UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	**Investigation Nos.:**
CERTAIN PASSENGER VEHICLE AND	)	**701-TA-522 AND**
LIGHT TRUCK TIRES FROM CHINA	)	**731-TA-1258 (FINAL)**

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Main Hearing Room (Room 101)
U.S. International Trade Commission
500 E Street, SW
Washington, DC
Tuesday, June 9, 2015

The meeting commenced pursuant to notice at 9:30 a.m., before the Commissioners of the United States International Trade Commission, the Honorable Meredith M. Broadbent, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

Chairman Meredith M. Broadbent (presiding)

Vice Chairman Dean A. Pinkert

Commissioner Irving A. Williamson

Commissioner David S. Johanson

Commissioner F. Scott Kieff

Commissioner Rhonda K. Schmidtlein

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Aimee Larsen, Economist

David Boyland, Accountant/Auditor

Courtney McNamara, Attorney

Waleed Navarro, Statistical

Elizabeth Haines, Supervisory Investigator

APPEARANCES:

Congressional Appearances:

The Honorable Jeff Sessions, United States Senator, Alabama

The Honorable Sherrod Brown, United States Senator, Ohio

The Honorable Tim Kaine, United States Senator, Virginia

The Honorable David Price, U.S. Representative, 4th District, North Carolina

The Honorable Robert B. Aderholt, U.S. Representative, 4th District, Alabama

Opening Remarks:

Petitioner (Terence P. Stewart, Stewart and Stewart)

Respondents (Max F. Schutzman, Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP)

In Support of the Imposition of Antidumping and Countervailing Duty Orders:

Stewart and Stewart

Washington, DC

on behalf of

United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC ("USW")

Stan Johnson, International Secretary-Treasurer, USW

Mark Williams, President, USW Local 351L

APPEARANCES (Continued):

Rodney Nelson, President, USW Local 207L

Steve Jones, President, USW Local 1023

David Hayes, President, USW Local 12L

Kenneth R. Button, Ph.D., Senior Vice President, Economic Consulting Services LLC

Jim Dougan, Vice President, Economic Consulting Services LLC

Steven Byers, Ph.D., Director of Financial Analysis Services, Economic Consulting Services LLC

Terence P. Stewart, Elizabeth J. Drake and Philip A. Butler - Of Counsel

In Opposition to the Imposition of Antidumping and Countervailing Duty Orders:

Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP

Washington, DC

on behalf of

Sub-Committee of Tire Producers of the China Chamber of Commerce of Metals, Minerals & Chemical Importers

The China Rubber Industry Association ("CRIA")

Yu Yi, Vice Chairman, China Chamber of Commerce of Metals Minerals & Chemicals Importers & Exporters

Gustavo Lima, Chief Executive Officer, Oriente Triangle Latin America, Inc.

APPEARANCES (Continued):

Jason Rothstein, General Manager of North American Operations, Aelous Tyre Co., Ltd.

Seth Kaplan, Senior Economic Advisor, Capital Trade Incorporated

Andrew Szamosszegi, Principal, Capital Trade Incorporated

Chen Yang, Attorney, Jincheng, Tongda & Neal

Zheng Xu, Attorney, Jincheng, Tongda & Neal

Max F. Schutzman, Ned H. Marshak, Kavita Mohan, Elaine F. Wang and Yun Gao - Of Counsel

Hogan Lovells US LLP

Washington, DC

on behalf of ITG Voma Corporation

Dennis Mangola, Chief Executive Officer, DMC Consulting, Inc.

Kivanc A. Kirgiz, Ph.D., Principal, Cornerstone Research

Jonathan T. Stoel, Craig A. Lewis and Wesley V. Carrington - Of Counsel

APPEARANCES (Continued)

Jochum Shore & Trossevin, PC
Washington, DC
on behalf of
American Omni Trading Company

Marguerite Trossevin - Of Counsel

Rebuttal/Closing Remarks:
Petitioner (Elizabeth J. Drake, Stewart and Stewart)
Respondents (Jonathan T. Stoel, Hogan Lovells US LLP)

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P R O C E E D I N G S

(9:43 a.m.)

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

CHAIRMAN BROADBENT: Good morning. On behalf of the U.S. International Trade Commission, I welcome you to this hearing on Investigation No. 701-522 and 731-1258, involving Certain Passenger Vehicle and Light Truck Tires or PVLT Tires from China. The purpose of these final investigations is to determine whether an industry in the United States is materially injured or threatened with material injury, by reason of less than fair value or subsidized imports from China of PVLT tires.

Documents concerning this hearing are available at the public distribution table. Please give all prepared testimony to the Secretary. Please do not place it on a public distribution table. All witnesses must be sworn in by the Secretary before presenting testimony. I understand that parties are aware of time allocations, but if you have any questions about time, please ask the Secretary.

Speakers are reminded not to refer to business proprietary information in their remarks or in answers to questions. Please speak clearly into the microphone and state your name for the record, so that the court reporter knows who is speaking.

Finally, if you will be submitting documents that contain information you wish classified as Business Confidential, your request should comply with Commission Rule 201.6. Mr. Secretary, are there any preliminary matters?

MR. BISHOP: No. Madam Chairman.

CHAIRMAN BROADBENT: Very well. Would you please announce our first Congressional witness.

MR. BISHOP: The Honorable Jeff Sessions, United States Senator, Alabama.

CHAIRMAN BROADBENT: Welcome, Senator Sessions.

STATEMENT OF THE HONORABLE JEFF SESSIONS

SENATOR SESSIONS: Thank you. I thank the chair and the members of the Commission for the good work that you do, and look forward to a discussion of passenger car and light truck tires, and the difficulties that we're facing today. The Commission is well aware of our current trade deficits and the debate that surrounds that. You know about the role of foreign governments and corporations and how they seek to get around internationally agreed upon trading rules.

I don't accept the notion that we should send thank you notes to nations who ship us goods that are at subsidized prices. That has the result of eliminating American competitors and actually shifting unemployment from their nation to our nation. This nation is facing very serious challenges to its strong manufacturing base. Currency manipulations, tariffs and non-tariffs barriers, which can be quite huge, hammer American industries and workers.

Our trade competitors strongly desire access to our market. We understand that, and we can benefit from the import of foreign goods. But we have every right, even a duty to ensure that such access to our markets is accompanied with compliance with the trade rules. What is happening now is not free trade, and this nation cannot be so tied to the religion I think sometimes of free trade, that we enable, even encourage bad behavior from our trading partners.

The Commission plays a key role in making trade work for the American people. You work has been critical to the competitiveness and indeed the survival of many important domestic industries, including American tire manufacturers. Your work promotes trade by resisting anti-trade actions.

In 2009, this Commission found that a surge in Chinese tire imports was disrupting the U.S. market and recommended that a remedy be imposed, resulting in three years of safeguard tariffs that protected American manufacturing from state-owned enterprises, manipulated currencies and illegal dumping.

From 2004 to 2008, tire imports from China more than tripled, while the American industry was thrown into a downward spiral. From 2004 to 2009, before relief was imposed, the industry closed or announced the closure of eight tire plants, including Michelin's plant in Opelika, Alabama, which it remains closed.

But this Commission's actions to push back against trade abuses have been very successful. With the safeguards you authorized in place, the hemorrhaging of domestic industry stopped. By 2011, the domestic industry shipments, employment and operating income had started to improve. However, when the safeguard tariffs expired in 2012, Chinese producers came back in force.

Your preliminary hearing staff report shows that they dramatically ramped up their exports by 84 percent from 2012 to 2014. That's quite a dramatic event, once again rapidly seizing market share. As a result, the domestic industry has yet again seen its production, shipments and employment all decline, while the demand for tires has actually increased following the recession.

The Commerce Department's preliminary report found that Chinese producers are dumping their product in the United States market at prices significantly below market price. The report states that Chinese products arrive in the United States market between 18.58 percent and

87.99 percent below market price, fair market price. Those are their findings.

Furthermore, Chinese producers benefit from an array of government subsidies, including export subsidies and artificially depressed currency, and we've had a long and big discussion about the currency in the Congress, and the Congress has voted rather substantially to push back against currency manipulation, although I have doubts that it will be in any final legislation that becomes law. The Commerce Department -- but a substantial majority voted for it.

The Commerce Department's preliminary report also found that government subsidies range from 11 to 81 percent. This dumping and subsidization has permitted Chinese producers to engage in widespread and significant undercutting of United States prices. The fact is when Americans are offered a level playing field, our workers can win.

However, these numbers prove that it is not free trade that we're dealing with today. The United States should not acquiesce in the loss of a single job in this market place we're in today, as a result of unfair competition. We don't have that ability anymore. That day is past.

Alabama is home to three plants that produce passenger car and light truck tires. Michelin has two plants in Dothan and Tuscaloosa, and Goodyear operates a plant in Gadsden, totaling more than 3,000 people. When the Michelin plant in Opelika closed, we directly lost about 1,000 good-paying jobs.

After the safeguard tariffs expired in 2012, Michelin's plant in Tuscaloosa had to cut production and lay off 100 workers already. Goodyear's plant in Gadsden, Alabama also had to reduce production and hours and lay off workers. Michelin's Dothan plant likely faces similar declines. With Commerce's preliminary relief in place, these plants have begun to recover, rehiring workers and making new investments.

For the sake of these plants and their workers in Alabama and around the country, I urge the Commission to vote in the affirmative to this vital and justified relief, so that it can remain in place for the future and provide the kind of stability that we need in American manufacturing.

So thank you. You wrestle with very tough issues. We do believe in trade. I have been a strong supporter of trade in the past, and I don't doubt that it's healthy for the world. But I do think that we have to understand that our trading partners lust for the American market.

That's what they want, and we have very right to say you can -- we're willing to open our market to you, but you need to be operating on a level, fair procedures, opening your markets to us, and insisting that this process does not unnecessarily and unfairly savage American manufacturing. So I thank the Commission very much for your work, what you've done in the past, and I appreciate this opportunity to share these thoughts.

CHAIRMAN BROADBENT: Thank you. Are there any questions for Senator Sessions? If not, we'll let you go and thank you for joining us today. We really appreciate your time.

SENATOR SESSIONS: Thank you.

MR. BISHOP: Madam Chairman, that concludes Congressional testimony at this time.

CHAIRMAN BROADBENT: Thank you. We'll proceed with opening remarks.

MR. BISHOP: Opening remarks on behalf of Petitioner will be by Terence P. Stewart, Stewart and Stewart.

CHAIRMAN BROADBENT: Welcome, Mr. Stewart.

OPENING REMARKS BY TERENCE P. STEWART

MR. STEWART: Good morning. Chairman Broadbent, Commissioners and Commission staff, I'm Terence Stewart, managing partner of Stewart and Stewart, appearing this morning on behalf of the men and women of the United Steelworkers, who work in tire manufacturing facilities across the country, producing passenger vehicle and light truck tires.

These men and women represent the industry, and are on the front line of those who feel the adverse effects of dumped and subsidized imports from China. This is the second time in the past six years that the USW has been before the Commission, seeking a remedy to the rapidly-rising flood of PVLT tires from China.

421 relief was important to prevent even further loss to this important domestic industry. The USW is back today because of the flood of dumped and subsidized imports that have happened in the last two and a quarter years of the Period of Investigation.

While there will be many arguments presented by the other side, that competition is attenuated and that domestic producers have opted to move away from large segments of the market, testimony today by the local union presidents at four of the plants around the country, and the USW's international secretary and treasurer will demonstrate what should be obvious: Competition between imports from China and domestically produced tires is real and intense.

Production in the U.S. has risen and fallen based on the level of Chinese volume and price aggression, as has employment. Good, better, best product placements have never meant a lack of competition between products however grouped. That is the reality in PVLT tires.

Just as the Commission did not find the argument of tiers or brands to create attenuated competition on the 421 case, nothing in the record before the Commission today justifies a different result here. Some facts in this case are straightforward and undisputed.

First, during the Period of Investigation, U.S. apparent consumption of PVLT tires increased nearly ten percent, 9.7. Second, the U.S. industry participated in none, repeat none of the growth of the market, instead having absolute declines in various factors like capacity production, shipments and production workers.

Three, the rapid increase in imports from China, 84 percent during the POI, captured nearly 100 percent of the growth in apparent consumption, which is 99.3 percent. Four, China's share of market grew from 11.5 percent in 2012 to 19.3 percent in 2014, more than 100 percent of the loss of market share by the domestic industry.

Five, Chinese product undersold domestic product in all comparisons during the Period of Investigation, with growing margins of underselling in later quarters. Those are the undisputed facts. Despite the improved operating profits of the industry during the POI, the industry's performance was not sufficient to permit the industry to earn a reasonable return on sales for the business cycle, or to cover its cost of capital over the business cycle.

Moreover, but for the surge in dumped and subsidized Chinese imports, the U.S. would have participated in the market growth during the POI, and production, sales and employment would have been as much as 14 percent higher over the entire period.

Operating income would have been as much as 30 percent higher over the entire period, and the industry would have improved its performance compared to all manufacturing over the business cycle and would have covered its cost of capital.

While the POI in these final investigations is 2012 to 2014, information on the first quarter of 2015 is publicly available, and coincides with the period of preliminary relief, which has been provided under the 80 NCVD laws. Public data shows that imports from China have declined more than 60 percent in the first quarter. Total imports declined as well, and domestic shipments rebound strongly, such that they restore part of the market share that they've lost since the fourth quarter of 2012.

Our witnesses will review what will happen at the plants they work in if orders are entered and conditions of fair trade are permitted to continue. It is hopeful --

it is a hopeful time for the men and women of the USW. Absent relief, further material injury will occur as well, as we reviewed in our prehearing brief.

Working men and women are repeatedly promised a level playing field in which to compete. With unfair trade practices of between 23 and 169 percent in these cases, there is no way to have a level playing field without relief. We need an affirmative vote. We appreciate the opportunity to be here. Thank you very much.

MR. BISHOP: Opening remarks on behalf of Respondents will be by Max F. Schutzman, Grunfeld, Desiderio, Lebowitz, Silverman and Klestadt.

CHAIRMAN BROADBENT: Welcome.

OPENING REMARKS BY MAX F. SCHUTZMAN

MR. SCHUTZMAN: Good morning. I am Max Schutzman of Grunfeld Desiderio. I appear here today on behalf of Chinese Respondents. There is no doubt Mr. Stewart sincerely believes that his clients, the unions, will benefit from an affirmative determination. His arguments, as always, are focused and in this case extraordinarily creative, a creativity necessitated by the obstacles he faces in attempting to convince you to find material injury or the threat thereof.

His obstacles are the data, the law and the public statements of PVLT executives. First the data.

During the Period of Investigation, 2012 to 2014, domestic industry profits rose from 9.2 percent to 12.9 percent. Domestic industry gross profit, operating income, cash flow and capital expenditures, which all began the POI at healthy levels, continue to grow.

Global PVLT tire companies invested $2.64 billion in the United States, and expended $692 million in R&D to develop new products. Industry members are investing $1.7 billion in constructing new plants in the United States, which will result in almost 4,000 new jobs for American workers. In other words, the domestic industry is strong, stable and profitable.

Second, the law. We readily acknowledge that during the POI, Chinese imports were imported into the United States in increased quantities. These tires are sold at lower prices than PVLT tires made in the United States. But these facts cannot lead to an affirmative determination, unless there's a causal link between Chinese imports and a decline in industry performance.

Is there such a link? Absolutely not. In fact, there was an inverse correlation. Imports rose and domestic producers' performance increased as well. Were domestic industry prices suppressed or depressed by low priced imports? Absolutely not. Industry profits increased, aided by raw material price declines, which contrary to Mr.

Stewart's prediction at the prelim, did not reverse in the second half of 2014.

Do Chinese imports compete head to head with American-made PVLT tires with purchasing decisions based solely on price? Again, absolutely not. Brands have tremendous value in this market, and strongly influence purchasing decisions. The Goodyear blimp and the Michelin man are two of the most ubiquitous symbols on earth.

Brands matter. Chinese tires do not have brand recognition in the U.S., and they compete principally for business here with other Chinese-made tires, or tires produced in third countries, not with U.S. made tires. Finally, in addition to the data and the law, there are the public statements made by executives of domestic PVLT producers absent from this investigation, directly contradicting the linchpins of the union's case.

To quote Wolfgang Schafer, CFO of Continental, "The organic growth of our automotive group for 2014 achieved six percent compared to the passenger tire and light truck production growth worldwide of three percent, and the passenger and light truck tire grew by three percent, while Europe was growing by two percent and North America was growing by six percent."

To quote Brad Hughes, COO of Cooper Tire. "We have begun to move the manufacturing of some of our tires from China to Serbia, and we are on track to import tires from Serbia to the U.S. later this year. In response to accelerated demand for higher value, higher margin products, we have been reconfiguring our Americas manufacturing plants to increase production of these products."

To quote Rich Kramer, CEO of Goodyear, "Our focus will stay on winning in the market segments where consumers are willing to pay for the value of our brand. We are continuing to invest in our North American production facilities, to enable the U.S. to meet the increased demand for our premium branded tires in 2015.

"For the full years, we expect raw materials to be down about ten percent, helping drive a 2015 price versus raw materials benefit of about $200 million year over year. The low end of the market by and large is not a market where we have played."

These statements are clear. Brand adds value. Domestic manufacturers have consciously decided to produce high-end, high-priced, high profit branded tires in the U.S. to service this growth market. Domestic manufacturers have consciously decided to maximize profitability, rather than to chase market share.

ADD CVD on Chinese tires will increase third country imports. It will not increase production in the United States, and it will not add jobs. These facts support a negative determination of material injury, and they also support a negative determination of threat. An industry threatened by subject imports will not invest billions of dollars to develop new products and to increase its domestic production.

In short, if the Commission decides there is no current injury, a decision we believe to be mandated by the facts and the law, it should also find that there is neither threat nor, I might add, critical circumstances. Thank you.

CHAIRMAN BROADBENT: Thank you, Mr. Schutzman.

MR. BISHOP: Would the panel in support of the imposition of anti-dumping and countervailing duty orders please come forward and be seated? Madam Chairman, all witnesses on this panel have been sworn in.

CHAIRMAN BROADBENT: I want to welcome the witnesses to the ITC. You can begin when you're ready.

MR. STEWART: I think, Madam Chairman, we have a lot of witnesses and so I will not take the time to introduce them. They'll introduce themselves as they start. I would ask the Commissioners to please play particular attention to the statements of the local union presidents and contrast it to what you just heard in the opening statement of our distinguished opponent.

STATEMENT OF STAN JOHNSON

MR. JOHNSON: My name is Stan Johnson. I'm the international secretary/treasurer of the United Steel Workers Union, also chair of the Rubber and Plastics Industry Conference of the USW. I have extensive industry experience in tire. I worked at Pirelli Armstrong Tire Corporation facility in Madison, Tennessee for more than 20 years.

I left the plant to join the USW after the rubber workers merged with the steel workers in 1996. And as a part of my responsibility today, I've been in major bargaining with the tire companies to employ USW members, both in 2009 and in our most recent rounds of bargaining.

USW filed these petition on tires from China for one simple reason and that reason is to fight for our industry. We fought for our industry in 2009. The safeguards we obtained made all the difference. When we brought that case, China had more than tripled its exports of passenger and light truck tires from the U.S. from 2004 to 2008, leading to job losses, factory closures, and a struggling domestic industry. Indeed, the harm was so serious that three additional plants were slated for closure before the 421 relief and all did close before the end of 2011.

When this Commission recommended relieve and the President acted to impose safeguard duties the turnaround was remarkable. Imports from China dropped from a peak of

46 million tires in 2008 to just 30 million tires in 2010 and dropped again in 2011, and stayed below 32 million in 2012. The bleeding in the domestic industry had finally stopped. Workers were called back, investments were made, production increased, and market share was being regained. In short, the tariffs had worked.

Before the safeguard duties expired, employers were so eager to re-flood the U.S. market with Chinese tires that some of them set up their own warehouses as free trade zones so they wouldn't have to wait to enter the port. As one publication explained, key players were playing to resume shipments of Chinese tires at 12:01 a.m. on September 27, the day after duties expired.

That impact was dramatic. From 2012 to 2014, the U.S. imports of tires from China jumped by more than 84 percent. At the same time, averaging values for the most popular tire sizes began to plummet. Resurgence of Chinese tires has come at the direct expense of U.S. producers who lost shipments, production, market share, all even as demand was growing. Indeed, the annual loss of market share was nearly as great from a much smaller base in the 2011 to 2014 period as it has been in the pre-safeguard period. For our members, the nightmare was recurring and with as much horror as we had experienced from 2004 to 2008, as the USW local presidents with me today will attest, this lead to reduced production, lost hours, lower staffing levels, layoffs at the tire plants that we represent. The unused capacity at the nine U.S. tire plants alone would have permitted enough additional production during the period of investigation to supply a substantial portion of the market share lost to rising Chinese imports.

These Chinese imports that are the cause of the injury I understand that some who oppose relief argue that Chinese tires cannot be hurting the domestic industry because management has not taken a public position in our case. Their theory is that management somehow wanted to lose their share of the growing market as part of some corporate strategy and therefore they couldn't have been pushed out or injured by Chinese tires.

These arguments are simply wrong. First, if the mere fact that management does not show up when workers brings a case is enough to preclude an affirmative determination, then equal treatment under the trade laws to give to management and labor means nothing. This is our industry just as much as it is management's industry. The USW represents workers at nine plants around the country that account for 40 percent of the industry's capacity. We are the ones that build the tires in this country and we're the ones whose livelihoods are on the line.

While the Commission sends questionnaires to the companies and does not request input from the workers in the company separately, under the law, we have standing to bring cases. Indeed, I understand that the Commission received subpoena power from Congress back in 1958 exactly because Congress understood there could be situations where management's focus was on non-U.S. interest and the subpoena power would permit the Commission to gather the information it needed to determine the facts when workers came forward seeking relief. That is exactly the case in this situation.

As you know, eight of the nine U.S. producers are heavily invested in China. Whether for concerns about products they may import, concerns about relations with China, including concerns over possible retaliation or other reasons, management did not request the opportunity to present testimony; but they all sent questionnaire responses and the workers are here are to explain just how vital the relief was -- the relief in these cases.

Moreover, the claims that competition with Chinese tires is attenuated and that employers, in fact, have no concerns about Chinese imports are ludicrous. We regularly discuss market conditions and corporate strategy with management, including inter-meetings between bargaining sessions. The issue of Chinese imports and our ability to compete with these imports is an absolute, constant topic of discussion. It comes up at almost every meeting that we ever have.

The persistent pressure on us to be more efficient and cost-effective is a direct result of this competition. As every one of our local union presidents will testify, production in our plant directly responds to the presence or absence of Chinese imports in the market. Our members, our employers, and our plants fill the direct results of the competition with China every single day. Any claims to the contrary are just not based on the reality in which our members live.

The importance of these cases for our industry has come into sharp relief over the past six to seven months. The massive subsidies and dumping that characterize imports from China has dramatically skewed the market. Relief under the law is helping to restore the level playing field that every administration and Congress in recent memory has promised to working men and women.

As our local presidents will testify, since preliminary relief was imposed, our companies have launched new tire lines, ramped up their production, added hours in shifts, cancelled planned shutdowns, hired new workers, and made investments in new and improved equipments. The plants represented here today are not alone. The story is the same for all U.S. plants that the USW represents. Management's decisions to increase production and expand their presence in the market since preliminary relief was imposed belies any claim that they don't see the value in these cases or that U.S. producers are not adversely affected by dumped or subsidized imports from China.

I am personally proud of our union for taking the fight on for our industry. We simply can't sit idly by as our industry once again loses market share, production, and jobs to unfairly traded Chinese imports. The law gives us the right to seek relief and the record in these cases strongly supports providing that relief. When market distortions are corrected, our industry can regain market share that unfairly traded imports have simply stolen away.

The benefits of relief are real, very real for our members, their families, and the communities in which they live. That's why our unions filed these petitions and that's why we're here today to ask you for an affirmative vote. Thank you all.

CHAIRMAN BROADBENT: Mr. Nelson, before you begin your statement, let me just check. We may have a congressional witness that would just come in, and I think Senator Brown may be here. If you wouldn't mind waiting for him to give his statement, then we won't have to interrupt you in the middle of it. I really appreciate your flexibility.

MR. BISHOP: Madam Chairman, our next

congressional witness it the Honorable Sherrod Brown, United States Senator, Ohio.

CHAIRMAN BROADBENT: Welcome Senator Brown.

SENATOR SHERROD BROWN

SENATOR BROWN: Thanks for the opportunity to testify on this case to appear in front of you for the "X" time. I don't know how many times, but dozens of times. And this time on behalf of Ohio tire workers and tire workers across our country. I'm here to testify on behalf of the 1,000 members of USW Local 207L, who work at the Cooper Tire Plant in Findlay, Ohio, a plant I've probably visited a half dozen times.

Unfortunately, I've been here before to deliver the same message about the same workers and the same U.S. tire sector. China is determined to put our tire industry out of business. If we don't use our trade remedy laws to take away their unfair trade advantage, they will succeed.

In 2008, I testified at the Commission that certain off-the-road tires from China were subsidized and dumped in the American market, threatening that segment of the domestic tire industry. The affirmative final determinations by the Commission and by the Department of Commerce were critical. The determinations were critical to stopping the surge of unfair imports and helping thousands of Americans keep their jobs.

In 2009, I testified again that a surge of tire imports from China, this time passenger vehicle and light truck tires, was threatening U.S. factories and forcing workers out of their jobs. That 421 petition, also filed by the United Steel Workers, provided necessary relief to get the industry and its workers back on track. Unfortunately, these tariffs, as you know, expired in 2012. Since then, China's resumed efforts to stamp out our tire industry.

As you know from preliminary determination, the illegal subsidization of Chinese tire producers in dumping of tires in our market have taken their toll on the domestic industry. In 2011, China exported $2.8 billion of tires to the U.S., 2011, 2.8 billion; 2014, $4.3 billion of tires. Between 2011 and 2013, inventories of imported Chinese passenger vehicle and light truck tires increased, increased by 107 percent, more than double. China's market share was up from 8.8 percent in 2011 to 17.2 percent in 2013. Domestic production was down nearly 9 percent and sales were down nearly 10 percent.

In 2011, there were 33,000 American workers in the tire industry. Three years later, March 2014, that number is now 28,000 American workers.

In sum, U.S. tire producers have seen reduced market share, price suppression, lost sales and revenues, direct replacement of domestic shipment by foreign products, reduced sales volumes, reduced production capacity, and a decline in employment. All these factors are affecting the United Steel Workers ability to negotiate contracts that will provide their members with the wages and benefit they need to support their family, and that speaks to a much larger picture, of course, too. Each of those nearly 5,000 workers who lost jobs between 2011 and 2014 most acutely felt the injury caused by China's unfairly traded imports. They did, their families did, their communities did.

When I testified in 2009, I spoke on behalf of Ohio tire workers, including those at Denman Tire, Denman Tire was in operation for more than 90 years before it closed in 2010 due to bankruptcy. During that same testimony, I reported in the previous four years 6,000 American tire jobs had been eliminated as a result of Chinese imports. Since my last appearance before the Commission, nearly 5,000 more U.S. tire workers, including those from Denman Tire lost jobs.

If we don't apply tariffs to the dumped and subsidized Chinese tires in question today, we'll be back here in another four or five years wringing our hands that thousands more Americans have lost their jobs and the U.S. tire industry has declined even further. The United Steel Workers aren't asking for a handout or special treatment. They're asking simply for application of U.S. trade and remedy law exactly as Congress intended it.

Without the relief afforded under trade statutes, these workers will continue to be subjected to the flood of imports that will put their employers out of business. This case, of course, is important for these workers and for our tire industry. It's also important to our overall approach to China's disregard for international trade obligations. These unfair trade practices take a toll throughout the United States manufacturing sector and bringing long-lasting harm to the communities that have been in so many ways hollowed out by shuttered factories.

I grew up in a town like that in Mansfield, Ohio. Put simply, failure to impose duties on passenger vehicle and light truck tire imports from China will, in fact, continue to put Americans out of work. It will embolden the Chinese government to provide more illegal subsidies to other industries. It will encourage Chinese producers of other products to sell in the U.S. market at less than fair value.

After the 421 duties were imposed in 2009, Cooper Tires in Findlay, Ohio, that plant hired 150 more workers and invested $20 million in their plant. When the tariffs expired, however, the plant cut back. Now, those 150 workers have been laid off again. The workers who still have jobs at the plant have faced reduced production and hours, been asked to take pay cuts during contract negotiations. You see the ripple effect of the actions that you take as part of the International Trade Commission.

This is the face of the injury caused by Chinese imports. As Ohio workers struggle to keep their jobs to support their families without a final determination that there is injury to the U.S. industry the struggle for Findlay workers will only get worse.

