, and the Commission
12 identified three approaches; one of which is you could
13 have a rapid increase in one year, you could have more
14 gradual increase over a longer period, or if you had
15 an up and down kind of a swing, you had a spike in one
16 particular year. We obviously meet a number of those
17 criteria.

18 COMMISSIONER PINKERT: And also in the post-
19 hearing if you could look at the language of the
20 critical circumstances provisions of he statute, not
21 this statute but of the Title 7, and compare and
22 contrast with respect to this issue of a recent period
23 versus the entire period.

24 MR. STEWART: I would be pleased to. Thank
25 you.

1 COMMISSIONER PINKERT: Thank you.

2 CHAIRMAN ARANOFF: A number of my colleagues
3 have touched on this subject but I want to make sure
4 that I understand the answer. There was an April 23,
5 2009 article on the Modern Tire Dealer website, and it
6 was entitled "Will domestic tiremakers back a Chinese
7 tire quota." And the article states, "If
8 manufacturers believe they can profitably make tires
9 in the U.S., they will. That makes the upcoming
10 negotiations between the USW and the tire manufacturer
11 so crucial to the success of the union's petition."

12 Can you just explain what the upcoming
13 negotiations are, when they will take place, and how,
14 if at all, they relate to this petition?

15 MR. GERARD: Well, the upcoming negotiations
16 are about to get underway. We've been preparing and
17 meeting with our committees and there has been some
18 preliminary -- Tom and Ron can talk about that more
19 directly than me. There have been some preliminary
20 discussion about location and timing and all that
21 stuff, and they can talk about the issues that are
22 going to come up.

23 But on the tires that are the subject of
24 this hearing and the presentations that were made by
25 Mr. Stewart, it's clear that on those tires we could

1 work for free at this point, and we're not sure that
2 the companies without relief can stay in that market.
3 And as you well know, if you get driven out of that
4 market and you're not able to earn much more than the
5 cost of your raw material, then that clearly will
6 impact our negotiations, and we've reached a point on
7 some of what we're doing with regards to, as Ron
8 pointed out, reallocation of cost of living into the
9 retiree health care trust, the VEBA, forfeiting some
10 profit-sharing into the retiree health care trust of
11 VEBA. If there are no profits there is nothing that
12 can go into it.

13 So I would venture to say that without
14 relief modernization of the plants is at stake, which
15 is one of the reasons I got a little emotional a
16 minute ago. Retiree health care is at stake, and the
17 viability, at least at this point, three to four more
18 plants is at stake.

19 With relief, I think that we can see
20 negotiations about continued investments back into the
21 facilities. We can continue to think about what will
22 or will not go into the retiree health care program,
23 and possibly a discussion about allocation of product
24 because we clearly have reduced capacity and unused
25 capacity that with relief would allow us to encourage

1 the company to consolidate capacity into certain other
2 facilities and keep those facilities viable.

3 So I don't mean to put this on you, but
4 we're going to bargain in an environment where we're
5 optimistic that we will get relief.

6 CHAIRMAN ARANOFF: The bargaining that's
7 about to happen, is that for the entire industry or
8 only for selected producers?

9 MR. GERARD: It's for the -- it's a cycle,
10 so we start and then all of the collective agreements
11 in the tire and rubber industry are in three-year
12 cycles. They don't all expire at the same time. So
13 theoretically if the bargaining was starting June 1st,
14 by the time we run the whole cycle it may end up being
15 towards the end of the year. We have about -- go
16 ahead.

17 MR. CONWAY: Three companies are in
18 bargaining -- actually beginning now -- and the
19 committee is just starting some work. Goodyear and
20 B.F. Goodrich and Bridgestone Firestone have common
21 expirations. So we will go through the bargaining and
22 start with all three and see where a deal looks like
23 it's going to merge and then kind of focus our
24 attention there, and then try and build something that
25 works for the rest of the industry, and that process

1 begins in June and hopefully we, you now, don't have
2 big problems and we get through it soon enough.

3 CHAIRMAN ARANOFF: Okay, I just want to
4 understand because some of the testimony that you made
5 earlier this morning was that plant closures tend to
6 occur at the end of the contract period, so the whole
7 industry with some spread is on this three-year cycle.

8 MR. CONWAY: Right.

9 MR. GERARD: The reason that occurred in
10 what we'll call the last cycle is that the surges were
11 hitting and the employer in particular, all of the
12 major employers were talking about having to reduce
13 capacity at the same time that we were in
14 bargaining, and we tried to figure out if there was
15 enough sacrifice we could make that would keep those
16 plants open. We weren't having a dispute with the
17 employer about the relationship with the union. It
18 was about how do you allocate the capital and when you
19 end up doing the analysis the market had ben destroyed
20 or on its way to destruction, and there was, to be
21 very candid, Jim Wansley testified, there was debate
22 whether it would be Jim Wansley's plant in Tyler or a
23 different plant that would close, and there was some
24 movement of product to that other plant that kept that
25 plant viable, but therefore Tyler closed because the

1 plant, as Jim said, was producing the smaller tires at
2 the lowest end of the market that were automatically
3 getting destroyed by the surge in important.

4 And Mr. Rich, who was at that point the
5 president of the Tire Division of Goodyear, opened
6 negotiations with us saying that the low end of our
7 market is under attack like never before and we don't
8 think we can survive, and a large part of Tom and
9 Ron's negotiations were trying to find way to keep
10 that low end viable, and when we concluded that we
11 could work for free and there was nothing we could do,
12 then we moved to the other phase. So it's been kind
13 of painful.

14 CHAIRMAN ARANOFF: Let me switch gears a
15 little bit and ask a question of Mr. Stewart.

16 We had a number of questions asked earlier
17 about what conclusions, if any, the Commission should
18 draw from the fact that the domestic producers
19 themselves are not sitting at the table, but I want to
20 ask a different, but related, question and also ask
21 that the parties in opposition if I don't get around
22 to asking this question this afternoon answer the same
23 question in your posthearing submissions.

24 The Respondents have asked the Commission to
25 give significant weight to the questionnaire responses

1 of the domestic producers when they were asked the
2 question of whether or not they were injured or
3 threatened with injury by the subject imports.

4 In that connection, I wanted to call
5 everyone's attention to the analysis that the
6 Commission used in its decision in the Orange Juice
7 From Brazil case. That was a case where a number of
8 the large domestic orange juice processors had come to
9 the Commission and said we're not injured. We don't
10 want any relief. Everything is fine.

11 The Commission majority determined that it
12 should discount those statements because the
13 processors were under common ownership with foreign
14 producers of the subject merchandise, and the
15 Commission said that in that case it should rely on
16 the objective data in assessing whether the domestic
17 industry was materially injured rather than what the
18 domestic producers were saying about whether or not
19 they were injured. Is this that case?

20 MR. STEWART: Yes. I believe, Chairman
21 Aranoff, that the logic behind Chairman Mills' reason
22 for giving workers the right to bring cases that you
23 can find situations where the producers are not able
24 to come forward for whatever reason, that it then is
25 up to the Commission to ferret out the information.

1 You have hard information, and as I said
2 before you have soft information, and if the soft
3 information is contradicted by the hard information
4 then we would think that you would give that less
5 weight as you consider it.

6 Orange Juice is not the only case where
7 you've had those types of problems. You have those in
8 lots of cases. Companies can have complex global
9 relationships that they are concerned about, whereas
10 in this situation the people who have a clear interest
11 in seeing that the facts are examined for what they
12 are are in fact the workers, and the workers are
13 entitled to have a remedy applied if in fact the
14 statutory criteria are met. We think the hard facts
15 make that very clear.

16 CHAIRMAN ARANOFF: Okay. Let me get in one
17 more quick question while my light is yellow. I won't
18 go to any of the complicated ones.

19 Mr. Stewart, in Slide 16 of your
20 presentation that was the one on employment and wages.
21 You pointed to a number of job losses. Can you, just
22 so that we have this for the record? None of those
23 losses is a result of increased automation in the
24 production of tires?

25 I know that the Respondents in their briefs

1 have pointed out that a number of domestic producers
2 have adopted or are in the process of adopting very
3 modern, more automatic production processes.

4 MR. STEWART: Yes. We have addressed that
5 answer with regard to automation in our prehearing
6 brief, I believe, and while each of the manufacturers
7 has been experimenting with technology and has applied
8 it, it continues to be the case that the vast majority
9 of the plants are using traditional technology.

10 And for the plants that have closed that has
11 been particularly true of, so as far as we know the
12 loss of employment is entirely due to layoffs
13 resulting from unused capacity and the need to
14 rationalize capacity in light of a smaller market
15 share.

16 CHAIRMAN ARANOFF: Okay. Thank you very
17 much. You got that whole thing in on the yellow
18 light.

19 I'm going to turn it over to Vice Chairman
20 Pearson.

21 VICE CHAIRMAN PEARSON: Thank you, Madam
22 Chairman. Permit me also to welcome you. It's nice
23 to see some familiar faces and some new faces.

24 I apologize for my delayed arrival this
25 morning. My venerable 1998 Chrysler Town & Country

1 van chose this morning to get a new radiator.

2 MR. GERARD: There's a cash for clunkers
3 deal coming up.

4 VICE CHAIRMAN PEARSON: It might be
5 eligible. I am somewhat fond of it, though, and do my
6 best to keep it rolling.

7 A year and a half ago I bought a new set of
8 tires for it. I went on the website for Costco and I
9 looked at the alternatives, and it gave several of
10 them. I don't have those specific results, but I went
11 back and did this recently to see what would be there
12 now because I'm curious. I wonder whether these tires
13 are manufactured in the United States or somewhere
14 else.

15 Three of the alternatives that I could buy
16 now out of the five are Michelin. There's a
17 Hydroedge, an X-Ice and an X-Radial. These range in
18 price between \$107 and \$126, not counting installation
19 or disposal charges. Would those tires be
20 manufactured in this country?

21 MR. WILSON: My name is Les Wilson, and I'm
22 a time study engineer from the B.F. Goodrich plant in
23 Woodburn, Indiana, and Michelin is our owner.

24 The question of where is the origin of your
25 tires, if you look on the sidewall of your tires

1 you'll see what's called a DOT code. Each plant in
2 the world should have a code that tells you where that
3 tire was produced at.

4 So without seeing what your code is, I
5 really can't answer your question directly.

6 MR. JOHNSON: What's the likelihood?

7 MR. STEWART: B.F. Goodrich doesn't make the
8 Michelin label tires. Those are made in the Michelin
9 plant, but B.F. Goodrich is wholly owned by Michelin.
10 We'll look to see if we can get you an answer for
11 that.

12 MALE VOICE: We can tell you where it came
13 from. It may take us a little while.

14 MR. WILSON: Excuse me. Mr. Johnson asked
15 me what was the likelihood they were produced in the
16 United States, and I would say it's very likely
17 they're produced in the United States.

18 VICE CHAIRMAN PEARSON: Okay.

19 MR. WILSON: Michelin for the most part
20 tries to produce the tires where they're going to be
21 sold at.

22 VICE CHAIRMAN PEARSON: Okay. Well, in the
23 event I actually didn't buy the Michelins. There were
24 two more alternatives, two more alternatives now, and
25 this is about what I looked at a year and a half ago.

1 The other two choices were B.F. Goodrich
2 Traction TAs and B.F. Goodrich Premier Tourings, and
3 those range in price between \$86 and \$91. A 70,000
4 mile life and for a vehicle the age that I have it
5 didn't seem unreasonable. I tell you, if I get 70,000
6 more miles out of that vehicle I'll be just tickled.

7 So these B.F. Goodrich tires, which I did
8 buy one of these. Those are likely manufactured in
9 the United States also?

10 MR. WILSON: I would say again that's very
11 likely. We actually produce some of those in my
12 plant, and they also produce them in Tuscaloosa and
13 Ardmore, Oklahoma.

14 VICE CHAIRMAN PEARSON: Okay. There's been
15 a lot of talk about tire tiers. My guess is that none
16 of these tires that I've mentioned would be considered
17 Tier 1 tires just because they're not so terribly
18 expensive.

19 I'm thinking of Tier 1s as maybe being a
20 couple hundred bucks and above. Is that a correct
21 understanding?

22 MR. STEWART: No. I think that the way it's
23 been defined by our friends on the other side is if it
24 carries a Michelin or Goodyear or Bridgestone label
25 they would consider that to be Tier 1.

1 As I indicated before, those brands have
2 within them a variety of price points on the same tire
3 as well. They have posited that B.F. Goodrich would
4 be a second tier because it's also a brand formerly an
5 independent company. Uniroyal would fit in that same
6 category. Kelly would fit in that category. Dunlop
7 might fit in that category as well, Firestone.

8 VICE CHAIRMAN PEARSON: Okay. For this set
9 of tires that I've mentioned, they might actually be
10 in two tiers?

11 MR. STEWART: I would say Tier 1 and Tier 2.

12 VICE CHAIRMAN PEARSON: Okay.

13 MR. STEWART: And that that would be the
14 justification for the price difference.

15 VICE CHAIRMAN PEARSON: Okay. Well, to me
16 the prices seemed pretty reasonable on all of these
17 because when I was younger, before I had teenage
18 children that I wanted to set a good example for, I
19 drove a different vehicle that required Z rated tires,
20 a somewhat higher speed rating.

21 At that time I might also have had a heavier
22 right foot than I do now. But at any rate, then I
23 paid a lot of money for tires and so these do seem
24 like a bargain.

25 But I'm curious. On the Costco website

1 there's nothing being offered that comes in a lower
2 price category that would seem to relate to the AUVs
3 that we're observing on the tires from China. Any
4 comment? Any thoughts on that? Could I buy tires
5 imported from China for my Town & Country van? If so,
6 where?

7 MR. STEWART: Well, the first answer would
8 be in our petition we had identified an on-line
9 source, Tireco, that identifies the country of origin
10 of the tires that they show when you put up your tire,
11 so my guess would be that if you put in your car on
12 that site they would put up six, 10, 15 different
13 tires that they offer for that size and for that speed
14 rating and load rating and that a couple of those
15 would be Chinese tires and others would be U.S. made.

16 VICE CHAIRMAN PEARSON: Okay. I also looked
17 on the WalMart website and achieved results very
18 similar to these, so I didn't bother to bring those
19 details down.

20 But one of my questions is if I can't easily
21 buy imported tires, lower cost imported tires for my
22 van, is there some segmentation in this market? I
23 mean segmentation at the retail --

24 MR. STEWART: I think you will find that
25 there is a whole load of independent dealers who will

1 be protesting very loudly this afternoon that they
2 service the value customer and that they offer a lot
3 of Chinese product.

4 VICE CHAIRMAN PEARSON: Mr. Hoover?

5 MR. HOOVER: If I could, Mr. Pearson, you
6 can go to Pep Boys. You can go to --

7 VICE CHAIRMAN PEARSON: There's some
8 distortion in the mic there. Maybe back up just a
9 little bit.

10 MR. HOOVER: You can go to Pep Boys. You
11 can go to Tire and Battery, those type of places, and
12 some of the others escape me, but that's where you --
13 that will be big dealers that deal in the lower
14 levels, and they'll have tires for your van from
15 China.

16 VICE CHAIRMAN PEARSON: Okay.

17 MR. GERARD: I'm not sure, and I appreciate
18 your own candor about your vehicle, but --

19 VICE CHAIRMAN PEARSON: Hey, it's an
20 American car.

21 MR. GERARD: I'm proud of you, and I'm proud
22 that you got American tires, but don't let that change
23 your mind on this case.

24 Let me just say that I also went looking for
25 tires, and I have a Buick. They don't advertise that

1 the tire is made in China, and because I'm not smart
2 enough to be blunt and I don't look at all the codes
3 and I don't necessarily know what all the codes mean
4 and I'm not as computer literate as I might be, when
5 you go in to look for your tire they're not
6 advertising whether it was made in Canada, Mexico,
7 Brazil or China.

8 But I think when you go in and you look at
9 that end of the market that we're in front of the
10 Commission about you can rest assured that about 25
11 percent of that market is now from China.

12 VICE CHAIRMAN PEARSON: Okay.

13 MR. GERARD: So you've got to look at that
14 code and then look that up.

15 VICE CHAIRMAN PEARSON: Okay. The reason I
16 was surprised by this result, not finding lower priced
17 tires, is that when we think about the big box
18 retailers we often think of them being quite willing
19 to import directly from China or other countries or to
20 buy purchased imports and to provide them at quite a
21 low cost to consumers.

22 And so I went to these websites thinking I'm
23 going to find this full range of tires and they're
24 going to be really well represented at the lower end,
25 so I'm just surprised that that did not seem to be the

1 case here, but I'll look at your brief and try to
2 understand better where I might go to find those lower
3 end.

4 Mr. Salonen?

5 MR. SALONEN: Thank you, Commissioner
6 Pearson. In fact, if you take a look at a source such
7 as *Modern Tire Dealer* or *Tire Business* they will give
8 you sort of a breakout of who carries the most tires
9 in the replacement market, and by far it's the
10 independent tire dealers who carry them.

11 Sort of the mass merchandise stores such as
12 WalMart and Costco are actually quite further down the
13 line, which may be one reason you're not finding the
14 same variety that you would if you went to an
15 independent tire dealer.

16 VICE CHAIRMAN PEARSON: Okay. Madam
17 Chairman, I think my light is changing after just a
18 discussion of the tires on my car, so I better pass
19 and try again later.

20 CHAIRMAN ARANOFF: That's only one of your
21 cars.

22 Commissioner Okun?

23 COMMISSIONER OKUN: Chairman Aranoff, we
24 know Vice Chairman Pearson doesn't want to talk about
25 the other car that had an unfortunate get together

1 with another car on the road, as I recall, recently.

2 VICE CHAIRMAN PEARSON: I would note that
3 was a GM car.

4 COMMISSIONER OKUN: All right. If I could,
5 Mr. Stewart, maybe I'll just follow up briefly. I
6 know that Chairman Aranoff had asked you specifically
7 about what weight we should give to the questionnaires
8 from the producers and talked about orange juice.

9 This might be best for posthearing, but I
10 guess it would be helpful for me for you to go
11 through, you know, the guidance that the Commission
12 received from SerAmerica, the Federal Circuit decision
13 in 1994, talking about the probative nature of the
14 industry's views on its own injury.

15 In this particular case, looking at some of
16 the factors that the Commission has looked at before
17 -- whether there was opposition or not, are they
18 importing subject imports or not, are they importing
19 nonsubject imports or not. So if you could go through
20 some of those things which we couldn't talk about in a
21 public session and give your analysis?

22 Because I have to say I am struck when, you
23 know, you read this staff report, and again I
24 understand the union can and has the right to bring
25 the case, but I am struck when I get to the public

1 portion of the staff report at pages 330 and 331
2 asking about actual negative effects from subject
3 imports and anticipated negative effects with the
4 responses we have there and how to take them into
5 account in our analysis.

6 MR. STEWART: We'll be happy to address that
7 in the posthearing.

8 I would go back, however, in a situation
9 where you obviously have producers who have interests
10 overseas, which is not a novel situation for the
11 Commission to confront, and the fact that you have the
12 ability to follow up with any part of the community
13 who files responses to get better information if you
14 find the information to be either improbable or
15 incomplete.

16 It is the case that the workers are not in a
17 position to force management to testify or to respond
18 to questionnaires. It's admirable that all the
19 domestic producers filled out questionnaires and got
20 them back in a short time period, et cetera, but lots
21 of the answers listed in the public staff report are
22 either nuanced answers or they're answers which on the
23 face look incredible based on other information of
24 record. So as you often do, you can have
25 contradictory information.

1 We are entitled to depend upon the
2 Commission to gather the facts. Congress gave you the
3 subpoena power to do that if you can't get voluntary
4 responses from people, and we think that in the
5 context of a situation where you have information
6 which doesn't necessarily jive with the hard facts
7 that you have the authority to give lesser weight to
8 it or disregard it, but we'll address it more in the
9 posthearing brief.

10 COMMISSIONER OKUN: Okay. I would
11 appreciate that.

12 Then again I want to make sure I understand
13 your response to the causation argument raised by
14 Respondents about what they would call the lower end
15 of the market or Tier 3, and again we talked a fair
16 number about that. I'm still trying to figure out
17 what I think, how we should define that, but you can
18 maybe give more information posthearing.

19 Is it your response to their allegations
20 that the domestic producers have abandoned Tier 3? I
21 know that Commissioner Pinkert asked this question. I
22 heard your response, but I'm trying to understand.

23 Is it your contention that the imports are
24 currently competing against domestic product across
25 the wide range and so therefore this injury is

1 continuing and present, or is it that, citing I think
2 you're in particular looking at the '06 closings,
3 including Goodyear, where tires which people have
4 described as being in the same size range or the same
5 lower end as the Chinese closed their plants down?

6 What happened in '06 fundamentally shifted
7 what the domestic producers were doing, that they
8 started to move somewhere else? You're shaking your
9 head, so make sure I understand and the evidence you
10 have on the record for this.

11 MR. STEWART: Yes. The statements that get
12 made is that Goodyear ceased producing 10 private
13 labels, private brands, in 2006, and that appears to
14 be factually accurate.

15 However, that was 10 of 50. They identified
16 at the time in all the press releases that they had
17 five plants producing private label tires, and they
18 were closing one. The kind of leap of faith that the
19 closing of one plant equals the termination from a
20 market segment, you know, our opponents can make as
21 many times as they would like and it doesn't make it a
22 fact.

23 I indicated earlier that the steelworkers
24 had gone back through, and a vast majority of the
25 plants that they have workers in continue to produce

1 private label, private brand merchandise.

2 COMMISSIONER OKUN: In those same sizes and
3 speed ratings?

4 MR. STEWART: Yes.

5 COMMISSIONER OKUN: It was the same product?

6 MR. STEWART: The answer is that these tend
7 to be in the replacement tire facilities. Replacement
8 tire facilities are typically geared to providing
9 tires for the large array of product that are out
10 there, and the smaller sizes are the sizes that were
11 OE tires in the '80s and '90s, all right?

12 You've had some migration upwards, and some
13 of those plants have been retrofitted where they
14 produce both, and other plants produce one or the
15 other. But, yes. No. They continue to produce.

16 When you get the questionnaires back from
17 the producers, assuming that they factually represent
18 what our people know they're doing, you will see that
19 if you define Tier 3 as private brand there continues
20 to be large private brand production there. It's not
21 as much as it was in 2004. It's not as much as it was
22 in 2005 or 2006 or 2007 because they keep losing
23 market share.

24 You know, this is one of those cases where
25 the fact that the opponents run around saying they

1 don't compete doesn't make it so. It simply is not a
2 factually accurate statement.

3 It also is not factually accurate that even
4 in private brands that products are not sold in a
5 good, better, best kind of a price range. It's also
6 not true that the premium brands aren't sold in a
7 good, better, best price band. All of those
8 allegations have been made. None of them are
9 factually accurate.

10 COMMISSIONER OKUN: Okay. I know we hope to
11 get more information from the producers, but if
12 there's anything that you can put in posthearing to
13 help describe that part of the market, and again I've
14 looked at the petition. I know what you have there.

15 But it is a market where there are a lot of
16 sizes, a lot of speed ratings, a lot of different
17 things, and I'm just trying to understand both what
18 the response is to their allegations and then again
19 where all these nonsubjects are, whether the private
20 label has become a place where the U.S. is competing
21 more with nonsubjects and Chinese or not.

22 I mean, I'm just trying to understand that
23 because I think it has some implications for remedy,
24 which we'll get to later.

25 I think Mr. Johnson had his hand up back

1 there.

2 MR. JOHNSON: Yes. I'd like to provide a
3 little clarification. When we talk about private
4 brands, most facilities are running private brands.
5 Private brands may indeed be essentially the same tire
6 as an associate brand or even a name brand.

7 If you have gone through a tire facility,
8 there are what are called carcasses or green tires.
9 Many of those tire carcasses --

10 COMMISSIONER OKUN: Yes. I know they're not
11 green.

12 MR. JOHNSON: They are uncured. Many of
13 those green tires or carcasses are interchangeable
14 with "private brand" molds, "associate brand" molds or
15 even "name brand" molds. In fact, in some places the
16 name plates can be removed and new name plates affixed
17 to create a different brand tire.

18 So to assume that any particular factory
19 cannot build private brand, they will build private
20 brand because a private brand in many cases is the
21 same tire construction in a different mold than the
22 tire was elsewhere, and most facilities have the
23 capability of building from 14 inch up to the newest,
24 largest tires that are out there.

25 COMMISSIONER OKUN: Mr. Johnson, you raise a

1 point that I wanted to cover, which is, and maybe you
2 know this from looking at the market now and going
3 forward, is there a sweet spot in the market that the
4 domestic industry is trying to move to?

5 In other words, I think Mr. Stewart
6 mentioned it. I mean, it used to be people had small-
7 rim tires, 13-14. If you look at the numbers of
8 what's most popular coming out of the OE, it looks
9 like the rim sizes are getting bigger, changes are
10 being made.

11 So is that where the domestic industry would
12 have to be, it would be?

13 MR. GERARD: One of the things that the
14 domestic industry needs to continuously evaluate, and
15 we try to do that with them, is that most of the time
16 the vehicle will last longer than the original set of
17 tires, as Mr. Pearson knows, and what the industry
18 went through is what we now see going on in the auto
19 industry. They had to move from one kind of tire to
20 we went through a period of whatever it was the last
21 six or eight, seven years where we had all kinds of
22 big trucks and SUVs and all that jazz.

23 Well, if you look at the announcements of
24 the last month, the industry has got to prepare itself
25 for less of those kinds of tires and more of the

1 smaller vehicle tires.

2 COMMISSIONER OKUN: If there is any market
3 research data that you could provide post-hearing
4 because my understanding was that the smaller cars
5 don't necessarily have smaller rim sizes anymore. I
6 mean, you're not building an SUV tire to put on --

7 MR. GERARD: No.

8 COMMISSIONER OKUN: -- a fuel efficient --

9 MR. GERARD: They are not as small as they
10 used to be. My wife's car has a 13-inch tire. It was
11 a 1987 Sprint. If you bought that same kind of
12 vehicle today, it would probably have larger tire but
13 not --

14 COMMISSIONER OKUN: Any market research in
15 terms of, in particular, where the market is and where
16 the market is moving, recognizing that there is going
17 to be brand new cars in there, it would be helpful.
18 And I have ran over my red light, and I apologize.

19 CHAIRMAN ARANOFF: Commissioner Lane.

20 COMMISSIONER LANE: Mr. Stewart, I'll start
21 with you and perhaps Dr. Button who is sitting back
22 there very quietly can answer also.

23 You have recommended or you have asked that
24 we recommend a quota of 21 million tires per year with
25 a 5 percent escalational for a three-year period.

1 Could you explain how you arrived at that number, and
2 can you quantify how that number would beneficially
3 affect the workers as far as employment and wages?

4 MR. STEWART: Well, let me start with the
5 first part of the question, which is how did we
6 quantify what we were asking for. We were looking at
7 the amount of lost market share, the number of
8 facilities that were still open, and what we believe
9 the unused capacity was that domestic producers could
10 get back into, and what we heard from the union in
11 terms of productivity increases that could occur with
12 increased investment in some of the existing
13 facilities. And it seemed to us looking at prior 421
14 recommendations that you don't have the same
15 limitations that you have under a 201. So trying to
16 take us back to an era where we could try to use as
17 much of the capacity as possible made sense. 2005
18 would be a reduction of about 25 million tires, and in
19 our view we had the potential to produce those, and
20 that that would have significant employment benefits
21 without requiring the re-opening of plants that had
22 been closed and de-commissioned.

23 ECS has done the analysis as to what it
24 means, and let me ask Mr. Button if he would deal with
25 that.

1 MR. BUTTON: Thank you for the question,
2 Commissioner Lane.

3 CHAIRMAN ARANOFF: You might want to borrow
4 the next closest microphone. Some of these are --
5 they just have temperamental days.

6 MR. BUTTON: I think we're doing better
7 here. Thank you.

8 We were asked by the USW to do an assessment
9 of what the impact of the remedy would be and what the
10 benefits would be, especially with respect to shall we
11 say cost and employment losses avoided. We considered
12 the remedy effect in three segments.

13 First, the benefit to the companies
14 themselves if this remedy was implemented; second, the
15 effect for the workers themselves; and then third, for
16 the communities in which these plants were located.

17 The results of our analysis were that the
18 impact on the domestic industry based on our analysis
19 would be that the revenues, the sales value that would
20 grow because of the remedy would be higher than it
21 otherwise would be by about \$1.2 billion, and this
22 incorporated analysis which indicated that the price
23 increase would be about 8 percent. So that the
24 combined increase in volume that would be enjoyed by
25 the domestic industry and the increase in price would

1 have a \$1.1 billion increase in sales revenues.

2 And the effect with respects to profit would
3 be expressed compared to 2008 is that in the first
4 year of relief, which would commence the fourth
5 quarter of 2009 to the third quarter of 2010, the
6 operating margin, approximately 4.6 percent.

7 For the workers themselves, you know, the
8 impact we estimated by taking the volume of demand
9 that would be in the market considering the estimated
10 consumption from the Rubber Manufacturers Association,
11 and then dealing with the impact of the quota, and
12 having then a combined impact of a smaller overall
13 demand in the market, but removing the Chinese product
14 from the -- a portion of the Chinese product from the
15 market, there would be an incremental volume of 18.4
16 million tires that the U.S. industry would produce
17 compared to what the U.S. tire production level would
18 occur without the benefits of relief.

19 That volume of tire production considering
20 historical levels of productivity would lead to
21 preservation of a little over 3,000 -- more than 3,000
22 jobs. By preserving those 3,000 jobs, that would have
23 the effect of preventing the closure, the equivalent
24 effect of preserving the jobs for the Opelika,
25 Alabama, plant and to prevent the Laverne, Tennessee,

1 plant from shutting down, and it would provide enough
2 additional employment to maintain the employment at
3 the Union City, Tennessee, plant.

4 In addition, with respect to the local
5 communities, we assessed the costs avoided as to
6 unemployment benefits and federal and state tax
7 losses. Those figures are APO. They are in the
8 prehearing brief of the USW.

9 However, we examined the impact on the
10 unemployment rates in the three communities
11 surrounding those three plants, and the effect of
12 preserving the employment in those plants prevented
13 the unemployment rate from rising, in one case by half
14 a percent, in another case by 5.2 percentage points.
15 Therefore, we believe the remedy has a positive effect
16 in all three areas for the companies, for the workers,
17 and for the communities.

18 Now, to add a note, the assumption of our
19 analysis at the time we did it was that the quota
20 would be applied across the board. We have not yet
21 done the analysis, the stratified one based on the
22 individual 10-digit HTS codes, but we believe at this
23 time that that would likewise have a substantial
24 beneficial effect.

25 COMMISSIONER LANE: Thank you for that

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1 thorough analysis. I really appreciate it.

2 Part of what we've seen in the report is a
3 decrease in demand for tires. Could you explain or
4 give me some sort of a sense as to how the bankruptcy
5 of Chrysler and the bankruptcy of GM going forward is
6 going to affect the demand for tires, or how we should
7 factor all of that into the facts that we have before
8 us?

9 MR. BUTTON: Thank you very much,
10 Commissioner.

11 RMA, the Rubber Manufacturers Association
12 just put forward their projection of 2009-2010 demand
13 which shows a further significant drop in demand in
14 2009 before recovery in 2010 to an estimated level
15 slightly below 2008. So 2009, 2010 are not as strong
16 as one would hope, but hopefully going forward that it
17 would be stronger.

18 The problems for Chrysler and GM obviously
19 affect the footprint of OEM manufacturing capability
20 here in the United States, and that would reduce the
21 upside growth potential for tires to the OEM portion
22 of the market which may make that market a smaller
23 market absent investment by other auto producers in
24 the United States going forward.

25 As you would note from the staff report, in

1 2008, I think it's like 85 percent of the apparent
2 consumption is in the replacement market, and that
3 percentage will likely remain high for the period --
4 for a least a good part of the period of relief, and
5 one would expect that replacement demand will go back
6 to more historic levels.

7 You tend to have a decrease in replacement
8 demand during recessions. Understandable, but
9 historically there is a close correlation between
10 miles driven and the demand in the replacement market.
11 So we would expect the demand to pick back up with the
12 OEM portion to be below some of its historic levels.

13 COMMISSIONER LANE: Okay. I would like for
14 you to comment on the apparent inconsistencies between
15 the answers to the staff questions about whether or
16 not the producers have been injured by the influx of
17 imported tires and the reasons given in instances for
18 the plant closures which attributed in part the plant
19 closures to the surge of imports.

20 MR. STEWART: You would like us to do that
21 post-hearing?

22 COMMISSIONER LANE: Or you could do it right
23 now if you can do it before the red light.

24 (Laughter.)

25 MR. STEWART: Well, let me get started. My

1 recollection of the answers that are in the public
2 staff report is that you have some saying that there
3 is no effect, and that's implausible based on what has
4 happened, the fact that most of these companies have
5 closed at least one plant, and that the plant has been
6 closed for the expressed purpose of bringing supply
7 back closer to where demand for domestic product has
8 been reduced to because of the increase in imports.
9 So we believe the statements are totally contradicted
10 by what you have in front of you, and certainly by the
11 statements they made contemporaneously, and what they
12 made in bargaining sessions with the union.

13 CHAIRMAN ARANOFF: Commissioner Williamson.

14 COMMISSIONER WILLIAMSON: Thank you, Madam
15 Chairman.

16 I would like to continue on the discussion
17 on remedy that was started, and in your brief you do
18 correctly note that one of the risks of a quota is the
19 fact that you encourage the foreign suppliers to move
20 up-scaled, think Japanese, for example, in the
21 eighties, and that's why you propose this 10-digit --
22 quotas on the 10-digit allocated basis.

23 But I was just wondering, since we had these
24 things about low factors, speed ratings, and I guess
25 other improvements that go into it tire that, you

1 know, increases their value, don't you still have the
2 same risks even though you've got quotas on at the 10-
3 digit level?

4 MR. STEWART: Well, the risk that you run in
5 terms of the 10-digit level is that, to the extent
6 within any size range there are significant value
7 differences that you could have move up the value
8 chain, that certainly is true.

9 The bigger risk for the domestics -- and
10 where a lot of investment has been made by the
11 domestics has been to provide complete service to the
12 larger sizes because they have a huge amount of
13 capacity for the smaller sizes in place, so a lot of
14 the newer investment has been for the larger size
15 replacement to accompany what has been sold over the
16 last 10 years on SUVs and pickup trucks and the larger
17 sedans, et cetera.

