

1 THE UNITED STATES INTERNATIONAL TRADE COMMISSION

2

3 IN THE MATTER OF:) Investigation Nos.:
4 PRESTRESSED CONCRETE STEEL RAIL) 731-TA-1207 and 1208
5 TIE WIRE FROM CHINA AND MEXICO) (Final)

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Tuesday, May 6, 2014

10

Main Hearing Room (Room 101)

11

U.S. International Trade

12

Commission

13

500 E. Street, S.W.

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Washington, D.C.

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The meeting commenced, pursuant to notice at 9:32

17

a.m., Chairman Irving A. Williamson (presiding).

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Commissioners Present:

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Chairman Irving A. Williamson (presiding)

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Commissioner Dean A. Pinkert

22

Commissioner David S. Johanson

23

Commissioner Meredith M. Broadbent

24

Commissioner F. Scott Kieff

25

Commissioner Rhonda S. Schmidtlein

1 Staff Present:

2 Bill Bishop, Supervisory Hearings and Information
3 Officer

4 Sharon D. Bellamy, Program Support Specialist

5 Mikayla Kelley, Intern

6

7 Angela Newell, Investigator

8 Alan Treat, International Trade Analyst

9 Nanette Christ, Economist

10 Jennifer Brinckhaus, Accountant/Auditor

11 Charles St. Charles, Attorney

12 Douglas Corkran, Supervisory Investigator

13

14 Panel One:

15 Kelley Drye Warren LLP, Washington, DC on behalf of

16 Davis Wire Corporation, Insteel Wire Products

17 James Hillebrandt, Chief Executive Officer and

18 President, Davis Wire Corporation

19 Michael Quirk, Senior Vice President, Davis Wire

20 Corporation

21 Richard Wagner, Vice President and General

22 Manager, Insteel Wire Products Company

23 E. Randy Plitt, National Sales Manager, Insteel

24 Wire Products Company

25

1 Brad Hudgens, Economist, Georgetown Economic
2 Services

3 Paul C. Rosenthal, Kathleen W. Cannon, R. Alan Luberda -- Of
4 Counsel

5

6 Panel Two:

7 Kutak Rock LLP, Washington, DC on behalf of

8 WireCo World Group, Inc. ("WireCo"), Aceros Camesa, S.A. de
9 C.V. ("Camesa")

10 Joaquin Barrios, Senior Vice President, European
11 Steel Operations, WireCo

12 Lizbeth R. Levinson, Ronald M. Wisla -- Of Counsel

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1 P R O C E E D I N G S

2 MR. BISHOP: Will the room please come to order?

3 Okay.

4 CHAIRMAN WILLIAMSON: Good morning. On behalf of
5 the U.S. International Trade Commission, I welcome you to
6 this hearing on Investigation No. 731-TA-1207 and 1208
7 Final, involving Prestressed Concrete Steel Rail Tire Wire
8 from China and Mexico.

9 The purpose of these investigations is to
10 determine whether an industry in the United States is
11 materially injured or threatened material injury, or the
12 establishment of an industry in the United States is
13 materially retarded by reason of less than fair value
14 imports from China and Mexico.

15 A schedule setting forth the presentations of
16 this hearing, notices of investigation and transcript order
17 forms are available at the public distribution table. All
18 prepared testimony should be given to the Secretary. Please
19 do not place testimony directly on the public distribution
20 table.

21 All witnesses must be sworn in by the Secretary
22 before presenting testimony. Understand that parties are
23 aware of the time allocations. Any questions regarding the
24 time allocations should be directed to the Secretary.
25 Speakers are reminded not to refer their remarks or answers

1 to questions to business proprietary information. Please
2 speak clearly into the microphone and state your name for
3 the record for the benefit of the court reporter.

4 If you will be submitting documents that contain
5 information which is classified as business confidential,
6 you are requested to comply with Commission Rule 201.6. Mr.
7 Secretary, are there any preliminary matters?

8 MR. BISHOP: Mr. Chairman, I would note that all
9 witnesses for today's hearing have been sworn in. There are
10 no other preliminary matters.

11 CHAIRMAN WILLIAMSON: Very well. Let us begin
12 with opening remarks.

13 MR. BISHOP: Opening remarks on behalf of
14 Petitioners will be by Kathleen W. Cannon, Kelley Drye
15 Warren.

16 CHAIRMAN WILLIAMSON: Welcome, Ms. Cannon. You
17 may begin when you're ready.

18 MS. CANNON: Thank you, Mr. Chairman. Good
19 morning to you and to the members of the Commission and
20 staff. I have appeared before the Commission in many cases
21 concerning injured U.S. industries, but few that are as
22 close to extinction as the one you will hear from today.
23 The domestic producers of prestressed concrete steel rail
24 tie wire, also known as PC tire wire, are truly struggling
25 to survive.

1 This injury can be tied directly to the large
2 volumes of low-priced dumped imports from China and Mexico.
3 As you will hear from our witnesses, Davis Wire pioneered
4 the production and supply of PC tie wire to the U.S. market
5 about 30 years ago.

6 Insteel Wire entered the PC tie wire market in
7 2009. Imports from China and Mexico surged into the United
8 States over the 2010 to 2013 period, displacing U.S.
9 producer sales and market share. The share magnitude of
10 these import volumes relative to U.S. consumption and
11 production is rather breathtaking.

12 Although subject import market share tapered
13 during 2013, as a result of the pendency of this
14 investigation, the decline in U.S. market share over the
15 past few years at the hands of unfairly traded imports has
16 been staggering.

17 You will hear from Respondents today that this
18 significant import penetration occurred for reasons of
19 better quality and better packaging of imports, everything
20 other than price. The record evidence, however, tells quite
21 a different story. In fact, Respondents' arguments bear
22 little resemblance at all to the information submitted in
23 questionnaire responses in this final stage of the case.

24 Quarterly price comparisons between subject
25 imports and U.S. producers show that Mexico undercut U.S.

1 producer prices three quarters of the time. China is
2 underselling U.S. producers in every possible comparison.
3 In addition, the under-selling by both countries is often at
4 significant margins.

5 If their products were truly of higher quality as
6 they claim, they would not need to undersell U.S. producer
7 prices. Purchasers should pay a premium for superior
8 quality products. In truth, subject imports are getting
9 sales not through the better quality of packaging, but due
10 to the lower prices that they offer.

11 This constant and significant underselling by the
12 subject imports has allowed them to grab U.S. market share
13 at the expense of the U.S. industry. Their lower prices
14 have depressed and suppressed domestic producer prices, and
15 led to abysmal financial results.

16 Domestic producers are required to significantly
17 cut prices to compete with imports to win sales. Domestic
18 industry production, shipments and market share have
19 plummeted since 2010, while subject import volumes
20 increased. The U.S. industry's capacity utilization rate in
21 2013 was at an anemic level, and prolonged shutdowns and
22 curtailments of production have occurred.

23 The Commerce Department's finding that imports
24 from Thailand are not being dumped here does not alter the
25 conclusion that cumulated imports from China and Mexico are

1 injuring the U.S. industry. Although imports from Thailand
2 have injured the domestic industry as well, there is strong
3 evidence that China and Mexico alone have caused material
4 injury to domestic producers.

5 The statute does not prevent relief to a U.S.
6 industry when there is another cause of harm, so long as the
7 subject imports are the cause of material injury as well.
8 Notably, the only improvement the industry has experienced
9 in its sales volume and in its financial results over the
10 past four years occurred following the filing of this trade
11 case.

12 The industry's ability to recover some sales
13 after the case filing is a further indication of the causal
14 nexus between the industry's performance and the subject
15 imports from China and Mexico. Without final relief in this
16 case, however, Mexico and China are poised to decimate the
17 domestic industry.

18 The PC tie wire industries in both countries have
19 massive capacity and substantial unused capacity that they
20 would like to use to continue to displace the balance of the
21 U.S. producer sales in this market.

22 It is not an exaggeration in this case to say
23 that absent remedial duties on imports from China and
24 Mexico, the domestic industry manufacturing PC tie wire will
25 soon cease to exist. Relief is badly needed, so U.S.

1 manufacturers are not forced to cede yet another product and
2 another manufacturing industry to unfairly-traded imports.
3 Thank you.

4 CHAIRMAN WILLIAMSON: Thank you.

5 MR. BISHOP: Opening remarks on behalf of
6 Respondents will be by Lizbeth R. Levinson, Kutak Rock.

7 CHAIRMAN WILLIAMSON: Welcome, Ms. Levinson. You
8 may begin when you're ready.

9 MS. LEVINSON: My name's Lizbeth Levinson. Sound
10 on now. Yes, okay. My name is Lizbeth Levinson. I'm with
11 the law firm of Kutak Rock. I am here this morning
12 representing the sole exporter from Mexico, Camesa, and its
13 U.S. importer, WireCo World Group. This case is almost
14 exclusively about causation. This is just not the run of
15 the mill case, in which the parties argue subjectively about
16 whether the domestic product is better quality or the
17 foreign product is better quality.

18 In this case the evidence, well-documented, and
19 not mentioned by Ms. Cannon, shows in the pre-hearing staff
20 report and the questionnaire responses, shows overwhelmingly
21 that Petitioner Davis Wire in the domestic industry is
22 responsible for any material injury it may have suffered
23 during the period of investigation.

24 Davis effectively destroyed its own reputation
25 when it sold defective tie wires to CXT from 2006 to 2010,

1 causing the ultimate customer, Union Pacific Railroad, who
2 is the end user of the rail ties manufactured by CXT, to
3 serve CXT with a \$22 million warranty claim in 2011.

4 As a result of Davis' debacle, Davis was
5 decertified as a supplier to CXT, and CXT of course is one
6 of only two major customers in the United States. In
7 addition, Camesa's sole customer at the time, Rocla, largely
8 shifted its purchases from Davis to Camesa. Rocla's shift
9 in its primary supplier was clearly for reasons other than
10 price.

11 Rocla was wary of Davis' recent delivery of
12 defective product to CXT. Rocla also picked up additional
13 business because Union Pacific, the railroad, who used to
14 work with CXT, came to Rocla because they no longer wanted
15 to deal with CXT and specifically with Davis.

16 Our witness, Mr. Barrios, will further testify
17 that Camesa's reputation for a quality product and Davis'
18 delivery of defective merchandise were additional commercial
19 motivations behind Rocla's increased purchases from Camesa.

20 The administrative record establishes that other
21 attributes associated with the Camesa product, such as
22 superior packaging and less breakage due to the use of
23 better quality raw material, rather than price
24 considerations, drove Rocla's purchasing decisions.

25 The administrative record establishes that

1 Camesa's exports do not threaten material injury to the
2 domestic industry. In fact, subsequent to the review, in
3 2014 and perhaps not yet reflected in the questionnaire
4 responses, but nevertheless Rocla, our customer or one of
5 our two customers now, opened a brand new concrete rail tie
6 facility in Mexico, to exclusively serve the Mexican market.

7 The requirements for this facility will eliminate
8 any unused capacity at Camesa. In fact, I was told as of
9 yesterday we were operating at 100 percent capacity in our
10 wire relieving facilities. In fact, Camesa will be required
11 to reduce sales to Rocla in the United States in order to
12 supply them fully for their new facility in Mexico.

13 Finally, even if relief under the anti-dumping
14 law were granted, any benefit would accrue to other foreign
15 suppliers, rather than the U.S. industry. Since Commerce
16 reached a negative anti-dumping determination with respect
17 to Thailand, it is likely that CXT's reliance on this source
18 of imports will increase in the future.

19 Due to the imposition of relatively high
20 anti-dumping duty deposits assigned to Camesa in a
21 preliminary determination, at a rate of over 27 percent,
22 Rocla shifted, as we expected them to do, they shifted some
23 purchases from us, from Camesa, to the Spanish producer TIXA
24 in early 2014.

25 That experience is a precursor, demonstrating

1 that any anti-dumping order will ultimately benefit parties
2 other than the two domestic products. Thank you for your
3 time this morning. We look forward to testifying, and we
4 urge the Commission to issue a final negative determination.
5 Thank you very much.

6 CHAIRMAN WILLIAMSON: Thank you.

7 MR. BISHOP: Would the first panel, those in
8 support of the imposition of anti-dumping duty orders,
9 please come forward and be seated?

10 (Pause.)

11 CHAIRMAN WILLIAMSON: I want to welcome the panel
12 to the Commission, and Ms. Cannon, you may begin when you're
13 ready.

14 MS. CANNON: Thank you, Chairman Williamson. Our
15 first witness will be Mr. Hillebrandt.

16 MR. HILLEBRANDT: It's on, okay. Good morning.
17 My name is Jim Hillebrandt and I am the president of Davis
18 Wire Corporation. I have worked for Davis Wire for 18 years
19 and served as president for 12. Davis Wire pioneered the
20 production of PC tie wire in the United States in the
21 mid-1980's.

22 We produce high quality PC tie wire at our
23 manufacturing facility in Kent, Washington, with two lines
24 of state of the art production equipment dedicated to the
25 production of PC wire. I'm going to ask my senior vice

1 president, Mike Quirk, to discuss the details of competition
2 with imports for the sale of PC tie wire in the U.S. market,
3 as he is the real expert in that area.

4 Before turning to Mike though, there is one issue
5 I would like to address. The Mexican producers of PC tie
6 wire have spent a great deal of its brief discussing a
7 dispute that occurred more than five years ago, involving
8 Union Pacific Railroad and its supplier of concrete rail
9 ties, CXT.

10 Rail ties are the product manufactured using PC
11 tie wire, the product Davis makes. The warranty claims by
12 the Union Pacific involved the supply of allegedly defect
13 concrete ties by CXT to the Union Pacific. The Mexican
14 respondents quote many details about the Union Pacific
15 dispute, taken from the 10(k) annual report of L.B. Foster,
16 the parent company of CXT.

17 Based on these reports, they argue that Davis PC
18 tie wire was defective. But read those passages from the
19 L.B. Foster 10(k) carefully. The Union Pacific warranty
20 claims do not allege that Davis PC tie wire was defective.
21 The Mexican producers have no firsthand knowledge about this
22 dispute, in which they were not involved in and that
23 occurred well before the period -- the time period you are
24 examining in this case.

25 Nonetheless, the claim that this dispute is what

1 led to their U.S. purchaser, Rocla, to buy imports from
2 Mexico rather than a Davis wire product. This provides a
3 convenient story for the Mexican producers to tell, but it
4 is not true. In fact, Rocla continued to buy PC tie wire
5 from Davis Wire well after this dispute.

6 The quality of our wire has never been the focus
7 of our discussions with Rocla. The focus of our discussion
8 has always been price. Mike Quirk will describe those sales
9 negotiations in more detail. I would like to mention,
10 though, a very telling transaction between Davis and Rocla.

11

12 As I said, following the Union Pacific/CXT
13 dispute, Rocla continued to buy PC tie wire from Davis.
14 Rocla told us they were using it to produce rail ties for
15 the Union Pacific. Union Pacific had full knowledge it was
16 Davis PC tie wire being used to manufacture the Rocla
17 concrete ties, but made no objection.

18 No defects were identified with the Rocla
19 concrete rail ties made from Davis Wire for the Union
20 Pacific, to my knowledge. Rocla has never raised with Davis
21 Wire the alleged quality issue on which the Mexican
22 producers are basing their whole story.

23 Simply put, this issue is ancient history at this
24 point. It did not affect Rocla or its relationship with
25 Davis Wire, and it does not explain the injury we, Insteel,

1 have suffered. Our injury is due to being battered by
2 dumped imports from China and Mexico. Thank you.

3 MS. CANNON: Our next witness will be Mike Quirk.

4 MR. QUIRK: Good morning. My name is Mike Quirk,
5 and I am the senior vice president of the Davis Wire
6 Corporation. I have worked at Davis Wire for more than 30
7 years, and have been involved in the production and sale of
8 PC tie wire since 1987.

9 Over the past four years, our industry has seen a
10 rapid increase in the imports of PC tie wire from both China
11 and Mexico. These imports have been sold in the U.S. market
12 as such consistently low prices that the only way we have
13 been able to compete is to sell our products without being
14 able to receive a satisfactory return.

15 We've been forced to substantially lower our
16 prices, often to levels that are below our production costs.
17 You can see from our questionnaire response the direct
18 impact of large and increasing volumes of imports from China
19 and Mexico.

20 Our production and shipments have fallen
21 substantially over the last four years. We have curtailed
22 production of PC tie wire several times in recent years at
23 our Kent, Washington facility for varying lengths of time,
24 due to reduced sales volume.

25 As a result, we have a large amount of unused

1 capacity that we would like to put to use manufacturing PC
2 tie wire. All of these declining trends are tied directly
3 to the presence of imports from China and Mexico in our
4 market.

5 The market for PC tie wire is very small in terms
6 of participants. There are only three purchasers of PC tie
7 wire in the U.S. market, CXT, Rocla and NorTrac. All three
8 purchasers use PC tie wire to manufacture concrete railroad
9 ties. The purchasers in this small industry know the prices
10 of all import sources, and use them to force domestic prices
11 down.

12 The major producer in China selling PC tie wire
13 to the United States recently has been Silvery Dragon. For
14 Mexico, the producer selling into the U.S. market is Camesa.
15 As detailed in my declaration attached to the pre-hearing
16 brief, imports from China and Mexico have increased in the
17 U.S. market, capturing a substantial share of the market at
18 our expense.

19 These market share gains have occurred solely by
20 underselling our prices. PC tie wire is a high carbon wire
21 product that is produced to an ASTM specification. Davis,
22 like Insteel and the foreign producers, manufactures PC tie
23 wire to this ASTM specification.

24 If customers request the product be produced to
25 proprietary specifications, Davis Wire can do that as well.

1 We have submitted documentation in our brief demonstrating
2 our ability to produce PC tie wire to the various
3 specifications of U.S. purchasers.

4 But the bottom line to the purchasers is price.
5 Sales negotiations between CXT and Davis, or Rocla and Davis
6 during the past four years focused on the price of our
7 product, not its quality. In fact, price has been a problem
8 in competing with Chinese and Mexican suppliers since they
9 entered this market.

10 Beginning in 2010 in order to gain price
11 concessions from us, our customers began advising us that
12 import pricing was significantly below our prices. Our
13 customers threatened to buy product from these producers if
14 we did not meet the lower pricing. Although we repeatedly
15 lowered our prices, the situation deteriorated further.

16 During the past four years, we have lost major
17 volumes of business to imports from China and Mexico. All
18 of that business was lost on the basis of price. The
19 Mexican and Chinese producers significantly undersold us,
20 often at prices well below our costs, and were able to
21 capture sales on this basis alone.

22 There's a limit to how much we can control. At
23 this point, there is little else we can do to reduce our
24 production costs. There are virtually no means by which we
25 can get our costs low enough to be able to match the dump

1 prices of Chinese and Mexican imports.

2 Prices have been so low that we've had to either
3 forego sales or try to minimize losses, or accept sales at
4 prices below cost in order to maintain some market share.
5 Neither choice is a viable option to sustain our PC wire
6 operations. Any sales Davis has been able to retain have
7 been kept by reducing our prices to compete with low prices
8 of dumped imports.

9 The result has been a cost price squeeze and a
10 dismal financial performance from my company. Davis has
11 tried to remain cost-competitive with imports, but has
12 struggled to compete with their low prices. If we try to
13 increase prices to a reasonable level, we lose sales and
14 market share. If we cut our prices to get a sale, our
15 bottom line suffers.

16 Our questionnaire shows we lost a number of sales
17 to imports from China and Mexico. These lost sales were
18 significant, with several individual lost sales totaling in
19 the millions of dollars. Indeed, between 2010 and 2012, we
20 lost the majority of the market to lower-priced imports from
21 China and Mexico. The prices at which the imports were sold
22 were significantly below our prices.

23 This trend continued until we filed a trade
24 action in April of 2013, at which time we began to see some
25 improvement, both in terms of volume and price. After the

1 filing of this trade action, we have been able to gain back
2 some volume of business that was previously lost to imports,
3 although our prices remain depressed.

4 I have reviewed WireCo's hearing brief, and I
5 would like to address their contention that Rocla bought
6 imports over domestic PC tie wire due to better packaging by
7 the imports. This is not true.

8 Before this case was filed, Rocla and CXT never
9 told Davis that they had any problem with our packaging or
10 coil size. Davis can supply any type of packaging the
11 customer requires. WireCo also states that Rocla prefers to
12 purchase the Mexican product, due to Camesa's use of wire
13 rod made from iron ore rather than scrap.

14 There is no difference in the characteristics of
15 wire rod, based on the input material used, and Rocla never
16 told Davis it needs or prefers rod made from one type of
17 material over another. If Rocla were to specify the type of
18 wire rod it needed such as iron ore-based rod, Davis could
19 procure that type of rod. But we have never received such a
20 request.

21 In sum, we cannot remain in this business for
22 long if we have to sell at below-cost prices. Given the
23 import situation, our options are limited now. We can
24 either cede this market to unfairly-traded imports, or we
25 can try to remedy this problem, so that the imports are

1 required to compete fairly in the United States.

2 Davis would hate to see a product that we
3 developed and supplied throughout the United States become a
4 product supplied only by imports. Yet we are clearly headed
5 that way at Davis. If these dumped imports continue to sell
6 at the price levels we have seen in recent years, we will
7 continue to lose sales and will be forced to shut down our
8 operations.

9 We are confident that if import relief is
10 provided, Davis can compete on a fair trade basis, and again
11 achieve a healthy return on investment. Thank you very much
12 for the opportunity to speak with you.

13 MS. CANNON: Our final industry witness will be
14 Mr. Richard Wagner.

15 MR. WAGNER: Good morning. My name is Richard
16 Wagner, and I am currently vice president of Insteel Wire
17 Products Company. I have been in the wire business for over
18 35 years in sales, marketing and manufacturing. I joined
19 Insteel in 1992. I have been very involved in Insteel's
20 efforts to produce and sell PC tie wire to the concrete
21 railroad tie industry.

22 Insteel is the nation's largest manufacture of
23 steel wire reinforcing products for concrete construction
24 applications. We are one of two U.S. manufacturers of PC
25 tie wire. The PC tie wire market seemed like a logical move

1 for Insteel, in view of our experience as a leading producer
2 of concrete reinforcement products, particularly prestressed
3 concrete seven wire strand or PC strand.

4 We were also attracted by the potential for
5 significant market growth, given the interest being
6 expressed by various government agencies in the development
7 of high speed rail corridors that would require many tens of
8 thousands of concrete ties.

9 The limited amount of competition from unfairly
10 traded imports at the time of our entry also affected our
11 decision to pursue this market, as we could compete for the
12 business on a level playing field.

13 We believe that a producer with our experience
14 and reputation would be welcome by the relatively
15 concentrated group of purchasers. In 2009, we were
16 approached by one of the major concrete tie manufacturers
17 and asked to become a supplier.

18 By the end of 2009, we also had inquiries from
19 the other major customer, and began supplying them in 2010.
20 In both instances, the qualification process was very quick,
21 and initial production began almost immediately. We worked
22 closely with all of our customers to make sure that we
23 provide them with exactly the product they need.

24 Insteel is able to produce PC tie wire to the
25 ASTM A-881 specification, as well as the major proprietary

1 specification in the industry. Our quality and delivery is
2 well-received by our customers, and we fill orders we
3 receive from customer locations across the country.

4 As you can see from our questionnaire response,
5 we have had plenty of excess capacity to produce PC tie wire
6 throughout the last four years. Contrary to the arguments
7 raised by the Respondents, Insteel's packaging also meets
8 the requirements of our customers.

9 In short, we had a very successful entrance to
10 the market. By 2011, we had developed a reputation for
11 producing a quality product and providing excellent service.
12 Unfortunately, dumped imports of PC tie wire reversed these
13 successes almost as quickly as they began. Price is by far
14 the most important factor in the purchasing decisions of PC
15 tie wire customers.

16 On any product we sell, Insteel expects to be
17 able to cover our cost of production and make a reasonable
18 return on our investment dollars. Wire rod represents the
19 largest element of those costs for PC tie wire. If the
20 price of rod increases, Insteel has to be able to raise the
21 price of its products to reflect those rising costs.

22 In markets not undermined by dumped imports,
23 Insteel has been able to do that. We have tried to price
24 our PC tie wire competitively, but also in a manner that
25 reflects our costs of production, particularly the cost of

1 wire rod. As the price of high carbon wire rod increased at
2 various points, we tried to reflect those increases in our
3 prices.

4 Despite our efforts to price competitively, by
5 early 2011 we began hearing from customers that our prices
6 were not competitive with imports from Mexico and China that
7 were priced at levels much lower than Insteel's prices.

8 The customers were well aware of the prices at
9 which PC tie wire from China and Mexico were being sold.
10 This makes sense, because we know for example that the
11 Chinese product was marketed aggressively at both of our
12 major customers.

13 Throughout the period of investigation, the
14 customers made it clear that the price they were willing to
15 pay was going to be based on the price of imported PC tie
16 wire, not the cost of high carbon wire rods to the domestic
17 industry.

18 Insteel has faced this dilemma before. We had
19 the same problems with dumped PC strand from China, Mexico
20 and other countries. The price of the unfairly traded
21 imports becomes leverage that the purchasers use to force
22 domestic prices down.

23 In response, we can either lower our prices to
24 meet the price of the dumped imports, or forego the sales.
25 In the PC tie wire market, we tried initially to continue to

1 quote rational prices based on the cost of wire rod. But
2 pressure from dumped imports kept our prices depressed,
3 hurting our financial results.

4 When Insteel was unwilling to meet the price of
5 the dumped imports, we steadily lost orders from the
6 customers over the course of 2011. By 2012 and early 2013,
7 the dumped imports dominated the U.S. market. As a result,
8 the purchasers relied on dumped imports as their primary
9 source of PC tie wire, and turned to Insteel only to fill in
10 between import shipments.

11 This shift in sourcing away from Insteel was not
12 based on quality concerns or availability. The discussion
13 with customers has always been about the low prices set by
14 the dumped imports. By the time this case was filed in
15 early 2013, Insteel had largely been forced out of the
16 domestic market by imports from Mexico and China.

17 After the case was filed, we began to see some
18 increase in sales, as customers began to shift away from
19 dumped imports later in 2013 and early 2014, as a result of
20 the anti-dumping case. In fact, Insteel has been able to
21 increase its capacity utilization to a reasonable level for
22 the first time in years.

23 Insteel should not be required to sell at a loss
24 in this market to compete with the dumped prices of the
25 subject imports. Without relief, however, Insteel will be

1 forced to exit entirely from this market. Dumped imports
2 should not be permitted to displace our sales and force us
3 out of this business. Thank you.