I appreciate you taking the time to hear my testimony. I urge you to take affirmative action in final determination. Thank you, Madam Chair.

CHAIRMAN BROADBENT: Thank you, Senator Brown. Are there any questions for Senator Brown? If not, you are free to go and thanks for your time. We appreciate you being with us today.

MR. BISHOP: Madam Chairman, that concludes congressional testimony at this time.

CHAIRMAN BROADBENT: Good. Mr. Nelson, you can resume your testimony now. Thank you.

STATEMENT OF MR. RODNEY NELSON

MR. NELSON: And good morning. My name is Rod Nelson. I am the president of USW Local 207L, which represents workers at the Cooper passenger car and light truck plant in Findlay, Ohio. I've been with Cooper for 34 years. And I have been the president of the Local for nine years. At my time at Cooper, I've done nearly every job there is. I've worked in the mail room during material prep. I've worked with the banbury mixers in the tire room as a tuber operator and more.

Our plant produces tires for the replacement market for Cooper's own brands as well as dealers' private labels. One of the most important factors affecting the fortunes of our plants in recent years has been imports from China. When President Obama imposed safeguard tariffs on Chinese tires in 2009 the impact on the plant was immediate. The order imposed on tires came out on a Friday, September 11. That next Monday our plant manager told me we were going to hire a hundred more workers and invest $20 million in the plant to keep up with our increased demand of our tires.

Even that estimate was conservative. Altogether, we ended up hiring 150 more people. We invested in new curing presses and made other improvements. And the workers were kept extremely busy. We were racing to keep up with the demand for our tires, but the relief didn't last. In contract negotiations in 2011, management said we needed to cut costs, roll back wages to prepare for the tariffs coming off.

As we got closer to September of 2012, management warned us that there ships loaded with Chinese tires waiting off the coast of California for the tariffs to expire. Once the tariffs ended and the Chinese imports come flooding back in, the effect was immediate. While the tariffs were in place, we run about 21,500 tires a day. After the tariffs come off, our production fell almost 20 percent to 17,400 tires a day in 2013 and 2014. This equals a loss of more than 1.4 million tires a year.

In addition, as production dropped, management started taking days out of our schedule. We only operated 41 weeks in 2013, a loss of at least another million tires of production. And while we were operating 298 molds before the tariffs ended, we fell down to 242 molds in 2014. We've lost workers as well. Through attrition, we went down for 1,050 workers in 2012 to only 840 in 2014.

I am proud that our union took action to counteract Chinese imports. I have seen firsthand the dramatic improvements that are possible if we get relief from dumped and subsidized tires from China. In December, the month after Commerce's preliminary subsidy determination we got two new curing presses and we are now in the process of installing 14 more new presses. We didn't hear anything about any new equipment until after the preliminary tariffs were put on.

We are now operating 270 molds up from the 242 molds we were operating last year. We've been able to add jobs, and we are working on a full schedule with no days taken out. And this is just the beginning. Management is getting its plans in place so we can take full advantage of the important opportunity the tariffs have created. The month before Commerce made its preliminary subsidy determination management bought some land next to our plant. They are trying to get Cooper to approve an expansion. They are hoping to be able to get up operating 330 molds, a lot more than the 298 molds we were operating under the safeguards.

Our plant can adapt very quickly to increased production if the demand is there. And with the duties in place, believe me, the demand is there and we are eager to meet it. Anyone that claims that Chinese tires do not compete with our product and have no impact on our industry has not been to Findlay, Ohio. They haven't been in our plant and seen the new equipment, the increased daily ticket, the workers who are able to work a full schedule and bring pay back to their families. There is only one reason for these improvements; Chinese tires are retreating from the market.

Just as our plant suffered when Chinese imports flooded in after the safeguard ended, our plant thrives when imports from China are required to compete fairly. Our union sees the cause and effect and our management does as well. Local management was very clear with us why production, hours, and employment all had to go down when the safeguard ended because we couldn't compete with the tide of Chinese tires entering the market at very low prices.

As Cooper itself explained in its 2013 annual report, its reduced volume in North America as a result of increased competition from imports. The company also noted on unfavorable pricing in North America in 2013. The immediate, positive turnaround from management when duties were imposed only underscores how closely our plant's fate is tied to discipline of Chinese imports so the playing field is level.

These cases are critical to our plant's ability to compete. For the sake of my 925 members and their families, I hope the Commission will vote in the affirmative and will allow duties on Chinese tires stay in place. Thank you.

STATEMENT MR. MARK WILLIAMS

MR. WILLIAMS: Good morning again. My name is Mark Williams and I'm the former president of USW Local 351L. Our members produce passenger car and light truck tires at Michelin's plant in Tuscaloosa, Alabama. I was pleased that a number of Commissioners and staff were able to visit Tuscaloosa in April of this year and I hope you enjoyed learning about our plant.

I started my career as a tire builder at the Tuscaloosa plant in 1976 when it was owned by BF Goodrich. Our plant makes a wide range of tires with rim diameters from 14 to 20 inches. We produce tires for both the OEM market and the after market.

When President Obama imposed safeguard duties on Chinese tires in 2009, it led to a lot of optimism in our plant. In 2011, management launched a plan to add equipment and hire additional staff in order to increase production. They put up a big board with a football theme. We're all University of Alabama fans, of course. It had goals for growth, a countdown, and a big picture of Bear Bryant. Our daily production grew from 12,000 tires a day to a peak of 16,500 tires a day in early 2012. This translates into added production of nearly 1.6 million tires a year.

By mid-2012, when we were facing the expiration of the tariffs, management took down the big board tracking our expansion progress and the growth plan suddenly went away. Once the tariffs were removed and imports flooded back into the market, the situation at our plant deteriorated quickly. In 2013, production was cut to 13,500 tires a day and the plant was shutdown for four weeks. Even this was not enough to adjust to the surge of Chinese tires.

In October of 2013, Michelin laid off 100 workers at our plant and we also stopped backfilling jobs lost to attrition. By mid-2014, our production went down, was 12,000 tires a day, less than 75 percent of our potential, and we again shutdown for three to four week. Of the 60 to 65 tire building machines in our plant, about a third were sitting idle and unmanned. To see so many machines idle, so many fewer tires produced, and so many of my union brothers and sisters forced to take layoffs in a market where demand was growing rapidly was a very hard blow after the optimism we felt when the safeguard was in place.

The reason for these losses was a surge in imports from China. When we enter contract negotiations with Michelin in 2013, the threat posed by Chinese tires was openly discussed. They talked about the number of tire plants being built in China and the tremendous growth in Chinese imports. Management also discussed the intense pricing pressure they were facing. When we ratified our contract, the company stated that the agreement was reached in a very cost competitive and challenging environment.

Our contract does not protect us from future layoffs or from a complete closure of our plant or our sister plant in Fort Wayne, Indiana. Fortunately, the preliminary duties on imports from China are making a difference. As imports have plummeted, optimism has again returned to our plant. Michelin has introduced new tire codes under the BF Goodrich brand. The company recognized that it had lost too much of the middle range of the market and that its BF Goodrich brand had the opportunity for growth now that Chinese tires are being disciplined by duties. Our plant is a direct beneficiary of Michelin's decision to take advantage of the relief that these duties provide.

In October of 2014, the month before Commerce's first preliminary determination, management increased our targeted production to 13,500 tires a day and we are now working hard to reach that goal. All 100 workers that were laid off in 2013 have been hired back and we've hired nearly 100 more new workers on top of that. We've gotten a lot of new molds with all the new codes are running. The new BF Goodrich tires we make are in very high demand with sales far above what was forecast. We've been told that we won't take our regular shutdown in July this year so we can keep up with the demand for our tires.

Plant management has told us that Michelin is planning seven new tire launches over the next fire years as long as the market holds. They are seeing the positive impact the tariffs are having on their sales and they want to be able to take full advantage of that opportunity. With a third of our plant's tire machines still idle, I am hopeful we can respond quickly and increase production even more if these cases are successful.

In closing, I understand some who oppose our petitions claim that Chinese imports have no impact on the domestic industry or that we occupy some nitch of the market that is insulated from competition with Chinese imports. These claims simply do not reflect reality, certainly not the reality of our plant in Tuscaloosa.

Michelin would not tell us that we have to cut costs to compete with China if it did not believe it competes with Chinese imports. Michelin would not track the number of tire plants being build in China if Chinese imports were of no concern. Management would not rush in to launch new mid-level tire lines and to increase production once Chinese tires retreat if it saw no value in that market. Production and employment at our plant would not rise and fall depending on whether relief from Chinese tires is in place if we did not compete with Chinese tires head-to-head across the market.

Our experience shows the domestic industry can regain production, make new capital investments, add jobs, and compete successfully when unfairly traded imports from China are subject to duties and not flooding our market. The Commission's decision in this case will determine whether or not we're given that opportunity to compete. Thank you.

STATEMENT OF DAVID HAYES

MR. HAYES: Good morning. My name is David Hayes.

I am the president of USW Local 12M which represents workers at the Goodyear Tire Plant in Gadsden, Alabama. I have worked at Goodyear for nearly forty years. My father worked at the plant and was also president of the local. My five brothers and a couple of brother-in-laws also worked at the plant and I have a couple of nieces and nephews that work there also. I've spent most of my career working in the extruders and component prep. I've also worked as a tire builder and in final finish.

Our plant makes both passenger and light truck tires. We have the capability to make a wide range of sizes from as small as 13-inches in diameter to as high as 24-inches. We make tires for the OEM and replacement markets and for Goodyear's own labels including Dunlop and Kelly as well as private labels.

After the Safeguard due to expire, the surge of imports from China directly impacted our plant. In 2012, while the Safeguard duties were in place, we were producing 21,500 to 23,927 tires a day at our plant. In October of that year, right after the duties ended, we dropped to 15,090 tires a day. The plant also shut down for ten days due to high inventory and our work schedule was reduced from

42-hours a week to 40. In 2013 and 2014, our production was about 20,000 tires a day for most of the year. This translates into nearly 1.4 million tires of lost annual production compared to the daily peak we were able to achieve with the safeguard duties in place.

As our production dropped, fifty-three workers were laid off and we lost more to attrition. In August of 2012, we had 1,456 members in our Union. By June of 2014, we only had 1,350. As I testified in June of last year, Goodyear was hoping to increase production at Gadsden by introducing twenty-two new tire codes. Goodyear wanted to regain share at the midlevel of the market where they have been directly pushed out by Chinese imports. To succeed, however, Goodyear must be able to make a profit on those tires, a prospect put into jeopardy by ever-growing volumes of low-price Chinese imports.

In May of 2014, a Goodyear Vice President came to Gadsden and explained to us the expansion plans might have to be shelved if the company cannot regain the market share it lost to China since the Safeguard duties expired. I am happy to say that the plans did not have to be shelved, the reason is these cases. When Commerce imposed preliminary duties on Chinese imports in 2014 and in January of 2015, import volume shrank dramatically and import unit values rose, relieving some of the price pressure on our products.

Goodyear moved ahead on its plans, launching a new product line called Assurance Fuel Max. Goodyear raised our daily ticket to 22,200 tires a day at the end of 2014 so we could produce the new tires. In April of this year, Goodyear also announced a new tire line under its Kelly brand and we are now producing 22,700 tires a day. The company invested in new tire-building equipment to raise our capacity to 24,500 tires a day, capacity we can reach if duties stay in place and production begins to rise.

Since preliminary duties were imposed, we have gotten five new tire machines, we have expanded our curing operations and we have added eight new presses. We've also installed new equipment in final finish and then added labor to component prep on equipment that had been idle during the night shift. We have hired at least one hundred and eighty-eight new employees since last year and we have been hiring nearly every week. We are working full out every shift, and management cancelled our normal 4th of July shutdown week which means more money in the pocket of our members and their families.

Goodyear jumped at the chance to expand its presence at the midrange of the market after duties were imposed. Management explained to us that this market was difficult to compete in successfully because of rising imports of low-priced tires from China. They see enormous potential in this market and they are ramping up to retake the market share China took from us. Management's name for the project says it all, "Rocket-launch".

With duties in place to tame Chinese and subsidies, the domestic industry is willing and able to rapidly increase production, by activating the capacity that has been idol and investing in new capacity. Sales of new tires are through the roof. Management has told us if these cases are successful, 2015 will be a lot better year than 2014. But they have also told us that if the duties terminate, 2015 could be another bad year and days would again have to be taken out of our schedule. The fate of our plant hinges on these cases.

If duties are not allowed to stay in place, I am deeply concerned about what would happen to our plant. In many ways, the only way our plant was able to stay afloat after the Safeguards expired is because we were able to absorb production from Goodyear's Union City Plant that closed in 2011. But that cannot sustain us for long. If the imports from China continue to grow and seize market share, if that happens, our plant could be the first on the chopping block at Goodyear.

While our current contract protects the plant from being closed down entirely until 2017, management can lay off more than 250 workers during the life of the contract. This would be a huge blow to our members and their families and indeed the entire Gadsden community. My family is not the only one in Gadsden that has supported itself through generations of hard work at the plant. A 2006 study of our plant found that it contributes 360 million to the local economy in direct and economic activities and supports 4,200 jobs in the state of Alabama. If the plant were to close its doors, the impact would be devastating. The Commission's vote will make all the difference for our plant, our members and the generations of families in Gadsden that have made their livelihoods in the tire business. Thank you.

CHAIRMAN BROADBENT: Thank you, Mr. Hayes. Mr. Secretary, would you?

MR. BISHOP: Madam Chairman, our next Congressional witness is the Honorable David Price, United States Representative, 4th District, North Carolina.

CHAIRMAN BROADBENT: Welcome, Congressman Price.

STATEMENT OF CONGRESSMAN PRICE

CONGRESSMAN PRICE: Good morning, should I start?

CHAIRMAN BROADBENT: Yes, you may begin.

CONGRESSMAN PRICE: Thank you very much, Chairman Broadbent, other Commissioners. I appreciate the chance to be with you today to testify. I am a representative of North Carolina's 4th District. That's a district that spreads from Burlington to Fayetteville through the Central part of the state and I'm here to support the United Steelworkers Petition for relief from dumped and subsidized imports of passenger and light truck tires from China.

North Carolina is home to two passenger car and light truck tire plants, a facility run by Bridgestone in Wilson, North Carolina and Goodyear's tire plant in Fayetteville which is the one that's located in my Congressional District. Together, these plants have the capacity to produce 75,000 tires a day and to employ thousands of workers. They provide economic benefit to their local communities and to our state.

I am not going to recount the entire history of the actions taken by the Commission against unfair Chinese imports. The history of Chinese abuses, particularly in the area of passenger car and light truck tires is quite well-documented. The 421 Safeguard Relief from Chinese Dumping, provided by the Commission in 2009 was warranted and it proved effective in curtailing the market distorting effects of Chinese actions through the end of the 2011 calendar year. Following the implementation of the safeguard, imports from China fell, domestic production and prices recovered and the US Tire Industry was able to retain and add workers in North Carolina and around the country.

It's also clear, however, that once the 421

Sanctions were lifted in 2012, the problems returned. The Commission's prehearing report clearly shows that tire imports from China have increased by 84% since 2012. From 2011 the last full year of the 421 Safeguard to 2014, US imports of Chinese tires have more than doubled. Moreover, these imports have undercut US producers. Again, the Commission's pre-hearing report shows that Chinese producers undersold domestic producers in one hundred percent of the Commission's price comparisons.

The result is that Chinese producers have increased their market share from 11.5% of the US market in 2012, to 19.3% of the US market in 2014. This increase came at the expense of our domestic producers, whose market share fell from 46.6% to 41.9% in that same period. As a result, domestic production is down, domestic sales are down and employment is down. There seems to be ample evidence that the increased competitiveness of China's tire manufacturers can be directly tied to state-sponsored efforts to boost production including but not limited to below-market loans from State-owned banks, grants, tax breaks and the provision of key raw materials from State-owned suppliers. Other witnesses will provide you with additional details on that front but it's safe to stay that this is nothing new, particularly with regard to the trade-distorting practices historically employed by the Chinese government.

To illustrate the importance of ITC actions on this front, let me share with you how my constituents at the Goodyear plant in Fayetteville have been affected. As Darryl Jackson, President of USW Local 959 of Fayetteville testified last June, with the 2009 421 relief in place and the domestic market stabilized, the Fayetteville facility was able to maintain steady production through 2012. However, since that safeguard expired, the facility's production has been reduced. From 33,000 tires a day to 31,500 tires a day. Such reduced capacity threatens the livelihoods of the plants employees and their families but it can be reversed and in fact, in the few short months since Commerce imposed preliminary duties, production is returning to Fayetteville.

I understand that a month after Commerce's preliminary countervailing duty determination the plant's management decided against cutting the plant's work schedule by two weeks due to standard, stabilized demand. Layoffs at the plant have also ceased. Moreover, I understand that Goodyear is actively investing in and upgrading the Fayetteville facility to help it remain competitive in the future.

I'm very concerned that a negative determination by the Commission would result in a flood of subsidized Chinese tires back into the US Market, debilitating facilities like Goodyear's plant in Fayetteville. I have dealt with these matters a good deal through my career in the Congress. Throughout that time, I've always thought and said that, given a level playing field, American workers will out-compete anyone. That's really what we're talking about here. I urge you to make an affirmative determination on this matter. Level the playing field for US workers. I think you again for your attention.

CHAIRMAN BROADBENT: Thank you Congressman Price. So are there any questions for the Congressman?

(No response.)

CHAIRMAN BROADBENT: If not, you can -- thank you very much. We appreciate your testimony and for your time to come down and visit with us today.

MR. BISHOP: Madam Chairman, that concludes Congressional testimony at this time.

CHAIRMAN BROADBENT: Okay, Mr. Jones. You can please introduce yourself.

STATEMENT OF STEVE JONES

MR. JONES: Good morning. My name is Steve Jones. I am the President of USW Local 1023. I represent workers at Yokohama Tire Plant in Salem, Virginia. I started working in the Salem plant in 1991. I've worked as a press operator on the curing operations as a green tire man and as a power-baler. We make both passenger car and light truck tires with a focus on 16 and 17-inch tires for the aftermarket. The tires we produce with Yokohama's brands are physically very similar to the private label we produce. Our plant has tried to focus on the 16 and 17-inch high-performance light truck tires in the hopes it would insulate us from the import competition. Unfortunately that has not been the case.

In early 2012, with the Safeguard tariff on -- and tires in place, our plant was producing up to 18,000 tires a day. That fell sharply once the tariffs were taken off. As imports from China surged, our production dropped to an average of 16,000 tires a day. By the end of 2014 we were only producing 11,000 tires a day, a huge decline of nearly 40% from the daily production we enjoyed in 2012. The difference between our peak daily production with duties in place and the lowest daily production in 2014 is a gap of nearly 2.5 million tires a year.

WE also lost production due to reduced shifts and overtime. Management cut shifts from our schedule. Regularly, we were using one shift a week for maintenance instead of production. Management greatly reduced overtime which is an important source of income from our members and their families. In March of 2014, management also stopped hiring new workers to replace those lost to attrition. Due to these pressures, management insisted that our most recent contract, which was ratified June of last year, be cost-neutral.

While our plant is protected from being shut down for the life of the contract, there are no restrictions on the number of USW members that can potentially lose their job. Last year, I testified that I worried Yokohama might have to let workers go if Chinese imports continue to grow and take our market share. Unfortunately, the surge only accelerated as importers tried to stockpile Chinese tires before the duties were put in place.

In January of this year, management did have to lay off workers, cutting 29 jobs at our plant. The workers were certified for trade adjustment assistance. These cuts in production, hours and jobs were directly due to the rise in volumes of Chinese imports that undercut our market after the Safeguard duties expired. Yokohama's own public statement show the management agrees it is Chinese imports that have caused the injury we have suffered.

In its 2013 annual report, Yokohama explained that the termination of the Safeguard Duties undermined its sales in North America. In November of 2013, the President of Yokohama was described in a news article as concerned about the influx of Chinese tires into the US Market since the tariffs ended. He noted that the low price imports from China were affecting the prices for the whole range of tires on the market. In January of last year, Yokohama's President explained that he expected to see increased competition in the US Market, stating "there are many low-cost imports which are impacting everyone in the market.

With duties in place to offset China's unfair trade practices, the tide of Chinese imports is receding. Our plant is already beginning to see some of the benefits from the low of 11,000 tires a day at the end of last year; we are now producing 13,500 tires a day. Management is hoping to get production back up to 14,000 tires a day by the end of the year, and of the 29 workers who were laid off, 26 have already been rehired to replace workers lost to attrition. Even with those improvements, we still have lots of unused capacity. We have 43 tire machines in our plant, but only have the manpower to run 31 machines. If duties are allowed to continue and the market keeps improving it would make it very easy for us to rapidly increase production with the equipment we already have.

Unfortunately, if the duties end, our plant will be in the crosshairs. We have already been hit hard by the wave of low-price imports from 2012 to 2014 that I am not sure how we would even survive even greater volumes of Chinese imports. Chinese producers have large amounts of excess capacity and have shown they are eager to penetrate our market. If no relief is put in place, I'm concerned that our plant and our members of our local will suffer even more injury than we already have, additional production cuts, reducing hours and pay and more layoffs. I hope the Commission will ensure this does not happen and allow the benefits of the duties to endure by reaching an affirmative determination in these investigations. Thank you.

CHAIRMAN BROADBENT: Thank you, Mr. Jones. Mr. Secretary.

MR. BISHOP: Madam Chairman, our next Congressional witness is the Honorable Tim Kaine, United States Senator, Virginia.

CHAIRMAN BROADBENT: Welcome Senator Kaine. You may begin when you're ready.

STATEMENT OF SENATOR TIM KAINE

SENATOR KAINE: Thank you very much Chairwoman Broadbent and Commissioners. I appreciate the opportunity to be here to testify. I am here on behalf of the people of Virginia in support of the United Steelworkers Petition for Relief from Dumped and Subsidized Imports of Passenger and Light Truck Tires from China.

Last September, along with 29 other Senators and I believe one testified earlier. There may be two, Senator Sessions in brown. I sent a letter to the Department of

Commerce in support of the department's decision to initiate these investigations. In that letter, we noted the importance of America's trade loss and the enforcement of those laws in combating unfairly traded imports from China. As we noted in the letter, when fair trade conditions are restored and US producers are on a level playing field, we are absolutely confident that American workers and companies can out-compete anyone.

I believe that this important fact was shown a few year ago when Chinese imports were subject to duties as a result of the USW Safeguard Petition. I was glad that the Commission and President stood up for American Manufacturers and following imposition of tariffs, the volume of imports from China fell significantly and prices began to improve. In other words, the US Market found the stability that it needed. We then saw rebounds in domestic production, shipments and employment and eventually the industry was able to earn the profit it desperately needed to reinvest and grow. However, it's important to think about what necessitated this relief.

From 2004 to 2008, imports of Chinese tires soured. The market share of Chinese imports grew to reasonably large numbers. At the same time, US production decreased the market share for domestic producers fell and thousands of workers lost their jobs. The surge in Chinese imports resulted in the closure or the announced closure of US tire plants. If not for the Safeguard relief that was granted, Chinese imports would have continued to cause injury to the domestic industry.

The record before the commission today shows this same pattern. Since 2012, China has been flooding the US market with dumped and subsidized tires. The pre-hearing staff report shows that imports from China increased to 84% just between 2012 and 2014. The Commission's preliminary determination indicates that the levels of underselling by Chinese imports increased significantly after the Safeguard measure expired, underscoring how important the Safeguard relief was in bringing price stability and a leveling of the playing field to the United States tire market.

While the Surge in Chinese imports occurred during a time of economic recovery and increased domestic consumption, Chinese imports benefitted from the US recovery but the domestic industry didn't as US production and US shipments declined. Thus the market share for Chinese imports increased from 11.5% of the US market in 2012 to over 19% by 2014 and this increase came at the direct expense of domestic producers whose market share fell from nearly 47% to 41.9% in the same period. American jobs were lost during that period despite economic recovery and growth and consumption of nearly 10%.

Some of the jobs that were lost were at the Yokohama plant in my home state of Virginia. The plant's located in Salem Virginia which is right in the Roanoke Valley in the Southwestern part of the state, has 910 employees including 718 US Steelworkers, some of them who are here today. However, those numbers were not always the case when the Safeguard Duty was in place the Salem plant was producing 18,000 tires a day. After Safeguard relief expired, Chinese imports surged and production in Salem quickly dropped, falling to 16,000 tires in 2013 and by June of last year when these petitions were filed, the production was down to 15,100.

I understand that the production continued to fall in 2014, so in a period of strong growth in the domestic demand for tires, the Yokohama plant reduced production by nearly 40%, the direct result of surging imports from China. Over the last decade, Chinese producers have repeatedly inundated the US market with unfairly traded tires and harmed US tire industry and the industry's works. This has been driven by targeted Chinese Governmental support policies and generous subsidies by the Chinese government to benefit the Chinese tire industry.

The Department of Commerce Preliminary countervailed 30 subsidy programs available to the Chinese tire industry, resulting in subsidy margins ranging from

11.74% to over 81%. Additionally, the Department of Commerce made a preliminary finding that Chinese producers were dumping tires in the US market at margins ranging from 19.17% to over 87%. I think we have to question how we would expect anyone, anyone to compete against such massive levels of dumping and subsidization.

However, just as Chinese producers retreated from our market when the Safeguard Relief was imposed Chinese imports again fell sharply after preliminary duties were imposed in these investigations. Monthly reports from China dropped in December of last year after preliminary countervailing duties were imposed. In the first quarter of this year, imports from China are below what they were in the same period last year and the preliminary relief from dumped and subsidized Chinese tires is making a huge difference in Virginia. I understand production in Salem has already begun to increase. The plant has been able to recall some of the workers it had to lay off. This is welcome news for domestic manufacturers in Virginia and elsewhere.

When China's unfair trade practices are neutralized through antidumping and countervailing duties, the domestic industry can recover market share, volume and employment that unfair trade practices have limited. I personally believe that trade under the right conditions is important to the nation and especially important to Virginia as a global gateway, but the right conditions have to include vigorous enforcement. I hope you are able to find in favor of the US manufacturers and allow them to compete in this important industry at a time of growing domestic demand on a level playing field. And with that, I thank you to all the Commissioners for allowing me to testify today.

CHAIRMAN BROADBENT: Thank you Senator Kaine. Do the Commissioners have any questions for Senator Kaine?

(No response.)

CHAIRMAN BROADBENT: Seeing no questions, we appreciate your testimony and you may be on your way. Thank you very much.

SENATOR KAINE: Thank you so much.

MR. BISHOP: Madam Chairman, that concludes the Congressional testimony at this time.

MR. STEWART: We wanted to start with our witnesses so that you could hear from the people on the front line just how direct the competition is. My partner, Elizabeth Drake, and I will now go through a slide presentation with some of the facts. If you see me without my glasses it's because of the age and whether or not I can see close up with my glasses on.

(Slide presentation.)

Over the period of investigation in these cases from 2012 to 2014, apparent consumption of passenger vehicle and light-truck tires increased nearly 10 percent; yet U.S. producers were unable to participate in any of the growth, actually declining during the period. 99.3 percent of the growth went to imports from China. The result was declines in many of the statutory factors the Commission examines such as capacity, production, shipments, market share, and number of workers.

In a growing market, absent unfairly traded imports from China surging into the market, the U.S. industry should have been able to participate in the growth. The inability to do so over the POI resulted in huge losses to the domestic industry on all factors: from sales, to production, to number of workers, hours worked, wages, operating income, and operating margins.

As issues of domestic like-product and negligibility are not contested by the parties, we turn next to the volume of imports.

The Commission is charged with evaluating the volume of imports from the subject country, including whether the volume of imports, or any increase in the volume, either in absolute terms or relative to production or consumption is significant.

Under any of these measures, imports of PBLT tires from China are significant. The volume of tires at 58 million in 2014 out of a total market of 300 million is significant absolutely. The rate of increase in imports from China, 84.3, during the period juxtaposed to growth of less than 10 percent is also obviously significant.

As a share of apparent consumption, it grew from 11.5 to 19.3. Such market share growth is significant. And as compared to domestic production, it went from 21 percent in 2012 to just under 40 percent in 2014.

Turning next to price effects of imports in the U.S., the Commission looks at whether there's been significant price under-selling by the subject imports. And just as in the preliminary phase of the investigation, the data gathered by the Commission's staff reveal under-selling in 100 percent of the data compared and at significant margins.

Moreover, as reflected in the staff report for the questionnaire responses, price is an important consideration as viewed by domestic producers, by importers, and by purchasers, ranking first, second, and third importance for the vast majority of responding parties.

As seen on this slide, for the four products for which data are public in the staff report, the margins of selling/under-selling increased over the POI typically by 10 to 20 percentage points. Such under-selling is significant.