18 So what the advantage of a stratified
19 approach is that it both shrinks the total volume and
20 keeps the volume allocated by sizes so that you don't
21 have a swing up to the top size ranges up to the
22 distribution that has historically been there.

23 COMMISSIONER WILLIAMSON: I understand that.

24 MR. STEWART: Correct, but it doesn't -- it
25 doesn't make an effort to deal with the variability

1 within a size range, and that's true. It does not,
2 and I guess we could do what was done in the clothes
3 pins 201 case, which would be to break it out by price
4 points as well, and do a quota by price point, but
5 that was not what we recommended.

6 COMMISSIONER WILLIAMSON: Thank you.

7 What about shifts in consumption patterns
8 since I take it that we're moving up in size range
9 even for the same model cars in the last five years,
10 has that been taken into account -- would that be
11 taken into account when you do this allocation based
12 on 2005?

13 MR. STEWART: I'm not sure I'm following the
14 question.

15 COMMISSIONER WILLIAMSON: I guess the
16 impression of raising is has the demand for larger
17 sized tires grown say faster than the demand for the
18 smaller size, diameter size?

19 MR. STEWART: The answer would be that the
20 small sizes, we believe, if you look at what is
21 actually in your record, and there is not public data
22 so I can't comment on it, that you would find that to
23 be instructive in terms of those types of
24 distributions. You can, of course, look at the import
25 statistics, but that doesn't account for the domestic

1 production both for imports from China and see where
2 this happened to distribution. Distribution has moved
3 over time. There is more of their product that is
4 coming in and in larger sizes today. We've
5 recommended that you use a 2005 distribution. You
6 know, if you used a 2008 distribution, what you would
7 do is you would work in a higher distribution to
8 bigger product.

9 One could argue the merits of either of
10 those approaches with some satisfaction. What we've
11 recommended is to go back to the 2005 which limits the
12 product to, in large part, to the smaller sizes.

13 COMMISSIONER WILLIAMSON: Could you address
14 that in the post-hearing because I'm sure there are
15 some folks who will be complaining that if you do the
16 quota on 2005 basis that --

17 MR. STEWART: Sure.

18 COMMISSIONER WILLIAMSON: -- you're hurting
19 consumers?

20 MR. STEWART: Well, it wouldn't matter what
21 basis we suggested the allocation, we will hear
22 complaints of this that this is going to quote/unquote
23 hurt consumers, but yes, we'll be happy to address it
24 in the post-hearing.

25 COMMISSIONER WILLIAMSON: Should have an

1 informed discussion because it won't stop with us if
2 there is an affirm.

3 What about the question of a tariff remedy
4 and have you considered that and what the pros and
5 cons of that?

6 MR. STEWART: We had asked ECS to give us,
7 since we knew that someone on the panel would ask the
8 question, what the tariff equivalent would need to be
9 to achieve a comparable level of relief. Let me see
10 whether or not they have an answer for you.

11 MR. BUTTON: That analysis still is in
12 preparation.

13 COMMISSIONER WILLIAMSON: I assume we'll
14 have it before --

15 MR. STEWART: We'll include it in the post-
16 hearing brief. ECS is studying, which would include
17 that as an alternative, will be in our post-hearing
18 brief.

19 COMMISSIONER WILLIAMSON: Okay, thanks, and
20 that would suggest the pros and cons of the options
21 there.

22 In doing your analysis on the quota, did you
23 take into account the effects of -- take into account
24 the market growth? What assumptions did you make on
25 that?

1 MR. BUTTON: Yes, Commissioner, we did. We
2 used our data for apparent consumption. We've taken
3 that from the RMA, Rubber Manufacturers Association,
4 who, as Mr. Stewart has just described, provide its
5 projections for 2009 and 2010, and they noted that
6 with respect to 2009, there was a decline in
7 consumption, and RMA expected the consumption to
8 increase in 2010 to a level that was just shy of its
9 own record for 2008.

10 They have now provided data for estimations
11 for 2011 or '12.

12 COMMISSIONER WILLIAMSON: May I ask, is that
13 the basis for the 5 percent number?

14 MR. STEWART: We had put in the proposed
15 growth rate based upon what we had seen historically
16 the Commission had recommended where quotas were being
17 proposed. Left to our own devices, we would put a
18 flat quota in and leave it there, and we would be
19 happy to have you consider that option, Commissioner.

20 (Laughter.)

21 COMMISSIONER WILLIAMSON: Thank you. Let me
22 just go back to something else. Your slide 26 where
23 you addressed all the different private brands in the
24 domestic market, and I was wondering, are all those
25 tires produced domestically? I don't know if you want

1 to do it post-hearing.

2 MR. STEWART: My understanding is that they
3 are all produced domestically. It's always possible
4 that on a brand that some number of items in a
5 particular brand will be imported, but I believe that
6 we've had information either from the union or from
7 web pages that all of these brands have at least some
8 product that's supposed to be made in the states.

9 COMMISSIONER WILLIAMSON: Let's see. I'm
10 sorry. Just a second. How has the tire business
11 changed during the period of investigation from the
12 marketing standpoint? Are there certain channels
13 which have become more or less important to the U.S.
14 producers in general?

15 MR. STEWART: I don't know that we're the
16 best group of witnesses to testify to that. My
17 understanding from what I have seen in the press is
18 that the channels of distribution over the period of
19 investigation look like they have remained largely the
20 same. You have the large independent tire group, you
21 have certain company-owned or affiliated distributors
22 and you have large national chains, Wal-Mart, Costco.

23 Whether or not they're high up on the list
24 of percentage of sales in the sector, or Sears,
25 nonetheless, they're obviously national retailers who

1 deal with that. So those channels of distribution on
2 the replacement market really haven't changed. You
3 have in the OEM side a shrinking domestic force, but
4 obviously additional transplants that have come in
5 over the last five years. So there have been changes
6 in numbers, but I don't believe there have been any
7 major changes in type.

8 COMMISSIONER WILLIAMSON: Thank you. What
9 do you see the near term future cost of raw materials,
10 both the synthetic and natural rubber?

11 MR. STEWART: Well, the articles that we've
12 seen indicate that the prices, as you would expect,
13 have come down from the super high levels that they
14 had been in. We would note simply that if you look at
15 first quarter results, which our opponents would like
16 you to do only for Chinese imports, that you would
17 find that domestic industry continues to lose money.
18 I would assume their raw material costs are somewhat
19 lower than they were in the third or fourth quarter of
20 last year.

21 Imports from third countries have declined
22 much more rapidly than imports from China, and the two
23 domestic companies we were able to get first quarter
24 data on suggested that Cooper's down 23, 24 percent
25 and Goodyear is down like 19 percent, numbers which

1 are much faster declines than what you see for imports
2 from China. I would also refer you to Exhibit 19 of
3 our prehearing brief which deals with some APO
4 information.

5 COMMISSIONER WILLIAMSON: Okay. Thank you
6 for those answers.

7 CHAIRMAN ARANOFF: Commissioner Pinkert?

8 COMMISSIONER PINKERT: Thank you, Madam
9 Chairman. I want to go back to this issue of the
10 increase in annual capital expenditures during the
11 period that we're looking at. I heard some of the
12 testimony about this earlier. I'm wondering, are you
13 saying that that increase is focused in certain
14 segments of the domestic production?

15 MR. CONWAY: It's in our plants where we
16 represent them, so it's not bargained across the
17 corporation, it's bargained at location where we have
18 members. We tend not to drill all the way down on
19 this stuff and say you've got to put this capital in
20 here and you've got to buy these machines or this, we
21 bargain on sort of a big picture X program as part of
22 an overall business plan and targets.

23 That in and of itself can be a contentious
24 enough bargaining without trying to figure out where
25 it exactly gets placed. So if we can, we don't fight

1 about allocation, we sort of fight about how much is
2 coming back in and how much we're going to plow back
3 in and sort of leave it at that, if that answers.

4 MR. STEWART: Obviously there is some
5 information in the public staff report that there are
6 increases in capital expenditures. We do address the
7 issue of capital expenditures in our prehearing brief
8 and the APO mode. We also have included as Exhibit 5
9 to our prehearing brief a confidential affidavit from
10 Tom Conway which goes through some specific numbers.

11 The Commission may find it of interest to
12 compare those numbers to what the staff report has in
13 terms of obviously they only know about what
14 commitments they've got from facilities where they
15 have members and your report reflects capital
16 investments across the board. The public staff report
17 indicates that you have one company who made some
18 significant investments to open up a new facility who
19 hadn't been in the U.S. before. Mr. Conway's
20 affidavit adds some significant light on other issues
21 you should take into account.

22 COMMISSIONER PINKERT: Thank you. For the
23 posthearing, if you could address the question of
24 whether there have been significant increases in
25 capital expenditures for the production of mass market

1 tires, however you define that term, I would
2 appreciate that as well.

3 MR. STEWART: Sure.

4 COMMISSIONER PINKERT: Thank you. Now,
5 turning to the issues surrounding remedy, I noticed,
6 or I noted that you talked about what the equivalent
7 tariff rate might be to the quota that you're
8 requesting but I'm wondering, are there specific
9 problems with a tariff as opposed to a quota that
10 would push you in the direction of a quota?

11 MR. STEWART: Well, I think it goes to the
12 nature of why this remedy exists, which I believe,
13 with due respect to the Commission, has perhaps not
14 been properly articulated in prior 421 decisions. The
15 United States just filed its brief in the WTO on the
16 case that China brought against it in terms of our
17 trade remedies in which the U.S. brief lays out a
18 fairly interesting discussion of why special rules
19 were put into the protocol of accession.

20 The basic reason for the special rules,
21 including the special safeguard, was the fact that a
22 very large country was in a period of transition from
23 being total state controlled to hopefully more of a
24 market economy, and it was perceived by not only the
25 United States but most of the other trading partners

1 that there would need to be a transition period -- not
2 so U.S. industries could adjust, but so that the
3 reforms that China needed to make could continue to be
4 made without losing large volumes of jobs here in the
5 United States.

6 This remedy is designed to stop the erosion
7 of jobs, not to force the U.S. industry to do
8 something that says they're not competitive now
9 because of the distortions that continue to exist in
10 the Chinese economy. In that type of a setting a
11 quota gives you certainty whereas a tariff could be
12 undermined by other actions that might be taken. We
13 saw the VAT rebate increased. It's been increased a
14 number of times for other products.

15 There is still room for China to increase
16 the rebate on consumer tax. We saw that China stopped
17 the ability of the currency to correct itself in terms
18 of the value in the marketplace. So there's lots of
19 things that can happen that on a tariff-based approach
20 might not get you the relief that you want.
21 Identifying the quantum of tires in a fairly stable
22 market environment that you want taken out of the
23 market to permit those to be made in the United
24 States -- gives you some certainty as to the likely
25 outcome, and that's the reason that we recommended a

1 quota versus a tariff.

2 We realize the Commission has always asked
3 for what the tariff equivalent would be. We want to
4 give you something that in fact reflects an
5 economist's view of what would be an equivalent trade
6 off, and we will do that in the posthearing.

7 COMMISSIONER PINKERT: Thank you. My next
8 question calls for an economist's view of a particular
9 aspect of quotas. I'm wondering, and perhaps, Dr.
10 Button, you would be the person to answer this, how
11 would a quota work in a declining market? Are there
12 specific problems with a quota in a declining market
13 that wouldn't apply in other market situations?

14 MR. BUTTON: Well, the specific problem
15 faced in this particular circumstance is that we do
16 have a declining market in 2009 that we're facing and
17 applying the quota, and that's why the volume of the
18 remedy enjoyed by the domestic industry was about 18
19 million tires even though the quota is based on a 2008
20 volume of reduction of 25 million tires so that when
21 the apparent consumption itself declines and you're
22 locking in the Chinese, for example, at a certain
23 volume, the spread between that and the market as a
24 whole is reduced.

25 Then you'd look towards the expansion of the

1 market, you know, over the next two years to net yet
2 additional benefit to accrue to the U.S. industry.

3 MR. STEWART: We obviously are in a
4 recessionary period. If you look historically, and
5 companies like Goodyear have on their web page in
6 investor presentations that they make the historic
7 trend line on replacement tires, and the historic
8 trend line on replacement tires is that there's slow
9 growth over time corrected for periodic recessions
10 when you have somewhat of a downtick.

11 We've talked about there being a contraction
12 in the OEM side of the business. How fast that
13 recovers is yet to be seen. The obvious downside on a
14 quota that is fixed and not made a percent of the
15 market is obviously if you're in a recessionary period
16 or a part of the demand cycle that's down, the imports
17 have a higher share of the market than they would
18 otherwise have if you did it on a share of apparent
19 consumption. We're aware of that, and one could have
20 proposed to limit it to the size of the market.

21 Most quotas that we've seen have been done
22 on a flat basis with some level of increase, and so
23 that is the reason we put forward 421, the 421 case.
24 We realize that in 2009, most of which will be gone
25 before a remedy could be put in place, that the market

1 will be smaller than we would hope. 2010 is supposed
2 to be back pretty close to 2008. If that turns out to
3 be the case, the quota will achieve that which we hope
4 it will achieve.

5 COMMISSIONER PINKERT: Thank you. You've
6 probably seen in some of the previous cases where
7 Commissioners have said that they generally prefer a
8 tariff to a quota, but that in specific circumstances
9 a quota might be warranted. Do you think that that
10 general view applies in 421 or is your statement, Mr.
11 Stewart, from your prior testimony that it does not
12 apply in 421?

13 MR. STEWART: Well, I think economic theory
14 would say tariffs are better than quotas in terms of
15 adjusting markets, but that works on the premise that
16 the party against which the tariffs are being applied
17 will act on a market-based system.

18 Since 421 is premised on the fact that there
19 is still a transition period that the Chinese
20 government has to go through before market principles
21 actually apply, it seems to us that at least in this
22 case a quota is by far the preferable approach and
23 that tariffs have the disadvantage, whatever economic
24 theory says, of not actually correcting the amount of
25 harm that you're attempting to do through the

1 recommended remedy.

2 COMMISSIONER PINKERT: Thank you.

3 CHAIRMAN ARANOFF: One of the things we
4 haven't talked about that much today is the OEM
5 market, so I wanted to ask a few questions about that.
6 The first thing that I'm interested in is whether
7 there's a difference between, and you may not know
8 this because this is really a question for the
9 manufacturers, but whether there's a difference
10 between the way that prices for tire sales are
11 negotiated in the OEM market versus the replacement
12 market.

13 MR. STEWART: Well, having represented a lot
14 of industries that sell to the auto companies, there
15 usually is. Across a large swath of the auto supply
16 sector you find, not surprisingly, that the
17 concentration of power and the auto producers' results
18 in large quantity purchases at very advantageous
19 prices, and that's what you see in the OEM side of the
20 business.

21 CHAIRMAN ARANOFF: Do manufacturers tend to
22 sell to OEMs on a contract basis?

23 MR. STEWART: Yes. If you think about
24 automobile production, this was true in bearings and
25 it was true in Glass, it's true in virtually

1 everything, steel, everything you do, a company that
2 is providing an input that has to be engineered in
3 will bid on that business on a platform by platform
4 business.

5 There is a book that's published that looks
6 at which tire is authorized on which car, and you can
7 get a book that will look at every tire that's sold in
8 the United States for 2009 model year, 2008, 2007,
9 2006, and what you will find is that there usually are
10 two companies per model as the auto companies don't
11 like to give the business totally to one company or
12 another.

13 What you also see in that is that you are on
14 the beginning upswing of purchases from China in terms
15 of the OEM market, and that would hardly be surprising
16 considering both the difficulties that some of the
17 companies have been in, as well as the fact that
18 almost all of the auto makers are now producing large
19 volumes of cars in China and dealing with the Chinese
20 tire companies over there.

21 CHAIRMAN ARANOFF: Okay. So I just want to
22 make sure because the Respondents, you know, argued if
23 you look at prices in the OEM versus non-OEM sales,
24 you know, the price is lower. They say, aha, this
25 proves that, you know, effects on prices have nothing

1 to do with imports which aren't competing in the OEM.
2 I'm sort of looking at this and going, well, isn't
3 there another explanation, and doesn't it have to do
4 with the fact that these are more or less multiyear
5 contracts for large volumes and that that would be
6 affecting the price.

7 MR. STEWART: They clearly are. You
8 typically get the contract for the platform life, and
9 so there tend to be multi-year. If you think about
10 what you've heard from other industries that are here,
11 while I can't speak for the producers in this
12 industry, you would expect that they probably have
13 efficiency or price reduction mechanisms built in over
14 time as you would have seen in steel cases and other
15 cases that have been before you.

16 CHAIRMAN ARANOFF: Okay. Now, within the
17 replacement market are tires pretty much being sold on
18 a spot basis or would there be a difference depending
19 upon the kind of customer? Because you've got these
20 different groups of customers, you know, the producer
21 related distribution systems, and then you've got the
22 independent distributors and these other groups that
23 you listed. Are they all buying basically on a spot
24 basis?

25 MR. STEWART: I would say that the staff

1 report does cover that or at least the questionnaire
2 data that was gathered by the staff in the
3 questionnaires does provide that. My recollection is
4 that a large portion of the sales are identified as
5 being "spot". Sometimes you have short-term
6 contracts. Short-term contracts get defined
7 differently by different companies, but those
8 contracts could be as long as a year in some cases.
9 The vast majority seem to be "spot" sales.

10 CHAIRMAN ARANOFF: Okay. We've got a hand
11 up in the back. That's Mr. Johnson.

12 MR. JOHNSON: Yes. On the pricing for OEM
13 contracts, I think there's something else that needs
14 to be defined. It is far more efficient for the
15 manufacturers to do extremely long runs of specific
16 products that would fit a specific platform. So it is
17 cheaper for them to do not only multi-year contracts,
18 but extremely long runs of individual product lines
19 within a facility which would have a significant
20 impact on pricing.

21 CHAIRMAN ARANOFF: Okay. I've been trying
22 to figure out how prices in the OEM and replacement
23 market, if at all, are related to each other. Now,
24 obviously they're all related by, you know, cost of
25 production issues, but is there a way in which pricing

1 in one of those sectors influences pricing in the
2 other sector other than through the cost of
3 production?

4 MR. STEWART: Well, again, let me just give
5 you my experience having represented a number of
6 industries over the years who sell to the auto
7 industries. You get certain efficiencies from selling
8 to OEMs that you will pass on, that the OEMs will
9 insist that you pass on.

10 Often times, if there's a significant
11 replacement market for the product, as there is in
12 tires and there are many other auto components, you
13 may make the decision that you'll sharpen your pencil
14 to get the OEM business and make up the profitability
15 by your control of the after market if it is a
16 proprietary design or something of that sort. So I
17 would believe that what you would find is that the
18 tire companies hope that by getting the OEM business
19 that there will be a portion of the population that
20 will go in and say I'd like to get the same tire that
21 I have on my car.

22 There's some of us who do that, and there's
23 some of us who don't, and some of us who get it from
24 this certain type of dealer where that would be the
25 easiest thing to do, and so you would expect for

1 people who are faced having to sell to a very large
2 purchaser that you have very low margins in the OEM
3 side and that you would try to make it up in your
4 replacement side. The problem obviously is if there's
5 too much of your business on the replacement side that
6 it has to be made down at cost or below cost.

7 CHAIRMAN ARANOFF: But just going in the
8 other direction, if you're facing, you know, low
9 priced competition from imported tires in the
10 replacement market and that's having, you know, an
11 effect on your prices in the replacement market is
12 that then echoing back up into the OEM market?

13 MR. STEWART: Those people who believe that
14 problems that they have in their replacement market
15 are able to take it out on the OEMs should all stand
16 up simultaneously.

17 MR. CONWAY: I've had it explained to me by
18 one of the major producers as they've described their
19 OEM market that they used to think that, and I believe
20 some still think, it's worth two and half fitments on
21 sets of tires if that person keeps the car, so if they
22 buy two and a half more sets worth. Now, given the
23 length of tires and the time people are holding cars,
24 I don't know, but they have explained that strategy to
25 me. That's what they think the value of the OEM, and

1 that in the OEM itself it was almost sometimes more
2 trouble than it was worth getting it if not for that
3 downstream linkage.

4 CHAIRMAN ARANOFF: Okay. Now, one of the
5 things that the Respondents argued in their briefs,
6 and I'm sure will be arguing later today, is that this
7 tier system that they point to in the replacement
8 market is sort of fixed and immutable. That there is
9 three tiers, that everybody knows exactly what they
10 are and that basically, you know, the average tire
11 purchaser at the retail level, you know, is kind of
12 born in one of those tiers and doesn't move around.

13 I'm trying to get at that because from what
14 I understood from all of your testimony, and I don't
15 want to mischaracterize it, is that, yes, there are
16 tiers in the market in the sense of, you know,
17 recognized versus less recognized brands and that sort
18 of thing, but that it's not this kind of fixed and
19 immutable structure where there isn't competition
20 between the tiers.

21 So I'm trying to get factually at, you know,
22 whether we're closer to the one version of the market
23 or the other. So are there, for example, particular
24 brand names that are sold in more than one tier?

25 MR. STEWART: Well, the way our opponents

1 would define tier, that would be not possible since
2 you would be putting Michelin, and Goodyear and
3 Bridgestone up in the first tier, and so anything that
4 they sold arguably would be there. The reason that I
5 referred you to Exhibit 24 of our petition was that
6 there were on the third page, we haven't generated the
7 exhibit for this, but there were two examples of
8 Goodyear products where there were differences in price
9 on the identical tire in terms of size, speed loading,
10 but they were different series that Goodyear put out.

11 One was the Eagle LS and one was the
12 Integrity. There was, at retail at least, there was a
13 \$13 difference, which would be about a 15 percent
14 higher price for one than for the other. There was a
15 second set of Goodyear tires on that page where there
16 was an even larger difference, and it had the same
17 series names but one carried the extra list of being a
18 comfort tread.

19 We believe that what your supplemental
20 questionnaire will show, if they get the full data, is
21 that there is a continuum of prices that the premium
22 brands put out, there's a continuum of prices that the
23 so-called associate brands put out and there's a
24 continuum of prices that you get from private brands.

25 There are Chinese products that are brought

1 in by OEMs, by tire manufacturers, that under the
2 traditional claim would be a Tier 2, there are
3 obviously Chinese tires coming in as private brands
4 which would be your Tier 3, and so this case looks
5 identical to what you saw in the OTR tire case, which
6 wouldn't be surprising since many of the same
7 companies are engaged in the process.

8 There is no clear distinction, there is no
9 bright line. Yes, the top brands believe that they
10 get a premium, and Michelin has put it in its annual
11 reports that it gets as much as 10 to 15 percent.

12 CHAIRMAN ARANOFF: Yes. I'm remembering
13 that and I guess I'm trying to figure out, you know,
14 if I'm a consumer and I've got all of the resources of
15 the internet, and, you know, *Consumer Reports* and
16 whatever else available to me, wouldn't those things
17 tell me that I can buy the exact same tire at multiple
18 price points? Is it just really branding and that
19 it's been very successful or are there differences,
20 for example, in service behind the brand name that
21 might actually be adding not just a perceived cache,
22 you know, but real value?

23 MR. STEWART: I think the companies tried to
24 provide those answers in their producer questionnaires
25 as to what they thought, but if you look at what

1 purchasers say, other than delivery which they give to
2 the domestics and low price which they give to the
3 Chinese product, purchasers tend to view everything
4 else that's listed as important to them as being a
5 toss-up between the two.

6 CHAIRMAN ARANOFF: And those are the
7 purchasers who are then going to go resell the tires
8 to the consumers as opposed to the consumers.

9 MR. STEWART: That's right, as opposed to
10 the ultimate consumer.

11 CHAIRMAN ARANOFF: Okay. Well, my light has
12 gone red and I don't want to hold up my colleagues any
13 longer, so, Vice Chairman Pearson?

14 VICE CHAIRMAN PEARSON: Thank you, Madam
15 Chairman. Dr. Button, a question for you. Chart 23
16 that was displayed earlier by Mr. Stewart deals with
17 China prices below U.S. variable cost of goods sold.
18 I'm concerned about the presentation here because I
19 think it might be perhaps somewhat misleading.

20 The Chinese imports are expressed in average
21 unit values, and I understand that's the data that
22 might be available, but we always have to be concerned
23 about product mix, and then that's compared against
24 domestic production cost for raw material per tire in
25 the United States.

1 My sense is that if we were to look at the
2 U.S. average unit value for the smallest, least
3 expensive 10 percent of the universe of these subject
4 tires, the ones produced in the United States, we
5 might find a relationship that would be not dissimilar
6 to this because my understanding is that we would
7 expect the Chinese subject imports to have relatively
8 low raw material costs for two reasons.

9 One is that I think they are often
10 physically smaller so there's less stuff in them, and
11 the second, as several of us learned in interesting
12 detail in a tour of a tire factory in this country,
13 the more sophisticated tires and more expensive tires
14 manufactured in this country often have additional
15 components so it's plain more expensive raw material,
16 if you will. So if for purposes of the posthearing
17 you could do some refiguring of this table.

18 MR. STEWART: Yes. in fairness,
19 Commissioner Pearson, Mr. Button isn't responsible for
20 Chart 23.

21 VICE CHAIRMAN PEARSON: I apologize.

22 MR. STEWART: That was done by me and the
23 firm. My comment, when I presented it, was that we
24 obviously can't adjust for difference in mix but the
25 data that is available from the staff from the report

1 looks like this. In the posthearing we'll be happy to
2 try to take a look at the difference in mix of
3 nonsubject imports versus this to see what the
4 comparison might be or what type of adjustment there
5 might be.

6 We agree that if one had the ability to do
7 it one might get a somewhat different result, but the
8 reality is that the prices are so low that you get
9 down very close to, or below, variable cost, which
10 obviously would be a major justification for why
11 companies choose to exit producing Item A or give up
12 market share to where they get to the point that they
13 have to close plants, and that's really the purpose of
14 that slide.

15 VICE CHAIRMAN PEARSON: Okay. Well, I'll
16 look forward to whatever additional you're able to
17 provide. I understand the data limitations.

18 MR. STEWART: I didn't want you to accuse
19 Mr. Button of something that is my responsibility.

20 VICE CHAIRMAN PEARSON: And I apologize for
21 that. Next question. I don't know exactly what we'll
22 hear from Respondents later this afternoon but it's
23 entirely possible that they will say that the real
24 issue affecting the domestic tire industry is not the
25 longer term competition that there's been from Chinese

1 imports, but rather the recession that the U.S.
2 economy is in right now, and so a question for you.

3 When did the process of preparing this 421
4 petition begin? Mr. Stewart, I'm not interested in
5 the first time that it flashed through your mind that
6 there might be a case here, but rather when did some
7 serious discussion begin on filing this petition?

8 MR. STEWART: I assume it was some time in
9 February or March.

10 VICE CHAIRMAN PEARSON: Of this year.

11 MR. STEWART: Of this year.

12 VICE CHAIRMAN PEARSON: Yes. Okay. So that
13 would have been well after the economy had turned
14 sour.

15 MR. STEWART: Sure.

16 VICE CHAIRMAN PEARSON: Okay. And so do you
17 have any comment on, if Respondents make this
18 argument, how we should kind of discount that the
19 decision to file might have been influenced heavily by
20 the state of the economy?

21 MR. STEWART: Mr. Gerard would like to talk
22 about the issue, and then I'll provide a comment as
23 well.

24 MR. GERARD: Let me be really clear about.
25 We, institutionally, the union, got worried about this

1 dramatically in about 1995, 1996 and actually started
2 with Ron and other local union folks gathering our own
3 data for our 1996 negotiations. I'm not sure which
4 Commissioner, I think it might have been Commissioner
5 Lane, that asked us the question that led to the
6 timing issue and whether or not we overestimated or
7 underestimated.

8 In those rounds of negotiations we thought
9 we had taken steps to deal with 2006. What did I say?
10 I'm dreaming in 1995 where the good days. In 2006, I
11 should say, started to try to make the change that you
12 heard from Tom and Ron to the collective agreements
13 and investments to try and manage what was an obvious
14 challenge. It was clear as we went through 2007, 2008
15 that it wasn't diminishing, it was, in fact,
16 increasing.

17 So as a union we started to consider this
18 and approached Terry Stewart, I think, probably
19 sometime early in the new year. So our view was
20 impacted before what I would call the September
21 surprise that the economy sort of imploded on us. So
22 this is something for us.

23 I can say that as we started to do the work
24 last summer and fall of talking to the tire companies
25 it became clear to us that unless we were able to

1 gather enough information to bring forward a case that
2 we would have no way of allocating capital or having a
3 discussion that was in a rational way trying to
4 predict what the market might do in our upcoming
5 negotiations. It's at that point that we engaged in a
6 discussion with Terry Stewart.

7 MR. STEWART: Also, from the slides that we
8 presented earlier that staff has collected, you have
9 injury occurring each and every year. It's not a
10 recession driven problem that we're faced here. You
11 have loss of market share each and every year almost
12 in one for one correlation due to increased imports
13 and declining production.

14 That's not a 2008 phenomenon. 2008
15 operating income will be affected and the overall
16 demand in 2008 will be affected, but the trend line
17 has been in a disastrous direction despite the economy
18 being very hot for most of the time period that's
19 covered by this period. So people can argue about the
20 recession, but unlike a 201 case where you have to
21 find that increased imports are, you know, the largest
22 cause of injury, that's not the requirement here.

23 Our view is obviously when you have 100
24 percent correlation between loss of market share in
25 the replacement market and increased imports from

1 China that someone could argue seriously that imports
2 are not a significant cause of the harm the industry
3 is going through is a bit stretched. We saw it in the
4 briefs, and we'll hear it this afternoon, but we have
5 trouble understanding it.

6 VICE CHAIRMAN PEARSON: Okay. As I look at
7 this record, my sense is should we be imposing -- we
8 have direct input from the domestic producers except
9 in the questionnaires, but my sense is that they
10 appear to have reached a conclusion that they best can
11 serve their customers and succeed in the global
12 economy if they produce some tires in the United
13 States and produce some tires in other countries and
14 then trade them back and forth. If we impose a
15 remedy, do we run the risk of making the U.S.
16 producers less competitive over time? You know,
17 because after all the remedy would only last three
18 years, and then they're going to have to be competing
19 in a world without remedy.

20 MR. STEWART: It always starts,
21 Commissioner, with what you perceive the law is
22 intended to do. If you accept that the cost coming
23 out of China is a market based cost, then there would
24 be no reason to have a 421 and there would be every
25 reason to hold domestic producers in the union to the

1 task of what are you going to use the time for and how
2 will you be able to compete with this very low price
3 when you get out or how will you move your assets out.

4 VICE CHAIRMAN PEARSON: Right, but isn't it
5 correct to say that a significant portion of the
6 subject tires produced in China are produced by
7 foreign invested companies that are unlikely to
8 benefit from the same degree of state support that
9 might apply to some other indigenous firms?

10 MR. STEWART: Well, the whole issue of how
11 China is perceived and the economy is perceived is
12 that even if you have foreign invested companies in
13 China, the state controls many of the inputs and
14 controls things such as land access to capital, a
15 whole host of things. My only point is that 421 was
16 designed to give domestic industries a break from a
17 surge because of the need for China to continue to
18 transform itself. And so the reality is that there
19 are fixed assets in place in the United States,
20 workers trained in place who "but for" the imports
21 from China would be employed.

22 VICE CHAIRMAN PEARSON: Okay, further to
23 this question, and this might be for a response in the
24 posthearing, do you think the U.S. industry would make
25 adjustments in its U.S. operations if a remedy goes

1 into effect? If so, what would those be and have you
2 discussed this issue with management? And so this may
3 be something you want to respond to in the posthearing
4 rather than now but I'm curious about this.

5 MR. CONWAY: I think there will be a lot of
6 opportunity. I was describing earlier there is a lot
7 of sort of capacity now sitting idle and sitting
8 around there. So I think we will have opportunities
9 that if we get a quota, we'll get some of that back,
10 we'll be able to put people back to work doing that.
11 We've had discussions with management for a long time
12 about this case.

13 It's clear we're here without them, I guess
14 you'll have to determine from the questionnaires and
15 from them why they're not here, but for that reason we
16 needed, we thought, sort of a lot more injury to show
17 really what was going on and the numbers on their face
18 are kind of overwhelming. And even sitting here
19 without a partner beside us saying, look what's
20 happening to our industry, it would be glaringly
21 apparent on the face of the presentation, this is what
22 happened to the industry and for whatever reason
23 they're not coming forward, they'll have to speak for
24 themselves.

25 But we think the injury and the threat is

1 still there, and compared to other 421 cases that
2 we've been here on and we've seen, it's double and
3 triple what that was. So that's what we're saying to
4 you, look at the facts of what's happened to us, we
5 believe there is capacity that will help us and we can
6 put some people back to work making tires. And I just
7 don't know what the management -- and I often ponder
8 what the management thinks.

9 VICE CHAIRMAN PEARSON: Don't get me in too
10 much trouble.

11 MR. GERARD: If I could just add a little
12 bit to that answer. One of the things that is of
13 great concern to us is the underutilization of
14 capacity, and that for the remaining production that's
15 in the underutilized facilities, the company has less
16 units to spread its fixed costs over. So as there's
17 less units to spread the fixed cost over, even those
18 tire brands that are yet to be attacked are getting
19 squeezed.

20 And so one of our objectives is to increase
21 capacity utilization, and as you increase capacity
22 utilization, a number of the factors that we've
23 already talked about will improve, and that will allow
24 us through our bargaining with the employers and their
25 willingness, because we have a pretty good

1 relationship on discussing capacity utilization and
2 investment strategies, that will allow us to continue
3 to work with them on capacity utilization investments
4 strategies. So what we do on these cases will affect
5 unit costs and how they spread their fixed costs. So
6 that's an important issue for us.

7 VICE CHAIRMAN PEARSON: Thank you for that.
8 Madam Chairman, I've gone way over. I do have one
9 more question that I'll hold for the next round.

10 CHAIRMAN ARANOFF: Commissioner Okun.

11 COMMISSIONER OKUN: Thank you, Madam
12 Chairman. Continuing with some of the remedy
13 questions, if the quota remedy that you request is put
14 in place, what do you think the role of nonsubjects
15 would be in the market?

16 MR. CONWAY: We would expect there to be
17 some small increase, but not a great deal. If you
18 look at prices down at the ten digit level, there are
19 very few countries that are close to China in terms of
20 their average unit values. So we wouldn't expect
21 there to be a lot of movement to third country
22 imports.