4 MS. CANNON: Now that you've heard from our
5 industry experts, I'd like to review some of the macro-data
6 on volume, price and impact that the Commission staff has
7 gathered in this case. Given the small number of
8 participants in this market, virtually all of these data are
9 confidential. So I'm limited as to what I can say publicly.

10 We have, however, prepared confidential handouts
11 that you should have, these pink packets highlighting some
12 of the key evidence in this case, and I will discuss what I
13 can publicly on this handout, and ask that you refer to the
14 charts and to our pre-hearing brief for more specifics.

15 Let's begin with the first statutory factor,
16 volume. The statute asks whether import volumes are
17 significant on either an absolute or relative basis. As you
18 see from Chart 1, the answer is yes. As a share of total
19 imports, imports of PC tie wire from China and Mexico are
20 substantial.

21 In fact, other than the Thai imports, imports
22 from China and Mexico are the only imports in the U.S.
23 market, so they account for a large percentage of total
24 imports.

25 In Chart 2, you see that the subject imports are

1 also significant relative to U.S. consumption. This chart
2 shows the share of the U.S. market accounted for by these
3 imports, a sizeable amount by any measure. Now please look
4 at Chart 3. The statute further instructs you to consider
5 the volume of subject imports relative to domestic
6 production.

7 In many cases, subject imports are but a small
8 share of domestic production. The opposite is true in this
9 case, with subject imports dwarfing U.S. production.

10 Although the statute only requires that import volumes be
11 significant, here the import volumes are increasing as well.

12 Chart 4 shows the surge in subject imports that
13 occurred since the 2010 base period that was examined when
14 we first filed this case. As you see, there was a steady
15 increase in subject import volumes through 2012, until this
16 case was filed.

17 After our filing of the case in April of last
18 year, subject import volumes declined a bit, but are still
19 substantial and up from where they started in 2010.

20 Chart 5 provides an even clearer indication of
21 the effects of this case filing. This chart shows that the
22 market share subject imports were able to grab beginning in
23 2010, then 2011 and into 2012, the last full year before we
24 filed the case. We added first quarter 2013 to this chart
25 as well, so you can see subject imports were continuing

1 their market surge right up until we filed this case.

2 There was a clear effect from the case filing and
3 the preliminary Commerce findings of dumping, and getting
4 the imports to back off in the market a bit, as you see
5 comparing the full year 2013 market share with the first
6 quarter 2013 market share data.

7 Chart 6 depicts the correlation between the
8 increase in subject import market shares and the decline in
9 the domestic industry share of the market, a very strong
10 correlation as you see. When subject import market share
11 went up, ours went down, and when they backed off in 2013
12 after the case filing, we went up a bit, about as clear of a
13 causal nexus between import volume effects and the volume
14 effects on the domestic industry as you will find.

15 These charts show both substantial and increasing
16 volumes and market shares of subject imports, consistent
17 with every aspect of the statutory volume factor.

18 The next statutory injury factor is price. Chart
19 7 provides a summary of the underselling margins from the
20 Commission's staff report. As this chart shows, China
21 undersold U.S. producer prices in every possible comparison.
22 Mexico undersold U.S. producer prices in almost three
23 quarters of the comparisons. In total, 81.8 percent of the
24 comparisons show underselling by these imports. The
25 underselling margins were often at significant levels as

1 well.

2 This chart explains the market inroads that
3 subject imports were able to accomplish. As our witnesses
4 testified, they didn't penetrate the U.S. market by better
5 quality or packaging. They did it by consistent
6 underselling of U.S. producer prices.

7 You saw in Respondent's brief, and I'm sure you
8 will hear more today, that their arguments that sales are
9 not being driven by price. Chart 8 is a powerful indictment
10 of those arguments. Look at these statements, again all
11 taken from information that your staff gathered, punctuating
12 the importance of price in purchasing decisions. These
13 statements stand in stark contrast to the arguments that
14 Respondents are making here.

15 Chart 9 contains a statement we quoted in our
16 pre-hearing brief, but we thought it was particularly
17 important to highlight here. Please consider this statement
18 that was made to your staff very carefully, as you listen to
19 the arguments presented by Respondents later today.

20 Chart 10 is a further illumination on one of the
21 points our industry witnesses addressed earlier, packaging.
22 Again, we have heard many arguments by Respondents on this
23 issue. But please look at the actual statements on your
24 record, as to views of packaging.

25 Chart 11 provides a comparison of import prices

1 to the U.S. industry's cost of goods sold. We usually
2 present charts contrasting import prices with U.S. producer
3 prices, to show that the import prices are lower, but that
4 summary is already contained in your underselling Chart No.
5 7, which showed the underselling by imports in 81.8 percent
6 of comparisons.

7 Chart 11 compares the industry's cost with the
8 import average unit values. After you look at these
9 figures, there can be little question why the domestic
10 industry's financial position is so abysmal.

11 Now let's turn to the final statutory injury
12 factor, which is impact. In Chart 12, you will see trends
13 that display the impact of imports. Frankly, these trends
14 show exactly what you would expect. They show plummeting
15 U.S. production and shipments that have taken place over the
16 past four years.

17 Chart 13 depicts the unbelievably low capacity
18 utilization rate for the industry. You heard Mr. Quirk and
19 Mr. Wagner describe prolonged shutdowns and idling of
20 facilities that not long ago were using this capacity. This
21 huge idle capacity was the effect of subject imports and the
22 U.S. producers' ability to use their capacity.

23 Chart 14 shows the domestic industry's net sales
24 suffered the same fate, a persistent and significant
25 downturn, at least until this case was filed. As Mr. Wagner

1 described, some business did return to the U.S. industry
2 after the filing of the case, leading to some upturns. But
3 we have no doubt that those will be short-lived if final
4 duties are not imposed.

5 Chart 15 shows the operating profit to sales
6 ratios over the period. This chart shows that the domestic
7 industry's operating performance fell to an all-time low by
8 the first quarter of 2013, and its worst annual low in 2012,
9 right before this case was filed. The filing of the case
10 led to not only a return of some sales, but a bit of
11 improvement in the industry's financial condition, although
12 with results this dismal, improvement is a relative term.

13 This industry has suffered severe injury at the
14 hands of dumped imports. When I said in my opening
15 statement that the industry may soon cease to exist absent
16 relief, I hope you can now see in the market share capacity
17 utilization and financial results how true that statement
18 is.

19 Chart 16 provides further evidence of the
20 correlation between subject import market penetration and
21 the domestic industry's financial decline. As imports from
22 China and Mexico made inroads into the U.S. market by
23 undercutting U.S. producer prices, they depressed and
24 suppressed U.S. prices and hurt the industry's
25 profitability.

1 Look at the clear correlation of the increase in
2 imports and the decline in the industry's financial
3 performance right up until March 2013. Only when we filed
4 this case was there some shift in imports, which in turn has
5 a correlation leading to the improvement in the industry's
6 condition.

7 And as if all this is not bad enough, as Chart 17
8 shows, foreign producers in China and Mexico have huge
9 increasing unused capacity. They are capable of displacing
10 what little U.S. market share U.S. producers have at this
11 point, and are likely to do so based on the persistent
12 under-selling practices in which they engage.

13 Chart 18 provides further specific information on
14 each of the foreign companies exporting PC tie wire from
15 China and Mexico. These companies are export-oriented and
16 targeting the United States. Their idle capacity and export
17 orientation poses a threat of further injury to the domestic
18 industry.

19 When I say "further injury," I mean putting this
20 industry completely out of business, and ceding this market
21 to dumped imports. Thank you for your attention to these
22 charts. Mr. Rosenthal will now conclude our presentation.

23 MR. ROSENTHAL: Good morning. I am Paul
24 Rosenthal of Kelley, Drye and Warren. To conclude our
25 direct testimony this morning, I want to highlight two of

1 the points that were made previously. The first issue is
2 how to assess the injury caused by unfairly traded imports
3 from China and Mexico, now that Thailand has been excluded
4 from the case.

5 The second issue involves the Respondents'
6 continuing quest to deny the central role of price in this
7 case. Regarding Thailand, as riveting as the Commission may
8 find it, I will not engage in a discussion of why the
9 Department of Commerce was wrong in its negative
10 determination concerning Thailand. Some lucky judge at the
11 Court of International Trade will have that privilege.

12 Instead, I want to discuss with the Commission
13 what Thailand's exclusion from the case at this point means
14 for your analysis of whether imports from China and Mexico
15 have materially injured the domestic industry. The short
16 answer is nothing.

17 The Commission should approach this case as if
18 the case never included Thailand. You should focus on
19 whether imports from Mexico and China have materially
20 injured the domestic industry. That is what the statute and
21 case law provide.

22 The Commission must reach an affirmative
23 determination if imports from Mexico and from China are a
24 cause of material injury to the domestic industry. Imports
25 from Mexico and China do not have to be the only case or the

1 most important cause of the injury, although they are indeed
2 major causes of harm or a major cause of harm, in order to
3 reach an affirmative determination in this case.

4 While the law is clear on this, logic supports
5 this approach too, and I do love when that happens. In all
6 seriousness, I think the case of a person walking down the
7 street who is mugged by three thieves. One of the muggers
8 is creative enough to escape capture, but the police arrest
9 the other two muggers and the captured muggers go to jail,
10 because they have caused harm to the victim.

11 The failure to capture the third perpetrator does
12 not absolve the first two mugger of their crimes, nor does
13 it erase the harm that they have caused. So too in
14 anti-dumping law, not all import sources must be caught, if
15 you will, in order to remedy the injury caused by imports
16 subject to an investigation.

17 In this case, the Commission has before it two
18 sources of import-related injury, Mexico and China, subject
19 to investigation. The record shows, and the testimony you
20 just heard confirms, that imports from Mexico and China have
21 undersold U.S. producer prices, caused lost sales, caused
22 lost revenue.

23 The result of the imports from Mexico and China
24 have caused the domestic industry to lose volume, reduce
25 capacity utilization and become very unprofitable, to put it

1 mildly. To the extent that there's any doubt that imports
2 from China and Mexico were largely responsible for the
3 injury, take a look at what happened after the Commerce
4 Department's preliminary anti-dumping determination in this
5 case.

6 As you've seen and just heard from Ms. Cannon,
7 after the preliminary determination, many of the injury
8 indicators I just mentioned showed improvement. Because
9 Thailand was not included in the Commerce Department's
10 affirmative preliminary determination, it is clear that the
11 improvement in the industry's condition was the result of
12 the provisional duties applied to Mexico and China.

13 The last point I want to discuss today has to do
14 with the claims by Respondents that quality, not price, is
15 the reason that imports from Mexico and China have captured
16 such a large share of the U.S. market. I think by now our
17 witnesses and pre-hearing brief have totally demolished that
18 claim.

19 But for our newest Commissioner, Ms. Schmidtlein,
20 and even for the Commissioners who have been around a little
21 longer, I thought I'd provide some context for Respondents'
22 claim.

23 Not every case is as clear-cut as this one, but
24 when you see a case in which the subject imports have
25 garnered such overwhelming market share, when a domestic

1 producer's profitability is so clearly at unsustainable
2 levels, when evidence of under-selling, lost sales and lost
3 revenues due to subject imports is undeniable, what do you
4 do if you're counsel for the Respondents.

5 The answer, of course, is that you search for
6 alternative explanations of injury. Commissioner
7 Schmidtlein, I believe this may be your first hearing, so
8 you have not had the chance to develop the awe that I have
9 with respect to Respondent's creativity.

10 While I haven't yet seen any injury in other
11 cases attributed to solar flares or the moon's gravitational
12 pull, I have seen some very creative arguments, and many of
13 the alternative explanations are more pedestrian, and the
14 packaging claim is relatively novel and easily discarded,
15 although I'm sure it will be recycled in a future case.

16 The claim of quality concerns has always enjoyed
17 something of a vogue, however, and to be sure, that's the
18 Respondents' main argument here. But you've seen in this
19 record and the testimony today the hollowness of that claim.
20 I'm sure we'll be talking more about that and I won't say
21 more at this point.

22 I will just say this. PC tie wire is no harder
23 to produce than many of the other wire products that
24 domestic producers regularly manufacture. Both producers
25 here can and do make this product successfully and have for

1 a while. While the domestic industry is very proud of
2 producers, there's no denying, though, that the product is
3 sold on price.

4 Yes, they and we wish there's something that --
5 such a thing as customer loyalty in this business. But in
6 this basic product, price trumps loyalty every time.
7 Indeed, this PC tie wire is used to bind concrete to steel
8 for use in concrete railroad ties. But to be honest,
9 there's only one thing that binds the customer to the
10 purchaser in this business, and that's price.

11 MR. ROSENTHAL: With that we conclude our
12 testimony this morning and would be glad to answer
13 questions. Thank you.

14 MS. CANNON: Thank you Mr. Rosenthal. I would
15 also like to introduce Chairman Williamson, a couple of
16 other members of our panel that are available to answer
17 questions. Mr. Randy Plitt who is the national sales
18 manager for Insteel Wire Products has joined us. Also Brad
19 Hudgens of Georgetown Economic Services, and my partner Alan
20 Luberda of Kelley Drye and with that thank you very much and
21 we are happy to answer your questions.

22 CHAIRMAN WILLIAMSON: Thank you very much and we
23 want to express appreciation to all of the witnesses who
24 have come today. This morning we will begin our questions
25 with Commissioner Pinkert.

1 COMMISSIONER PINKERT: Thank you Mr. Chairman and
2 I thank all of you for being here today to help us to
3 understand these issues. I am constrained somewhat by the
4 business proprietary nature of my question, so I am going to
5 make it general and it is directed toward Insteel.

6 If a major purchaser had experienced quality
7 problems with your product, who at the company would have
8 been made aware of that?

9 MR. WAGNER: In our system that could begin with
10 an outside sales person, if the customer called him first.
11 It certainly would go directly from that point, if not
12 directly from the customer to Mr. Plitt. And we have a
13 system to manage issues like that electronically so I would
14 be informed immediately of it.

15 COMMISSIONER PINKERT: And how would you have
16 then documented a major quality problem of that kind?

17 MR. WAGNER: If we have a problem -- a quality
18 problem of that type, there is an investigation that ensues
19 and the explanations and the corrective actions that go
20 along with that investigation follow that complaint or claim
21 along through the system until it is closed. If it is
22 large, that requires an action by me to approve its closure.

23 COMMISSIONER PINKERT: And for the post-hearing
24 then, if you would go back through your records and indicate
25 whether during the period that we are investigating right

1 now, there had been significant quality problems with any
2 major customers, I think that would be helpful.

3 MR. WAGNER: Okay we will do that. I believe we
4 have done that. And asked by counsel to research this, we
5 have found that we do not have any during the period of
6 investigation.

7 COMMISSIONER PINKERT: Thank you. Were there any
8 changes in competition that negatively affected Insteel's
9 ability to sell its product over the period of
10 investigation?

11 MR. WAGNER: No. I mean well, we say no. In
12 changes of competition, the advent of dumped imports caused
13 us to have trouble selling due to price, but I guess that's
14 not by entry or exit of others, but imports coming in
15 certainly affected us dramatically.

16 COMMISSIONER PINKERT: Thank you. Now my next
17 questions are for both of the domestic producers, not just
18 for Insteel. One of the questions that occurs to me and I
19 admit that there are different legal interpretations of the
20 Bratz and Matall line of cases, but is prestressed concrete
21 steel rail tie wire a commodity for purposes of any such
22 analysis?

23 MR. QUIRK: From our perspective, we sold this
24 product as a quality product for many, many years and gained
25 a reasonable return on it. The market increased steadily

1 over a 20 year period, the usage of the product. It became
2 a commodity when Mexico and China came in with significantly
3 lower prices which turned the product into just a base
4 commodity that was all sold on price.

5 MS. CANNON: Commissioner Pinkert, obviously
6 those terms commodity have different usages are fungible
7 depending on the legal context on which they are applied.
8 The Court and the Commission have recognized that for
9 cumulation versus for Bratz and replacement and I think
10 there are some nuances in the product types. We have
11 certain proprietary specifications and other things of that
12 type.

13 There's a lot in the confidential record that we
14 could probably address in the post-hearing brief more fully
15 about some of those nuances that would go to the question
16 you are asking I believe.

17 COMMISSIONER PINKERT: Thank you. Any other
18 comments on the commodity from a business point of view
19 whether it is considered to be a commodity product at this
20 time?

21 MR. WAGNER: We've seen the -- the behavior of
22 the buyers with us was always that it was a commodity.
23 Price was the primary consideration for any of their
24 purchasing decisions or anything regarding the product that
25 we experienced.

1 MR. PLITT: Having said that, I don't think we
2 view it as a commodity, we -- our manufacturing process adds
3 a lot of value to the product and it does have a specific
4 technical nature and physical properties that we impart on
5 it. So I think there's a considerable amount of again,
6 value added, through that manufacturing process, unlike the
7 wire rod which would be a commodity.

8 MR. ROSENTHAL: Commissioner Pinkert, Paul
9 Rosenthal. I think the Respondents have this claim -- that
10 this product is a commodity from their point of view, so we
11 will point out where in the record they specifically said
12 that in our post-conference brief -- post-hearing brief.

13 COMMISSIONER PINKERT: Thank you. Now turning to
14 Davis, as you know Respondents argue that your product had a
15 reputational issue given the earlier warranty claim. Has
16 there been any spill-over or any reticence from purchasers
17 based on that earlier history which I think has been
18 demonstrated to be pre-period of investigation?

19 MR. HILLEBRANDT: We haven't seen any spill-over
20 with other companies in terms of, and I think I'm answering
21 this correctly, in terms of losing business because of the
22 dispute with CXT. In fact, as I pointed out in my
23 testimony, after the dispute, during the dispute, we
24 continued to sell Rocla.

25 Those ties were used by the Union Pacific. We

1 continued to sell NorTrac and we are selling NorTrac as of
2 today, and as I said those ties are used by the Union
3 Pacific as well. So I think from other purchasers, because
4 of the issue we have seen no spill-over. The loss of
5 business is really because of pricing and the cheap imports.

6 COMMISSIONER PINKERT: Thank you.

7 MR. ROSENTHAL: Commissioner Pinkert, I would
8 just like to add that the so-called reputational effect is
9 purely a claim by Respondents. It is not a fact. And the
10 record indicates why that is.

11 COMMISSIONER PINKERT: Thank you.

12 MR. LUBERDA: Commissioner Pinkert, Alan Luberda.
13 I think you might also look at slides 8 and 9 in our
14 confidential package that we gave to the Commission. I
15 think that helps answer that question pretty solidly.

16 COMMISSIONER PINKERT: Thank you. Now another
17 question for Mr. Hillebrandt, Camesa argues that Mexican
18 prestressed concrete steel rail tie wire is superior in
19 quality with less breakage than the domestic-like product.
20 What is your response of those claims?

21 MR. HILLEBRANDT: You know we manufacture to the
22 same spec that they do. I don't know of any statistics or
23 any data that shows they have less breakage or less issues
24 than any other supplier, ourselves included. You know, our
25 process is a state-of-the-art process. We procure steel

1 that will perform as well as the steel and is the same as
2 the steel that they produce and I don't see any validity to
3 those claims that their product is superior. We are all
4 making to the same ASTM spec.

5 MR. QUIRK: I'm Mike Quirk commenting. I would
6 like to comment that we have not received complaints or no
7 indication of any sort from NorTrac or Rocla or CXT that
8 they are experiencing inordinate breaks on our product
9 versus anybody else's. So we are unaware of any major
10 issues with breakage as it relates to our product versus our
11 competitor or any of the competitors for that matter.

12 The issue that we wind up talking about 90
13 percent of the time with all of these customers is the price
14 of our product.

15 COMMISSIONER PINKERT: Mr. Wagner, do you want to
16 comment on that one?

17 MR. WAGNER: Yeah, we viewed the claim about rate
18 of wire breakage as completely invalid. It doesn't match
19 any experience or communications that we have had with a
20 customer.

21 COMMISSIONER PINKERT: Thank you. Thank you Mr.
22 Chairman.

23 CHAIRMAN WILLIAMSON: Thank you. Commissioner
24 Johanson?

25 COMMISSIONER JOHANSON: Thank you Mr. Chairman

1 and I would like to thank all of the witnesses for appearing
2 here today. Mr. Rosenthal, you held up this morning an
3 actual PC tie wire. It is my understanding that the quality
4 issues raised by Union Pacific dealt with ties and not tie
5 wires.

6 I know this is probably a very basic question,
7 but can you possibly provide an exhibit to your post-hearing
8 brief contrasting what a tie wire is versus a tie? I
9 assume the tie is just the long, four or five foot long
10 piece of concrete, but just so -- it would help me out to
11 have an actual image of what we are dealing with here.

12 MR. ROSENTHAL: Commissioner Johanson, you are
13 exactly right. The dispute was about the tie not about --
14 between Union Pacific and its supplier, in that case CXT.
15 So yes, and this is the tie wire, the concrete railroad tie
16 is, as you have described it, a much longer product,
17 concrete which has the tie wire encased in it and we will
18 get to you more detail on that, thank you.

19 COMMISSIONER JOHANSON: Okay, thank you. I would
20 appreciate it. And this is a question for anyone, any of
21 the witnesses who would like to speak. Are both U.S.
22 producers currently producing ASTM specification and all
23 proprietary specifications?

24 MR. QUIRK: Yes we are. I'm Mike Quirk with
25 Davis. We can produce and do produce product to the ASTM

1 and a modified specification to NorTrac as well as we have
2 shipped material to CXT to their specification.

3 COMMISSIONER JOHANSON: All right, thank you, Mr.
4 Wagner?

5 MR. WAGNER: Insteel also can produce both specs.

6 COMMISSIONER JOHANSON: Okay, thank you. And I
7 would now like to turn to the packaging issue. Is there an
8 industry standard for packaging PC tie wire, or is packaging
9 done specifically for each customer, per their
10 specifications?

11 MR. QUIRK: Packaging has evolved over the years,
12 there have been several different packages that have been
13 developed in order to lower the cost and improve
14 productivity at our customer's facilities. But as far as a
15 written ASTM specification for that particular package, no.
16 We do have one that we currently produce and all of our
17 customers purchase it, which is about a five to seven
18 thousand pound coil that was developed over a period of
19 years.

20 There are other packages available that we can
21 also produce if the customer requests it, but it is really
22 basically up to the customer to tell us what he wants the
23 package to look like and we can produce it.

24 COMMISSIONER JOHANSON: Have you received a
25 request to have your packaging modified in any way? Mr.

1 Wagner, have you ever experienced that?

2 MR. WAGNER: No we have not received a request to
3 modify our package and the package that we produce is along
4 the lines of the five to seven thousand pound reel-less coil
5 that Mr. Quirk just described and I wanted to point out to a
6 couple of the Commissioners that have seen PC strand. Until
7 you look closely at it, it has the same shape and the same
8 dimensions as a coil of PC strand.

9 COMMISSIONER JOHANSON: Thank you. On page 8 of
10 your pre-hearing brief, you discuss that Davis Wire has not
11 maintained capacity far in excess of demand based on its
12 historical position in the market. However, regardless of
13 U.S. imports of PC tie wire, wouldn't you agree that Davis
14 is unlikely to see a return to its historical position in
15 the marketplace because it is no longer the sole domestic
16 producer?

17 MR. QUIRK: Well I would assume that the volume
18 would increase over a period of years like it has
19 historically and recognizing that there is a domestic
20 producer now in the business, that market share would depend
21 on our ability to produce, the quality of our product, the
22 relationships with our customers and the eventual price of
23 the product.

24 I can't imagine that in the world that we live in
25 today, the customer base is going to look to a sole supplier

1 like they did perhaps 20 years ago.

2 MR. PLITT: Randy Plitt with Insteel. There are
3 some advantages to using a concrete railroad tie that while
4 that market has been fairly stable with not -- with modest
5 growth I would say, if over the past few years there are
6 some indicators out there that the market share of concrete
7 railroad ties versus wood ties would continue to grow in the
8 future as more replacement ties go to concrete because of
9 their advantages. High-speed rail which seems to, the
10 interest there ebbs and flows, but that would almost
11 exclusively go to concrete ties.

12 But even on your class A railroads, you will see
13 replacement ties continue to -- concrete ties continue to
14 replace wood, so that market share should grow over time.

15 COMMISSIONER JOHANSON: This is a very basic
16 question, but why would one use wood ties anyway? It seems
17 to me, I don't want to denigrate wood ties we are talking a
18 very primitive product. Are they primitive products? Are
19 they processed a certain way that would make them
20 competitive, more competitive with PC ties?

21 MR. PLITT: It is certainly a traditional product
22 the wood, I would say the cost of the wood ties is less than
23 the concrete tie, however the life expectancy is
24 considerably shorter. So you are going to have to replace
25 it more. The replacement activity, that process to replace

1 the tie is an expensive one, so if you get a lot longer life
2 out of the concrete tie, you are going to dramatically
3 reduce those replacement costs.

4 And there is some other advantages to
5 it as well in terms of the speed the trains can travel over
6 a concrete tie versus wood. The environmental impact of a
7 wood tie versus a concrete, et cetera.

8 COMMISSIOENR JOHANSON: Mr. Wagner?

9 MR. WAGNER: I was just going to add that if you
10 are replacing a relatively short section of track that was
11 already wood, you know you wouldn't have a train on wood,
12 wood, wood, concrete, concrete, wood, wood, wood, so there
13 are some limitations on how the replacement happens.

14 But if they have a long enough stretch of track,
15 then the typical decision would be to get a longer lasting
16 product, better life-cycle cost, and that is concrete.

17 COMMISSIONER JOHANSON: Mr. Quirk would you like
18 to add something?

19 MR. QUIRK: I think I have some ideas about and
20 have been given information by the industry. A concrete
21 tie will last 30 to 40 years. A wood tie about 7. So if
22 you recognize that concrete ties cost more, they don't cost
23 that much more and that's the reason that we see this trend
24 to concrete ties. As they build new lines, that has been
25 the major consumer of concrete railroad ties.

1 If they are building a line say from Los Angeles
2 to Chicago and it is brand new, it will be concrete ties,
3 because they will just last longer and in the long run they
4 don't have to replace them quite as fast. They get better
5 gas mileage, or fuel mileage on their trains and they can
6 run faster. The train can run at a higher speed.

7 COMMISSIONER JOHANSON: If you can refresh my
8 memory, I read through the material, but there is a fair
9 amount to get through. It's my perception that the growth
10 in the PC tie wire industry is not very high, it's maybe up
11 a bit, but you don't foresee a big spike?