Moreover, the under-selling resulted in price declines for each of the domestic products examined, with Chinese price declines leading the way down, being much larger than domestic declines, and with domestic declines exceeding the decline in cost-of-goods sold for the industry in total for at least half of the products--a clear sign of price depression.

As domestic producers stated during the period of investigation--this is accord from the Yokohama president, Chinese imports were the immediate cause of domestic price declines, and such declines were experienced across the market and not limited to any subset of the market based on brand or tiers.

This view was not limited to domestic producers. Here's a quote from the middle of 2014 from a major importer of PBLT and a distributor who has since been acquired by another company here in the States, which shows the importance of Chinese price and its effect not to limited segments of the market but to the entire market for PBLTs in the United States.

When one turns to impact, the Commission is charged with evaluating all relevant economic factors within the context of the business cycle and conditions to competition that are distinctive to the affected industry.

As the staff report notes, most parties responding to questionnaires agree that the PBLT industry has a business cycle. In our prehearing brief, the Economic Consulting Services paper that is the appendix to our paper, to our brief shows what the proper business cycle is, basically noting that the industry tracks the cycle of the overall economy as is shown by this particular slide.

The relevant cycle is a period of 2004 to 2014, a period for which the Commission in fact has data for 9 of the 11 years, and hence permitting you to indeed evaluate the POI effects in the context of the business cycle.

There are two conditions of competition that are distinctive to the PBLT industry during this particular period of investigation and business cycle.

First, the existence of safeguard relief for part of the period. And second, highly volatile raw material costs which during the period of investigation experienced unusually large declines.

The benefits of the Safeguard Relief expired in late September 2012. While the Relief was in place, the domestic industry was able to stop the meteoric collapse of the industry that had characterized the 2004-2009 period. If you take a look at that trend line, you can only say the decline is frightening, to say the least, and pretty much straight-lined through 2009.

During that period, the domestic industry closed five plants and announced the closure of three more plants, the last of which closed in 2011 and which resulted in the reduction of domestic capacity by more than 70 million tires.

Those who don't believe the Safeguard Relief was helpful to the domestic industry ignore many, many things, but this table shows that the relief permitted the domestic industry even when there were three more plants closing to stop the decline in production that they had been going through for the five previous years.

They bottomed out in 2009. Production started back up in 2010, and continued in 2011, and continued until the import surge that began when the relief was eliminated.

This slide shows the enormous loss of market share--all to China--that occurred each year from 2004 to 2009, and once again when imports started to surge in late 2012.

This is a situation where the domestic industry was losing between 2 and 4 percentage points of market share year after year after year. The only years where that didn't happen and where the industry was regaining market shares were the years of Safeguard Relief.

The second distinctive condition of competition in this case is the highly volatile nature of raw material costs, which during the period of investigation saw sharp declines in certain key raw materials like rubber inputs.

Natural rubber prices are shown on this slide. The Commission found in the 421 case that the domestic industry had suffered price suppression from the low-price surging imports from China at that time. The price aggression during this POI led to declines in prices for U.S. producers, again led by the Chinese.

The sharp decline in raw material costs merely masked the effects of the price depression caused by Chinese imports during the POI.

Turning to the factors on the impact of imports on the domestic industry the statute has the Commission examine, one can see that there are wide-ranging absolute declines during the POI for various domestic industry performance criteria such as capacity, production, utilization, shipments, average price, market share, and production workers.

The absolute declines are greater when viewed from the last year when 421 relief was in place, which is 2011. The ECS report that it referred to earlier examines a wide range of factors across the business cycle which shows staggering declines in nearly all criteria.

In fact, if you look at the impact we show three columns: 2014, which is the business cycle; the last column, the POI and 2011-2014, the period when--the last year when Safeguard Relief was fully in place. Whether looking at the

POI or business cycle, industry performance has been distressed.

Indeed, the 2012-2014 period dhows a worsening of many factors, despite the healthy increase in apparent consumption if nearly 10 percent.

Over the business cycle, nearly all factors declined 20 to 33 percent, despite apparent consumption which in 2014 was just 2 percent lower than it was in 2004.

Next, but for the dumped and subsidized imports from China, as we stated before, the domestic industry would have performed much better during the POI. Indeed production and net sales would have been more than 28 million tires higher in 2014 alone, and USW plants would likely have handled well more than half of that amount alone.

Employment would have been as much as 19 percent higher, and operating income in 2014 would have been as much as 58 percent higher.

Because of the loss of market share to dumped and subsidized imports, the domestic industry and the POI, despite improved operating income rates was not able to generate an operating income over the business cycle as a percent-of-sales ratio that was anywhere near all-manufacturing. In fact, it was more than 1 percent lower, and was as much as 60 percent lower than many other sectors.

In our prehearing brief, Economic Consulting Services evaluated the performance of the domestic industry against its likely weighted cost-of-capital. ECS's analysis demonstrates that over the business cycle the PBLT industry did not cover its cost-of-capital despite improved performance during the POI.

But for the dumped and subsidized imports from China, the domestic industry would indeed have covered its cost-of-capital over the business cycle.

Finally, on impact the reaction of the domestic Industry in the first quarter of 2015 showed that dumped and subsidized imports directly affected the industry. As Chinese imports feel during the imposition of Provision Remedy, domestic product increased and the domestic industry was able to regain some of the market share that it has lost during the POI.

MS. DRAKE: Good morning. Elizabeth Drake for Petition, the United Steel Workers.

If this preliminary relief is allowed to terminate, the industry will not only have suffered material injury but will be threatened with further injury in the eminent future.

With regard to subsidies, the Commerce Department preliminarily found subsidy margins ranging from 11.7

percent to over 81 percent. This includes a number of export subsidies, which are particularly pernicious as they incentivize Chinese producers to only further increase their exports to the United States.

CHAIRWOMAN BROADBENT: Ms. Drake, I just want to interrupt you just for a minute. Mr. Aderholt is here.

MS. DRAKE: Thank you.

MR. BISHOP: Madam Chairman, our final Congressional witness today is The Honorable Robert B. Aderholt, United States Representative, 4th District, Alabama.

CHAIRWOMAN BROADBENT: Good morning, Mr. Aderholt. You may begin when you are ready.

STATEMENT OF ROBERT B. ADERHOLT

REPRESENTATIVE ADERHOLT: Okay. Good morning. Thank you. Thank you. It's good to be here. And, Madam Chairman, Commissioners, each of you, I want to thank you for the opportunity to appear before you on behalf of Alabama's Fourth Congressional District.

It was six years ago I was in this room before this Commission, and I was in support of the United Steel Workers Section 421 Safeguard Petition on passenger car and light-truck tires from China.

The Commission reached an affirmative determination and our industry began to recover at that time. Let me say, it was very helpful.

Unfortunately, the Relief only lasted for three years. When it expired, China once again targeted our market with treaded tires, and I so I am here again today to support the United Steelworkers new petition and to once again ask this Commission to vote in favor of relief of our tire industry and its workers.

The tire industry is very important to the District I represent, and also to the State I represent. I represent the largest tire plant in our State. It's Goodyear's Gadsden facility, and it is in the 4th Congressional District as I mentioned that I represent.

The factory has been producing tires in Gadsden for more than 85 years. The plant has the capacity to produce 30,000 tires a day, and it produces a full range of tires that is covered by your investigation, which would include passenger car, light truck with rim size ranging from 13 to 24 inches, tires for original equipment manufacturers, and the replacement market, and tires under Goodyear's own label, as well as private labels.

The plant employees include about 1,500 workers, and it contributes an annual payroll and benefits of $150 million. These are high-skilled, good paying jobs. It's the kind of manufacturing jobs that young couples can buy homes, allow families to send their kids to college, and ensure that older workers can retire with dignity.

The plant doesn't just benefit its workers and its families. It is an important economic engine for the local economy and also the entire community.

According to a 2006 study, the Goodyear plant contributes $360 million annually to the local community in direct and supported economic activities, and it supports over 4,000 jobs throughout the State.

When the State is able--or when the plant is able to increase production and employment, the whole community benefits. But when the plant is forced to cut back hours and lay off workers, the community suffers as well.

The Safeguard Relief this Commission recommended had important benefits for the Gadsden plant. As imports fell--from China, fell, prices were covered and the domestic production increased.

But when the tariffs expired in September of 2012, China once again started flooding the tires into the United States market. In just one year, from 2012 to 2013, imports from China jumped by more than 60 percent to reach over 50 million tires, more than the previous annual peak in 2008 before the Safeguard was imposed.

In 2014, imports from China rose again, hitting 58 million tires. And as the Commission found in its preliminary determination, these tires were coming in at very low prices that consistently undersold the domestic producers.

And these Chinese tires are not underselling domestic products just because they're made with cheaper labor or under fewer government regulations. The Commerce Department has found that these tires are being dumped at prices significantly below their fair market value, and found that the Chinese tire producers also benefit from numerous government subsidies.

There simply is no way for our industry to compete with predatory pricing behavior and with deep pockets of the Chinese Government. The influx of Chinese tires has a direct impact on our Goodyear plant in Gadsden, Alabama.

According to last year's staff conference testimony of David Hayes, the local union president of a plant, when the tire tariff came off and Chinese imports came roaring back into the market, production at the plant began to fall immediately.

The plant's inventory built, forcing it to take days out of its schedule. Work fell below the full schedule for several weeks, and cut weekly hours.

Finally the plant had to lay off 53 workers. And while these workers were eventually brought back, the plant lost many more through attrition and they were not replaced.

I understand that some would argue that the Chinese tires are just filling the need for the low end of the market that domestic producers have abandoned, and I am not convinced that that is the case.

Imports from China, not some corporate strategy, eroded domestic market share and pushed out the domestic production. Our Goodyear plant is a case in point.

When the Commerce Department imposed the preliminary duties on Chinese imports at the end of last year and the beginning of this year, imports from China dried up. Goodyear reacted to this development immediately and in a positive way.

It announced the launch of new tire lines. It raised the daily production ticket of our Gadsden plant at the end of 2014, and again this year. It invested in new-tire machines, presses, and other equipment. It hired more than 150 workers--not just replaced those that had been lost, but to add new positions as well.

These impressive and rapid improvements show just how much the Commission's decision will impact not only the tire industry but also will impact our community of Gadsden, Alabama.

And it is for all of these reasons, Madam Commissioner and--Madam Chairman and Members of the Commission, that I would ask you to make the affirmative decision, and I appreciate your time for letting me share these thoughts with you this morning.

CHAIRWOMAN BROADBENT: Thank you, Mr. Aderholt. Are there any questions for Representative Aderholt?

(No response.)

CHAIRWOMAN BROADBENT: If not, you are free to go and we appreciate your testimony.

REPRESENTATIVE ADERHOLT: Again, thank you for the time here. Thank you.

MR. BISHOP: Madam Chairman, that concludes Congressional testimony for today's hearing.

STATEMENT OF ELIZABETH J. DRAKE

MS. DRAKE: Thank you.

If I may, I will begin again on the issue of the injury that is threatened if preliminary duties are allowed to expire due to a negative determination.

Commerce found subsidy margins ranging from 11.7 to over 81 percent, including a number of export subsidy programs that are particularly threatening because they incentivize Chinese producers to only further increase their exports to the United States.

As a foreign producer's own projections for the eminent future show, the Chinese industry will have more than enough excess capacity, new production, and inventories to further increase their exports to the United States market.

Taking foreign producers' productions and applying them to the Chinese industry as a whole would result in an additional 130 million to 140 million tires available in the Chinese market in 2015 and 2016, a significant volume compared to the 58 million tires exported to the United States in 2014.

Public information in our prehearing brief confirms what's in Foreign Producers' questionnaire responses. Chinese industry publications cite overheated growth, capacity utilization rates at historic lows, and we documented at least 17 instances of Chinese producers, including a number of major producers, either launching new expansion projects recently or planning expansion projects in the eminent future.

These large volumes of additional Chinese tires are highly likely to be exported and to be exported to the United States.

As the Commission found in its preliminary determination, the Chinese PBLT tire industry is highly export oriented and in fact the share of foreign producers shipments that went to their own home market declined during the POI. The only market which saw an increase in share was the United States.

As a result, the Chinese PBLT tire industry exported a full 58 percent of its shipments in 2014, and the United States was the single largest export destination. And public data included in our prehearing brief shows that the Chinese industry is expected to only further increase its reliance on exports in the eminent future.

China's strong interest in the United States market is further confirmed by the efforts that importers made to have tires available in the U.S. market the minute after Safeguard Relief expired by establishing free trade zones in their warehouses.

It is also underscored by the aggressive efforts Chinese producers have made to introduce new products and brands in the U.S. market since the expiration of the Safeguard.

While there were about 50 Chinese producers at a major industry expo in 2012 promoting their brands and products, just a year later in 2013 after the Safeguard expired there were 90 Chinese companies at the same industry expo and they had almost every type of tire available at that exhibition.

This chart shows the number of Department of Transportation tire codes issued to new plants over the past three years. These codes are required for companies to market their tires in the United States market. In 2012, they issued new codes for 7 Chinese plants; in 2013, that doubled to 14 Chinese plants; last year that more than doubled again to 32 new Chinese plants.

As a result, over the past three years Chinese plants alone have accounted for more than two-thirds of all new-tire codes issued by the DOT for the entire world.

If Chinese imports continue to grow at their 2014 pace of 14 percent, even if demand increases more than projected, the domestic industry will only lose more shipments, more market share, and more jobs.

Our May data in our brief shows that in 2015 domestic consumption is projected to grow at only 0.2 percent. Even if we assume that it grows at 1 percent in 205 and 2016, increasing Chinese exports to the U.S. market will see an additional 4.6 percentage points of market share from U.S. producers, and U.S. producers will lose another 11.5 million tires of domestic shipments. And tire workers in the United States will lose more than 2,000 jobs.

What is quite striking looking at these projections is the capacity utilization rate in 2016 would fall to below 83 percent, a very worrisome indicator given that in the last year of the Safeguard investigation in 2008 the industry was at 86 percent capacity utilization and still had to close additional plants in order to adjust to that depressed level of production.

Another factor supporting an affirmative threat determination is the fact that prices for key raw materials have already started to increase in the first and second quarters of 2015, and are projected to further increase in the rest of 2015 and in 2016.

`The analysis provided by ECS shows that futures prices for crude oil, which is a key input to carbon black and synthetic rubber are projected to increase by 4.3 percent by the end of this year, and 8.4 percent by the end of next year. Natural rubber prices are also projected to increase and these projections are confirmed by domestic producers' own statements that they will see increased raw material costs in the second half of 2015.

If volumes continue to decline, and if prices continue to fall, or if prices are suppressed by growing Chinese imports, it will sharply reduce and perhaps even eliminate the operating margins of the domestic industry. This is based on 2014 returns and shows, based on the ECS analysis, that if both volume and price fall by 10 percent the operating margins of the domestic industry will be eliminated.

Faced with this strong record of injury and further threatened injury, opponents make a number of claims to try to distract the Commission from the facts before them.

They claim there's attenuated competition. They claim under-selling is really just a brand premium. They claim the loss of market share is really just market abandonment by domestic producers, and they claim the domestic industry is healthy.

The Commission has rejected similar claims before, and it should do the same here.

First, with regard to attenuated competition between brands, or so-called "tiers," there continues to be widespread confusion on whether tiers exist, how many there are, and who belongs in which alleged tier.

Most domestic producers report there are no tiers. Other firms identify three, four, or five tiers with wide variations in market-share estimates.

This table shows from the prehearing staff report, the public report, that the vast majority of brands are listed by various firms as belonging in two tiers, or for most of them at least three tiers. And some brands such as Kelly, in this example, are listed as belonging in four tiers.

So, yet again, as in the Safeguard, the concept of tiers really has very little fixed meaning, even according to market participants themselves, much less consumers.

If tiers do exist, U.S. and Chinese tires compete across the spectrum. Good, better, best is the common marketing strategy for many consumer products but it does not eliminate competition.

Many top dealers carry both U.S. and Chinese brands side by side. Most purchasers do not even specify a brand when they go to a dealer. And even those who do, most of them are convinced by the dealer to switch.

Therefore, the dealer determines the brand in as much as 85 percent of replacement sales. This is an excerpt from a dealer discount tire that shows the large number of tire brands that they offer to consumers. These include alleged tier one brands, tier two brands, tier three, and tier four brands marketed side by side at a same dealer in the same channels of distribution to the exact same consumers. This certainly doesn't look like attenuated competition.

Dealers also promote Chinese tires as competing directly with high quality tires, even if they were in lower tiers. Brands such as Aeolus, Sailun, and others are marketed as competing with tier one and tier two brands.

API, a company that submitted an affidavit in one of the Respondent's briefs stating that Chinese tires are limited to tiers two, three, and four, itself markets itself as a very good second-tier suppliers based on the high quality of Chinese tires.

Respondent's own price data further confirms that tiers of brands do not attenuate competition. This is just one of the products they provide information for, but you would see the same pattern or lack of pattern in all six of the products they review.

Here you see the highest price tire is a supposed tier two tire. You also see a tier one Goodyear tire, and a tier three Hercules tire being sold for exactly the same price and exactly the same tire size. There simply is not attenuation and competition between brands of different tiers as they are sold in overlapping price points for any given tire size.

MS. DRAKE: Finally, domestic producers' own statements identify direct competition with Chinese imports refuting any claims of attenuation. Particularly after the buildup in entire inventories, after the filing of these cases, both Goodyear, Cooper, and Michelin all noted that this had impacted the market and their sales within late 2014 and would continue to do so in the first half of this year.

Yokahama, as we've discussed also identified Chinese brands as bringing down prices across the market. If competition with China were attenuated, these statements would simply make no sense.

Respondents also claim that underselling is due to brand premiums, but the prehearing staff report shows that there is no relationship between the percentage of brand in domestic pricing products and the margins of underselling. Even the most branded product is significantly undersold by -- excuse me, even the highest private label product is significantly undersold by Chinese imports and those underselling margins increased over the period refuting the idea of a consistent brand premium.

Respondents further claim that the domestic industry abandoned the lower tiers of the market, but most purchasers report that U.S. tires are comparable to Chinese tires in terms of private label availability, and as our witnesses testified, domestic producers were eager to reintroduce and expand midlevel tire brands once preliminary relief was in place.

Moreover, the supposed focus on high value added tires is in no way limited to domestic producers. Chinese producers also market their tires as high, value-added premium or ultra-high performance and since at least 2010 the Chinese government has specifically incentivized and rewarded the production of high-value added and high performance tires. There simply is no justification for distinguishing U.S. and Chinese tires based on the supposed high value added focus.

Finally, Respondents claim that the domestic industry is healthy because it was able to enjoy continued profitability during the period of investigation. As a preliminary matter the Commission does not focus on any one single factor in evaluating whether the statutory standard for injury is met. The industry has shown declines across a broad array of indicators despite rising demand. Though operating income has improved, it's been because of two specific conditions of competition, thus stability provided by safeguard relief and the steep decline in raw material costs which save the industry $936 million over the period while they're operating income rose by less than half of that. But for the surge in dumped and subsidized Chinese imports the industry would have performed better on all elements. So that the industry performed significantly worse than it should have during the period of demand growth. Even with the improvements experienced during the period, the industry is underperforming other sectors over the business cycle and not meeting its cost of capital over that cycle but it would have if China's imports had not surged into the market. All of these facts support an affirmative determination and thank you for your time.

MR. STEWART: That concludes our direct presentation, Madam Chairman.

CHAIRMAN BROADBENT: Thank you. I want to thank all the witnesses for coming today. We will begin our questioning with Commissioner Schmidtlein.

COMMISSIONER SCHMIDTLEIN: All right. Thank you very much, Madam Chairman.

I'd also like to thank the witnesses for being here today. I was one of the Commissioners that visited Tuscaloosa in April and was -- very much enjoyed that visit felt like I learned a lot. So I appreciate the hospitality.

So I wanted to start with trying to understand the OEM versus replacement market and a few aspects of that. And I'm not sure which witness would be the best one to answer this, Mr. Stewart, you can answer it or ask one of the industry witnesses.

But can someone discuss why do U.S. manufacturers have such a large market share in the OEM market as relative to the subject imports? Is there some advantage to the U.S.? I presume there is.

MR. STEWART: Before I have Mr. Johnson respond, Commissioner, let me just say that as good as the staff report is, and we congratulate the staff on a very find report there. You have a relatively limited response from OEM purchasers in the database. And at least our client is aware of one major contract that was cancelled exactly because of these cases which would have brought product in from China. So the statistics and the staff report are what they are. We believe that those are in fact understated in terms of Chinese penetration, not that Chinese penetration would be the same in the OE market in 2014 as they would be in the replacement market. So I would state that as a predicate.

With that, let me ask Mr. Johnson to respond.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. JOHNSON: May I ask if you're talking about the difference between OEM and replacement? Are you talking about specific construction or are you just talking about in general as to how they are delivered?

COMMISSIONER SCHMIDTLEIN: Well, I'm more interested in, you know, why is it that the U.S. manufacturers have what appear to be an overwhelming -- such a large percentage of that market?

MR. STEWART: Let me start the answer and then maybe Mr. Johnson can jump in.

Our understanding from discussion from discussion with the union folks is that OEM contracts require an ability to make modifications based upon OE requirements on a relatively short turnaround time period. And so that that can lead--can give a domestic plant a greater advantage, if you will, simply because you have concern of large amounts of inventory that have to be there for just in time delivery to the plants if you need to make a plant change.

That said, obviously there are foreign suppliers to the OEM sector, so there's a lot of tires that come from offshore into the OE sector. I think if you look at third-country imports and a lot of significant part of those obviously come through the domestic--the global players who are the domestic producers. So there is nothing that actually prohibits imports from servicing it. And we know that there has been a lot of interest to have Chinese supply--some of the opposition briefs tend to talk about Chinese supplies only being from Chinese nameplate companies. And obviously Chinese product can come in from a necessary company that produces there and the global players all produce there in large quantities.

MR. JOHNSON: A couple of things. Part of it is delivery, supply, just in time provisions that are required under the agreements. There's also, in many cases, significant oversight and review. Terry brought up the fact that a good many Japanese auto producers prefer Japanese tire names on their automobiles. That's where they can go back and go through the plants and make sure that the specifics of their tires are being adhered to and that the tires will perform at the level that they think they should.

And there is a propensity within the automotive industry for kind of brand preference or origin preference. The Japanese are certainly representative of that. It's a belief that if you wanted to put a Bose radio in the new car, Bose is a recognized name, so new car manufacturers tend to put more highly recognized names in their cars because it allows for a greater ability to provide profit. I think that answers --

COMMISSIONER SCHMIDTLEIN: So in the U.S. OEM don't believe that the Chinese tires have that sort of brand recognition or name recognition that's one of the reasons you believe that --

MR. STEWART: Well, we will supply in the post-hearing, Commissioner, a specific example where there was a major contract that had been awarded to a Chinese producer that was, as we understand it, was cancelled because these cases got filed.

COMMISSIONER SCHMIDTLEIN: And do you have a sense of what the order of magnitude of that contract was?

MR. STEWART: It was a large -- it was a large contract for a popular vehicle.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. STEWART: And, you know, if you go back to the 421, you would have seen that there was growing, there was growing import penetration. In the OEM, albeit at a smaller rate where you had a higher response rate from the OEM purchasers in the period. So we have a higher market share, we believe in OEM, than we have in replacements. Some of the reasons go to just logistics. But we are not free of competition from products from China in the OEM sector either.

COMMISSIONER SCHMIDTLEIN: And do you think, as you've mentioned, you know, the all other sources do sell a substantial amount to OEM? Do you think most of those are home country tires, for lack of a better word, coming into foreign --

MR. STEWART: We can't --

COMMISSIONER SCHMIDTLEIN: -- auto manufacturers here?

MR. STEWART: I don't know that that's true because if you take a look at what tires are on -- what are on what cars at the OEM level, those tires could be produced in a wide number of countries and so it really comes down to what the negotiation has been with the OE in terms of where the supply is going to come from and their comfort level with whatever the supply base is.

COMMISSIONER SCHMIDTLEIN: But presumably they wouldn't have an advantage of supply just in time --

MR. STEWART: That's right.

COMMISSIONER SCHMIDTLEIN: -- inventory?

MR. STEWART: I agree.

[SIMULTANEOUS CONVERSATION]

MR. STEWART: Our belief is, you know, there's lots of industries where when you start out and you're rising in terms of your level of competitiveness and how much of the market you're taking, you go for the things that are easier to go after. There are less barriers to entry if you're going after the replacement market than there are hurdles to be able to become a supplier to an OEM. That's clearly true.

COMMISSIONER SCHMIDTLEIN: Uh-huh.

MR. STEWART: The Chinese have focused efforts more on the replacement market because it's an easier market for them to seize large market share. But we know and expect that competition is there in the OE sector and obviously it's growing. And don't forget all of the major car companies have major facilities in China and so have to source tires in China as well. And if they are satisfied with the tires they're getting in China, there's no reason that they couldn't be looking to supply that globally for a certain platform that they're using.

COMMISSIONER SCHMIDTLEIN: Okay. I seem like I've got a minute and a half left here. But, I wanted also to talk about -- you know, in one of your slides, it was slide eight I believe, there was a quote about the tiers and that the prices in one tier is impacting the other tiers. And so can someone talk about how prices are set in the OEM market and how that's related to prices in the replacement market and how those influence each other. Does one lead the other? How does that happen in real life in terms of the negotiations?

MR. JOHNSON: I don't think the OEM market leads in pricing. OEMs typically bid a platform for a specific vehicle, multiple people bid on the platform, and they basically take what they believe to be the best and lowest bid.

COMMISSIONER SCHMIDTLEIN: And is that contract a fixed contract? It's not renegotiated?

MR. JOHNSON: It is typically a fixed contract. There may be variables based upon some raw materials input or some other circumstance.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. JOHNSON: But for the most part they are indeed.

That's far different from the normal consumer market where there's this constant price war that goes on lowering prices depending upon the circumstances. One person sets a price increase, one person lowers the price increase, and everyone has to kind of follow the market. That typically happens probably in a similar way with OEs, but it's so few of them and so many more tires when they're flashing a contract, it's not this constant day-to-day price variation that you're seeing in the replacement market that we're being impacted by, by the Chinese.

COMMISSIONER SCHMIDTLEIN: And does the price of the replacement market influence the OEM market or is it -- they're really completely separate?

MR. JOHNSON: I really don't know.

MR. STEWART: My belief from other industries that we've worked with that have supplied the OE side as well as replacement market is that they tend to be driven by separate factors. Certainly the opposition has talked about major global players probably having the ability to set price in the replacement market, that's probably true. But as is true in any good, better, best type of situation, there are ranges of differences that you can have and as we've shown in the slides, et cetera, this is an industry where it is hard to see that there is a natural premium. Yes, you can find higher priced tires from Michelin or Bridgestone or Goodyear, but you can find those same brands, not other brands, where the value on the same size tire is dramatically lower. You may have prices from a necessary given company that can be multiples of each other, presumably that's because they have different features within the same size tire. So when you go in as a consumer looking for a replacement tire, I could sell you a Michelin tire at $250 a piece or maybe one for $110 a piece, and there would be -- the same thing would be true for Chinese tires or Japanese tires or Korean tires, or what have you.

The Chinese tires have come in at a much lower price and hence are probably the drivers of the downside. That certainly is what everybody has perceived, all the CEOs and others who have talked about it in the press, talk about China being a leader on the downside, they push prices down. On the upside, I would think that you would see that the big global players are the ones who set the prices. And those prices may or may not have any relationship to OE prices.

COMMISSIONER SCHMIDTLEIN: Okay. My time is up. Thank you very much.

CHAIRMAN BROADBENT: Okay. I was trying to piece together the history on this. You all had a 421 Safeguard that expired in September of 2012. Was there an option to request on extension of that Safeguard that the president had given you?

MR. STEWART: There was. There was, Madam Chairman. That came up, I believe, I think it came up 90 days in advance that one would have had to do it. The challenge from the steel workers' point of view, and we had a press release present -- we had a press release that went out at the time indicating that they weren't going to seek an extension and the reason they weren't going to seek an extension is that under the international agreement for the U.S. to seek an extension, they would have to pay compensation to China. And the steel workers didn't see that -- for what they considered to be disruptive behavior by a trading partner that we should be putting the U.S. in the position where they had to pay compensation to China. So that was what was stated in the press release at the time is the reason we didn't seek an extension of the 421 really.

And there is always the chance that having gone through the process once we wouldn't have seen what we saw. That proved not to be correct.

I said it was always the chance that there having been three years of relief we'd have had a more responsible market after the relief got lifted and that proved not to be correct. That was not the reason that they didn't seek it, the reason they didn't seek it was based on the need for compensation to China if it was extended.

CHAIRMAN BROADBENT: Okay. Now Chinese had challenged the safeguard, I think and --

MR. STEWART: Yeah.

CHAIRMAN BROADBENT: -- we had been able to defend -- you had helped the administration defend it successfully?