23 COMMISSIONER OKUN: Okay, and in terms of, I
24 know you've responded a bit to this, and I think it
25 was Mr. Gerard but Mr. Conway probably knows well

1 which is, I'm starting to understand, if the quota
2 remedy is put into effect, you had talked about your
3 hope that the view would be that you could keep
4 operating the plants that are scheduled for the '09
5 closures, that was one of the things. Was there
6 something else that -- I guess my question about that
7 would be, those plants producing the same mix that
8 they're doing now, in other words so that it would
9 just allow those plants to have an additional demand
10 or do you envision that this remedy changes products
11 mix?

12 MR. CONWAY: I think it will give us some of
13 both, is what I'm hopeful, and I think the ECS
14 evaluation of the remedy points to that as well, is
15 that if we get the remedy we're seeking, the plants
16 that we currently have on the trajectory to close may
17 very well turn around, will have work in Opalaka, we
18 may have work in Union City, and we may be able to
19 hold around.

20 Some portion of it will be part of rolling
21 back to these 21 million tires, some portion of it
22 will be because there's different tires being made in
23 the market and we can make them and they're not going
24 to be under attack and the plants will be there. And
25 if there's a plant there and it's running at highest

1 capacity, we have much more opportunity to convince
2 the management, let's go challenge that market, go
3 after that market.

4 If it's not, if it's just sitting down and
5 they're on their way out, it's a lot harder to turn
6 them around when they're on their way out of the
7 market. So I mean that's sort of the bargaining
8 challenge we'll have, but I think the ECS evaluation
9 of the remedy is important to us that we could in fact
10 stop some portion of these jobs that are slated to go.

11 COMMISSIONER OKUN: Okay, and how would you
12 respond to the argument that the domestic producers
13 have in fact done many of the things that one would
14 expect in terms of adjustment in what is a very
15 difficult environment at you've all described, in the
16 face of declining demand, bankruptcies of the
17 automakers, that by shutting down plants and changing
18 their product mix that they have done what one would
19 expect them to do with import relief in place? And
20 that they would be positioned to do well when demand
21 turns around?

22 MR. STEWART: Well, what has happened over
23 the period of investigation is that you're seeing more
24 and more plants put in a position to close down as
25 they keep losing market share. Of course the

1 companies are acting rationally when they say, we've
2 lost all this volume, we have too much capacity, we
3 need to close a facility. That's rational for
4 management to look at it that way and say, let's do
5 that.

6 If you look at the annual reports of all the
7 companies, they're doing lots of things with the
8 workers to improve productivity and do all the things
9 that you do to maintain yourself. We're talking about
10 the situation of whether or not we return volume into
11 the competition for access from domestic producers.
12 People are not saying the companies weren't in a
13 rational position to try to close facilities when they
14 lost 31 million or 34 million tires and they had a lot
15 more capacity than they needed, so of course you would
16 close facilities.

17 That isn't a sign that there is not injury,
18 that is a sign of injury. This is the first case I've
19 ever been in where somebody of the opponents have held
20 up the fact, well they're acting rationally by closing
21 these plants. Well of course you close plants when
22 your capacity utilization goes down, and as a high
23 fixed cost industry. What the relief is for is to try
24 to prevent more plants from closing down, and to take
25 advantage of the time in which China is supposed to be

1 adjusting and in which the union can negotiate with
2 the employers to do more things that the existing
3 plants to make them better able to survive even if
4 China doesn't do all that it's supposed to do to
5 reform its economy.

6 COMMISSIONER OKUN: Okay, and on that, and I
7 assume will be or has been raised as a causation
8 argument, but I'm also curious with respect to the
9 relief, in picking '05, and again the C table in this
10 case is public, often in these remedy cases one of the
11 things that I've looked at is how do you return an
12 industry to profitability, and we run these models
13 looking at a number of factors which I know your
14 economist has done and has described.

15 But in this case, '05 would not be the year
16 that I would necessarily look to as being a good year,
17 and so I'm just curious how you took that into account
18 with your remedy, what's going on. Because one of the
19 things we of course see over time, and you can comment
20 on this as well, it looks like a shift in the product
21 mix of the domestic producers. Again, that might mean
22 that their capacity numbers are less but they're
23 selling a higher value product that might be better
24 for the bottom line. Is that better overall from a
25 remedy perspective?

1 MR. STEWART: Well there clearly has been
2 some product shift, as on the OEM side over years your
3 having larger tires that have been produced, a trend
4 which could reverse with some of the fuel efficiency
5 legislation that's been introduced, we don't know.
6 But the capacity that's been closed is real capacity,
7 and we've raised issues in our prehearing brief about
8 the capacity numbers that are listed in the Staff
9 Report. I won't say anything other than we've raised
10 some issues we would hope the Staff would take a look
11 at in doing it.

12 2005 was picked based on the volume, and the
13 volume reduction would mean that there would be
14 additional potential product that domestic could
15 compete on of 24 or 25 million tires. That is the
16 volume that would keep the plants that are slated for
17 closure operating and that would take the plants that
18 are at risk of closing back up to more rational
19 utilization rates. That's the reason that the figure
20 was picked. And the plants have the capacity to
21 produce the kinds of tires that are coming out.

22 MR. GERARD: Commissioner, I listened to
23 your question and I think I'm a bit confused because
24 you talked about the change in product mix. One of
25 the things that you have to keep in mind is that the

1 product mix of the tire producers in many ways is
2 directly related to the product mix of the vehicles
3 they are trying to service. And we did go through an
4 extended period of time in more likely the last 8 or
5 10 years where because of lower fuel prices we really
6 had too many clearly large vehicles.

7 And that the industry tried to adjust itself
8 to that while simultaneously trying to stay and doing
9 the work at the lower end of the market, and that as
10 they did that they got chewed out of the lower end of
11 the market by our facts. And the issue that I
12 certainly want to keep hammering home with all of you
13 is the direct correlation between the exodus of the
14 market in certain tire lines and the increase in
15 imports from those exact same tire lines from China,
16 it's almost a direct correlation.

17 COMMISSIONER OKUN: Okay, and so with the
18 remedy, Mr. Gerard, do you think the U.S. industry
19 moves back to producing those, what you've described
20 as that lower end, that they were driven out of?

21 MR. GERARD: I think that there is an
22 ability to do that, but there's also an ability to
23 keep those other plants open because we'll return to a
24 higher capacity utilization, and the economists can
25 comment if I'm inaccurately characterizing this, but

1 one of the reasons we want to run the plants at higher
2 capacity utilization and keep them from shrinking and
3 closing is the unit cost that's spread over all of the
4 tires. That's part of the work.

5 So we can take those 25 million tires that
6 are in the quota and keep those plants utilized at
7 higher capacity, and we've got to recognize that the
8 mix of tires, with what Terry Stewart just said, over
9 the next two, three years, is going to change. I mean
10 if you listen to what was said on Monday in the GM
11 bankruptcy, they're going to be producing smaller cars
12 in America. So our industry's got to start to get
13 ready for that, and without this we can't.

14 COMMISSIONER OKUN: Right, but on that, if
15 you can provide any market research on that point,
16 because again I don't think that means --

17 MR. GERARD: It's the GM bankruptcy
18 proceedings.

19 COMMISSIONER OKUN: No, no, what the type of
20 tire you're going to be producing. And I mean I think
21 you should be looking forward not backward, but I
22 think that that doesn't necessarily mean that the
23 market moves back to what was being produced before.
24 That's what I'm trying to make sure we understand.

25 MR. GERARD: No, but let me gain -- if we

1 have to argue, I will, that the capacity utilization
2 that will be provided by the remedy will allow us to
3 use those facilities at higher capacity utilization
4 which will allow us to make the kinds of investments
5 we need to make to get ready for the next series of
6 tires. And if we don't do that, these plants close
7 and we're done.

8 COMMISSIONER OKUN: Okay, I understand that
9 point. And my red light is on. Thank you, Madam
10 Chairman.

11 CHAIRMAN ARANOFF: Commissioner Lane.

12 COMMISSIONER LANE: At this point I need to
13 remind myself that the hearing will last as long as we
14 Commissioners keep asking questions, and somehow or
15 other that doesn't stop me from another round. Mr.
16 Gerard, do I understand you to say that your
17 expectation if we recommend the remedy and the
18 President affirms the remedy is to keep the existing
19 facilities open and increase the capacity utilization
20 at those facilities?

21 MR. GERARD: What I believe is that with the
22 remedy that we're requesting, that production will go
23 into those facilities and a number of facilities that
24 are operating at lower capacity levels will get an
25 opportunity to increase their capacity levels, and I

1 won't make a promise, I'm not running the company, but
2 a number of the plants that are on what we call the
3 bubble will be able to take those products in and will
4 be able to run at higher capacity utilization.

5 For us it will do a number of things, it
6 will keep people employed, it'll stop some other
7 closures, it will allow us to keep a tax base in those
8 communities. And it will also allow us to have a
9 discussion with the employer about how they're going
10 to get ready for the clear transition that's happening
11 in the North American automobile industry, or maybe
12 the global auto industry, I'm not smart enough about
13 that. Without that, we don't have a chance.

14 COMMISSIONER LANE: Okay, my question really
15 was, your expectation is to keep the existing plants
16 open and increase their capacity utilization, and even
17 though you would like to reopen some of the plants
18 that have closed, that is not your expectation?

19 MR. GERARD: At this point, I can't see that
20 happening. I'd like to dream and wish about it, but I
21 don't practically see it happening.

22 COMMISSIONER LANE: Okay, could anybody tell
23 me what the average life expectancy of a tire is, and
24 are there different mileage for the different tiers?

25 MR. WILSON: If I may.

1 COMMISSIONER LANE: Yes, thank you.

2 MR. WILSON: I can speak to our plant. One
3 of the tires that we produce we market as an 80,000
4 mile tire. You can read in the newspapers and things
5 and see advertisements from other companies that make
6 similar claims for different mileage periods.

7 COMMISSIONER LANE: Okay, so let's take a
8 tier 3 tire, whatever that is, and I'm assuming that a
9 tier 3 tire is a more inexpensive tire than a tier 1
10 tire, what would be the difference in the mileage
11 expectation of those tires?

12 MR. STEWART: It might be zero, because it
13 could be the identical tire with a different tread
14 design.

15 MR. CONWAY: Ma'am, I would tell you that a
16 tier 3 could very easily get half the miles, 40,000.

17 COMMISSIONER LANE: Okay, thank you.

18 MR. CONWAY: Because frankly it's not as
19 good a tire. It doesn't have the engineering, it
20 doesn't have the specs, et cetera.

21 COMMISSIONER LANE: Okay, thank you. How do
22 you respond to the CCCMC's claim that any proposed
23 remedy poses a threat to highway safety and the safety
24 of drivers in general because price conscious tire
25 consumers will delay tire replacement?

1 MR. GERARD: If I just say what's going
2 through my head I think --

3 COMMISSIONER LANE: Yes.

4 MR. GERARD: I think I want some of what
5 they're smoking. I don't think that that's a rational
6 position whatsoever. And the fact of the matter is
7 that, I'll use Mr. Pearson as an example. He's a
8 rational tire buyer, he went to research which tire
9 would be best for his vehicle for the length of time
10 he wants to continue keeping it. And I'm going to put
11 my grandkids in my Caravan and I need tires, I'm going
12 to go buy the tires that go with the Caravan when I
13 bought it or I'll go buy equal tires. I don't know
14 how you could come up with that kind of a -- I mean I
15 just think it's irrational and it's reaching for some
16 straws on the shore that aren't there. I'd find that
17 insulting.

18 COMMISSIONER LANE: Okay, thank you. I have
19 a question about the three tiers that divide the
20 different types of tires. Can you provide a breakdown
21 of what percentage of tires may be found in each tier?

22 MR. STEWART: Commissioner Lane, the answer
23 is we wouldn't be able to do that. Your Commission
24 Staff has sent out a supplemental questionnaire to
25 gather that information. As we've said a number of

1 times today, we don't agree that there are clear tiers
2 or that the tiers are stratified or that there isn't
3 competition between whatever brands one puts in tier
4 1, 2, or 3, or tier 4 if you choose to pick four tiers
5 or 27 tiers. But we will certainly put any additional
6 information we have in the posthearing for you.

7 COMMISSIONER LANE: Okay, thank you.
8 Without going into confidential information, I see
9 from the Staff Report that there's been a great amount
10 of restructuring of the domestic producers during this
11 period. Is there a predominant reason for this other
12 than maybe the recession?

13 MR. JOHNSON: If I may, it's primarily the
14 Chinese imported tires, the price pressure that has
15 been put on all tires in the market as a result of the
16 imports from China coming in at or below cost of
17 manufacturing.

18 COMMISSIONER LANE: Okay, thank you. Mr.
19 Stewart, are you trying to answer?

20 MR. STEWART: I guess I don't see the
21 'restructuring.' Certainly there are four plants that
22 closed and there's three more that are threatened with
23 closure, or at least a termination of production, and
24 if that's what you mean then Stan's comment would be
25 correct. There was consolidation in the industry but

1 that was long before this time period.

2 COMMISSIONER LANE: Okay, thank you. Has
3 the replacement segment of the market always been so
4 high compared to the OEM segment?

5 MR. STEWART: Historically it's been three
6 quarters replacement, 25 percent OEM. RMA has exact
7 data, I think we had put that in the petition, so I
8 may be off by a percent or two, but it's been in the
9 70s for replacement. And with the kind of collapse of
10 the OEM it's been up in the mid 80s.

11 COMMISSIONER LANE: Okay, thank you. How
12 important are the high gasoline prices in terms of the
13 injury sustained by the domestic industry here?

14 MR. STEWART: Well, all that has happened
15 with the high gasoline prices in part of 2008 is that
16 you have a small reduction in mileage driven, and
17 historically there's a high correlation between
18 mileage driven and the need for replacement tires. So
19 we'll put in the posthearing brief a slide that
20 Goodyear has on its web page that shows the growth
21 over time, and over time there's a slow growth in the
22 replacement market that periodically dips a bit simply
23 because of a recession or high gas prices. So it's a
24 temporary phenomenon. One would expect that mileage
25 driven would go back up with gas prices back down.

1 COMMISSIONER LANE: Does the market for
2 subject tires have business cycles?

3 MR. STEWART: Again, the Goodyear chart that
4 we'll put in would suggest that in the replacement
5 market the answer is, not really. There are small
6 dips in recessions but not real cycles. On the OEM
7 side, I would think there probably is more of a
8 cyclical nature.

9 COMMISSIONER LANE: Okay, thank you. Madam
10 Chair, that's all I have.

11 CHAIRMAN ARANOFF: Commissioner Williamson.

12 COMMISSIONER WILLIAMSON: Thank you, Madam
13 Chairman. Just one question. We've talked about the
14 quota remedy and we've talked about a tariff remedy.
15 But no one's asked about a tariff rate quota remedy.
16 And I was wondering what's your thoughts on that of
17 what the pros and cons of that option?

18 MR. STEWART: Well, it has I suppose the
19 advantage for those who like tariffs that you don't
20 impose anything on the first set of volumes. From the
21 point of view of a remedy, you would have to have a
22 much higher tariff rate above the quota to achieve the
23 same result that you would get by simply imposing a
24 tariff, and obviously presumably you would want to
25 have a much smaller quota to start with.

1 COMMISSIONER WILLIAMSON: Thank you, and the
2 analysis that you're going to be doing, if you could
3 give me the gist of that conversation.

4 MR. STEWART: Sure, we'll expand on that in
5 the posthearing.

6 COMMISSIONER WILLIAMSON: Good. Okay, thank
7 you, Madam Chairman. I have no further questions and
8 I want to thank the witness for the answers.

9 CHAIRMAN ARANOFF: Commissioner Pinkert.

10 COMMISSIONER PINKERT: I just have one or
11 two questions. On the more legal side of the
12 equation, how should the impact of the remedy on
13 nonsubject imports be taken into account in our
14 analysis of remedy?

15 MR. STEWART: I haven't given that any
16 thought, Commissioner Pinkert. If I could I'll
17 provide a response in the posthearing brief if that
18 would work.

19 COMMISSIONER PINKERT: That would be fine,
20 thank you. I too have recently been in the
21 replacement market for tires, and in particular I
22 tried to get not quite as good a deal as the Vice
23 Chairman got, but a pretty good deal, and what I was
24 wondering is where the tires that I purchased would
25 fit into this analysis even if it's a flexible

1 analysis of the U.S. market. I purchased the Kelly
2 radial tires, and it seems to me that they might be in
3 that nonprivate label but mass market segment.

4 MR. STEWART: Kelly is the part of Goodyear
5 that their facilities produce a fair number of private
6 brand tires. Typically they would probably be viewed
7 as tier 2 by those who believe there are tiers because
8 it is a former major brand, that brand which is still
9 maintained, associate brand. But they also out at
10 some of those facilities also do private brands. So
11 the people who claim that there's this differentiation
12 would put them typically in the second. As we would
13 say they could be competing based on price in any of
14 them.

15 MR. GERARD: One of the things that keeps
16 running through my mind when we continue going through
17 this question is an understanding that there's a lot
18 of marketing that's going on in the way the tires are
19 labeled and lettered and all of the what not and the
20 way that tires are not only engineered but built, and
21 what kind of stuff you put on it. And we ought not to
22 get confused that there really are tiers. There
23 aren't.

24 You could in fact end up buying a Kelly tire
25 that's more expensive than a Goodyear tire, that's

1 because what do you want on the Kelly tire versus
2 getting the low end of a Goodyear tire which is not
3 engineered. Or you'll watch on television now where
4 Goodyear is marketing a tire with special treads, and
5 they're actually saying that this is going to give you
6 more mileage so this is going to be a green tire,
7 where someone said earlier there's no such thing.
8 Well they're arguing that this tread is going to give
9 you extra mileage so therefore it's a good thing for
10 the green economy.

11 I'm not smart enough to know that that's
12 true but I'll guarantee you're going to pay more for
13 that tire. And so there's a lot of marketing that
14 goes on, I said to Terry Stewart when I was a young
15 staffer after I serviced a company that made bathtubs,
16 and you could buy the standard bathtub for 100 bucks
17 or you could buy the premium tub for 150 bucks, and
18 the way you could tell it was the premium tub was when
19 you knocked on it, it didn't have an echo. The way
20 they got rid of the echo is they glued four pieces of
21 foam in each corner of the tub. I wouldn't allege
22 that some of that's going on in tire making, but I
23 also wouldn't deny it.

24 COMMISSIONER PINKERT: Thank you. Thank
25 you, Madam Chairman.

1 CHAIRMAN ARANOFF: Well just to round this
2 out and make sure I've asked this question in every
3 possible way, are there any Chinese made tires being
4 sold in the United States under a brand name that I
5 would recognize as being one of these that have been
6 identified as a tier 1 or a tier 2 brand name,
7 particularly the tier 2 names?

8 MR. STEWART: Well in the petition at
9 Exhibit 24, you will see one of the I think it's a
10 Korean tire company, Kuno, who has tires that are
11 produced in China, one of the facilities is in China,
12 and they're listed with product from China at that
13 particular account, so they're listed amongst tires
14 from Michelin or Firestone or Goodyear or what have
15 you.

16 CHAIRMAN ARANOFF: But are they selling
17 under the same brand name that they would sell a U.S.
18 made tire?

19 MR. STEWART: They're selling them under
20 their company name, so yes it would be similar. As I
21 understand the position of the other side, they would
22 view those since it is the brand of a foreign company
23 as being a tier 2, not a tier 1, under their theory.

24 MR. GERARD: And they're advertising it on
25 television now that Toyo's big.

1 CHAIRMAN ARANOFF: If for the posthearing if
2 there are any other examples where there's what might
3 be identified as a tier 2 brand name that's being used
4 at the same time on a U.S. made tire and a Chinese
5 made tire, that would be really helpful to know.

6 MR. STEWART: Sure, we'd be happy to do
7 that.

8 CHAIRMAN ARANOFF: Okay.

9 MR. HOOVER: Madam Chairman?

10 CHAIRMAN ARANOFF: Yes?

11 MR. HOOVER: Cooper has at least two plants
12 in China, and I believe that you should check the
13 sidewall pretty close when you buy a Cooper or you may
14 very well get a Chinese made Cooper.

15 CHAIRMAN ARANOFF: Okay. Well with that I
16 want to thank the panel for all of your answers this
17 morning and this afternoon. And let me see if Vice
18 Chairman Pearson has additional questions.

19 VICE CHAIRMAN PEARSON: Yes, I've just got
20 this one issue. This is for Dr. Button, and this one
21 I'm sure is for Dr. Button. It won't surprise you
22 that your analysis has elicited considerable interest
23 on the part of our analysts, and so for purposes of
24 the posthearing, could you include a description of
25 any models that have been used, the assumptions and

1 base data, the sorts of material that an economist
2 would want to understand the details of your analysis?

3 MR. BUTTON: Mr. Vice Chairman, yes, it is
4 our intention to provide with the posthearing brief a
5 full description of our methodology and our backup
6 data.

7 VICE CHAIRMAN PEARSON: Okay, thank you, I
8 kind of assumed that was coming but I want to make
9 sure. Now, relating to that, I noted your analysis
10 with some interest, and I just did some simple
11 numbers, you are projecting, this is in the public
12 version, okay, you're projecting a \$1.1 billion
13 increase in sales value under the remedy, and so that
14 will increase consumer cost I assume by something more
15 than that. But if we just take the \$1.1 billion and
16 divide it by 3,000 jobs preserved, we end up with a
17 cost per job of somewhere around \$366,000 per year.
18 And my question is, is that a reasonable price for
19 society to pay for maintaining those jobs?

20 MR. BUTTON: I think there may be some over-
21 simplification in your arithmetic here. The effect of
22 the remedy is not going to just preserve those 3,000
23 jobs, I suspect it may in fact prevent far more jobs
24 from being lost over time as it prevents the industry
25 itself from continuing to be eroded overall. We'll be

1 happy to give you a little more detail on that in our
2 brief if you would care for that.

3 VICE CHAIRMAN PEARSON: Okay, well if you
4 have more to add in the posthearing, I would be
5 pleased. And a question for Terry Steward along the
6 same lines, should this issue be factored into our
7 deliberations on remedy? You know, the costs to
8 society versus the benefits to the domestic industry
9 or the benefits to the workers in the domestic
10 industry at any rate?

11 MR. GERARD: Mr. Pearson, let me just say I
12 just asked Jim Wansley back there because I though
13 there was a point he was going to make earlier and I
14 don't remember if he made it. It would be wrong for
15 anyone on the Commission to assume that we're talking
16 about only the loss of 3,000 jobs. We're talking
17 about a multiplier effect. Most of these communities
18 that have a large tire plant, the tire plant is the
19 predominant employer, maybe not the only employer but
20 the predominant employer.

21 In Tyler, Texas, the loss of the plant cost
22 the community of Tyler \$980 million in revenue over
23 that period of time. And everything has been
24 affected, fire service, teachers, municipal
25 employment. So there really is a ripple effect, and

1 so I think that the question hopefully Dr. Button will
2 be able to answer, but you shouldn't assume we're just
3 talking about those 3,000 jobs when these plants
4 close.

5 VICE CHAIRMAN PEARSON: Okay, fair enough.
6 Mr. Stewart?

7 MR. STEWART: Vice Chairman Pearson, in
8 response to your question, my understanding of the
9 statutory structure is that your task, if you find
10 there to be a market disruption, is to make a
11 recommended remedy and that with that recommended
12 remedy you are supposed to identify both the benefits
13 and what you perceive to be the cost. So you
14 certainly have the right to examine that and put it in
15 your report to the President.

16 It certainly was the case when the law was
17 put on the books that the Congress at least perceived
18 that as a general matter where you recommended a
19 remedy or found market disruption, the President would
20 provide some form of remedy, whether it be a quota or
21 tariff rate quota or what have you. So it is within
22 your statutory responsibility to identify costs and
23 benefits.

24 VICE CHAIRMAN PEARSON: Okay, thank you very
25 much. And with that I have no further questions, I

1 appreciate very much all your answers.

2 CHAIRMAN ARANOFF: Do Commissioner have
3 additional questions? Commissioner Okun.

4 COMMISSIONER OKUN: Thank you, Madam
5 Chairman. I could have many questions. It's a big
6 market and unlike, you know, sometimes we have
7 products like polyvinyl alcohol that we have to spend
8 a lot of time figuring out what it is, where it's
9 used. Tires I get, I understand that, but it is a
10 very large market and I think it's important to
11 understand the dynamics as we do this analysis. But
12 in the interest of also wanting to spend time with the
13 Respondents this afternoon I'm just going to give one
14 question for posthearing and it's for you, Mr.
15 Stewart.

16 With respect to causation you have correctly
17 noted that the standard here of substantial cause is a
18 lower threshold, the Chinese agreed to a lower
19 threshold than a 201 or a global standard, different
20 than Title 7 however. So for purposes of posthearing,
21 if you could walk me through how you believe the
22 Commission should go through the causation analysis in
23 taking care not to attribute other factors at work
24 here including the decreases in demand, some of the
25 other things that have been raised by Respondents,

1 presence of nonsubject imports in particular, as part
2 of our analysis, I would appreciate that.

3 MR. STEWART: I'd be happy to do that,
4 Commissioner.

5 COMMISSIONER OKUN: Okay, thank you. And
6 with that, Madam Chairman, I have no further
7 questions.

8 CHAIRMAN ARANOFF: I don't think we have any
9 further questions from Commissioners. Do the Staff
10 have any questions for this panel?

11 MR. DAMON: George Damon, Office of
12 Investigations. The Staff has no questions.

13 CHAIRMAN ARANOFF: Clearly the Staff are
14 hungry. Do those in opposition to relief have any
15 questions for the witnesses on this panel?

16 (No response.)

17 CHAIRMAN ARANOFF: All right, I don't see
18 any hands going up in the back, so I'll take that as a
19 no. In that case we are at last at time for our lunch
20 break. We will take a break of about an hour and two
21 minutes and start again at 3:30. I need to remind you
22 that this room is not secure, please don't leave any
23 confidential information, electronic equipment, or
24 anything on which you place a personal value in this
25 room unless you're here to watch it. And until 3:30

1 we will stand in recess.

2 (Whereupon, at 2:30 p.m., the hearing in the
3 above-entitled matter was recessed, to reconvene at
4 3:30 p.m. this same day, Tuesday, June 9, 2009.)

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1 dealers in five Midwest states.

2 We are not an importer, we are a multi-brand
3 distributor. The passenger and light truck brands we
4 carry include Goodyear, Dunlop, Bridgestone,
5 Firestone, Michelin, Toyo, and numerous others. I am
6 here today to talk about the structure of the U.S.
7 consumer tire market, which is comprised of passenger
8 and light truck tires. My testimony is based on
9 decades of my own experience distributing tires. You
10 should know that only 15 percent of our 2008 consumer
11 sales were comprised by brands produced in China.

12 As a result we are not dependents on imports
13 of consumer tires from China, and frankly we do not
14 have as much at stake in this case as others at this
15 table. However I thought it was important for me to
16 come to Washington today to make sure the Commission
17 fully understands the facts of the consumer tire
18 market. Consumer tire brands can be segmented into
19 three tiers. The first two tiers are premium brand
20 tires.

21 Tier 1 tires consist of the major brands
22 such as Goodyear, Bridgestone, Michelin. Tier 2 tires
23 are lesser known brands such as Cooper and Uniroyal.
24 And the third tier consists of the private and
25 associate brands such as Hercules or Delta. There are

1 significant marketing differences between the premium
2 brand tires and the tier 3 tires. Premium brand tires
3 are heavily marketed to appeal to more brand and
4 status conscious consumers who are willing to pay a
5 premium for the name and perceived higher quality.
6 There are also tires used by the auto manufacturers as
7 original equipment, giving these brands the best
8 chance for first replacement.

9 In contrast, tier 3 tires are marketed to
10 price conscious consumers who want a safe tire but
11 don't want to pay the higher price. Typically these
12 tires are purchased for older vehicles. For example
13 not many consumers would buy a Goodyear 80,000 mile
14 tire if they're only keeping their older car for
15 40,000 miles. And in today's economy consumers are
16 keeping their cars much longer. Another difference is
17 the profitability. Premium brands earn a greater
18 profit margin for the manufacturer compared to tier 3
19 private brand tires.

20 These higher profits are the return on the
21 investments by the U.S. manufacturers for the
22 marketing and the research and development efforts
23 that attract the higher paying consumers and allow for
24 higher prices. Originally, U.S. producers supplied
25 all three tiers of the consumer tire market. But this

1 has changed now. Over the last ten years I witnessed
2 an evolving steady shift in the U.S. producers towards
3 supplying premium brand market and away from the tier
4 3 economy brand market.

5 And this makes perfect business sense. By
6 focusing on supplying the premium brand market, U.S.
7 producers can earn a greater profit on each tire sold.
8 And U.S. producers were also attracted to the growing
9 premium market due to consumers demanding perceived
10 higher quality tires with brand recognition.
11 Therefore, U.S. producers were not pushed out of the
12 tier 3 private brand market but abandoned it, seeking
13 the higher in the premium brand market. This left a
14 significant supply gap that can only be filled by
15 imports.

16 Imports from Korea first supplied this tier
17 3 market. Now China supplies a good portion of this
18 tier 3 market. But nonetheless, the premium market is
19 sound. Sixty percent of our 2008 consumer sales, 60
20 percent, were comprised of premium brands. Consumers
21 in replacement markets still demand the type of tires
22 that came on their car's original equipment, and that
23 would be the premium brand. In addition, car
24 dealerships are now very much in the replacement tire
25 business, and their sales are predominantly of the

1 premium brands that come as original equipment under
2 dealership vehicles.

3 So what should the Commission take away from
4 all of this? First, the U.S. consumer market is
5 segmented into different market tiers, and each tier
6 caters to different consumers. As a result there are
7 definitive market segments with very little overlap in
8 competition, especially between the premium brands and
9 the tier 3 private brands. Second, the U.S. producers
10 wilfully shifter their focus away from the tier 3
11 brands towards the premium brands to achieve a better
12 return on their investment.

13 They were not pushed out of tier 3 but again
14 they abandoned it. Imports from other countries
15 including China then filled the vacuum left by the
16 U.S. producers. Third, and most importantly,
17 restricting imports of consumer tires from China will
18 not cause the U.S. producers to shift back to
19 producing tier 3 tires. These U.S. producers do not
20 want this business. It makes no economic sense for
21 them, and this may be why they are not here today.

22 Instead, restrictions on Chinese imports
23 will just cause shortages in the near term until they
24 are replaced by imports from other countries such as
25 India, Indonesia, Thailand, and even Vietnam. I would

1 like to thank the Commission again for the opportunity
2 to be here today. I hope my testimony was helpful,
3 and I will be glad to answer any questions you might
4 have about the tire market.

5 MS. TROSSEVIN: Thank you. Our next witness
6 is Mr. James Mayfield.

7 MR. MAYFIELD: Thank you, Madam Chairman.
8 Good afternoon, Commissioners. I also appreciate the
9 opportunity to testify before you today on this
10 matter. I am Jim Mayfield, President of Del-Nat Tire
11 Corporation. My company, Del-Nat, is a combination of
12 the Delta brand and the National brand that formed
13 together in 1989 in Memphis, Tennessee. Del-Nat is a
14 coop whose owners and customers employ over 3,000
15 people in the United States.

16 Prior to becoming President of Del-Nat I
17 worked for three major North American tire producers,
18 Michelin Tire North America, Continental Tire North
19 America, and Yokahama Tire Corporation, and have been
20 a part of this industry for 28 years. My goal is to
21 give the Commission an accurate picture of the
22 industry today based upon my various career
23 experiences.

24 The first thing you should know is that U.S.
25 producers have little interest or capacity to produce

1 private brand tires. That is not just my opinion,
2 it's fact. U.S. tire producers walked away from their
3 contracts to produce Del-Nat tires. We were rebuffed
4 time and time again by the domestic tire industry in
5 our attempts to find new domestic suppliers. These
6 actions by the domestic tire industry at times put the
7 financial viability of my company at risk.

8 Del-Nat historically sourced most of its
9 tires from U.S. producers. Our ability to source
10 solely from the U.S. changed beginning in early 1998
11 when our largest supplier of tires, Michelin, abruptly
12 canceled their contract to supply tires with us,
13 putting our business and ability to supply tires at
14 risk. They determined that they needed that
15 production capacity to support their own brands.

16 We were able to find two suppliers that
17 would have products ready for us by late 1998. The
18 timing is critical here. This was 1998. One of those
19 suppliers has since moved out of the private brand
20 market, and we had to replace them. From that time
21 forward, Del-Nat has made very attempt to find
22 reliable, domestic sources for its tires. We entered
23 agreements with producers such as Continental and
24 Yokohama to produce our private brands. In every
25 instance the producer did not renew our contract and

1 the reason for termination was always that the
2 producer no longer was interested or able to produce
3 private brand tires.

4 A letter in 2004 from Continental Tire
5 canceling our contract states they are focused on
6 producing their own tier 1 and tier 2 brand tires. A
7 letter in 2006 from Yokohama canceling our contract
8 states that all of their capacity is utilized
9 producing their brand tires. In 2006 Hancock Tire
10 also notified Del-Nat that it was terminating our
11 agreement to produce Del-Nat brand tires because of
12 the lack of production capacity.

13 Likewise, emails from Cooper Tire and Toyo
14 indicate that lack of production capacity prevented
15 them from producing certain tires for Del-Nat. I also
16 spoke personally with Goodyear in 2005, and after
17 first agreeing to produce tires for us, they changed
18 their mind at the last minute and declined to start
19 production. In short, U.S. producers themselves ended
20 the production of private brand tires so that they
21 could focus on higher margin, premium brand tires.

22 Today we literally travel the world to find
23 tire manufacturers that can build the tires that we
24 need while meeting the safety standards that are
25 required in the United States. I would also like to

1 discuss the factory closings and reductions in
2 employment mentioned by the Petitioners. These were
3 the result of decisions based on many factors. I
4 would like to share with the Commission my personal
5 experience related to plant closings while a senior
6 employee at Continental Tire North America.

7 The Mayfield, Kentucky and Charlotte, North
8 Carolina plants were closed in 2004 and 2006
9 respectively. Based on my personal knowledge of the
10 situation as a nine-year employee of Continental, I
11 can tell the Commission that Chinese imports had
12 nothing to do with these closings. As far back as
13 1997 I was involved in monthly staff meetings that
14 discussed the cost levels in all Continental plants
15 worldwide, including the U.S.