12 MR. QUIRK: I wouldn't say we see a big spike. I
13 think we see a slow moderate growth, like we have for the
14 last 20 years. And a lot of it will depend as Richard and
15 Randy have discussed, how much impact any high-speed rail
16 plans that are all over the country, how they get funded and
17 if they get built.

18 There are varied independents in the industry as
19 to whether or not that will occur. If it occurs, that
20 growth would be more significant than it would be if it is
21 just replacement ties. There's about 16 to 18 million ties
22 replaced a year, wood ties with concrete at this time. The
23 growth would come on new lines.

24 MR. LUBERDA: Commissioner Johanson I just wanted
25 to add that I think the public record shows the Rail Tie

1 Association is looking at about an 8 to 9% growth in
2 concrete ties in 2014 over 2013.

3 COMMISSIONER JOHANSON: That's fairly high.

4 MR. LUBERDA: Yeah, it's reasonably high. It's
5 better than it has been, but they are looking at about a --
6 that's their prediction based on surveys they take in the
7 industry. Whether that actually comes true or not, I guess
8 we will see but they are predicting an 8 to 9%, I think it's
9 about 500,000 new concrete ties over the previous amount
10 which was about I think 5.3 million.

11 COMMISSIONER JOHANSON: So it's clearly not a
12 stagnant market?

13 MR. LUBERDA: No.

14 COMMISSIONER JOHANSON: One reason I'm bringing
15 all of this up and I'm spending a fair amount of time on it,
16 but I was actually at a Christmas party one year speaking
17 with a former Commissioner before I became a Commissioner.
18 And we were talking about railroads for some reason and he
19 pointed out that the number of rail lines has actually been
20 decreased in the United States in recent years. For some
21 reason there are a number of rail lines that have been
22 pulled out.

23 Have those been replaced with new lines? Or
24 what is happening there? Because I would think that the
25 growth of rail lines in the United States would be higher

1 overall? We have a growing economy right?

2 MR. QUIRK: Well that's true. But the new lines
3 that they are putting in are heavy rail lines to haul coal,
4 say from the Midwest, you are reading about the oil,
5 railcars and that sort of thing. That's what the major
6 railroads, the class A railroads are focusing on. What they
7 are getting away from is short hauls where trucks are more
8 efficient. Where trucks are faster, the service is better,
9 so there are some older lines that are being put out but
10 when -- taken out of service, but when they build the new
11 one, they build a big one.

12 So that's where we see the growth. I don't think
13 that the replacement of short spurs is a significant problem
14 for the industry.

15 COMMISSIONER JOHANSON: Okay well thank you, my
16 time has expired. You all have helped me to understand more
17 broadly what's going on in the industry and I appreciate it,
18 thank you.

19 CHAIRMAN WILLIAMSON: Thank you, Commissioner
20 Broadbent?

21 COMMISSIONER BROADBENT: Thank you. I want to
22 thank the witnesses today. Mr. Quirk, continuing on with
23 that questioning, where do you see major projects on the
24 light rail, potentially?

25 MR. QUIRK: The light rail projects, the major

1 one would be California. And as a matter of fact,
2 depending on who you talk to in the industry, there is some
3 ground being broken in the Central California Valley to
4 start the rail bed. Now, the question is whether there is
5 going to be enough funding to put some concrete railroad
6 ties and some rail down and some stations along the way to
7 get that completed.

8 But the industry feels that within three to five
9 years, depending on the funding from Congress, and that's
10 where the money is going to have to come from, there could
11 be significant growth in California. There has been talk
12 of a line from Cleveland to Chicago, there's some
13 infrastructure work that they want to do on the eastern part
14 of the United States.

15 Amtrak has some issues that need to be addressed
16 as far as rail lines, but again it's all dependent on
17 funding. Now the industry is making plans internally, our
18 customers, to develop processes and where they would put
19 facilities if they were to wind up furnishing ties to a new
20 light rail line. But the information is rather public
21 about where these lines may well be, but the major one that
22 most people are talking about is in California.

23 COMMISSIONER BROADBENT: And is that dependent on
24 the surface transportation funding?

25 MR. QUIRK: Yes.

1 COMMISSIONER BROADBENT: And that's pending at
2 this point, Congress is -- ?

3 MR. QUIRK: It has been for some time. Like
4 anything, it's very political at this point and it has been
5 stalled for a couple of years, but they are spending money
6 in California to begin to do -- buy right-of-ways, so
7 someone has some underlying feeling that they will move
8 forward with the California line at some point.

9 COMMISSIONER BROADBENT: Could California fund
10 this without the federal funding?

11 MR. QUIRK: No, it's too big.

12 COMMISSIONER BROADBENT: Okay and that line goes
13 from - -

14 MR. QUIRK: Goes from actually San Francisco down
15 to L.A., down through the Central Valley of California.
16 It's a big project.

17 COMMISSIONER BROADBENT: Okay and then the line
18 from Cleveland to Chicago, is that for coal?

19 MR. QUIRK: Yes it is, basically for coal coming
20 out of the Bakken and some of those areas, Wyoming, they will
21 bring coal into say Cleveland and then they will funnel into
22 Chicago. A lot of the lines, but they are not light rail,
23 that is a class A railroad line. The light rail line is
24 basically just designed for people. And there's one in
25 Florida, they are talking about a light rail line in

1 Florida.

2 But the class A railroads fund those expansions
3 themselves. The Burlington, Northern, UP, the CSX, they
4 actually fund their own expansion and their capital
5 expansion programs.

6 COMMISSIONER BROADBENT: Okay and then, but you
7 did say that the line is bringing coal from Wyoming to
8 Cleveland and then to Chicago?

9 MR. QUIRK: Um hum, sure.

10 COMMISSIONER BROADBENT: Okay and then how about
11 the oil transportation situation, is there any more demand
12 since we are not building pipelines for train transport of
13 oil?

14 MR. QUIRK: There has been significant demand
15 from the area in the Midwest, upper Wyoming, all the way out
16 to the west coast and there is three or four proposals now
17 to build oil ports, which would be fed by rail lines in
18 Washington and/or Oregon and possibly one in British
19 Columbia. That's all subject to environmental studies,
20 subject to complaints by people for trains running through
21 their cities, and so on.

22 But they are currently moving oil by rail from
23 that upper Midwest area, Wyoming in particular, to the west
24 coast. They get bottle-necked rather quickly so they need
25 new rail lines to do that. That would be probably a union -

1 - not a Union Pacific project, it would be more a Burlington
2 Northern project, because that seems to be the area that
3 most of their lines are.

4 COMMISSIONER BROADBENT: Okay, so you can project
5 the demand easier in the private market versus the light
6 rail?

7 MR. QUIRK: Yes.

8 COMMISSIONER BROADBENT: And then is the demand
9 in each of these sectors the same, I mean do you use
10 basically if you are going to build a new class A railroad,
11 you would use the same amount of ties as you would the light
12 rail, or is light rail using more ties?

13 MR. QUIRK: Ties for a light rail or high speed
14 rail require less steel, they are a lighter tie, because
15 they are not carrying the heavy weight. The class A tie, as
16 they call it, is used for heavy loads, coal, that sort of
17 thing.

18 COMMISSIONER BROADBENT: Okay really interesting,
19 thank you.

20 Excuse me, this I think would be for Mr. Wagner, from
21 Insteel. As you prepare to enter the PC wire market, what
22 sort of research did you need to do, can you tell me how
23 that sort of came about?

24 MR. WAGNER: That market we had had our eye on
25 for some time. We had made regular informational calls on

1 both of the major producers over a long period of time and
2 when we started to see the trend, or at least the publicity
3 of high speed rail, we felt that there could be a large jump
4 in demand.

5 Now, obviously if you look at that now, it didn't
6 happen the way it was being publicized it could happen, but
7 during that time in 2009 you know as we were looking at
8 that, at the same time, the major customers indicated a
9 desire to have a supplier so we then went ahead and entered
10 the market.

11 So the research that we did was basically what we
12 could find online about railroad ties in general and the
13 information we could get from Rockland CXT.

14 COMMISSIONER BROADBENT: And did you have the
15 sense that they were talking to potential foreign suppliers
16 as well to give them more supply?

17 MR. WAGNER: No, they did not mention foreign
18 supply at the time.

19 COMMISSIONER BROADBENT: Okay and you got into
20 this in what year?

21 MR. WAGNER: We began production in 2010 and the
22 discussions kind of culminated in 2009 so it was in that
23 period of time.

24 COMMISSIONER BROADBENT: And then when did sort
25 of the downturn in the projections for the light rail occur

1 in your forward looking.

2 MR. WAGNER: Well what happened was the projects
3 were just publicized like they were serious projects that
4 could happen and then you would hear the other side of it
5 publicly that maybe it's not and so we didn't see a defined
6 moment where it's on, it's off. And it still could come
7 back on.

8 COMMISSIONER BROADBENT: Right.

9 MR. WAGNER: So it just didn't happen after a lot
10 of you know, particularly after the election in '08, that
11 was one of the major things that you supposedly was going to
12 begin so we didn't want to be outside of that trend if it
13 happened.

14 COMMISSIONER BROADBENT: Okay but you were
15 basically surprised that it didn't actually happen after you
16 got into the business?

17 MR. WAGNER: Me personally? No.

18 MS. CANNON: Commissioner Broadbent, if I could
19 just add, you know the projections that Mr. Wagner is
20 talking about of hoping that this market would take off,
21 which was you know around the time that President Obama was
22 coming in and the light speed rail, high speed rail talked
23 about a lot, was one of the factors but I think you also
24 have to recognize when you look over the period of your
25 investigation, demand was actually stable.

1 So it wasn't that demand dropped, they didn't
2 come into a market where demand was falling and that was
3 their problem, demand was stable. It may not have grown as
4 much as they hoped, but it also didn't drop for them and the
5 problems that they experienced in terms of the declines in
6 sales from when they first entered the market were not
7 related to demand, they were related to the imports
8 displacing their sales.

9 COMMISSIONER BROADBENT: Okay. This would be
10 both for Davis and for Insteel. Could you speak to me a
11 little bit about how the Buy America amendments support your
12 production and purchases of your product?

13 MR. WAGNER: In PC tie wire, it's very, very
14 little. Our estimate of the Buy America demand that would
15 make its way to us is 8 percent or less.

16 COMMISSIONER BROADBENT: Mr. Quirk?

17 MR. QUIRK: I would concur with what Richard
18 said. It's -- we always estimated it was 10 percent of the
19 market and some of the customers are more serious about
20 complying with the Buy America Act because there are ways to
21 not circumvent it, but to include that any product -- any
22 steel product in a concrete tie and you manufacture it, it
23 then becomes a small part of the total purchase of a
24 concrete tie so they get a waiver on the fact that they
25 could use any wire.

1 Some are more serious about it than others.

2 COMMISSIONER BROADBENT: Okay, thank you Mr.
3 Chairman.

4 CHAIRMAN WILLIAMSON: Thank you, Commissioner
5 Kieff?

6 MR. KIEFF: I join my colleagues in thanking you
7 for coming today and presenting the materials in advance and
8 your testimony and your arguments. Mr. Rosenthal I can't
9 resist an Agatha Christie send up, thank you Murder on the
10 Orient Express, the victim's poisoned and stabbed, pushed
11 off, shot, I think there are several so you know, I am
12 sympathetic to the hypothetical you are drawing.

13 It makes for a great read. It makes for a great
14 TV. show. Let's push on it a little bit to see if we can
15 understand what's really going on. Let me I guess start by
16 asking a fact question. The other side suggests that there
17 are concerns about quality. You have each in different ways
18 expressed your factual statements that you have not observed
19 direct quality problems with your products and you have not
20 observed others speaking directly about your products as
21 having had specific episodes of actual failure.

22 Have you nonetheless, heard others express
23 concerns or apprehension about quality, even if they could
24 not point to specific episodes of failure?

25 MR. QUIRK: Mike Quirk. I would say just the

1 opposite. From others in the industry, they have told us
2 or informed us that in their opinion, our quality is more
3 than significant as far as their requirements and they have
4 expressed no apprehension about using our wire in their
5 concrete tie and at some points have also suggested that
6 perhaps any issues that were in the past, were not the fault
7 of the wire but of the manufacturing process.

8 COMMISSIONER KIEFF: Okay, let me ask this then.
9 Is it your testimony today that the first time you heard of
10 apprehension by the purchasing masses, was your opponent's
11 argument in this case?

12 MR. QUIRK: Yes.

13 COMMISSIONER KIEFF: Mr. Hillebrandt, the same
14 with you?

15 MR. HILLEBRANDT: I would concur with that,
16 that's the first time I heard about the apprehension. I
17 would also like to add why I don't think there is
18 apprehension in the marketplace. We make a lot of wire
19 products. Some are easier to make than tie wire some are
20 more difficult.

21 We have sophisticated processes, we have good
22 quality systems and I really think that's what a customer
23 looks at. And when he looks at our things, if there was
24 apprehension that apprehension goes away.

25 COMMISSIONER KIEFF: Mr. Plitt, that's the first

1 time you heard was this case? The argument by your
2 opponent?

3 MR. PLITT: Insteel has not had to my knowledge,
4 any significant quality issues that has been brought to our
5 attention. In fact our boots on the ground, if you will,
6 our outside sales people in conversations with various
7 general managers of the tie manufacturing facilities, you
8 know, they directly expressed to us a lack of quality issues
9 around our product.

10 COMMISSIONER KIEFF: Now I'm always concerned
11 about people overstating and I wouldn't -- I used to be a
12 law professor, we would get reviews from our students. My
13 reviews were good, but there were always students every
14 semester who were in the bell distribution on one tale or
15 the other. There were some who said, "boy he's really good"
16 and some who said "boy he wears bad ties and is a bad
17 professor." Have you never gotten a bad review? Is it --
18 am I hearing that you only hear amazing things from your
19 customers?

20 MR. HILLEBRANDT: You know, I don't believe
21 there's anything in manufacturing that has zero defects. I
22 think every manufacturer, us included, has problems where
23 you have defects. Whether they are process control issues,
24 whether they are inputs that go into that process, whether
25 they happen in transportation, you know, there's always

1 going to be issues, to say that we are lily white, I don't
2 think anybody here is saying that.

3 More importantly it's how you respond when you do
4 have a problem. You have the systems in place to correct
5 the problem and make the problem transparent to the customer
6 and I think that's what were are touting, is we have the
7 ability to do that.

8 COMMISSIONER KIEFF: Well I guess to stick with
9 our movie references, is this Casablanca and are we shocked
10 that there is gambling going on here? Have you really
11 never heard anybody express apprehension about your products
12 in a way where you, to the best you can as judges of human
13 character, think that as you look into their hearts, their
14 souls and their minds, which of none of us can do perfectly.
15 You are nonetheless, perfectly convinced that the only
16 factor they looked at was price?

17 That there was no concern, no apprehension
18 whatsoever as a factual matter about even the taint or
19 shadow or penumbra or hint or width of a penumbra of a
20 concern about quality?

21 MR. PLITT: I think it should be noted that there
22 is an ASTM specification that is relatively, well not
23 relatively, it's very specific in what you have to do to
24 produce this product. You know the product is what it is,
25 there is samples taken, you know on any given continuous

1 manufactured length that would be representative of samples
2 and tested and other tests, for the low relaxation, et
3 cetera.

4 The product is ultimately field tested, meaning
5 you know, every foot of the product in the stressed bed,
6 either works or it doesn't work and so if we were having
7 rampant quality issues, we would certainly have heard about
8 it.

9 COMMISSIONER KIEFF: Okay so then a follow-up
10 question for the lawyers and maybe this could come in the
11 post-hearing as well, because again I certainly don't know,
12 I haven't talked to any of your customers and I am quite
13 convinced that you are here in all earnestness saying you
14 are proud of a good product and you have good reasons for
15 being proud of a good product.

16 I don't mean to make light of that, I just mean
17 to confess that as a decision maker, I am being asked to
18 make a decision and I have to have some reasons for the
19 decision. I have to have confidence in it and for me it
20 strikes me as at least conceivable that, so a third party
21 group of folks out in the world might look at any of us in
22 this room askance and we might notice it and be sad about it
23 or we might not notice it, be none the wiser, but still not
24 enjoy the lack of adulation that comes from their possessing
25 a negative view of us.

1 So Gary Becker passed away this past weekend. He
2 got his Nobel Prize in economics for studying the rational
3 reasons why people might make decisions to satisfy their
4 irrational desires. In his case it was invidious
5 discrimination, racism, that was one of the things he was
6 studying, but it could be fear about a lawsuit involving a
7 product, involving some components, involving some stuff
8 that maybe you made.

9 There could be that apprehension out there in the
10 marketplace. It could be driving consumer behavior and the
11 question for the post-hearing brief is can you explain to us
12 how we should factor that into our analysis, if at all?

13 MR. ROSENTHAL: Commissioner I do want to respond
14 prior to the post-hearing brief. First of all fortunately
15 there is no ASTM standard for neckties. There is however,
16 for tie wire and as you have heard, the producers here meet
17 that standard. But without trying to look into anyone's
18 heart, what you need to do is actually look at the objective
19 facts here.

20 The claims about the lawsuit between Union
21 Pacific and its supplier of railroad ties as Commissioner
22 Johanson pointed out, that is what the dispute was about.
23 That's point number one, you need to focus on that. And
24 that reputational issue had nothing to do with the Davis
25 product.

1 The most important facts to look at here is what
2 happened after those parties had their dispute.

3 Union Pacific purchased railroad ties from other
4 suppliers who used the Davis PC tie wire in their railroad
5 ties. Union Pacific, you have heard testimony, was aware
6 of the source of the ties, so there was no reputational
7 issue that had spread as a result of that lawsuit that
8 prevented the ultimate purchaser from buying products
9 containing the Davis ties.

10 The last point I want to make real quickly here
11 and Mr. Wagner can get into some, in the next round, is that
12 they make the same product using the same process. If they
13 thought there was a problem, they would not have gotten into
14 the market at that point.

15 COMMISSIONER KIEFF: Thank you Mr. Chairman.

16 CHAIRMAN WILLIAMSON: Thank you, Commissioner
17 Schmidtlein?

18 COMMISSIONER SCHMIDTLEIN: All right thank you,
19 good morning. So as Mr. Rosenthal mentioned, this is my
20 first hearing, having been sworn in last week so I am very
21 happy to be here and I want to thank all of the witnesses
22 for coming this morning as well.

23 I was very excited to see that I was not going to
24 be the first one questioning when the random order was
25 produced of who went first, but now I realize that when you

1 are the fifth, you know, all of the questions have been
2 asked, so. But I still have a few. Okay, I want to
3 understand U.S. demand and the excess capacity issue and so
4 one question I have is in the staff report it cites to the
5 Trade Association's demand forecast for 2014 and 2015 in the
6 number of concrete rail ties.

7 And so I was wondering, you know, the capacity
8 numbers have been presented in pounds, I believe, so can you
9 either now, or in your post-hearing brief, translate that
10 number for us in terms of what that forecast for U.S. demand
11 is for rail ties into tie wire, unless you can answer it
12 now.

13 MR. QUIRK: I don't have a calculator right in
14 front of me but we can address it in the post-hearing brief.
15 We use a rough figure of about ten pounds of wire per tie.

16 COMMISSIONER SCHMIDTLEIN: Okay, that's a help.

17 MR. QUIRK: Now that can vary a little bit,
18 depending on the manufacturer and whether it is a class A
19 railroad and whether it is light rail, but as a rule of
20 thumb if you wanted to know roughly what the market size was
21 or could be, we would say ten pounds per tie.

22 COMMISSIONER SCHMIDTLEIN: Okay and so sort of
23 following up on -- Commissioner Johanson asked a question
24 about the historical capacity utilization for Davis, I think
25 specifically, and you know Insteel can answer this as well,

1 or maybe one of the lawyers. But given the excess capacity
2 and the industry, how should we consider capacity
3 utilization, especially when you look at what overall U.S.
4 demand is every year.

5 You know, how does that fit into the ITC
6 analysis?

7 MS. CANNON: It's an important factor here and I
8 think that you do have to look at the historical context
9 because you only have a snapshot of years here. Before the
10 2010 period, Davis was using these lines. It was operating
11 at a very high capacity of utilization level, and we can get
12 you those numbers if you want.

13 And even perhaps more interestingly, after the
14 case was filed and some of the sales have come back, the
15 utilization rates of the industry have also gone up, so the
16 perception that the industry is sitting around maintaining
17 all of this idle capacity for no particular reason that
18 really couldn't ever be put to use is incorrect.

19 You see how much of the market right now the
20 imports have and if those -- that part of the market was
21 freed up for the domestic industry to be able to supply,
22 they would want to have capacity and would need capacity to
23 supply it, even now. Let alone, if some of the growth
24 projections that they have identified have occurred, so it
25 might be somewhat higher than where the actual demand is

1 today, but that may be there later, that's the hope.

2 But certainly even today their ability to ramp up
3 that capacity to a far higher level exists but for the
4 imports.

5 COMMISSIONER SCHMIDTLEIN: All right, the next
6 thing I was going to ask about is the qualification process
7 and I was wondering if someone could you know, I know that I
8 think Mr. Wagner talked about when you started production
9 you were qualified pretty quickly in 2009 -- 2010, but if
10 someone could just walk me through that process in terms of
11 you know, do you get qualified for every project.

12 Is it one overall qualification? And then I
13 want to know how this fits in with when a purchaser is using
14 a proprietary standard so it is not an ASTM standard, it is
15 something unique to them, do you have to be re-qualified
16 again?

17 MR. WAGNER: Our experience was upon agreement
18 about price, we were requested to send a sample. And in
19 the case of the proprietary product using customer,
20 concurrent with us sending the sample was a person from
21 their quality unit coming to our plant to inspect our
22 process.

23 So the samples were investigated, the
24 plant was investigated and within the time period of two
25 weeks or less we were deemed qualified. In the case of the

1 non-proprietary wire using customer that simply wants ASTM
2 881, you know without additional features, the qualification
3 process was once price was agreed upon, a request for a
4 sample which we provided and within a period of time of less
5 than one week, we were deemed qualified.

6 And once qualified, there was no
7 re-qualification. Remaining qualified, it would imply that
8 you do a good job.

9 COMMISSIONER SCHMIDTLEIN: You have actually
10 answered, I think my second question was, when do you
11 negotiate price and that's the first thing that you
12 negotiate? Then you could qualify?

13 MR. WAGNER: Then they would agree to get a
14 sample and qualify you.

15 COMMISSIONER SCHMIDTLEIN: Okay and was that the
16 experience for Davis as well?

17 MR. QUIRK: Yes it was. We were qualified for a
18 long period of time so our discussions basically revolved
19 around price most of the time.

20 COMMISSIONER SCHMIDTLEIN: You know as we have
21 discussed this morning, the purchasers have alleged that
22 there were multiple non-price factors that led them to
23 increase their purchases of the subject imports and you have
24 addressed many of them in the brief and today. Can you also
25 respond to the assertion that they increased their purchases

1 to diversify their supply?

2 This was an allegation that has been made, I
3 think in the brief.

4 MR. QUIRK: Mike Quirk, well as the market grew
5 we would expect a normal purchaser to try to find another
6 second source, so they had in 2009-2010, the industry
7 apparently felt that Davis needed to have a foil in the
8 market and that's when Insteel was approached by the
9 industry, which they responded to and there were then two
10 domestic suppliers in the U.S. market.

11 I think that that is not -- should not have been
12 a surprise to us nor would it be a surprise to Insteel. I
13 think the addition of the import factor, that came after
14 that and that is when the price structure deteriorated
15 significantly and the other suppliers came in and displaced
16 both of us basically.

17 COMMISSIONER SCHMIDTLEIN: Thank you.

18 MR. WAGNER: And if I may add on to that. At the
19 time of the price pressure from the imports, it was even
20 expressed to us by one of the major buyers that he didn't
21 really want to head down that path, but the price was going
22 to force him to do so. So there was no discussion about I
23 need a third or a fourth.

24 The discussion was these low prices are coming
25 here and these offers are made and if you don't need them we

1 are going to have to buy from them.

2 COMMISSIONER SCHMIDTLEIN: Okay and then the last
3 question I have it was you talked about packaging and I know
4 you have testified that you can respond to a customer's
5 request for different packaging and I just wondered if you
6 could explain just for my own edification, how that works?

7 Do you, is there, is it difficult to change the
8 packaging?

9 MR. WAGNER: If you are set up already for
10 multiple package types, it is very simple to go back and
11 forth. If you are not and you wanted to go back and forth
12 you would have to set up whichever type you don't have and
13 then you could simply go back and forth.

14 So in the case of Insteel, we only set up for one
15 package.

16 COMMISSIONER SCHMIDTLEIN: Okay.

17 MR. WAGNER: If it had been required to have
18 multiple packages, we could have invested more money and
19 time and engineering to set up for multiple packages.

20 MR. QUIRK: Mike Quirk. Davis is set up now for
21 multiple packages and can furnish whatever package the
22 customer desires.

23 COMMISSIONER SCHMIDTLEIN: And remind me, I know
24 this was discussed a little bit earlier, that was -- that
25 hasn't been an issue with the buyers, they want different

1 packaging or -- ?

2 MR. QUIRK: No, if we go back historically we
3 have had five different package types developed in the
4 industry over the last 25 years, so it's an ongoing
5 discussion or has been over the years of how do we improve
6 our package to lower the cost at our customers plant and
7 improve their efficiency.

8 And go from small coils to big coils to packages
9 that don't require heavy spools to be returned and increase
10 the cost to us and to the customer. So when I say that we
11 have the option to produce whatever they want, we can. Or
12 we can put it in on a spool, we can put in a big pack, we
13 can put it in a big coil, or we can put a little coil, but
14 that really is determined by the customer.

15 If they had asked for it, we would make it.

16 COMMISSIONER SCHMIDTLEIN: Okay.

17 MR. HILLEBRAND: I think that, excuse me it's Jim
18 Hillebrandt. With regard, just one comment on the
19 packaging. If you look at the big package that they are
20 looking for now in claiming the package that everybody
21 wants, it really diverts back to the original package that
22 we developed for the industry in the very beginning.

23 The larger diameter hoop-type package that we
24 call it and that's really what they are talking about so
25 when we, like Mike said, we are set up to do either or.

1 COMMISSIONER SCHMIDTLEIN: Okay.

2 MR. PLITT: Excuse me, Randy Plitt with Insteel,
3 very briefly. The manufacturers of the railroad ties are
4 set up to use the packages interchangeably.