MR. STEWART: Yes, the remarkable thing in a tribunal that finds defendants to be in violation 90 percent of the time, this was a clean sweep for the United States.

CHAIRMAN BROADBENT: Right. Okay. As I look through the materials here, where is the best evidence that the Chinese are selling in the OEM market? Is there -- where are the numbers there? I know we were talking about this before, but I was just trying to put a finer point on how much sales of Chinese imports are in the OEM market?

MR. STEWART: I think there are probably two places that one could look. You do have purchaser questionnaires, and the staff would know which companies provided purchaser questionnaires and which companies didn't. In the petition we had -- and we reference it in our prehearing brief, we identified from the automated manifest system which, you know, comes off of the customs manifest information as to automakers that were listed as importing tires from China and so that is in our prehearing brief and shows, I think, all three of the U.S. companies and one or two of the Japanese companies through their transplants. So we assume that data is correct and hence that there must be some imports from those.

And the information -- and there would be some information, I believe, in the domestic producers' questionnaire responses as to the volume of OE and import because most importers do not -- I mean, because most OEMs would buy direct, we wouldn't expect there to be good coverage from the importers unless you had good coverage of OEM importers. And the answer is that the staff report does not have good coverage of OEM importers.

So what you have is the domestic producers and presumably their data is accurate. And then you have a limited response in terms of OEM importers. And I believe that that's probably the reason that the data is -- if it's inaccurate, it's inaccurate.

In terms of the issue that I mentioned, in terms of the particular contract we will review that in the post-conference brief. It's one where imports did not come in because of these cases and because of the uncertainty as to price and hence the willingness of the supplier, as I understand it, to supply the product. But that's just another example of a contract that would have been let.

One expects that as platforms come up, you have competition between both global players and non-global players or regional players and that one would see more and more competition. But the reason for the staff report and what its coverage is, I believe, falls to those elements.

CHAIRMAN BROADBENT: Okay. Thanks for going over that again. I appreciate it.

This would be for Mr. Johnson. How do you respond to the argument raised by the Chinese respondents on pages 7 and 8 of their economic submission that Michelin, Bridgestone, and Goodyear sell at substantial price premiums and yet are ranked at first, second, and third in terms of sales of passenger tires in 2014? Does this mean that these firms are able to compete for non-price reasons?

MR. JOHNSON: No, everyone competes purely on price. I'm sorry.

If I understand the question, everyone is competing on a pure price basis. I don't think there's any significant advantage given to Michelin, Bridgestone, or Goodyear by definition of their name or brand. They are building more than just their quote, "name brand" tires. They're doing private label tires as well, so they compete on a heads-up basis with every Chinese producer that is importing tires into the U.S.

Does that answer?

CHAIRMAN BROADBENT: Okay. So, remind me again, your company where you're employed?

MR. STEWART: He's the --

MR. JOHNSON: I am the International Secretary Treasurer of the Steel Workers. I negotiate in the industry.

CHAIRMAN BROADBENT: Oh, excuse me. And I apologize. I should have heard that and I apologize.

I'm just trying to get a sense of somebody that has an identity with one of these top tier brands, Michelin --

MR. STEWART: Mark is with --

CHAIRMAN BROADBENT: Yeah. And the sense of how your company's competing in the market, it seems to me that they're doing all sort of R&D and quality improvements on a daily basis that put them way ahead of a lot of these imports coming from China. Would you agree with that?

MR. WILLIAMS: I don't know the data on how much -- I'm sure they spend a lot of investments on improvements. All I know is like Mr. Johnson stated, we make more of the Michelin tires. I work in a B. F. Goodrich tire plant.

CHAIRMAN BROADBENT: Uh-huh.

MR. WILLIAMS: Uniroyal is another brand that we supply also. So Michelin makes several different tires and they make other brands that I don't even know the name of and they compete with every segment of the market.

CHAIRMAN BROADBENT: Okay. But you don't -- there's not a higher quality in the market here based on R&D and U.S. innovation?

MR. STEWART: Madam Chairman, let me see if I can respond. Certainly the big companies put a lot of money into R&D and they tend to lead in terms of product innovation and development. And so when they have a new product they undoubtedly were able to get a price premium for that new product and you see them marketing those aggressively. But these are also issues that tend to have fast catch up so you're not out there all by yourself for a long period of time. So we're not saying that brand has no value. Okay. Or that you cannot find products where a Michelin is taking the lead and hence they have a product that nobody for six months or a year has, that is directly competitive with. And that's a constant evolution in the industry where people try to produce their products. We agree that that exists, but that's not the bulk of the market. And the bulk of the market -- and the Chinese emulate those developments on a rapid basis, just like there's a quote/unquote "high value" added tire segment which is like three-quarters of the industry. The Chinese are very active in high value added tires because there's demand out there. Michelin may or Goodyear or Bridgestone may have an advantage for three months, six months, or a year on a particular tire, and they may get a significant premium for that, but that is short-lived.

MR. JOHNSON: May I?

CHAIRMAN BROADBENT: Yes, please.

MR. JOHNSON: In short, the R&D that is done and the engineering that is done, is limited to basically tread design, construction, compounding, et cetera. As Terry said, those very quickly make their way downstream. So any company very well may get a brief bump or a brief perception of premium, but those are deengineered or very quickly passed down through a -- you know, at the end of the day a tire is round, and black, and full of air, and, you know, there's only so many ways that you can innovate that particular product.

CHAIRMAN BROADBENT: Okay.

MR. JOHNSON: The gains are very short-lived.

CHAIRMAN BROADBENT: So you're really saying that a family goes out to buy tires for their van and it doesn't matter if they buy an imported tire or a domestic tire?

MR. JOHNSON: No, I think it matters. I think the R&D that's been done over time matters a lot. It has made all tires much better and it does provide for a brief premium for any manufacturer that comes up with a significant R&D differentiation that makes that tire better. But that those are very quickly absorbed into the market into all tires. So all tires tend to step up equally.

CHAIRMAN BROADBENT: Okay. My time is expired.

Vice Chairman Pinkert?

VICE CHAIRMAN PINKERT: Thank you, Madam Chairman.

And I thank all of you for being here today to help us to understand the issues in this case. I'm going to try to avoid using the word "tier" in my questions so that we don't -- I don't make any assumptions or appear to make any assumptions about that issue. I'll probably talk about the lower end of the market or the higher end of the market that sort of thing.

First off, did the relief in the 421 case affect the domestic industry's performance in the lower end of the market?

MR. STEWART: As I understand it, the answer is yes. You have union presidents here from four plants that produce in -- produce tires that directly compete with products that come in from China and from many other countries. And in every one of those cases, the 421 relief permitted those plants to ramp up production, in some cases, the day after relief was provided. So, yes, the U.S. competes in all segments of the market and as the USW locals reviewed, it was significant both on the downside and the upside and was almost immediate in terms of the effect.

So whether it was the B. F. Goodrich Plant or the Homo plant, or the Gadstone plant, or the Cooper plant out in Finley, in each and every case as soon as there was relief there was an opportunity for domestic producers to compete because the prices made more sense and the companies had an opportunity to make money selling at that price. And that is what has moved the companies in or out of producing certain tires.

MR. STEWART: But these plants produce both upscale and downscale and mid-scale product.

VICE CHAIRMAN PINKERT: Thank you. Now as you know, there's an argument on the other side that the domestic industry has made or is making a voluntary decision to abandon the lower segments of the market, and I'm trying to understand whether this is just a difference of perspective, or whether there are true factual distinctions that are being made, or factual differences that are being expressed by each side.

So what I want to understand is is it your view that the domestic industry is responding to the influx of unfairly-traded imports, by making certain decisions about their market position in the United States, or is the Respondent argument correct, that the decisions by the U.S. industry in fact explain what's going on in the market, and not a response to what's happening with the imports?

MR. STEWART: Yeah. This is one of those interesting issues. We faced a similar claim from the other side in uncoated paper, where it was you people are just abandoning the market. So we're the lucky recipients. We're coming in to fill that which you don't want, and if you could count the number of domestic industries where that has ever been true, you would be lucky if you got past, even up to one finger.

So no. The answer is that that's clearly not right, and why don't I just turn to the -- to the USW folks. Mark, why don't you start?

MR. WILLIAMS: You know, in our negotiations, we discussed and the reason our market share fails because of the tires being dumped into the market. We produced them the whole time, but we stopped producing them when we couldn't compete, when they didn't sell. It's just like now. We're ramping back up, and we're going to produce any of the tires that we can sell.

We've never, in any negotiations, because our company said, you know, we're going to pull out of a market, they always tell us we want all the market share we can get. We want to produce all the tires we can produce, and never said anything about abandoning any part of the market.

MR. STEWART: I think if you heard the testimony of Steve Jones, the Local at the Yokohama plant in Virginia, in our discussions yesterday he was saying that because of the influx of imports from China, and remember, their plant made the decision to limit what they're producing to 16 and 17 inch, which tend to be viewed as a higher value product, and they were getting wiped out. They lost 40 percent of their volume.

They're still producing the tires, but they're producing them in much shorter runs, because they don't have the business, because they're not willing to sell at prices that don't make them any return, okay.

So I think you find that over and over and over again, and the plants that were closed over the last seven years, seven-eight years, those plants closed exactly because domestic industries were losing the volume that they could sell at a profit, and companies were being faced with the prospect what do we do?

Do we continue to ship product that we can't make money on, or do we not? So it's being pushed out of the business, and if you heard both B.F. Goodrich and the Goodyear plants, their answers were with relief, with the preliminary relief, both Goodyear and Michelin have come with a broad array of additional products to add, which go after the mid-level of the product, which is where an awful lot of the Chinese product is competing, exactly because they can now make money, and they're going back to the capture the market that they were driven out of.

VICE CHAIRMAN PINKERT: Dr. Button.

DR. BUTTON: Thank you, Vice Chairman. To the point that Mr. Stewart made, and you have seen in many circumstances. American companies will sell and operate where they can make money. The preliminary duties went into place, and you heard the union representatives state this morning that they are expanding capacity, expanding production, and adding new models.

What you heard about was they're not adding the super-premium models, where the Respondents say the industry is structurally choosing to go. In Michelin's case, they added B.F. Goodrich. In Goodyear's case, they added Kelly. These are down in the lines which are very much and unequivocably in head to head competition with the Chinese products.

So with that protection, the companies have chosen to go into areas which are currently locations of intense Chinese, particularly intense Chinese competition. It is a choice to follow the money, in short.

VICE CHAIRMAN PINKERT: Thank you. Not that this has important legal ramifications, but I'm wondering if this panel can help me to understand why there's so much foreign ownership in the United States, of the United States production.

MR. JOHNSON: I'll take a shot at it. Beginning in the -- I guess mid-80's, there was a rush into the market. It started with Pirelli, Bridgestone into the market. There was a desire by everyone to have U.S. domiciled operations. So that just led to a wild chase within the industry for the domestic manufacturers who were eventually swallowed up by multinational global companies.

Not much difference than Goodyear actually being domiciled in the U.S. and operating around the globe as well. So I'm not sure that it's particularly problematic, from our standpoint anyway.

VICE CHAIRMAN PINKERT: Any other comments on that issue?

MR. STEWART: Well, if you look at most major industries, you have -- over the last 30 years you've had a fair amount of consolidation that has gone on, and so part of -- part of what happened in the tire industry could be viewed as a consolidation in the traditional markets, and that is the reason that if you look at the market share, you can find six or seven companies who are fairly significant globally.

I think with one of the challenges that's happened is it hasn't consolidated enough, where there's enough market power in the leaders, in terms of pricing discipline if you will, and with the large number of companies in emerging economies like China, and with the distortions that come out of those markets. Oftentimes in competition, even the big players find that they're in trouble in a fair number of market situations.

VICE CHAIRMAN PINKERT: Thank you. Thank you Madam Chairman.

CHAIRMAN BROADBENT: Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you Madam Chairman. I do want to express my appreciation to all the witnesses that -- for their testimony. This is not really relevant, but particularly on Commissioner Pinkert's question, Vice Chairman Pinkert's question, to what extent has technological change maybe led to there being a large number of foreign firms sort of established?

I'm thinking in particular -- I think it was Michelin the one, the first one that introduced the radial tires? This is just something that I seem to remember. This goes back at least 20 or 30 years so --

MR. JOHNSON: You're going back actually beyond my ability, but I do believe Michelin was indeed one of the first producers of the radial tire. But there are good manufacturers. Michelin is certainly one of them. Pirelli was another, Sumitomo, Goodyear, on and on and on, that certainly brought significant innovation into the product over time, and I think all of those have benefitted the products from day one, as --

COMMISSIONER WILLIAMSON: Okay. We don't need to go too far into that.

MR. JOHNSON: Like we told Ms. Broadbent, the tires are round and black and filled with air, but there are significant technological differences. But those do very quickly move down through the system.

MR. STEWART: Some of the material, Commissioner, that is in the prehearing briefs I believe of the other side, include some presentations by some of the largest companies, and there are a few slides that deal with innovation, and they basically talk about innovation going forward probably being incremental, as opposed to disruptive.

COMMISSIONER WILLIAMSON: Okay. So that's not a significant factor or consideration today.

MR. STEWART: I think that every major company likes to think that their R&D helps and develop a product that gives them an advantage. But as opposed to kind of the difference between bias and radial, nobody's talking about there being something on the horizon for them.

COMMISSIONER WILLIAMSON: Okay. So the difference is really going to be marketing, okay. I was wondering, Mr. Williams and Mr. Hayes, I think you both talked about your companies introducing new codes. I take it those are skill codes, and what does that tell us? Or is it just -- it's just a new either tread pattern or something? What is the significance of it?

MR. WILLIAMS: It's actually -- actually what we have done is this year, Michelin introduced two new -- they redesigned two previous tread codes, and had a relaunch of those codes, and they added sizes in both of them. One of them is an all-terrain light truck tire; one of them is a tire that's like considered a performance-type tire. But they also have plans over the next five years to introduce seven new launches also of various other tires.

COMMISSIONER WILLIAMSON: Okay. Would some of these be sort of targeted towards the mid-range?

MR. WILLIAMS: Yes, yes.

COMMISSIONER WILLIAMSON: That middle area of the market? Okay.

MR. STEWART: That's exactly what all of them are in that, and they're in that getting back market share that they've lost.

MR. HAYES: I will speak for the Gadsden Goodyear plant.

COMMISSIONER WILLIAMSON: Could you identify yourself? I'm sorry.

MR. HAYES: I'm David Hayes, president of the Local Gadsden Goodyear, and in 2012, when the duties were in place, we were barely at nearly 24,000 tires a day, and then we expired in 2012, October. We went down to 15,000 and 90. Goodyear made the decision, after the Steelworkers filed a case in 2014, that they wanted to try to gain back the mid-level market share, and they did that by launching 22 new tire codes that we're building in our plant in Gadsden.

Then in this year, in January of 2015, we announced 14 more tire codes for the Kelly brand, to get back into the mid-level that they had been pushed out of that market, when the tariffs went away. So Mark gave a good explanation. It's different sizes, different, you know, between the passenger and the truck, the make-up of the tires and stuff like that.

We've got many different size and a 14 inch dealing with a tread width and stuff like that is where you come in with the codes.

COMMISSIONER WILLIAMSON: Okay. But the key point is these are targeted to that mid-range area as opposed --

MR. HAYES: Directly mid-range tires, yes sir.

COMMISSIONER WILLIAMSON: Okay. Thank you for those answers. I was wondering, people seem to be keeping cars longer, and that also gets -- and I guess that means more replacement tires.

Is there any evidence to sort of show that that also shows that this mid-range area is going to be the more important one, because I assume that if you've got an old car, you're not going to put the really expensive tire on it?

MR. STEWART: I don't know that we have any research immediately available. But most of the time, the articles I've seen suggest that, as a car ages, maybe you're less interested in putting as good a tire on it as you may be if it's your first, first replacement. So I think that that's probably true, but I can't back that up with any particular research.

COMMISSIONER WILLIAMSON: Okay, thank you. Also during the Period of Investigation, the domestic industry's average cost to produce the tire decreased by $6, while their average sale price decreased by only one. Doesn't this suggest that decreasing cost of raw materials, not subject imports, explain the decrease in the domestic industry prices?

MR. STEWART: Thank you for the question. I've been waiting for the question to come. I was assuming it would be coming up, so I appreciate you asking it.

COMMISSIONER WILLIAMSON: Didn't want to disappoint you.

MR. STEWART: You've had a number of cases where there have been extraordinary events that explain a particular situation, and it is certainly the case that the decline in average price does not equal the decline in cost of goods sold. So that fact is true, and is supported by the record.

That comes because of the extraordinary volatility of the raw material cost, and if you didn't have the 421 case, where the Commission found that there was a cost-price squeeze on the underside of the pyramid if you will, when costs were going up, you might be able to say well, I'm not sure that the record supports that there is price depression caused by Chinese prices.

But the statements that we have in our

prehearing brief and that we had on the slide, from both the domestic producer Yokohama and from one of the big importers, Dunlop, is that the Chinese prices can force prices down in the market, and that was the experience that all of the producers have.

What we -- what my partner reviewed in the threat section is that with raw materials costs having bottomed out late fourth quarter, beginning of 2015, what you face going forward is a return of a rising cost structure, right, and that there's no reason, if there's not relief, to believe that prices won't continue to be under attack and falling, and that you won't once again get a price-cost squeeze in the market.

But it is true if you look just at the POI and you look at it in isolation, that you could say oh well, couldn't declining cost have been the reason that prices fell. But they're not the reason prices fell. It's the competition from Chinese imports.

COMMISSIONER WILLIAMSON: Okay. No one's interested in the argument, but is there any -- I'm sorry, Mr. Button.

DR. BUTTON: Thank you, Commissioner Williamson. Just to give a little more specific economic detail to what Mr. Stewart just described, in the situation we've had in the past of declining raw material costs, that has enabled an increase in operating income and profit, despite decline in prices.

The situation appears to have changed, in that the decline in raw material costs has stopped and started to turn around. How do we know? What's our basis, and that has to do with what the markets tell us, that is, the futures markets for rubber and for oil. Even if they don't go up, they just stay flat now. The other element of the operating profit calculus is the prices. The prices of Chinese products, if you look at the POI, you have a substantial decline, and it is Exhibit No. 7 that Mr. Stewart put up.

You can see that the Chinese prices over the POI have declined greatly. There are graphs in the staff report that show the decline, and one of the things that you can probably predict here is those declines will continue in the absence of reliefs.

So if prices go down, raw materials go up or at least don't go down further, that necessarily means that the operating income margin of profitability gets squeezed, and you have then a turnaround in the fundamental profitability circumstance that the industry faces.

COMMISSIONER WILLIAMSON: Thank you. Just briefly, are there any things, practices such as companies when they buy their raw materials, you know, hedging and things like that, does play a role here? It may not, since no one seemed to raise it, but I just wondered about it.

MR. STEWART: Yes. It's pretty clear that there's hedging going on in all the major companies, both domestic and foreign.

COMMISSIONER WILLIAMSON: Okay, good. Thank you for those answers.

CHAIRMAN BROADBENT: Commissioner Johanson, and I'd like to remind the witnesses just to identify yourselves before you speak, so the court reporter knows who's speaking. Thanks. Commissioner Johanson.

COMMISSIONER JOHANSON: Thank you, Chairman Broadbent, and I'd like to begin by making two compliments. I found the briefs of both parties particularly helpful in helping me to prepare for today's hearing. So thank you for the quality of what you all submitted.

But I do have to state they're quite voluminous, and as you all know, and in line with that, I would like to thank my intern, Tiffany Oullette, who's seated right here. She's a first year student at American University Law School. She did a very good job with helping me to compile the information and to make it more comprehensible. So thank you Tiffany, and also I should thank Michael Robbins, my other person here, who supervised Tiffany. So I will begin with that.

And I'm also going to mention, pardon me for mentioning this next term tier, but that is something which appeared a number of times in the information provided to us. In your prehearing brief, you relate that some domestic Tier 1 producers are introducing new budget offerings under associate brands in reaction to the filing of this case.

This strikes me as a curious commercial strategy, specifically the introduction of different brand names. If Goodyear has this valuable and well-known trademark, why did the instead choose to introduce a new offering under the Kelly trademark. Could it be that Goodyear fears their flagship brand would be diluted or devalued by association with economy offerings?

If so, this appears to be a calculated decision, based on an intimate knowledge of consumer psychology. So what does this tell us about the value of trademarks and the existence of possible tiers?

MR. STEWART: Well let me start first, let me thank your staff for helping you get prepared for today. I found the size of the briefs to be daunting as well, trying to get through them. The testimony from -- about Goodyear was that there were a large number of products introduced on the Goodyear brand that are mid-level pricing, and that there are also additional tires for the Kelly brand.

Now Goodyear produces -- Kelly produces Dunlop and it produces Goodyear obviously, and that flows more from acquisitions over time, going back 20-30 years where they acquired Kelly, etcetera. So Kelly is an associate brand, as that term gets used in the market. And so by definition, they develop products for each of the brands that they have.

So there's nothing -- there's nothing untoward in them putting out new products under the Kelly brand, and at the same time, they put out new products under the Goodyear brand, and as we have said all along, the Goodyear brand or the Michelin brand or the Bridgestone brand, you can find products with those brands at a wide range of price points.

So there's nothing surprising, based on their past behavior, that they have introduced products carrying the Goodyear label or brand, that are mid-level price points, because that's what they've always done, and you can see that in any display from any retailer, in terms of product offerings on a particular size.

COMMISSIONER JOHANSON: Thank you for your response, and once again I'm going to mention tiers. If the Commission were to look at comparable tire prices in each tier, would there still be underselling by the subject imports, as far as you all know?

MR. STEWART: Well, it would depend on how you define tiers, right?

COMMISSIONER JOHANSON: Right.

MR. STEWART: If you defined it the way the Respondents would like you to define it, namely that there are no domestics that are below Tier 2, and there are no Chinese that are above Tier 3, then the answer would be pretty clear. You would have no price competition, and so your answer would be there is no underselling that is there.

But that is kind of a fiction, as opposed to how the market works. If you go into any commercial dealer that is not a company dealer, and you look at the tire offerings, the tire offerings will typically be as many as 14 from a given distributor or dealer, and that dealer will feel you out as to what you're looking for, and then try to move you up or down, based upon what they think they can make the most money at, and it may be a U.S. tire, it may be a Japanese tire, it may be a Chinese tire.

It all depends on where they think that they can make the most money and meet whatever it is that your need that you've articulated is.

MS. DRAKE: I think Mr. Jones might have a helpful story, in terms of employees at the Yokohama plant, and their experience purchasing tires.

MR. JONES: As employees of Yokohama Tire, we get an employee discount, and we -- about, back about a year and a half ago, we changed. But up to that point, we were using a tire dealer right next to our plant. It wasn't Yokohama; it was just a generic tire dealer there, and when our employees could go down there, get the tires, sometimes if they're not in stock then, you know, it would take a couple of weeks, couple of days to get them, depending on how long it was.

But the point of the story is is our employees would go down there with our employee discount, and this company would have our employee discounts in their computers. Well, in a lot of cases and still to this day, I got the tire prices, the employee discounts on my computer. I get people constantly that they can get the Chinese tires cheaper through these dealers than we can get our tires through our employee discount.

And so when these employees are going to this dealer, yeah, it makes a difference, because I've had many employees drive up to our union hall, which I haven't been very happy with, that's got tires on their vehicle that's made in China, because they were able to get them 50 to 100 dollars cheaper than what we could get them at doing an employee discount.

But $100 is a lot to a person, you know, on a weekly basis with a family and you've got kids in school, and you know, you're talking about the average consumer that's not getting that discount. I'm sure it's a whole lot bigger.

COMMISSIONER JOHANSON: Thank you for your responses. You all contend that demand is projected in the imminent future. How do you reconcile that assertion with the planned expansions by the domestic industry which are cited by the Respondents?

MR. STEWART: Well, we're not the great prognosticators. What we included in our brief was the forecast for 2015 that was put out by RMA, the Rubber Manufacturing Association, which comes off of, I assume, what their economists have done. The new plants that have been identified are by companies who have significant presence in the U.S., but not a U.S. facility. So, one would assume that part of their reason for investing, if those investments go through, and if you look at the Kumo investment, it was planned for 2008. We're now in 2015 and it's restarted.

Plants can be delayed based upon market conditions. But if the market conditions that we have with relief go forward, the new plants coming in would presumably help those companies rationalize their global footprint.

COMMISSIONER JOHANSON: Thanks for your response. And I would like to thank the workers of the Tuscaloosa Plant for showing my staff around in April. I, unfortunately, was unable to attend, but I know he got quite a bit out of it. I might add that I was actually in Oklahoma that month for spring break with my kids. I'm trying to get them to all 50 states and this spring break was Oklahoma, and we drove by the Michelin plant in Ardmore. I drove by and thought, oh, that's interesting. That's a tire plant. So anyway, I have seen a tire plant, but I did not get to visit one, although my staff indeed has.

And that brings me to the question. Our staff report at page 123 states that automation has largely replaced many of the manual operations formerly involved in tire building. While I was unable to visit the plant in Alabama, my staff was able to travel to visit that plant. And he reported back to me that while there appeared to significant automation in the front and back ends of the process he was surprised at the amount of highly skilled labor required in the middle stages to assemble each tire.

This is on a consistent with the productivity figures in our staff report that show about three tires completed per labor hour. Does the U.S. industry compare with the tire industries in other countries in terms of automation and productivity and what are the trends here?

MR. JOHNSON: This is Stan Johnson with the steel workers. Certainly, we compare in both automation and productivity with all the other major players. Most of the companies are global companies, so the automation that's being put in is basically going around the globe. It's how they decide they're going to run their business going forward through an automation process. So, I don't think there's any significant advantage and/or disadvantage based purely upon automation.

MR. STEWART: Commissioner Johanson, also in terms of the productivity figures in the staff report, you need to realize that there has been a shifting in terms of demand over time to larger tires and larger tires take more time than smaller tires. That just has to do with the fleets that are on the road. There's a lot of cars that take 17, 18 up to 20 inch or more size tires. And that has become both for imports from China, imports from other countries, and the U.S. a bigger piece in that that can give you a lower productivity without any loss of productivity, if you well.

COMMISSIONER JOHANSON: All right, thank you for your responses. My time has expired.

CHAIRMAN BROADBENT: Commissioner Kieff.

COMMISSIONER KIEFF: Thank you, Madam Chair. And I join my colleagues in thanking each of the witnesses as well as the counsel for not only preparing so well for today, but coming today. This really is a very well brief -- I hesitate to use the word "brief" -- a very well briefed and argued matter. And I get to go last this morning, which gives me the benefit of my colleagues' interaction with you and your interaction with them. And so I hope to build -- stand on the shoulders of giants and build on the dialogue you've been having.

I often try, especially when going last, to try to get to the crux of the disagreement between the two sides to try to figure out are they legal, are they factual, to try to figure out where we can focus our thinking. And in a case like this, especially at a time like this, I can't help but express that view as trying to figure out where the rubber hits the road. Everybody really is ready for lunch. Okay. I'm also amazed that no one else had deployed that earlier. I appreciate their forbearance.

So, let me first then just ask both this panel and then hopefully the afternoon panel can consider these questions as well. So, my first general point of contact between the two sides seems to be what impact, if any, is the 421 record and it is outcome determinative or is it just an added factor in your favor?

MR. STEWART: The question I had been expecting on the 421 was what is the relevance of 421 relief in the context of the surge of imports in 2012 and 2013. And the good news there is that the Commissioner has a number of prior decisions involving safeguard cases that terminated during the period of investigation where the Commission looked at the data straight. And so, the fact that safeguard relief comes off is not relevant in terms of whether there's been a big spike in the imports.

One can look at other aspects, such as what are the affects of imports versus domestic industry in terms of downward pricing pressures. And I think that there are lessons that can be learned from the 421 because of the conditions of competition that are unique to this time period, which is we're on the backside of sharply falling raw material costs, whereas in the 421 there was a gradual increase. In post-421 there was a rapid increase in raw material costs. So, I think there is some benefit there. So, I'm not sure if that answers the question, but I think that there are lessons that can be learned and on the other hand Commission precedent would say that the fact that there was relief for the first three months or the first nine months of the POI does not change your analysis in terms of import volumes.

COMMISSIONER KIEFF: And just very briefly, yes, in the back.

MR. BUTTON: It's Ken Button, ADCS. With respect to the 421, I note that the question of whether or not the 421 really had any positive impact on the domestic industry has been raised by the Respondent as both as a precedent as to whether relief in this investigation will have any positive impact on the domestic industry this way.