16 The Mayfield plant was consistently the
17 highest cost plant in the global Continental system.
18 The Charlotte plant was also one of the highest cost
19 plants in the system. Continental was facing many
20 issues during this period. But Chinese import
21 competition was not among them. The Commission need
22 not take my word on this, it can read for itself what
23 the Petitioner in this case said about these closings
24 and layoffs.

25 In 2007 the USW prepared a report titled

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1 Continental Tires' Failure in North America: 20 Years
2 Asleep at the Wheel, a copy of which we will provide
3 with our posthearing brief. This report is a scathing
4 indictment of management practices of Continental over
5 the past two decades leading to the plant closings in
6 question. Nowhere in the 20-page report is there any
7 mention of Chinese imports as a cause of harm to
8 Continental.

9 Now, however, less than two years later, the
10 Petitioner wants the Commission to believe that all
11 along it was Chinese imports that caused the problem
12 at Continental. In closing, I'd like to thank the
13 Commission for the opportunity to tell my side of the
14 story. I'm sure we would all rather be at our
15 businesses running them during this important time.
16 But we felt we had to stand up for the thousands of
17 Americans who work in the tire industry whose jobs we
18 put at risk if the Petitioner prevails in this case
19 and U.S. private brands are squeezed out of the
20 market. Thank you. If you have any questions I'd be
21 glad to answer them.

22 MR. BURKHARDT: Good afternoon. My name is
23 Thomas Burkardt, and I am an Officer and General
24 Manager of American Pacific Industries. I have been
25 with American Pacific Industries for over 15 years and

1 I have been in the tire business for almost 35 years.
2 American Pacific Industries currently imports 25
3 percent of its passenger tires and almost 100 percent
4 of its light truck tires from China, several million
5 units over the period of investigation.

6 One hundred percent of these tires are sold
7 into the U.S. replacement market, and I am not aware
8 of any Chinese tires manufactured specifically for the
9 U.S. OEM market. It is important to recognize that
10 within the U.S. after market, there are distinct
11 segments based upon price, profit margins, and brand
12 equity. Domestically manufactured tires serving the
13 U.S. OEM and after market are typically well known
14 brand names demanding a premium price for their goods.

15 Alternatively, companies such as American
16 Pacific Industries selling less recognizable Chinese
17 tires compete in a completely different segment of the
18 after market, a segment characterized by mass market
19 sales, lower brand equity, and extremely price
20 conscious customers. Domestic manufacturers
21 consciously abandoned the lower end of the replacement
22 market in which we compete as that market segment
23 demands lower prices and lower profit margins.

24 Focusing on the higher end of the after
25 market, which is substantially increased due to the

1 proliferation of tire sizes and the demand for more
2 profitable high performance tires also caused domestic
3 tire manufacturers to close several U.S. factories
4 serving the low end of the after market. That
5 decision by domestic manufacturers, which had nothing
6 to do with Chinese tires, also left a significant
7 unfilled demand in the United States for smaller less
8 profitable tires.

9 For example, American Pacific Industries has
10 been approached several times by domestic tire
11 distributors looking for low end after market tires.
12 These domestic distributors could not obtain in the
13 United States, and API has met those requests through
14 Chinese tires. Domestic tire manufacturers as all
15 tire manufacturers are being negatively impacted by
16 the current severe recession as well as fluctuating
17 gas prices and raw material costs.

18 U.S. manufacturing also decided to leave the
19 lower end of the after market. These decisions by the
20 U.S. tire industry and other factors may have injured
21 U.S. workers, but any increases in imports of Chinese
22 tires were the effect of these decisions, not the
23 cause of these decisions. U.S. workers were not and
24 have not been injured by Chinese tire imports.

25 For all of these reasons we firmly believe

1 that tires from China are not causing and do not
2 threaten market disruption in the United States, and
3 we urge the Commission to vote in the negative in this
4 investigation. I thank the Commission for their time.

5 MR. REILLY: Good afternoon, Madam Chairman
6 and Members of the Commission. I'm John Reilly of
7 Nathan Associates appearing on behalf of the Chinese
8 producers, importers, and purchasers of the subject
9 tires.

10 To understand the 2004 to 2008 period, it's
11 important to understand the pre-2004 period. As of
12 2003 and for at least a decade before, U.S. tire
13 producers had not earned adequate investment returns.
14 I note that imports from China did not reach 10
15 million units, or about half the quota proposed by
16 Petitioner, until 2003. Chinese tires therefore could
17 not have been the problem. In any event, it was clear
18 well before 2003 that the producers needed a new
19 strategy.

20 Faced with inherently high costs relative to
21 off-shore production in Mexico, India, Korea, and
22 similar countries, the U.S. producers elected to phase
23 out domestic production of tier 3 tires and focus
24 instead on U.S. production of high value premium
25 brands for the domestic market. The objective of the

1 strategy has been to increase per-tire revenue and
2 profit margins in order to maximize corporate
3 earnings. As a result, sourcing of the tier 3 segment
4 moved progressively off shore.

5 The U.S. tire producers themselves joined
6 this off-shore migration by sourcing their associate
7 brands in other countries. Due both to the U.S.
8 producers' decision to progressively abandon domestic
9 production of the high volume tier 3 brands and
10 declining volume and market share in the OEM market,
11 from which Chinese tires are virtually absent, U.S.
12 producers' domestic shipments of subject tires
13 declined during the period of investigation.

14 A steady increase in the average unit values
15 of their shipments however caused the total value of
16 U.S. producers' domestic shipments of subject tires to
17 be stable during the 2004 to 2006 period, about \$9.5
18 billion despite declining volume. During 2007, total
19 shipment value rose to a five-year peak of some \$10
20 billion, and in 2008, the value of U.S. producers'
21 total domestic shipments despite the recession
22 amounted to \$9.5 billion, which is the second highest
23 level for the period of investigation.

24 The strong revenue performance of the U.S.
25 producers in the mature domestic tire market reflects

1 the success of their strategy of trading volume for
2 per-tire value. Between 2004 and 2008, U.S. producers
3 average value per-subject tire shipped increase from
4 \$48.40 to \$69.69 for a cumulative gain of 44 percent.
5 The largest annual increase during the period of
6 investigation occurred between 2007 and 2008, when
7 average value per tire rose \$5.68, or 8.9 percent.

8 The pricing product data for replacement
9 market sales show that the U.S. average shipment value
10 increases result from very substantial price increases
11 as well as better product mix. For the six pricing
12 product specified by the Commission, 2004 to 2008
13 price increases range from a low of 27.2 percent to a
14 high of 43.6 percent. It's also worth mentioning that
15 U.S. producers' prices to the replacement market
16 outpace their prices to the OEM market both in terms
17 of value and in trend.

18 I should mention at this point that any
19 underpricing analysis would not be probative in this
20 case. As the industry witnesses have explained,
21 Chinese tires are sold principally in the lowest tier
22 mass market segment and have less value and ask lower
23 prices than branded domestic prices, just as private
24 brand tires made by the domestic producers were priced
25 below their own brand tires.

1 The U.S. producers' financial performance
2 must be assessed in light of the challenge posed by
3 rapidly increasing raw material costs. Between 2004
4 and 2007, raw material cost per tire rose by 38.6
5 percent, from \$19.49 to \$27.02. In 2008, raw material
6 costs increased by an additional 23.4 percent to
7 \$33.35 per tire. Were imports from China suppressing
8 or depressing U.S. producers' prices, one would expect
9 to find a domestic industry in the grip of a
10 progressively tighter cost price squeeze from 2005
11 through 2008.

12 The operating profit data show that this was
13 not at all the case. U.S. producers reported
14 operating profits reached a five-year peak of \$489
15 million, or 4.4 percent of sales, in 2007, which is
16 more than double the amount earned in 2004. Clearly,
17 cumulative average value increases through 2007 had
18 more than offset the cumulative raw material cost
19 increases. This achievement, which would have been
20 impossible had Chinese tires been suppressing or
21 depressing prices, evidences the success of trading
22 volume for value.

23 Note that the sharpest year over year growth
24 of subject imports from China coincided with the U.S.
25 producers' very best financial performance. Between

1 2006 and 2007, subject imports increased from 27.1
2 million units to 41.5 million, or by 53.1 percent.
3 This clear absence of correlation belies any notion
4 that subject imports from China compete to any
5 significant degree with the domestic product.

6 In 2008, the rate of subject import growth
7 decelerated sharply to 4.5 million units, or 10.8
8 percent. For the same year, U.S. producers reported
9 an operating loss due to a combination of
10 circumstances totally unrelated to subject imports.
11 As noted in the prehearing of the Chinese Represents,
12 reduced demand and market share losses to nonsubject
13 imports in the OEM segment, along with reduced
14 replacement demand, accounted for more than two thirds
15 of the U.S. producers' 2008 and 2009 shipment decline.
16 And more about the OEM market in a moment.

17 The remainder of the decline appears to
18 reflect principally reduced consumer demand for tier 1
19 and tier 2 tires resulting from the recession,
20 consumer uncertainty, and reduced consumer incomes.
21 As noted previously, raw material costs skyrocketed in
22 2008. The combination of higher costs and reduced
23 unit sales accounts for the reported losses. The
24 situation would have been worse but for a robust 8.9
25 percent increase in U.S. producers' 2008 average

1 shipment value.

2 It's hardly surprising that U.S. producers
3 could not increase prices sufficiently to cover
4 massive cost increases in the midst of a severe
5 recession. Demand in the OEM segment had essentially
6 collapsed, consumers in the replacement market were
7 beset by falling housing values, evaporating savings,
8 and uncertainty about their prospects for continued
9 employment, and would be unable to afford premium
10 tires if faced with major price increases. Such
11 increases might cause consumers to reduce wear on
12 their present tires by driving less and/or to
13 overextend their use of worn tires, which in itself is
14 highly dangerous.

15 The preceding notwithstanding, U.S.
16 producers in volume and profits would have been
17 considerably higher throughout the period of
18 investigation had they prospered in the OEM segment,
19 from which Chinese tires are virtually absent. This
20 however was not the case. For instance, U.S.
21 producers' shipments of subject tires to the OEM
22 market declined by 9.3 million units, or 20.4 percent
23 between 2004 and 2007, and by an additional 11.9
24 million units in 2008 as OEM demand collapsed.

25 In contrast, the volume of nonsubject

1 imports going to the OEM market actually rose through
2 2007 and then declined to the 2004 level in 2008, far
3 less of a decline than suffered by the domestic
4 producers. The principal cause of the U.S. producers'
5 volume and losses in the OEM market has been market
6 share erosion relative to nonsubject imports. Between
7 2004 and '08, U.S. producers' OEM market share fell
8 steadily from 68 percent to 51 percent, while the
9 nonsubject import share rose steadily from 31 percent
10 to 44.4 percent.

11 Since the U.S. producers are by far the
12 largest importers of the subject tires from nonsubject
13 sources, the rapidly increasing market share of
14 nonsubject imports in the OEM, appears to reflect
15 largely decisions taken by members of the domestic
16 industry. As regards threat, I note that subject
17 imports from China have actually declined by 14.7
18 percent during the first quarter of 2009 compared to
19 the same period in 2008. There must be causation in
20 this case. Simply put, without causation, there can
21 be no threat. Thank you for your attention.

22 MR. BORGMAN: Good afternoon, Madam
23 Chairman, members of the Commission. My name is Dick
24 Borgman and I am chairman and CEO of Les Schwab Tire
25 Centers. As CEO of Les Schwab, I am responsible for

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1 overseeing all aspects of the business operations of
2 our company and ensuring the welfare of over 6,000
3 employees. After 19 years with Les Schwab, I am very
4 familiar with the tire industry and the private brand
5 market. Our company has over 50 years experience as a
6 wholesaler and retailer of consumer tires. Les Schwab
7 was founded by its namesake in 1952. Now
8 headquartered in Bend, Oregon, we remain a family-
9 owned business that continues a long tradition of
10 sharing one-half the company's profits with our
11 employees. We are one of the largest private brand
12 independent tire retailers in the United States with
13 over 420 store locations spread out across the western
14 United States, generating \$1.6 billion in annual
15 sales.

16 One of the fundamental principles of Les
17 Schwab's business model is consumer choice. Our tire
18 centers are stocked with private brand tires of
19 varying performance, warranty, and price, to give the
20 consumer more options. Our company generally sales
21 more than five million passenger and light truck tires
22 annually.

23 We stand to be severely affected if
24 restrictions are placed on Chinese imports. I am here
25 today to share our concerns with the Commission and to

1 testify as to our reasons for opposing this petition.

2 As the Commission staff has noted, the U.S.
3 replacement market is broken into three tiers. The
4 first two tiers include tires with brand name equity,
5 such as Michelin and Firestone. Les Schwab sells
6 tires in the third segment of the market, which
7 includes private brand tires. Within this third tier,
8 our tires cover the same broad spectrum of size and
9 performance as are offered in the first two segments.
10 When all the advertising and marketing is stripped
11 away, our tires are just as well made, just as safe,
12 and just as carefully inspected as brand names. Our
13 tires simply do not have a flag or secondary brand
14 name on their sidewall.

15 Historically, we purchase the vast majority
16 of our tires from the U.S. However, starting in the
17 early 2000s, it became more difficult to find U.S.
18 suppliers to provide the capacity we needed. The
19 large U.S. producers were beginning to change their
20 focus. They concentrated their production on tier one
21 and tier two lines and began phasing out their private
22 brand lines entirely. In doing so, they began
23 squeezing our supply from the U.S., forcing us to make
24 our purchases abroad.

25 In 2006, the other shoe dropped. Goodyear

1 announced it was withdrawing from the private brand
2 market in North America to focus on tier one and tier
3 two tires. At first, Goodyear assured us that it
4 would still provide private brand tires for another
5 year. However, shortly thereafter, a prolonged
6 company-wide strike abruptly ended Goodyear's private
7 brand production. This suddenly reduced the private
8 brand annual capacity by millions of tires. We were
9 left scrambling to make up for the supply deficit and
10 foreign producers were the only suppliers interested
11 in providing our products. To make matters worse, in
12 the fall of 2006, another important U.S. supplier
13 decided to discontinue supplying us with certain
14 private brand products and gave us only 60 days to
15 find a new supplier.

16 Having access to all three tiers in the
17 replacement market is important to allow consumers to
18 have a wide variety of performance and price options.
19 We stock private brand tires because the flagged
20 brands do not meet all the needs of the U.S.
21 marketplace. Consumer are entitled to choices.
22 Without Chinese and other foreign brand suppliers, we
23 could not fill our showrooms with private brand
24 products or satisfy consumer demand. In the midst of
25 the economic downturn, the need for private brand

1 options is even more important. Our business is
2 designed to meet this need.

3 As private brand wholesaler and retailer, we
4 are dependent on imports for the survival of our
5 business. The Major U.S. producers decided to cease
6 making our products and they have changed their lines
7 and updated their factories. They have committed
8 their U.S. factories to the production of other types
9 of tires and to reverse their decision would be a
10 hugely expensive endeavor, one they have expressed to
11 us no interest in and are very unlikely to undertake.

12 Restricting tire imports from China will do
13 nothing to increase U.S. domestic production.
14 Replacement supply will simply have to come from other
15 third country sources, resulting in disruption to the
16 private brand segment and supply shortages. In
17 closing, I urge the Commission to make a negative
18 determination in this investigation, because a
19 restriction on imports endangers the very existence of
20 our company and other private brand wholesalers and
21 retailers. Thank you, Madam Chairman, Commissioners,
22 and staff for your time and your extensive work in
23 this investigation. I would be happy to answer any
24 questions you may have.

25 COMMISSIONER ARANOFF: I apologize, but I

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1 need to break in here. Our final congressional
2 witness of the day has arrived and so we are going to
3 just pause for a moment and hold the time, so that we
4 can get that witness back over to the Hill. Mr.
5 Secretary?

6 MR. BISHOP: The Honorable Timothy J. Ryan,
7 United States Congressman, 17th District, Ohio.

8 COMMISSIONER ARANOFF: Good afternoon,
9 Congressman Ryan, and welcome to the Commission.

10 MR. RYAN: Good afternoon. Thank you for
11 accommodating my schedule today. I appreciate it.
12 Madam Chairman, members of the Commission, I thank you
13 for the opportunity to testify in support of the
14 United Steelworkers Section 421 petition on consumer
15 tires. I am confident that after a fair and objective
16 analysis of the facts, the Commission will determine
17 that the criteria for an affirmative determination
18 have been met and that you will recommend to the
19 President the relief requested by the union.

20 As the letter I sent to the Commission just
21 a few days after the union filed the petition pointed
22 out, I am no stranger to Section 421 cases. In 2003,
23 I testified in support of petitioners in a case
24 involving welded non-alloyed steel pipe. The ITC
25 ruled in favor of the petitioner, but President Bush

1 opted against giving relief. Therefore, I am back
2 once again urging that American jobs be saved from a
3 continuing surge of imports from China.

4 The market disruption in the current 421
5 investigation of consumer tires can only be stopped by
6 an affirmative determination. I hope for a better
7 outcome from the Obama administration in the event the
8 steelworkers win here at the ITC. The final outcome
9 of this investigation will have huge impact on the
10 well being of thousands of American families and their
11 communities around the country. American workers, who
12 make passenger and light truck tires, have the right
13 to expect our trade laws to be enforced and that at
14 long last appropriate remedies are applied to China in
15 a Section 421 safeguard investigation. If that does
16 not happen here and now, the skilled jobs will be lost
17 forever.

18 I trust you will find, as I have, that the
19 facts presented by Petitioners are persuasive. A
20 surge has occurred in consumer tire imports from China
21 of nearly 300 percent in dollar terms and over 200
22 percent by volume from 2004 to 2008. At the same
23 time, U.S. production has declined by 25 percent.
24 Four plants around the country have closed and two
25 more are scheduled to close this year. Thousands of

1 skilled high-wage workers have lost their jobs.
2 During this period, Chinese-made consumer tires have
3 increased their market share significantly and
4 domestic makers, as a result, have lost market share.
5 The petition and supporting documents establish this
6 reality. As you consider these facts, I urge you to
7 keep in mind how important remedies such as Section
8 421 are to the well being of the hardworking people in
9 my district and around the country.

10 Allow me to share with you our personal
11 experience about how trade has contributed to tough
12 times in some of the communities in the 17th
13 congressional district in Ohio. I am now in my fourth
14 term representing the people, who live and work in
15 communities in Ohio's Mahoney Valley, Portage, and
16 Summit County in the City of Akron. Youngstown and
17 Warren are some of the other cities there. I am sure
18 these places immediately prompt images of abandoned
19 factories and vacant homes. In fact, some of the
20 factories, as well as several of the homes, have
21 simply been razed. The jobs in neighborhoods of
22 hardworking Americans have literally been wiped out.
23 As a result, for example, Youngstown has half the
24 number of people it did in the 1950s. The steel mills
25 and rubber factories that helped form the backbone of

1 American manufacturing and the 40,000 jobs some of
2 these mills supported are largely gone. Now, the auto
3 industry is facing a life and death struggle. The
4 parts makers, machine shops, the hundreds of other
5 suppliers that depend on strong auto and steel
6 sectors, rubber sectors in Ohio are now in peril.
7 U.S. trade policy has had much to do with this decline
8 in manufacturing jobs and has put downward pressure on
9 wages in my community and around the country. Since
10 2000, four million manufacturing jobs have been lost
11 in the United States.

12 Section 421 was adopted when Congress voted
13 to establish permanent normal trade relations with
14 China and paved the way for its membership into the
15 World Trade Organization. Congress insisted on and
16 China agreed to certain safeguards as a condition of
17 membership. It was clear that China's phenomenal
18 growth could and probably would lead to increases in
19 production and surges in imports that would cause
20 economic disruptions to even the most efficient and
21 competitive of domestic companies. That is exactly
22 what we have seen in the consumer tire industry over
23 the last five years. It is import surges such as this
24 with their resultant impact on American jobs and
25 companies that law makers had in mind when Section 421

1 was conceived. The Chinese made a commitment in 2000
2 to respect and abide by this law. So, I am disturbed
3 to see the Chinese inappropriately attacking the
4 provision and even trying to interfere with the legal
5 process at the ITC.

6 U.S. trade policy needs to be revised and
7 strengthened and not weakened. I am pleased that
8 President Obama has acknowledged that. However,
9 Chinese bilateral trade frictions, in particular,
10 remain very problematic. The Chinese consistently
11 keep the value of their currency artificially low.
12 They provide massive state subsidies through all key
13 industrial sectors and dump products in the U.S.
14 market priced below the sales price at home. I have
15 introduced legislation to address this concern, the
16 Currency Reform for Fair Trade Act of 2009. I am here
17 to ask how much more the hardworking people in
18 northeast Ohio or in places like it must take. Is it
19 right to just give up on them? Should we just assume
20 that the work is changing and that some jobs are
21 destined to inevitably leave the United States in
22 favor of China and other countries? The answers to
23 this question is no.

24 I believe it to be unacceptable to ignore
25 this opportunity to help workers stay on their feet.

1 Section 421 is important to this. Local companies,
2 like Denman Tire, our company located in Leavittsburg,
3 Ohio, located just west of Warren, opened 90 years ago
4 and produces high-quality tires for autos, light
5 trucks, earth moving and farm machinery, and race
6 cars. The company has a production capacity of nearly
7 one million tires a year, roughly half of which are
8 the passenger and light truck variety, the subject of
9 this investigation. The facility employs 270
10 unionized individuals in decent paying high-skilled
11 jobs. The company has been struggling and was forced
12 to lay off over 80 workers this year. It needs to
13 upgrade its equipment, so they can remain competitive,
14 but the crush of Chinese-made imports in recent years
15 has made it difficult to make that kind of investment.

16 My constituents fully understand that
17 competition is part of the American tradition. We
18 welcome it. Successful companies are always looking
19 for ways to improve products and services. Smart
20 companies are eager to use new materials and
21 technologies. Wise companies invest in the
22 development of their employee skills and care about
23 their employee's well being. This is what Denman has
24 done for 90 years. These principles have allowed
25 Denman and other companies to survive and thrive even

1 as new players enter the market at home and abroad.
2 But despite this, the modern global marketplace has
3 created competitive pressures that did not exist a
4 generation or two ago. The emergence of China as a
5 manufacturing powerhouse has carried with it notable
6 imbalances in trade dynamics. Despite its enormous
7 impact on global trade, China's evolution from a
8 developing country with a state-directed economy is
9 not complete. Each year, the Office of the U.S. Trade
10 Rep produces a report on China's progress in meeting
11 obligations it undertook upon joining the WTO. Even
12 now, almost 10 years into that process, the report
13 makes abundantly clear that China has not made a
14 transition to a market economy and there are countless
15 examples of state intervention in that country's
16 economic affairs. That is why we need proper
17 enforcement of Section 421.

18 Madam Chair, global trade works better when
19 rules put in place to correct sudden disruption and
20 distortions are applied. Public support for
21 liberalized trade rests on the assumption that these
22 rules will be applied in a timely manner, so workers
23 are not unfairly disadvantaged. One of the well-worn
24 phrases of administrations, both democratic and
25 republican, is to vow to use all the tools in the

1 enforcement toolbox. The 421 tool has never been used
2 by an administration. Now is the time for it to be
3 applied before Section 421 sunsets in 2013. I urge
4 the Commission to make an affirmative determination
5 that adopts the remedy recommended in the petition.
6 If you do so, I have faith that the President will act
7 accordingly. Thank you, again, for this opportunity
8 and I appreciate you accommodating my schedule.

9 COMMISSIONER ARANOFF: Thank you, very much.
10 Are there any questions for the Congressman?

11 (No questions.)

12 COMMISSIONER ARANOFF: Thank you for coming.
13 We have a late breaking additional congressional
14 witness that we were not aware of, who is fortunately
15 ready to proceed right now, so, Mr. Secretary?

16 MR. BISHOP: The Honorable Carolyn
17 Kilpatrick, United States Congresswoman, 13th District,
18 Michigan.

19 COMMISSIONER ARANOFF: Congresswoman,
20 welcome to the Commission.

21 MS. KILPATRICK: Thank you, very much, and
22 thank you for allowing me to come. Thank you for
23 having the hearing, first of all. I stand here in
24 support of the United States Steelworkers for all
25 their work in building a new America and continuing to

1 fight to make sure that imports don't take all of our
2 jobs, as we seek to save American worker's jobs.

3 Madam Chairman, members of the Commission, I
4 stand in support of Section 421. As the steelworkers
5 petition you, and we might go back to 2005 trade
6 standards for tires, it comes at a time -- I'm from
7 Michigan, which is why I had to take a later flight
8 today. General Motors is reeling, manufacturing is
9 becoming extinct, and great countries manufacture
10 something. That's how we are known. And I hope that
11 the reorganization that we're going through, as
12 painful as it's going to be, certainly from the
13 epicenter of the trade where I live, but across this
14 country where millions of Americans and their families
15 are suffering pain of the unknown at present, I urge
16 the Commission to rule in favor of the workers, who
17 have correctly exercised their right to file this
18 petition and to recommend to President Obama the quota
19 requested by the Union that they would return, as I
20 mentioned, to the 2005 levels. If such relief becomes
21 a reality, this Commission will save thousands of
22 workers and give this industry an opportunity to get
23 back on its feet.

24 Madam Chairwoman, members of this august
25 Commission, this petition, in my view, is part of a

1 larger effort to preserve American manufacturing.
2 When it comes to trade policy -- and in the Congress,
3 you know we consider many trade policies. I have been
4 vehemently opposed to most of them in my 30-year
5 career precisely because of what we see happening to
6 our American base and our families today. When it
7 comes to trade policies, past administrations have
8 centered on more trade agreements, rather than
9 vigorous trade enforcement, and that's the part that I
10 think we have much of our problem. The enforcement
11 part is lacking and I would hope this Commission, as
12 you have always done, watch out for American workers
13 and families.

14 As a prime example, President Bush summarily
15 rejected the Commission's recommended relief in four
16 Section 421 cases, all of which involved steel
17 products. One question before us today is this: are
18 American workers affected in those petitions better
19 off today than they would have been had the relief
20 this Commission recommended be adopted? I summarily
21 say that workers would be better had we followed the
22 Commission's advice and recommendation. The answer is
23 unequivocal in this regard. How do we know that the
24 lack of enforcement of this section has harmed
25 American tire workers? What is some of the

1 information already public?

2 Since 2004 a surge has occurred in the
3 import of Chinese tires by nearly 300 percent in
4 dollar terms and over 200 percent by volume. During
5 these five years, U.S. production, not by coincident,
6 decided 25 percent. Four tire plants have closed in
7 the states of Kentucky, North Carolina, Oklahoma, and
8 Texas. Two more are scheduled to close in Georgia and
9 Alabama later this year. Nearly 4,500 workers,
10 American workers I might add, have already lost their
11 jobs. Their families, still many of them, have not
12 been able to secure gainful employment. These Chinese
13 tires not surprisingly are stripping away chunks of
14 our share of our own market. I would like to go back
15 here and just briefly say, as we look at the
16 manufacturing and what's happening in our automobile
17 industry today, the French President has announced and
18 is doing investment in the French auto industry to
19 preserve it.

20 I really believe and I know yesterday was
21 supposed to be up here and great for GM, but the human
22 factor was lost because millions of jobs, families,
23 communities, boy scouts, other kind of philanthropic
24 support that these auto industries give will be
25 missing and lacking. And I predict over the next 30,

1 60, 90 days, if not a year, we will see a horrific
2 downturn in our economy and severe weight from the
3 economic gains that we've lost because the automobile
4 industry, for example, and steel very much being a
5 part of that -- unfortunately, I just read the
6 petition on the way flying over from Michigan. The
7 foreign manufacturers are not hit, if you will, by
8 this bankruptcy. They're excluded from it. I've been
9 fighting here in the Congress, General Motors, there
10 would be no foreign dealers, manufacturers, if it were
11 not for the domestics. But, unfortunately, I lost
12 that battle and the European automakers, as well as
13 China, as French gives their dollars to the French
14 auto industries, we are passing on our dollars to
15 China, Japan, and others, where they will make
16 1,300,000 cars manufactured outside of the U.S., close
17 over 20 plants, over 2,000 dealers. And we wonder
18 what is happening in America.

19 So, I know you have been here all day and I
20 have a statement I would like to submit for the
21 record. But, Madam Chair and members, thank you for
22 the work that you do. Thank God for the ITC and your
23 leadership. As we build a new America, let us keep
24 centered that without hope, without access and
25 accountability and jobs, families, children,

1 municipalities, and our country will not be the great
2 country that God intends us to be. Thank you for
3 allowing me to interrupt. I will be happy to answer
4 any questions and thoroughly support the work that
5 you're doing. Please support the steelworkers and the
6 petition that they submitted. I would ask that my
7 full statement be submitted for the record.

8 COMMISSIONER ARANOFF: Thank you, very much.
9 We will definitely put your full statement in the
10 record.

11 MS. KILPATRICK: Thank you.

12 COMMISSIONER ARANOFF: Does anyone have a
13 question for the Congresswoman?

14 (No questions.)

15 COMMISSIONER ARANOFF: We can now proceed.
16 I don't know, do you need a time check from the
17 secretary before we proceed? You've used 32 minutes,
18 so 28 remaining. I'm not aware of any other
19 interruptions that are upcoming, although I've already
20 been surprised once, so no definite promises. But,
21 please proceed.

22 MR. DELORIO: Good afternoon, Chairman
23 Aranoff and members of the Commission. My name is Vic
24 Delorio. I am the Executive Vice President of Sales
25 and Business Development for GITI Tire USA, Ltd. And

1 my testimony today will focus on the timing of the
2 business decisions for the tire production by the U.S.
3 tire industry, as I see it in the marketplace.

4 First, let me tell you some background.
5 I've been associated with the tire industry for 29
6 years. I began selling tires through a small
7 automotive repair shop in 1980. Later, I joined
8 WalMart's automotive division. Tires became more of a
9 focus at WalMart, as they converted their automotive
10 centers to tire and lube express centers. I operated
11 a very first tire and lube express concept store at
12 WalMart and due to its success, I went on to rollout
13 some of the very first tire and lube express centers
14 in southern California. I continued my career in the
15 industry by moving to the importing side of the
16 business in 1995. In 2005, I joined GITI Tire USA, as
17 executive vice president.

18 GITI Tire USA is an indirect, wholly-owned
19 subsidiary of GITI Tire PTE, Ltd., which is based in
20 Singapore. GITI Tire sells replacement tires for
21 passenger, SUV, and light truck vehicles, among
22 others, in the United States under the GITI Radial,
23 Runway, and Primewell brands. The Primewell brand is
24 exclusive to Bridgestone/Firestone and is sold through
25 wholesale channels and retail stores, such as

1 Firestone's complete auto care retailers in the United
2 States. The company's tires are also sold through Max
3 Finklestein, STS Tire and Auto Centers, Mr. Tire,
4 Monroe Muffler Stores, among others. The company is
5 committed to providing consumers with quality tires at
6 a good price. We feel a critical need in the U.S.
7 tire market providing high-quality and safe tires at
8 price points that the average hardworking American can
9 afford.

10 GITI Tire began operations in the United
11 States in 2005 and its offices are based in Rancho
12 Cucamonga, California. It has sales representatives
13 around the United States and a small technical team
14 based on the west coast. I want to focus my comments
15 today on the decisions and the planning of the U.S.
16 domestic tire industry in the past few years. As
17 background, the tire imports you're investigating are
18 overwhelmingly sold to the replacement tire market, as
19 opposed to the original equipment manufacturers OEM
20 market. The U.S. replacement tire market is segmented
21 into three tiers. In short, premium, midrange, value,
22 otherwise referred to as tier one, tier two, and tier
23 three.

24 Our tires serve the tier three value market.
25 This segment of the market exists because many

1 Americans cannot afford expensive brand name premium
2 tires. Many of these tier three tires are private
3 brand tires; that is, tires manufactured for an
4 exclusive distributor or a specific channel of
5 distribution. For tier three, the brand name is not
6 necessarily the name of the producer and is not
7 associated with the brand equity of the producer.

8 Since about 1995, many U.S. tire
9 manufactures have adopted a business strategy to
10 ensure long-term competitiveness by exiting U.S.
11 production for the tier three replacement tire market
12 in order to concentrate on a more profitable, higher
13 end tiers, which also allows them to highlight their
14 flagship brands. In many cases, these same companies
15 started importing tier three tires into the United
16 States and selling them under their own brand or label
17 or as an exclusive brand. I can remember this first
18 started to occur was about 15 years ago when a major
19 U.S. producer made this shift. This is when I first
20 moved into supply and imports to meet that demand.
21 Some other examples are Cooper, which has moved some
22 of their production to Kenda and Taiwan and Goodyear,
23 which supplies tier three tires to WalMart under the
24 Douglas label. Some of these tires are manufactured
25 in Venezuela and Poland. Most U.S. producers of these

1 tires exited the tier three market proactively because
2 it was their strategy to concentrate on higher end
3 market segments, tier one and tier two and the OEM
4 market. As a result, many tires you are investigating
5 are being pulled into the United States by the
6 domestic industry and the rest are filling a void
7 created by the ramping down of production by the
8 domestic industry for the tier three market.

9 This timing is key. The major U.S.
10 producers decision to abandon U.S. production capacity
11 for the tier three market preceded, rather than
12 followed, major increases in Chinese imports. In this
13 regard, you will note that most of the plant closures
14 cited in the petition occurred during 2006, as a
15 result of business decisions by U.S. producers to exit
16 the production of the low-end tires, decisions made
17 years earlier. It was at this point in 2006 that
18 imports of tires from China started to grow by
19 approximately 35 percent on a value basis. The most
20 significant growth in China share of tire imports did
21 not begin until 2007. China's share of the market
22 import rose to almost 30 percent in 2007 and grew
23 further to 33 percent by 2008. However, in the 2007-
24 2008 period, only Goodyear's Tyler, Texas plant closed
25 and that closure was a result of Goodyear's mid-2006

1 decision to exit the private label business, which
2 preceded this growth of imports from China. Again,
3 this change in supply pattern was a result of a
4 deliberate decision by the domestic industry to
5 basically discontinue production of tier three tires
6 in the United States.

7 I appreciate the opportunity to appear
8 before you and I look forward to answering any of your
9 questions. Thank you, very much.

10 MR. KOGEL: Good afternoon, Chairman
11 Aranoff, and members of the Commission. My name is
12 Ross W. Kogel, Jr. and I am President of Tire
13 Wholesalers Company, Inc. We are a family-owned
14 wholesale distribution business with four locations in
15 the State of Michigan. We were founded in 1970 and
16 have 70 Michigan-based employees. We sell tire brands
17 such as Cooper, Pirelli, Continental, General, and GT
18 Radial to 3,255 independent business in Michigan,
19 Ohio, and Indiana.