5 So there is not a facility that I am aware of that would be
6 constrained by an either/or. Either the lighter larger
7 diameter hoop or the reel-less coil like we both currently
8 manufacture.

9 COMMISSIONER SCHMIDTLEIN: Okay thank you very
10 much. Thank you Mr. Chairman.

11 CHAIRMAN WILLIAMSON: Thank you. Just staying
12 on that packaging, are they making the larger hoop, when
13 they say they have got better packaging, is that what they
14 are talking about?

15 MR. PLITT: I believe so yes.

16 CHAIRMAN WILLIAMSON: The packages that we have
17 seen are the larger hoop, okay. And as you have said, your
18 customers aren't saying, "hey we want one like that from
19 you?"

20 MR. PLITT: Not yet, although we could do it if
21 they wanted.

22 CHAIRMAN WILLIAMSON: Okay, thank you. I was
23 just wondering how do you respond to counsel's
24 representation this morning, that Camesa will soon have no
25 further capacity due to the, it's new facility in Mexico and

1 I guess they are saying their demand in Mexico is growing so
2 fast that they - -

3 MR. QUIRK: This is Mike Quirk. We are aware of
4 the relationship with the Rocla plant in Mexico and Camesa.
5 I question whether or not that facility is going to absorb
6 all of Camesa's capacity in Mexico, I think they have
7 available capacity to ship to the United States.

8 They have made sales calls on other
9 concrete rail type producers in the United States recently
10 in an attempt to sell them wire. So if you were constrained
11 in capacity, I would doubt that you would want to solicit
12 business from others.

13 CHAIRMAN WILLIAMSON: Thank you Mr. Wagner.

14 MR. WAGNER: I would add to me the obvious point
15 that hits me in that question is that they would simply not
16 spend the money, time and effort to respond to something
17 like this if they were booked out satisfactorily elsewhere.

18 CHAIRMAN WILLIAMSON: Okay, thank you. I want
19 to go back to this quality question. How does breakage
20 appear in your product? Someone talked about breakage, do
21 you see it because when the concrete tie is finished the
22 strand is not as strong or do you see it before you put the
23 strand in the concrete?

24 MR. PLITT: The breakage would occur most likely
25 in the producer's facility, if a break was going to occur

1 there in one of two places in the free span of the stressed
2 wire or at the chuck or bulkhead. And depending on a number
3 of factors.

4 CHAIRMAN WILLIAMSON: By producer you mean the
5 manufacturer of the strand, the actual strand?

6 MR. PLITT: No, not of the wire, of the tie. It
7 could happen, breaks could happen in our plant, most likely
8 during the stress relieving process when the wire is under
9 tension and going through a thermal treatment.

10 CHAIRMAN WILLIAMSON: But you would catch that
11 before you ship it?

12 MR. PLITT: Yes, that product would never go to
13 the customer. Product that lands at the customer's
14 facility would break, like I said, either in the free span
15 or at the chuck. Now if it breaks at the chuck, that's a
16 pretty clear indication of some type of mechanical damage.
17 If it were to break in the free span where it is stressed,
18 that would be the time it occurs so prior to pouring
19 concrete on it and there could be a number of factors that
20 cause that break.

21 It could still be mechanical damage. It could be
22 a number of other things.

23 MR. HILLBRAND: This is Jim Hillbrand. Just to
24 add to what Randy said. We kind of classify breaks in three
25 areas and Randy touched on those. One of them is as you

1 are processing the steel rod, which is the input that makes
2 the wire, we weld and it is a continuous process.

3 One of the things you can have is a bad weld that
4 might break further down the line in the process. The
5 second thing would be rod defects. Inclusions in the rod or
6 other defects and so forth.

7 And the third thing as Randy said, what we call
8 mechanical damage, where the wire is nicked or scratched.
9 That can happen in our plant, that can happen in transit and
10 that can happen in the customer's plant.

11 The first two describe usually for the most part,
12 are discovered in our own processes as we go down the line
13 because we have a weak weld and the stress relieving process
14 and the packaging process. That will tend to show up as the
15 rod defects that we did.

16 Now mechanical damage, particularly, we are
17 probably not going to notice that and that is going to show
18 up at the customer's plant. But those are --

19 COMMISSIONER WILLIAMSON: And that mechanical
20 damage would have probably occurred at the customer's plant?

21 MR. HILLEBRANDT: It could have happened in our
22 plant, it could have been mishandled in the loading process.
23 It could have been improperly loaded and the damage, because
24 the coil or whatever shifted in transit and scratched the
25 material which would cause a break. Or it could happen in

1 their plant, or if they mishandled it or rub it, you know,
2 drag it along the floor, the ground, whatever, it can really
3 happen any place for that matter and the mechanical.

4 COMMISSIONER WILLIAMSON: There's an awful lot to
5 talk about your reputation. What about the reputation of
6 the imports? Is there any questions about those? Do
7 people raise questions about them or have concerns?

8 MR. HILLEBRANDT: There has been some issues with
9 some import, but in general I think that the customers have
10 taken care of those themselves. There has been some
11 packaging issues from Mexico. We are aware of those, and
12 there has been some packaging issues from China. And on
13 occasion we were requested to repackage some material from
14 Mexico for Rocla which we did.

15 Another instance we were requested by CXT to
16 repackage some material from China and we declined at the
17 time because we were pretty full. So there have been
18 issues with quality from those suppliers as well, but it is
19 my understanding that if they have questions about quality
20 from those folks, then they don't buy from them anymore, but
21 they continue to buy from these folks, so the quality can't
22 be that bad.

23 CHAIRMAN WILLIAMSON: Okay, thank you. Mr.
24 Wagner.

25 MR. WAGNER: If I may one experience that we had

1 was upon you know, hearing of the Chinese prices and having
2 a relationship with the people at CXT and voicing our own
3 concerns because we had plenty of experience with China in
4 other products, we saw our quantities dwindle way down and
5 some months later, I got a call from our key person at CXT
6 and he wanted to know how quickly we could ramp that
7 production right back up.

8 And I said well what happened? And he said well
9 the prices were great, but those guys screwed us, this stuff
10 is junk and we may need some product for a while. So I know
11 that there was a period of time during the POI where the
12 belief by them about China was that the stuff wasn't very
13 good and they expressed being very unhappy just on the phone
14 with me that even the people selling the product didn't seem
15 to want to answer the phone.

16 So I wouldn't say that they got into this without
17 problems, they certainly did. Now with that said, that
18 supplier returned, the prices kept going down and in the
19 subsequent conversations, you know was apparently the
20 superior service and quality you get here isn't worth paying
21 for and he said well we just aren't going to pay for it.

22 So that's kind of how that went from our
23 experience.

24 CHAIRMAN WILLIAMSON: Okay, thank you. Let me
25 turn to the issue with Union Pacific. I am just having a

1 little bit of trouble understanding, and some of this may be
2 proprietary because I guess there was a settlement so I
3 don't know how much can be talked about it. And if so, you
4 are shaking your head Mr. Rosenthal, you think maybe
5 post-hearing you could give me a better explanation of
6 what's actually going on here?

7 MR. ROSENTHAL: There are constraints on what can
8 be said, either in public or in proprietary but we will do
9 the best we can is all I can say, but I would say go back
10 and look very closely at Mr. Hillebrandt's statement, both
11 in the direct testimony and his answers to questions and my
12 response to Commissioner Kieff about what was going on with
13 respect to the perception of the quality and we will do our
14 best to answer this question further in our post-hearing
15 brief recognizing the constraints.

16 CHAIRMAN WILLIAMSON: Okay.

17 MS. CANNON: Chairman Williamson I think I can
18 add a little more and this also goes to Commissioner Kieff's
19 question earlier. I think you need to back up and recognize
20 that this dispute about the quality and he said whatever
21 factors of it really don't effect the sales trends you are
22 seeing in this database.

23 They don't explain them. When you break this
24 down and we have gotten a request from the Investigator Miss
25 Newell, to break down and give you our sales by producer, by

1 customer, over the period of this investigation which we
2 will do and when you see that, you will see that you had a
3 dispute.

4 Let's assume that they were right, they are not
5 agreeing that they were right, but let's just take that off
6 the table and say quality problem, Davis which is what Rocla
7 has accused, Davis had some quality problem with safety.
8 You will not see in the volume trends that sales by Davis
9 were going down to CXT over the period because of the
10 volume, because of anything at all.

11 You will see sales going up. Okay. Let's look
12 at Davis and Rocla, you will see that Davis's sales in this
13 period were going up to Rocla for a period right after this
14 dispute that they refer to, this quality issue.

15 If that had been, this big reputational quality
16 thing, they should have stopped buying from them. You look
17 at the data base carefully, that's not what happens okay.

18 And let's look at Insteel, read their brief very
19 carefully. Look to see if they tell you anything about
20 Insteel quality. And then look at the Insteel sales and the
21 trends that we are going to show you in the data base.
22 Insteel had nothing to do, they never even alleged there was
23 anything about the Union Pacific incident and Insteel and
24 yet why are Insteel's sales dropping and their market share
25 dropping?

1 So when you look at this period, I think that
2 that whole issue really can be seen for the red herring that
3 it is, because it is not effecting the injury in the period
4 of investigation whatsoever.

5 CHAIRMAN WILLIAMSON: Okay.

6 CHAIRMAN WILLIAMSON: Mr. Wagner?

7 MR. WAGNER: I just want to add, you know, during
8 the period that we were getting into the business, you know,
9 these very discussions about wire and what makes a good tie
10 were had, because our concern at the time was we're going to
11 make the exact same product that we knew Davis was making.

12 And we had to have a lot of assurance that that
13 system worked with the wire produced to the spec, and we
14 were so assured. And the implication there was that ties
15 had failed, not somebody's wire. So, we even got that
16 independently during our entry to the market about the Davis
17 product.

18 CHAIRMAN WILLIAMSON: Good, okay. Thank you for
19 those answers, and I apologize for going over. Mr. Pickert?

20 COMMISSIONER PINKERT: Thank you, Mr. Chairman.
21 I just have a couple of follow-up questions.

22 First of all, is the existence of predominant
23 underselling definitive proof that there were no adverse
24 quality conditions for the domestic product?

25 MR. HILLEBRANDT: My history in business is when

1 we have a quality product and we are a superior quality and
2 that's an advantage, we usually charge a premium for it.
3 And if it's truly a quality issue here, why would you so
4 dramatically undersell the market?

5 COMMISSIONER PINKERT: Thank you.

6 Other comments on that issue? Mr. Wagner?

7 MR. WAGNER: From Insteel's point of view, I
8 mean, our commercial policy is on any of our products if
9 we're approached because of the quality of the competitor,
10 we expect to be paid as much or more. I mean it's an end of
11 story kind of thing. We wouldn't have a customer call us
12 and say we've had a quality problem. Can you come help us
13 investigate this? We want to buy your product instead of a
14 competitor. And by the way, you've got to chop your price
15 10 or 20 percent. We wouldn't do it.

16 COMMISSIONER PINKERT: Thank you. That's
17 helpful.

18 Any other comments on that issue on the panel?

19 (No response.)

20 COMMISSIONER PINKERT: Okay, well, just from the
21 point of view of Commission practice, is that treated as a
22 definitive demonstration that they're not quality problems,
23 Mr. Rosenthal?

24 MR. ROSENTHAL: I don't think there's anything
25 definitive in your practice, but what's today? No,

1 seriously, I would not say it is definitive, but it is one
2 more bit of information that you should consider as you are
3 making your determination on a number of facts.

4 MS. CANNON: Commissioner Pinkert, I would also
5 add that while probably there's nothing definitive in the
6 practice, there are a number of cases that we cited in our
7 brief where the Commission has recognized that where
8 arguments have been made that a product was a superior or a
9 premium product that there's underselling going on, that
10 that underselling evidence undercuts and undermines
11 arguments of the superiority of the product because you
12 would not expect that, and that's a pretty consistent
13 pattern of findings by the Commission in several cases that
14 we've identified in our brief.

15 COMMISSIONER PINKERT: Thank you.

16 Now, if the agency were to get to a threat
17 analysis, have you looked at the volume and price trends for
18 the two countries to analyze whether cumulating would be
19 appropriate in that circumstance?

20 MS. CANNON: We can address the volume and price
21 trends more fully in the brief because some of that is also
22 proprietary. Everything is proprietary in the record, but
23 we do believe that the behavior of the imports, their
24 persistent underselling by both the large market share that
25 each has seized and the likelihood that this would continue,

1 given the unused capacity does give enough commonality in
2 the behavior and trends of the imports to support
3 accumulation in a threat context as well.

4 MR. ROSENTHAL: I'd have to go back and look, but
5 I don't think the Respondents have contested that
6 accumulation's appropriate. They may not have addressed it
7 in the threat context, but their arguments don't seem to be
8 addressed to that at all, and I think they've conceded
9 accumulation is appropriate.

10 COMMISSIONER PINKERT: Thank you.

11 With that, I have no further questions for the
12 panel. I appreciate the testimony today, and I look forward
13 to the post-hearing submission.

14 CHAIRMAN WILLIAMSON: Thank you. Mr. Johanson?

15 COMMISSIONER JOHANSON: Thank you, Mr. Chairman.

16 As a result of the Department of Commerce's final
17 negative determination with respect to imports from
18 Thailand, Thailand is no longer a subject country.

19 In light of Commerce's negative determination
20 with respect to Thailand, can non-subject imports be pointed
21 to as a cause of injury?

22 MS. CANNON: The answer, surprisingly, maybe to
23 you is yes. We think that those are a cause of injury too.
24 That's why we brought the case against Thailand originally.
25 So, we're not contending that simply because Commerce has

1 found them not to be dumping that magically they are not
2 injuring us.

3 What we are saying is that under the statute, and
4 level that you are supposed to look at when you attribute
5 injury -- when you do the injury analysis and the causation
6 analysis, all you have to find is that the subject imports,
7 here China and Mexico, are causing material injury within
8 the meaning of the statute, irrespective of whether
9 something else is also causing injury.

10 You don't want to attribute injury caused by
11 Thailand to these two countries. That's the admonition that
12 you have in the law, but we're not asking that you do that.

13 We've been very specific in our arguments, and
14 will point you further in our post-hearing brief now that we
15 know that it's only China and Mexico we're looking at here
16 to the lost sales, the underselling, the volume trends, and
17 that was all in the charts and the handout that I presented
18 earlier is just China and Mexico. And you will see the
19 overwhelming injury they have caused, whether or not China
20 or Thailand is also responsible for some of these problems
21 and that's the standard that we need to meet. We think that
22 is overwhelming met in this case.

23 COMMISSIONER JOHANSON: All right, thank you, Ms.
24 Cannon.

25 Purchasers did not identify any price leaders in

1 the U.S. market. In your opinion, are there price leaders
2 in the U.S.P.C. tie wire market?

3 MR. ROSENTHAL: Mr. Johanson, just to clarify the
4 question, do you mean by "price leader," the company or
5 country that leads the price down or if you wouldn't
6 mind ^^^^

7 COMMISSIONER JOHANSON: I would say think you'd
8 say leads the price down, yes. And if you, just for the
9 reference, if you want to look at this further, I got this
10 from the staff report at page 5.6.

11 MR. QUIRK: Well, the price leader during this
12 timeframe, actually, turned out to be the Chinese and the
13 Mexicans because there was a price level that was -- that we
14 sold at and that I assume Insteel sold at, and then all of a
15 sudden we had two additional competitors that lowered the
16 price significantly. And I think the evidence shows it took
17 the numbers down rather dramatically in a very short period
18 of time, and they continue to this point until the middle of
19 last year when we filed this suit. They did begin to back
20 away on that price, but the two countries or the two
21 supplies that are "leading" the price are China and Mexico.

22 COMMISSIONER JOHANSON: Thanks.

23 According to the American Market Metal Market
24 data identified in the staff report at page 5.1, "The
25 average monthly price of high carbon steel rod has declined

1 since 2011 through November 2013."

2 To what extent have any price declines in the PC
3 tie wire industry during this period been driven by
4 declining raw material costs?

5 MR. WAGNER: None whatsoever. As we see it, the
6 low price offers from the imports actually began while wire
7 rod was on its way up. So, that was the disturbing thing
8 that we saw was upon trying to collect wire rod increases in
9 the value of our product we were told that not only would
10 that not work, but we had to revisit the prices we had
11 before our wire rod went up to then lower below that.

12 Since then it's been a continued downward offer
13 and low price offers. So, we didn't see any correlation to
14 the value of the rod and the prices of the product in that
15 area during that timeframe.

16 MS. CANNON: Commissioner Johanson, I would also
17 refer you to our Chart 11 in the handouts where we were
18 comparing costs of goods sold to the import prices, and you
19 will see that irrespective of what those costs were doing
20 the imports were consistently, you know, priced below our
21 cost for the most part, the industry could do very little as
22 reflected in their financial results regardless of the
23 fluctuations in wire rod costs. They simply were not able
24 to price at reasonable levels.

25 COMMISSIONER JOHANSON: All right, thank you.

1 And I have one final question, and this deals
2 with China. I know we don't have a whole lot of information
3 on China, but you all have looked into this more so than
4 anyone else in the room, of course.

5 The Chinese economy has expanded significantly in
6 recent years. As far as you know, has this economic growth
7 lead to the expansion of rail lines in China?

8 I'm wondering what would be happening with
9 Chinese tie wire if that were indeed the case?

10 MR. QUIRK: Well, the Chinese infrastructure
11 growth has been rather dramatic from what we can read. We
12 read the same things that everybody else does. But we do
13 know that they are building new rail lines in China. They
14 have tremendous capacity in China to produce this product.
15 There are very few rail lines being built in China or Japan,
16 or throughout that part of the world that use wood ties.
17 They use concrete ties. And they are basically using this
18 system. So, there's a significant capacity by more than one
19 Chinese producer to make this product in China.

20 MS. CANNON: I was just going to add that
21 irrespective of what has gone on in China, and we've watched
22 China, obviously, for many cases recently and observed the
23 growth and expansion in infrastructure. Over this period,
24 you're also seeing more Chinese producers showing interest
25 in this market, making sales into this market, and so

1 obviously, whatever is going on in China is not constraining
2 them from exporting here as well.

3 And we can address some of the specifics from the
4 questionnaire responses in our brief as to their ability to
5 continue to do that.

6 MR. ROSENTHAL: Just one more point on that,
7 again, constrained by the proprietary nature on this data
8 you can see that whatever is going on in the Chinese market
9 for this product there's enough Chinese capacity and desire
10 to ship to the U.S. that they've been able to gain a
11 significant amount of market share in a relatively small
12 amount of time. And there's nothing to suggest that that
13 wouldn't continue absent the relief an order would provide.

14 COMMISSIONER JOHANSON: Anyone else?

15 (No response.)

16 COMMISSIONER JOHANSON: All right. That
17 concludes my questions. I'd like to thank you all for
18 appearing here today, and educating me on a product that I
19 did not know existed until you all filed the investigation,
20 so thank you. Goodbye.

21 CHAIRMAN WILLIAMSON: Ms. Broadbent?

22 COMMISSIONER BROADBENT: Thank you.

23 Mr. Rosenthal, is it available to us, defect
24 rates from the two domestic industry producers? I mean
25 would we have any objective information available to us on

1 that?

2 MR. WAGNER: Commissioner, one thing at Insteel,
3 when we have a product that falls below the spec internally,
4 which can happen, and it does happen, we have a beneficial
5 reuse of that product in another application where it's not
6 tensioned at all. So, we reclassify it and then ship it out
7 as that. So, we don't sell it in this. There's a market
8 for this where the wire is not tensioned. It's used in a
9 completely different application.

10 I don't want to say what we call because we have
11 competition here, but that has kept us very lean on this
12 issue about defects because if something doesn't have just
13 the right indent we can set it aside and ship it for this
14 other reuse in very small quantities but enough to take care
15 of anything that doesn't meet the spec.

16 So when we go through our files, we're not going
17 to really have a reject rate per say, but we could show a
18 reclassification rate, if it's of interest.

19 MR. PLITT: Having said that, there has been a
20 considerable number of tons of that product sold into that
21 alternate market that was prime material. I'm not sure we'd
22 easily be able to identify what we had reclassified due to a
23 substandard indent pattern versus what we just sold because
24 they asked for it.

25 MR. WAGNER: I'm glad that Randy mentioned that,

1 but I want to reiterate that the product is not used in any
2 way like a pre-stressed, concrete tensioning device. This
3 is completely outside a pre-stressing application.

4 COMMISSIONER BROADBENT: Okay, now what about
5 defect rates when the consumer puts it into a rail tie?

6 MR. QUIRK: This is Mike Quirk. We have a formal
7 complaint policy. If we receive a call or our salespeople
8 are told of an issue on any product, whether it's this
9 product or anything else, we write a formal complaint. We
10 obtain samples if it's necessary to see the product. Send
11 the salesperson and a metal operator to the facility,
12 investigate the problem to what degree we can find out at
13 the facility or bring the wire back and test it in our
14 plant.

15 We write a report internally and identify the
16 problem, what the remedy is, what the action is, and we
17 respond to our customer with a letter that says this is what
18 we're going to do to fix "the problem," or indicate that if
19 say it's a breakage issue and it looked like it was scuffed
20 and it was hard to determine where it was scuffed, whether
21 it was scuffed in our plant or on the truck or in their
22 plant, we will so state. But if it's a defect other than
23 that, we can identify it. But the rate of that is nothing
24 -- in this particular product that would have significant
25 numbers internally because everybody at our company who is

1 responsible for quality or sales or profit and loss, for
2 that matter, is made aware of complaints from customers
3 across the board.

4 COMMISSIONER BROADBENT: Well, how many
5 complaints have you had during the period of investigation?

6 MR. QUIRK: I would be surprised if we had more t
7 had more than two or three.

8 COMMISSIONER BROADBENT: Okay, could you supply
9 that for the record? Thank you.

10 So, a couple of times you've referenced scuffing
11 happening. Is it your sense that it's happening outside
12 your plant more than it should?

13 MR. QUIRK: Well, I don't know if we can identify
14 exactly where it happens, but it's not such a big problem
15 that it is a major concern to anybody. It happens. But the
16 break problem is, I think, overstated in my opinion. We
17 just don't hear a lot about a lot of breaks. If we did,
18 we'd be able to identify probably more clearly what the
19 problems are, but we just -- and our record will show, our
20 complaints what the issues are when we get a complaint from
21 a customer.

22 It might be because the tag fell off the coil. I
23 mean, there's a lot of things that a customer could complain
24 about, and so, we just identify what that is and what the
25 remedy is. But the scuffing issue it's very hard to say

1 where anything got scraped. Did a forklift at their plant
2 damage it? Did a forklift at our plant damage it? You
3 know, it's who shot John.

4 COMMISSIONER BROADBENT: Well, how do you resolve
5 those disputes? I mean, if you've got a customer that's --

6 MR. QUIRK: It's probably not a dispute. It's
7 probably more of an informational item and what they'll do
8 is send us a wire and say we had a break. What happened?
9 And then we'll identify what it was. If it's scuff, it's
10 like did you do it or did we do it, and that's the answer to
11 the problem.

12 Normally, it'll break in the process and they
13 just pull the wire up, put a new wire in.

14 COMMISSIONER BROADBENT: And then if the railway
15 tie fails, how dangerous is it to the train and the
16 passengers?

17 MR. QUIRK: Well, the customers have to test
18 their concrete railroad ties prior to shipping. They break
19 out of any production run a certain amount of them to see if
20 they meet the specification of the railroad, and there's a
21 lot of reasons they could fail or pass. I mean, it's just
22 not the steel inside the tie that a reason for a failure.

23 COMMISSIONER BROADBENT: Right. No, I understand
24 that. I just wondered kind of just big picture if these
25 things did fail how catastrophic is it.

1 MR. QUIRK: You'd have to ask a concrete tie
2 producer. I haven't heard of anybody being killed because
3 of a tie. I could answer that. But I would assume that the
4 biggest concern a railroad would have is that if the tie
5 failed before its normal life with cracks and they would
6 just have to replace the tie. And I believe they have --
7 they have portions of their contracts that allow for the
8 railroad to claim shorter lifespan and then they have to
9 come up with a settlement, but that's really between the
10 customer -- our customers and their customers, not our issue
11 at all.

12 COMMISSIONER BROADBENT: Right.

13 MR. WAGNER: I don't know if this will help, but
14 if you think about a railroad tie sitting on a track and a
15 train rolling across it the failure mode that a customer's
16 going to identify through inspection is like many other
17 concrete products, which is cracking. So, it's not like the
18 thing would just fall apart and cause an accident. It's
19 that they would have cracking that go beyond their spec, and
20 they're replacing at an earlier period of time than they
21 would wish. That's what we would expect.

22 COMMISSIONER BROADBENT: So, it's an increase in
23 maintenance costs then?

24 MR. WAGNER: Exactly.

25 MR. HILLEBRANDT: I just like to make a couple of

1 comments. This is Jim Hillebrandt.

2 As Mike said, I think this idea of breakage is
3 overstated here. You know we don't -- and I'm sure if we go
4 back and look at our complaints from the customer the number
5 of breaks will be minimal.

6 With regard to the scuffing or mechanical damage,
7 I think both parties take great care in not making sure that
8 happens, but occasionally it's going to happen. So, we all
9 take great care in our processes to make sure we don't do
10 that. And Mike said, the number of these I think is very
11 small. And if the wire is going to break, it's going to
12 break in the manufacturing process of the tie. It's not
13 going to break once it's in concrete.

14 Well, if it's going to break, you're going to
15 know it before it gets in the tie.

16 COMMISSIONER BROADBENT: The wire will break?

17 MR. ROSENTHAL: Yeah, the wire would break
18 because when you would do the process it's under tension as
19 they pour the concrete and the concrete sets up. And then
20 after the concrete is set up, they release the tension.

21 MR. PLITT: So, the act of tensioning is where
22 you'd have the break. That'd be prior to the concrete being
23 poured. At which point, the manufacturer of the tie would
24 have to remove that wire and replace it and re-tension that
25 wire to actually produce that wire.

1 COMMISSIONER BROADBENT: At least we can count
2 how many times that the tie broke?

3 MR. PLITT: I'm sorry.

4 COMMISSIONER BROADBENT: I mean, at least we
5 could count how much -- there is a count on when the wire is
6 failing.

7 MR. PLITT: It would have been reported to us on
8 how a regular basis.

9 COMMISSIONER BROADBENT: I'm sorry?

10 MR. PLITT: If they were having breaks on a
11 regular basis that was an indicator of some type of quality
12 issue with the wire, I'm sure we would've heard about it.
13 And I'm sure we'd be able to determine whether or not there
14 was some type of micro-structural issue or some type of
15 outside, mechanical damage -- you know, scuffing or
16 scratching to the wire and where that came from. We haven't
17 experienced that.