And I would comment, as an economist, that with respect to the analysis done by the Respondents on that point as to the 421 I think is deficient in a couple of particular respects. And I would refer to the cornerstone analysis. In that I would invite the Commission to take a look at Exhibit No. 12 from the slideshow this morning. And the key point to this is that you will see that there was a trend during the 421. And the 421 occurred and you'll see a change, a twist and had the 421 not occurred the dotted line shows you that this is an industry which would continue to decline in its production in sales. So, what the 421 did, fundamentally, is it prevented the continued loss of U.S. production shipments and capacity to the extent that was relatively flat and did not go up it nonetheless prevented tremendously greater losses in jobs, production, and capacity.

Secondly, I think any of the 421 needs additionally to consider not just volume, but price. The 421 case had the affect of stopping the major decline in the average unit values of U.S. shipments and lead to an increase in the U.S. price level of the U.S. market, which had a substantial positive benefit on the industry.

So, in that sense, that is a natural experiment as to the impact of relief just as you've heard this morning that the implementation of preliminary relief for the domestic industry in this investigation commencing in December has resulted in very specific, very particular increases in jobs, in new capacity and new products in the mid-tier sector, so for the market.

COMMISSIONER KIEFF: Maybe this is for Mr. Stewart then. What would your opponents have to show to have the better argument?

MR. STEWART: Well, since I don't usually wear the hat of the other side, I'm not sure I would be the correct spokesman. I'm sure they'll have their own.

COMMISSIONER KIEFF: I will be asking them an analogous question, but I take it you've given it some thought?

MR. STEWART: Well, yes. It seems to me that when you're in a situation where there is a growing market of 10 percent and imports increase 84 percent from one country and the domestic industry is shut out of any growth, it is hard for me to think of an argument that would say that they can win. And I think that they have done a -- I view myself as not having done a creative job, but a factual job. I view them as having done a creative job of creating possible arguments that would say that it wasn't them. The old criminal justice thing, I wasn't there. If was there, I didn't do it. If I did it, I didn't mean to. And I meant to, it must've been that I'd lost my mind.

COMMISSIONER KIEFF: I think self defense is first and then insanity at the time is second and then not fit to stand trial is last. Sorry, that's the law professor in me, issue spotting exams.

MR. STEWART: So, you know the fact of the matter is is that their basic thrust comes down to there is no competition; therefore, the loss or the increase in volume doesn't affect you because we don't compete with you. So, if we're growing it's because there's a growing demand in a part of the market that you don't supply, have no interest in supplying, and won't supply. And our testimony today, hopefully, demonstrates that that is just factually incorrect.

Once you get past that, the only way they can win is if the issue is: gee they had rising operating income during the POI, therefore, they're not -- .

COMMISSIONER KIEFF: Let me press a little bit and see -- I'm sorry. I think your first witness, Mr. Johnson, you made a characterization that I thought was especially insightful, which is that we all should be reminded that this is an industry that may be owned by owners, but enjoyed just as much and important just as much to workers. What some folks call a team production approach.

So, sticking with that approach, is there anything to be made of the decision by the owners not, at least, to be here? If one were, and I'm not suggesting that we should or I would make this inference, but if one made an inference that that represented a material difference in their approach towards their business interest as opposed to labor's approach towards labor's business interest. Recognizing that these are both legitimate interests and important interest, if there were a material difference would that material difference be a factor we, the Commission, should consider under our statute, or is immaterial, legally, to the factors we're supposed to consider under our statute?

MR. STEWART: I think the answer depends on whether it's material injury or threat based on your cases. And in fact, this is probably a case of first impression for this because even your threat cases, which it says that you have to take into account all relevant economic factors and that includes the views of the companies. All right, this is the first case that you have where the companies are, in fact, represented. They're represented at this table. What you don't have is you don't have the management here, all right. And how you resolve that could be the way Commerce resolves it where silence is golden and hence, the workers get the benefit of representing the company.

COMMISSIONER KIEFF: So, it sounds like you're saying it's not inappropriate for us to view this voice as a voice that is representative of a company voice and you know absent someone convincing us otherwise we should feel comfortable doing that?

MR. STEWART: Yes. And let me just give a policy argument of why that I think is particularly important. I think statutorily it's the correct approach, but from a policy perspective while retaliation has always been a possible issue in cases -- when I was a young lawyer we had a case where there was blatant retaliation against our client overseas.

In the case of China, it is become a pandemic.

COMMISSIONER KIEFF: There's risk here.

MR. STEWART: There's risk. There were publications at 421 of retaliation, not against the domestic industry, but against other domestic industries. And the USW and other domestic industries have been subject to cyber attacks by the Chinese government as the indictment in the Western District of Pennsylvania would attest. If you heard the witnesses today, what they said was when we meet with management it's all about what happens to China. If we have to compete against the prices unchecked, we will not make the investments. We will not come back into these areas. That is what they're telling the workers.

COMMISSIONER KIEFF: Just I'm mindful that we've gone over the time, and I've really benefited greatly from the dialogue with, in this case, the lawyer and the economist, but I very much appreciated each of the witnesses' testimony as well, although we haven't yet had a chance to chat. And I hand the already expired baton over. Thank you very much.

CHAIRMAN BROADBENT: Commissioner Schmidtlein.

COMMISSIONER SCHMIDTLEIN: All right, thank you. I wanted to first follow up on the line of questions that I had in the first round about the price affects across what I'll call the spectrum of tires to avoid the word "tiers." And we were talking about the difference between the OEM market and the replacement market. And I believe the last thing or one of the last things we were discussing was that OEM prices are not influenced by the prices of tires in the replacement market.

MR. STEWART: May or may not be, but we don't believe that there's a close correlation.

COMMISSIONER SCHMIDTLEIN: You don't believe there is? Okay. And so, the next thing I want to make sure I understand is your view on whether over the spectrum of tires in the replacement market there are price effects across that spectrum. So, in other words, if the price of a lower-value tire is dropping, does that affect the price of a higher-value tire? It seems intuitive to me that it would, but I'd like to hear what you have to say. And if so, how does that manifest itself, if anyone can speak to that in terms of the sales.

MR. STEWART: I'm going to our friend at ECS to take that on, but let me just first kind of give you a comment based on my experience in a range of industries that are characterized pretty similar to this, which is where you have good, better, best pricing and we would suggest that while there are clearly brands that are well advertised and hence, one could say maybe those are the best, they haven't priced themselves in all instances to carry that through consistently, right?

But assuming that we're in a good, better, best kind of pricing, there is no study that I'm aware of that says that there's not price competition between them. And typically, if you have good, better, best, the best priced at "A", better is priced at "A minus perhaps five," and good is priced at "A minus 10." And so, as prices move down at a lower, whether it's direct or indirect, it has an affect in terms of pulling the overall pricing structure down because you can't maintain a premium that grows over time unless there is clear differentiation in the market and in terms of how people play, and that's not true in this market.

So, my experience would suggest that what we would find in this is that the lower-tier prices, as they drop, pull down the mid-tier prices and that the mid-tier prices, as they drop, pull down the top-tier prices.

COMMISSIONER SCHMIDTLEIN: Okay. And I heard you say at the beginning you're not aware of any study that that doesn't happen, but do you have -- and I understand the theory. I mean what do you base that on? Is it based on your understanding of how sales are negotiated in this market and they're pulling out the prices of these other tires and showing them? Is this based on Cornerstone's economic analysis?

MR. STEWART: Well, I'll let ECS answer in terms of the economic point of view. From my point of view, there's lots of -- there's been lots of reports out of the tire magazine, talk about the effects of prices and the overall declines in prices. You've also had statements, as we've shown in our presentation, from CEOs of companies that talk about the fact that the influx resulted in downward pressure on their prices. Whether they're in the same tier or different tiers, you have the same statements coming out of the import community that the import prices of China are affecting prices across the market. So, that would be the empirical evidence that we've submitted in the context of this case.

MR. BUTTON: Ken Button, ADCS. Just to

summarize, the key concept is that with respect to pricing that there is in each of the "tiers" that are in there, there exists domestically-produced tires and Chinese imports. They compete head-to-head and there's a direct price relationship between the two. In addition, as a tire pricing structure, including at the very top in terms of domestic products, is affected by two factors. One is that there are Chinese products that advertise themselves as just as good as the most premium U.S. product, but of more of a bargain price. That is a direct opportunity for a dealer to offer a price that is assertedly the same "quality," but has a price depressive effect.

Moreover, the quotes were provided this morning from the industry talking about how changes in the price structure at the mid and lower end pull down the entire pricing structure, including at the very top. That's not uncommon as the distance between brand increment or quality increment can be only so far before that tire brand, so to speak, would be abandoned.

The fundamental point on pricing, though, is admitted by the Respondents is that, one, they say that, yes, there is underselling and it is massive. And that the prices of both the imports and the U.S. made products have declined over the POI. So, as to pricing, it is very clear that there exists a nexus.

COMMISSIONER SCHMIDTLEIN: Okay. Let me move on to a couple other topics or questions that I'd like to get in. Loss sales and loss revenue, can you address and discuss how we should consider the fact that there was only one U.S. producer that reported lowering its prices. And I believe only one that reported a loss sale, one U.S. producer that reported one lost sale, I believe, so what should we make of that?

MS. DRAKE: Commissioner Schmidtlein, I think some of this is APO, but I think that is one producer that reported a lost sale in the format requested by the Commission. I think there were other statements going back to the questionnaire responses themselves that might be helpful in understanding the broader context for that.

And we also did an analysis of purchasers' responses that purchased from both U.S. and Chinese sources and looking at the trends in their purchases from those two sources. Over the period of the results of that analysis is also APO, but I think that would be very helpful for the Commission to look at to try to understand what is the true extent of lost sales that have occurred over the period.

MR. STEWART: I think the other point I would make, Commissioner, is that if I'm -- I mean I realize that the Commission's practice is to not care about the reason that somebody appears or doesn't appear or participates or doesn't participate and that's fine, but we are so convinced that fears of retaliation drive a lot of this. If you look at the way the Commission practice is on lost sales, that information is taken from questionnaires and goes out to the customers for confirmation by the staff.

In a world of retaliation, there's nothing that prevents the customer from taking it to their Chinese supplier and it getting back to the Chinese Government. So, my own view if the Commission were to determine that there was a posity of information in the reports or in the questionnaire responses I would attribute a lot of that to the fact that there is a concern with the structure of the questionnaires and how they're handled by normal Commission practice that if there are fears of retaliation you simply wouldn't put that information. And if you look at a lot of the answers, it wouldn't take a lot of deep thought to figure out that perhaps that is a concern.

COMMISSIONER SCHMIDTLEIN: Okay, thank you for that. All right, the last question that I had, and I apologize if this has been discussed when I was out of the room, was with regards to the capital investment and the new capacity that's coming online. And again, I apologize if you did discuss this. I recall hearing a little bit about it, but the Respondents argue that when you look at that that is not representative of an industry that has been injured. And they do appear to be rather large numbers, so if you could help me understand how we should consider that and whether your argument is that there would've been additional investment and therefore this is not -- you know I know you have your weighted average cost of capital argument and the return on investment; but in terms of the amount of capital investment and so forth that's happened.

MR. STEWART: I'm going to ask ECS to jump in after I start off, but you take a look, one of the interesting things about the data in the staff report if you look at total assets of which fixed assets should be a significant part, is that you have a dramatic difference in the questionnaire responses from the domestic producers than what is true for their corporate parents, right? This is a highly capital-intensive industry. And so the fact that there are capital expenditures, large capital expenditures should not be a surprise.

For the corporate entities, the eight companies that are public -- and this you'll find in a footnote in the ECS report -- the ratio of sales to assets is 1-to-1, the lowest figure I have ever seen for a major industry. Steel comes out at about one and a half, or two-to-one.

If you look at what is in the staff report, the U.S. assets are teed up as though the sales-to-asset ratio is two-to-one. Now, even that is an indication that you've had an extraordinary rundown in the asset base in the U.S. industry, and hence, higher capital expenditures could be a form of trying to catch up in the later years when there's a little better returns.

It's also the case that we presented in our pre-hearing brief on capital expenditures whether or not within the time period you're looking at there is an event that explains why those seem to be large or perhaps are larger than what otherwise be the case, but those are factors that you may wish to take into account.

Now we'll turn to ECS to see if they have some comments they would like to add.

MR. DOUGAN: Commissioner Schmidtlein, Jim Dougan from ECS. A couple of things that came out as part of our discussion yesterday, and perhaps--I forget which one of the gentlemen from the Unions it was, that there is a large amount of capital investment needed just to tread water in this industry, often just because of changes in the tire sizes that are demanded by the market.

So it is not even necessarily reflective of an expansion or a growth, but just what you need to do to keep paddling to stay afloat. So that is one.

But also, this is a substantial amount of capital investment at a high point of the business cycle that's reflective of a long period of comparative under-investment.

And there is, as Mr. Stewart said, some catchup being done here.

MR. STEWART: I did also reference to an earlier question, the new investment in terms of new plants that have been announced indicating that any time there is a new plant announced it either is an issue of a company who perceives, based upon market conditions at the time that there's an opportunity. And in all the three foreign companies who have announced investments are basically people who don't have a U.S. presence who are looking to have a U.S. presence. But those investments are also potentially subject to long-term delays, as the Cromwell facility was, which has been delayed seven years. It originally had been planned to be started and done in 2008.

COMMISSIONER SCHMIDTLEIN: Okay. Thank you very much. My time is up.

CHAIRMAN BROADBENT: Okay. Yeah, just to follow up. So we're not seeing anything positive about the increase in capital investment that occurred during the period. I mean, to me that always indicates that industry is expecting expanded sales; that they are going to be able to create some more jobs, and it needs to be--I mean, I am trying to make sure I am understanding your argument here, that it's catch-up. What else? I missed a couple of the things that you said.

MR. STEWART: I'm sorry. I'm not trying to denigrate capital expenditures that are made in terms of the importance to the companies in making them.

We did discuss with the various union reps yesterday the fact that, as you are making modifications in plants to deal with larger sizes, or those sorts of things, that you can have a lot of capital expenditures which are basically--don't increase the volume of product that you can produce, but you can change the size of the product you can produce.

So, for example, if you looked at tires that are 17 inches and bigger, imports from China five years ago were probably 20 percent; today, they are 33 percent of what comes in.

Well from a domestic producer point of view, if you are trying to increase your ability to service that portion of the market there is a lot of investment that would go into your plants that would be Cap X but would not necessarily expand your capacity.

You did hear all of the witnesses this morning talk about expansions that they were able to do within the existing framework with relatively modest additional, because they have a lot of unused capacity.

CHAIRMAN BROADBENT: Yes. Mr. Dougan.

MR. DOUGAN: Thank you, Madam Chairman. A bit of context for considering the capital expenditure figures and the concept that we are dealing with catch-up.

It is always good to have capital investments for your industry, but as an indicator of the health of the industry the context is still there, in reality, that there is a decline in capacity, a decline in production, shipments, and employment under the POI. Those quantitative indicators are very much there.

CHAIRMAN BROADBENT: Okay. Well any more examples that you could give us for the record on why the capital investment is a negative activity would be helpful.

MR. JOHNSON: If I may, I might be able to put it in a simpler context. Stan Johnson, Madam Chairman.

`As has been stated, there has been a good bit of movement from the automotive industry into larger diameter rim sizes for tires, from 13s to 15s, which was traditional, to 16s to 22s at this point in time.

Any time that those diameters change, to a certain degree there's a trip point, then you've got to change what's called the curing presses that cure the tires, the tire machines that are able to run the tires. So there's a lot of equipment in capital investment that has to occur just to change those rim diameters that will show up as significant but will not necessarily change the through-put, and in fact could actually lessen the through-put of total tires out of any given facility.

There are also changes that have occurred in construction in compounding, particularly, where they now add silica to tires, which seems to be nonsensical that you would add sand to tires--it seems like that would wear them out quicker--but the fact of the matter is that it decreases rolling resistance and adds to wet traction.

And in order to do that, then you have to convert the machinery that mixes the rubber because it's not made to withstand the silica penetration. So you have a pretty extensive capital investment that's required to do just those things that don't necessarily increase production in units of tires, but certainly does have to be done to keep up with the industry overall.

CHAIRMAN BROADBENT: But isn't that an area of the market where the U.S. companies are doing this and the Chinese are not selling that big, more expensive product?

MR. JOHNSON: Well I think we're seeing a significant movement of the Chinese imports into the larger rim diameter sizes. I think--in fact I had this discussion with Terry yesterday and my ignorance was that they were still producing small-rim diameters, and the fact of the matter is they are not and they have been producing larger-rim diameters for some number of years.

CHAIRMAN BROADBENT: Okay.

MR. STEWART: We will provide additional response in our post-hearing brief, Madam Chairman, if that is what you would like us to do.

CHAIRMAN BROADBENT: Okay. That would be good. Thank you.

I want to talk--and I am sort of harping here, and I apologize but I am still trying to get my head around this. You seem to be arguing that we don't have a uniform definition of the different tiers in this market, which we can all--I mean, to me it is kind of obvious there are tiers. There may not be a uniform definition, but you see to be saying: Well, since we have no definition, it is highly substitutable and shouldn't look for that differentiation.

You weigh that against the fact that we all know that these firms are investing an awful lot in R&D to get an edge on their competitors. I think we have evidence that brand is very important here, and I would like to hear kind of your thinking on what is the role of brand in this marketplace with a million different options for a consumer who is trying to, you know, sort through and find something that they can drive their family around in.

MR. STEWART: Well the information that we supplied in our prehearing brief came from a number of sources. And from the staff report what is clear from the producers and the importers and the purchasers is that they perceive there to be in general a very high degree of substitutability between Chinese product and domestic product. That is the view of the people you got the questionnaire responses from, either always or frequently highly interchangeable.

So the data from the staff report supports that whatever existence of tiers, our position has been, okay, if there are tiers there are tiers. Obviously there's no consensus as to what they are or how they are shaped, or who plays in which sandbox.

But those do not mean that the products are not interchangeable. The reports from the industry literature--magazines like Modern Tire Dealer and those sorts of places--

CHAIRMAN BROADBENT: But Consumer Reports is a big different, really.

MR. STEWART: Consumer Reports identifies the quality of the products, but The Modern Tire Dealer does surveys in terms of how consumers buy tires, and what the data there has shown is that more than half of consumers who walk in to buy replacement tires are not asking for a particular brand.

Some do. Obviously it means that there's 40 percent or something that ask for a brand. And of the ones who ask for brand, the dealers move the customer off of the brand at least half of the time.

The combination of those two say that there are more than 78 percent of consumers who buy tires who either don't ask for a particular brand, or who get moved off of whatever brand they ask for when they are dealing with a dealer because for most consumers when they go in they don't actually know what they want other than they need a replacement tire.

They may go in thinking, gee, I'd like to get the same tire I have. And the dealer says to you, well, okay, you can buy that but that's X amount of money. Look, I've got this great deal over here on this tire. It's just as good quality, maybe it's a private label that's put out by the exact same company. Goodyear puts out private labels. Cooper puts out private labels. Yokohama puts out private labels. A lot of Chinese companies put out private labels, as well as other brands.

So you could have a lot of discussion at the dealer, which is why the magazine says you as a dealer control what the consumer is going to buy in up to 85 percent of the time. So does that mean that there are times where somebody comes in and says, no, I've got to have a Cooper tire, I've got to have a Michelin tire, I've got to have a --sure, of course that happens some.

But that's the information that's out there. It wasn't created by us; it was created by these organizations that track it for the dealers and that track it for the producers.

CHAIRMAN BROADBENT: Okay.

DR. BUTTON: Chairman Broadbent?

CHAIRMAN BROADBENT: Yes.

DR. BUTTON: Let me make two points to supplement what Mr. Stewart said.

First is that to the extent that the Respondents want to say that the Michelin brand, or the Goodyear brand provides some shelter for them, the Michelin brand name does not provide shelter for B.F. Goodrich. The Goodyear brand does not provide shelter for Kelly. The Kelly products and the Goodrich products are operating head to head.

So the use of brand here is a surrogate for the concept of no competition, but there is competition. At the more high-level, abstract level, an indicator that there is competition across the entire market is the fact that during the POI apparent consumption increased by 10 percent. And therefore presumably demand at the high level as well as the lower level increased proportionately, but the U.S. industry lost market share and lost volume.

So who was filling an expanded demand at the higher end? And it was the subject imports. There is competition for those consumers, and I think the facts indicate that it's the subject imports.

CHAIRMAN BROADBENT: Vice Chairman Pinkert.

VICE CHAIRMAN PINKERT: Thank you, Madam Chairman.

Dr. Button, I want to understand your earlier testimony about the impact of the 421 relief. And I took your testimony to suggest that what the 421 relief did was to halt the decline in the performance of the U.S. industry, halt the deterioration as a result of subject imports, but that it didn't necessarily increase the sales of the U.S. industry.

Is that what you're saying?

DR. BUTTON: The facts show that with the 421 relief, from that point on there was an increase in production and sales. But it did provide major benefit to the industry in permitting its continuation, and it did save jobs, production volume, shipments, and market share. And, permit the companies to sell products at higher prices than they otherwise could have sold them.

So that is what I'm trying to say.

MR. STEWART: If I could add to that, Vice Chairman Pinkert, if you take a look at slide 14 of our presentation, one of the things that is ignored in the argument of the other side about the 421 relief and whether it was any benefit to the domestic industry besides the points that Dr.

Button has made, is it's kind of like somebody looks at you and says, well, I saw you here on Monday, and I saw you here on Friday. Therefore it must be the case that you were here all week long. Right?

They look at two points, 2008 and 2011, and say well it looks to me like domestic shipments are about the same, and total imports are about the same. So it couldn't have done you any good. Right?

What they ignore in that analysis is what's shown in slide 14, which is 2009--remember, relief didn't occur until late September--the industry lost another 3 percent of the market in 2009. And it closed three plants that they announced during the 421 process. They closed in 2009 and closed in part in 2009, '10, and finally closed in 2011.

So what you had was an industry that was shrinking far below what was in existence in 2008. So what the relief did was permit the rest of the industry to pick up that business. And what this slide shows is that in--you bottomed out in 2009, and market share started to be regained in 2010, and it really started to be picked up in 2011.

That was the benefit. That got you back to the point where you were about to say market share. Because where you actually were before you troughed out was way down below. Okay?

So 421 had positive effects not only in terms of stopping the decline, but letting the industry regain market share that it had lost through increased volume from a much smaller base of manufacturing because they had been hurt to bad they had to close three more plants.

And that occurred in the gap period between 2008 and 2011. So when you look at all those things, 421 had an enormous benefit to the industry, which is exactly what each of the union presidents said about their plants. You put relief in, we started to rehire. Well what they didn't say was that there were also plants that were being shut down because of how badly the industry had been hurt. But these guys all gained jobs, and that was the real effect of what was happening in the market, and it was coming directly out of the volume that had been lost in China.

VICE CHAIRMAN PINKERT: Thank you.

Now I have a hypothetical question for you. I'm sure you've heard versions of this question before. But if during the period of investigation the Chinese tires had not been in the U.S. market, would they have been replaced by imports from other countries, from non-subject countries?

MR. STEWART: Thank you. In our view, the answer to that is clearly no. There are a few, a small percentage of the products from other countries that are at low prices. How low they are depends on whether you look at them in an aggregate or disaggregated HTS level basis. We have that in our prehearing brief, in one of the exhibits where we provided that data.

But the reality is, if you take a look at what has happened since preliminary relief was granted here, alright, where the industry isn't closing factories, alright, what has happened? Imports from China declined 60 percent. There was some pickup in imports from third countries, and a larger pickup in domestic production.

So we're not going to gain a hundred percent of what the Chinese took. They didn't take a hundred percent from us. They took it from other people, as well. But, yes, had they not come in, we would have participated in the market growth.

We had every reason to expect we would have participated in the market growth on an equitable basis, meaning we should have been able to expect close to 10 percent growth in sales. And even without looking at any of the price effects, alright, of those numbers that we put up in our slide that slowed what the benefits would have been in just the last year--and of course it would have been benefits in 2013 and 2012 as well--are enormous. Are enormous.

On average, we would have had a 14 percent higher production. In shipments we would have had a 19 percent higher employment, and we would have had over 30 percent higher operating income. Enormous differences but for dumped and subsidized imports.

And as these gentlemen all testified to earlier this morning, there isn't any question we have the capacity to do that. And just the nine facilities that the USW has, which is 40 percent of the capacity, we probably could have dealt with 60 or more percent of the uptick, and would have, just as they are picking it up now.

VICE CHAIRMAN PINKERT: Now in talking about the preliminary relief in this case, is there any way to tease out of the data where in the market those increases enjoyed by the U.S. industry were?

In other words, was it at the higher end of the market? Was it at the lower end of the market? Is there any way to tease that out of the data?

MR. STEWART: There's no way to tease it out of the data, but we brought you witnesses who testified where it came from, and it came from their plants. And that was basically the middle of the market.

And so it was--you heard about the tremendous interest in the new models that were put out by B.F. Goodrich, by Goodyear, by Goodyear for their Kelly brand, et cetera, but all of the facilities have had pickups.

Yokohama hasn't changed what they're selling;

they're just being able to sell more of it, but enhance-- able to increase what the throughput through their factory is.

So as far as we can tell, there's probably some pickup across the spectrum, but obviously there's a lot of pickup in the mid-level where so much of the volume has been lost by domestic producers.

VICE CHAIRMAN PINKERT: And my last question has to do with the Chinese penetration into the higher end of the market in the United States. And there was some testimony on this panel that there's an effort being made to penetrate the higher end of the market by the Chinese product.

My question is: How successful has that effort been so far? We know perhaps that there's an intent there, but has the intent actually resulted in penetration of that segment of the market?

MR. STEWART: Thank you for that question, Vice Chairman. Let me put it this way:

When the other side talks that issue, what they're talking about is we don't have anybody who's a tier one producer, boo hoo is us. We can't compete at the top.

When we talk about higher value-added tires, we're talking about the larger size tires. And a third of what China ships in are higher, are the larger size tires. Okay?

And we talk about tires that have more features, that are the ultra high performance. And every one of the major Chinese companies is offering ultra high performance tires that are being sold in the market.

So it is not a question of "trying." They are clearly there. Where there's disagreement between the parties is, simply, does it matter that the Chinese producers sell ultra high performance tires if they're not Goodyear, if they're not Michelin? Does that somehow mean that it's not an ultra high performance tire and does it compete with the Goodyear ultra high performance tire?

And that's simply not the way the market operates. Every dealer that's out there carries anywhere from 1 up to 40 different brands, and why do you think they carry all those brands? They carry all those brands because consumers come in and don't really know what they want, and they'll listen to what the dealer is telling them that will deal with their need.

Their need may be price. Their need may be safety for their children. Their need may be I'm a geek and I really want to have the highest, whatever the highest technology, the latest gizmo tire is.

VICE CHAIRMAN PINKERT: Thank you very much. If there are no more comments about that question on this panel, I just want to thank the panel and I look forward to the post-hearing submission.

CHAIRMAN BROADBENT: Commissioner Williamson?

COMMISSIONER WILLIAMSON: Okay. Thank you. I was wondering, the other side has made the point about how well the industry has been doing, but I was wondering whether or not the real indication of the impact of the subject imports is better told by employment and wages.

And the reason I'm raising the question is that leading up to 421 there was an awful lot of discussion about how many plants were closed. And clearly it seemed like the domestic industry had really shrunk down and was really lean and mean coming out of the 421 process.

And so during this period--as the market share wasn't growing, but it had already shed workers and all, so you can make a profit operating more efficiently. You could have made a whole lot more profit if you expanded your market shares and the market grew, or maintain your market share, but even if you did you were still making profit. But that raises the question, where would workers wages have been, where would employment levels have been if the industry was growing in the same way?

The reason I raise this is, the question I'm asking is: Is the indicator of injury more what's happened in terms of workers, volume of wages and things like that, as opposed to the profits?

MR. JOHNSON: As we have negotiated agreements within the industry for at least the last three, which would go back into 2005, we have seen flat and/or concessionary agreements to attempt to try to deal with an industry that has been in trouble; that employers have stated at the table that they're in trouble; that have stated at the table they're in trouble because of Chinese imports.

It is an ongoing circumstance and, yes, indeed, some of the profits of the industry very well may have been due to concessions that our members and, as a result their families and their communities, have endured as a result of trying to maintain within this set of circumstances.

COMMISSIONER WILLIAMSON: Okay. Anyone else? Yes, Mr. Button.

DR. BUTTON: Commissioner Williamson, you're asking the question, what are the proper criteria to look at to determine injury, in essence? How do you rate them? How do you weight them?

COMMISSIONER WILLIAMSON: Yes.

DR. BUTTON: And you've got a context here where essentially all of the, what I would call quantitative factors indicated deterioration: capacity, production, shipments, number of workers.

And you have the income/profitability out there as something that is stronger. So one of the characteristics about that that's unusual of course is that we have talked about as bit is that that one is unlikely to be durable because it's based on the fact of having run the history of the 421 prices which raised the price levels up to a higher level, which are now coming down a lot, and raw materials.