20 I speak to hundreds of independent tire
21 dealers every month and I have firsthand grass roots
22 experience and where the tire market is moving and
23 where it has been recently. The quotas proposed on
24 Chinese imports would have a significant affect on the
25 market and I want to point out the impact this would

1 have on our Michigan-based business and its customers.
2 While our business sells many different brands of
3 tires at many price levels, we do a lot of business in
4 the tier three replacement tire market. As a result,
5 I have a stake in both sides of this argument.
6 Indeed, our largest supplier is the U.S.-based Cooper
7 Tire and Rubber Company and our second largest is GITI
8 Tire. For my Michigan-based business, the move to
9 limit Chinese tires would be damaging to our business,
10 our customer's businesses, and consumers in Michigan.

11 People in Michigan have seen very hard times
12 recently. The fact is that when they have to or
13 should replace their tires, Michigan consumers
14 typically look for the tire three economy valued
15 tires. Because U.S. replacement tire production is
16 focusing on higher-end tires for more well off
17 customer base, I do not believe that quotas or tariffs
18 on tires from China will create jobs in the tire
19 industry. Such actions will only hurt jobs in my
20 business and many of my customer's businesses and take
21 away choices for the most cost conscious customers.
22 Most importantly, I believe there is a misconception
23 that if the number of Chinese tires imported into the
24 U.S. are limited, those sales will be replaced by
25 U.S.-made tires, therefore saving jobs. You can't

1 replace Chinese-made tier three tires with U.S.-made
2 tier one or tier two tires. That's like saying import
3 restrictions on the Kia Sorento would lead Americans
4 to buy Cadillac Escalades. Some folks just want tier
5 three tires.

6 In our Michigan-based business, limiting the
7 number of Chinese tires available to our business
8 would cause a switch from importing tier three Chinese
9 tires to importing tier three South Korean
10 manufactured tires, not U.S.-made tires. From what I
11 have seen in my business, tires produced in the United
12 States are simply not competitive in the tier three
13 market. Limiting Chinese-made tire imports will not
14 result in an increase in sales for U.S.-made tires.

15 I appreciate the opportunity to appear
16 before you and I look forward to answering any of your
17 questions. Thank you, very much.

18 MR. GWINN: Good afternoon. My name is Ed
19 Gwinn and I am Senior Advisor at DE Global Limited.
20 DE Global is a consulting company. We assist
21 companies with their business operations in Asia. I
22 worked for Michelin Tire for 25 years in the U.S., in
23 France, and in Asia. At Michelin, I covered all
24 aspects of the tire business, including manufacturing,
25 IT, marketing and sales, administration, and finance.

1 My last two positions with Michelin were in Asia,
2 first in Beijing as CFO of the greater China and Korea
3 region, and lastly as vice president of business
4 intelligence for Asia-Pacific, based in Singapore,
5 where I was involved in mergers and acquisitions and
6 production location for tier three tires. For my
7 testimony today, I would like to make some brief
8 comments regarding what I expect the real world
9 effects will be if a border measure, be it a quota,
10 tariff increase, or tariff rate quota, is imposed
11 through this Section 421 process.

12 Stated plainly, if a border measure is
13 imposed on imports of Chinese tires, U.S. producers
14 are not going to invest in production of tier three
15 replacement tires and, therefore, will not create U.S.
16 jobs. The original petition in this case claimed that
17 if quotas were imposed for three years on these tires,
18 it would 'provide the industry with the opportunity to
19 significantly increase their production and shipments
20 of consumer tires by as much as 21 million tires. The
21 domestic industry has more than enough capacity to
22 produce this additional supply.'

23 In my opinion, this is just not accurate and
24 the Commission should be wary of such claims. Let me
25 explain why. Restarting U.S. production for economy

1 grade replacement tires would be a dramatic reversal
2 of the business strategies of the U.S. tire industry,
3 as perceived over the past decade. After having made
4 the shift to focus on the higher-end tier one and tier
5 two markets, the domestic industry is not going to
6 invest the capital necessary to produce tires for the
7 tier three segment of the market. Why? Because the
8 labor and raw material costs in the United States
9 would be very similar, it not identical, to the cost
10 of tier one and tier two tires. In some cases,
11 equipment changes or adjustments would be needed to
12 produce these tires. However, the margins on tier
13 three tires are simply too low to justify these
14 capital expenditures. There would be a risk that the
15 producers could even lose money, which would be worse
16 than just leaving the equipment idle for the excess
17 capacity. In sum, it would take increased capital
18 expenditures, board approvals, and a willingness to
19 bet on low profit production again. Even if some
20 companies were convinced to reenter the tier three
21 market with U.S. production, it would take them two or
22 three years to make it all happen and change the
23 strategies they have. It's simply -- it is not a good
24 business decision. It would be like turning an
25 aircraft carrier trying to turn on a dime without a

1 compelling reason to do so.

2 In this case, the industry made what is
3 essentially an irrevocable choice to focus on the
4 higher-end segments of the market, the OEM and the
5 tier one and tier two. That aircraft carrier is not
6 going to turn around. They will just source from
7 other locations and demand will drop.

8 Moreover, many members of the U.S. industry
9 are cutting their capital expenditure budgets, not
10 expanding them. For example, Michelin recently
11 announced that it is cutting its capital expenditure
12 budget in half and reducing operations at many of its
13 plants worldwide in these difficult times, in order to
14 'keep inventories balanced with lower demand.' In
15 short, capital is still tight and return on investment
16 and the market niche that most Chinese tires are
17 imported to fill is too low for U.S. producers to
18 restart production of these tires.

19 Finally, the President and CEO of American
20 Car Care Center, Len Lewin, one of the country's
21 premier private brand marketers, was asked what the
22 future holds for this market segment. Although he was
23 optimistic about opportunity for profit 'once we get
24 beyond the current recession,' he also candidly stated
25 that 'the trend toward flag brands will continue.'

1 Manufacturers, who basically exited the segment of
2 business, will not reenter it.'

3 I appreciate the opportunity to appear
4 before you and I look forward to answering your
5 questions. Thank you.

6 MR. THOMAS: That concludes the presentation
7 for Respondents.

8 COMMISSIONER ARANOFF: Thank you, very much.
9 Welcome to this panel and we appreciate your taking
10 time to spend with us this afternoon and probably into
11 this evening. We, in particular, want to thank all of
12 the witnesses, who have taken time away from your
13 business, to come to Washington and be here to answer
14 our questions today. We will begin the questioning
15 this afternoon with Commissioner Lane.

16 COMMISSIONER LANE: Good afternoon and thank
17 you for your patience in waiting through until late
18 afternoon. I would like to start with just asking
19 some basic questions about the difference in tires
20 between the tier one, tier two, and tier three. Are
21 there different raw material costs? Why don't you
22 just explain to me what the differences are in the
23 quality and what goes into the different tier tires?

24 MR. MAYFIELD: I will attempt to explain a
25 little bit. As a private brand marketing company, our

1 focus is on the tier three level. At tier three, we
2 don't spend money to develop a brand recognition on
3 our products. We don't advertise. We don't do a lot
4 of the things that the tier one and tier two brands
5 do, to help build the brand value in the mind of the
6 consumer. So, for us, our business model is to be
7 able to find tires that are good quality, but
8 represent value for our customers.

9 We, also, when we are finding product, we
10 target vehicle age. As a private brander, we very
11 seldom have access to that vehicle in the early years
12 of its life. We tend to be on further in its life
13 cycle. In today's marketplace, our data will tell you
14 that the average age of a vehicle or the cars on the
15 road today in the U.S. are 9.2 years, with 41 percent
16 of the vehicle population being over 11 years old. We
17 target those vehicles as they age. As the value of
18 the car falls, the consumer becomes less willing to
19 pay the prices of a premium brand. That's where we
20 fit in.

21 Now, do our products have the same raw
22 materials? Some of the raw materials are the same.
23 They have steel. They have rubber. They have carbon
24 black. They have fabric cord in them. Now, do they
25 have the same degree of development of all those raw

1 materials? Probably not. That's saved for some of
2 the premium brand products that you see on the road.
3 Do they meet all of the quality standards established
4 in the U.S.? Absolutely. We make sure of that. If
5 they represent a value that the consumer, who has a
6 vehicle at that age in its life cycle is looking for.

7 COMMISSIONER LANE: And do you only sell
8 tier three tires?

9 MR. MAYFIELD: Yes, we do -- well, I'm
10 sorry. We have a couple of small brands that we offer
11 in very low volumes that are premium brands. But, it
12 is not the core focus of our business. It is tier
13 three.

14 COMMISSIONER LANE: Okay. I will keep with
15 you for a minute. If I was a customer who didn't know
16 what I was -- facilities and I wanted a premium brand
17 tire. Would you be able to get it for me?

18 MR. MAYFIELD: My company distributes to
19 independent tire dealers, to our members. They market
20 all types of tires. So, the consumer is not coming to
21 us looking for a product. They're going to our
22 stockholders and customers across the country looking
23 for tires. Most all of them carry multiple brands and
24 they will have premium brand product, as well as tier
25 three product.

1 COMMISSIONER LANE: So even though you just
2 have tier three that you sell to your customers, your
3 customers probably carry all range of tires?

4 MR. MAYFIELD: Yes, they sure do.

5 COMMISSIONER LANE: Okay. Yes, sir?

6 MR. BERRA: I can address the tier one,
7 because we sell a lot of those. In fact, more than 50
8 percent of our business is in those type of brands and
9 typically the differentiation and quality is a company
10 like Goodyear or Bridgestone, they develop new
11 technologies constantly. And recently, Goodyear spent
12 a tremendous amount of money developing new
13 technologies for their tires. So, they reduce those,
14 if they're branded their top tier level tire into the
15 market, they spend a lot of money in advertising. You
16 see those guys in the Blimp and you see Bridgestone
17 and they're advertising on T.V. These tires typically
18 are higher quality, because they're higher
19 technologically advancement and they're constantly
20 evolving, you see. And so, we don't offer those same
21 ingredients, if you will, into the tire construction
22 that they would for a tire that might be positioned
23 below that. So, in answer to your question, a typical
24 tire retailer, our customer, he has a whole menu of
25 products to offer the consumer, depending on the

1 consumer's profile, if you will. If it's a consumer
2 that wants that brand or has the type of vehicle that
3 works better, then they try to sell that. Typically,
4 they make more money on them at the retail level. If
5 a consumer comes into with an older car, you know,
6 he's not going to keep the car longer, et cetera --
7 you know, everyone size -- they size the consumer up
8 to fit the vehicle and their particular wallet, I
9 guess.

10 COMMISSIONER LANE: Is there any difference
11 in safety standards between the tier one and a tier
12 three tire?

13 MR. BERRA: My opinion, no. From a safety
14 standpoint, all the tires we sell in the three tiers,
15 I have no problem selling those to any of my friends,
16 okay. But, definitely the tier one tire, it's two
17 things. Number one, I consider them to have a little
18 more advancements in technology; but, also, they have
19 a brand perception that commands a higher price in
20 conjunction with that. And that's what the
21 manufacturers, the domestic manufacturers, U.S.
22 producers that produce those, that's what they want,
23 because they're better return on investment. Because
24 there is no huge difference -- if you talk to a
25 manufacturer, there's not a huge difference in their

1 cost to produce a tier one level tire than it is a
2 tier three. They have the same amount of labor. The
3 raw materials is not -- it might be a little bit
4 different, but it's not substantial. The difference is
5 the margin. So, that's why they made the decision
6 over the years to get out of that business and push
7 the brands.

8 COMMISSIONER LANE: Okay. If a consumer
9 were an educated consumer, did his or her background
10 and research, is there any real difference between a
11 tier one and a tier three tire, except maybe for
12 price?

13 MR. BERRA: In my opinion, yes; in my
14 opinion, yes. The higher end tier one tire has
15 different performance characteristics. But, it also -
16 - it may have better traction capabilities. They
17 generally have a higher UTA grading, which is a
18 government grading. They have a higher mileage
19 warranty typically. A high-end tier one tire
20 generally we consider it sort of an 80,000 mile level
21 tire expectancy, whereas a tier three private brand
22 tire - -now, some of those in those tiers, they could
23 possibly offer an 80,000 mile tire. But, primarily,
24 we position, particularly the Chinese tires -- now,
25 the Chinese tires, we position those in our business

1 as typically a 40,000 mile tire. So, there's a big
2 difference. And the tier two, you know, if you just
3 want to look at numbers, I would consider that a
4 60,000 mile tire. So, there is difference in the
5 performance and expectancy of the mileage, possibly
6 the traction capabilities of the tire might be a
7 little different.

8 COMMISSIONER LANE: But the safety standards
9 are the same?

10 MR. BERRA: Yes. They all have to pass
11 safety tests.

12 COMMISSIONER LANE: Okay. Now, I've heard
13 testimony today that the U.S. producer has gotten out
14 of the tier three production, the tires for the most
15 part and they did this deliberately because they could
16 make more money on the first tier and the second tier.
17 But, if a U.S. producer were making the private brand
18 tire, the tier three, is it the same tire as what
19 they're selling in the tier one under a brand name - I
20 mean, under the unbrand?

21 MR. MAYFIELD: I have a little bit of
22 experience with that from my background with one of
23 the major U.S. producers. When I was with
24 Continental, Continental reduced some tires that would
25 be considered tier three and they were typically for

1 large retailers, who leveraged their retail exposure
2 in the marketplace to be able to go to a company and
3 tell them you need to make this brand for us or this
4 tire line for us and in return we will market your
5 premium brand, so the overall mix of product would be
6 acceptable to the manufacturer. Typically, that line
7 that would be positioned in that tier three level was
8 old technology, old size ranges, older technology, did
9 not have silicon tread compounds, did not have smaller
10 wrap caps for high speed performance, did not have a
11 lot of the things that today's environment requires
12 for the more modern vehicles that a premium product
13 line would be placed on. So, there are differences
14 and in that case, there certainly were differences.

15 COMMISSIONER LANE: Okay, thank you. Thank
16 you, Madam Chair.

17 COMMISSIONER ARANOFF: Commissioner
18 Williamson?

19 COMMISSIONER WILLIAMSON: Thank you, Madam
20 Chair, and I, too, want to express my appreciation to
21 the witnesses for their testimony. Mr. Mayfield,
22 maybe I will continue with you on this difference
23 between the 'tiers.' So, basically, you're saying
24 there are -- say cars, this may be in the last two or
25 three years, but the upper end models, where you

1 probably would want to use a premium -- you would use
2 a premium tire, at least for now, because the tier two
3 and two three wouldn't have some of the features that
4 may be required to help you.

5 MR. MAYFIELD: Tier two may have some of
6 those features, because tier two, as we've discussed
7 earlier, represents many premium brands that maybe are
8 not as well known as Goodyear or Bridgestone or
9 Michelin. Tier three, however, with a lot of new
10 vehicles, the sizes that these new cars are equipped
11 with are not available to us in the tier three level.
12 It typically takes several years before the
13 manufacturers are willing to produce those sizes,
14 which represent new tooling, new technologies for
15 those of us who operate in that tier three level. So,
16 we're not able to get that. We refer to it as that
17 first replacement cycle for a new car, when they go
18 buy their first set of tires after they wear out the
19 early tires, traditionally, that's the best
20 opportunity to make money selling that set of tires,
21 because the consumer wants a set of tires that's going
22 to perform very similarly to that earlier tire. For a
23 private brander like my company, we're on down the
24 chain. So, we don't have access to that, because a
25 lot of times we don't have the size available to us in

1 one of our private brand product.

2 COMMISSIONER WILLIAMSON: So, it's more like
3 when the car hits about 80,000 miles, then you're
4 hoping they're going to come see you.

5 MR. MAYFIELD: I'd rather get them at
6 60,000, but probably 80,000, maybe a little higher.

7 COMMISSIONER WILLIAMSON: Okay, but similar,
8 which, I guess, is true for many products, in the
9 sense that you introduce your features at the top of
10 the line -- you introduce your features in your top of
11 the line products first and then it works its way
12 down.

13 MR. MAYFIELD: Yes.

14 COMMISSIONER WILLIAMSON: Okay. And I guess
15 for Mr. Berra, the point I sort of getting from this,
16 it's really all about marketing, isn't it, basically?

17 MR. BERRA: Yes, it is. It's a lot to do
18 with it. In the tier one brands, you mean?

19 COMMISSIONER WILLIAMSON: Between tier one,
20 tier two --

21 MR. BERRA: A substantial difference in the
22 marketing, yes.

23 COMMISSIONER WILLIAMSON: Yes, okay. I
24 mean, I realize that there is some -- well, certain
25 things you put in --

1 MR. BERRA: Marketing, I mean, advertising,
2 promotions, you know, the major brands put more money
3 into their brand to build equity in their -- for their
4 recognition, so the consumer will go there. And in a
5 tier three private brand, social brand import,
6 whatever you want to call it, there's none of that.
7 It's up to the distributor or the retailer, whoever is
8 selling the product to the consumer, it's up to them
9 to sell that particular product, because, again, there
10 are all kinds of consumers. So, our customers require
11 us to have tires in all levels, because there's three
12 -- pretty much three distinct levels of consumers out
13 there that you have to meet.

14 COMMISSIONER WILLIAMSON: Okay. I guess the
15 question that comes to my mind -- I guess, Mr. Kogel
16 or Mr. Gwinn, I think, made the point that the
17 domestic producers cannot or will not or it's too late
18 for them to produce say the lower end tires, even if
19 that was where the demand was. And that's what I
20 don't understand. I mean, there is certain capital,
21 but it -- if a customer in a certain market, it seems
22 like wouldn't the producer go after that?

23 MR. BERRA: No, because it's not -- they
24 made the decisions years ago that it's not profitable.
25 There are two elements why they exited the tier three

1 market. One is marketing emphasis and two is
2 profitability. So, there are some exceptions to that.
3 Cooper Tire, a domestic supplier, is a very -- more
4 than 50 percent of what they build is for the private
5 brand industry and we buy a lot of those. So, we sell
6 a lot of U.S. made private brand tires even today,
7 probably 20 percent -- about 25 percent of our
8 business is made up of U.S. made tier three brands,
9 but they are kind of the exception. The other
10 manufacturers had gotten away from it. Some of them
11 totally gotten away from it and others are just into
12 it in a very small degree, because, again, they made
13 that choice over a period of time, going back as much
14 as 10 years ago when they started making those
15 decision.

16 MR. REILLY: Commissioner, John Reilly. I
17 think there's a point that needs to be emphasized here
18 and that is that the companies, who own the U.S.
19 producers, have not exited the tier three market.
20 Basically, they have shifted sourcing to low-cost
21 countries or the cost are low enough so that they can
22 get a margin by importing and selling tier three
23 tires. For example, the companies that own the
24 domestic producers, including Goodyear, which is the
25 number one headquartered here, are, themselves,

1 significant importers of Chinese tires.

2 COMMISSIONER WILLIAMSON: I guess me --
3 finish the question. The raw materials are globally
4 sourced. I assume wherever you make the cars, you're
5 going to pay sort of the global price for say the
6 synthetic rubber. Is that correct or not? And that's
7 the major -- isn't raw material a major component of
8 the --

9 MR. REILLY: Well, the steel, of course, is
10 not globally sourced. It would be locally sourced,
11 for example, in China. Other materials would be
12 locally sourced in China. The global sourcing, I
13 think, would be (a) rubber, which is globally sourced
14 and sold at a global price; and the steel -- I'm
15 sorry, the oil component, petroleum component of the
16 artificial rubber. But, there's a couple of points I
17 think that I want to make in relation to that, in
18 light of what occurred this morning.

19 Basically, Mr. Stewart testified that the
20 imports from China are coming in at an average value
21 of less than the raw material costs, average raw
22 material costs of the domestic producer. I think the
23 analysis that he showed is essentially meaningless
24 because it doesn't take into account the very
25 substantial product mix difference between what's

1 coming in from China and what domestic producers are
2 making. And I'll give you an example. If domestic
3 producers are focusing on large high-value tires, and
4 I'll use as an extreme example an SUV tire, and much
5 of the product coming in from China are smaller sized
6 tire, the amount of raw material going into the
7 average U.S. tire on a per tire basis is going to be
8 substantially more than what is going into the Chinese
9 tire. So, basically, what's -- what's being imported.
10 So basically what you have is an invalid comparison.
11 It's like comparing the amount of metal in a sport
12 utility vehicle versus the amount of metal in a
13 subcompact car.

14 MR. GWINN: Commissioner, since you
15 referenced something that I said earlier --

16 COMMISSIONER WILLIAMSON: Sure.

17 MR. GWINN: -- let me comment on that. The
18 actual labor cost and factory overhead for producing a
19 tier one or a tier two or tier three tire is basically
20 the same. There will be a difference in some of the
21 raw materials. The raw materials, while you've got
22 rubber, you've got steel, you've got carbon black, you
23 have all the basic things that go into every tire,
24 there are different raw materials that go into some of
25 the premium brands, in order to give them better ride

1 quality, better handling quality, and different
2 characteristics that they can demand that higher
3 price. But the actual cost of processing, the
4 manufacturing cost of processing is not going to be
5 much different for the tier one, tier two, and the
6 tier three tire.

7 If you have limited capacity, you are going
8 to make a business decision -- I would make the
9 business decision to produce the highest margin
10 product that I could produce. And most manufacturers,
11 whether they're making tires or making something else,
12 will do that.

13 At one point, there was enough demand for
14 tier one, tier two, that the manufacturers had to make
15 a choice: do we make more -- do we spend another \$400
16 million or \$500 million to build another factor or do
17 we cut back this very low margin product and begin to
18 make higher margin products in tier one and tier two?
19 And most of the manufacturers have done that.

20 Now, as the market changes and there is a
21 drop in consumption, that may leave some excess
22 capacity. But, I contend that if those manufacturers
23 try to put in the tier three product in that excess
24 capacity, by the time they get it done, it's such a
25 low margin market that I think they're going to end up

1 losing money on those tires, not just covering their
2 costs and break even, but if they're losing money on
3 each tire they sell, they would be crazy to go back
4 into that market, in my opinion.

5 COMMISSIONER WILLIAMSON: Okay, thank you
6 for the answering. Got it in time because the light
7 just turned red. So, thank you all for those
8 responses.

9 COMMISSIONER ARANOFF: Commissioner Pinkert?

10 COMMISSIONER PINKERT: Thank you, Madam
11 Chairman, and I would like to join my colleagues in
12 thanking all of you for being here today and helping
13 us to understand this industry. Mr. Gwinn, your
14 testimony about the decline in apparent consumption
15 and choices that producers have had to make intrigue
16 me. And I'm wondering what accounts for that decline
17 in apparent consumption pre-recession, in that period
18 from 2004 to 2008, but prior to the recession?

19 MR. GWINN: I need to refer that question to
20 some of my other colleagues here, because I am not
21 familiar with what happened in the market, itself, but
22 on the other end of it.

23 COMMISSIONER PINKERT: Thank you.

24 MR. GWINN: So some of the wholesalers --

25 MR. REILLY: John Reilly. As I noted in my

1 testimony, there was a decline in consumption in the
2 OEM market between 2004 and 2007 and that was a
3 decline in the number of vehicles being produced in
4 the United States. So, in the OEM segment, it's
5 clearly a decline in automotive production.

6 In the replacement segment, the literature
7 I've seen said that the decline in consumption that
8 occurred there was a result of a reduction in miles
9 driven as gas prices went way up. And, of course,
10 less miles driven, less wear on the replacement cycle.

11 COMMISSIONER PINKERT: Thank you. Now
12 staying with you, Mr. Reilly, I'm interested in that
13 data you put up on the overhead as far as unit
14 profitability from 2004 to 2008 and I'm wondering
15 whether you can tell me what you think drove the unit
16 profitability in 2007. Was that cost driven or was
17 that revenue driven?

18 MR. REILLY: You're talking about, I think,
19 the operating profit information?

20 COMMISSIONER PINKERT: That's correct.

21 MR. REILLY: Okay.

22 COMMISSIONER PINKERT: But on a unit basis.

23 MR. REILLY: I didn't do it on a unit basis.

24 COMMISSIONER PINKERT: Okay. Well --

25 MR. REILLY: That's on a total dollar basis.

1 But, obviously, with that kind of performance,
2 profitability per unit did go up. And I think that
3 there are two reasons, the most important being that
4 the producers were able, on a cumulative basis by
5 2007, to cover the substantial raw material costs
6 increases with price increases. Otherwise, they could
7 not have achieved that rather substantial increase in
8 profit. And, secondly, there was some increase in
9 volume, which also would contribute to higher profit
10 and a continued focus on higher margin tires would
11 contribute an additional increment to that; in other
12 words, eliminating the low margin, unprofitable or
13 marginally profitable tires.

14 COMMISSIONER PINKERT: Can you give me an
15 analysis of unit profitability in 2007 that -- either
16 it's the same as what you've just stated or different,
17 I don't know, but based on unit profitability?

18 MR. REILLY: On profits per tire sold?
19 Well, that's easily done. I can't do it at this
20 moment, but we can certainly supply it in our post-
21 hearing brief.

22 COMMISSIONER PINKERT: Thank you. Now, my
23 other question is if, in fact, the move out of tier
24 three is motivated by the higher profitability in the
25 other tiers, then shouldn't we see a broad increase in

1 unit profitability from 2004 to 2008, rather than just
2 the spike in 2007?

3 MR. REILLY: In 2005 and 2006, I believe
4 that the problem being faced by the auto -- I'm sorry,
5 by the tire companies was the fact that their price
6 increases had not caught up with their raw material
7 cost increases. I think that the situation in 2005
8 and 2006 would have been worse had they not been
9 moving out of the tier three level progressively. And
10 I think by 2007, their pricing had caught up and
11 surpassed their cost increases. It's the combination
12 of the price increases and the improving product mix I
13 believe that is response for their performance in
14 2007.

15 COMMISSIONER PINKERT: Thank you. Now,
16 perhaps the rest of the panel could weigh in on this
17 next issue. What is the ability of Chinese producers
18 to produce for the premier segment of the U.S. market?

19 MR. BURKHARDT: Tom Burkhardt. We import
20 virtually all of our tires from China, actually, and
21 while there is increased capacity and increased
22 capacity for more premium tires within China growing
23 right now, there is also a very large increase in the
24 car manufacturing industry in China and a lot of that
25 increased capacity is headed towards the OE industry

1 domestically within China, rather than being exported
2 to other countries.

3 COMMISSIONER PINKERT: Is there an ability
4 though -- go ahead, Mr. Mayfield.

5 MR. MAYFIELD: I'm sorry. If we go back to
6 what we said earlier about the premium brands residing
7 in tier one and tier two and the investments that have
8 been required over years and years to develop that
9 brand recognition and be able to position themselves
10 in the market at that level, Chinese brands do not
11 have the capability of doing that today. It would
12 take years and years and years. They would have to
13 look and follow the pathway that other brands have
14 followed over periods of 10, 20, 30 years, to be able
15 to earn the recognition and the brand perception to be
16 able to move into those tiers. So, it's not something
17 that's going to happen overnight and there is no
18 Chinese manufacturer that has given any indication
19 that they're willing and able to make the type of
20 investment in the marketplace to develop that brand
21 recognition and move beyond a tier three position.

22 MR. BERRA: I'll give you the real world
23 answer on that. The real world answer is our
24 customers would not promote a Chinese-produced tire as
25 a premium product, period. It's not going to work.

1 It's not perceived by them and they're the ones that
2 sell it to the product; it's perceived at that level.
3 So, we don't see it as a threat to the domestic
4 producers for the tier one or tier two level.

5 COMMISSIONER PINKERT: Just to see if I
6 understand the testimony, are you saying the Chinese
7 producers could meet the technical specifications for
8 the first tier but they can't meet the marketing
9 perception?

10 MR. BERRA: That's pretty much it. I think
11 they probably, there's various degrees of Chinese
12 manufacturers that we see out there. Obviously there
13 are some that are better than others. We find some we
14 think are pretty good. But they're not as advanced,
15 I'm being honest with you and giving the real world
16 answer. They're not as advanced as are the U.S.
17 producers, period, and they're not perceived to be so.
18 They have the capability to do so maybe some day, but
19 like Mr. Mayfield said, they're quite a ways away from
20 that.

21 COMMISSIONER PINKERT: Ms. Trossevin?

22 MS. TROSSEVIN: I'd just like to add a
23 point, because I know we talk about marketing here
24 versus other technical requirements. And I think that
25 you can't underestimate the fact that in this industry

1 branding is a real, it's a real world difference that
2 actually translates into a price difference. You do
3 have the evidence on record. Even Michelin themselves
4 saying branding, brand recognition, brand equity, just
5 as much as a physical difference. It's the same.
6 Whether it be a little bit more rubber or fancier
7 steel, yes, that gets you a bigger price. But the
8 record is clear, branding is a real difference that
9 translates into a different market segment and a
10 different price point.

11 COMMISSIONER PINKERT: Was there additional
12 testimony?

13 MR. BURKHARDT: Just one comment I wanted to
14 make on this.

15 There are segments within the Chinese tire
16 industry as well and you have Chinese tire factories
17 that are owned by China or Chinese state enterprises
18 or private enterprises within China. Then there's
19 Chinese factories that are owned and operated by the
20 same manufacturers that produce tires in the United
21 States. There's obviously a difference in financing
22 available and technology available between those two
23 segments.

24 COMMISSIONER PINKERT: Just a quick question
25 about the third tier. We've talked about private

1 brands and we've talked about how private brands are
2 in the third tier. Are there other elements of the
3 third tier besides private brands?

4 MR. DELORIO: I can speak to that.

5 GITI Tire is deeply embedded in tier three.
6 We are a tier three manufacturer. that's the way we
7 look at ourselves, that's the way the market looks at
8 us. We do make a few private brands, but we also make
9 brand names that we own. GT Radial, Runway,
10 Primewell, are all brands that are owned by the
11 company and are sold into the tier three. So there
12 are other brands in the area other than just the
13 private labeling.

14 COMMISSIONER PINKERT: Mr. Reilly?

15 MR. REILLY: One way of describing what's in
16 tier three is to differentiate between associate
17 brands and private brands. Private brands are brands
18 that are owned by someone other than the manufacturer.
19 Associate brands would be a tier three brand owned by
20 a manufacturer.

21 Now some associate brands, for example BF
22 Goodrich, are tier two brands, but a manufacturer in
23 tier one can also have an associated series of tier
24 three brands of which most may be sourced from off-
25 shore.

1 COMMISSIONER PINKERT: Thank you.

2 CHAIRMAN ARANOFF: Okay, I think I'm going
3 to pick up just where Commissioner Pinkert left off.

4 One of the things that I'm finding
5 challenging about this case is that while everyone in
6 the market seems to agree that there are these three
7 tiers, it's very sketchy how to define them. Or maybe
8 everybody agrees on how to define tier one. I've
9 heard basically three brands put in that basket. But
10 as between tier two and tier three, I don't hear any
11 consensus as to whether an associated brand associated
12 with a big name domestic producer is in tier two or
13 tier three, for example.

14 So I'm struggling a little bit because I
15 think that the Respondents' argument in this case
16 depends on these categories being clearly defined and
17 not evolving over time.

18 MR. REILLY: John Reilly.

19 I think there's a way of defining tier two
20 clearly. When we talk about tier two we're talking
21 about national brands that are known to consumers.
22 Formally many of them were independent companies. But
23 that don't have the brand cache of the three leaders.

24 You can say that they're former tier one
25 brands. Those brands would be Uniroyal, BF Goodrich

1 and the like. Everybody knows those brands but
2 they're not a tier one brand and they're not promoted
3 as heavily as tier one brands or advertised as heavily
4 as tier one brands.

5 Tier three brands that are associated with
6 manufacturers are generally brands that never were
7 nationally known, are not now nationally known and are
8 not supported with any advertising.

9 CHAIRMAN ARANOFF: For purposes of the post
10 hearing, if each of you who is in this market could
11 give us your list of what brand names you would put in
12 which category, I think that would be very helpful.

13 Now in tier three there are probably a
14 gazillion of them, so I guess I don't expect your list
15 to be exhaustive.

16 Ms. Trossevin?

17 MS. TROSSEVIN: Thank you, Madame Chairman.

18 One point I'd like to make that is that the
19 tier one and tier two, because of the description that
20 John just gave you about they're actually flag brands
21 and former flag brands, I don't think there's any
22 disagreement, probably would be very little
23 disagreement as to what is in tier one or tier two.
24 Some companies might argue are they still a tier one
25 or are they tier two? Nobody necessarily wants to be

1 thought of as a tier two so it can depend on who you
2 ask.

3 But I don't think there's any disagreement
4 that those really are the flag brands, the major
5 brands. What you sometimes see in modern tier
6 dealers. They say the major brands. That's the flag
7 ones and the tier two, which is, that's one
8 delineation which is very separate from tier three.
9 This is sort of the no name brand category.

10 You're right, there's a slew of brands in
11 there, most of which you would probably not know the
12 names of, but we'll do our best in the post-hearing
13 brief.

14 CHAIRMAN ARANOFF: I appreciate that.

15 MR. THOMAS: Madame Chairman, if I could
16 just add one thing.

17 CHAIRMAN ARANOFF: Mr. Thomas.

18 MR. THOMAS: You suggested that the identity
19 of the brands and the tiers ought to be absolute and
20 unchangeable, and that I would disagree with.
21 Certainly there are cases, Pirelli is perhaps a very
22 good example. it's a tier one brand in Italy where it
23 was developed. In the United States it's working on
24 getting that kind of recognition.

25 CHAIRMAN ARANOFF: I meant in the United

1 States.

2 MR. THOMAS: But it's working on trying to
3 become a tier one brand. But it takes time, it takes
4 a lot of advertising in order to do that. It doesn't
5 happen at once.

6 Similarly, it's possible for brands to fall
7 out of a tier over time. If they don't put the money
8 into advertising, et cetera.

9 So there can be changes, but they are
10 typically very slow changes.

11 CHAIRMAN ARANOFF: Okay. That's good. That
12 actually leads into my next question.

13 I noticed in particular that in the Les
14 Schwab brief, the assertion was made that as the
15 economy has worsened, purchasers that might otherwise
16 have bought a tier one or tier two tire have moved to
17 value products, tier three products.

18 I think we've heard some other testimony
19 today to that effect. Yet in some of the other briefs
20 submitted by the responding group, the statement was
21 that some purchasers have very strong brand loyalties
22 and they are just always going to buy the same brand.