18 COMMISSIONER BROADBENT: It just seems like --
19 I'm not sure what I'm hearing, but it's a less proactive
20 kind of figuring out how your product's fairing out there in
21 terms of whether it is holding up.

22 MR. PLITT: I'd say Insteel is very proactive
23 with quality issues when they come to our attention. You
24 know our response would be to get samples of the material,
25 pictures if they're available as quickly as possible. The

1 record we keep on the tag we can trace all the way back to
2 the rod source, so we can investigate very fully. We also
3 have a highly functional metallurgical lab and a
4 metallurgist on staff who can look at this stuff and magnify
5 it up to a considerable amount and that gives us a lot
6 detail on what's going with the wire, whether it's some type
7 of damage caused by an outside influence, mechanical type
8 scuffing, et cetera, or whether it's a micro-structural
9 issue from the rod.

10 COMMISSIONER BROADBENT: But you don't go and
11 ask. I mean you wait to be told that you have a complaint,
12 and if you're losing a sale --

13 MR. PLITT: Well, during our normal sales calls,
14 you know we have sales staff that are on the road on a
15 regular basis that are calling on these customers at the
16 plant level and at a higher level. So, those discussions
17 are kind of ongoing.

18 COMMISSIONER BROADBENT: But to the extent that
19 you're losing sales, you're not kind of saying what's going
20 on here? You just assume it's a price thing rather than any
21 other kind of problem they're having with the product.

22 MR. PLITT: Yeah, I mean during our discussions
23 with the customer they would clearly indicate that it was a
24 price issue over our loss sales.

25 COMMISSIONER BROADBENT: Okay, thank you very

1 much. Appreciate it.

2 MR. HILLEBRANDT: May I make a comment? This is
3 Jim Hillebrandt. On the whole quality issue here, we take a
4 very proactive approach to quality, not only in rail ties,
5 but all of our products, okay. It's a cost of doing
6 business, and our cost of quality is very important to us.

7 And I don't think it's a fair statement to say we
8 just take a "wait and see" attitude, to wait until we get a
9 complaint to do something about it. We're constantly trying
10 to build quality into our process. There's many, many
11 variables that you control in a process, and we always try
12 to build systems and into that process that keeps those
13 variables under control so we don't have these issues down
14 the road, whether it's in the drawing practice, whether it's
15 in the stress-relieving process, the packaging, we're always
16 trying to do that.

17 So, we don't sit and wait for them to call us
18 with a problem. In fact, we encourage them to let us know
19 what the problems are. We work more on a partnership basis
20 with people where we interact with their manufacturing
21 people and our manufacturing people to find out what their
22 issues in the process because we don't want the quality --
23 it's a cost to them and it's a cost to us.

24 COMMISSIONER BROADBENT: Okay.

25 MR. HILLEBRANDT: So, we do not take a blas

1 attitude towards quality. We're very, very proactive on the
2 quality issues. And if this wasn't an issue as is so
3 stated, we would be all over it.

4 MR. WAGNER: I want to add to something on that
5 whole subject.

6 Insteel spends a great deal of money to keep
7 people in the field to be in front of our customers all the
8 time. So, these customers are called on probably every five
9 or six weeks. And the sales call looks like this. "Hey,
10 how you doing? Can we walk through the plant? Can we look
11 at processes? How can we improve things? Are there any
12 problems with our product?"

13 That's the condition when we have some business,
14 and then price is discussed, if there's price issues. But
15 generally, if you have the business, you're not discussing
16 that every single time.

17 Now, when we don't have the business, then the
18 conversation is, if we've had it before, a reminder that we
19 do a good job. Was there any information or any perception
20 that we don't do a good job? Is there anything that we can
21 do better? How can we get your business? And if the answer
22 to that is only the price and it's too low to get it, then
23 we come back in another five or six weeks.

24 So, I just wanted to address that point about
25 some sort of lack of pro-activity on our part. We are out

1 there on the street. We have a very expensive sales force.
2 I know exactly what the whole thing costs. There's no
3 importer that has people that does such a service job to
4 make sure t hat they're doing such a good job. So, if
5 anything, we're over the top on trying to be proactive.

6 COMMISSIONER BROADBENT: Okay, I appreciate that.
7 Thank you.

8 CHAIRMAN WILLIAMSON: Thank you. Commissioner
9 Kieff?

10 COMMISSIONER KIEFF: I really am grateful for
11 these very real-world conversations about how business gets
12 done.

13 Mr. Hillebrandt, you're an expert CEO, and you
14 run businesses. Can you work with me on a hypothetical?
15 Let's imagine the business you're running is you're sending
16 -- you're in the business, let's say trucking, okay. And
17 it's an expensive business, okay. And you're going to be
18 moving a whole lot of stuff in these trucks. Some of that
19 stuff, I don't know, maybe it's oil, natural gas. It could
20 blow up. Maybe it's buses and they're just amazing
21 schoolchildren from whom we will all mourn excessively if
22 trauma ensues.

23 Let's imagine that the cost of the trucking
24 business or the busing business is a hundred percent. And
25 let's imagine that the tires on the truck represent

1 something like 5 percent. And let's imagine that the steel
2 belted radials in the tires represent something like half a
3 percent.

4 Now, let's imagine that all the moms and dads
5 out there whose children could die on the bus, and all the
6 cities through which the explosive material could travel --
7 all of those mayors and all of those moms and dads you
8 rationally look forward to as potential tort claimants
9 against you. They could sue you for lots of money.

10 Am I correct in understanding that as a
11 proactive, real-world, business-oriented decision-maker you
12 might rationally chose not to pay any attention to the cost
13 of the steel belts in the radial tires on the bus, and you
14 might just simply make a decision, having read a story in
15 the news that one manufacturer of steel belted radials was
16 associated with some failures.

17 Am I correct in understanding that as a good CEO
18 who pays attention to big picture costs, big picture risks,
19 and big picture opportunities that you might rationally
20 choose to not spend a lot of time trying to figure out how
21 accurate or inaccurate the story is about that one vendor as
22 long as there are other vendors and as long as the prices
23 are, say, within 20 percent? Is that how you might
24 generally approach it?

25 MR. HILLEBRANDT: That's not how we would

1 approach it. I mean, using your analogy on the tire cord,
2 which is a good analogy, because we've produced tire bead.
3 We don't produce tire cords, but we produce product that
4 goes into tires.

5 You know it may be a small part of the overall
6 tire cost and that type of thing, but from our perspective
7 it's a large part.

8 COMMISSIONER KIEFF: No, but we're imagining now
9 that you're the CEO of the bus company --

10 MR. HILLEBRANDT: The bus company?

11 COMMISSIONER KIEFF: Of a steel tire --

12 MR. HILLEBRANDT: I misunderstood the question
13 then.

14 COMMISSIONER KIEFF: Yeah, we're transporting
15 you. You're an expert CEO. You're been recruited away.
16 You now run the bus company, the truck company. You no
17 longer make steel wire.

18 MR. HILLEBRANDT: May I get a pay increase?

19 COMMISSIONER KIEFF: Yeah, sure.

20 MR. HILLEBRANDT: As a CEO of a company, I think
21 you look at all factors. You manage risks. Okay, you're
22 going to look at the risk and certainly if I'm in the
23 transportation industry and I'm hauling, whether it's people
24 or product, you're going to look at what are the key things
25 that can cause an issue in that. And certainly, being in

1 the transportation industry and trucks, buses, whatever,
2 tires are an important part of that. And I think if I hear
3 about another manufacturer that has problems with tires I'm
4 certainly going to look at what tires do I have on what
5 products and to those, and evaluate do I have a risk here?
6 Do I have an issue? Do I have to pull a bus, a truck off
7 the line, change out the tires with a tire that I know to
8 minimize my risk. And I think that's what we would do.

9 COMMISSIONER KIEFF: So, Ms. Cannon, I guess the
10 follow-up question, and this really can be in the
11 post-hearing, and I don't have an answer. This is a tough
12 question for me I'm wrestling with.

13 When can a purchaser walk away from a producer
14 without implicating our statute?

15 Let's imagine a transportation CEO rationally
16 chooses just to not buy from that one producer. And let's
17 imagine that he buys instead from another producer. And
18 let's imagine, and I'm not going to cite you, but I'm
19 familiar with your Chart 7 because it's got proprietary
20 information. But let's imagine, hypothetically, that your
21 client comes to you and she switches from a producer. She
22 makes her switch and she tells you, and you believe her,
23 that she's doing it primarily to simply avoid the risk of b
24 being tainted by some risks associated with a product. And
25 then she says to you at the end of her conversation, you

1 know, and there's an added benefit. I get a 5 percent lower
2 price. I get a 1 percent lower price. I get a .6 percent
3 lower price.

4 Let's imagine there's some lower price associated
5 with this move. Can she ever make that move without
6 implicating the statute?

7 MS. CANNON: Yes, she could make that move. The
8 problem is that the scenario you've described could be true
9 if the facts supported the decline. So, let's say you had
10 this bus company and it decided it was not going to buy it,
11 and you had a database over your three-year period and you
12 saw that the bus company bought a bunch of product from the
13 tire core supplier. And then the next year it went down and
14 the next year it went down further. And it said this
15 doesn't have anything to do with the price. It has to do
16 with the quality.

17 The problem is the database you have doesn't show
18 that. The database you have doesn't show declines over this
19 period of time that correlate with any of these quality
20 issues. In fact, the people complaining about the quality
21 issue, the Mexican producers and the purchasers are not
22 buying less after this incident. They were not buying less
23 immediately after this incident, so reputational arguments,
24 whatever, the correlations really matches to the pricing
25 behavior.

1 COMMISSIONER KIEFF: Yeah, so this --

2 MS. CANNON: It doesn't tie -- the data don't tie
3 with the story, if you would.

4 COMMISSIONER KIEFF: Yeah, and so it's tricky
5 because, of course, there's correlation and then there's
6 causation. And I didn't see regression analysis that -- I
7 didn't, for example, see in the brief, although in the
8 post-hearing if you could point it to me that would be great
9 -- analysis that showed how we can disaggregate other
10 effects in the economy, how we can disaggregate other
11 effects from other sources, other things happening.

12 But if you could do that in the post-hearing
13 that'd be great so that you can walk us through the flow of
14 time, the flow of product, and help us understand, not just
15 correlation but causation, and maybe the economists can help
16 as well.

17 Let me just ask a follow up then for the
18 post-hearing as well. If you could explain what your
19 understanding is of the post-petition effects. And in
20 particular, what import trends you see for China and Mexico,
21 whether you think they're similar or different to each
22 other, whether you think that the import trends
23 post-petition for China and Mexico can tell us anything
24 about any range of effects. And if so, what they tell us
25 about those different affects.

1 All of these questions I hope could be answered
2 in the post-hearing so that you could explain this to us,
3 walk us through because as I'm understanding your argument
4 your argument is, in effect, on the facts you guys make
5 great products. You don't hear complaints. And on the law,
6 you're telling us so long as there are flows of imports with
7 a price effect, a lower price, and you can show that, in
8 fact, people buy it rather than yours then you can tell your
9 volume price impact story. I get that, but I'm just asking
10 you to explain it in a little more detail in the
11 post-hearing with respect to these questions about causation
12 and with respect to this legal question about how we should
13 balance the multiple factors, if there are multiple factors.

14 Now, I recognize that time's up and that's okay.

15 MR. ROSENTHAL: I do want to respond briefly
16 here.

17 COMMISSIONER KIEFF: I want to defer to my
18 colleagues, and so you can just provide all of this in the
19 post-hearing. It would be totally fine.

20 MR. ROSENTHAL: MR. ROSENTHAL: We will do that,
21 but I would like to use some of your time for an answer,
22 please.

23 And that really goes back to -- your hypothetical
24 is purely hypothetical because apart from what my colleague,
25 Ms. Cannon, has said is that in this period of time you, as

1 a responsible bus manufacturer, would not for reputation or
2 other reasons be buying the tire containing this defective
3 tire bead. You wouldn't continue buying that tire bead, and
4 nor would other companies who buy tires buy a tire bead from
5 the -- that contains, allegedly, defective tire bead.

6 And what you have here is a totally different
7 fact pattern than you have proposed. You've got companies
8 that continue to buy throughout the period of investigation
9 despite this reputational claim. What you have here,
10 Commissioner, is what is the role of pretext in Title VII
11 cases? And this is a total pretext for their purchasing
12 decisions.

13 COMMISSIONER KIEFF: Okay, thank you.

14 CHAIRMAN WILLIAMSON: To add to your post-hearing
15 considerations, taking Commissioner Kieff's hypothetical and
16 the answers, post-hearing you might address whether or not
17 Davis what did it do from the public relations standpoint
18 to, shall we say, offset maybe the damage. What kind of
19 damage control did they put in place?

20 Okay, I will save my questions. Can we put the
21 clock back to zero? He gets me going.

22 COMMISSIONER SCHMIDTLEIN: It was interesting. I
23 had just a couple of questions. And actually, maybe relates
24 a little bit to this conversation about the timing and the
25 data and how it correlates to these events, and maybe it's

1 not relevant at all. But can you explain is there a -- what
2 the lead-time is between -- you know, when you make a sale
3 does Davis and Insteel record that sale?

4 Is that a purchase order? Is there a contract?
5 Do you record it when the product is shipped? What's the
6 lead-time between when you make that sale and the product is
7 shipped. In other words, I'm just sort of curious because
8 when you listen to these points about "And this happened on
9 this date and you see sales continued." Well, is that
10 because, you know, you've got pretty tight contracts and you
11 can't walk away -- and the sale is not recorded to later?

12 It may or may not be relevant, but I'm just
13 curious what the practice is.

14 MR. WAGNER: Most typical, is an agreement for
15 multiple truckloads of product over some period of time
16 typically that average three to four months. And once you
17 take that purchase order and accept it, and get everything
18 agreed upon, you start making a product and shipping it. If
19 you look at the capacities, in a day we can make a truckload
20 of product. So, that stream of product would begin very,
21 very quickly.

22 If we already had a stocking agreement with
23 someone who wanted to do some spot purchasing, we might keep
24 three or four loads ready to go on a "just in case basis" at
25 our own risk. Because remember we sell it in another

1 application altogether, so it's extremely fast and very
2 accurate. The only unsure part of that system is when a
3 truck leaves does the driver have duty hours that it gets
4 there in one day or two days, or those sort of issues that
5 can run out of your control. But otherwise, I would say
6 this product line from a lead-time point of view extremely
7 short. And from a reliability of showing up, it's like
8 clockwork.

9 COMMISSIONER SCHMIDTLEIN: Okay.

10 MR. QUIRK: This is Mike Quirk. Davis Wire would
11 reflect the same thing. We would take purchase orders.
12 Most everything would be on either a purchase order rather
13 than a long-term contract. That the purchase order would be
14 specific with regard to price, with regard to how many tons
15 or how many loads of material the guy or the person would
16 buy and over what timeframe. And then, as we shipped it, we
17 would bill it. And our terms of payment normally are 30
18 days, so we would expect payment within the 30-day timeframe
19 from when we invoice any individual shipment.

20 COMMISSIONER SCHMIDTLEIN: Okay.

21 One other thing I wanted to follow up on, not
22 related to specifically this, but something that you said in
23 your direct testimony about that everyone knows the price of
24 the imports, and that creates a price pressure. And I was
25 just wondering if you could expand on that a little bit in

1 terms of how everybody knows and is that the only way
2 everyone knows, or is there any other more formal way where
3 there's any sort of industry newsletter or report that goes
4 out with what prices are and so forth?

5 MR. WAGNER: There's nothing in the public domain
6 about this product.

7 MS. SCHMIDTLEIN: Okay.

8 MR. WAGNER: Now, if a company like Insteel was
9 to announce price increases or set a price level with a
10 letter to all the customers, in some way or another that may
11 become more available that more buyers would know what
12 things costs. But in this particular case, you have such a
13 concentration of purchasers; such a small number of them
14 that what happens is he's happy to tell you when the import
15 price is well below yours. And so the real mechanism that
16 you hear it from is that the buyer communicates what price
17 offers he's had.

18 MS. SCHMIDTLEIN: Okay. All right, thank you
19 very much. I don't have any other questions.

20 CHAIRMAN WILLIAMSON: Thank you.

21 Now, I've had time to really compose my question.
22 I guess in responding to Commissioner Kieff's hypothetical I
23 wondered if you might -- if it's relevant and there was any
24 impact shown, did Davis do anything in terms of damage
25 control, and if that was successful. Particularly, the

1 dispute, I guess, occurred before the period of
2 investigation. Did that damage control effort have any
3 effect on how we should assess this issue of reputational
4 risk?

5 And I guess also the other question is whether or
6 not the reputation of the imports had any effect on how
7 someone would act? Now, this can be addressed at
8 post-hearing or not.

9 MR. QUIRK: Well, Davis maintains a sales force
10 like Insteel. We call on their customers. We call on their
11 facilities. We have relationships with their plant
12 managers. We have relationships with their quality people.
13 Jim and I will have relationships and contacts with the CEOs
14 of all the operations. So, as far as damage control, I
15 think it's just an ongoing effort to continue to enhance any
16 personal relationship or any business relationship, and
17 that's just a part of what we do all the time versus setting
18 up some special "Let's go Fix This Thing."

19 CHAIRMAN WILLIAMSON: I realize this wasn't
20 something that appeared in the Washington Post or Los
21 Angeles Times or something, so it's not the same thing.

22 MR. QUIRK: It doesn't work that way.

23 MR. HILLEBRANDT: No, there wasn't any public
24 relations announcements or anything. We didn't really do a
25 lot of damage control. As Mike said, we maintain

1 relationships with the CEOs of all these companies. We had
2 no problem at NorTrac. We had no problem at Rocla.
3 Throughout this, I kept contact with the CEO or president of
4 CXD through the whole dispute.

5 CHAIRMAN WILLIAMSON: Okay, thank you.

6 I have no further questioners. Commissioner
7 Pinkert?

8 COMMISSIONER PINKERT: I have nothing further.
9 Thank you.

10 CHAIRMAN WILLIAMSON: Commissioner Johanson?
11 Commissioner Broadbent?

12 COMMISSIONER BROADBENT: Yeah, I just had a
13 couple of random extra questions here.

14 Mr. Quirk, you stated that Davis is currently set
15 up for multiple package types. For the post-hearing brief,
16 could you just detail exactly what types of packages you're
17 set up for?

18 MR. QUIRK: Sure.

19 COMMISSIONER BROADBENT: And then, Mr. Quirk, you
20 noted that you were at one point too full to handle
21 repackaging of Chinese product. You had an instance where
22 somebody requested you to repackage some Chinese product.
23 Can you explain perhaps in your post-hearing brief how this
24 request corresponds with your capacity utilization rights?

25 MR. QUIRK: Certainly can.

1 MR. ROSENTHAL: Excuse me one second. He did not
2 testify that there were too full to help on that instance.
3 He testified that they refused to do it. And the reason is
4 that they didn't want to help out their Chinese competitor
5 in that instance. It had nothing to do with their capacity
6 to do it.

7 COMMISSIONER BROADBENT: Understood. Okay.
8 Thank you. That's helpful.

9 In your post-hearing brief, could you give us
10 guidance on how to consider your responses to 4-9 and 4-10
11 of the producer's questionnaire in light of purchasers'
12 responses to question 3-2(B) in the purchaser's
13 questionnaire? So, if you could do that in your
14 post-hearing brief, I'd appreciate it.

15 And that wraps it up for me. Thank you.

16 I wanted to compliment Collier Shannon on the
17 color. This is most dramatic, and I think it's fitting;
18 causes us to take notice of the facts, so thank you.

19 MS. CANNON: Thank you Commissioner Broadbent.
20 And I will recognize Mr. Brad Hudgens, who put that together
21 for us.

22 CHAIRMAN WILLIAMSON: Thank you. Commissioner
23 Kieff?

24 COMMISSIONER KIEFF: Thanks. I just will ask one
25 more question for the post-hearing.

1 If you could brief us on how we should think
2 about how an order in this case might impact or interact
3 with imports from countries other than China and Mexico.
4 That will help us. If you could explain what legal
5 significance there would be to that impact, if any. That
6 also would help us.

7 MS. CANNON: We'll be happy to do that.

8 COMMISSIONER KIEFF: Great. Thank you.

9 I have no further questions.

10 CHAIRMAN WILLIAMSON: Thank you. Commissioner
11 Schmidtlein, any further questions?

12 COMMISSIONER SCHMIDTLEIN: No. Thank you.

13 CHAIRMAN WILLIAMSON: Okay. Does any other
14 Commissioner have any additional questions? If not, does
15 staff have any questions for this panel?

16 MR. TREAT: I have one question. Alan Treat,
17 Industry Analyst.

18 I have one question for Davis Wire related to a
19 claim reportedly filed by CXT against Davis Wire for a
20 defective tire wire.

21 So, to summarize page 3 of Respondent's
22 pre-hearing brief, once Pacific Rail had filed a warranty
23 claim for the concrete ties. CXT had decertified Davis.
24 So, that seems to suggest that CXT found something wrong
25 with Davis Wire.

1 On page 6 of Respondent's brief, I'm going to
2 quote a conference testimony by Mr. Barrios stating, "We
3 have been informed that CXT has, in turn, filed claims
4 against Davis for the shipment of defective tire wires.
5 This dispute has understandably lead to a significant loss
6 by Davis's business with CXT."

7 So my question is the following. In post-hearing
8 brief, can you please describe this reported claim, any
9 outcomes, or settlement, and whether or not it was ever
10 established that the tire wire was the cause of the tie
11 failure. Thank you.

12 MR. ROSENTHAL: Mr. Treat, as indicated earlier,
13 there are limits to what can be said about this, but we'll
14 do our best to respond. But I will, again, refer you to the
15 circumstantial evidence that has been discussed today
16 concerning that claim and the continuing purchase of the
17 Davis tire wire by other than the industry. But we'll, to
18 the extent we can shed more light on those questions, we'll
19 do that in our post-conference -- post-hearing brief.

20 MR. TREAT: Thank you.

21 MR. COCKRAN: Douglas Cockran, Investigations.
22 Thank you very much, Chairman Williams. The staff has no
23 further questions.

24 CHAIRMAN WILLIAMSON: Thank you.

25 Do Respondents have any questions for this panel?

1 MALE VOICE: No.

2 CHAIRMAN WILLIAMSON: No questions? Okay, thank
3 you.

4 Well that seems like it's time for a lunchtime.
5 We'll reconvene at 1:15. I want to remind everybody this
6 room is not secure, so please take any business,
7 proprietary, or confidential information that you may have
8 with you, and we'll see everyone at 1:15. Thank you.

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1 A F T E R N O O N S E S S I O N

2 MS. BELLAMY: Will the room please come to order?

3 CHAIRMAN WILLIAMSON: Okay. Thank you. Good
4 afternoon. Welcome to the afternoon panel. And you may --
5 Ms. Levinson, you may begin when you're ready.

6 MS. LEVINSON: Thank you very much and good
7 afternoon. It's exciting to see all these new faces at the
8 Commission.

9 COMMISSIONER WILLIAMSON: Thank you.

10 MS. LEVINSON: I'd like to introduce my panel.
11 To my far right is Michelle Torline, she is the general
12 counsel of WireCo WorldGroup, Inc.

13 WireCo is the importer of the subject merchandise
14 from Mexico.

15 To her left is Ron Whisla, he is my colleague at
16 Kutak Rock. This is our witness, Joaquin Barrios who is the
17 Senior Vice President, European Steel Operations for WireCo
18 WorldGroup, Inc. He's also worked at Camesa and he'll be
19 able to speak to you about both companies.

20 And with that, I will turn the testimony over to
21 Mr. Barrios.

22 COMMISSIONER WILLIAMSON: Thank you.

23 MR. BARRIOS: Good afternoon. I want to thank
24 the Commission of the opportunity to present this testimony.
25 My name is Joaquin Barrios and I am Senior Vice President

1 European Steel Operations for WireCo WorldGroup, Inc. I am
2 providing this testimony on behalf of WireCo, the U.S.
3 importer of prestressed concrete wire rail ties manufactured
4 in Mexico and Aceros Camesa, S.A. de C.V., which I will
5 refer to as Camesa, the Mexican manufacturer of the subject
6 merchandise. WireCo and Camesa share a common parent
7 company.

8 By way of background, I have over 31 years of
9 experience in the wire industry, of which the past 20 years
10 have been devoted to tie wire and similar products. Prior
11 to my present position, I was the Senior Vice President of
12 Global Supply Chain for WireCo. Before that, I worked for
13 Camesa, in the sales, technical and quality control
14 departments and finally as its general manager.

15 WireCo is one of the world's largest
16 manufacturers of steel and synthetic lifting products,
17 servicing a diverse range of end markets, geographies and
18 customers with multiple product offerings. In addition to
19 steel wire and specialty steel wire products, we manufacture
20 high-performance steel and synthetic rope, electromechanical
21 cable, fabricated products, steel wire, synthetic yarns, and
22 engineered products. Our global manufacturing footprint of
23 25 facilities, which include six U.S. facilities, is
24 supplemented by a global network of company-owned
25 distribution facilities consignment centers and distributor

1 partnerships and sales offices worldwide. We are vertically
2 integrated and manufacture the majority of the wire, fibers
3 and cores we use in our products.

4 I am here today to explain why imports of rail
5 tie wire are not causing material injury or threat thereof
6 to the U.S. industry. As you know, there are only two
7 principal U.S. customers, CXT and Rocla. Rocla is WireCo's
8 primary U.S. customer and has been since 2006.

9 In 2009 an event occurred that transformed the
10 landscape of the tie wire industry. As recognized in the
11 prehearing staff report, in 2009, Union Pacific Railroad
12 informed CXT that it was experiencing an unprecedented
13 failure of concrete railroad ties that it purchased from CXT
14 that had been made with tie wire supplied by Davis. Union
15 Pacific filed warranty claims asserting that CXT's rail ties
16 did not meet the required specifications, had defects and
17 failed tests. After extensive investigation, L.B. Foster,
18 the parent company of CXT found that the quality issues were
19 caused by the loss of bond between the tie wire supplied by
20 Davis and the concrete.