If the raw material costs stopped declining, as they appear to have, then the prospect is that profitability will decline; that margin will shrink because of the continued decline in the prices. And this is the context you described of prices where they will have an effect--that the declining import prices will have an effect on the domestic industry.

So you've got this whole load of quantitative factors that are in fact negative, the operating profit being currently positive in its perspective, but ephemeral. And the threat is that that will decline and the probabilities of it declining are very, very high.

MR. DOUGAN: Commissioner Williamson?

COMMISSIONER WILLIAMSON": Yes.

MR. DOUGAN: Jim Dougan from ECS. One thing I would like to add in response, and I think you were sort of going in this direction, which is had the domestic industry been able to participate in the demand growth in the market, had it been able to maintain its market share after 2011 throughout the period, it would have been able to--and there was an analysis of this that appears in Petitioner's prehearing brief--the additional production-related workers who would have been required to meet that output ranged from roughly 1800 to 4800.

So over the POI there definitely would have been thousands more people employed to meet the demand that was required by the general rise in the market, but they were not allowed to participate in because of the influx of subject imports.

COMMISSIONER WILLIAMSON: Okay, because I'm saying another indicator is the high capacity utilization rate, that the industry was operating very efficiently even without the market share growing, but your point is I guess the question I was raising, is would there have been a whole lot more employment.

MR. STEWART: Yes.

COMMISSIONER WILLIAMSON: Okay. Thank you for those answers.

The other question I was wondering about is, looking at your chart three and the net sales, you figure the 28 million you say lost to imports, given the capacity of the industry, and given how much the U.S. has been importing Chinese tires, if the orders were imposed wouldn't nonsubject imports accrue most of the benefits, a question Commissioner Pinkert had gotten at.

MR. STEWART: Yeah. Thank you, Commissioner

Williamson. The answer is, no. This assumes that the--if there hadn't been the surge in Chinese imports (a) China would have gotten 9.7 percent of the growth; the country imports would have gotten 9.7 percent of the growth; and we've have gotten 9.7 percent of the growth.

If you actually looked at what the trend line was, which is on slide 14, but for the sharp rise in imports it may have very well have been that the U.S. would have gotten a lot more than 9.7 percent of the increase because the industry was coming back.

So in 2010 and 2011, when we were out-performing the overall market, okay, and so we took a conservative approach to say if in 2012 to '14 we didn't increase our market share but we didn't lose market share, how would things have shaken out? And the answer is, we weren't losing market share to third-country imports in 2011, or 2010, and there's no reason to believe we would have lost them in 2012 to 2014.

COMMISSIONER WILLIAMSON: Okay, because I was thinking that this figure here had to be if you had more plants--given the capacity that you had.

MR. STEWART: What we spent a lot of time with the testimony today, and in preparing for today, top show that just the Union plants, which are nine of the plants, which account for 40 percent of the capacity, would have been able over this 2012 to 2014 time period to produce more than 50 percent of what's listed there as lost import volume. We believe we'd have probably been 60 or 70 percent could have come out of the 9 plants that are USW plants. Okay?

So capacity is defined a lots of ways by lots of people. If you heard the witnesses today, they talked about how quickly they can ramp up, and how much they have come back in the first three months.

And if we had not ramped down, there would have been just from these four plants, something like 7 or 8 million additional tires each year in the 2012 to 2014 time period in just these four plants. Okay?

So the capacity was there. So it's not a question of whether the industry could have done it. The issue is, if there hadn't been the unfair trade practices would we have grown faster than that? This in my view is a conservative estimate.

COMMISSIONER WILLIAMSON: Okay--

MR. JOHNSON: And it's not "perceived" capacity. It is real capacity availability, because we have seen these plants go down, all nine facilities, go down in production, and then immediately ramp back up.

So we're not talking about a perceived capacity, something with bricks and mortar, we're talking about an ability to almost, you know, within a short period of time, ramp production back up.\

COMMISSIONER WILLIAMSON; Good.

MR. DOUGAN: Commissioner Williamson, Jim Dougan from ECS. One thing I wanted to add is that one of the sort of founding assumptions of a lot of the analysis that we saw from Respondents is that, you know, basically the domestic industry was maxed out over POI; that it couldn't possibly have produced any more. They were at essentially, you know, full capacity because they for several of the years of the POI had utilization of over 90 percent.

On the one hand, I think what we have heard from the Union witnesses is that there was more slack there, more available capacity to be ramped up even than the numbers that would be in the staff report would suggest.

But even leaving that aside, the utilization in 2011 was 93.6 and it went down to 91, and then down to 88, and then back to 91. You know, the idea that any of those numbers necessarily represents full utilization, and that there was no additional tires that could be squeezed out of this industry, I mean even just the decline from 93.6 to 87 suggests, you know, that there was available room to make more.

COMMISSIONER WILLIAMSON: Okay, I've got it. Good. Thank you for those answers.

CHAIRMAN BROADBENT: Commissioner Johanson.

COMMISSIONER JOHANSON: Thank you, Chairman Broadbent.

On page 24 of our staff report it states that OEM tires rarely come with warranties, whereas replacement tires usually do have warranties. That seems a bit counter-intuitive given what we hear about OEM tires being top tier. Do have you have any insights as to why that is the case?

MR. JOHNSON: To the best of my--Stan Johnson. To the best of my knowledge, they all do have warranties. I'm not sure how that got into the record. I think if anyone buys a new vehicle, typically you will see as a part of the package that you get with a new car it usually has a separate booklet about the tires and the warranty that's on the tires. At least the vehicles that I've purchased have.

COMMISSIONER JOHANSON: Okay. I can state that actually I had a tire go out, blow out on a new car, and it wasn't covered by warranty. I was very surprised. So I'm just one person here, but that question--it's a question that was raised in my head because of that.

Okay. Thank you for your response.

On page 37 of our staff report, it mentions that according to the testimony at the staff conference Michelin laid off about 100 workers in 2010, but somewhere hired back. What is the status of those workers today?

And, Mr. Williams, I believe you addressed this earlier today. Could you expand on that a bit?

MR. WILLIAMS: It was in October of 2013 we laid off 100 employees. And they stopped hiring people through attrition. In other words, when people quit, passed away or retired.

Since that time, here in the last year, in 2014, the end of 2014, we have brought all those people back. And we have hired up to 100 people now. And in the last two weeks, are continuing to hire.

COMMISSIONER JOHANSON: What does that say about the current state of the industry?

MR. WILLIAMS: Well in my plant, since the implementation back in January, or the end of the year when the tariffs were talked about that they were going to be put back on, we have ramped up production in my plant. That's the one I can address.

MR. STEWART: Testimony that he had, Commissioner Johanson, and that each of the other USW witnesses had, was that once there were provisional remedies in place which started in late November, alright, that the market situation dramatically changed and that all of these plants have started to rehire and started to ramp up their production.

So we presented it as a cause and effect because now you have a three-month time period where there's actual data that's publicly available that you can look at that looks at what was the effect of having provisional relief in place.

Imports from China declined by 60 percent, 63 percent in fact. Overall imports declined. Domestic production increases by a number of million tires.

COMMISSIONER JOHANSON: All right, thanks for your responses.

How do you all respond to Importer ITG's argument that if an order is put in place that third-country imports from Thailand and Indonesia will increase to fill the demand gap, as they apparently did following Section 421 Safeguard Report?

MR. STEWART: Yes, that's my argument about you're here on Monday, you're here on Friday, therefore you must have been here all week long. They do a data point analysis looking at 2008 and 2011, and they ignore what happened in the 2009, '10, and '11 time period, okay?

So we don't believe, and certainly your own economists in the 421 predicted that a significant part of the benefit in terms of quantity would go to third countries, and some part of the benefit of trade remedy would be that there would be increased volume available to third countries. But there's a lot of volume that would be available to domestic producers. And that's what you see in the first quarter versus what happened before.

Could some of that go to Thailand or other countries? Sure. Some of it could go there. But that doesn't mean that the remedy would have no effect. Their premise is the remedy had no effect, because if I look at 2008 and 2011 domestics are the same, total imports are the same. The balance of who got what just shifted. And that ignores the fact that we closed three plants between 2008 and 2011, and the domestic industry managed to regroup after the loss in 2009 and regained market share in 2009, a lot of market share in 2010, 2010 and '11.

COMMISSIONER JOHANSON: Thank you.

How do you all respond to the Respondents' arguments that normal seasonality and the West Coast explains the increases in subject imports in the post-petition period?

MR. STEWART: Well all you have to do is look at the statements of every CEO in the industry about what happened after the cases were filed. And what every CEO says is, there was massive buying up of inventory in anticipation of the preliminary determination. Was there a strike on the West Coast? Sure there was a strike on the West Coast.

Was there a lot of anticipatory buying? You bet there was. Are the import surges that happened in the six months after the petition was filed indicative of that, supportive of that? Absolutely. More than 20 percent, as your staff report shows.

So one can always try to find arguments, but everybody in the industry believes that what happened was there was a massive buildup of inventory to ride the storm to see what happened in this case. And that's what the chairman of Goodyear had to say. That's what the president of Cooper had to say. That's what the president of Yokohama had to say; what the head of Michelin had to say. They all had to say there's a huge buildup in inventory, and that buildup in inventory is hurting us in our business in the first quarter, second quarter of 2015.

MS. DRAKE: Commissioner Johanson, just on the seasonality issue, that same argument was made by Respondents before Commerce, arguing that the increase in imports was due solely to seasonality. And Commerce looked at all the data submitted and found no merit in those claims. We would be happy to put that in post-hearing, if you would like.

COMMISSIONER JOHANSON: That would be helpful. Thank you, Ms. Drake.

On page 113 of your brief, you refer to Chinese Government policies to support radialization of the Chinese tire industry. Given that our staff report describes the introduction of radial tires in the U.S. market as having taken place in the 1970s, what does the existence of this policy say about the state of the tire technology in China?

MS. DRAKE: A number of those policies are a few years old. The vast majority of the Chinese industry, just like the U.S. industry, is radialized, the imports that are coming in are radial tires. So that is a term that is used to, you know, sort of clean up those last plants in China that may be making biased tires. But those are policies that are a number of years old and don't reflect the majority of the industry, which is radial.

COMMISSIONER JOHANSON: Thank you, Ms. Drake.

MR. STEWART: Let me just add to that, if I could, Commissioner. You know in China there are I believe more than 300 tire companies. You have questionnaire responses from I believe 44 or 48. So there's a lot of companies who do not export to the United States from China at the present time.

So policies may make sense for smaller players, local players, that aren't relevant to the large international players.

COMMISSIONER JOHANSON: Thank you, Mr. Stewart. And that actually brings me to another question. I've been here about three years now on the Commission, and rarely have I seen a case--in fact, I'll say that never have I seen a case where there have been so many players in the market.

You just mentioned there are about 300 producers in China. There are a large number of producers in the United States.

Mr. Stewart, you earlier spoke about some consolidation in the industry, but this industry there's so many producers. Do you know why that's the case?

MR. STEWART: I don't have a good explanation other than I don't think that the technology is---creates enough of a barrier to entry. And so you can have a lot of producers because, even though there's a lot of capital investment to have a big plant, it's not like---it's not like there are technological barriers to getting the technology to get in, would be my guess.

COMMISSIONER JOHANSON: Okay. Thank you for your response. And I think I have time for just one more.

From the questionnaire responses, U.S. producers sell primarily in the spot market, and importers sell either in the spot market or under long-term contracts. Are there differences in the types of purchasers that purchase via contracts or via spot sales?

MR. STEWART: I don't know that our witnesses would be particularly able to help you there. I believe that the reason that you see more contract--and Respondents would be able to tell you about why their contracts are that way--but

I believe that there's a fair number of Chinese exporters who sell on a fixed quantity, or minimum quantity basis. And those may lead to annual contracts. Certainly in the OEM business you would have long-term contracts.

So it is a question of spot market is much more where the replacement market is for domestic players, because it's all coming out of inventory.

COMMISSIONER JOHANSON: That makes sense. Well thank you all for appearing here today. My time has expired. I found your presentation quite helpful. Thank you.

CHAIRMAN BROADBENT: Commissioner Kieff.

COMMISSIONER KIEFF: Thanks so much. And I enjoyed my colleagues, appreciating very much the testimony, and we have a TV showing of the hearing in the back room. So while I was able to grab a quick bite to eat, I was benefitting from the input. And in the interest of recognizing that I benefit from the tag-team approach of stepping out, and that all of you have been sitting here for some time, I hope it might be of help to just say that for the next nine-and-a-half minutes of my time, I'll follow up with all due apology to Mr. Stewart and Mr. Button with the two of you. And if the other witnesses want to take a few moments to stretch legs and grab a bite to eat or a drink of soda, you have nine minutes to do that.

I don't know whether my colleagues will want to ask you questions, but just in the interest of transparency, I won't be asking you questions. So you can relax, or check Blackberries, or do whatever you like.

For Mr. Button and Mr. Stewart, hopefully you'll have the opportunity to do that as well later, but if I could just follow up on the questions we were talking about so that I can really understand the limits of your position.

And I say that being mindful that of course at least for many of us, including me, I find it easier to adopt a position if I know on its own terms it has limits; that it's not totally all-encompassing, or totally malleable; it has its own logic, its own limits.

So I think Mr. Button wanted to talk a little bit more about what significance we should draw from what he was calling a natural experiment of the 421.

And, Mr.Stewart, I think you were talking about the legal question of the ability of a segment of an industry to in effect speak for an industry--in this case, the segment here is if you are labor rather than management.

So could you--let me start with Mr. Stewart--can you explain a little bit more the legal position? Does that--how does that connect to our industry as a whole analysis, if at all?

MR. STEWART: As you know, under the statute there is definition for "interested parties." And "interested parties" include a provision that makes worker representatives representative of the industry where they choose to appear.

And so clearly the USW is a representative of the industry. The only issue that comes up is what percentage of the industry they represent. And that's an issue largely that's dealt with at Commerce in terms of standing. Forty percent of what our guys represent. You have questionnaire responses that would show you whether anybody else supported the case that would increase that.

So as long as you meet the standing, there is never a requirement that the party who is before you--

COMMISSIONER KIEFF: Yes, and I'm not suggesting that for example we would need to survey everybody and, absent everyone's input, not be able to move forward. I guess what I'm asking is: If it turns out your opponent this afternoon comes forward and were to say, hey, look, let's take all of the information offered this morning as completely wonderful on its own terms, but inconsistent with the views of let's call them the owners of the firms. And therefore the industry as a whole is not being harmed. In fact, the owners are being helped by shifting their business strategies to accommodate Chinese imports. And there is a divergence between the business strategies of the owners and the business strategies of the workers.

Now I'm not saying they're going to win that argument even if they make it. I'm just asking, even if they were to try to make it, is that--would that be relevant? Or would we instead have to say to them: That's wonderful, but even if you are right, your argument is irrelevant?

MR. STEWART: Yeah. I think that the case law at the Commission where you've had situations where you've looked at what happens when it's only management that's at the table, and some management is for relief, and some management is opposed, I would say that's probably your closest example.

And what the Commission has uniformly found over time is that where that type of situation occurs, the opinion is not what's relevant, it's what the facts are that you're able to collect.

Now you included in your question the issue of what is more than an opinion, but rather whether there is a policy. And if an executive in an investor conference says, our policy is to do X. Whether you can take that out of the context that it's made in and assume that that translates into policy that may drive what the answer is. And I think the answer is that, as a Commission you have the right to examine that and to give it the weight that you think it deserves.

COMMISSIONER KIEFF: So for example, so I ate lunch. I viewed that as helpful to me. A so-called health nut might have viewed that as harmful to me. We might each authentically to ourselves be happy with very different approaches, and yet really cringe at the other's approach.

In our sugar case, we had, to use your example, two industry views. One view that said we really like X. And one view that said we really don't. And we had to do a--we, the Commission, had to do an industry-as-the-whole type of analysis that in effect picked a winner and picked a loser.

And I guess I am asking you, are you saying that we have to do that here if confronted with that type of true preference conflict?

MR. STEWART: Well, because I don't put a lot of value in the claims that my distinguished colleagues have made on the other side--

COMMISSIONER KIEFF: And I'm not crediting their views, or discrediting their views. I'm merely asking the thought-experiment question.

MR. STEWART: But what I was going to say was that on the issue of the question of whether there has been abandonment, because we have decided to move upstream, even if there were 25 statements certified by CEOs that this is what they had said at different places, it is contradicted by the facts because typically they trot out Goodyear, and the Goodyear plants have introduced a whole series of products which are designed to go at the mid-level.

Now part of the--so--

COMMISSIONER KIEFF: Let me, if I could, see if I am hearing you so far. You are saying even if the logical conflict that I'm asking about might pose an interesting question, on this record it would not be supportable? Is that what you're saying?

`MR. STEWART: I'm saying that that is the case. I'm also saying that a lot of times the reason the argument is made is that there is a failure to analyze what it is that the claim is about.

The Goodyear claim that they were going to put more focus on higher value-added tires was defined by them as being I think 75 percent of the market. So we're concentrating on that higher value end of the market which is only 75 percent of the total.

So that is kind of like saying, okay, we're not interested in the entire pie anymore. We're only interested in most of the pie. But we don't compete because, after all, the other guy wants some of the pie.

So I think that there is some language differences in terms of where our opponents come from which gives them belief that language that they find in the statements has meaning. If it did have meaning, it's contradicted by the actions that have taken place.

And I did want to--I didn't have a chance to respond to your question on the 421. As I listened to Dr. Button, I understood I had missed an opportunity to kind of put it in context. So let me see if I can do that quickly for you, if that's--

COMMISSIONER KIEFF: I'm mindful that I've got four seconds, but I'm happy to follow up with both of you when the baton gets passed back around.

Well, I'm done now, but let me pass the baton and then we'll follow up. I'm sorry, Dr. Button, we'll follow up with both of you on that next time.

CHAIRMAN BROADBENT: Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: Thank you.

I just had a couple questions here. To follow up on the investment questions that I was asking earlier, and that I think Chairman Broadbent followed up on, and it might be best to do this in the post-hearing brief, but I would invite you to look at the staff report, to see if I understand your argument, and footnote 28 specifically, where it talks about the capital investments of the various U.S. producers.

And if you could just address--you know, what I am trying to square is--and you could articulate what your argument is; you could do it now or if you could do it all in the post-hearing--I'm looking at page VI-18, roman numeral VI-18 in the staff report. That the industry was suffering from certain declines in performance indicia, while at the same time making fairly substantial capital investments.

And so--and if I understood you earlier, this was because they were catching up from not having been able to make capital investments.

MR. STEWART: We will address it in the post-hearing. We did address it in our prehearing brief, as well. And we will simply\y--

COMMISSIONER SCHMIDTLEIN: Okay, because I was looking for it just now in the prehearing brief, and maybe cause we're, you know, I couldn't find where it was addressed--

MR. STEWART: Let me see if my colleague might know off the top of her head.

COMMISSIONER SCHMIDTLEIN: Okay, and just articulating what your argument is. Is it that they should have been able to make these investments, while at the same time avoiding having to reduce the number of workers, reduce their production, and so forth, during this period? Or that they should have been able to make additional investment.

MR. STEWART: Well certainly we would have made the latter argument, not the former. We're not saying they shouldn't have been able to make the investment they did make. This has been a capital investment started industry over the last business cycle. And so you do have higher capital expenditures in the POI.

COMMISSIONER SCHMIDTLEIN: And so if you have information vis-a-vis these companies that are discussed in the foot notes that, you know, they had wanted to make earlier investments, but they didn't and so now they're able to because the safeguard was on and they were able to catch up, that would be all full.

The other thing that I wanted to address, I've heard a few of the witnesses discuss how when the preliminary duties went on the impact was immediate, and one of the things that struck me, actually earlier this morning when Senator Brown was here, and he mentioned that in 2011 the industry had 33,000 employee and that it had dropped, you know, he was using the time period '11 to, I guess, '14, and so I went and looked at the number, you know, that were in the prelim and it did strike me that you do see these drops in each of these numbers from '11 to '12, obviously and the safeguard did not come off until the end of September. So I would invite you either now, or if it's easier in the post-hearing, again, to just discuss how is it that it can have such an immediate impact. I mean, I presume that the substantial drop in some of those numbers you see from '11 to '12 is because the safeguard came off?

MR. STEWART: First of all you have -- I think there may be some issues in terms of the data from the prelim.

COMMISSIONER SCHMIDTLEIN: I understand it's not exactly --

MR. STEWART: We'll address it in the post-hearing brief.

COMMISSIONER SCHMIDTLEIN: Oh, okay. And just again, like I went back and looked at the witness statements. I see where some of the witnesses have discussed how quickly that can happen. But that was in the context of the prelim duties and not in the context of this questionnaire about what is causing these numbers to fall so drastically when the safeguard was on until September 27th.

MR. STEWART: And we will address that. And remember that the Union City plant closed finally in 2011.

COMMISSIONER SCHMIDTLEIN: I see.

MR. STEWART: So there would have been a drop in 2012 from 2011 figures simply because the Union City facility had finally closed down. As I understand it, they had gone through buyouts over the 29 2011 time period. So I'm not sure how many people were decreased each one. But we will respond to it in full in the post-conference because I believe a lot of the stuff will be APO.

COMMISSIONER SCHMIDTLEIN: Okay. All right. I appreciate it and with that, I have no further questions. I just want to thank you all again for being here today.

CHAIRMAN BROADBENT: I always have like three completely unrelated questions running around in my brain at this time in the hearing. Just out of curiosity, Mr. Stewart, could you discuss sort of how you weighed filing a dumping case versus one of the special safeguards, the 421 petition?

MR. STEWART: We were asked this question and provided your staff an answer, I believe, during the prelim, but let me just summarize what the answer was.

For the steel workers, their interest when there's a problem is whatever is the remedy that would help their members the quickest. And a 421 had a lot fewer hoops you had to jump through and was a much shorter time period to get to relief, and the industry was in a period of extreme crisis. So their direction was, we need relief now, what is the fastest thing you can do to get us relief? 421, what's that, and so we pursued that. So that was -- you know, and it's also the case that unlike when a case is brought by the management, the benefits of relief go indirectly to workers in a sense that if relief is effective and companies are able to increase production, you're able to rehire people. And that's the benefit that a union gets in bringing the cases that people get rehired or don't get laid off, and perhaps it flows through in the compensation that they may receive. But the benefits in terms of higher prices and the increased profitability for the company that is not something that flows directly to the workers and so it's a lot -- 421 is a lot less expensive than doing a dumped countervail case.

CHAIRMAN BROADBENT: Okay. Mr. Johnson, is that consistent with what your thinking was?

MR. JOHNSON: Yes.

CHAIRMAN BROADBENT: Yeah, okay. You didn't have anything to add to that?

MR. JOHNSON: I'm sorry. T he only thing I would differ on is the economic value to the union.

Although an economic value exists, that's not at all why we are doing this. We are doing this because we're trying to save jobs. We're trying to keep a manufacturing base in the U.S. and create an economy that continues to operate on a manufacturing basis. It's certainly not all economic by any stretch.

CHAIRMAN BROADBENT: Okay. And then another sort of unrelated question. In the 421, you all had, I think, expedited trade adjustment assistance benefits as part of that remedy; was that correct in what the president put in place? And did that have any benefit to your members?

MR. JOHNSON: Trade adjustment assistance, I'm not --

CHAIRMAN BROADBENT: Maybe --

MR. JOHNSON: -- I couldn't recall whether it was specifically tied to that or tied to something overall.

CHAIRMAN BROADBENT: Okay.

MR. JOHNSON: But in either event, trade adjustment assistance is beneficial in all circumstances to allow people that are being impacted to train and attempt to find other similarly paid vocations. Sadly enough though, even with TAA in place, rarely are people able to replace the jobs with the quality of jobs that they are losing.

CHAIRMAN BROADBENT: So what was the TAA experience during the 421?

MR. JOHNSON: TAA was offered to everyone that made application.

CHAIRMAN BROADBENT: How many? I mean, how many --

MR. JOHNSON: Oh, I couldn't tell you.

CHAIRMAN BROADBENT: No sense?

MR. JOHNSON: I would have to go back and look t the numbers.

MR. STEWART: Why don't we provide that in post-hearing? I believe that you're correct that there was expedited consideration that was included as part of what the president put out, but I haven't looked at that proclamation in a while.

CHAIRMAN BROADBENT: Okay. And I would just be interested to know whether it helped in this situation and how many workers might have benefitted from it?

MR. STEWART: I could tell you what there was.

CHAIRMAN BROADBENT: And what kind of training they got, et cetera?

MR. STEWART: There were 5,000 people lost their jobs over a four- or five-year time period. The ones that would have benefitted from the president's action would have been those last three plants that got closed in 2009, 2011.

CHAIRMAN BROADBENT: Okay. Yeah, I'd really like to understand your experience under that TAA program.

Okay. And then one other random question.

I note that a majority of the U.S. firms -- domestic firms, all report that they import directly from China. But it looks like these imports haven't dramatically increased. If subject imports are priced considerably less than their domestic production, why wouldn't these U.S. producers be expanding their invitations from China in order to compete more aggressively on price?

MR. STEWART: Well, if you look at the POIs, you said you looked at the data, you'll see that there is a significant difference in terms of rate of growth. And that varies as well, if you break it down into a more micro level. All of these companies have invested a lot and are investing a lot more in China to try to take advantage of the market growth in China. But most of these companies employ, other than in the United States a policy of trying to provide product from a local basis. So most of what they do in China stays in China as far as we understand.

CHAIRMAN BROADBENT: Okay. Good. Well, I'm kind of running out of gas here. I don't know how my colleagues are doing. But I know Scott Kieff had some additional questions and I yield to him. Oh, I thought you said -- David. David has no more questions.

COMMISSIONER KIEFF: Please, the floor is yours.

MR. STEWART: If you would, the one thing that was that Dr. Button didn't have a chance to reflect on in his comments to you was our slide 14. And our slide 14 is the kind of unanswered part of 421. Opponents look at 421 and say, 2008, 2011, the domestic industry looks the same, total imports look the same, but China lost and the rest of the imports won.

What that story doesn't tell is, that we had to close three plants that were announced in the 421 in 2009 through 2011. So we had a dramatic contraction and we lost a lot more market share in 2009 which is not reflected in the data that the Commission has collected. That was the trough, the industry starts to regain market share in 2010 and 2011 which gets us back up to the point. That was the reason I say it's like asking -- you were here Monday, you were here Friday, you must have been here all week long? That was not the case.

And so the 421, in a period of extreme crisis meant that at you didn't see the upturn in domestic production until the second year. And you didn't really start to pick up steam until the third year. But that didn't mean that there weren't positive effects in the argument that it's just a substitution of third-country for China is simply not true.

COMMISSIONER KIEFF: Thank you. Dr. Button.

DR. BUTTON: Thank you, Commissioner, a couple of brief point. One, the relevance, at least as presented by the Respondents of the 421 analysis, did they 421 have a beneficial effect on the U.S. industry is a surrogate for the question, will antidumping and countervailing duty really -- in this investigation -- have a beneficial impact on the domestic industry?

Briefly, yes, 421 did have a beneficial impact. It didn't bring it back to where it was, but it certainly improved where it was going and Mr. Stewart has described that in some detail.

And as to --

COMMISSIONER KIEFF: I'm sorry, just a quick follow up. Are you saying that proof of a beneficial impact helps you because it is inconsistent with the hypothesis that a remedy in this case won't help, or are you offering it as proof of harm or threat of harm?

DR. BUTTON: Let me suggest -- I'm going to do a little bit of a different way -- that reference to the 421 as a test as to whether the current investigation results in positive relief is unnecessary because of the actual experiment in the first quarter of 2015. And the fact that the Commission has an unusual type of empirical proof here in the testimony of the gentleman before you, not some abstract projections, not some, you know, estimates by economists. But they are telling you that with the relief jobs brought on new model tires are being introduced and capacity is being expanded and that it is benefitting the domestic industry not just, you know, the third countries.

So you have that that makes it unnecessary to refer to the 421. But as an economic fact, yes, the 421 did have beneficial effects that you heard described.

COMMISSIONER KIEFF: And, again, just to make sure I'm understanding how far you want me to go with what you're saying, you're not going so far as to say that anything that helps your side, if you will, is proof of harm or threat of harm?

DR. BUTTON: Correct. I'm not saying that the 421 proves the current circumstance. The current circumstance stands on its own facts. And on that, you and Mr. Steward had a colloquy about the industry as a whole. You referenced the sugar industry and so forth. Here's a situation clearly where the relief in this investigation will have a beneficial impact on all elements, all stakeholders of the domestic industry, clearly the workers and certainly the domestic industry -- the management as well, both profitability as well as the quantitative factors of employment, production, and the like.

MS. DRAKE: Commissioner Kieff, if I may?

COMMISSIONER KIEFF: Yeah, please.