23 It seemed to me that the argument that was
24 being made was tier one and maybe tier two tires are
25 insulated from competition with Chinese imports

1 because there are these brand conscious buyers.

2 But if it's true that a recession, a lost
3 job, whatever, can turn one of these brand conscious
4 consumers into a value consumer, and that maybe it
5 could happen in droves, wasn't that undermine the
6 whole argument that tier one is insulated from
7 competition with subject imports?

8 MS. TROSSEVIN: One thing I would just like
9 to remind the Commission of is the point Mr. Mayfield
10 made earlier. It's not just the branding that
11 insulates the tier one and tier two from the tier
12 three competition. It's also the fact that the tire
13 three tires are typically not going to be the sizes or
14 the technology that are in the tier ones and tier
15 twos. They're not able to make the newest tires for
16 the newest models for some time. So they have to play
17 catch up at some time. That takes time, so that also
18 protects the tier one and tier two, the major brand
19 tires. They really pretty much capture that first
20 replacement because the private brands are not able to
21 catch up that fast.

22 MR. BORGMAN: Madame Chairman, Dick Borgman,
23 Les Schwab.

24 It is confusing between the tiers. To
25 simplify it, we typically think of it in terms of

1 either private brand or non-private brand. We are in
2 the private brand business. Again, what we are
3 finding is there are not U.S.-made tires in the
4 private brand segment that we sell.

5 Now we have a slightly different business
6 model from really anybody else in the country, where
7 we do have a full line-up of the quality of tires in
8 the private brand. But again, across the board what
9 we are finding is that U.S.-made private brand tires
10 are not available.

11 CHAIRMAN ARANOFF: Let me turn from that to
12 a slightly different question, but we're still on this
13 issue of tiers and brands.

14 If as I think I'm hearing today Chinese
15 tires cost less principally if not entirely because
16 they don't have any brand cache, shouldn't we be
17 seeing in our pricing data a fairly consistent pricing
18 differential between domestic tires and Chinese tires?
19 And yet that isn't what our data show where you see
20 underselling margins that vary over time, or quarter
21 to quarter.

22 MR. THOMAS: Madame Chairman, I think if you
23 take a look at the pricing data that's not what you
24 see. You see a very consistent pattern.

25 MR. BORGMAN: If I might share what happened

1 in 2006 when we were buying a significant amount of
2 private brand product purchased in the United States.
3 When Goodyear exited that business we would have been
4 just as happy to continue buying the U.S.-made product
5 because we did not have a significant difference in
6 price between that and the other foreign lines
7 available to us. And in fact buying in the U.S. was a
8 simpler process for us because of supply chain and the
9 risks associated with buying overseas product.

10 So it wasn't a matter of price with us, it
11 was a matter of availability.

12 CHAIRMAN ARANOFF: Okay. I guess I'll put
13 that question about what the underselling data tell us
14 about the consistency of the price differential to
15 everyone for further briefing in the post-hearing.

16 My light is yellow so I'm ont going to go on
17 to my next question but will turn to Vice Chairman
18 Pearson.

19 COMMISSIONER PEARSON: Thank you, Madame
20 Chairman.

21 I'd just like to say that I appreciate the
22 depth and breadth of experience represented by this
23 panel in the production, trading and marketing of
24 tires. You have a lot of experience here. I
25 appreciate that you're with us today.

1 Following up on the Chairman's discussion of
2 tiers, let me drive you to tears by asking once again
3 about my Town and Country van.

4 At the Commission we are so accustomed to
5 looking for clear dividing lines between one group of
6 stuff and another, and that may be what you hear from
7 us here as we wrestle with the tiers.

8 In the case of this van which, as you recall
9 is a '98 Town and Country.

10 (Laughter.)

11 COMMISSIONER PEARSON: It's not new, but
12 it's still there.

13 My interpretation of what I discussed with
14 the morning panel was that the tires of \$100 and
15 above, Michelins, those would really be the tier one
16 because that's a Michelin brand name. A hundred
17 dollars to about \$80, those were the mid-range, the BF
18 Goodrich's in this case.

19 If the car has the good fortune to make it
20 to where I need another set of tires and I want to get
21 tires that just will go 40,000 miles and I really want
22 to look at the third tier here. What would it cost
23 me, not including installation, but for a set of 205
24 65 R15s, I'm sorry, I'm looking at my next question.
25 These are 215 65 R16s, 98 load, T rating. What are

1 those worth in the third tier? Can I actually buy
2 those in the third tier?

3 MR. KOGEL: Yes, you can. And you have to
4 apologize for the random guess without looking at a
5 computer screen. But a 215 65 16, in most independent
6 businesses that you go into they would offer you a
7 good, better best.

8 When you went into Costco, and I think I
9 heard you before that it was Michelin's followed by BF
10 Goodrich's. It was missing the third tier.

11 COMMISSIONER PEARSON: Right.

12 MR. KOGEL: That surprised me, frankly,
13 because most businesses out there would offer a third
14 tier because they would get more sales because there
15 are customers that would come in and do that. But to
16 answer your question directly, a 215 65 16 at retail,
17 I'm going to guess, you would get them, and again,
18 don't quote me, but I would take a guess that it's
19 \$100, \$90. For a premium. Then you could go
20 underneath that in an import for usually 20 percent
21 less.

22 COMMISSIONER PEARSON: So somewhere --

23 MR. KOGEL: In the \$80 range. And a lot of
24 that is dependent. That's dependent on the
25 distributor that imported it, and that's dependent on

1 the distributor that sold it to the retailer and what
2 that retailer chooses to have as their markup. So
3 there are a lot of variables there. But yes, you
4 would find a significant difference between the
5 pricing.

6 I can tell you in our market in Detroit
7 there are a lot of people who come in and they don't
8 choose between Michelin and BF Goodrich. They choose
9 between getting tires and not getting tires. I see
10 people walk out of shops all the time because they
11 just don't have the money to get the tires. That's
12 that tier three customer, in my opinion, from what I
13 see.

14 COMMISSIONER PEARSON: I maybe should have
15 spent the lunch break looking at the Pep Boys web
16 site.

17 (Laughter.)

18 COMMISSIONER PEARSON: I'll continue this
19 research off-line, so to speak, not at the hearing
20 here.

21 A related question, though, how important a
22 factor is the speed rating of a tire in determining
23 its cost? I ask that because one of our pricing
24 products, product three, it's for a P205 65 R15 92-94
25 load index, speed ratings S, T or H.

1 My question is when we're asking across
2 three speed ratings are we injecting quite a bit of
3 price variability in what would fall into those three
4 ratings, or are they all pretty close together?

5 Mr. Berra?

6 MR. BERRA: That's a commodity size you just
7 mentioned. And S, T, and H in that particular size
8 there's very little difference in it. The S's have
9 pretty much gone away, kind of been a thing of the
10 past. T is kind of a standard passenger rating, a
11 touring rating. And H is pretty much, it's really not
12 a high performance rating.

13 So in our business you almost group those
14 together. You would have an H rated in a tier three
15 or a Chinese produced tire, if you will, at the bottom
16 price end of the spectrum.

17 But when you get into the higher speed
18 ratings that's more a performance tire. W, Z, et
19 cetera. I don't know if that makes any sense to you,
20 but those three, that particular size you had is a
21 pretty standard size.

22 COMMISSIONER PEARSON: That's quite helpful
23 because it indicates that we don't have any particular
24 problem with that pricing product from having
25 specified three speed ratings. They all group

1 together.

2 MR. BERRA: But you could have a different
3 quality level probably in your offering if you were a
4 retail dealer in that size. You could offer a premium
5 205 65 15, maybe offer -- That's a good, better, best
6 scenario. Whether the brand would be your best tire
7 or not. It's because, again, the are different UTOG
8 ratings for the tire in that size, which is primarily
9 a mileage type rating. And the different construction
10 in a better premium tire. A little wider, for
11 instance. Maybe rides a little better. Maybe the
12 traction rating might be slightly different.

13 COMMISSIONER PEARSON: Let's set the tiers
14 aside here for a minute and go to another issue.

15 Several of you connected on changes in
16 thinking by domestic producers in the last 10 to 15
17 years. What I'd like to ask is, what prompted that
18 change in strategy? Was it simply that they became as
19 multinational companies, they became more aware of the
20 costs of producing tires in various countries and they
21 just decided it didn't make sense here? Or were there
22 other factors that were driving them to stop producing
23 here?

24 Mr. Mayfield?

25 MR. MAYFIELD: I'll go back to my experience

1 with Continental. Continental on a regular basis
2 from, Continental bought General Tire here in the U.S.
3 I think it was 1987 and then over the next 10 years
4 integrated the Continental system into the General
5 Tire Company, and then even moved their headquarters
6 to North Carolina. They changed their name to
7 Continental Tire North America. So they changed a lot
8 of the character of the company and part of it was in
9 the manufacturing environment.

10 Continental had plants throughout Western
11 Europe, Eastern Europe, the U.S. They had no plants
12 in Asia at that time.

13 But they had a very structured cost
14 assessment when they looked at the whole footprint of
15 their manufacturing capabilities. So they would look
16 at the cost structure, and on a monthly basis the
17 Senior VP of Manufacturing would be talking with his
18 management team about that cost structure and the
19 different elements within that cost structure.
20 Benchmarking the plants here in the U.S. with the
21 plants in France or in Germany or in Yugoslavia, to
22 see where it was that there were differences and where
23 they needed to target to try to learn the best of the
24 best practices from those other plants to bring down
25 the overall cost structure that they were looking at

1 for tires produced anywhere in the world.

2 So that started back in the '90s. And I
3 think any of the global manufacturers, and there was a
4 huge consolidation in the industry in the late 1980s
5 and early 1990s when Bridgestone bought Firestone, and
6 Michelin bought Uniroyal Goodrich, and Continental
7 bought General. There was just this huge
8 consolidation. So companies that were historically
9 U.S.-based companies and had the perspective based
10 upon the environment here, now were opened up to a
11 global environment looking at best practices all over
12 the world and comparing themselves internally to
13 determine what they could do to reduce cost in a very
14 mature industry where there haven't been any major
15 innovations since the invention of the radial tire.

16 So all these incremental gains, they looked
17 to try to benchmark and where's the best of the best
18 and how do we practice that same thing in the plants
19 here.

20 COMMISSIONER PEARSON: Mr. Gwinn?

21 MR. GWINN: Yes. In addition to looking at
22 cost, if you go back to the '90s, capacity was pretty
23 full. The market was growing. As you ran out into
24 longer term forecasts you said okay, I have to build a
25 new factory or I've got to find a way to maximize the

1 profitability that I can from the factories that I
2 have.

3 One way to do that is to drop your lowest
4 profitable products and concentrate on the higher
5 margin products. I think that drove a lot of the
6 manufacturers to make those decisions because it takes
7 a long time to build a tire factory. You're looking
8 at the market far out and trying to forecast it. And
9 with the capacities being full and the growth that was
10 forecasted for the market, that impacted a lot of
11 those decisions in my opinion.

12 COMMISSIONER PEARSON: Thank you very much.

13 My light has turned red, but for purposes of
14 the post-hearing, if there's any contemporaneous
15 information that you could put on the record about the
16 thinking of the companies it would be helpful. Some
17 of that might be proprietary and it might not be
18 possible to get it, but perhaps there were some public
19 speeches or announcements or something that shed some
20 light on that thinking back say in 1995. If it's
21 possible to get more of that, that would be helpful.
22 Thank you.

23 CHAIRMAN ARANOFF: Commissioner Okun?

24 COMMISSIONER OKUN: Thank you, Madame
25 Chairman. I join my colleagues in welcoming this

1 panel this afternoon. I appreciate you taking the
2 time to be with us and answer questions.

3 Mr. Borgman, I have to say I'm very familiar
4 with Les Schwab, having grown up in the Idaho/Utah
5 region and being like most Westerners, putting a lot
6 of miles on cars when I was young. I made a lot of
7 visits to several Les Schwabs that are located in that
8 region.

9 MR. BORGMAN: Thank you.

10 (Laughter.)

11 COMMISSIONER PEARSON: You still put a lot
12 of miles on cars.

13 COMMISSIONER OKUN: That's true, but I don't
14 see Les Schwab unless I go back the western way.

15 Let me ask a number of things about the
16 market and the tiers, and I want to ask some specific
17 questions about that.

18 But let me start with this. In the tires
19 report document submitted by the Petitioners and
20 consistent with their statement today, they describe
21 about 70 percent of the U.S. market for passenger and
22 light trucks as commodity products.

23 First, do you agree with that statement? If
24 so, how does it fit into an attenuated or a tiered
25 market that you've described?

1 MALE VOICE: I didn't understand.

2 COMMISSIONER OKUN: The tire report
3 described a commodity market for about 70 percent.
4 Usually when we hear commodity it's what the
5 Petitioners would argue, that these are very
6 substitutable, highly substitutable. You can buy, and
7 that would not be consistent with an attenuated
8 competition argument in my mind, or a very distinct
9 set of tiers.

10 MR. BERRA: I would disagree with that.

11 COMMISSIONER OKUN: Okay. Can you point me
12 to data that would describe the market share of the
13 different tiers, or the percentage of shipments in the
14 U.S. market that would be those that would be tier one
15 tires versus tier two versus tier three. That's one
16 thing I'm not sure I've seen in this record. I hear a
17 lot of discussion about it, but I keep looking at all
18 these numbers. I saw one attachment to one of the
19 documents that said the private label market was about
20 17.6 percent. Can you give me that type of breakout
21 among the tiers percentage wise?

22 MR. BERRA: I don't have industry data. I
23 just know what we do in our business. I don't know if
24 it profiles the entire United States or not. But in
25 our business we are a distributor of many brands. We

1 sell to independent tire dealers so we're not a
2 captive retail like Les Schwab Tire. We don't have
3 our own stores or control what tires are being sold.
4 Our dealers make that decision ultimately, which
5 ultimately is made by the consumer.

6 In our business roughly 60 percent of our
7 sales are out in what we consider in tier one/tier two
8 type brands, brands that you would recognize,
9 identifiable flag brands. Only 15 percent is in the
10 very bottom -- actually, only 15 percent is in Chinese
11 tires produced in China for the tier three market.
12 The other 25 percent is made up of private brands
13 primarily made by Cooper which are primarily domestic
14 produced tires. So maybe we're a little different,
15 but that's our ratio and it's been pretty consistent.
16 There's been a growth in the premium brands in our
17 business, anyway, over the last few years.

18 COMMISSIONER OKUN: That's helpful. If
19 there are any documents of information you could
20 provide, that would be helpful.

21 Can I hear from the others who have
22 commented on that? Mr. Mayfield?

23 MR. MAYFIELD: Yes. There is data in the
24 tire business, in modern tire dealer that I'm sure we
25 could find and provide to you. There's a market

1 breakdown, market share of the various brands that are
2 represented, at least in the tier one and tier two.
3 There's not a lot of data on tier three individual
4 brands, but tier one and tier two there are. I can
5 find those and provide them.

6 COMMISSIONER OKUN: Okay.

7 Mr. Borgman, do you have --

8 MR. BORGMAN: We would have to follow up in
9 a post-hearing brief as well. I'm not familiar with
10 the industry numbers.

11 COMMISSIONER OKUN: Okay.

12 MR. THOMAS: Commissioner, I think the
13 Commission has some questionnaires out that we hope
14 will help provide that information.

15 COMMISSIONER OKUN: I hope they will as
16 well. But it strikes me that if all of you are
17 talking about a tiered market, and again I think I've
18 read everything that's been attached to these
19 exhibits, and you do see these references to private
20 label, to flagship, that I'm curious with as much
21 marketing that goes on that there's not better data
22 available that would say the size of the market that
23 the Chinese are in, the low end of the market that you
24 would argue that domestics have ceded, is X percent of
25 the market. I think that would help the case you're

1 trying to make for me to understand it.

2 So whatever you can do post-hearing, and
3 hopefully the questionnaires will help clear it up as
4 well.

5 The other thing that some of your comments
6 have touched on that I've been interested in, which is
7 in terms of where the market is now and where the
8 market is going in the reasonably foreseeable future,
9 are the sizes going to change dramatically? We had
10 some discussion this morning about our fuel efficient,
11 if the new fleets have more fuel efficient, need more
12 fuel efficient tires, is that going to mean a return
13 to smaller size tires or are large rim sizes here to
14 say even for fuel efficient cars?

15 Is there anything out there yet? Mr.
16 Mayfield?

17 MR. MAYFIELD: I spent three years in
18 Detroit with Continental managing the OE business and
19 dealing with the car manufacturers. In my time there
20 the car manufacturers, my personal opinion, didn't use
21 a lot of logic in some of the sizing that they
22 required for us to provide for them for new cars.

23 A lot of it was based upon what the package
24 looked like when it was mounted on the vehicle. It
25 had nothing to do -- It had to meet certain weight

1 carrying capacities and speed ratings and stopping
2 distance requirements, ride comfort and all that, but
3 the overall size was based upon the cosmetic
4 appearance of that tire/wheel package on the vehicle.

5 Now there's no doubt that the automotive
6 industry is going through change and the vehicles that
7 they've produced over the last five to ten years are
8 probably going to be different than the vehicles they
9 produce over the next five to ten years. There's one
10 thing I'm certain about. You're not going to go back
11 to tires that were produced ten years ago and put them
12 on new vehicles. The tires that will get produced and
13 put on new vehicles, if they do in fact transform to
14 more fuel efficient vehicles, they're going to require
15 tires that have much more fuel efficient components in
16 them.

17 There is new technology that has been
18 developed over the last four to five years that tire
19 companies are implementing in a number of their
20 premium products that provide greater fuel efficiency
21 because they reduce the rolling resistance of the
22 tire. That will be apparent in the OE marketplace and
23 even more demand, if in fact they do develop vehicles
24 that are more fuel efficient.

25 Now they're not going to lose that cosmetic

1 appearance of that package on the vehicle. That's
2 part of the pizzazz that helps sell that car when
3 somebody comes and looks at it. And I would not be
4 willing to bet anything that they're going to lose
5 that marketing pizzazz that they've been so good at
6 and step away from having a package on that car that
7 looks good. That's probably going to be different
8 than anything that we've seen in the past. They've
9 been very true to that over the last ten years that
10 I've been involved on the OE side and through changes
11 in my career.

12 So I don't think you're going to see any
13 going back to the past there, it's going to be new
14 technology, it's going to be new sizes that we'll see
15 in the marketplace that's going to require new
16 technologies and new tooling and new investments in
17 tire plants that source those products.

18 COMMISSIONER OKUN: Mr. Borgman?

19 MR. BORGMAN: In the last ten years we've
20 witnessed an explosion in tire sizes and typically our
21 foreign manufacturers have been more responsive to
22 building those new sizes than our domestic
23 manufacturers.

24 COMMISSIONER OKUN: Bigger sizes?

25 MR. BORGMAN: Yes, larger sizes. But just

1 an enormous number of sizes now, especially compared
2 to ten years ago.

3 COMMISSIONER OKUN: Other comments from
4 anyone else on the panel?

5 MR. BERRA: We call that size proliferation,
6 and it's tremendous the number of new sizes every
7 year. Every year there are a number of new sizes that
8 come out at original equipment. It's great for our
9 type business. Our dealers hate it.

10 COMMISSIONER OKUN: As that relates to tier
11 three tires?

12 MR. BERRA: They typically do not
13 participate in those new sizes for some period of
14 time.

15 COMMISSIONER OKUN: What period of time
16 would that typically be?

17 MR. BERRA: Well, they have to get through
18 the second generation. There's no hard rule on it, but
19 it probably could take as many as four years maybe for
20 a new size that came out OE this year to actually,
21 you'll see it in an economy priced tire or a tier
22 three tire. And some of them may never maybe because
23 of the profile of the tire.

24 COMMISSIONER OKUN: That's helpful.

25 My red light's come on. Thank you.

1 CHAIRMAN ARANOFF: Commissioner Lane?

2 COMMISSIONER LANE: Thank you.

3 Do you know the reasons why five of the
4 biggest importers in 2008 only began importing during
5 2004 to 2008?

6 MR. DELORIO: I believe I can speak to that.
7 GITI Tire USA, we started our operations in North
8 America in 2005 and what it was was a real opportunity
9 that we saw when the majors exited out of the tier
10 three. The U.S. manufacturers exited the market, they
11 left a void, they left a vacuum. It was what we
12 perceived as an opportunity to come in and gain some
13 business.

14 COMMISSIONER LANE: Mr. Mayfield?

15 MR. MAYFIELD: 2004 to 2006 I was with
16 DelNet. I traveled all over the world to try to find
17 tires. I think in my testimony I shared with you our
18 experience as time after time the domestic suppliers
19 decided to get out of the private brand business and
20 supplying our tires and telling us that they wanted to
21 produce their own brands of product.

22 I traveled many weeks in China for those
23 two, a little over two years. At that time I was
24 having a very difficult time finding plants in China
25 that were producing full product lines of a number of

1 sizes in a product line that I could buy and bring
2 back to my customers. I might find four or five sizes
3 in one plant. I'd go to another plant and find two or
4 three sizes. They might have different tread designs.
5 I mean it would be a hodgepodge of product.

6 Between then and now they've made
7 investments to be able to produce product lines that
8 we need in the U.S. that meet all of the government
9 safety standards that are required to be met. We did
10 that not because we wanted to, trust me. I would have
11 rather been at home in the U.S. tending to our
12 business here. But we had to do that because we
13 didn't have another option.

14 So the growth that you've seen is partly due
15 to the fact that the U.S. manufacturers, they exited
16 that business. The second piece is there were
17 investments made in China to be able to provide the
18 type of products that we were desperately seeking. So
19 it's a combination of both of those things I believe.

20 COMMISSIONER LANE: Thank you.

21 Why are the average unit values of imports
22 from China lower than those from non-subject sources?

23 Mr. Reilly, do you think you can answer
24 that?

25 MR. REILLY: That's a matter of analysis and

1 we can undertake some of the detail of that and report
2 in the post-hearing brief, but I think there are a
3 number of reasons.

4 One, there are tier one and tier two tires
5 coming in from non-subject sources. Michelin,
6 Bridgestone, et cetera, are tier one manufacturers and
7 they're importing their products from Western Europe
8 and from Japan. So that's one major reason I believe
9 why in the aggregate the non-subject imports are
10 higher in value than the product coming in from China
11 which is exclusively tier three.

12 And the vast majority, by the way, of the
13 non-subject imports are being imported by the domestic
14 manufacturers. They're also importing product from
15 China.

16 But I think the principal reason is that
17 they're importing products that are quite different in
18 mix and market positioning from what's coming in from
19 China.

20 COMMISSIONER LANE: Thank you.

21 What should the Commission make of the fact
22 that U.S. producers' imports and purchases of imports
23 from China accounted for over 20 percent of all
24 imports from China for each year during 2004 to 2008?

25 MR. REILLY: Could you repeat it please?

1 COMMISSIONER LANE: What should we make of
2 the fact that the U.S. producers' imports and
3 purchases of imports from China accounted for over 20
4 percent of all imports from China for each year from
5 2004 to 2008?

6 MR. REILLY: that's quite consistent with
7 the notion that the domestic producers have decided to
8 exit the tier three market progressively over time,
9 I'm sorry, tier three production in the United States.
10 But they have not exited the tier three market.
11 They're switching their sourcing. They have product
12 coming in from China as well as from places like
13 Brazil, Slovakia and Poland.

14 COMMISSIONER LANE: Why did imports of
15 subject tires from China increase by over 200 percent
16 during 2004 to 2008, a period when apparent U.S.
17 consumption of subject tires decreased? Would you
18 consider this a rapid increase?

19 MR. REILLY: I think you have to take rapid
20 increases into perspective.

21 If my assets increase from \$10 to \$30 they
22 triple, but I'm still poor. The market share of the
23 Chinese product was on the order of 6 percent on a
24 volume basis in 2004 and increased to 16 percent so
25 they're by no means a dominant force in the market.

1 As far as rapid increase is concerned, in
2 this case I believe that's irrelevant because what we
3 see is the increase from China basically replacing
4 product that the domestic producers have decided not
5 to produce in the United States. so basically it's
6 not Chinese product pushing U.S. product out of the
7 market, it's avoiding the market pulling Chinese
8 product in.

9 MR. THOMAS: Commissioner, if I may add
10 something?

11 COMMISSIONER LANE: Yes you may, Mr. Thomas.

12 MR. THOMAS: What the statute requires is a
13 finding that the subject imports are increasing
14 rapidly. That's cast in the present tense and it
15 speaks of rapidity which, to my way of thinking, means
16 something that is happening sharply and quickly over a
17 relatively brief period of time.

18 So it seems to me to talk about an increase
19 that occurs over a period of five years cannot by its
20 very nature in the English language be rapid. Unless,
21 of course, we're talking about geological movements.
22 Then of course a five year change would be rapid.

23 MR. GWINN: Commissioner Lane, if I may also
24 comment.

25 COMMISSIONER LANE: Yes, go right ahead.

1 MR. GWINN: Some of the other foreign
2 producers such as Kumho and Hankuk in Korea have
3 factories in China. They were importing from Korea
4 before. They may also be now importing from China.
5 It's not only Hankuk and Kumho, it's Toyo, its
6 Yokohama, it's Sumitomo. In fact all of the major
7 manufacturers around the world have factories in China
8 today which they did not have ten years ago.

9 So as the imports grew in general, because
10 some of those producers also had factories in China,
11 it may have caused the China piece to look bigger. I
12 don't know that for a fact, but it's quite logical to
13 me that that is the case.

14 COMMISSIONER LANE: Thank you.

15 The majority of the U.S. producers of
16 subject tires reported plant closures, layoffs,
17 reduced production, or temporary or prolonged
18 shutdowns during the past several years. To what
19 extent, if any, do these shutdowns and work stoppages
20 reflect material injury to the domestic industry?

21 MR. REILLY: The shutting down of plants and
22 the reduction of labor forces actually reflects a
23 trend that's been ongoing for some time and it began
24 well before 2004. There are some quotes from Goodyear
25 I have before me that put this in perspective.

1 In Goodyear's 2004 Annual Report they said,
2 "To maintain global competitiveness we have
3 implemented rationalization actions over the past
4 several years for the purpose of reducing excess
5 capacity, eliminating redundancies and reducing costs.
6 As of December 31, 2004 we have reduced employment
7 levels by approximately 6800 from January 1 2002, and
8 approximately 18,000 since January 1, 2000, primarily
9 as a result of rationalization activities."

10 The rationalization was the result of a very
11 severe lack of profitability.

12 In the 2003 10K they say, "We have
13 experienced significant losses in 2001, 2002 and 2003.
14 We cannot assure you that we will be able to achieve
15 future profitability. Our future profitability is
16 dependent on our ability to successfully implement our
17 turn-around strategy for our North American tire
18 segment in our previously announced rationalization
19 actions."

20 In other words the process you see of plants
21 being closed and folks being laid off is really the
22 continuation of a process that began well before
23 imports from Japan were a significant factor in the
24 market.

25 COMMISSIONER LANE: Let's just correct the

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1 record. Imports from China.

2 MR. REILLY: I'm sorry. Imports from China.
3 I'm back in the '80s. I'm sorry.

4 COMMISSIONER LANE: No, I just wanted you to
5 know that I was paying attention to what you said.

6 MR. SPOONER: Madame Commissioner?

7 COMMISSIONER LANE: Yes, go ahead, Mr.
8 Spooner.

9 MR. SPOONER: I'm sorry. I'm half sworn
10 witness, half skilled PowerPoint boy over here.

11 I think of course it's worth stressing that
12 imports, of course, must be a cause of any injury.
13 And one point I don't think we've made is to try to
14 reinforce the fact that Petitioners have made quite a
15 bit about the fact that there will be two additional
16 plant closings in 2009. Those two plant closings
17 apparently are going to occur even though imports are
18 falling in absolute terms this year. Quite rapidly.
19 Imports are falling by 15 percent so far this year, or
20 have fallen by 15 percent. I think that speaks quite
21 a bit to the degree to which imports are a significant
22 cause of any market disruption.

23 COMMISSIONER LANE: Thank you.

24 The Petitioners are requesting a quota on
25 imports of subject tires from China of 21 million

1 tires with an increase of five percent each year over
2 a three year period.

3 If the Commission has defined that imports
4 of subject tires from China have disrupted the U.S.
5 market, what remedy would you suggest that we
6 recommend to the President?

7 MR. THOMAS: I would say none. What you
8 have to think about, I suppose, is from the standpoint
9 of a so-called remedy is what action is going to
10 assist the U.S. industry to become more competitive,
11 to increase its volume, whatever.

12 It's our view that there is nothing that is
13 going to improve the U.S. industry. The U.S. industry
14 has its own plan of improvement and I think imposing
15 quotas or additional tariffs is not going to
16 facilitate that.

17 COMMISSIONER LANE: Let me just make sure I
18 understand you correctly.

19 If the Commission finds market disruption,
20 you are then recommending that we say to the
21 President, oops, no remedy?

22 MR. THOMAS: That is correct.

23 MR. BERRA: What would you attempt to
24 accomplish with that if -- Because it's not going to
25 increase production in the U.S. I thought the whole

1 point of this was to prove that you could produce more
2 jobs in the U.S. factories --

3 COMMISSIONER LANE: So you are disagreeing
4 with the Petitioners when the Petitioners say that a
5 21 million tire quota would help the domestic industry
6 increase its production?

7 MR. BERRA: It would not help it one bit.
8 It would just be replaced by other countries. I know
9 that for a fact. Today we could buy tires out of
10 Thailand at the same price as from China. And they'd
11 just ramp up the production. And they're supplying
12 tires in a global market so they'd just make decisions
13 they would ship more tires to the United States.
14 That's the reality of what would happen.

15 MR. KOGEL: Even though there's a red light,
16 can I jump in?

17 COMMISSIONER LANE: Yes.

18 MR. KOGEL: I'm sorry. I'm not an expert in
19 this but I can tell you in our business, our first
20 choice after, if Chinese tires aren't available, our
21 first choice is South Korea; our second choice is
22 South Korea; and our third choice is Mexico. Our
23 customers would still demand the entry level tires.
24 They would still demand the price point tires
25 irrespective of where they were made.

1 MS. TROSSEVIN: Commissioner Lane, I'd just
2 like to point out too, you have the answer to your
3 question also from the producers themselves in their
4 questionnaire responses. I think if you look at
5 their, and asked what they might do in terms of any
6 changes they would make, I think you will find that
7 there is very little there, because they're not going
8 to change anything. They're not going to change
9 anything because they like the strategy they have
10 because it's a strategy that makes them more
11 profitable.

12 COMMISSIONER LANE: Thank you.

13 Thank you, Madame Chair.

14 CHAIRMAN ARANOFF: Commissioner Williamson?

15 COMMISSIONER WILLIAMSON: Thank you Madame
16 Chairman.

17 Your last comment about profitability,
18 you're sort of saying, I guess there was testimony
19 presented this morning about the fact that the
20 industry was less profitable than other segments of
21 the rubber industry. Are you saying that basically
22 that's as profitable as they can get no matter what
23 happens?

24 MS. TROSSEVIN: No. I think if you look at
25 the chart that Mr. Reilly put up earlier and you see -

1 - Remember, none of this stuff happens immediately.
2 You put a plan into effect and it takes time for it to
3 evolve and to work out. But what you do see is that
4 even though you have imports increasing, as they did
5 do the product shift they became more profitable, they
6 reached their highest profitability levels in 2007
7 despite imports. If you ever want proof that there is
8 attenuated competition between the tier three China
9 imports and the premium brands here, you don't have to
10 look any further than that chart and particularly what
11 happened in 2007.

12 The only reason, and I don't know that that
13 4.4 percent profitability, 4.4 percent of sales, is
14 where they could have peaked. The trend at that point
15 was up. There's no reason to believe that that
16 strategy would not have continued to make them
17 increasingly profitable if it weren't for the fact
18 that 2008 happened and the bottom fell out of
19 everything.

20 They were on the right track. The
21 strategies that they implemented were working and you
22 have the proof in 2007.

23 MR. REILLY: John Reilly. I think there's
24 one very simple question you can ask yourself, and
25 that is, if this is a commodity market and there is

1 significant direct competition between imports from
2 China and the domestic product how could 2007 have
3 happened? The performance that the domestic producers
4 showed in 2007 which reflects cumulative price
5 increases and also an improving product market in the
6 face of very rapidly increasing raw material costs,
7 would simply have been impossible.

8 COMMISSIONER WILLIAMSON: Other comments?

9 MR. SPOONER: Mr. Commissioner? I would
10 quickly also steer you to Exhibit 18 in our pre-
11 hearing brief which is an interview in which a
12 gentleman in the industry talks about how the tire
13 manufacturers' decision to exit the market was working
14 until the recession hit and as soon as the recession
15 is over he fully expects them to continue to profit
16 from their strategy of exiting the market.

17 COMMISSIONER WILLIAMSON: Thank you for
18 those answers.

19 I wanted to ask a question about technology
20 and the production of tires. I guess there's been
21 reference to Michelin has a C3M process; Goodyear has
22 an impact process; Bridgestone has talked about a bird
23 process.

24 I was wondering, do you see any indication
25 that these new technologies have had any impact on

1 their closure of plants?

2 MR. GWINN: My opinion is no, that it
3 doesn't have any direct impact on the closure of
4 plants.

5 The existing plants that were there with the
6 old technology is still for long runs, for larger
7 production volumes. It's still much more economical
8 than the new technology.

9 The advantage of the new technology, whether
10 it's Michelins, Goodyears or Bridgestones is that it
11 allows you to make shorter runs of more specialized
12 product and with quicker turn-around time and at much
13 less cost. My opinion is it didn't have anything to
14 do with the closure of those factories.

15 COMMISSIONER WILLIAMSON: In other words it
16 makes more competitively and more efficiently the
17 premium tires.

18 MR. GWINN: Yes, and I think we will see
19 elements of that new technology as new tires are being
20 built. When there is a new tire being built we'll see
21 some of that new technology put in place. That is the
22 case with a couple of Bridgestone factories that have
23 been built. They have implemented some of their bird
24 technology in there.

25 COMMISSIONER WILLIAMSON: Thank you.

1 Some of you were talking about the fact that
2 China could not enter the premium market. I thought
3 about the example of Lenoveau and IBM. I just
4 wondered, is there any reason why you say if a Chinese
5 manufacturer bought a premium brand here, could they
6 enter the U.S. market and could they also start
7 producing the tire in the U.S. as long as they have
8 the licensing and brand rights?