21 The massive failure of the CXT rail ties resulted
22 in staggering warranty claims filed by Union Pacific against
23 CXT, amounting to \$22 million. In addition, CXT was forced
24 to replace 1.6 million rail ties. The impact on CXT was so
25 severe that CXT was forced to close its plant in Grand

1 Island, Nebraska.

2 CXT subsequently filed multiple claims against
3 Davis for the shipments of defective tie wires, which we
4 understand were settled privately. This dispute
5 understandably led to a significant loss of Davis' business
6 with CXT. CXT decertified Davis as a supplier. Rocla, at
7 that time, our sole U.S. customer, became very concerned
8 about the quality of their purchases from Davis and sought
9 alternative sources of supply. This created an opportunity
10 for other high quality producers, like our company, to fill
11 the self-inflicted void created by the U.S. industry.

12 Rocla, which was already familiar with Camesa's
13 quality product, chose to shift a significant portion of its
14 supply from Davis to Camesa in order to avoid similar
15 quality problems that CXT had experienced. Rocla also
16 gained a significant amount of business from Union Pacific,
17 which sought out Rocla as an additional source of supply.
18 Rocla sourced this business to Camesa as well, because of
19 Union Pacific's troubled history with Davis. As a direct
20 result, Camesa's U.S. sales doubled between 2010 and 2011.
21 Rocla was eager to buy from Camesa because Davis was
22 perceived as an unreliable supplier, and not because of
23 prices.

24 Rocla has continued to purchase tie wire from
25 Camesa because of the high quality product that it receives

1 from us. In particular, Rocla has told us that our product
2 has significantly less breakage than product that it buys
3 from domestic producers. This is obviously very important
4 because a breakage can damage equipment, jeopardize
5 employees' safety, and negatively impact productivity.

6 Rocla has explained to us that Camesa's products are
7 superior because of the quality of the raw materials used.
8 In particular, Davis produces tie wire from steel rod that
9 has high scrap content, whereas Camesa produces tie wire
10 from higher quality steel rod.

11 Rocla has further advised us that the manner in
12 which Camesa delivers its products is also a key factor in
13 its decision to purchase from Camesa. Camesa's product is
14 delivered in a user-friendly manner, in larger diameter
15 coils that are wound less tightly than the product received
16 from domestic sources. This greatly facilitates the loading
17 and use of the wire to the production lines and results in
18 less breakage and downtime.

19 In contrast, the manner in which Davis delivers
20 its product is markedly inferior and obsolete. The Davis
21 tie wire is delivered in a manner that places greater stress
22 on the production lines. This results in greater breakage
23 and increased downtime and reduces efficiency.

24 In early 2013, CXT qualified Camesa to produce
25 tie wire to its more stringent proprietary specifications.

1 In 2013, we supplied small quantities to CXT. We
2 nevertheless expect that CXT will continue to purchase its
3 largest volumes from Thailand, its major source, now that
4 the antidumping case against Thailand has been terminated.

5 Exports from Camesa are not threatening injury to
6 the U.S. industry. In the last quarter, Rocla has opened a
7 concrete tie facility in central Mexico to serve the Mexican
8 market exclusively. Camesa is currently supplying large
9 quantities of rail tie wire to that facility and expects to
10 continue to do so throughout at least 2014.

11 The staff report notes that Camesa has
12 significant excess capacity with respect to wire drawing.
13 However, the data from which that conclusions was derived
14 measures only Camesa's overall wire drawing capacity. A
15 more accurate view of Camesa's capacity is to measure its
16 stress relieving capacity. Due to the new Rocla contract in
17 Mexico, in the second quarter of 2014, Camesa will be
18 operating at 100 percent of its stress relieving capacity,
19 which limits any additional or rail tie wire production.

20 We intend to provide the Commission in our
21 post-hearing submission complete information with respect to
22 Camesa's stress relieving capacity and capacity utilization.

23 Exports to Rocla, and thus our overall exports to
24 the United States are currently decreasing and are projected
25 to continue to do so as Camesa targets more of its

1 production to Rocla in Mexico.

2 As a final point, even if an antidumping duty
3 order is imposed, it is unlikely that Petitioners would
4 regain any significant market share. First, the Thais are
5 out of the order entirely and it is expected that CXT will
6 continue its purchases from that source.

7 Second, U.S. customers have expressed a need for
8 alternative sources of quality supply other than the two
9 domestic suppliers.

10 Third, exactly as I predicted in my testimony in
11 the preliminary phase of this investigation, our main U.S.
12 customer, Rocla, has already sought out and obtained rail
13 tie wire from a third country supplier, Tyrsa of Spain, in
14 2014. These purchases were made as a result of the high
15 preliminary antidumping deposits that were imposed after
16 Commerce's preliminary dumping determination. Other
17 potential sources of foreign supply are Belgo Mineira of
18 Brazil and EMCOCABLE in Colombia, just to name a couple.

19 I thank you once again for this opportunity to
20 brief -- to testify before you, and I will be pleased to
21 respond to any of your questions. Thank you very much
22 indeed.

23 MS. LEVINSON: That concludes our direct
24 testimony. We look forward to your questions.

25 COMMISSIONER WILLIAMSON: Thank you. I want to

1 welcome Mr. Barrios for coming from such a far distance.

2 This afternoon we are going to beginning our
3 questioning with Commissioner Johanson.

4 COMMISSIONER JOHANSON: Thank you, Mr. Chairman.
5 I would also like to thank the panel for appearing here
6 today.

7 I assume this would be best answered by Mr.
8 Barrios but any other witness is, of course, welcome to
9 respond. If the quality of Camesa's product is superior to
10 that of the domestic industry, why does eclectic pricing
11 data show underselling by subject imports from Mexico in 11
12 out of 15 quarterly price comparisons?

13 MR. BARRIOS: I do have something to comment on
14 this. I mean, I think that the philosophy of the company is
15 to provide a quality product and services in any market that
16 we participate. So we have found that for this particular
17 market we need to comply and it has been said already that
18 we have mainly two customers, so we try to produce with the
19 same raw material, with the same process, with the same two
20 machineries products that comply with both the
21 specifications. And we try to do it as more efficient as we
22 can.

23 I wonder if that's replies the question from Mr.
24 Johanson.

25 COMMISSIONER JOHANSON: So you think efficiency

1 enables you all to provide a lower price is that largely --
2 ?

3 MR. BARRIOS: Absolutely. I mean, and I think
4 that that goes for all the markets that we participate in.
5 I mean, we need to be efficient in order to be competitive
6 in our marketplace. And as I have said in my briefing, in
7 most of the cases we are a global company and we try to
8 compete as hard as we can in all the markets, always trying
9 to comply with the specifications of the products and the
10 customers.

11 COMMISSIONER JOHANSON: Would you say that your
12 product is superior in quality than that of domestic
13 products?

14 MR. BARRIOS: This is something that we have
15 heard directly from our customer. And I could assume that
16 all of us, our competitors as well, are complying with the
17 specifications of reference.

18 COMMISSIONER JOHANSON: Could you educate us on
19 what makes a Tie wire -- one Tie wire better than another?
20 This is a kind of complex product.

21 MR. BARRIOS: It is. And I think that that's
22 something that we are appreciating almost all the goods.
23 Let me use as a reference our raw materials, the rough, that
24 does something that we all buy. I mean, even though all of
25 them or most of the cases all of them comply with a

1 specification of reference this could be an ASTM or this
2 could be proprietary for a specification like one of our
3 customers here. I mean, the consistency of the products,
4 the service that you get, the lead times that you get, the
5 breakage behavior that you may have from the product will be
6 better from product A than from product B. There are some
7 companies which are very meticulous that they are very
8 scientific, trying to record all of this good and bad
9 things. There are some other companies that doesn't track
10 as detailed as some others. But at the end the customer has
11 a perception and have some effect and some data which will
12 tell them which company or which product is better than the
13 other. And I think that that's something that we all as
14 customers normally do. We certainly do it with our rod
15 suppliers. We have some quality specifications, we have
16 some factors that we continuously monitor and eventually
17 there are always something that is not written in the
18 specification that make you prefer one product than the
19 other or one supplier than the other.

20 COMMISSIONER JOHANSON: Could you all not charge
21 a higher price then if your product is that much better?
22 And I'm asking this because this is largely the crux of what
23 the petitioners stated this morning, that if your product is
24 indeed superior why doesn't it cost more?

25 MR. BARRIOS: Well, I mean, that's a very complex

1 commercial relationship because you don't know which are --
2 which is the price that your competitors are selling on the
3 one hand and you are thinking the way that we operate is
4 trying to capture decent margin for our products. We're in
5 business to make money and we are making money out of our
6 products and our services. But probably we haven't
7 determined that that our product can get a better price for
8 a better margin because some other behavior in the
9 marketplace.

10 COMMISSIONER JOHANSON: Okay. And I'm going to
11 get back to something that I brought up with Mr. Rosenthal
12 this morning. I'm not familiar with this industry, at least
13 I wasn't until recently. And according to the petitioners,
14 the complaints raised by Union Pacific dealt with defective
15 rail ties and not defective tie wire. Could you go further
16 into that?

17 I know you mentioned this a few minutes ago, but
18 could you go a bit further into that just to make it clear
19 for the record what is going on here?

20 MR. BARRIOS: Again, all this information that
21 we got is from public information.

22 COMMISSIONER JOHANSON: I know it's difficult
23 because this is proprietary. But to the extent you can, if
24 you could discuss this please.

25 MR. BARRIOS: Exactly. And I do not -- I mean,

1 I think that I have a very good idea and knowledge on how to
2 make the wire, the process of wire. I am not an expert on
3 price. I note that our customers how they use our wire that
4 we produce for them, how they produce the ties, but I
5 consider myself like an expert to say that ties -- the
6 production of the ties or the quality of the ties is this or
7 that way, but as a reference what we hear from our
8 customers. So I honestly don't feel qualified to elaborate
9 on the technical part of the ties themselves. I think that
10 I have a pretty good knowledge how to make the wire,
11 starting from the raw material until the delivery of our
12 product. I think that I have a very sound knowledge about
13 that, but not from the ties themselves.

14 COMMISSIONER JOHANSON: All right. How about --
15 and once again, I know that much of this is proprietary, but
16 if you could discuss it to the extent possible, how about
17 the issue of this issue with Union Pacific only dealing with
18 problems of Davis and not Insteel. Because Insteel is, of
19 course, a major player in the market, one of the two players
20 in the market.

21 MR. BARRIOS: Yeah, again, the information that
22 I go through and probably this you can hear me here. I
23 mean, it's what is public.

24 COMMISSIONER JOHANSON: Right.

25 MR. BARRIOS: It was not even brought up in that

1 issue at all. And I don't know if you can help me with
2 that.

3 MS. LEVINSON: Well, Mr. Johanson --

4 (Off microphone.)

5 MS. LEVINSON: The information we have is
6 entirely from the public record meaning literally going on
7 Google and putting in Davis and rail ties. And with that
8 simple exercise which, you know, I appreciated Mr.
9 Rosenthal's remark this morning that we were particularly
10 creative, but I don't know if I could really take credit for
11 being creative there in just going on the Internet.

12 What we found was when we looked at the parent
13 company, L.B. Foster, the parent company of CXT, we looked
14 at their 10K. And they made a conclusion -- they described
15 the entire situation. They said that CXT had to replace 1.6
16 million rail ties as part of this debacle. And that the
17 quality issues were caused by the loss of the bond between
18 the tie wire supplied by Davis and the concrete. Although
19 it is the concrete that CXT was supplying, the problem with
20 the concrete was the adhesion between the wire and the
21 concrete. Is that something that you can elaborate on,
22 Mike?

23 COMMISSIONER JOHANSON: Yeah, I don't want him
24 to. I know we're kind of -- it's difficult to discuss this
25 in public forum but then again it's something that would

1 help us to understand better. So --

2 MR. WISLA: If I may jump in, in addition to the
3 warranty claims filed by Union Pacific against CXT, CXT also
4 filed its own claims against Davis. And as we said before,
5 the two companies made a private settlement. So, CXT made
6 claims against Davis.

7 MS. LEVINSON: And also, yesterday we had a
8 conversation with Rocla, and by the way, the representative
9 of Rocla was intending to be here today. In fact, he was on
10 the calendar and then on last minute an emergency kept him
11 from being here. So we spoke to him and asked if we could
12 make certain representations on his behalf that he would
13 follow up in an affidavit in the final phase of the
14 investigation. But he did submit an affidavit in the
15 preliminary phase.

16 But he very clearly said that while he wasn't
17 impacted by the defective wires that Davis produced, Davis
18 was a large supplier, their largest supplier. And he became
19 very concerned, oh, my God, this is going to happen to me.
20 I shouldn't rely exclusively on this -- on Davis. And he
21 purposely in 2011 switched over his purchases from -- from
22 Davis to Camesa. And so I have a little hard time
23 reconciling the petitioners' comments that the data doesn't
24 show loss of sales. It must show loss of sales because we
25 know we picked up a lot of sales. We know CXT decertified

1 Davis. And Davis never came back to the status they had
2 previously found -- had with CXT and that's the matter --
3 that's in the confidential record in more detail. But it
4 just -- it is an incredible thing for them to come here
5 today and act like this was just a little tiny, you know,
6 somebody lodged a complaint and it went up to the higher
7 ups. This was not a complaint. This was \$22 million
8 warranty claim that was said to be because of the wire that
9 Davis had supplied. And the idea that this had no impact on
10 customers, it just belies credibility in my mind.

11 COMMISSIONER JOHANSON: All right. Thank you for
12 your responses. I have a few more questions but I'll ask
13 them later unless my colleagues ask them first. So we'll
14 see.

15 Thank you.

16 COMMISSIONER WILLIAMSON: To you Commissioner
17 Broadbent.

18 COMMISSIONER BROADBENT: Mr. Barrios, you
19 referenced the lack of adhesion between the concrete and the
20 wire. So is that the concrete's fault or the wire's fault?
21 In a manner of speaking, sorry, but yeah.

22 MS. LEVINSON: I'm only repeating what I found in
23 the news article, and that's --

24 COMMISSIONER BROADBENT: So it doesn't say --

25 MS. LEVINSON: Yeah, it doesn't say -- and this

1 is just quoting. It said, "loss of the bond between the tie
2 wire supplied by Davis and the concrete" perhaps you can
3 talk about that.

4 MR. BARRIOS: Yeah, the information that we go
5 doesn't say it's one or the other. What you can figure out
6 is that the wire has some indentation. Obviously you have
7 certain parameters that you need to comply with like the
8 length, the width and the depth of the indentation.
9 Eventually that will create the traction pours that you want
10 to have between the concrete and the wire. But, again, this
11 is something that it could be -- the concrete could be the
12 wire, it makes you wonder what could be the fault when they
13 decided that the ties were -- that the bad part of this
14 coupling between concrete and wire. But, again, this is
15 something that I have not personally seen the result of that
16 particular claim, but just the public information that is
17 available.

18 COMMISSIONER BROADBENT: Yeah, it's very hard to
19 sort of speculate and I realize we're doing that. But, I
20 mean, as a wire producer you know why those specifications
21 are there and what the purpose of them is, is to make
22 adhesive; right?

23 MS. LEVINSON: I think we -- yes, I think we can
24 draw some conclusion by the fact that CXT has sued Davis.
25 That's a matter of public record. I -- you know, it's also

1 a matter of public record that that suit was settled. And
2 my guess is, is that there's a confidentiality clause within
3 the settlement agreement because Mr. Rosenthal wasn't very
4 forthcoming about the terms of that settlement. But I don't
5 think CXT would have sued Davis. I think Davis might have
6 sued CXT if CXT was at fault.

7 COMMISSIONER BROADBENT: Okay. Mr. Barrios, when
8 you -- as a wire producer, how do you -- what is your
9 internal process for assuring quality? How do you sort of
10 -- when do you -- how do you take care of the product as it
11 goes from your plant to your ultimate consumer and what are
12 some of the bench points -- the benchmarks that you use to
13 make sure that you're producing a quality product?

14 MR. BARRIOS: That's an interesting question.
15 We in Camesa and WireCo, we have a quality assurance system
16 and we comply with different international specifications,
17 probably one of the most famous in this regards will be
18 ISO9000. So we have a process which starts since we
19 received orders from our customers following all the entire
20 processes of procurement or appropriate raw materials that
21 we have the controlling our production processes that we are
22 shipping in the conditions that the customers and the others
23 are placed in the process until the customer receives. So
24 we do have -- we certainly have a quality process which is
25 certified which is audited every year and we have some check

1 points. I mean, the first one will be inside actually
2 starting with the raw material doing some sampling checks to
3 the raw material that we buy making sure that they comply
4 with the specification that we have provided.

5 Then during the process we have certain
6 parameters to comply in the different process that we are
7 producing any single product including, obviously PC tie
8 wires and at the end we also have inspection of our finished
9 goods to make sure that we are complying with the
10 specification of reference.

11 In this case, as you are aware, we have one ASTM
12 to comply with. But also we have a proprietary
13 specification to comply. So we make sure since we place the
14 other for our raw material to follow entire and complex
15 quality process in every single step that we are complying
16 with it. Obviously if there's some problem during the
17 process, I mean, we may go to -- we may need to go to the
18 root cause, understand what's the problem that is creating
19 that quality issue. So we come with some solutions, some
20 permanent solutions, and eventually make sure that every
21 single product that is leaving our plant complies with our
22 requirements and specifications from our customer.

23 COMMISSIONER BROADBENT: Okay. But that sounds
24 like general industry standards that everyone would be
25 following.

1 MR. BARRIOS: Sure.

2 COMMISSIONER BROADBENT: Or they wouldn't be in
3 compliance.

4 MR. BARRIOS: Uh-huh. Uh-huh.

5 COMMISSIONER BROADBENT: And how do you keep
6 track of your customers' experience with your product, and
7 whether a defect turns up in their production process?

8 MR. BARRIOS: Obviously we may have some
9 communication that we got either from our sales reps or
10 mainly in our sales rep, what kind of informal comments
11 about performance of our product. And secondly, if there's
12 any formal complain in quality, that's something that will
13 be record in our quality system and will be analyzed and
14 responded based on the guidance that we have established in
15 our quality system.

16 I'm trying to give you a specific answer. I'm
17 trying to figure out what are you looking -- we would have
18 a claim from any of our customers, that will be recorded in
19 our quality system, claim number X, Y, or Z from customer X
20 is related to this problem for this amount. And it was
21 attended during this date and this is the root cause that we
22 found and this is the response that we got. So we will have
23 an answer or an analysis for every single claim that we have
24 for all of our products.

25 COMMISSIONER BROADBENT: Is there anything that

1 we could ask both you as the respondent and the domestic
2 industry so we would have comparable information on quality?
3 I mean, what should we ask for from the domestic industry to
4 get a sense of what their quality is currently?

5 MR. BARRIOS: I think that one of the things you
6 will ask if there are some formal claims from the customer
7 to the supply -- from the customer to the supplier; that
8 would be one.

9 Second, if there is any kind of record of
10 reference like number of breaks per thousand or X amount of
11 material consumed either in length or in weight. That's
12 something that you may ask to the users of the product.

13 COMMISSIONER BROADBENT: Okay. Excuse me.

14 MR. BARRIOS: And I think that also you will have
15 the perception about the product and the service of any
16 given supplier.

17 COMMISSIONER BROADBENT: Just the general
18 perception in the marketplace. Okay.

19 MR. WISLA: Excuse me if I can -- this is Ron
20 Wisla. Also what has to be looked at is, is the domestic
21 producer qualified? I mean, we have the two -- one of the
22 customers has its proprietary specification. It's good to
23 look into the exact circumstances of the certification,
24 decertification, and if applicable, the recertification of
25 companies. And that is in the staff report -- that

1 information.

2 MS. LEVINSON: I think Mr. Wisla is referring to
3 the decertification of Davis from CXT and the subsequent
4 history. And we also might add that we read on line that
5 the Department of Transportation issued a subpoena to CXT as
6 a result of the defective merchandise in exploring the
7 reasons for it, and that may -- you know, if you're able to
8 get a copy of that subpoena, we weren't on line, but that
9 subpoena might give you a good indication of exactly what
10 the circumstances are that led to the defective merchandise
11 and how it was handled.

12 COMMISSIONER BROADBENT: So, do you know what
13 year that was?

14 MS. LEVINSON: You know, I do. I don't know off
15 the top of my head. I'll be happy to put that in the
16 post-hearing brief or just to let the staff know. I have it
17 back in my office.

18 COMMISSIONER BROADBENT: Okay.

19 MR. WISLA: Yeah, we referred to it in our -- at
20 the preliminary conference. So it was referenced at that
21 hearing, the subpoena.

22 COMMISSIONER BROADBENT: Okay.

23 MR. BARRIOS: Something else that just came to my
24 mind, I mean, we may have some quality audits from the
25 customers. So probably you can request where you would like

1 to see what is the results of those quality audits for the
2 different suppliers.

3 COMMISSIONER BROADBENT: Okay. Thank you.

4 Could you talk to me a little about packaging,
5 what type of packaging you offer and how the marketplace
6 reacts to those different approaches to packaging?

7 MR. BARRIOS: Yeah, I think that that's
8 something that mainly one of our customers has told us that
9 the way that we package the product is more convenient, that
10 our competitors, that some of the petitioners, and this is
11 because not only the amount of wire that we have in that
12 package which is a continuous length and that will give them
13 some productivity. Also, the dimensions that we do it, and
14 the tension that we got in the wire itself when it's wound
15 in that case. So by the time that they get it and use it in
16 their installations, I mean, this is kind of out of
17 consumption and it has just the right qualifications, the
18 right conditions. So they don't have wire breaks on the one
19 hand and it's easy to handle on the other, and it helps for
20 the continuity of the continuity of their process.

21 So that's something that we have heard that our
22 product does better than our competitors.

23 COMMISSIONER BROADBENT: Okay.

24 MR. BARRIOS: And if I'm not mistaken, we
25 attached to our response last time, if not, that's something

1 that we can do. The specification, our internal
2 specification, some pictures and drawings that we use in the
3 packaging. So that's something that we already have
4 provided the Commission and we would love to do it again if
5 necessary.

6 COMMISSIONER BROADBENT: Okay.

7 MS. TORLINE: And, I'm sorry, I would just like
8 to add real quick. When we have spoken with Rocla in the
9 past, they have specifically stated that Davis' packaging
10 and their words was obsolete in type. So, again, Camesa's
11 packaging was preferable.

12 COMMISSIONER BROADBENT: Obsolete and?

13 MS. TORLINE: Obsolete and tight.

14 COMMISSIONER BROADBENT: And tight.

15 MS. LEVINSON: And I might add that that is
16 reflected in the pre-hearing staff report as well, not, you
17 know, without naming any names, but it does say that
18 customers did comment on the packaging making a difference.

19 COMMISSIONER BROADBENT: Okay. Thank you. My
20 time is expired.

21 COMMISSIONER WILLIAMSON: Thank you.

22 Commissioner Kieff?

23 COMMISSIONER KIEFF: Thank you. I join my
24 colleagues in welcoming you and providing testimony and
25 analysis from the lawyers as well. So, to follow on the

1 conversations from my colleagues to this panel as well as
2 our discussions with the other panel in the morning, let me
3 just start with a question. I'll direct it to Mr. Barrios
4 because I think it's a fact question about how the industry
5 evolved. But I recognize that both sides might want to
6 address it in the post-hearing and I would -- I think we all
7 would benefit from input from anyone on the topic.

8 The question is, it sounds like, in effect,
9 you're telling us that there was a quality event, the
10 quality event related to a domestic producer and it seemed
11 to have had a splash or a spillover that seems to have
12 tarred the domestic industry generally which then leaves
13 your colleagues from this morning in an awkward position.
14 It wasn't their product, they have only good relations with
15 their customers, but in effect they and you each benefitted
16 from this event. You all saw a rising tide lift all boats.
17 There was a growth in demand, but can you then explain, Mr.
18 Barrios, perhaps how you saw the industry evolve over that
19 time period and help us understand that evolution in a way
20 that makes it look like not a dumping or countervailing duty
21 case because I think your colleagues from this morning see
22 the evolution differently.

23 MS. LEVINSON: If you don't mind I'll comment
24 and then I'll turn this over to Mr. Barrios.

25 COMMISSIONER KIEFF: Sure.

1 MS. LEVINSON: But one of the things we've heard
2 from the petitioners is that all of these -- this defective
3 merchandise was actually delivered in 2009. And that's
4 prior to the period of investigation so what -- how could
5 that possibly affect what's happening in 2011, 2012, 2013?
6 But in fact the fact that this defective merchandise had
7 been delivered actually became a matter of public record as
8 a result of investigations that took place in 2011. So 2011
9 was within the period.

10 Now, as I mentioned, our primary customer Rocla
11 was buying from Davis and they may still be buying from
12 Davis. And I know for sure they're buying from Insteel.
13 But they shifted a great majority -- or perhaps a majority
14 is an overstatemtn, but it's a given portion of their sales
15 they shifted from Davis to Rocla. So Rocla's business went
16 up in 2011 and that accounts for the increase in volume of
17 imports during that period.

18 Now, Insteel -- our client Rocla tells me that
19 they don't have a particular problem with Insteel's quality
20 and the gentleman from Insteel was here and was proud of his
21 quality and we don't challenge that. We're told that the
22 biggest impediment for Insteel is its location. The fact
23 that it's located in Florida, and as you've noted, this is a
24 very transportation sensitive industry. It costs a lot of
25 money to transfer concrete. And so for customers in Arizona

1 and Texas and California and Spokane, Washington, they're
2 not going to seek merchandise from a plant in Florida.

3 I hope that answers your question in part, at
4 least.

5 COMMISSIONER KIEFF: Yeah, it does. And again
6 more is welcome post-hearing. And I'm not -- I'm not
7 disappointed if we don't have an ah-ha moment during the
8 hearing. It's okay, we don't have to convince each other
9 today. What we have to do today is guide each other towards
10 the open question so that we can in a thoughtful deliberate
11 way after today peruse the record including the post-hearing
12 briefs and reach a well-reasoned understanding. So it's
13 with that view that I will just also ask you in the
14 post-hearing to address versions of the questions I was
15 asking your colleagues earlier.

16 So, for example, if you could talk about how an
17 order in this case would impact imports that are not subject
18 of the investigation from countries other than Mexico and
19 China. And if that impact, if any, should inform our
20 thinking about whether this is an appropriate affirmative or
21 negative case.

22 MS. LEVINSON: You're referring, of course, to
23 the Bratz arguments and that's something we will, of course,
24 brief.

25 Just a quick comment is that we do know -- and

1 Mr. Barrios was here at the preliminary phase and at that
2 time he said, if we have high duties, we're predicting that
3 Rocla is going to go offshore to another producer because
4 Rocla wants multiple suppliers. And Rocla did, in fact, in
5 the preliminary phase of the Commerce investigation, we had
6 a 27-plus margin. And as a result of that, during the
7 period of time immediately thereafter Rocla actually sought
8 merchandise and purchased merchandise from Tixa from Spain
9 and also from Insteel.