MS. DRAKE: I believe the record of the 421 is also relevant to the issue of causation. And I believe that respondents raise it to try to say that Chinese imports were not the cause of injury. Then removal of Chinese imports did not help the industry, and the Chinese imports now have not hurt the industry. And I think the record that Mr. Stewart has gone through shows that that's incorrect and in fact the 421 underscores how tight the causal nexus is between Chinese imports and the health of the domestic industry. When imports are removed from the market, the industry benefits. When imports surge back into the market, the industry suffers. So I think it is very helpful in terms of analyzing the causal nexus between Chinese imports and the domestic industry's situation.

COMMISSIONER KIEFF: So let me press it just a little bit on -- I guess for Ms. Drake and Mr. Stewart because I think this is really a legal question. What if the other side said, we get that you're here because you would be better off if we did X. But the mere fact that you would be better off if we did X does not compel a conclusion of the statutory harm envisioned under this statute. Those two might overlap, but they're not one in the same thing. Can you help me understand why even if they say that, you still win?

MS. DRAKE: I believe we prevail if the statutory factors are met. So the statute doesn't say, if duties would put you in a better position, you win. You get to have duties. That's not what the standard is. The standard is whether or not unfairly traded imports have caused or are threatening to cause material injury across a range of factors and whether that injury is by reason of subject imports. Whether they're more than a tangential cause of the injury that the domestic industry is suffering. So I think when we focus on those statutory factors, it's clear that the record does show the industry has suffered injury in a market of rising demand and does show that that injury is by reason of subject imports.

COMMISSIONER KIEFF: So seeing it through that lens is just -- if you had to give a betting person's appraisal, is the case stronger on harm or its threat, or is it the same for both?

Whichever of you feel most comfortable.

MR. STEWART: Well, I'm not a gambler, but let me give you my odds.

COMMISSIONER KIEFF: Okay. Please.

MR. STEWART: It seems to me that it's directly relevant to harm, to material injury, and it is an important consideration and threat but is not outcome determined as a threat by itself.

COMMISSIONER KIEFF: Interesting.

MR. STEWART: Because the argument that's made against us on harm is there is no causal nexus. All right. And you cannot look at the first quarter and say that imports were not the cause because when the imports retreat the domestic industry has expanded production significantly.

COMMISSIONER KIEFF: And to make sure I am following you completely, tell me what you then see the core argument against you on threat?

MR. STEWART: Well, on threat you're looking at, will there be supplemental harm in the future. And there are a variety of other issues that they raise that go beyond simply have imports caused harm vis- -vis the domestic industry? And so I view the injury issue as very solid and there aren't a lot of extraneous issues. You've got a bunch of extraneous issues out there including what does it mean that somebody is planning to put a plant in the United States, does that somehow mitigate the threat of injury issue?

COMMISSIONER KIEFF: It is very, very helpful to me to have you each provide those lenses. So thank you all very much.

And that concludes my questions. I really appreciate each of the witnesses and the counsel and the economist. Thank you all very much.

CHAIRMAN BROADBENT: Commissioner Williamson?

COMMISSIONER WILLIAMSON: I want to commend the petitioners for putting together their witnesses statements and all in this nice neat binder. I've been waiting a long time for this. So thank you.

(Laughter.)

MR. STEWART: Commissioner, we're trying to do that in every case. So I apologize if it's the first time you remember us doing that.

(Laughter.)

COMMISSIONER WILLIAMSON: You may have done it before.

CHAIRMAN BROADBENT: Let's see, if Commissioners have no more questions, does the staff have any questions for this panel?

MS. HAINES: Elizabeth Haines, the staff has no questions.

CHAIRMAN BROADBENT: Okay. Thank you. I want to thank the panel here today for taking time from your businesses to be with us. It's time for a lunch break. I'm going to shorten it a bit. We're going to come back here at -- yes? Oh, excuse me.

Do Respondents have any questions for this panel? I apologize.

MR. SCHUTZMAN: Respondents have no questions.

CHAIRMAN BROADBENT: Thank you. Okay. All right. We're going to adjourn here for lunch. Let's return here at 2:45. And the hearing room is not secure, so please leave -- don't leave confidential business information out. And thanks again to all the witnesses.

(Whereupon, the hearing was recessed to be reconvened this same day at 2:45 p.m.)

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

(2:45 p.m.)

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

COMMISSIONER BROADBENT: Mr. Secretary, are there any preliminary matters for the afternoon session?

MR. BISHOP: Madam Chairman, the panel in opposition to the imposition of anti-dumping and countervailing duty orders. All witnesses have been sworn.

COMMISSIONER BROADBENT: Thank you, Mr. Secretary. I want to welcome the witnesses to the ITC. I'd like to remind everyone to speak clearly into the microphone and state your name for the record, for the benefit of the court reporter. You may begin when you're ready.

STATEMENT OF JONATHAN T. STOEL

MR. STOEL: Good afternoon Chairman Broadbent, Vice Chairman Pinkert, Commissioners and staff. My name is Jonathan Stoel. I'm a partner at Hogan Lovells here today representing ITG Voma Corporation. It is a pleasure to begin -- to be before the Commission once again.

I'd like to start Respondent's testimony this afternoon with two simple truths. First, this case is exceptional. No member of the U.S. domestic industry producing passenger vehicle and light truck tires is a Petitioner seeking the imposition of duties on Chinese imports, and no industry witnesses are here today to provide the Commission with their views on the state of the industry.

This has made the Commission's task in this investigation even more challenging than usual. I would like to commend the staff for its diligence in the investigation. The Commission must weigh seriously whether the domestic industry's public absence from this proceeding is because of the second simple truth: the domestic industry has not been materially injured by reason of subject imports.

On the contrary, as we will detail later in our presentation, both financial and non-financial metrics evidence the prosperity of the domestic industry. Most impressively, the prehearing report shows that not only has the industry's profitability been increasing throughout the Commission's Period of Investigation, but each member of the domestic industry earned a profit in all three years of the POI.

Now you've heard today from the Petitioners' witnesses a litany of what ifs and might have beens. For example, Petitioners' economist asked the Commission to focus on what might have happened to the domestic industry had raw materials costs not have declined. But he ignores that economics dictates that there would have been a corresponding adjustment to price.

And Petitioners' lawyer suggests, without setting any precedent, that the Commission must assess the industry's condition over a purported 11-year business cycle, notwithstanding the complete lack of support for an 11-year cycle and the Commission's standard three-year Period of Investigation.

I say to the Commission you need not engage in such conjecture and speculation. Instead, I would like to focus the Commission on the most tangible evidence of the industry's strength and success, the ongoing capacity expansions by existing domestic producers, and the capacity under construction by new entrants.

The domestic industry's expansion plans are both impressive and unprecedented. As detailed in our prehearing brief, five existing members of the domestic industry and three new entrants have announced investments totaling more than $3.3 billion. They will increase the industry's capacity by 42 million tires annually, or 25 percent of the industry's current capacity. These expansions are expected to create more than 6,700 new U.S. jobs.

Existing industry member Bridgestone has stated that its expansion "is intended to meet growing market demand in key segments." And Toyo has explained that it has had "significant growth in 2013 and 2014," and thus is making "major investments." Since the domestic industry is not here today, and because contrary to Petitioners' lawyer's assertion, silence is not golden.

I want you to hear from one of the existing members, Continental, about their new $500 million that the company constructed in Sumter, South Carolina. This plant is already operational, employing new workers and ultimately will produce eight million tires annually.

[VIDEO PLAYED.]

MR. STOEL: I now want to turn your attention to the three new entrants to the U.S. industry: Giti Tire, Hankook and Kumho Tire. They are building new tire manufacturing plants in South Carolina, Tennessee and Georgia, respectively. Petitioners' presentation and prehearing brief completely ignore these mammoth new facilities, which will require more than $1.75 billion in new investment.

Giti Tire explained in June 2014 that its investment in South Carolina is due to "existing business and strong demand for Giti Tire's passenger and light truck tires." Again, rather than hearing from me about the industry's enthusiasm for its new facilities, I'd like you to hear directly from one of its new entrants, Hankook Tire.

[VIDEO PLAYED.]

MR. STOEL: Construction on the new Hankook U.S. plant began in 2014. Hankook will being produce 5.5 million tires next year in 2016, and the plant will employ as many as 1,800 U.S. workers. The construction of new plants by new entrants show that not only is the domestic industry not suffering material harm, but the industry is strong enough to expand and attract additional investment from both existing members and new entrants.

What else does the building of these new plants tell us about the condition of the domestic industry? First, these plants are being built in order to satisfy U.S. tire demand for premium, high value tires that are not being met by the domestic industry, because U.S. manufacturers are effectively operating at full capacity.

The data collected by the Commission demonstrated the domestic industry operated at 91 percent capacity utilization at both the start and the end of the POI. Moreover, domestic producers and other U.S. market participants have reported shortages of tires during the POI.

To show you one example, the COO of API explained that "the higher tire manufacturers have not been able to keep up with demand, and their fill rates are poor in the replacement market, consistent with the very limited production capacity available to U.S. producers."

This comment takes me to the final point I would like to make the Commission this afternoon. The new capacity coming on line for U.S. producers is designed to fill demand in the OEM market and the premium high value segment of the replacement tire market.

For example, Michelin has explained that the company "must have additional capacity for high performance passenger car tires to meet our customers' needs." The Commission thus must strive to understand in this investigation how the U.S. tire market operates, including the market segmentation between the high end, premium tires produced by U.S. manufacturers, and the lower end value and economy tires produced by manufacturers in, among other countries, China, Thailand and Indonesia.

The Commission asked a lot of questions this morning about tiers, and the structure of the industry. We submit that the word "tier" is really not important, as all of you have commented in your questions. The important part is that there is in fact market segmentation, and that's a serious condition of competition that the Commission must address in its determination in this investigation.

To address some of these market questions, I'd like turn to Dennis Mangola, who has more than 30 years of experience in the tire industry, and who is a senior consultant to ITG Voma.

STATEMENT OF DENNIS MANGOLA

MR. MANGOLA: Good afternoon. My name is Dennis

Mangola, and I'm currently the chief executive officer of DMC Consulting. I have more than 40 years of experience in the tire industry. I was founder and CEO of Ampac Tire Distributors, one of the largest wholesale distributors in the United States. I was founder and CEO of Tire Pros, the largest retail tire franchise in the United States.

I came here to testify today because I believe the U.S. tire industry is very strong, and has not been injured by the Chinese imports. I'd like to help the Commission understand the industry's market dynamics, including market segmentation and product differentiation.

So how does the U.S. market operate? There's market segmentation, there's tiers and categories and product differentiation in the market. All of in the industry that's been in the industry for quite some time uses these particular terminologies all the time in the industry.

So the segmentation. When we looked at the segmentation, it's broken out into four different categories: original equipment category, which driven primarily by major brand tires; the replacement tire market; the branded market, branded tires; and private label tires.

Tiers in the U.S. replacement market, Modern Tire dealer categorized the replacement tires in the U.S. market into four tiers, based on the following factors:

brands and their tier marketing, brand recognition, price and perceived quality. Tiers are defined by brand and price and perceived quality and marketing in these four different ways.

One, we use the premium terminology, which is -- we throw that into the top tier; highly recognizable brands, such as Michelin, Bridgestone and Goodyear; high value recognizable brands, such as B.F. Goodrich, Firestone and Dunlop; value, somewhat recognizable brands such as Nexon, Kelly and Uniroyal, but they're sold at a much lesser price; and economy brands, little or no brand recognition, primarily price-driven, typically for older vehicles.

Michelin has a multi-brand strategy, and it's an easy one to understand. Michelin owns B.F. Goodrich and Uniroyal, and Michelin has itself placed in the premium segment. High value is B.F. Goodrich, in that segment. The value is Uniroyal, and they do not offer an economy tire.

So there's differentiation within each tier. It is important to understand how tiers differ. Products are differentiated by size, by UTQG ratings, by speed ratings, by price and by application. As an example, the application. There's four different categories. One is an SUV category. The other is a touring category. The other is high performance, and the other is light truck.

Inside each of these categories, there's tiers.

There's premium, high value, value and economy. They're all set at different price levels, they're all set with different market strategies based on brand equity. In this particular slide, the Petitioner is either misleading, comparing completely different tires or, based on what I heard this morning, to be honest with you, I just don't think they understand the tire industry, from a sales and marketing standpoint.

So if you take a look at it, the Petitioner is saying Goodyear sells tires for $177, all the way down to $86. So they're all over the board, and that's true. The fact of the matter is is the first three tires fall into the performance category. The next two fall into the touring category, completely different tires, and the last one is a snow tire. It doesn't even fall into the same category.

Say the same thing about the light truck on the Firestone side. Sells it for anywhere -- Firestone sells $235 down to 143. The first one is a mud tire, primarily used for desert/mountain driving. The other is an all-terrain tire, used for on and off road, completely different tires, and the last one again is a snow tire.

So when you compare apples to oranges, you're going to be confused, and I think if you don't understand pricing and positioning and marketing, you're going to be confused. This particular slide right here I think sets the pace with regards to product positioning with different categories.

Differentiation is also measured by the UTQG. The UTQG is the uniform tire grading system that has been established by NHTSA, to help manufacturers and consumers price and purchase tires, based on tread wear, based on traction, and based on temperature. Each one of these are on the sidewall of every single tire sold the U.S. They have go through rigorous testing to get to this point.

Their speed ratings; it's another form of differentiation. R, S and T speed ratings are basically for light trucks, pickup trucks, family sedans and vans. H, V, W and Y speed ratings are for sports cars, sports sedans, sports coupes and exotic sports cars such as a Corvette.

On this particular slide the Petitioner had, it's kind of interesting to note that these sizes that they listed here are very popular sizes in the U.S., and every one of these sizes are sold just about in every single category. So if you look at the tread work grades through the UTQG, it's interesting to note that every tire that's made in the U.S. has a higher tread wear rating than the ones that are made in China, based on the Petitioners' slide.

There's a reason for that. Tires typically in the U.S. are focused on premium tier tires, Tier 1, Tier 2, premium and high value tires. Increased demand for economy tires. So what's happening with all this demand coming in from China and the low value tiers? Demand for Tier 3 and Tier 4 tires. Approximately 50 percent of the vehicles are 2004 and older on the road today, 50 percent.

Medium household income has dropped eight percent, and down to $51,000 in the last few years, eight percent. These are two drivers that I call affordability factors that are driving the third tier and the fourth tier. This particular slide is a slide that we use often in pricing and positioning. It gives us an interesting look, if you will, at the way the industry, from a pricing and marketing and sales standpoints, views things.

So you'll see that from 2015 down to 1998, we have a declining value, vehicle value. So the value of the vehicle in 2015 dropped significantly down to 1998, and you'll see that the average age of the vehicles are 11.4 years today. Several years ago, maybe five years ago it was ten. Now it's 11.4. So the vehicle fleet is aging.

50 percent of the vehicles, as I said, are on the road that are from 2004 and older. But the segments in Tier 1 and Tier 2 represent about 70 percent of the market in the replacement market and replacement sales in volume, Tier 1 being the premium, Tier 2 being the high value.

That's why there's so much focus by every manufacturer in the U.S. to have strong brand equity and get focused on Tier 1 and Tier 2 premium and high value tires. About 20 percent of it is in products that fall into the Tier 4 category, Tier 3 and Tier 4.

So newer vehicles, newer vehicles use premium and high value tires, Tier 1 and Tier 2. Replacement tires for OE tires typically the first two replacement tires are in Tier 1 or in Tier 2, premium tires. Approximately 70 percent of the replacement market is in the premium Tier 1 and Tier 2 categories. Chinese imports are servicing the economy segments and part of Tier 3 and 4. Competition between U.S. tire manufacturers and Chinese manufacturers is very limited, and it really is, to some degree, competitive in Tier 3.

But in Tier 4, no U.S. tire manufacturer has any interest or desire to build tires to service the Tier 4 market. The economy tire is being addressed by global producers, not just from China, but from Indonesia and from Thailand as well.

So my biggest concern is if there's any kind of a tariff that's put on one particular country, and other countries can fill that void that's going to happen, suddenly we haven't accomplished much, and I think we do have a history of that.

So there really isn't -- the manufacturers look at it the same way, because if it's going to be replaced by another country, where's their incentive to do anything on addressing any part of the market, other than the tiers that they're focused on? So I'm here for questions and thank you.

STATEMENT OF GUSTAVO LIMA

MR. LIMA: Good afternoon. My name is Gus Lima. I have been employed in the tire business for more than 40 years. For the last 14 years, I have CEO and co-owner of Oriente Triangle Latin America, Inc. Oriente Triangle is a tire distribution company based in Miami, Florida. We are an independent distributor of the Triangle tire brand produced in China. Our focus is the Latin American market, with some distribution in the United States.

Fifty percent of our 2014 U.S. sales were passenger and light truck tires subject to this case. Triangle Tire of China and I are planning to establish a joint venture based in the United States. Our task is to create a professional distribution channel with good customer service, and we'll try to implement a Triangle product identity that will enable us to make Triangle Tire a global brand.

Based on my 40 years of experience in this tire industry, we have formulated a business plan that will not result in any reduction in the numbers of tires currently being produced in the United States, nor will our sales reduce the price or the profits that the U.S. tire manufacturers have been enjoying.

I state unequivocally, because all tires, even if they are capable of fitting the same vehicle, are not the same. I am proud of my association with Triangle, which really makes a good and safe tire, excuse me. The world's largest tire manufacturers, Bridgestone from Japan, 30 billion in sales, Michelin from France, 24.5 billion in sales, Goodyear from the U.S., 18 billion in sales, Continental from Germany, 13 billion in sales, and Cooper with around 3.5 billion in sales yearly, are dedicated to what they produce, HVA tires, high value-added tires.

A high value-added tire is more complex tire to manufacturer than a low value-added tire. It has additional tread compounds, reduced sidewall height, premium speed ratings, diameters greater than 17 inch, may even have carbon fiber reinforcements and they have other distinguish attributes.

These tires are built for discerning consumers at the high end of the market. The Chinese tire industry and other third world country manufacturers concentrate in filling the low value-added tire market that the majors in the United States have exited. It will foolish for our

Triangle joint venture or any Chinese company to try reaching into a technological and marketing stratosphere that those major players live, because there is no way to take business away from them.

I cannot see the technology developing fast enough for that to happen in my commercial lifetime. In my opinion, a decision by this Commission to impose additional duty on tires from China will not benefit the American tire industry. What the additional duties will do is put an additional burden on lower income American consumers that they cannot afford, and may push a family to purchase a used tire or delay purchasing a tire that they need, and I hope the Commission will take these safety issues into account when it makes its decision. I thank you for your time, for listening to me, and I'm here for any questions. Thank you.

STATEMENT OF JASON ROTHSTEIN

MR. ROTHSTEIN: Good afternoon. My name is Jason Rothstein. Since January of 2015, I've been working with Aeolus Tire Company, Ltd., as the general manager of Aeolus North America. Aeolus is a leading Chinese tire producer that sells tires under the Aeolus brand, among others. For the previous 11 years, from 2004 to 2014, I lived and worked in Asia, for six of these years in two separate stints. Most recently from March 2011 to June 2014, I worked for the Goodyear Tire and Rubber Company.

My last position at Goodyear was director of business development for the Asia/Pacific region. This role allowed me deep exposure to the Chinese tire market and its principal participants, including global premium producers and Chinese producers. One of Goodyear's publicly stated three key strategies is to win in China. On the current trend, by 2020, the size of the tire market in China should nearly match that of the market in the United States.

In the U.S., the average age of the car park of passenger vehicles, as we have seen, is about 11 years. Passenger vehicle owners, on average, replace their tires around every four years. So, while the auto market in the U.S. is mature with the average car having gone through nearly two cycles of replacement tires, the boom in the Chinese auto market is a very recent development.

Many vehicles have not yet needed even their first tire replacement. And this will soon change as the average age of vehicles on the road in China increases. And this is why Goodyear and other leading global tire manufacturers are bullish on the future of tire sales in China. And it is why the Chinese domestic market will absorb a greater proportion of Chinese tire manufacturing capacity.

Now that I'm back operating in the U.S. tire market, I see a clear similarity between the Chinese and

American markets and the way leading global tire manufacturers position their products. For example, Goodyear's publicly stated position of targeting profitable segments has them focus on the premium segment of the U.S. market, which is very similar to its position focused on the premium segment of the Chinese market, notwithstanding that tires it sells in that market are made in its factories in China.

In these markets and in other markets around the world, Goodyear made a management decision to focus on product mix at the expense of volume, in other words, to sacrifice market share, if necessary, for profitability by focusing on premium tire production and sales. One of Goodyear's stated primary objectives is consistent segment operating income growth of 10 to 15 percent. It does not want to compete at the low end of the market where margins are not attractive. And because of its strong brand portfolio, it doesn't have to.

In my opinion, it's simply wrong to say that Chinese imports have pushed Goodyear and other American manufacturers out of the low end of the U.S. market. Goodyear seems to have wisely chosen to focus away from this market segment in the U.S., in China, and other markets around the world. It's goal is to continually grow its segment operating income and maximum margins were behind its business decisions and its record quarterly profits suggests it's clearly succeeding in these goals.

So, given the realities of consumer preferences in the market, my current company, Aeolus Tires, does not compete directly with Goodyear or other U.S.-produced brands in China or in the United States. In both countries, a consumer is highly unlikely to go into a store to buy a Goodyear, a Michelin, a Bridgestone tire and walk out with a Chinese brand tire.

Like other Chinese brands, regardless of inspirational marketing messages, Aeolus is realistic about its ability to compete in the United States. We hope to gain market share, but this would come from other Chinese brands or from similarly positioned brands imported from other countries. We've no pretenses about taking on Goodyear and other premium brands.

And Aeolus also believes that due to strong brand preferences, we cannot compete with companies who sell their brands in the American OE market. Where in almost all cases U.S. producers maintain control over supply. OE business is important to tire manufacturers since a consumer will often by the first or even second of set of replacement tires with the same brand as the tire fitted his or her new car. Aeolus and other Chinese brands don't benefit from this OE pull in the U.S. market. Similarly, global tire brands have a majority of OE business in China where brand is also important.

Finally, I'd like to comment briefly on the issue of capacity utilization. I understand that the Commission's staff report shows producers as a group were operating around 91 percent capacity in 2014. Given current product mix, these levels of utilization, based on my experience, reflect operations at full capacity. There are always conditions that occur in any given year that affect a company's throughput rates, such as bad weather, unplanned changes to equipment and retooling, product mix changes to meet changing market conditions, shifts in raw materials use, labor disputes, et cetera.

As an example, as U.S. producers increasingly focus on ABA tires, there's a shift away from carbon black in favor of silica and other fillers as we heard this morning. These generally require additional processing and cure time, thus, reducing the available throughput of a factory and a reduction in tires produced per day.

I hope that my comments are helpful as you make a decision in this case, and I look forward to any questions I can answer. Thank you.

MR. MARSHAK: Good afternoon. I am Ned Marshak of Grunfeld Desiderio. We are very fortunate to have with us today Mr. Yu Yi who has come all the way from Beijing

China to address the Commission. Mr. Yi's comments will be translated by Yun Gao of our law firm. Mr. Yi.

STATEMENT OF MR. YU YI TRANSLATED BY YUN GAO

MR. YI: Good afternoon. My name is Yu Yi. I am vice chairman of the China Chamber of Commerce of Metals, Minerals and Chemicals Importers and Exporters. We abbreviate it as CCCMC. The CCCMC has been in existence since 1988. The branch of tires is a subgroup of the branch of chemicals of CCCMC. I am here today on behalf of China's tire industry, the CCCMC, and CRIA, the China Rubber Industry Association.

With your permission, I would like to briefly highlight two points of certain facts that are a matter of public record that I would like you to consider when you decide whether PVLT tire producers in the United States are materially injured or threatened with material injury by reason of China's imports of PVLT tires.

First, it is my understanding that China is now the largest producers of PVLT tires in the world. The overwhelming majority of those tires are sold to satisfied domestic demand in China and demand in third countries. Automobile production sales within China have grown from year to year and are projected to continue to grow in the future. Because there are more cars and light trucks on the road in China each year the market for tires in both the OEM and replacement markets will continue to grow as well. The United States is an important market for Chinese PVLT tires, but it is much less than one-half as large as the Chinese home market and much less than one-third as large as Chinese exports to other countries.

Second, the PVLT tire industry is dominated by very large multinational companies who produce PVLT tires in many countries around the world, including the United States and China. Eight of the nine U.S. manufacturers are in this category, including the world's five largest tire companies. We welcome the fact that these multinational companies have decided to produce tires in China and we hope that if the United States welcome the decision of foreign companies like -- to produce tires in the United States.

I think we can all agree that companies producing tires in both China and the United States do not want to jeopardize the success of their global businesses by selling tires in injurious quantities or at dangerous prices from one market to another.

These are just a few of the many facts in your record, which I ask you to consider. I hope that when your review is complete you will decide that U.S. PLVT tire producers are not materially injured or threatened with material injury by reason of imports from China. I am honored to have been given this limited opportunity to make this statement. I thank you for your time and I will try to answer any questions you may have.

STATEMENT BY MR. NED MARSHAK

MR. MARSHAK: Thank you. This is Ned Marshak again. As discussed by Mr. Rothstein and Mr. Yi, the Chinese PVLT tire market will continue experience strong growth long into the future. The best evidence of this future is found in the decisions of all the world's leading PVLT tire producers to invest in China. The reasons why these decisions make perfect sense is highlighted by the April 22, 2015 statement by Michelin that the Chinese market is to "show momentum on historic highs" and the April 29, 2015 statement by Goodyear that its customers in China "Continue to innovate and grow at a pace unequal in the world."

Yes, Chinese factories have increased their capacity. And yes, Chinese factories sell significant quantities of PVLT tires to the United States. The capacity's increased to meet Chinese home market demand and third country demand. These facts will not change in the foreseeable future. And just as significantly, the United States PVLT tire industry also is strong and growing. Thank you.

STATEMENT BY MARGUERITE TROSSEVIN

MS. TROSSEVIN: Thank you. Good afternoon. I'm

Marguerite Trossevin, counsel for American Omni. Tom Bracken, President of American Omni is traveling, so he asked me to be here today as his representative. You have the record, however, Mr. Bracken's declaration, which explains based on his many years in the business, the segmented U.S. market and the attenuated competition between U.S. tires and imports from China.

Fortunately, we also have here today many experts who can address those issues. I will simply say that Petitioner's case is based on the notion that this is 2009 all over again with U.S. producers standing on the brink of disaster and in need of your protection. The facts tell a very different story however. This is most definitely not 2009 and the sky is not falling. To the contrary, the evidence leaves no doubt that U.S. producers are feeling quite bullish, as you heard here today.

In 2015, the industry is strong and extremely profitable and the producers themselves have devised a strategy that promises a bright future. U.S. producers do not need protection and none have sought it. Thank you.

STATEMENT OF CRAIG LEWIS

MR. LEWIS: Good afternoon Commissioners. My name is Craig Lewis with Hogan Lovells. I'd like to briefly address the issue of critical circumstances. As you know, the Department of Commerce has made affirmative critical circumstances findings for certain, but not all Chinese exporters in the anti-dumping and countervailing duty investigations. This means that the Commission must now make its own independent determination under the very high legal standard applicable to the Commission's injury proceeding.

In particular, the Commission must determine whether the subset of subject imports for which the Department made affirmative critical circumstances findings are likely to "undermine seriously the remedial effect of a present injury finding." The answer is an empathic no. To begin with, it's important to remember that the legal standard "undermine seriously" is very high. The finding required of the Commission is not whether the subset of imports will have some impact or even a material impact on the remedial effect of any order that is issued. The effect must be to undermine the order seriously.

This is a difficult standard to meet and purposely so. The U.S. law and the WTO law strongly disfavor the retroactive application of dumping and subsidy measures. As a result, the Commission has very, very rarely issued affirmative critical circumstances in the past. Indeed, we're aware of only one such case in the last 14 years, a case involving dramatically different factual circumstance than are present here.

The question, thus, is whether this case is one of those exceedingly rare circumstances supporting this extraordinary measure. It is not. First, the U.S. industry is profitable, competitive, and is not vulnerable to injury. Indeed, because there is basis for an affirmative determination of present injury, the issue of critical circumstances should not even be reached.

Second, the increase in volume of imports inventories and other circumstances do not rise to anywhere near the level necessary to support such action. Commerce made negative critical circumstances for the mandatory Respondents that received individual rates in the anti-dumping and countervailing duty investigations; thus, most of the largest exports of subject merchandise from China in either investigation were not found to have massively increased exports during the relevant period.

Affirmative findings were only made with respect to a subset of exports. Even for the subset of imports through which the affirmative determinations were made, the volume of imports did not increase by levels that are large enough to warrant an affirmative finding by the Commission.