9 MR. MAYFIELD: I think oe of the things with
10 your question, if we look back at some historical
11 situations where other countries have been successful
12 doing that, a lot of times those countries have had
13 very developed, their economies have been very well
14 developed, they've been small countries with
15 populations that are not huge.

16 If you look at China, the developments in
17 technology that they're undertaking today I think over
18 the next ten years they're going to be consuming the
19 majority of that inside China. They still have a
20 relatively small percentage of their population that
21 lives at a middle class income level, but some of the
22 reports that I continue to read, the explosion of that
23 middle class over the next ten years is being compared
24 to adding the economy of California, New York and
25 Pennsylvania to their annual consumption rate at one

1 time. So I think the, could they do that here?
2 There's a possibility of that. But their internal
3 consumption, I believe, is going to be so large that I
4 don't think they're going to need us to do that. I
5 think they're going to consume that based upon the
6 buying power that their own population will have as
7 consumers and be able to take that technology and that
8 production and use it internally.

9 COMMISSIONER WILLIAMSON: But that still
10 doesn't, as you said, premium tires can be premium
11 returns that either a Chinese company or maybe an
12 alliance with a U.S. and Chinese company could not do
13 that.

14 MR. MAYFIELD: And they will develop that
15 premium market inside China because the buyers will
16 have the buying power to be able to recognize that.
17 For the same reasons that we buy brands.

18 Sometimes it's a statement of who we see
19 ourselves as. Sometimes it's because we believe that
20 brand offers us something that other brands don't
21 offer us. If we have the buying power we make that
22 decision. I think the Chinese population is the same
23 way. When they have that buying power they're going
24 to be doing the same thing.

25 If you travel in China, the amount of money

1 spent in advertising and developing the brands is
2 substantial, and I don't see that, I think the tire
3 industry will be the same way in China.

4 MR. THOMAS: In the Chinese industry there's
5 no instances of that. In examples just like IBM which
6 is a pretty significant one, we have not seen a lot of
7 Chinese purchases of U.S. producers. At least to
8 date.

9 COMMISSIONER WILLIAMSON: The reason I'm
10 asking the question is whether or not, are the Chinese
11 produces locked into the so-called tier three, or are
12 there circumstances where they might be producing for
13 people who are marketing tier two and tier one tires
14 in the U.S.?

15 MR. REILLY: Commissioner Williamson, John
16 Reilly.

17 Actually the movement has gone in the other
18 direction. The major tire manufacturers that are
19 producing in the United States are moving into China
20 to take advantage of the rapidly growing Chinese
21 market, and they're producing their branded tires in
22 China, but for sale to the Chinese.

23 So tier one and tier two tires are being
24 produced in China, but for sale to Chinese customers.
25 And it's most unlikely that they would try to come

1 into the United States or that a Chinese company would
2 try to come into the United States given the fact that
3 the U.S. market is a mature market and their own
4 market is rapidly growing. It's going to take all of
5 their wherewithal to keep up with the growth of their
6 market for tires.

7 MR. THOMAS: Just to add one more thing.
8 The tier one and tier two premium markets are based,
9 as the discussion has explained, on brand equity which
10 takes time to build up. Investment, significant time
11 to build up.

12 So if one is postulating the possibility
13 that a Chinese manufacturer could move up to tier two
14 or to tier one, you'd have to recognize that that
15 would take a lot of time and a lot of investment, and
16 it's certainly not eminent enough to be a threat.

17 COMMISSIONER WILLIAMSON: Remember my
18 example. IBM has a lot of brand equity. So if you
19 have an alliance, a marketing agreement, there's
20 nothing about the way products are marketed globally
21 now that tells me this couldn't happen. And nothing
22 you've said to me, you've said it's unlikely, but it
23 just doesn't seem --

24 MR. THOMAS: The real question is from the
25 Commission's standpoint, is something like that

1 imminent? Is there any evidence that it's imminent
2 and there isn't.

3 COMMISSIONER WILLIAMSON: Thank you.

4 CHAIRMAN ARANOFF: Commissioner Pinkert?

5 COMMISSIONER PINKERT: Thank you, Madame
6 Chairman.

7 Mr. Reilly, I want to come back to this
8 issue of 2007. I don't want to belabor the point, but
9 if you look at the trend in unit cost of goods sold,
10 can you understand what happened in 2007 based on that
11 trend from year to year in unit cost of goods sold?

12 MR. REILLY: That's something I'd like to
13 address in the post-hearing brief. Thank you.

14 COMMISSIONER PINKERT: I was going to
15 suggest that all the parties take a look at that for
16 purposes of the post-hearing brief.

17 Turning to Mr. Berra for a moment. I was
18 interested in your analysis of what would happen if
19 there were a remedy in this case. You talked about
20 there being replacement by non-subject imports. I
21 understand that testimony.

22 But I'm wondering, if there would be such
23 replacement by non-subject imports, then would there
24 be harm to the consumer? Is there something you can
25 add to that equation to help me understand it?

1 MR. BERRA: There wouldn't be any harm to
2 the consumer. Basically those channels would just be
3 filled by different import manufacturers from
4 different countries. So the product would still
5 become available in the marketplace. Not immediately
6 as much probably to stop it overnight, but over time
7 it wouldn't take very long because it's already out
8 there. There are other countries that are in this
9 market. They're not into the same scale as China, but
10 they could ramp up pretty readily.

11 COMMISSIONER PINKERT: Mr. Thomas?

12 MR. THOMAS: I was just going to say, I
13 think that delay, there would inevitably be some delay
14 just while people found the new sources, they took the
15 steps they needed to ramp up and ship to the U.S. I
16 don't know how long that would be. But for some
17 period there might be a shortage, yes.

18 MR. REILLY: John Reilly.

19 There would be some disruption of the U.S.
20 market because there would be at least a temporary
21 reduction in supply as distributors and producers made
22 alternative arrangements, got molds designed, ramped
23 up production and so forth. And during that temporary
24 period there would be temporary price increases
25 without a doubt.

1 But it would not last for three years and it
2 would not produce any benefit to domestic workers
3 because there would be no jobs created here.

4 COMMISSIONER PINKERT: Thank you.

5 I wanted to give you a chance, I don't know
6 if Mr. Reilly is the right person to answer this, but
7 you may be. A chance to comment on this issue of
8 quotas versus tariffs. You know that in the past
9 there has been some sentiment that tariffs, other
10 things being equal, would be preferable to quotas. Do
11 you have any view on that?

12 MR. REILLY: Economic theory states that
13 tariffs are preferable to quotas because they produce
14 less cost to the economy and less cost to the
15 consumers. Any analysis of tariff increases or quota
16 increases generally comes down on the side, in the
17 economic literature I've seen, generally comes down on
18 the side of tariffs simply because they are less
19 disruptive and less costly.

20 That is to say that I'm not in favor of a
21 tariff in this case or a quota.

22 (Laughter.)

23 COMMISSIONER PINKERT: I wasn't assuming to
24 the contrary.

25 Is there any reason, based on the facts of

1 this particular case, that a quota would be
2 particularly problematic? For example, the declining
3 demand or any of the other facts that we've talked
4 about in this case.

5 MR. REILLY: When you have a situation of
6 declining demand there's a tendency to make the quota
7 tighter than it otherwise would be. And if you then
8 have a situation where demand recovers, let's say
9 we're talking about 2009 and 2010, then you may well
10 have put in a quota that's too tight.

11 One point on that. If you look at the
12 amount of excess capacity in the United States right
13 now and the amount of incremental production that the
14 ECS analysis is indicating, it has the domestic
15 industry working at close to 100 percent of capacity.
16 That is virtually all of the unused capacity in the
17 United States is assumed to be used to produce the
18 products that are under quota. That's simply not
19 going to happen.

20 So if you put in a quota of 21 million
21 units, you're going to get significant market
22 disruption even if the U.S. producers would be
23 encouraged to increase their production because it's
24 not going to fill up all available unused capacity.

25 COMMISSIONER PINKERT: Thank you.

1 Moving away from remedy back into the market
2 disruption aspects of the case, how should the
3 Commission take into account the impact of non-subject
4 imports which have been relatively steady both in
5 terms of absolute volume and market share?

6 MR. REILLY: There are two things. One,
7 it's clear that the non-subject imports have had an
8 adverse affect on the production of the OEM market.
9 Their market share has gone from about 30 percent to
10 nearly 45 percent over the period of investigation.

11 So to that extent, non-subject imports have
12 been injurious because the domestic producers have
13 lost significant market share to them in a segment
14 where the competition is direct.

15 But the irony is that most of those imports,
16 the vast majority of those imports are by domestic
17 producers so they really reflect domestic producers
18 making decisions that injure the domestic industry
19 which is something I've not come up against in 30
20 years of doing this.

21 The other element where non-subject imports
22 come into play is not in the injury side, it's in the
23 remedy side. And that's the extent, you have to
24 consider the extent to which the products under quota
25 would cause a shift to non-subject sources rather than

1 to domestic sources.

2 COMMISSIONER PINKERT: Ms. Trossevin?

3 MS. TROSSEVIN: I think on the latter point
4 the different legal context that you're talking about
5 in 421 is important, and the difference between a
6 Title 7 situation where you're talking about dumping
7 and countervailing duties where you already have a
8 specific defined unfair trade practice, a level of
9 dumping or a subsidy that you're offsetting.

10 Here you don't have an unfair trade
11 practice. The only reason to place any restrictions
12 on imports of the subject merchandise is to have some
13 sort of a positive impact on the domestic industry.
14 And so in that context if subject imports are simply
15 going to, if the restrictions on the subject imports
16 are simply going to transfer volume to non-subject
17 imports, you can't achieve the goal of the statute.
18 so it's a very very different context legally than
19 Title 7.

20 MR. THOMAS: I would add as well that fully
21 a third, more than a third of the loss of the volume
22 of the domestic industry was lost in the OEM market
23 and it was essentially loss of market share to non-
24 subject imports. That can't be ignored.

25 Indeed non-subject imports were more or less

1 the invisible man in the domestic industry's
2 presentation this morning. I think they were almost
3 never mentioned. Almost as if they weren't there.
4 Yet if you look at market share right after the
5 domestic industry, the next largest share is non-
6 subject imports. Why were they so ignored? I think
7 it was because the industry, the union and the workers
8 can't even pretend to make a case here if they take
9 account of non-subject imports.

10 COMMISSIONER PINKERT: Thank you.

11 Mr. Reilly, you talked about this kind of
12 anomalous situation as far as the U.S. producers
13 importing quite a bit of the subject merchandise.

14 Does that help to explain why they're not
15 here today?

16 MR. REILLY: I would hesitate to speculate
17 on why they're not here. All I can say is that if
18 they're importing this large quantity of non-subject
19 merchandise it's because it's consistent with their
20 desire to maximize their corporate profit. Basically
21 to maximize their corporate profit they have to use
22 the most efficient global sourcing pattern available
23 to them.

24 So I would speculate that their decision to
25 increase their non-subject imports in the OEM market

1 simply represents rational decisions to maximize
2 profit.

3 COMMISSIONER PINKERT: Turning this into a
4 legal question, how should we view the position of the
5 domestic producers? Not the workers, but the
6 producing companies in this case.

7 MS. TROSSEVIN: I think this is related,
8 again, to the different nature of this statute and the
9 remedy that's being requested and the purpose of that
10 remedy.

11 The Commission has noted before in other 421
12 cases that unlike Title 7 there is no statutory
13 authority, for example, to discount the imports of
14 related parties or producers' imports. For example,
15 using, I believe it was Commissioner Lane mentioned
16 the orange juice case which is a Title 7 case where
17 there is explicit statutory authority to take into
18 account whether or not the producers are also
19 significant importers.

20 Here you don't have that and it makes
21 perfect sense why you wouldn't have that. The whole
22 point of restricting the Chinese imports is to benefit
23 those very producers. And you don't need to,
24 restricting them in this case is not going to provide
25 any benefit in the sense of, as we talked about

1 before, increasing production here, increasing jobs
2 here. They may just switch sources to their own off-
3 shore -- They all produce an import from China. They
4 can all just produce an import more from Mexico or
5 from Brazil or from anywhere else in Eastern Europe.

6 COMMISSIONER PINKERT: Thank you.

7 Thank you, Madame Chairman.

8 CHAIRMAN ARANOFF: Thanks.

9 I want to follow up on a couple of questions
10 that my colleagues have raised. But before I do that
11 I did just want to say we're trying to get the
12 temperature in the room cooler. It's a little bit hot
13 in here. Some of you have probably noticed we
14 apparently had two blowers blowing out hot air. We've
15 turned them off. We've asked the landlord if they can
16 crank the temperature down a little. I don't know if
17 they can, but my colleagues in coat and tie tell me
18 that it's quite warm in here so please feel free to
19 remove your jacket if you would like. It is, after
20 all, after business hours.

21 I'll turn now to my questions.

22 The Vice Chairman is starting the trend, so
23 feel free.

24 There was a discussion about the fact that
25 these tier three tires can't really compete for the

1 first replacement on a newer car model, and I wanted
2 to make sure that I understood the explanation for
3 that. Very sophisticated computer machinery, cell
4 phones, all kinds of things can be reverse engineered
5 in an extremely small amount of time. How long could
6 it possibly take to reverse engineer a tire? But
7 perhaps I'm not understanding. Perhaps it's not the
8 act of reverse engineering the tire. Maybe there is
9 something else at work.

10 Mr. Mayfield?

11 MR. MAYFIELD: I think the primary situation
12 there is the marketing of the brand.

13 When the car is early in its life cycle the
14 owner tends to be more aware of branding and the
15 products that go along with the vehicle.

16 You're right. You can do reverse
17 engineering and you can produce tires that would be
18 okay on that vehicle. But it's the mind perception of
19 the consumer and what they want to put on that car.

20 I think, our friends at Les Schwab Tire are
21 a very unique model. They have done a masterful job
22 creating the brand of Les Schwab. Their customers
23 have complete trust and confidence in them. They're
24 just a great story of how to do that. But they tend
25 to be unique in the rest of the industry here because

1 in the rest of the country brand has a strong
2 significance with a consumer. And for our part of the
3 business where we're at a later point in the life
4 cycle typically, and nothing is 100 percent and I
5 don't want to try to tell you that there are lines
6 that will never be crossed because that's not true.
7 But the vast majority of our business is at a later
8 life cycle in that vehicle when the consumer doesn't
9 want to spend the money that the premium tier two or
10 premium tier one brand commands in the marketplace.

11 Do we have a tire that would work on a
12 vehicle in its first replacement cycle? Yes, we do.
13 But most consumers would not consider our brand on a
14 vehicle that new. It would be later on in the
15 lifetime of that vehicle before they would consider
16 our tier three brand.

17 MR. GWINN: Madame Chairman, you
18 specifically asked about reverse engineering. It is
19 not as easy on tires as you think because a lot of the
20 advantages of the tier one tires is in the rubber
21 compounds and it's in the chemical formulas that go in
22 there.

23 Once the rubber is all put together in a
24 tire form and then put in a curing press and cooked,
25 it changes the chemical properties so that you cannot

1 just go back and reverse engineer so easily. It's not
2 totally impossible, but it's extremely difficult and
3 requires a lot of research to do that.

4 CHAIRMAN ARANOFF: Thank you for that
5 clarification. That's helpful.

6 Let me turn to a clarification on another
7 point that was raised.

8 We've been discussing all afternoon this
9 issue of whether a number of the domestic industries
10 came up with a plan back in the second half of the
11 '90s to exit this tier three business. I know one or
12 another of my colleagues asked if there were any sort
13 of contemporaneous documentation or news articles or
14 anything that would corroborate that this strategy was
15 adopted back in the late '90s.

16 I just wanted to add onto that, I'm sure
17 there are company documents or filings with the SEC or
18 something from back then that would corroborate that
19 this strategy was undertaken by some of the companies,
20 but what I'm interested in is, did they set it out
21 there as a ten year plan at the time? The argument
22 that's being made is that the decisions were being
23 made back in '95 and '97 to take certain steps, and
24 yet there are certain plants that we see closing in
25 2006, and I'm finding it a little bit hard to connect

1 those dots and say that this plan for 1997 resulted in
2 a plant closure in 2006.

3 MR. MAYFIELD: I'd be glad to do that.

4 I had a customer, the largest retailer in
5 the country. We wanted to start doing business with
6 them. We produced a line of tires that for our
7 company was priced at a tier three level, and this was
8 at Continental. It was our way of getting in the door
9 with that customer. That was our price of entry. Our
10 long term plan, and we have put together a five year
11 plan, and this started in 2000. We put together that
12 five year plan, and over that five year period the
13 first two years we were to provide this very low cost,
14 it was not a money-maker at all for the company, to be
15 able to earn our way into the product screen to
16 introduce other higher profit, higher level
17 Continental brand products into their product screen.

18 Over time the plan was to phase out that
19 initial entry level product that we got in the door
20 with. If you look at that retailer today and their
21 product screen, you'll see that the plan we
22 implemented in 2000 has worked out exactly the way it
23 was supposed to. Continental no longer supplies that
24 entry level position. They have other Continental
25 brand products that are prominent in the product

1 screen. So that was a long term strategy. It was a
2 strategic move to do that but never intended to
3 continue on, and it's gone and it won't come back. It
4 accomplished what they wanted to accomplish, but it
5 was not a long term plan to continue with that.

6 CHAIRMAN ARANOFF: I understand that. I'm
7 not sure that goes to exactly the same point I was
8 asking about.

9 MR. BERRA: We can provide you a time line
10 of these plant closings by manufacturers. They all
11 didn't happen at the same time. They all didn't get
12 in the room and decide they were going to exit this
13 market. It was an evolutionary process that I saw
14 over a period of time. One manufacturer maybe was a
15 little quicker doing this than others. Michelin was
16 probably quicker getting out of the hexadent industry
17 and Goodyear was probably last. You can see it. We
18 can provide those. I think if you paralleled those
19 dates of those plant closures, not plant closures, I'm
20 sorry, brand discontinuation. That would be a better
21 way of putting it. You can see the logical pattern
22 there that they've taken.

23 CHAIRMAN ARANOFF: Maybe that would help.

24 MS. TROSSEVIN: I just wanted to make clear,
25 the argument is not that decisions were taken in 1995

1 that were implemented in 2006. The point of that
2 argument, going to Mr. Berra's discussion of the
3 evolutionary process, this strategy does go back to
4 the mid '90s, and there have been a variety of plant
5 closures. The point we were trying to make is this is
6 a process that started long before Chinese imports
7 were a factor in the market. And even if you look at
8 the plant closings that the Petitioners have laid in
9 the petition. Take for example the closings in 2004.

10 Nobody suggests that you make a decision to
11 close a plant in 2004 and close it in 2004. Obviously
12 those decisions were taken well before 2004. Even if
13 they had been decided in 2004, Chinese imports were
14 less than five percent of the market.

15 For Petitioners to suggest that the less
16 than five percent Chinese imports were the cause of a
17 2004 plant closure I would say is a bit of a stretch.

18 They point also, if you'll note, to
19 statements about competition, worldwide competition
20 from imports. They mention Asian imports.

21 The interesting thing again, timing is very
22 important. Asian imports. No mention of China. Who
23 was the big import source in 2004? Korea. Another
24 Asian country.

25 So there's no basis to assume that those

1 references to import competition or Asian imports had
2 anything to do with China, nor does the data support
3 that conclusion.

4 The same thing with 2006. Again, these are
5 all decisions, these plant closures that happened in
6 2006, Petitioners themselves testified to the fact
7 that they were able to delay plant closures through
8 their own contract negotiations. So it's obvious that
9 the decisions were being made to close these plants
10 well before 2006 and this is consistent with Mr.
11 Mayfield's earlier testimony. Some of those plant
12 closures might have been delayed as a result of the
13 union's efforts, but the fact of the matter is at that
14 time Chinese imports were either less than five
15 percent, and even in 2006 were still less than ten
16 percent of the market. So they're basically asking
17 you to believe that the tail is wagging the dog here,
18 and that's not the case.

19 The non-subject imports, if there was any
20 import competition at issue at all, it had to be non-
21 subject imports. It could not have logically been
22 China.

23 MR. SPOONER: Madame Commissioner, I
24 apologize, I know the red light is on so I'll be
25 extremely quick.

1 But again, I can't stress enough too, that
2 the plant closures in 2009 that the Petitioners cite
3 if anything, they're to Respondents' benefit on the
4 issue of causation. Those plant closings are going to
5 occur, apparently, at a time in which imports from
6 China are decreasing in absolute terms rapidly.

7 CHAIRMAN ARANOFF: I appreciate all those
8 answers.

9 I'll turn to Vice Chairman Pearson.

10 COMMISSIONER PEARSON: Thank you, Madame
11 Chairman.

12 Thank you for letting us take off our
13 jackets. She's pretty good to work with, you know.
14 No complaints here.

15 Further on the issue of non-subject. This
16 is of concern to me because if we look at a remedy
17 based on threat, if we find threat of market
18 disruption, we can see that in 2008 in the public
19 staff report that there's some 35 million tires of
20 unused capacity in China. So we know that the Chinese
21 have at least on paper the capability of providing
22 more tires to the United States if they are not
23 constrained by some sort of remedy.

24 How about other countries? I don't think we
25 have much on the record that would discuss the

1 production capabilities of countries like Taiwan,
2 South Korea, Vietnam. Do you have some of that
3 information that you could share either now or in the
4 post-hearing?

5 MR. THOMAS: We'll submit some in the post-
6 hearing brief.

7 COMMISSIONER PEARSON: Let me go back for a
8 moment to the people who have commented earlier on
9 this.

10 Mr. Kogel, perhaps you were the one who
11 mentioned that you could obtain prices from Thailand
12 at the same prices from China. Is that correct?

13 MR. KOGEL: No.

14 COMMISSIONER PEARSON: Sorry, Mr. Berra.
15 It's been a long day.

16 MR. BERRA: That's okay.

17 That's correct.

18 COMMISSIONER PEARSON: If this is
19 proprietary information please don't tell us now but
20 rather in post-hearing, but can you give us a sense of
21 how many tires you could obtain from Thailand at a
22 price that would be relatively competitive with --

23 MR. BERRA: All I can say is we've been
24 solicited here recently, and the pricing is right even
25 with what we're currently buying from China. So I'm

1 not motivated to do that because we're happy with the
2 sourcing we have established. But if that sourcing
3 that we have was to be restricted, it wouldn't take
4 much to flip the switch and start buying from this
5 other company. Other importer.

6 And I've been told by suppliers that we have
7 on the Chinese tires that there's production
8 capability in other countries that could be shifted,
9 not maybe tomorrow, but rather easily over a short
10 period of time. And it just gets back to, we have the
11 ability to buy container quantities of tires overseas
12 so it's not difficult to find these sources. They're
13 out there. It's just that they haven't got a foothold
14 in the U.S. yet because they're fairly new at it.

15 COMMISSIONER PEARSON: Is there some joint
16 ownership between firms that you might be doing
17 business with in China and firms that you could do
18 business with in other countries such that suddenly if
19 Chinese supply is curtailed that firm might turn to
20 you and say I'm having a hard time getting the Chinese
21 tires but I'll get them for you from South Africa --

22 MR. BERRA: Again, we're not a direct
23 importer. We're a distributor, buying from a direct
24 importer. So there are other direct importers out
25 there, it's an entrepreneurship issue. It's a

1 worldwide market. There are entrepreneurs out there
2 in other countries, and Thailand happens to be one of
3 them that's kind of on the uptick, if you will.
4 Indonesia. That could put these packages of tires
5 together.

6 Would they be quite as good as what we're
7 getting now? I don't know. I can't answer that. I
8 know they're available. Recently we've just been
9 solicited by a company to do that. To offer us
10 product. When we look at it it's right there.

11 So I have no fear of finding tires. If you
12 were to do this quota or restriction, it's not going
13 to hurt me because I'm going to find somewhere else.
14 That's about as honest as I can tell you. Somebody
15 will provide that product.

16 COMMISSIONER PEARSON: So if I understand
17 correctly, what you're saying is you would find an
18 adequate supply of tires from some country other than
19 the United States at a price, it might be somewhat
20 higher than the Chinese price, but at a price low
21 enough so it would not induce the U.S. manufacturers
22 to start cranking out more of the --

23 MR. BERRA: That's right. I think probably
24 overall you would see an inflation of overall pricing
25 because there would be an opportunity.

1 It's a supply and demand industry. As
2 supplies get a little restricted and there's still
3 demand, the price is going to go up. I'm not an
4 economist, but that's what happens. That's what
5 happened when they put a tariff on the form tires a
6 couple of years ago. The price of form tires
7 immediately went up 20 percent from our domestic
8 supplier. Then we started, instead of buying form
9 tires from China, we started buying them from India.
10 It wasn't difficult.

11 MR. KOGEL: Just to amplify that, I have a
12 distribution business too, and that's exactly what
13 would happen. If not China, then foreign country one,
14 foreign country two, foreign country three. It would
15 simply be flipped to another part of the world.

16 COMMISSIONER PEARSON: Mr. Kogel, do you
17 have information on production capabilities in South
18 Korea and Mexico?

19 MR. KOGEL: No, I don't. As a distributor I
20 only have the information I'm provided by the sales
21 person that come into my business and offer to sell me
22 tires and the current pricing of that. But they tell
23 me they can do it.

24 COMMISSIONER PEARSON: To help fill out the
25 record, does anyone have offers to purchase or

1 invoices where we could compare one country to another
2 for somewhat similar tires? Obviously if that's put
3 on the record that would be proprietary information,
4 it wouldn't be shared. But right now I think the
5 record is devoid of any of that.

6 MR. BERRA: I can get that for you as long
7 as you kept it confidential. I definitely could get
8 that for you.

9 COMMISSIONER PEARSON: Yes, believe me, our
10 folks are extraordinarily diligent --

11 MR. BERRA: It would be no problem.

12 COMMISSIONER PEARSON: -- at protecting
13 confidentiality. The biggest risks are that
14 Commissioners at a hearing will ask for something that
15 strays over the line, which I've been guilty of more
16 than once.

17 Let me just say, some of the Commissioners.
18 I might be the most guilty.

19 Just to summarize that, Ms. Trossevin,
20 whatever you can put on the record that will help us
21 understand the potential of non-subjects to replace
22 the subjects, what price levels, what quantities,
23 because I hear what you're saying broadly, and yet I
24 don't know that we've got it documented in a way that
25 could be conveniently written into an opinion.

1 This may be my last question. It's the last
2 one I can think of now. How should we factor costs to
3 consumers into any remedy determination? Because any
4 remedy that we impose would create at least some short
5 term adjustment costs for consumers. What does the
6 statute tell us, this is perhaps more a question for
7 counsel than for the sellers.

8 MR. THOMAS: For my part I'd like to address
9 that in the post-hearing brief.

10 CHAIRMAN ARANOFF: Okay.

11 MS. TROSSEVIN: We will, as well. I think
12 there is provision in the statute for you to take into
13 account various factors like that. We'll address that
14 more in the brief.

15 COMMISSIONER PEARSON: And you've talked
16 about the effectiveness of any remedy already. I'm
17 sure you'll deal with that more in the post-hearing
18 also.

19 MS. TROSSEVIN: Absolutely.

20 COMMISSIONER PEARSON: Madame Chairman, I
21 better stop now while I'm ahead. Thank you.

22 CHAIRMAN ARANOFF: Commissioner Okun?

23 COMMISSIONER OKUN: Thank you.

24 For counsel, if I could just follow up on a
25 question that you responded to with Commissioner

1 Pinkert with respect to what weight the Commission
2 should give to the information we have received from
3 the domestic producers in this case.

4 As part of that, if you could respond in
5 your post-hearing, looking at the 421 case of brake
6 drums and rotors, as well as the orange juice case
7 that was referenced earlier, and then the guidance
8 that the Commission had from Insur-America on the
9 Title 7 side. I know that you have made distinctions,
10 but if you can walk through that for me in terms of
11 the data we have. Again, I think some of the things I
12 asked Petitioners to look at would be what percent of
13 the market the domestic producers, what percent of the
14 subject imports are from domestic producers, from non-
15 subject producers, does that matter, does that
16 influence here, what other factors should guide the
17 Commission in determining what weight to give the
18 statements from the domestic producers regarding
19 evidence of injury and other matters on which they
20 have provided their questionnaire responses.

21 This also might be a post-hearing request,
22 but with respect to the discussion about brand loyalty
23 and the role it still plays, is there any market
24 information on whether brand loyalty has eroded, again
25 looking at the period that we're looking at would be

1 ideal, but any information with respect to whether
2 brand loyalty has eroded. And I think also related to
3 that, whether there's any information that the price
4 premium for the flagship brands has eroded.

5 If any of you want to comment on that right
6 now you could, but I'd also like to see anything that
7 the market might say about that.

8 MS. TROSSEVIN: I think there are some
9 sources we can go to to try and pull some together in
10 the post-hearing brief.

11 I just would point out that in one of the
12 exhibits to our brief you do have a very recent
13 edition of Modern Tire Dealer showing that the major
14 brands have at least 70 percent of the market. I
15 think it's actually slightly over 70 percent of the
16 market. So it's still a very very substantial market
17 share for major brands, which just really is a
18 testament to the power of that whole branding and why
19 they spend so much money and sponsor Super Bowls to
20 promote that brand equity.

21 COMMISSIONER OKUN: In that document, it
22 goes back to my earlier request about a breakdown of
23 the tier one, tier two, tier three versus, I think the
24 one thing that I think we've heard over and over again
25 is I can hear a statement like that and then I can

1 hear someone say but those major brands are in fact
2 marketing a good, better, best that may fall into all
3 these categories.

4 So helping me again understand the size of
5 the market where you think the Chinese are competing.
6 What tier three is and how that relates to major
7 brands have 70 percent of the U.S. market I think is
8 still something I'm not completely clear on.

9 MS. TROSSEVIN: We will address that. I
10 know there's confusion between when you're talking
11 about the three major tiers, because there are three
12 major tiers in the market. No one is suggesting that
13 each one of those major tiers is just a monolith.
14 Sure, there are variations within that. But where
15 we're talking about, for purposes of attenuated
16 competition, and this sort of goes back to a point, I
17 don't remember if it was you or Vice Chairman Pearson
18 talking about you're used to looking for bright lines.
19 That's very true when you're distinguishing like
20 product. There is no argument here that these are
21 separate like products, so it's not surprising you
22 don't see the bright lines. If they were there we
23 would be telling you they're different like products.

24 But attenuated competition is recognized by
25 the Commission as a concept within a single like

1 product.

2 So what we are telling you is yes, you have
3 one like product, no bright line. But you do have
4 these three major market segments that, it's not just,
5 we're not just telling you. You do see this reflected
6 in, as you pointed out, in the industry publications
7 and everything. People do recognize them. Sometimes
8 the terminology is a little different. But the
9 concept is essentially the same.

10 So that's what we're talking about. When
11 you're looking at these three major segments, that you
12 have two over here that are probably much closer
13 together, but that there is a huge gap, and that's
14 where the attenuated competition comes in, that there
15 is a huge gap between these very branded products that
16 command a premium in the market and have that market
17 power to draw those customers, and the economy brand
18 market, the private brand market, where you don't have
19 that.

20 But if you, in terms of getting in,
21 explaining that more clearly, we'll take another stab
22 at that in the post-hearing brief.

23 COMMISSIONER OKUN: Mr. Keeler?

24 MR. KEELER: Just to amplify something that
25 Ms. Trossevin said on that point. There are clearly a

1 lot of questions about that.

2 The way that we've looked at this is that
3 the tiers are not a law, they're not written in stone,
4 but it's an organic market convention and this also
5 goes to your earlier question about is it a commodity
6 across the board. I think the branding backs, those
7 intangible assets are actually the best rebuttal to
8 the idea that across the board it's a commodity
9 product. The fact is, nobody ever asks what the brand
10 of your pork belly is, or when the market clears on
11 the price of a commodity every single day they're not
12 looking at brands. But when a customer goes into the
13 store and they can look at a tire and they don't know
14 for certain how long it's going to last, is it going
15 to be safe, do I trust it? That's what the intangible
16 asset of branding is.

17 Now within the tier three market itself, the
18 intra-tier competition, you might have some additional
19 breakdowns within it. And it probably looks more like
20 a commodity market within the tier three because
21 people are so focused on price within tier three.

22 That also brings up one point, because
23 there's been a lot of discussion about private labels
24 and tiers. I think from our perspective while there's
25 a lot of overlap, those are not exact synonyms. There

1 are private label production in tier two,
2 predominantly I think tier three, but there is some
3 private label production in tier two. I don't think
4 we would define tier three as de facto private
5 labeled. That may be leading to some of the confusion
6 here.

7 The last thing I'd say is I don't think any
8 of the witnesses are arguing that there's an iron
9 curtain between the tiers. It's just that it's very
10 little competition between tier three and the rest of
11 the market, OEM, tier one and tier two. And that's
12 why I think Ms. Trossevin's correct to focus on the
13 idea that this is an attenuated market. This is not
14 wire hangers. These are tires. it's an incredibly
15 important part of the car that you're putting your
16 family into and it's not a surprise that there's going
17 to be such kind of differentiation within it.

18 COMMISSIONER OKUN: I think there is further
19 information that can help the Commission better
20 understand that argument and what the figures are that
21 are associated with it in terms of the size of these
22 markets where you believe the Chinese are competing.

23 Then also, well, I guess that's clear.
24 We've asked a lot of questions about that and
25 hopefully it will be filled in.

1 I guess my only point is, again, the
2 Commission obviously has seen cases in the past, brake
3 drums and rotors. We had a premium in economy, a look
4 at that case for whether we have the same type of
5 evidence on that division here.

6 We also had a number of cases in other,
7 Title 7 and others, where you have a private label,
8 major brand label, I can think of a lot of products
9 that are sold in a grocery store where we have
10 evaluated that.

11 Again, I think if there is additional
12 information that helps us see the same things that
13 you're describing, I would like to see that for post-
14 hearing and in your arguments.

15 Oh, yellow light. I think I will probably
16 come back for my remedy questions. My yellow light's
17 on.

18 CHAIRMAN ARANOFF: Commissioner Lane?

19 COMMISSIONER LANE: I think I just have one
20 question, maybe two.

21 This is for Mr. Berra and Mr. Mayfield. How
22 do you reconcile your arguments that U.S. producers
23 shifted U.S. production to high value major brands,
24 and yet the U.S. producers do not cite this as a
25 reason for the plant closures?

1 MR. MAYFIELD: I'm not familiar with all of
2 the reasons that the U.S. producers cite as the
3 reasons for plant closures. I recall reading about
4 some of the decisions based upon demand in the
5 marketplace and their production needs and their
6 global platform.