10 That's something we'll elaborate on in the brief.

11 COMMISSIONER KIEFF: And then a related question
12 is, the hypothetical -- hypotheticals are always hard
13 especially for lawyers. They're never the case. But they
14 help us understand the case. So the question to explore is,
15 when can a purchaser switch without it being a violation of
16 our statute?

17 MS. LEVINSON: Okay.

18 COMMISSIONER KIEFF: In other words, if there are
19 concerns about quality, if the domestic industry lost the
20 favor of its purchasers, even if not the fault of this
21 particular member of the domestic industry, could there
22 still be a switch and could that switch occur in a way that
23 would not trigger the statute? Could the switch occur in a
24 way that would trigger the statute?

25 MS. LEVINSON: As I understand it, and just

1 briefly I would say the issue you are identifying is the one
2 that in my opening statement I said this case is all about
3 causation.

4 COMMISSIONER KIEFF: Right.

5 MS. LEVINSON: And it is about causation. And if
6 the reason you're switching is because of defective
7 merchandise that to me does not get the protection of the
8 antidumping law. But that's something we will -- will
9 brief.

10 COMMISSIONER KIEFF: And then, lastly, are there
11 major differences between your clients' imports and those
12 other imports from Mexico or imports from China?

13 MS. LEVINSON: Well, to the best of our
14 knowledge, there are no other imports from Mexico. Or if
15 there are, they're very small.

16 COMMISSIONER KIEFF: Okay.

17 MS. LEVINSON: Okay. And I guess Mr. Barrios is
18 speaking about Chinese product.

19 COMMISSIONER KIEFF: And I mean, by the way, not
20 just a technological question, but a -- I'm curious with an
21 eye towards what impact will exist for the U.S. industry?
22 Is there a difference in the impact on the U.S. industry
23 from these two; yours and China's?

24 MR. BARRIOS: I mean, we can provide some
25 information after. That's something that I can -- that I

1 think that it could be important to share with you and if I
2 understand correctly, you want to hear our opinion in this
3 case. In the case of Mexico where -- as far as I'm aware,
4 the only company which has been identified in this case
5 producing this product. We do know that we have one
6 competitor in Mexico that should have equipment capable to
7 make this wire. We don't understand why they have not been
8 in that market. That's their problem. But as far as I'm
9 aware, and knowing a little bit the Chinese market, not only
10 for PC tie, but for PCS which is something else that one of
11 the petitioners already mentioned. Actually, I used to have
12 one of our young ventures in China, I spent some time in
13 China, that you may have very good competence in China, very
14 good raw materials, very good processes, and you may have
15 some that are not that good.

16 So it could be responsible. It could be not
17 proper for me to bad mouth against some of the companies.
18 What I can tell you, and based on my personal experience
19 that you may have very good confidence coming up from China
20 with good product, but you may find scenarios which are not
21 that good.

22 So, which are the ones, and I think that that's
23 something that everyone, and probably not only in this type
24 of market should consider when they are making business or
25 when they are trying to double up a supplier from China is

1 how serious this company could be.

2 COMMISSIONER KIEFF: Well, then I guess, Ms.
3 Levinson, just for the post-hearing is, can you explain then
4 whether those difference should have -- should be relevant
5 to our thinking about whether it's more or less appropriate
6 that there be a remedy in this case and, for example, are
7 you really not interested in exploring cumulation? And my
8 time is up, but I've also reached the end of my questions.
9 Thank you very much.

10 Thank you, and thank you to your colleagues from
11 the morning.

12 COMMISSIONER WILLIAMSON: Commissioner
13 Shmidtlein?

14 COMMISSIONER SCHMIDTLEIN: Thank you. First
15 thank you for appearing before us today.

16 I wanted to follow up on the conversation about
17 Insteel and something you just said, Ms. Levinson, that the
18 respondents are not challenging the quality of Insteel as
19 the problem, that it was the transportation costs because of
20 their geographic location, is what WireCo has been told by a
21 customer. Did I understand that correctly?

22 MS. LEVINSON: Yes, you did.

23 That is my understanding; yes.

24 COMMISSIONER SCHMIDTLEIN: Okay. So this is my
25 question. Insteel has always been located in Florida, from

1 my understanding. And they testified this morning that they
2 were approached in 2009 and 2010 to enter this market and
3 they were located in Florida at that time. So how do you
4 explain that the sales started dropping later as the imports
5 started coming up. But for a period of time, apparently
6 geographic location wasn't a problem for Insteel?

7 MS. LEVINSON: I'm sorry?

8 COMMISSIONER SCHMIDTLEIN: No, what I'm saying
9 is, my understanding is that the point was it's the
10 transportation costs because of the location.

11 MS. LEVINSON: For our particular customer.

12 COMMISSIONER SCHMIDTLEIN: Okay. So they've
13 never purchased from Rocla?

14 MS. LEVINSON: No, I mean --

15 (Simultaneous conversation.)

16 MS. LEVINSON: In fact Rocla has purchased for
17 them for I believe the Delaware plant; is that correct?

18 MR. BARRIOS: Uh-huh.

19 MS. LEVINSON: The Delaware plant, yeah.

20 COMMISSIONER SCHMIDTLEIN: Okay. So --

21 MS. LEVINSON: And many plants around the
22 country. They have purchased, for example, for Texas or
23 help me out here.

24 MR. BARRIOS: I don't know.

25 MS. LEVINSON: The Arizona, Texas, that area. We

1 were told that they didn't purchase for those facilities,
2 but they did for the Delaware facility.

3 COMMISSIONER SCHMIDTLEIN: Okay. You said that
4 Rocla is going to provide an affidavit?

5 MS. LEVINSON: Yes.

6 COMMISSIONER SCHMIDTLEIN: Okay. So maybe it
7 would be helpful if that could be explained -- or they could
8 explain that in the affidavit.

9 I wondered too if, you know, along that line it
10 would be helpful if you have any contemporaneous
11 documentation of the conversations that you've talked about
12 where Rocla has informed you that they had a concern about
13 quality with Davis' product.

14 MS. LEVINSON: Okay.

15 COMMISSIONER SCHMIDTLEIN: So, I don't know if
16 all of those conversations were just verbal conversations,
17 but if you have any contemporaneous e-mails or other written
18 documentation where they're expressing a concern about
19 attorney with your competitor or any of your competitors,
20 that would be helpful too.

21 I have that put on the record.

22 MS. LEVINSON: Okay. We'll certainly look for
23 that.

24 COMMISSIONER SCHMIDTLEIN: Okay. Just in general
25 I asked the other side this question this morning. Can you

1 walk me through, from your perspective the purchasing
2 process and the qualification process that you've
3 experienced when selling to the two purchasers?

4 MR. BARRIOS: Yeah, in the case of CXT that are
5 the most stringent process first of all when we called them
6 trying to become a supplier they said, there's a complete
7 process which is typical meaning industry is to have a
8 qualification process. So they gave us their qualification
9 process, they tell us what we need to comply starting with
10 raw material process, et cetera. So we prepare on that. We
11 made some samples because there's -- as you may be aware
12 right now, there's a slight difference between the physical
13 properties of the product between one customer and the
14 other. So they gave us the proprietary specifications, we
15 analyzed, we certainly realized that the type of indentation
16 was like a different -- different conditions from a
17 production process point of view. It will be tougher to
18 make than the other one. So, we were preparing some
19 internal trials when we thought that we were able to meet.
20 We contact them. We says, okay, we are ready to do it, and
21 they have a very written and formal process to follow. So
22 we were following that process step by step by step.
23 Actually sometimes we think that they delayed for any given
24 reason, probably internal problems. We would have liked to
25 have done it faster, but we had to follow all these steps

1 which are very clear indicated in their process of
2 qualifications until we were approval. And right now we are
3 approved by them. But that's something that is a
4 proprietary specification of qualification that obviously we
5 have and that obviously we complied with in order to be
6 certified. So --

7 COMMISSIONER SCHMIDTLEIN: And that's a one-time
8 process or it's not a per order --

9 MR. BARRIOS: No, actually it was mentioned this
10 morning and that's something that we're still doing that
11 their ongoing process so to speak is that every time that we
12 produce one goal, we need to cut a sample, send them to
13 their lab for qualification, but this is just kind of an
14 additional step of the preliminary qualification process so
15 to speak.

16 COMMISSIONER SCHMIDTLEIN: Okay.

17 MR. BARRIOS: And that is something that we are
18 still doing and that's the way that they request to be done
19 in order to make business with them.

20 COMMISSIONER SCHMIDTLEIN: Okay. And when --
21 where does price negotiation fit into your process? This
22 morning your heard that it was the first step for the two
23 domestic producers. When do you negotiate price in that
24 process with the buyers?

25 MR. BARRIOS: I personally did not negotiate

1 price with them. But, I mean, it's not something that we --
2 I mean, that goes along with the process of clinical
3 qualification. So both things are important, but I don't
4 think that they will be willing to make business, regardless
5 of the price if you are not qualified into their quality
6 process.

7 So I cannot tell you specifically a day when we
8 negotiated prices. I can tell you that we got our approval
9 in -- well, we can do that in the post-hearing information.

10 COMMISSIONER SCHMIDTLEIN: Okay.

11 MR. BARRIOS: We certainly have that information
12 and we will provide that in the post-hearing information if
13 it's okay with you.

14 COMMISSIONER SCHMIDTLEIN: Okay. Earlier as
15 well, when you were talking about the problem with Davis and
16 the warranty claims and so forth and you mentioned that you
17 -- this was all public information, that you had looked it
18 up by Googling and so forth, I assume you mean in
19 preparation for this case?

20 MR. BARRIOS: Uh-huh.

21 COMMISSIONER SCHMIDTLEIN: In responding to this
22 case. So I'm just curious, but presumably when these
23 quality concerns were being expressed to you about your
24 competitor, that was obviously prior to this case; right?
25 Right?

1 MR. BARRIOS: Right. I mean, we're going back.

2 COMMISSIONER SCHMIDTLEIN: Okay.

3 MR. BARRIOS: Rocla has been our customer since
4 2006 and in 2009 says, okay, we'll like to -- in 2009, if I
5 remember correctly, we need to have more product from you.
6 We have some concerns about a reliable supply. And we were
7 ready to increase our business.

8 COMMISSIONER SCHMIDTLEIN: Okay. And so I just
9 wondered, you know, was that the extent of what you knew at
10 the time when they were expressing concern? In other words,
11 you hadn't looked it up or Googled or looked at the -- you
12 know, obviously the 10K wasn't out yet from the parent
13 company, but --

14 MR. BARRIOS: Yeah, no, I mean --

15 COMMISSIONER SCHMIDTLEIN: -- it was sort of a
16 general --

17 MR. BARRIOS: Exactly. I mean, it was kind of
18 a rumor in the marketplace and I think that nobody had
19 specific information about -- but it was clear that
20 something was going on in the market.

21 COMMISSIONER SCHMIDTLEIN: I see. Okay.

22 MS. LEVINSON: Yeah, and Commissioner, if you
23 don't my just adding that we actually first learned about it
24 and learned that it was something we should research from
25 some other representative at Camesa, actually at WireCo, and

1 perhaps it would be helpful in the post-hearing brief if we
2 have an affidavit from him about exactly what he learned and
3 when.

4 COMMISSIONER SCHMIDTLEIN: Okay. Yeah. And then
5 right now I think my last question is, you mentioned your
6 lead time, and I had asked the other side this as well.
7 What is your lead time in terms of from when you get a call
8 to -- .

9 MR. BARRIOS: Yeah, depending on the order we
10 normally -- and probably that's something else that we want
11 to do it in the post-hearing. We certainly have kind of a
12 process of receiving an inquiry from a customer quoting and
13 at that time we agreed what could be the delivery time that
14 they need and we can comply with. That could be kind of a
15 standard process.

16 COMMISSIONER SCHMIDTLEIN: And what generally --
17 what is that usually? Are you talking about a month, two
18 months, three months, six months?

19 MR. BARRIOS: Anywhere between four to eight
20 weeks to start with.

21 COMMISSIONER SCHMIDTLEIN: Oh, okay.

22 MR. BARRIOS: And sometimes, I mean, the order
23 goes beyond one month of delivery. So it all depends on the
24 necessities of the customer.

25 COMMISSIONER SCHMIDTLEIN: Right. Okay.

1 (Simultaneous conversation.)

2 COMMISSIONER SCHMIDTLEIN: All right. Thank you,
3 Mr. Chairman.

4 COMMISSIONER WILLIAMSON: Thank you.

5 Going back to the packaging issue, you mentioned,
6 I guess, one customer expressed, so they liked your
7 packaging. Where the other -- was it more than one
8 customer, or just this one customer?

9 MR. BARRIOS: We have one -- one customer which
10 buys a major quantity that we produce. Now we have a second
11 customer that is getting and I mean, they are pleased with
12 the entire product itself. I mean, the physical properties
13 of the product, the weight, the dimensions of the product.
14 I mean, we haven't heard anything specific from this second
15 customer as we did with the first one.

16 COMMISSIONER WILLIAMSON: Okay. Did the first one
17 specify that this is the way they wanted it packaged, or did
18 they just say, well, we like this packaging?

19 MR. BARRIOS: Actually, they said, that they
20 liked more our package than some of our competitors.

21 COMMISSIONER WILLIAMSON: Okay. So they could
22 have asked their other customers to package it the same way
23 if they were capable of it?

24 MR. BARRIOS: I could imagine so. I mean, I
25 could do that as a customer.

1 MS. LEVINSON: Commissioner, I might -- I'd ask
2 you to please refer to the page in the staff report. I
3 don't know off the top of my head, but there is at least
4 some indication that other customers have gone to the
5 domestic industry and complained about the packaging and
6 received no response whatsoever.

7 In fact, as I recall, I think the staff report
8 said that Davis said it was looking into it. That's not our
9 particular situation, but it was in the prehearing staff
10 report.

11 COMMISSIONER WILLIAMSON: Okay. Fine. I was
12 just trying to get -- since the petitioners this morning
13 said that if people want it a certain way they can supply
14 it. And so I was just trying to find out whether or not
15 people were requesting it or --

16 Okay. Okay. You also mentioned your raw
17 material and that you -- I guess you use -- you don't use --
18 you don't use scrap; is that correct?

19 MR. BARRIOS: Well, we don't make steel. So the
20 people who use the scrap is the maker of the -- the people
21 who makes the steel. And this varies from company to
22 company and even in the different steel making practices,
23 you may use a little bit more or a little bit less depending
24 on what process of steel making you have.

25 So, again, all this comment is not something that

1 we're claiming, but this is comments that our customer --
2 that our customer is doing out of our material and that's
3 why he likes more of our material than our competitors.

4 COMMISSIONER WILLIAMSON: So are they saying, we
5 want you to use raw material that's made from -- no made
6 from scrap?

7 MR. BARRIOS: Not precisely that way. Again,
8 what they need is to have material that doesn't create as
9 many breakage as some ores. And everybody knows that
10 material which is made out from iron ore, sponge iron
11 instead of scrap, it has the possibility to have much better
12 performance at the end of the product than if you do it with
13 a high content of scrap.

14 But, again, I think that this depends on every
15 single rod mill and the capacity -- the equipment and the
16 capacity of process that they may have to make better or not
17 that good quality of wire rod, particularly in the case of
18 PC tie wire which is typically a high-carbon rod. I mean,
19 you want to have a good quality of materials and eventually
20 of the steel.

21 COMMISSIONER WILLIAMSON: Okay. Because I
22 thought I heard the petitioners this morning say that there
23 wasn't any difference between using scrap or --

24 MR. BARRIOS: Well, I think that there is a
25 difference between making steel out from iron ore, pig iron,

1 and material made from high proportion of scrap. There might
2 be a difference on the quality of the steel.

3 COMMISSIONER WILLIAMSON: Okay. I'll ask
4 petitioners to respond to that or clarify their statement
5 this morning if she wants to do that.

6 Let's see. What is your position on cumulation
7 in this case? Especially now that the time is running out.

8 MS. LEVINSON: Cumulation is -- I wanted clarify
9 especially for Commissioner Pinkert that we have not
10 abandoned that issue or foregone that issue. It's very much
11 in our mind. It's something we're exploring. There are
12 difference between the Chinese product and our product, and
13 in particular there's a lack of competition because we have
14 primarily one customer, Rocla. And Rocla, the Chinese are
15 not a factor that we're aware of with Rocla. So we're not
16 competing in the marketplace. And when it comes to threat,
17 of course, you know, we would also urge you not to cumulate.
18 But these are arguments we're going to put in our
19 post-hearing brief.

20 COMMISSIONER WILLIAMSON: Okay. But you're
21 saying for purpose of present injury you haven't decided
22 whether or not you --

23 MS. LEVINSON: No, no, I'm sorry. We have. We
24 will be arguing there should not be cumulation either for
25 purposes of present injury or for purposes of threat of

1 injury.

2 COMMISSIONER WILLIAMSON: I was going to say,
3 given our global economy we live in nowadays, and how
4 quickly things change, is there an argument to say that just
5 because you have one particular customer now that that
6 should make things different?

7 MS. LEVINSON: We've had this one particular
8 customer since 2006 and that's been our primary customer.
9 And now they are not only our customer in the United States
10 that we're supplying, we believe we may be the sole supplier
11 supplying them in Mexico. So it's quite a long-term
12 relationship.

13 COMMISSIONER WILLIAMSON: Okay. And I think you
14 made the argument that increased demand in Mexico for the
15 product will mean that you have maybe less interest in
16 growing U.S. market share. What is it that's leading to
17 this increased demand, that there's particular projects? Is
18 there a government initiative or what?

19 MR. BARRIOS: As far as I'm aware, I mean, we
20 have -- I think that there are two or three different main
21 railroad companies in Mexico which were recently privatized
22 ten, 15 years ago. And it looks like one of them is having
23 some imported products down in Mexico. And that's why one
24 of our customers, Rocla, is having this big project and they
25 will need some of the tie wire that we produce. So, yes,

1 there's a specific product down in Mexico already in place.

2 COMMISSIONER WILLIAMSON: Okay. Because I mean,
3 there's a lot of speculation here about projects in the U.S.

4 MS. LEVINSON: Which I believe -- and this is
5 from my conversation with the representative of Rocla
6 yesterday, and if I have it correctly, I think he said that
7 it was actually Union Pacific that it was a subsidiary of
8 Union Pacific and the Kansas Railroad, no?

9 Okay. Strike that for the record.

10 COMMISSIONER WILLIAMSON: Okay.

11 MS. LEVINSON: But certainly the way -- it's more
12 than a project. It is something we are already supplying
13 them. It's not as if this is something that we -- we expect
14 to supply in the future. We are already supplying them.

15 COMMISSIONER WILLIAMSON: I mean, this must be a
16 pretty significant project if you expect all the demand to
17 be used up with that?

18 MS. LEVINSON: It's a huge project. Rocla is
19 opening a facility just for this project. And for -- I
20 imagine for the ongoing business that they expect to get
21 there.

22 COMMISSIONER WILLIAMSON: Okay.

23 MS. LEVINSON: They've opened a facility that did
24 not exist before in Central Mexico.

25 COMMISSIONER WILLIAMSON: Okay. If -- maybe we

1 could get some further details about that just to get an
2 idea of the timing and all.

3 Okay. This is going to be all the questions I
4 have for now.

5 Commissioner Pinkert?

6 COMMISSIONER PINKERT: Thank you, Mr. Chairman.

7 And I join my colleagues in thanking all of you for being
8 here today.

9 I have a few questions for Mr. Barrios. First,
10 given your testimony about Davis, should one expect in
11 looking at the sales volume data for the period of
12 investigation that Davis would have lost sales volume during
13 that period?

14 MR. BARRIOS: I could imagine so; yes.

15 MS. LEVINSON: Could you clarify? Are you
16 talking about during the entire period of investigation?

17 COMMISSIONER PINKERT: Looking over the period of
18 investigation, given what you've said about the warranty
19 issue and so forth, would one expect that they would have
20 lost sales volume?

21 MR. BARRIOS: Yes.

22 COMMISSIONER PINKERT: Okay. I tried to write
23 down some of your testimony while it was happening. I may
24 have gotten a word wrong, but I thought I heard you say, it
25 is expected that CXT will continue to purchase from current

1 sources. Can you elucidate, who is expecting that and what
2 assumptions are being made there?

3 MR. BARRIOS: My assumption is that if CXT was
4 buying from the Thais because there's a geographical
5 convenience from them and they have proven that they have
6 the quality that CXT is expecting from the suppliers, and
7 the Thais have no antidumping duty anymore, I mean, that
8 they will continue the business. That's a very personal
9 assumption. I mean, that's what my common sense will tell
10 me.

11 MS. LEVINSON: I believe that they've been the
12 primary supplier. See, if the Thais were supplying CXT, the
13 Mexicans were supplying Rocla in terms of division of where
14 imports were going from. And so since Thailand was going to
15 CXT and now Thailand has no dumping duties, why wouldn't
16 they continue to buy from Thailand.

17 MR. BARRIOS: And, again, this has some
18 relationship with geography and cost of freight.

19 MS. LEVINSON: Uh-huh.

20 COMMISSIONER PINKERT: Thank you. Now, you may
21 remember that I asked Insteel some questions about quality
22 issues. And they said that they hadn't had any reports of
23 quality problems. Now, I understand that in the testimony
24 this afternoon you've talked less about quality problems
25 with respect to Insteel and talked more about other

1 problems. But, is it your testimony that you disagree with
2 that statement by Insteel that they haven't had any reported
3 quality problems?

4 MR. BARRIOS: I don't disagree with anyone of
5 petitioners because I don't have -- I personally have no --
6 material has not inspected their material. What I'm saying
7 about quality is something that I do know from our product
8 because we know how we produce our product. I certainly do
9 know and the comments that I heard from one of our main
10 customers that they prefer our product than some of our
11 competitors. That's what I'm based my testimony.

12 COMMISSIONER PINKERT: Thank you.

13 MR. BARRIOS: Did I explain myself?

14 COMMISSIONER PINKERT: Thank you for clarifying
15 that but I'm still trying to focus in on Insteel. You said,
16 you know, you've got reports from customers that they prefer
17 your product to some of the others. But specifically with
18 respect to Insteel, they said that they haven't had any
19 reported quality concerns. And I'm not hearing any
20 testimony from you that you would dispute that. Can you say
21 it into the microphone?

22 MR. BARRIOS: Sure. Sure. I mean, I wouldn't
23 dispute that about Insteel. I haven't heard any specifics
24 against them. Obviously I have done any -- I have not done
25 any testing from their material. And certainly one of our

1 customers is saying that our product is better than some of
2 the petitioners. That's what I am referring.

3 COMMISSIONER PINKERT: Okay. Now, keying off of
4 some the questions that the Chairman asked you, is there an
5 industry standard for packaging?

6 MR. BARRIOS: I don't have on top of my mind. I
7 mean, ASTM, I have in my computer. I do know that CXT has
8 specifications for packaging. I don't recall exactly the
9 way that it is phrasing ASTM A date one, but I did, it says
10 whatever convenience -- whatever agreement made between the
11 customer and the supplier. CXT certainly has some
12 specification and we do have an internal specification which
13 complies with both of our customers. So industry is such I
14 don't think that there is, but, again, it's just a matter to
15 go back to the specification and look at it.

16 COMMISSIONER PINKERT: That's helpful. And in
17 terms of the difficulty of producing to a proprietary
18 standard as opposed to an ASTM standard, is there any
19 difference there in the difficulty of producing?

20 MR. BARRIOS: It is. It is. And I think that I
21 said last year that every company has its own way to design
22 and manufacture things. There's a slight difference between
23 ASTM-81 and CXT-1. But if you comply with the CXT-1, you
24 may comply with the other one. And that's exactly what we
25 tried to do. I mean, to have a robust process from a

1 statistical point of view that can guarantee you that you
2 will be meeting both of -- and this is just a personal
3 strategy to reduce -- and so many other things.

4 So, yes, trying to give you a straight answer,
5 yes, there is a slight difference, but we at Camesa comply
6 with both of them.

7 COMMISSIONER PINKERT: I'm just brainstorming
8 here with you for a second. But does it -- if you're
9 producing to satisfy both standards, does that increase the
10 cost over what you would incur if you were only trying to
11 comply with one of the two?

12 MR. BARRIOS: Not in our case. We have mastered
13 the process and we have what we think is a very robust
14 process that we can meet with both and with the same cost.

15 COMMISSIONER PINKERT: For purposes of the
16 post-hearing, Ms. Levinson, I know you're going to talk
17 about the issue of cumulation for purposes of threat. I
18 would ask you to look specifically -- not exclusively -- but
19 specifically at volume and price trends in your analysis of
20 that issue.

21 MS. LEVINSON: I will do so.

22 COMMISSIONER PINKERT: Thank you.

23 And also for purposes of analysis under Bratz and
24 Matall, I asked the question earlier today, but I will ask
25 this panel, is it your contention that this is a commodity

1 product for purposes of that analysis?

2 MS. LEVINSON: (Off microphone.) legal point of
3 view --

4 Our position from a legal point of view is it
5 does fit within the Bratz Matall analysis. And in order to
6 fit in that, it has to be a commodity or product as defined
7 in those cases. So, yes, we believe it is.

8 COMMISSIONER PINKERT: Could you respond
9 specifically to the concerns that were alluded to earlier
10 today about different specifications within the industry and
11 whether or not that may make it -- may take it out of that
12 commodity basket for purposes of the Bratz Matall analysis?

13 MS. LEVINSON: Well, that's something I'll
14 explore more in my brief, but briefly, the fact -- there
15 really are only two customers and there's only the 881
16 specifications. And the CXT specifications are just a
17 little -- more stringent than the 881. But as Joaquin
18 explained, you can -- we've been able to achieve production
19 that would satisfy both at the same cost. So, I think that
20 that brings it more into the area of a commodity product as
21 defined in the case.

22 COMMISSIONER PINKERT: One other issue that I
23 would ask you either to talk about here or in the post
24 hearing is for purposes of that Bratz Matall analysis would
25 the pricing of the non-subject imports have been somewhat

1 different than the pricing of the subject imports in the
2 event that the non-subject imports had replaced the subject
3 imports during the period of investigation?

4 MS. LEVINSON: Yes, well the --

5 COMMISSIONER PINKERT: Well, thank you very much.
6 I know I've put a lot on your plate for the post-hearing and
7 it's the end of my round.

8 COMMISSIONER WILLIAMSON: Thank you.

9 Commissioner Johanson?

10 COMMISSIONER JOHANSON: Thank you, Mr. Chairman.
11 I just have a few more questions for the panel. And I know
12 this is something which has been discussed, but I was hoping
13 you all could discuss it a bit more because I think that it
14 is an important issue. In your experience, what do the
15 qualification or certification processes involve in this
16 market and how long does it take to qualify a supplier?

17 MR. BARRIOS: In our case I think that it took
18 almost a year to be qualified by CXT. But, again, I think
19 that that could have been done slightly faster. It
20 certainly takes some time. So in my opinion there's no
21 specific time period to be qualified. I could say that for
22 this type of products you will be looking somewhere between
23 three to six months in normal conditions.

24 COMMISSIONER JOHANSON: That seems like a fairly
25 long time for a product which is basically -- I know we were

1 just talking about this, a commodity product in a way. I
2 don't know anything about the industry, but it does seem
3 like it would be a little long.

4 MR. BARRIOS: I am not familiar with the
5 classification of a commodity product under Matall
6 something. So I can't elaborate on that. But, I mean,
7 thinking -- and you have heard so many times already that
8 the proper tie information about CXT and this problem that
9 has been founded best with the indentation of the product.
10 So when you are qualifying technically a product like this,
11 I think that both party would like to make very sure that
12 the producer is complying with it and that the customer is
13 receiving a product where the supplier is complying with it.
14 So is not that easy, so that's why I have a hard time to
15 understand and probably this is my ignorance that I don't
16 know what entails the definition of commodity product under
17 that reference. So, from that perspective and from that
18 technical perspective, I would say that is not a commodity,
19 that piece of tie wire.

20 MS. LEVINSON: And Joaquin, could you just
21 clarify when you say the -- is the indentation for the
22 purpose of sticking to concrete? That's primarily what it
23 --

24 MR. BARRIOS: Yeah, that's primarily what it is.
25 And that's one of the differences that you may find between

1 ASTM and proprietary specification from CXT.

2 COMMISSIONER JOHANSON: Okay. Thank you for
3 trying to answer that. I understand it's a little complex.

4 And I just have one more question. And this is,
5 once again it's something that has been discussed today, but
6 I was wondering if you could discuss it a bit more. At page
7 28 of the staff report, the report states that importers and
8 purchasers report that a suppliers' geographic position in
9 the United States is a constraint on the supplier's ability
10 to competitively purchasers in the U.S. market. Could you
11 all develop that a bit further? Because I've been working
12 here, I don't know, about two years or so now, and it's been
13 firmly implanted in my mind the transportation costs
14 generally are not that big of an impediment to shipping
15 products around the United States, especially if it is a
16 commodity type product which this might or might not be.
17 Could you all discuss that a bit further though please?
18 Because it seems to me if you have a product coming in from
19 Mexico, I mean, that's -- you have to go through customs, et
20 cetera, that would not necessarily place you all at an
21 advantage in the U.S. market.

22 MR. BARRIOS: Depends where in the U.S. And I
23 think --

24 COMMISSIONER JOHANSON: The U.S. suppliers are
25 dotted around the country though; right?

1 MR. BARRIOS: Right. And actually I remember
2 that when we were filling the questionnaires there was a
3 table where we were asked to say how much of the product did
4 we ship was to certain regions and there were like five or
5 six different regions depending on how far were they from
6 this shipping point, if I remember correctly. And I'm just
7 trying to remember those questions. So there, I mean, to me
8 it's quite obvious that we both, the petitioners and us,
9 have some advantage or disadvantages on the freight.
10 Because, I mean, at the end of the day, I mean, the freight
11 cost is pretty much the same. Once you get into the United
12 States, if you go by boat or if you go by truck, will be
13 pretty much the same. Obviously there are some exceptions.
14 But, I me, if it's closer to the production center of Mexico
15 City, probably could be cheaper the freight costs, and if
16 you go farther in the north will be much more expensive. So
17 the petitioners have their own respective geographical
18 locations which will make either cheaper or more expensive
19 the freight.

20 I don't know if that answered your questions.

21 COMMISSIONER JOHANSON: Yes, it does, somewhat.
22 And I'll have to think about it a bit further. But, just if
23 you could answer something else for me, and this is
24 something which I assume is in your brief and in the staff
25 report, but I just don't recall.

1 Where do you all manufacture in Mexico?

2 MR. BARRIOS: Mexico City.

3 COMMISSIONER JOHANSON: In Mexico City itself?

4 MR. BARRIOS: Uh-huh.

5 COMMISSIONER JOHANSON: Okay.

6 MR. BARRIOS: Well, it's -- no, I think that
7 this is the regular trucking --

8 COMMISSIONER JOHANSON: Okay.

9 MR. BARRIOS: -- that goes inside Mexico and
10 outside Mexico. Just to be very specific, it's one of the
11 suburbs outside Mexico City, but it's that big place.

12 COMMISSIONER JOHANSON: Yeah, that big place,
13 sure. You know, to be honest with you and this just kind of
14 shows you what I think of Mexico manufacturing, I assumed
15 you were in Monterey since there's so much there.

16 MR. BARRIOS: That's a big difference because
17 there -- I mean Monterey --

18 COMMISSIONER JOHANSON: They're very close --
19 (Simultaneous conversation.)

20 MR. BARRIOS: -- border on the north.

21 COMMISSIONER JOHANSON: Yeah, right. Okay.
22 Well, that concludes my questions. I'd like to thank the
23 witnesses for appearing here today, especially Mr. Barrios.
24 You've certainly been a one-man show to some extent. And I
25 know this has been -- it's a little difficult for you when

1 you're the only one that's doing most of the answering, but
2 I do appreciate you being here and also the attorneys as
3 well.

4 Thank you.

5 MR. BARRIOS: My pleasure.

6 COMMISSIONER WILLIAMSON: Thank you.

7 Commissioner Broadbent?

8 COMMISSIONER BROADBENT: Yeah, I just wanted to
9 harp again on the transportation issue. What are your costs
10 sort of -- friction costs at the border? I mean, how long
11 -- how much do you pay to get to the border, and do you have
12 to wait in line at the entry point and so forth? Are there
13 nontariff barriers that you're worried about?

14 MR. BARRIOS: We sell not only PC type wire, but
15 I mean, lots of wire to the U.S. Actually we produce some
16 of the wires that we use for other products in our U.S.
17 plant. So I wouldn't have any problem to provide you with
18 that information in our post-hearing report.

19 COMMISSIONER BROADBENT: Okay. Yeah, that would
20 be -- that would be very -- it would just be interesting all
21 the way around.

22 MR. BARRIOS: Sure.

23 COMMISSIONER BROADBENT: And anything else you
24 could just table 22 on the geographic distances. I mean,
25 because we have -- you know, Insteel is located in Florida,

1 then you've got Davis is up in Camp Washington, so, you
2 know, we are guessing the distance is going to matter here.
3 But we need sort of an order of magnitude on the
4 transportation costs.

5 MR. BARRIOS: I think it does.

6 COMMISSIONER BROADBENT: Okay. And then just out
7 of curiosity, what are you projecting for demand for these
8 railway ties? What are you thinking that will be happening
9 on light rail, for example, and what's the demand doing in
10 Mexico.

11 MR. BARRIOS: This is something that we don't
12 project as a demand in rail tracks. That's something for
13 our customer.

14 COMMISSIONER BROADBENT: Uh-huh.

15 MR. BARRIOS: And that the customer will come to
16 us and says, okay, we think that our demand with this
17 project or this order will be this much in terms of wire
18 which at the end, that's what we negotiate and that's what
19 we produced.

20 COMMISSIONER BROADBENT: Okay. So you -- go
21 ahead.

22 MR. BARRIOS: Yeah, sorry. Sorry. So, we don't
23 get information and actually probably we get -- we don't
24 know how to understand it about the railroad tracks. That's
25 something for our customer. And in our cause what we call

1 is just the amount of product of this analysis which is PC
2 tie wire.

3 COMMISSIONER BROADBENT: Okay. And you sell
4 almost all of your production in the U.S.; is that right?

5 MR. BARRIOS: No.

6 COMMISSIONER BROADBENT: No?

7 MR. BARRIOS: No. No. No. And I'm glad that
8 you brought that -- and as I mentioned in my presentation
9 early this afternoon, I think that we need to be very clear
10 in the public report at the very beginning it describes how
11 the process is in visionary terms and I think that's
12 something that we would like to do is to insist in the
13 difference between one part of the process which is making
14 the wire from the raw material that we bought from our
15 suppliers, which is Roth, to make it smaller, so to speak.
16 And then you have additional process to give the properties
17 -- the final properties that the PC tie wire requires which
18 someone calls stress relieving process. So there are
19 completely two different type of equipments, and in our case
20 the capacity that we have in wire drawing is completely
21 different than what we got in stress relieving. I could
22 assume that the petitioners experience something similar,
23 that's very typical in this industry. So, that's a very
24 important distinction that we want to make in our
25 post-hearing information. The capacity that we have in wire

1 drawing is one, but the capacity that we have in the
2 stress-relieving which is a very, very fundamental
3 characteristic of this wire is different. We are close to
4 100 percent, and actually on the capacity utilization and
5 not good part of that comes to the United States. We also
6 use that capacity for other products and other purposes and
7 other customers.

8 COMMISSIONER BROADBENT: Okay.

9 MS. LEVINSON: Commissioner, I'd like to clarify
10 that. I hope I'm correct. Your original question was, do
11 you sell the majority of your rail ties to the United
12 States. And, yes, we have sold the majority to the United
13 States. However, the landscape is changing a little bit
14 with this new facility in Mexico where we're going to have
15 to start taking back some of the product that was going to
16 the U.S. and supplying Rocla in Mexico. And it's a very
17 interesting situation because we have this same customer,
18 Rocla, in both United States and Mexico. So, you know,
19 we're having to subtract some of Rocla's supply in the
20 United States in favor of its supply in Mexico.

21 COMMISSIONER BROADBENT: Right. Okay. No more
22 questions, Mr. Chairman. I want to thank the witnesses.

23 COMMISSIONER WILLIAMSON: Thank you.

24 Commissioner Schmidtlein?

25 COMMISSIONER SCHMIDTLEIN: Thank you. I just

1 have a couple, two or three more here.

2 Following up on this transportation question, so,
3 does WireCo sell to Rocla facilities on the east coast, or
4 let's say, east of the Mississippi?

5 MR. BARRIOS: We will provide that information
6 in our post-hearing. I mean, we have certain locations that
7 we sell more than in others.

8 COMMISSIONER SCHMIDTLEIN: Right.

9 MR. BARRIOS: So we will certainly provide that
10 information in our post-hearing --

11 COMMISSIONER SCHMIDTLEIN: Okay. That would be
12 great.

13 MR. BARRIOS: Yeah, I mean, Ms. Levinson was
14 asking me if I can share with all the audience some of the
15 Rocla locations.

16 COMMISSIONER SCHMIDTLEIN: Okay.

17 MR. BARRIOS: Amarillo, Texas, Delaware, and
18 Pueblo, Colorado. Those are the three more intense
19 locations that CXT -- that Rocla, sorry, that Rocla has that
20 we are aware of.

21 COMMISSIONER SCHMIDTLEIN: Okay. Okay.

22 My second question is to sort of change gears a
23 little bit. Some purchasers have mentioned that PC strand
24 can be a substitute for PC tie wire. So, can you -- you
25 know, in light of the discussions today on the qualification

1 and warranty issues, and ASTM specifications, is in your
2 view is PC strand a viable substitute for PC tie wire? And
3 I'd also be curious what the petitioners have to say to
4 that?

5 MR. BARRIOS: That's a very interesting
6 question. And, again, I don't consider myself a specialist
7 in ties. I can't imagine that the properties of PC tie wire
8 are to circumstance similar to PCS wire, to PC strand, let
9 me be very clear. PC tie wire, some properties are similar
10 but not exactly the same. Again, I don't know have the
11 knowledge. I am sure that there's a lot of technology on
12 the railroad ties. But I was also impressed, but when I was
13 reading the public -- how do you call the public --

14 MS. LEVINSON: The staff report.

15 MR. BARRIOS: -- the staff report that there is
16 a comment on that --

17 COMMISSIONER SCHMIDTLEIN: Uh-huh.

18 MR. BARRIOS: -- that that will be a substitute.
19 From a metallurgical point of view, I am a metallurgist, by
20 the way, I can understand that properties are very, very
21 similar from architectural, from a stress point of view. I
22 would not have an opinion of that. I mean, I'm not
23 qualified to make an opinion, but it was interesting to me
24 that it looks like our customers say that PC strand may be a
25 substitute for PC tie wire.

1 COMMISSIONER SCHMIDTLEIN: Okay.

2 MR. BARRIOS: Makes certain sense. Actually, I
3 think that there is two or three users in Europe that uses
4 PC strand instead of PC wire.

5 COMMISSIONER SCHMIDTLEIN: Okay.

6 MR. BARRIOS: But I'm not that familiar and I'm
7 not an expert in this. So sorry.

8 COMMISSIONER SCHMIDTLEIN: Okay. All right.
9 Thank you. And then my last question for the respondents is
10 -- has to do with some statements that were in your brief.
11 And so just for the post-hearing brief just specifically on
12 page 10 of the brief you state that Rocla received
13 substantial new business from Union Pacific that was
14 formerly with CXT. And then in a proprietary statement on
15 page 11, you refer to some requirements for that Union
16 Pacific business. So, I'm just requesting that in the
17 post-hearing brief if you could provide more information or
18 documentation about supporting that proprietary statement on
19 page 11. I hope that was specific enough.

20 And then I had one question for the Petitioner,
21 should I wait for the end, or can I ask it now, or what?
22 It's quick.

23 MR. BARRIOS: (Off microphone.) post-hearing.
24 Go ahead. Go ahead. Go ahead.

25 COMMISSIONER SCHMIDTLEIN: Okay. So my question

1 is on this transportation stuff, has Insteel sold to Rocla
2 facilities in Colorado? And you're shaking your head yes.
3 Okay.

4 MS. CANNON: Yes, and we'll put that on the
5 record in our post-hearing brief too.

6 COMMISSIONER SCHMIDTLEIN: Okay. Okay.
7 Curiosity was killing me, so I had to know.

8 Thank you. That's all.

9 COMMISSIONER WILLIAMSON: Thank you. Good.

10 I think Commissioner Broadbent had asked about
11 demand in the U.S. Is it correct you said you didn't have
12 any view on future demand, or did you have some opinions on
13 that?

14 MS. LEVINSON: I think she asked about demand in
15 Mexico.

16 COMMISSIONER WILLIAMSON: Okay. I'm sorry.
17 Well, what about demand in the U.S., what are your views on
18 that for this product?

19 MR. BARRIOS: Yeah, I mean, there is still demand
20 for this product here in the United States.

21 COMMISSIONER WILLIAMSON: Thank you.

22 Do you see it growing rapidly or just sort of a
23 steady pace that is has been in recent years?

24 MR. BARRIOS: I would say that the same pace
25 that we have seen the last three years.

1 COMMISSIONER WILLIAMSON: Okay. Thank you.

2 Okay. I have no further questions.

3 Commissioner Pinkert?

4 COMMISSIONER PINKERT: I have no further

5 questions. Thank you.

6 COMMISSIONER WILLIAMSON: Commissioner Johanson I

7 think is finished.

8 Commissioner Kieff?

9 So I guess there are no further questions from

10 Commissioners.

11 Does staff have any questions for this panel?

12 MR. CORKRAN: Douglas Corkran, Office of

13 Investigations. Thank you, Mr. Chairman. Staff has no

14 additional questions.

15 COMMISSIONER WILLIAMSON: Okay. Do petitioners

16 have any questions for this panel?

17 MS. CANNON: Petitioners have no questions.

18 COMMISSIONER WILLIAMSON: Thank you. Well,

19 almost at the end and I guess it's time for closing

20 statements. And see, the petitioners have 25 minutes left

21 on direct with five for closing for a total of 30 minutes.

22 And respondents have 50 minutes left on the direct, plus

23 five minutes closing for total of 55 minutes. It's normal

24 we combine those times. And I assume nobody is going to

25 need all that time. But --

1 MS. LEVINSON: (Off microphone.)

2 COMMISSIONER WILLIAMSON: Okay. Good.

3 Okay. With that, I want to thank this panel. I
4 appreciate your testimony. Excuse me.

5 MS. LEVINSON: I'm sorry, Chairman, Mr. Barrios
6 would just like to make one final statement.

7 COMMISSIONER WILLIAMSON: Sure. Go ahead. I'm
8 sorry.

9 MR. BARRIOS: Thank you. Again, I mean, from
10 this public information and which to me is kind of very
11 representative because that's something that I or Camesa
12 didn't say. And if I can read just literally from part two,
13 page 27, it says, "two or three purchases reported
14 purchasing PC type wire from one source although a
15 comparable product was available at a lower price from
16 another source. Purchaser XYZ reported that it sometimes
17 purchases higher-priced PC type wire because of other
18 factors such as quality, product reliability and delivery
19 terms outweigh price differences. Purchaser ABC reported
20 that it prefers product" blah-blah-blah "product due to its
21 overall quality consistency and is of use at X production
22 facilities." So what I'm trying to -- the point that I'm
23 trying to make here is that the purchasers are saying that
24 price is not the only thing that they are looking from our
25 products.

1 Thank you.

2 COMMISSIONER WILLIAMSON: Okay. Thank you. And
3 I want to thank you for your testimony and I would ask you
4 to take your seats in the back and we'll have closing
5 statements.

6 (Pause.)

7 COMMISSIONER WILLIAMSON: You may begin when
8 you're ready.

9 MS. CANNON: Thank you, Chairman Williamson. And
10 no worries, I will not be using up the 30 minutes I have
11 left.

12 Let me address some of the points that
13 respondents raised starting with the Union Pacific CXT
14 dispute. Mr. Barrios admitted he has no personal knowledge
15 about the dispute between Union Pacific and CXT. He
16 admitted that he has no personal knowledge about the dispute
17 between CXT and Davis. And also he said that he has no
18 opinion on whether the problem concerning the bond between
19 the tie wire and the concrete was caused by the concrete or
20 the wire. Very good question.

21 Ms. Levinson similarly admitted she has no
22 personal knowledge of the situation. Instead, she said she
23 can do no more than speculate, her words, about the cause of
24 the CXT tie defects.

25 Ms. Levinson further said there was a lawsuit CXT

1 filed against Davis and that if Davis had concerns she would
2 think that Davis would have filed its own lawsuit or
3 counterclaim. Davis did. The lawsuit was dismissed and
4 there was no finding on this issue.

5 Ms. Levinson also said that we had argued that
6 all of the defective merchandise was delivered or sold in
7 2009. We never said any of the domestic producers sold
8 defective wire.

9 Commission Kieff asked a hypothetical earlier
10 about what a rational CEO would do. So let's think about
11 what a rational CEO did do in this circumstance and let's
12 assume the Rocla and the Union Pacific CEO is irrational.
13 Rocla bought Davis wire and made ties that it sold to Union
14 Pacific. Union Pacific knowingly bought ties with the Davis
15 wire. This occurred after the dispute between Union Pacific
16 and CXT.

17 Look at Chart 9 of our handout. Look at the
18 trend in the purchases over the period and look at the
19 underselling statements and the statements in the
20 questionnaires and I think that will answer most of your
21 questions.

22 Mr. Barrios did not answer Commission Johanson's
23 question about why he was selling at a lower price if his
24 product was a superior product. What I heard him say was
25 that Camesa had an efficient operation and so presumably

1 that that would explain the prices. But don't forget that
2 you have a dumping finding here and that the Commerce
3 Department calculated the margin of dumping based on a cost
4 of production analysis and found a 10 percent margin, a 10
5 percent dumping margin. So underselling is not about
6 efficiencies here, it's about dumping.

7 Mr. Torline said that Rocla had told WireCo, the
8 Insteel packaging was obsolete and tight. But look at Chart
9 10 to our handout and see what your record shows on that
10 issue.

11 Mr. Barrios said he did not test the Insteel
12 material so he couldn't really address the quality issues,
13 but he was relying on his customer, Rocla. Look at Charts 8
14 and 9 and what your record shows on that issue.

15 I'm still not hearing any real issues about
16 Insteel in quality that would explain the sales declines
17 that they have suffered over the period. The transportation
18 costs which is the main factor that I heard them mention
19 today, does not explain this lack of sales.

20 Look at page 24 or our brief where we've set
21 forth the distances between the Jacksonville facility and
22 the various Rocla facilities, and then the Camesa facility
23 and the Rocla facilities and you will see that Insteel's
24 facility is closer to or comparable than far away from the
25 facilities of Rocla.

1 More importantly, Rocla has purchased from
2 Insteel to supply all of its facilities. And if you want
3 further information on the successful supply of Insteel
4 material from coast to coast, please look at Mr. Wagner's
5 declaration which appended to Exhibit 5 -- as Exhibit 5 to
6 our brief.

7 I would also mention that there's another
8 customer in this market that hasn't been talked about today.
9 A company called Nortrack. You have some information in
10 your report on that. Look at who that customer buys from
11 and what that customer says about the quality of the product
12 it buys. And I would refer you to pages 2-5 and 2-31 of
13 your report and to footnote 13 on page 22 of our brief.

14 Finally, if the purchasers want multiple sources
15 as they say, that's fine. They can buy from Davis. They
16 can buy from Insteel, they can buy fairly traded imports.
17 The multiple supply preference does not require them to buy
18 dumped imports. And I think it's important to note that
19 after we filed the case, Rocla bought increasingly from
20 Insteel after they said it was buying from Tixa a Spanish
21 producer. So it actually benefitted us. We were able to
22 supply them notwithstanding a new supplier in the market
23 which kind of punctuates our point that it's the dumping
24 that's causing this problem and not other quality or other
25 factors that they've identified.

1 That concludes my statement. Thank you very much
2 for your attention.

3 COMMISSIONER WILLIAMSON: Thank you.

4 Ms. Levinson, you may begin when you're ready.

5 MS. LEVINSON: Thank you, sir. There's a big
6 elephant in the room and the petitioners just don't want to
7 deal with the elephant. They're dancing around it. They're
8 pretending it doesn't exist. Their response to the fact
9 that Davis between 2006 and 2009 sold defective ties to CXT
10 which then resulted in claims from Union Pacific. Their
11 response is Mr. Barrios has no personal knowledge of it.
12 Ms. Levinson has no personal knowledge of it. What
13 relevance is our personal knowledge? This is documented by
14 your own staff, documented in the press. I would doubt that
15 Ms. Cannon has any personal knowledge of it, unless she was
16 working on the case.

17 Our personal knowledge is not what's at issue
18 here. What's at issue is that Davis engaged in conduct that
19 seriously impacted their reputation. The gentleman from --
20 Mr. Davis I apologize if I -- the gentleman from Davis, Mr.
21 Hillebrandt, if I'm not getting his name correctly, but, you
22 know, he said himself, he thinks the quality of the imported
23 product is okay because if it weren't okay people wouldn't
24 buy from them. Well, that's exactly what happened with
25 Davis. The quality wasn't okay, and people stopped buying

1 from them. CXT decertified them. They have never regained.
2 They are not supplying in the quantities to CXT that they
3 were before the incident. But Ms. Cannon makes no mention
4 of the incident.

5 Rocla, our customer, told us, and we'll confirm
6 in an affidavit that they switched to Camesa. Camesa
7 benefitted from the debacle with Davis and that's how we
8 happen to know about it. In our post-conference brief we
9 will have an affidavit from the person at Camesa who has
10 personal knowledge of exactly what happened with the Davis
11 situation.

12 It's incredible to me that the petitioners would
13 stand up here and say that they've never heard any
14 complaints about their merchandise until this hearing, until
15 or perhaps until the investigation was filed and we appeared
16 at the preliminary conference. I think they should have
17 gotten a clue when they got decertified. That might have
18 been an indication that somebody was -- a customer of theirs
19 wasn't very happy with their product.

20 Perhaps they should have gotten a clue when Union
21 Pacific sued CXT in large part over the wire. Again, it's
22 beyond me how they could not have had any -- have never
23 heard this before now.

24 I did want to make -- support what Mr. Barrios
25 said about Rocla switched from Davis to Camesa. And in

1 response to some of the questions about this new facility in
2 Mexico. The new facility in Mexico I didn't have it on the
3 top of my head when you asked me, but it's a subsidiary of
4 Kansas Southern, has a five-year project of construction in
5 Mexico and Rocla has set up a facility specifically aimed to
6 supplying their needs.

7 Now, why do I even mention this? Because the
8 issue of capacity is an important issue. And if you look at
9 the staff report, you might conclude that Camesa has a great
10 deal of excess capacity. But the point that Mr. Barrios was
11 trying to make at the end was, they are measuring capacity
12 by wire drawing capacity only and not wire relieving
13 capacity. You have to look at both capacities. And for the
14 -- we cannot get to the wire relieving stage if the capacity
15 is being used at 100 percent at the wire relieving stage,
16 and that's exactly what's happening. Right now Camesa
17 cannot produce more product, perhaps it can draw more wire,
18 but it can't relieve the stress in a way to produce the rail
19 ties.

20 So, when you're analyzing the excess capacity in
21 Mexico, think about this new facility in Mexico, think about
22 the way the capacity has been measured. And in our
23 post-conference brief we're going to give you the statistics
24 on capacity for both of the two procedures.

25 The Bratz argument again we'll make in our brief.

1 But it is very important to know that there are other
2 suppliers. There's the Thais. There's no evidence and I
3 don't believe Ms. Cannon even tried to allege that any sales
4 that are lost as a result of this dumping case perhaps to
5 Camesa are going to end up with Insteel or Davis. There is
6 every bit to every bit logical to assume that the sales will
7 continue -- CXT's sales will continue with Thailand. And
8 that other people may -- there are other suppliers around
9 the world.

10 That concludes my remarks. I want thank you very
11 much. Very patient panel, very good questions, and we
12 appreciate your time very much.

13 COMMISSIONER WILLIAMSON: Thank you.

14 And I too want to express appreciation to
15 everyone who participated in today's hearing.

16 A closing statement. Post-hearing briefs,
17 statements responsive to questions and requests of the
18 Commission and corrections to the transcript must be filed
19 by May 13, 2014. Closing of the record and final release of
20 data to parties is May 28, 2014. Final comments are due May
21 30th, 2014.

22 And with that, this hearing is adjourned. Thank
23 you, everyone.

24 (Whereupon, at 3:01 p.m., the hearing was
25 adjourned.)