7 I do know from my experience that the
8 discussion took place based upon the cost structure in
9 individual plants around the globe. The plants that
10 were not competitive and that they could not work out
11 a plan to become competitive were the plants that just
12 out of coincidence, I guess, ended up getting closed.
13 I was not there at the time the closure took place. I
14 was no longer with the company. I was there during
15 the discussions leading up to that and the evaluations
16 that took place leading up to that.

17 So if the cost structure was such a critical
18 piece of that information of the evaluation and the
19 analysis that went on on an ongoing basis, then it may
20 well have been the cost structure of the plant did not
21 fit into the overall global footprint of their
22 manufacturing capability. So there were other plants
23 who could produce product that they needed in that
24 marketplace at a more competitive price. I don't
25 know.

1 MR. REILLY: Commissioner Lane, John Reilly.

2 I doubt that a company would describe its
3 reasons for closing a plant as we're abandoning this
4 market segment.

5 Basically I think they'd describe it as
6 having a cost structure that's non-competitive for the
7 products that are being produced in that plant.
8 Therefore they have no choice but to close the plant.

9 Basically the raison d'etre for exiting
10 these tier three products is that the margins were
11 very low and for years they haven't made any money
12 making those products, and getting out of that kind of
13 production is the only sensible thing to do.

14 In the alternative, they can buy them from
15 low cost foreign producers and sell them at a profit,
16 as can the owners of the private labels, and that's
17 exactly what they've been doing.

18 When I talk about that, it's basically
19 leaving production of a given product in a given
20 market tier to those who can produce it most
21 efficiently. And no matter what happens, even if you
22 were to put a remedy on, and even if there were to be
23 some temporary significant increase in U.S.
24 production, which I don't expect to happen, the
25 question that comes to my mind is what happens at the

1 end of year three? We're right back to the situation
2 where the domestic producers have an embedded,
3 significant cost disadvantage against foreign
4 producers, low cost countries in these particular
5 products. The market's going to go back to those low
6 cost products.

7 MS. TROSSEVIN: I just wanted to underscore
8 the fact that the real point that we've tried to make
9 here is not just -- The plant closures were certainly
10 at least in part a reflection of that shift in product
11 mix and so forth. But the real point was the plant
12 closures had nothing to do with the subject imports.
13 You cannot attribute those plant closures to subject
14 imports. The timeline tells you that's just not
15 possible. There's no way you can rationally reach
16 those conclusions on this record. You didn't close
17 plants in 2004 and 2006 because of Chinese imports,
18 and there is absolutely nothing in the statements of
19 reasons that is inconsistent with that fact.

20 COMMISSIONER LANE: Thank you.

21 Does anybody else have anything?

22 If not, I thank you for the answers that
23 you've given today. Madame Chair, that's all I have.

24 CHAIRMAN ARANOFF: Commissioner Williamson?

25 COMMISSIONER WILLIAMSON: Thank you, Madame

1 Chairman. Just a couple more questions.

2 We've been over this tier question a lot,
3 but something for post-hearing to add to what
4 Commissioner Okun has asked.

5 Is it your position that there's no tier
6 three production in the U.S., or that there is very
7 little U.S. production of tier three products?

8 MR. BERRA: Can I answer that?

9 COMMISSIONER WILLIAMSON: Sure.

10 MR. BERRA: There's, in our area there is
11 still substantial production of tier three tires in
12 the U.S. Cooper Tire and Rubber Company is very
13 active in that end of the business still. And the
14 other manufacturers are in it to a very small degree.
15 Much smaller degree.

16 COMMISSIONER WILLIAMSON: To the extent that
17 it's possible post-hearing, if you can give some
18 estimates of how large that is.

19 MR. BERRA: I was told by the Cooper people
20 that over 50 percent of their total production goes
21 into private brands. They picked up the brands
22 primarily Goodyear dropped a couple of years ago. It
23 was a large pickup of business for them. Today we're
24 classifying those brands as tier three. But within
25 again that tier three they may offer a premium product

1 tire as well as an economy tire. But it's definitely
2 a tier three type of tire.

3 COMMISSIONER WILLIAMSON: So you say they're
4 primarily a tier three producer.

5 MR. BERRA: Yes. About 50 percent, roughly.
6 They make their own Cooper brand which I would put
7 them in a tier two class, but that's about half of
8 their business.

9 MR. KOGEL: I'm a Cooper distributor in the
10 state of Michigan. We sell both Cooper tires and
11 imported Chinese tires as well as tire imports from
12 other areas. We found the Cooper brands, both their
13 major label which I would consider to be tier two, and
14 their other private brands to fit more into the tier
15 two bracket whereas the Chinese and the foreigners are
16 more in the tier three. That's been my experience.

17 COMMISSIONER WILLIAMSON: So you're
18 suggesting that from your experience there is no U.S.
19 production of tier three. At least in what you
20 market.

21 MR. KOGEL: We're different distributors
22 marketing different products, but in my experience
23 that's correct. To get the tier three products we are
24 going overseas.

25 COMMISSIONER WILLIAMSON: Whereas Mr. Berra

1 --

2 MR. BERRA: I would say they make a private
3 brand offering. Hercules is a very big brand with our
4 company. That is a tier three brand. It's a private
5 brand. In my opinion, if you want to classify it that
6 way.

7 Also, Cooper has two Chinese-owned factories
8 today that they're just blending in some of their
9 product. I can go to my warehouse and get a Hercules
10 tire in the same line, same quality level. Some of
11 the tires are made in Ohio, the U.S., or Texarkana,
12 made in the USA. They're branded on the side, Made in
13 the USA. And then I can show you the same sizes, the
14 same line and it's made in China.

15 COMMISSIONER WILLIAMSON: You're marketing
16 about the same --

17 MR. BERRA: It is the same tire. They have
18 kind of blended it together. I don't know what you'd
19 call it. It's a Chinese import. In your
20 classification on restriction, would that be
21 considered a tire that would be restricted if it's
22 made in a Chinese factory by a U.S. company? Where do
23 you draw the line?

24 COMMISSIONER WILLIAMSON: It's the origin of
25 the product. The product would be --

1 MR. BERRA: They're making tires, they're
2 not bringing them all into the U.S., they're kind of
3 just mixing them. It's something they just started.
4 It will probably continue to some degree.

5 COMMISSIONER WILLIAMSON: Thank you.

6 MS. TROSSEVIN: I think one thing that's
7 important also in that kind of a blended cost
8 structure, it's actually the ability to import some of
9 those tier three tires from China that enables Cooper
10 to maintain some tier three production here. If they
11 did it all here, the cost structure would be too high
12 for them to remain competitive in this market.

13 So in a very real sense the imports are
14 actually keeping that private brand production here in
15 the U.S. because of the blended cost structure.

16 MR. KOGEL: I can also tell you as a Cooper
17 distributor, the information that I get from Cooper is
18 that they want to go towards operating more of their
19 premium flag brands and much much much less of tier
20 three. That is their long term goal. They talk
21 consistently about raising the value of their brand,
22 moving towards flag brand status, wanting to compete
23 with major brands. To me, the customer, that is their
24 goal.

25 COMMISSIONER WILLIAMSON: Any documentation

1 you have on this point for post-hearing would be
2 appreciated.

3 One other question along this line. Any
4 estimate of what you consider tier three tires are,
5 imports of the tier three tires does China account
6 for? Is it 95 percent, 99 percent?

7 MR. KOGEL: In the marketplace or in our
8 businesses?

9 COMMISSIONER WILLIAMSON: Whatever you have
10 information on.

11 MR. KOGEL: Sure. Can I submit that post-
12 hearing?

13 COMMISSIONER WILLIAMSON: Sure.

14 Does anyone else have, you can do it post-
15 hearing.

16 What I'm trying to get at is what share of
17 the imports of tires that would fall into the tier
18 three category does china account for.

19 MR. BERRA: On our business it's 15/25, so
20 doing the quick math on it they probably represent 40
21 percent of the total tier three business, something
22 like that. Just of that tier. Not of our total
23 business, just of the tier three.

24 COMMISSIONER WILLIAMSON: Of imports or just
25 a total of --

1 MR. BERRA: Chinese produced tires.

2 COMMISSIONER WILLIAMSON: Of the total sales
3 of tier --

4 MR. BERRA: I can get you more accurate
5 numbers, but it would be what we do. I don't know if
6 it's going to be exactly the industry, but you can
7 probably get that information. The information is out
8 there, brand shares.

9 COMMISSIONER WILLIAMSON: What you can do
10 post-hearing would be appreciated.

11 One last question.

12 Petitioners in their pre-hearing brief
13 submitted on their exhibit number 24, they made
14 reference to it this morning, a number of price
15 comparisons for U.S. and Chinese produced tires. I
16 was wondering post-hearing, could you take a look at
17 that list and would you please comment on whether or
18 not these comparisons, do you think they are comparing
19 apples to apples or do you agree with the comparisons
20 and what the prices show about the relative cost, the
21 price of certain imports. This is in their exhibit
22 24. It can be something for post-hearing.

23 With that, I have no further questions. I
24 want to thank the witnesses for their testimony.

25 CHAIRMAN ARANOFF: Commissioner Pinkert?

1 COMMISSIONER PINKERT: I just have a few
2 questions.

3 My last question about the tiers. Those
4 Kelly radials that I purchased, what tier are they in?

5 MR. BERRA: I would consider those two.

6 COMMISSIONER PINKERT: What is it that makes
7 them tier two?

8 MR. BERRA: Because they are a brand that's
9 fairly well known, but not a major brand. It's not as
10 recognized brand. It's been in the market a long time
11 and it's produced by Goodyear and it's from a quality
12 level it might be in that two tier level below a
13 Goodyear brand. Equivalency for UTOG ratings, et
14 cetera. That's the way I would classify it. It's
15 definitely not a three tier brand. So you're okay.

16 (Laughter.)

17 MR. KOGEL: And you can really tell because
18 they command a tier two price versus a tire that you
19 wouldn't know the name.

20 COMMISSIONER PINKERT: Thank you.

21 another question about causation. As you
22 probably know, November of 2008 Kumho suspended
23 construction of a tire plant in Macon, Georgia citing
24 the faltering U.S. auto industry as the reason for its
25 reevaluation of its project. How does that play into

1 the causation issue in this case?

2 MR. REILLY: John Reilly.

3 Actually it's not an indicator of causation
4 because the principal reason for that plant as I
5 understand it was to serve as OEM, at least initially,
6 OEM customers. The collapse of the OEM market due to
7 the collapse of the auto market made it quite logical
8 to cease operations on that particular plant.

9 The Chinese product would play no role
10 because there's no significant Chinese product in the
11 OEM market.

12 COMMISSIONER PINKERT: Ms. Trossevin?

13 MS. TROSSEVIN: I would also just say to put
14 it in legal context, since the standard is that you
15 have to find a significant causal nexus between the
16 Chinese imports and whatever injury you might find to
17 the domestic industry, and you also, the statute also
18 directs you to be sure that you do not attribute to
19 the imports injury caused by other factors.

20 So according to the statement you gave, when
21 somebody puts a plant on hold specifically citing a
22 market downturn, a market downturn that we're all far
23 too familiar with I might add, then you can't
24 reasonably and legally attribute that to the subject
25 imports.

1 COMMISSIONER PINKERT: Thank you.

2 I have one last question about remedy. I
3 believe that you, Mr. Reilly, just a few minutes ago
4 were testifying about your view that the industry is
5 not going to do anything to change its behavior during
6 the next three years, so if there is some sort of a
7 remedy and the remedy terminates, the industry's back
8 to where it was. That's even assuming that the remedy
9 does affect something during that period of time.

10 Having said that, do you have any view about
11 what the impact of the union's efforts to work with
12 the companies to adjust to market conditions might be?

13 MR. REILLY: I can't conceive of a situation
14 in which union/management cooperation could overcome
15 an embedded cost disadvantage in a period of three
16 years. A cost disadvantage that has been around for
17 more than a decade.

18 The plain fact is that the labor costs in
19 the United States are much higher than they are in
20 these foreign countries, low cost countries, and labor
21 cost is not an inconsequential component of the cost
22 of producing a tire.

23 In addition, the factory overhead costs in
24 the United States are going to be considerably higher
25 because the cost of a plant, the cost of equipment,

1 the cost of electricity, the cost of services and the
2 cost of supplies is going to be much higher in the
3 United States than it is in these low cost countries.

4 The United States is simply not suited for
5 production of very low cost basic products. And these
6 are basic tires.

7 The comparative advantage is and will
8 continue to be with the low cost producers, low cost
9 producing nations.

10 COMMISSIONER PINKERT: And on that point,
11 you say that the comparative advantage is with the
12 imports with respect to the tier three merchandise.

13 MR. REILLY: The low cost import sources,
14 yes.

15 COMMISSIONER PINKERT: My question to you is
16 will the comparative advantage then kind of migrate
17 from the lower cost production to the higher valued
18 items?

19 MR. REILLY: There's a couple of reasons why
20 I don't think that's going to happen in the period
21 we're dealing with. That is that the ability to sell
22 domestic tires in tier one and tier two at a good
23 margin depends not only on operating efficiently and
24 having a good product, but on brand equity. That's
25 something that takes many many many years to build, to

1 get national recognition.

2 The situation in which you might find
3 premium tires coming in from say low cost locations in
4 the future would be only if the domestic producers
5 themselves or the companies that own them decided to
6 do that. But I don't believe that will happen any
7 time soon because their basic reasons for being in
8 China and producing in China are to take advantage of
9 a rapidly growing Chinese market which has
10 substantially more long run potential growth than in
11 the United States. So it simply wouldn't make sense.

12 COMMISSIONER PINKERT: Thank you.

13 Is there another comment on that issue?

14 With that then, -- Mr. Spooner?

15 MR. SPOONER: Commissioner Pinkert, the only
16 other thing I'd stress is you were asking many
17 questions earlier about the significance if any of
18 continuing capital expenditures and investments at
19 U.S. plants. The Steelworkers this morning talked
20 quite a bit about how in their continuing contract
21 negotiations with the tire producers they demand such
22 capital investments. I think that speaks to, I don't
23 know if I'll phrase this well, Commissioner Pinkert,
24 but I think that speaks volumes as to the degree to
25 which the Steelworkers realize that the future here is

1 tier one, not tier three. The tier three is not
2 coming back, and that any remedy won't make tier three
3 come back.

4 COMMISSIONER PINKERT: What would the impact
5 of any remedy be on tier one and tier two? Would that
6 buy them more time to make those capital improvements?

7 MR. SPOONER: Insofar, and I know we need,
8 the Commission has requested better information on the
9 record as to capacity of tier three in the U.S., but
10 insofar that there's very little tier three production
11 in the United States a remedy wouldn't save something
12 which is virtually gone and is not coming back.

13 MR. REILLY: John Reilly.

14 The remedy would have really no effect on
15 the tier one and tier two production because that's
16 really quite separate market segments.

17 Basically what the remedy would have an
18 effect on is where the tier products are sourced.
19 Over a period of time you'd see the sourcing shifting
20 from China to places like Mexico, Thailand, Slovakia,
21 and Poland and other low cost locations.

22 COMMISSIONER PINKERT: Thank you.

23 Thank you, Madame Chairman.

24 CHAIRMAN ARANOFF: What I think I'm going to
25 really need help from everyone with post-hearing is

1 really understanding tier two. Because that seems to
2 me to be where, it's easy to see that an economy brand
3 and some very high tech new brand that goes on an SUV
4 probably don't compete too much.

5 But in tier two we've had some testimony
6 that there are Chinese produced tires in this tier. I
7 don't know if that's an increasing trend. There's
8 also been some differences in testimony between the
9 panel this morning and the panel this afternoon about
10 what exactly, which brands actually are in tier two
11 versus tier three. So I think that's where I at least
12 would like to ask people to focus for post-hearing.

13 MR. MAYFIELD: I would just like to ask a
14 question. I don't remember any mention of Chinese
15 brands being in tier two.

16 CHAIRMAN ARANOFF: Not Chinese brand names,
17 Chinese tires under somebody's brand name.

18 MR. MAYFIELD: Tires produced in China under
19 brand names of U.S. tier two brands.

20 CHAIRMAN ARANOFF: Under somebody's tier two
21 brands, yes.

22 MR. MAYFIELD: Those are companies that
23 manufacture in the U.S. who have outsourced some of
24 that production to China. They're building their
25 brand in Chinese factories and bringing it back into

1 the U.S. under their brand which already exists as a
2 tier two brand. Not as a tier three brand. But it's
3 in their own factories produced in China in their
4 factory, coming back as their product in their brand
5 that already exists there. That's what's occurring in
6 today's market.

7 CHAIRMAN ARANOFF: Okay. It seems to me to
8 be sort of blurring the tier two/tier three
9 distinction, but maybe you'll sort it out for me and
10 tell me why I shouldn't think about it that way. But
11 thank you for that.

12 I have just one last question and it goes to
13 remedy. I just wanted to get something clarified for
14 the record. That is I had read in one or more of your
15 briefs that, the argument that imposing a remedy in
16 this case would have public safety implications
17 because if prices were to go up or economy tires were
18 to become less available, consumers would defer tire
19 purchases and that would make our highways less safe.

20 I wanted to ask whether there is any
21 research or any other information to support the
22 extent to which consumers might defer tire purchases
23 as a function of rising prices. I know there have
24 been some anecdotal comments to that effect, but to
25 me, I would, the brakes and the tires are the last

1 things that I would ever defer if I was still going to
2 ride around in a car. The dents could stay there
3 forever, I might not change the oil, but I'd want the
4 tires and brakes to work, and maybe the windshield
5 wipers.

6 MR. MAYFIELD: I would suggest that the next
7 time you're at the mall on the weekend, walk through
8 the parking lot of the mall. Look at the conditions
9 of the tires on the cars in that mall. You'll see
10 some alarming things today that a year ago you might
11 not have seen. And any tire retailer, many of our
12 stockholders, customers, are tire retailers. They
13 tell us horrible stories of people waiting a little
14 bit longer, coming in, okay, do I get brakes or do I
15 get tires? Well, I've got to have the brakes to stop
16 the car. My tires will last a little bit longer.
17 Those are real world situations that are going on
18 right now.

19 Are there studies? I'm not aware of any
20 studies. But having been in the industry for 28
21 years, every time my wife and I go through a parking
22 lot I look at tires. And it still bugs her, but I
23 can't help it.

24 (Laughter.)

25 MR. KOGEL: I can speak to that a little bit

1 too.

2 MR. MAYFIELD: But please, next time you're
3 in a parking lot at a mall or a shopping center, take
4 a look at the conditions of the tires that are on
5 those vehicles.

6 MR. KOGEL: I can speak to that directly in
7 that I'm in customers' stores when that happens, hands
8 down. It happens for a very simple reason. Just like
9 there are different tiers for tires, there are
10 different tiers for customers. Some customers in
11 Michigan are coming in and they just want the entry
12 level tire, not because they want it but because
13 that's all they've got. And they literally have a
14 budget. They're walking in with cash, and if they
15 don't have the cash they're going to walk away.

16 MR. SPOONER: Just briefly, Commissioner
17 Aranoff. We found one piece, a study in a third
18 country market which we can include in our post-
19 hearing brief.

20 CHAIRMAN ARANOFF: That would be helpful.

21 With that I don't have any further
22 questions.

23 Vice Chairman Pearson?

24 COMMISSIONER PEARSON: Thank you, Madame
25 Chairman.

1 I would just like to express my appreciation
2 to this panel for your patience in answering all our
3 questions. This has been a somewhat long day but a
4 very interesting one.

5 I have no further questions. I'd much
6 rather hear what Commissioner Okun has to say on
7 remedy.

8 CHAIRMAN ARANOFF: Commissioner Okun?

9 COMMISSIONER OKUN: Luckily my esteemed
10 colleagues have asked a number of the remedy
11 questions.

12 I did want, and you can do this post-
13 hearing. If the Commission were to recommend a remedy
14 to the President and recommend a quota, does the
15 stratified quota that the Petitioners talked about
16 where it would be the '05 level looking at these ten
17 digit HTS numbers in the allocation on that, would
18 that make any difference in the market in your view,
19 either with regard to shortages, with regard to what
20 type of non-subject imports would come in in a
21 replacement market as you've indicated?

22 MS. TROSSEVIN: We haven't really evaluated
23 any of those issues at this point so we'll deal with
24 it in the post-hearing brief.

25 COMMISSIONER OKUN: As you know we don't get

1 another chance to have a hearing on remedy, if we
2 reach that stage, so that would be the reason to ask
3 those questions.

4 I think a number of you did comment on the
5 elasticity estimates with respect to the various
6 elasticities that the Commission would look at in
7 running its models. If there's anything based on the
8 discussion today or in the information you're
9 submitting in post-hearing briefs that would change
10 your analysis, or if you haven't provided your
11 analysis, I would ask that you please do so because
12 elasticities, substitutability, do play an important
13 role when we're looking at these models and what
14 impact they'll have on the market.

15 Also what you think would be, I understand
16 that you oppose a remedy if we got to that stage.
17 What you think the Commission should look at in terms
18 of profitability, market share, types of tires
19 produced. If you can think about that as you're
20 evaluating the different remedy options or thinking of
21 other ones that you might recommend to the Commission.

22 With that, Madame Chairman, I don't have any
23 other questions but I do want to thank all of you for
24 the information that you provided today, all the
25 answers you've given us, and I will look forward to

1 those post-hearing briefs to further elaborate on the
2 market structure.

3 Thank you.

4 CHAIRMAN ARANOFF: Are there any more
5 questions from Commissioners?

6 (No audible response.)

7 CHAIRMAN ARANOFF: Do the staff have any
8 questions for this panel?

9 MR. GEARHART: Madame Chairman, Bill
10 Gearhart with the General Counsel's office. Just two
11 quick questions for briefs, knowing the hour is late.

12 In the China Chamber of Commerce brief there
13 was pages 23 and 24 there was a reference to the
14 Chinese tires not displacing domestic tires and then
15 on page 25 there is a reference to them actually
16 replacing third country tires. Could you explain why
17 the Chinese tires were able to displace the third
18 country tires? For example, were the Chinese plants
19 newer, more efficient? Raw material prices lower?
20 That sort of thing.

21 And how would that relate to the
22 determination we have to make here? What would be the
23 relevance of it?

24 A second question. In your testimony this
25 morning there were a couple of times when you made

1 references to a do not attribute requirement in the
2 421 statute where we could not attribute, looking at
3 causation, could not attribute the injury to imports
4 from other sources. You refer to that as being a
5 statutory requirement.

6 Where in the statute does it say that?

7 That's the end of my questions.

8 CHAIRMAN ARANOFF: That's all the questions
9 from staff?

10 MR. BISHOP: Staff has no further questions.

11 CHAIRMAN ARANOFF: Do the Petitioners have
12 any questions for this panel?

13 MR. STEWART: Madame Chairman, I understand
14 I have 11 minutes, and while I would enjoy using it
15 questioning this panel, considering the hour I will
16 let them off the hook.

17 CHAIRMAN ARANOFF: Okay. Then I should tell
18 you, you are absolutely correct that Petitioners have
19 11 minutes left from Direct testimony as well as 5
20 minutes for closing. Those in opposition to relief
21 have 14 minutes remaining from Direct testimony and 5
22 minutes left for closing for a total of 19.

23 Absent objection from either side we usually
24 lump those two amounts of time together and just do
25 them all at once, but if anyone objects, this would be

1 your time to say so.

2 (No audible response.)

3 CHAIRMAN ARANOFF: Okay. Then what I'm
4 going to do is dismiss this panel with our thanks for
5 all of the time that you have spent answering our
6 questions this afternoon and into the evening. As
7 soon as we can get you reseated we'll ask Petitioners
8 to come up and do your rebuttal and closing.

9 (Pause.)

10 MR. STEWART: At the outset I want to thank
11 each of the Commissioners and the Staff for their
12 participation in today's hearing. I also want to take
13 a moment to express on behalf of the Steelworkers and
14 all of us who in our firm have worked on the case, our
15 deep appreciation for the dedication and hard work the
16 staff has shown in compiling a comprehensive and
17 informative report in a very compressed period of
18 time. Tight deadlines of Section 421 present
19 obviously a tremendous challenge to all involved, and
20 the staff did a commendable job under very difficult
21 circumstances. So we greatly appreciate the hard
22 work.

23 We greatly appreciate the attendance of so
24 many customers, distributors this afternoon and this
25 evening. And I think their testimony helped clarify a

1 number of issues that I will try to touch on as I go
2 through my closing. I'm going to try to keep this
3 close to five minutes. I may run over just a little
4 bit.

5 Let me summarize a few points affirmatively
6 and in rebuttal.

7 The domestic industry experienced severe
8 declines during a period of rapidly increasing subject
9 imports when overall demand was flat or declining.
10 This has extraordinarily been described as non-injury
11 by our distinguished opponents here today. And even
12 more remarkably, if I understood Mr. Reilly's
13 comments, he said that the domestic industry was
14 materially injured by imports from non-subject
15 countries in the OEM segment of the market, a segment
16 which accounts for between 15 and 25 percent of
17 apparent consumption when imports from non-subject
18 countries increased 12.6 percent of apparent
19 consumption. And yet their position as a group is the
20 domestic industry has not suffered material injury.
21 Imports in the replacement market, which constitutes
22 between 75 and 85 percent of the market, increased
23 13.34 percentage points. This is an effort at
24 mathematical slight of hand that I'm not quite capable
25 of comprehending at this hour, but it would seem to me

1 if you acknowledge the one, the other is a foregone
2 conclusion.

3 So in that situation flat demand, rapidly
4 increasing imports, rapidly declining domestic
5 industry, we believe that there can't be any serious
6 question on the part of the Commission that imports
7 have both rapidly increased within the meaning of the
8 law or that the domestic industry is materially
9 injured within the meaning of the law, and that the
10 increased imports are a significant cause of the
11 injury as the Commission has examined those issues in
12 prior 421 cases.

13 While our opponents raise claims to the
14 contrary, the claims about lack of rapid increase in
15 imports are simply incredible in light of the record
16 that is before the Commission and the Commission's
17 prior decisions construing the key terms of the
18 statute including rapidly increasing imports, material
19 injury, and significant cause.

20 Our opponents would have you believe that
21 imports have not increased rapidly, that material
22 injury has not occurred, or if it has occurred that
23 imports played no role, and that Chinese product
24 acknowledged by purchasers overwhelmingly to be lower
25 priced is not underselling domestic product or is

1 explained by branding practices in allegedly isolated
2 market segments.

3 On the twin issues of abandonment of a
4 market and branding distinctions, we got some
5 clarification from the panel this afternoon.
6 Apparently abandonment is a new concept which extends
7 over decades, not a one-time event that a company says
8 I'm abandoning and moving forward, because as we had
9 stated this morning in testimony, the domestic
10 industry still makes private brands. And towards the
11 end there was finally acknowledgement that well yes,
12 that's true. They still do.

13 So what does the term abandonment mean? It
14 apparently means that you produce less of it over
15 time. That is presumably coincidental to the closing
16 of factories and you close the factories because you
17 decided you were going to use your excess capacity to
18 make premium brands, a concept which would appear to
19 be inconsistent with a shift to premium brands and an
20 abandonment of product that you could still make if
21 you could make it above a marginal cost.

22 So there is at least an acknowledgement that
23 private brands continue to be made, albeit by some,
24 albeit perhaps in less quantities than was true in
25 2004, 2005 and 2006.

1 On the issue of the tiered market, it was
2 nice to hear the consensus that occurred even as to
3 where Cooper Tires' private brands would be. Whether
4 they would be in tier two or tier three as we looked
5 for these bright lines, these distinctions, the lack
6 of competition, and I particularly enjoyed the
7 confirmation in our search for the tier three tires
8 for Commissioner Pearson, Vice Chairman Pearson's
9 tires, that they were roughly the same price as the
10 tier two and within \$10 of the tier one tires,
11 obviously a non-competitive market since they were all
12 offered by the same retailers.

13 So when you strip away the arguments of our
14 distinguished friends on the other side what you have
15 is a record which shows imports growing much more
16 quickly, much more seriously over the period of
17 investigation and in other cases where the Commission
18 has made affirmative determinations. A domestic
19 industry that is collapsing much more quickly, not
20 just in 2008 but in 2005, 2006 and 2007 as well as in
21 2008. And where the correlation between increased
22 imports and declining domestic industry is almost one-
23 for-one.

24 There are not many cases that when you trip
25 away the red herring issues that get raised you can

1 say what have we been talking about all day? This
2 seems like it is a very clear case where 5,168 people
3 have lost their jobs and they have lost their jobs
4 because of a surge in imports and this Commission has
5 a responsibility to evaluate the record and we believe
6 make an affirmative determination of market
7 disruption. If it does so it is required by statute
8 to recommend a remedy that will correct the market
9 disruption. We believe that remedy should be a quota,
10 that it should be stratified, and in our post-hearing
11 brief we will submit the information of the plants
12 that will be able to produce the tires should there be
13 some quota and relief provided to the domestic
14 industry.

15 Thank you again very much for the very long
16 day and the attention that everyone has provided us.
17 Thank you.

18 (Pause.)

19 MS. TROSSEVIN: Well, counsel for
20 Petitioners and I can certainly agree on one thing and
21 that's that the Staff here is doing an extraordinary
22 job and we really appreciate it. We know we've
23 presented you with a lot of challenges.

24 I'd like to just start my closing with
25 getting a little bit of perspective back. That is

1 during the period we've examined, 85 to 95 percent of
2 the tires sold in the U.S. were either produced right
3 here or were imported from countries other than China.
4 So as I said earlier, the Petitioners really are
5 trying to convince you that the tail is wagging the
6 dog.

7 The statutory standard here is whether
8 imports from China are a significant cause of material
9 injury to the domestic industry. That standard is not
10 met here. You cannot get from the record in this case
11 to that conclusion. Not through any sort of logical
12 reasoning.

13 Why can't you get there? First of all the
14 data on the industry's performance don't correlate to
15 the increases in the imports of the subject
16 merchandise. There is no correlation.

17 Why isn't there any correlation? Why do you
18 still see prices going up and profits reaching record
19 levels? Even when imports increased their most.
20 Because these tires are not competing with the tires
21 that are now produced in the United States.

22 The U.S. industry is focused on a premium
23 brand tire because that's what makes sense in a very
24 high cost country like the United States. Nobody can
25 deny that we are a high cost country. We have a very

1 high standard of living, and that's a good thing. But
2 as Mr. Reilly mentioned earlier, that also means that
3 producers here have to make decisions and they
4 routinely have to move out of markets as markets
5 evolve. They're not stagnant things, static things.
6 They evolve. And the industry has to evolve with
7 them.

8 So the Petitioners' argument in this case,
9 it reminds me, actually I'm using John Reilly again.
10 He told me a lovely story about his statistics
11 professor and some of you who have studied statistics
12 may have heard this one, so bear with me, but I like
13 it. This to me describes Petitioners' case.

14 There's a man walking through the park and
15 he sees a man sitting on the bench waving a newspaper.
16 The guy walks up to him and says why are you waving
17 that newspaper? He said to keep the elephants out of
18 the park. The guy looks at him and he says there are
19 no elephants in the park. He says yeah, it's really
20 working well, isn't it?

21 It's correlation. There is no correlation.
22 You can't, if you look at what the injury that the
23 Petitioners would like you to believe occurred here,
24 the timeline as we've stressed throughout our
25 testimony is critical. The timeline, quite frankly,

1 kills Petitioner's case because you can't make any
2 sense out of Petitioner's case if you not only listen
3 to what they say happened, but listen to when it
4 happened.

5 When plant closures happen in 2004 they're
6 not the result of Chinese imports. I think there
7 should be little argument about that. The imports
8 were less than five percent. And as we mentioned
9 earlier, the decision happened well before that.

10 Plant closures in 2006 weren't Chinese
11 imports either, and there is absolutely nothing in
12 this record to suggest to the contrary. Nothing other
13 than a few vague references to Asian imports at a time
14 when Korea was the big player in the import market.
15 Not a big surprise. They haven't established a
16 connection, they want you to assume it. They want you
17 to assume that Chinese imports are the problem because
18 that's really an easy case. That's the easy case for
19 everybody to make. If I have a problem and I have
20 imports in my market from China, then obviously the
21 Chinese imports must be the issue. They're not here.
22 You can't find it here.

23 There's also been a lot of discussion as we
24 said about the markets and we'll clarify this. But
25 again, I would like to stress, it's a complicated

1 industry and to some extent it's become, granted, you
2 struggle with it. It's a complicated industry. And
3 it's become the newspaper the Petitioners are flagging
4 here to, it's become a distraction, which is
5 unfortunate.

6 It is an important part of the case because
7 it explains why there is no causal nexus here, but the
8 data itself also make the case. What's more important
9 is they belie Petitioners' allegations. The data
10 don't support that allegation. Watch the timeline,
11 please.

12 I'm just going to close by saying there's
13 been a lot of discussion particularly among the
14 congressional witnesses about the need to enforce 421.
15 421 was a concession by China to the United States for
16 its WTO accession. That concession was a two-way
17 street. It did grant the U.S. the authority to
18 restrict fairly traded Chinese imports if they met
19 strict certain requirements.

20 What everybody talked a lot about China's
21 obligations to meet the conditions of that agreement.
22 The U.S. has a fundamental obligation as well. We
23 cannot use that mechanism. We cannot restrict those
24 imports unless those conditions are met and they are
25 not met here. And therefore, we ask the Commission to

1 issue a negative determination.

2 Thank you.

3 CHAIRMAN ARANOFF: Thank you very much.

4 Just a few quick announcements.

5 Post-hearing briefs, statements responsive
6 to questions and requests of the Commission and
7 corrections to the transcript must be filed by June 8,
8 2009.

9 Final comments on market disruption are due
10 on June 16, 2009.

11 And final comments on remedy, if necessary,
12 must be filed by June 24, 2009.

13 I want to thank everyone who has
14 participated in today's hearing and join all of the
15 parties in thanking the Staff who have worked and will
16 continue to work very hard on this case.

17 You'll be glad to know that we are more than
18 three hours short of our record adjournment time. But
19 I wish everyone a good evening and this hearing is
20 adjourned.

21 (Whereupon, at 7:35 p.m., the hearing in the
22 above-entitled matter was adjourned.)

23 //

24 //

25 //

CERTIFICATION OF TRANSCRIPTION

TITLE: Certain Passenger Vehicle and
Light Truck Tires from China

INVESTIGATION NOS: No. TA-421-7

HEARING DATE: June 2, 2009

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: June 2, 2009

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