While I'm constrained in my ability to publicly discuss the specific factual data concerning the timing and volume of the imports, I urge the Commission to compare the increases at issue to those examined in prior investigations. I also urge the Commission to disregard Petitioners attempts to inflate the import figures contained the staff report based upon speculation. The tire executives quoted by Petitioners in their pre-hearing brief concerning Chinese imports do not provide any data for the Commission to consider. Color commentary is not the same as factual data.

As we documented in our pre-hearing brief, the volumes at issue is reflected in the pre-hearing -- far below those found sufficient to support an affirmative finding determination in past case and is quite small in comparison to a market of some 301 million tires. The same could be said for end of period inventories which, though they have increased, have not increased to levels that serious undermine the remedial effect of the order and are only marginally higher than historical levels.

Finally, and as thoroughly discussed by this panel, there's, at best, extremely limited competition between Chinese imports and the U.S. products. As Petitioners freely admit, substitutability and the intensity of competition has been considered an important "other" factor for consideration by the Commission. This factors too ways strongly in favor of a negative critical circumstances determination. In short, the factual circumstances presented in this case all point strongly to a negative critical circumstances finding.

STATEMENT OF SETH KAPLAN

MR. KAPLAN: Good afternoon. I'm Seth Kaplan from Capital Trade on behalf of the Chinese Respondents and I'm here to discuss injury and threat. I will first discuss the performance of the domestic industry followed by three key conditions of competition, discuss the import prices and quantities, and finally threat.

Now, to the performance of the domestic industry to summarize the financial, employment, trade, and investment performance indicators have either increased or remained high throughout the POI. Production and shipments remain stable while inventories fell.

First, the financial indicia, gross profits increased significantly throughout the POI. Operating income increased significantly throughout the POI. Cash flow increased significantly throughout the POI. Gross profit margins increased significantly throughout the POI at levels that are rarely seen at the ITC, approaching 25 percent. Operating margins increased over the POI and the Commission rarely sees a 12 percent number unless it's falling from 17 or 18, not rising from 9 to 13.

EBITDA, which is a measure used by Wall Street, also increased significantly throughout the POI. Capital expenditures increased significantly throughout the POI.

Domestic investment increased significantly through the POI, via upgrades that were already discussed since 2012. Return on assets, which is not calculated in the staff report, but can be from the data, and often is reported in the staff report -- and I'd encourage that if the staff would do that because it would be important -- has been rising significantly and is very high.

Now, let's turn to employment. The total hours worked increased over the POI. There has been a slight decline in the number of workers, but the total hours in the industry increased. The annual hours per production worker increased. And I would note that this is over 2100 hours. These are tire workers. These are not associates at a New York law firm. They are working 2100 plus hours per year, a sign of strength. The overall wages increased. Hourly wages increased. The labor income per worker increased if you look at the number of hours worked per worker and the wages per worker.

How about the production side? A large, big, deal was made all morning about the declines in certain of the trade factors, but take a look, they are relatively constant and I will soon explain why. Production remains relatively stable, shipments remain relatively stable, inventories fell. Capacity utilization remained high and stable.

Let's turn to the conditions of competition. And the first one I'd like to talk about is the operation of the industry at near full capacity. I'll then return to the differentiation by branding performance and pricing. And then I'll finally talk about the restructuring of the industry and I'll relate those to the economic indicia that I showed in the performance side.

The U.S. industry and many individual firms are operating at or near effective capacity. In 2011, capacity utilization was 93.6 percent, but U.S. producers, any of them were operating at full capacity, the industry near. As you could see from Continental Tire and Michelin they said they were running at full capacity. If you want, you could look at what their reported capacity utilization was. And I'll give you a hint, it wasn't 100 percent. Why is this? So, you could see that the current operation is relatively high. Actually, it's extraordinarily high for industries before the Commission at over 90 percent when the industry says it operates three shifts a day, seven days a week. That's pretty high capacity utilization. And it is very close to what levels where when the industry said it was operating at full capacity.

Why does it operate at 100 percent of -- less than 100 percent of practical capacity? Well, practical capacity concerns normal operations, maybe 50 weeks a year, three shifts a day; but that doesn't take into account weather-related disruptions, unplanned machine down time and maintenances, disputes between labor and management, and all of those occurred on the record and you will see in the questionnaires that all those things happened.

How about holidays? One firm has -- more than one firm has it operating at 50 weeks a year with two weeks off for maintenances. There are 10 federal holidays that people don't work. That is another week off or 2 percent below a hundred percent for that firm alone. So, normal things that occur will drive you below the 100 percent of kind of a theoretical perfect world.

What else? Utilization of practical capacity would be less than 100 percent from changes in product mix. Terry Stewart in the morning talked about productivity and said it is measured as in a utilization on a per-tire basis, but as tires get bigger curing times take longer. And so the throughput of the facility, while still operating 24/7, will go down. As has been noted by many representatives in the industry, tire sizes have increased. The number of skews have increased significantly. And when the number and variety of tires increase, you have to have mold changes and mold changes slow things down. The number of tire sizes has doubled since the early 2000s and shorter run times mean more times to change molds.

So, what we see from looking at the data is they're making more and more profit per tire. And more and more profit aren't increasing production you might be asking yourself why isn't that happening. And the answer is they can't do it. All the economic incentives are for them to do it, so there really is no quantity effect from these imports. There's just not a lot of leeway in this industry, which is running in the 90s, to produce more.

Let's look at the attenuation of competition issues. As it was stated this morning, the OEM market is a market that is overwhelming dominated by U.S. production. The Commission in its questionnaires had a question of shipments to OEMs and shipments to replacements. The staff could calculate the percent of tires in the OE market that is domestically produced and imported from China, and I would ask them to do that. They have the data. And what you will find is that there is very, very little, almost negligible Chinese shipments into the OE market and that is consistent with what everyone said this morning from the unions and from what everyone said this afternoon here. That market is insulated from competition.

Now, let's talk about different tiers. If, in fact, tires were sold on price why do the most iconic brands, the most sophisticated producers, the highest selling tire makers in the world, the people that have been in business for decades why do they have internally three brands? And they do it because each brand is differentiated and each brand is sold to a different market segment. It's not true of just Michelin. It's true of Goodyear. It's true of Bridgestone. It's true of Continental. So the segmentation of the market is not an issue for some questionnaire responses. It is an issue with $50 billion of sales that was just talked about a year and investments of hundreds of millions of dollars in these brands.

If you look at any band list of the most iconic brands in the world, Michelin and Goodyear show up. There's a reason that blimp is there. There's a reason that tire guy is there. Everybody knows who they are and it is very meaningful. If this was not meaningful to these companies they would not waste their money, and they don't. They produced better products in that tier with higher performance and higher profits and higher prices.

Michelin itself, and this is from the Michelin results in 2012, talks about the tiers and says it sells into Tier 1 with the Michelin product, Tier 2 with Goodrich, and Tier 3 with Uniroyal. Domestic producers acknowledge price premiums based on brand. Michelin itself says Michelin's our premium brand. You pay a premium of 10 to 15 percent. BF Goodrich is the next tier down, a little less expensive. And we also have another brand called Uniroyal, which is the lower-priced brand. Goodyear says we're building a branded business and we're competing in the most profitable segment of the market and that is the segments all these companies are moving in.

Domestic producers discuss branding. And let's take the example of Kelly in the position since it was raised over and over again by the Petitioners of the new line of Kelly. And what does Guru Focus say? The innovative Kelly tires were developed by Goodyear in response to its customers rising need for branded products superior to private label or Asian imported tires. These things are not perfectly substitutable. There are physical differences. There's performance differences. There's branding differences, all of which these producers pay a lot of money and do a lot of research to do.

So, the notion that this is all comparable just does not fit the reality of the people that really spend money on this. I'd refer to the auto companies. You've seen auto companies before you here often on the Respondents side. They usually are really concerned about price increases. Really tiny price increases in the steel industry sometimes. And they're here pounding the table, yet, they're paying twice as much for a Michelin tire than a Chinese tire they could get.

The most parsimonious purchasers that ever appear before the Commission are paying two or three times more to put a tire on their OEM car. They see the difference in brand. They see the difference in performance. The companies that make it do. The only ones in this room that don't see the difference are Terry Stewart and Kenneth Button.

Let's look at premium brands. What we've done is we've looked and set the average price at a hundred, and we've looked at the brands who assigned the groups. Michelin is 29 percent over the average, Goodrich 11, and Uniroyal 7 less. So you could see how the Michelin group prices their different brands of tires, similarly, the Bridgestone group, similarly the Goodyear group, and similarly Continental. All of them purchase brands or develop brands to compete in different segments.

Let's take a look at how the tires compete that the different price points. What we're seeing here is the price index we've talked about. From the tire dealer magazine we could see how much sales were for each of the brands, and each bar is a brand. And from Tire Rack and other sources, I've developed this index. And what you see is is that brands made by U.S. producers are at the higher end. Brands made by companies without U.S. production are at the lower end. And firms building plants in the United States are included, Toyo and Hankook and GTI, two are at the lower in and so that market will be supplied by U.S. production and one is in the middle segment.

Why are the products different? So, let's look at performance. This is from Goodyear and it shows the difference between a low-value added tire and all the components that go into a high-value added tire. These products are physically different. Now, the Chinese tires have high quality in the sense that they meet all the DOT requirements. They are safe tires, but in terms of performance, wet grip, dry grip, cornering, things like that that require very sophisticated technology that you see here they are not there yet. And that is why the prices are lower and why they are rated lower and why they're on the lowest tier and why BMW and Audi and Mercedes and Ford and GM in the United States will not look to them, although the prices are so much lower. They just won't go there.

Consumer Reports looks at the five most important brand and what do they see, Michelin, Continental, Goodyear, Pirelli, Hankook cooper, Nokian, which makes great snow tires. They're from Nokian, Finland, and Yokohama, but we see no Chinese brands there. That's what Consumer Reports is telling you about what brands make the best tires. Similarly, in every year Consumer Reports does a tire edition, usually in April, every single year with over a hundred tires each time. If tires were all the same, why bother? If tires didn't change that much, why do it every year? They're informing you of the differences even if the specs are similar in terms of speed rating the tires are very different.

And you look and they divided it up just like Mr. Mangola talked about between all these different classes of tires. The one thing to note is there's no Chinese tires here. Now, why is that? The U.S. recognizes -- Consumer Reports recognized that U.S. tires have better performance. They brought in some Chinese tires and they said Chinese tire brand don't have the oversight and some may not have the marketing foresight to design products well suited to the specific requirements of the U.S. producer.

Consumer Reports reviewed two Chinese brands out of 167 tires in nine market segments. These brands were not ranked highly. We will show you the report, but Commissioner Broadbent earlier mentioned Consumer Reports, yeah, if these were sand, you go pick up sand and you'd put it in a bucket and then it would be done. This is a highly differentiated product with lots of technology, with big investment, with all kinds of branding, with market segmentation, and everything you look at that the companies say, that the purchasers at the auto companies say, on Consumer Reports and all the other Guru publications say.

The OEM market is supplied near exclusively by domestic producers. I've discussed that. Domestic producers have now in the restructuring have converted to high-value added tires. Take a look at this slide from Goodyear. Its share is increasing significantly. That's the plan. That's where it's going. How about Cooper? Cooper is moving to high HDA tires as well. As Mr. Mangola said, the whole industry is racing to the top because that's where the markups are higher. That's where the money is and because that's where they can fill up their capacity most profitably.

How is this restructuring working? Consistent with the dramatic performance has turned North America from a turnaround story into a momentum story. Turnaround story, no injury. Momentum story, no threat. Here's the forecast from Goodyear itself. Operating income demonstrates the benefits of restructuring. All these expansions show the restructuring occurred and the new facilities show that as well.

What about prices, that's another factor. There's opposite of a cost price squeeze. While prices have fallen, costs have fallen further. That's a sign of health. There's no price suppression or depression when profits are increasing. Prices have fallen, but if costs are falling more quickly and profits are rising and gross profits are increasing that is a sign that there's no significant price depression or suppression or that would've had an affect. The new investments also point to the lack of injury in this industry and it's a strong indicator.

Finally, threat, the domestic industry is not vulnerable. The financials are great. The employment statistics are great. And because capacity is near the top we have very small fluctuations in shipments and in production. We saw that the domestic industry is not vulnerable. Notice the jobs created that's an underestimate. This is just from newer facilities. There is a 3,000 up to 4,000 new jobs.

Commissioner Williamson, the jobs increase is in the double digits. It's going to be 20 percent more workers in this industry. Threat usually means that the workers are going to lose their jobs. Here we have people breaking ground for new facilities. Are they threatened? What are the views of the producers? Reaffirming 2015, '16 targets, everything is looking swimmingly. How about demand? Toyo predicts increases. Michelin predicts increases and higher operating margins.

How about demand? OEM demand is increasing. It's like vehicle sales are going to remain high and replacement market is expected to increase. The average age of the years of car is increasing means more replacement tires. What about raw material costs? A big deal was made out of that. What are the forecasts? If you could predict the future of oil, you would be retired on a boat in the Caribbean right now. It seems like it's pretty stable. How about rubber costs, low. How about synthetic, we expect it to remain stable. Raw material costs are expected to remain low. Thank you very much.

MR. SCHUTZMAN: Madam Chairman, that completes Respondent's presentation. Thank you very much for your attention.

CHAIRMAN BROADBENT: We'll begin the questioning. Let's see. I guess this would be for Mr. Schutzman. What advantages do domestically sourced tires have that allow them to maintain the overall market share that they have in the OEM market?

MR. SCHUTZMAN: Commissioner Broadbent, I think your question was why do domestic producers have stronger position in OEM, if I understood it?

CHAIRMAN BROADBENT: Uh-huh.

MR. STOEL: I think just before I turn to Dennis, I'm going to just make one point, which is two of the companies that we talked about having new plants, Kumho and Hankook, information we provided to the Commission, they specifically cited having the fact that there's two major Korean car manufacturers, Kia and Honda here in the U.S., as reasons why they were building plants in the United States.

I think that shows you one of the key advantages. They want to be close and proximate to the industry itself. Let me give it to Dennis though.

MR. MANGOLA: So you know, if you're a General Motors or a Ford or Mercedes or BMW and building cars and vehicles in the U.S., what tire would you like to have on your car? I mean first of all, you want to have a tire that represents quality, which is going to be Michelin, Goodyear, Bridgestone, and Continental. Those four tires pretty well dominate the OE market.

There's a variety of reasons for that. If take a look at Bridgestone, they have the most retail outlets to service a car and a tire if there's a problem, and the OE manufacturers look at servicing the vehicle in case there is a problem with a tire in the market. They have the most retail outlets, the Firestone stores and the Bridgestone stores.

Goodyear also has about equally as many. Michelin has about the same amount of dealers in the market. So they're always looking for if you have a problem with your vehicle, an OE vehicle, where do you get your tire replaced? And so because they have the most dealers in the market, that's number one.

But number two really, the way they pick OE producers for tires is the ones that have the most technology. I mean the engineers inside Michelin and Bridgestone and Goodyear work very closely with the engineers of the car manufacturers. They design tires around the geometry of the front end and the suspension and all the different characteristics with the car.

So they have tires that go along with these different cars, the different characteristics, whether an SUV car, a high performance vehicle or a light truck. They're all engineered for that particular car. So if you have a brand new car, they ask you to replace it with the tires that came on it, because those tires were basically engineered specifically for that car.

And even though you can replace it with the same specs in the market, those tires have certain characteristics, tread characteristics and stuff like that, and name brand quality that's associated with their product. All those are elements and characteristics that they pick when they pick a new OE replacement.

CHAIRMAN BROADBENT: Okay. I remember Commissioner Johanson was asking about the warranty on the OEM tire. Is there generally a warranty on that tire?

MR. MANGOLA: Oh sure. There's a warranty on every OEM tire, and it's warrantied by the manufacturer, and you can get it warrantied either at the -- most car dealerships, you know, take care of the warranty. But there's dealers all over the United States, and that's one of the reasons why they would pick a Michelin tire or a Bridgestone or a Firestone or a Goodyear tire, because of the outlets, the tremendous amount of outlets there are in the U.S.

CHAIRMAN BROADBENT: Okay. If the panel could help me, there was some inconsistencies in the questionnaire responses related to the definition of branded tires versus private label. Could somebody give me definitions for those two?

MR. MANGOLA: Sure. So private label tires typically -- branded tires are tires that basically you heard of, all the brands that we're talking about, Michelin, Bridgestone, Firestone, Goodyear, Goodrich, Dunlop. All these brands are brands that basically everybody's heard of. Most of those tires at one point have been original equipment.

Most of those tires fall into the premium or the high value category, and the brands that you haven't heard of are the lesser brands that you -- that has lesser brand equity or brand recognition, typically sell for a lot less -- a lot less money, and have, from a technical standpoint, you know, tires that are not as technically built as the premium type cars. There's a lot of different technical characteristics that are different.

But non-branded tires typically are brands that fall into the budget categories, the economy tier and the value tier.

CHAIRMAN BROADBENT: Okay. Although Respondents claim that tiers in the PVLT tires market are well-established, the record seems to show that there is actually not a lot of precision or uniformity in how tiers are defined, and to the extent that they exist, they are changing.

How does this affect our analysis of competition in this market? How do you -- just a sec -- how do you respond to the Petitioners' assertions that major Chinese producers are producing high value-added tires, and that domestic producers produce private label tires as well associate brands?

MR. KAPLAN: Well, I'm sorry. The first part of the question again was?

CHAIRMAN BROADBENT: Well, just that the tiers aren't all that specific and you, you know, that's --

DR. KAPLAN: Right.

CHAIRMAN BROADBENT: And if had to sum up some of your --

DR. KAPLAN: I would say that the industry itself is -- has views itself in tiers, as you look at the press, but there's some movement. But if you look at the price points of the major producers, the fact that Michelin has three brands, you do get a differentiation.

So maybe we don't call it exact tiers, but there is a segmentation in the market, and for purposes of this investigation, and others could talk, the U.S. industry is at the upper end of that segmentation, and the Chinese industry is at the lower end.

So you know, the question of whether something is in Tier 4 or Tier 3 really doesn't matter that much, when a lot of our sales are in the higher tiers, and theirs are in the bottom within no -- no branding or unknown branding, or private label.

MR. MANGOLA: So maybe I can -- my name's Dennis Mangola, and let me maybe -- I don't know if you can turn to my -- page 22 on my presentation. But it gives you a pretty good idea about how the industry views it from a pricing and positioning standpoint. This is how we view it in the industry, in the retail and wholesale segment of the industry.

So you know, whether we call it Tier 1 or Tier 2, Tier 3 and Tier 4 or premium, high value, value or economy, we have to sort of lump them into a category. We do that based on a variety of reasons, and on my particular page 22 here on this slide here, it's a chart that we use frequently.

It really has to do with the value of the vehicle, and it really has to do with the declining value of the vehicle based on its age. So if you take a look at it, like I have down here from 2015 to 2011 falls into the premium category, historically if you have a brand new car, you're going to replace it, your tires on your car with the tires that came with it usually two times.

That's going to happen down to about 2011 in this particular case, and that what we -- that's what we consider the premium segment, and just for the sake of having a consistent method of communicating, we throw that into Tier 1. Then in Tier 2, if you go from 2011 to 2007, that's your high value.

You can apply brands to that when you're in manufacturing, and you want to position your product. This is where you spend your money from a marketing standpoint, as in the premium and the high value. So you're trying to build brand equity in these two here. You know in Tier 3 or the value tire, 2007 to 2004 are typically the value segments, because of the value of the car.

People that own vehicles that have a $2,000 value aren't going to spend $400 for a set of tires. I mean I have, you know, we're the largest retail group in the United States from a franchise standpoint. We talk about selling tires every day of the week, all across the country, and I can assure you, there's no way in the world you can sell a Chinese tire in this Tier 2 or in the high value or the premium tire segment. It just doesn't happen.

That's ridiculous. If I were to tell you that I can sell you a Wan Li** for $200 or a Michelin, logic's going to dictate you're going to take the Michelin. You're not going to take a Wan Li. So it just doesn't -- it just doesn't work that way, and a tire is not a tire it's not a tire, and so, you know, there's a significant difference in brand equity, and that's what drives these different tiers in these different categories.

MR. SCHUTZMAN: Commissioner Broadbent, I think the -- I think the real point is that the Chinese tires just do not compete in those top tiers, however you define them, by brand, by tier, and as we saw from previous testimony, those tiers or brands 1 and 2 occupy roughly 70 percent of the market. So the Chinese tires are just not present in that part of the market.

DR. KAPLAN: You could look at it three ways. You could look at it from pricing, as we did here and you'll see Michelin's at the top and there's the middle brand and there's the lower brand.

I encourage you to read Consumer Reports, which we'll send, and you could see by performance which tires land in which tier. When they talk about what the best brands of tires are, in the slide I put up previously, you saw that the best brands were Michelin and Goodyear.

So each of these ways of looking at it will sort the industry in a way that's sort of close. Is it perfect? Is it the same identical each time? No. But you're never going to find Michelin at the bottom and GTGI at the top. There's always going to be a big gap between the two.

CHAIRMAN BROADBENT: Okay. My time has expired. I apologize. Thank you very much. Vice Chairman Pinkert.

VICE CHAIRMAN PINKERT: Thank you, Madam Chairman, and I thank all of you for being here and being willing to help us understand these issues. Is the tire market in the United States today more segmented than it was when we looked at it during the 421 investigation?

DR. KAPLAN: Yeah. The slides I showed showed how both Goodyear and Cooper are trying to move up to a higher percentage of high value-added tires.

I think part of what the restructuring was, the successful restructuring was was investment and to be able to produce those high end tires, and also the relocation of facilities or not relocation, but creation of new facilities in the United States by Toyo and Hankook, to supply the U.S. OEM market. So from my perspective, I see a movement toward the higher value-added tires. But --

MR. MANGOLA: Yeah. From a segmentation

standpoint, it's changed significantly. It's starting to evolve. It has evolved from 2008-2009 until now. Original equipment has dictated an awful lot of this, you know. Everything is -- a lot of stuff gone more towards the high performance segment.

Back in 2009, there was 13, 14, 15, 16 inch tires, some 17 inch tires, and 18 and 19 and 20 inch tires wasn't really very popular at all, and it certainly wasn't OE. So what's changed in the market is the smaller rim diameters have gone away, and consequently some of the older factories that would build these older tires, that were really completely outdated, had to go away too, and new factories, new methods of building tires have come up.

Because they're building different types of products. They're building more performance products. The SUV market and the light truck market has gone crazy. As you know, the Ford F-150 has been the most popular car in the United States forever now. It's gone on 12 or 13 years. So in the aftermarket, this is a whole different game now compared to what it was then.

There's more 18 inch tires, more 20 inch tires out in the market. It takes a longer time to build those tires. It takes a lot more technology in building those tires. So it's gotten more segmented because of UHV, because of SUVs, and because of touring coupes and touring sedans, high performance sedans.

Everybody, whether you're a Cadillac or a Lexus or a BMW or Mercedes, every one of these manufacturers are making performance vehicles in this segment. So yeah, it's gotten much more segmented and it's much different.

VICE CHAIRMAN PINKERT: Thank you. For the post-hearing Dr. Kaplan, if you could take that chart on page 42 and extend it back in time to the Period of Investigation from the 421, I think that would be helpful.

DR. KAPLAN: I'll try. This is a chart that was produced by Goodyear in a slide show. I didn't construct it. So to the extent that information's available, I will complete it backwards.

VICE CHAIRMAN PINKERT: Thank you. Now similarly, you I'm sure noted the testimony about the loss of domestic industry market share from 2012 to 2014. If we looked at that data over a longer stretch of time, what will we observe? Would we observe a blip from 2012 to 2014, or is there a steady progression going toward declining domestic industry market share? What will we see if we did that?

DR. KAPLAN: I'll look at the data, but my understanding is that tire factories are both operated at high levels of capacity, and that's what you try to do. So what we'd see on market share is a lot of that's going to be determined by how much capacity is in place.

The U.S. industry cannot supply the whole market. So if like over the POI, they're operating at what I said and Mr. Rothstein said, at very high levels of capacity and demand increases with the existing facilities, the U.S. industry's going to lose market share, because they can't make any more.

That's why there's no quantity effect, because we're pushing the limits of capacity utilization. What we will see now is probably an increase in domestic industry market share, because we're building new factories. But it's not like other cases where you see oh, the domestic industry's operating at 50 percent and imports increased and you said well, the U.S. industry could have made all that stuff.

That's kind of not the case here. With them making more and more profit each year, if they could, they would have made more tires. But they can't make much more, and so increased demand is going to lower U.S. market share, because capacity's limited. As new capacity comes online, the U.S. industry will pick up share.

But we're always going to be a situation where we needs imports, and I'll let someone from the industry talk about this in more --

MR. MANGOLA: Yeah. Well you know, from a market share standpoint, I think there's so many different elements you have to take into consideration, you know. If you talk to the big three, Michelin, Goodyear and Bridgestone, they're not really concerned about market share because they're doing such a fabulous job there.

But I think we need to understand how the OE market has an impact on all this. Back in 2009 versus 2014, we sold 30 million more tires in the OE market in the United States in 2014 than we did in 2009. 30 million more. That's a significant increase, and the majority of those are major brand tires. Not majority; all of them are major brand tires. None of them are Chinese tires.

And you know, I mean the fact of the matter is when you have that kind of an increase, you're going to have a significant follow through in the after-market in the next three to four years. It's not in six months; it's three to four years, and you know, it's really a very, very strong pull-through. So a lot of the capacity went to OE, just so you know.

MR. SZAMOSSZEGI: Commissioner Pinkert, a quick, quick. This is Andrew Szamosszegi from Capital Trade. Just a quick response to your question. If you went back in time, you would have seen a higher market share and less profitability per tire. Now you're in a situation where there is a lower market share but a higher profitability per tire, because the industry was structured during the 421 safeguard period.

VICE CHAIRMAN PINKERT: So let me see if I understand what you're saying and what the Petitioners were saying this morning. Maybe it's the same thing; it's just a difference of interpretation. But during the period in which there was 421 relief, was the domestic industry enjoying a higher market share in the United States, and then also, during the period after the preliminary determination in this proceeding, did the domestic industry enjoy a higher share of the market in the market in the United States?

MR. SZAMOSSZEGI: During the relief period, it was a period of deep recession. Imports in general left the market and the share may have improved somewhat during that period. But that's not unusual in a time of great recession and economic stress.

Since that time, the share in 2011 may have been -- may have been somewhat higher. But again, at that time the industry was just restructuring and the demand per the -- OEM demand was a lot lower at that time. So now OEM demand has increased, and the profitability has increased as well, because that has created demand not only for OEM tires but as tires get changed and the replacement, the replacement market is turning to more expensive replacement tires for the first tire replacement.

VICE CHAIRMAN PINKERT: Dr. Kaplan.

DR. KAPLAN: In '09, '10 and '11, there were some exits of plants from the U.S. industry. So share of imports would have increased. They have remained with the current capacity and additions through investments during the POI, and then U.S. capacity is expected to increase in the next several years from new facilities.

So it really is the number of plants operating that is going to determine the U.S. share relative to the imports supplying the remainder of demand in the market. But I think it's really inapposite to compare the restructuring period with the POI. The restructuring period was just that. Investments were made and facilities that were outdated were closed.

Over the POI, everyone's moved to higher value tires and you've seen this huge increase in profitability. Now, the next step is new facilities being built, and you see an increase in U.S. capacity, an increase in the number of U.S. workers, and both Michelin and Goodyear and Cooper are forecasting an increase in profits.

So that's how the market share is moved, and that's how the finances have moved, based on the restructuring that was allowed under the previous investigation.

VICE CHAIRMAN PINKERT: Mr. Schutzman, do you want cap that off?

MR. SCHUTZMAN: I'll cap it off, Commissioner Pinkert. So the position is that the period beginning with the 421 was a completely different animal than the POI. The situations were different, the market was different, the economy certainly was different, and you just can't compare the two, because the conditions were so different.

VICE CHAIRMAN PINKERT: Thank you. Thank you Madam Chairman.

CHAIRMAN BROADBENT: Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you. I want to thank all of the businesses for coming this afternoon and presenting their testimony. Mr. Stoel, I was wondering do you consider the workers part of the domestic industry? Oh I'm sorry. It's Steel? I'm sorry. I can't see. Mr. Stoel, sorry.

MR. STOEL: Thank you, Commissioner. Jonathan Stoel for the record. I think you heard a lot this morning from Mr. Stewart, and I think I would say we understand the legal question, and I think when I hear you questioning the standing of the union to bring this case, I think what we're -- as you heard a lot this morning, I think the question is what's the perception of the industry and what perceptions should you consider?

I think what we see, as we've said today, is that actually from the economic indicators, labor force is actually doing quite well. Higher wages, higher earnings. In terms of the overall companies, unfortunately the management elected not to be here for a variety of reasons, although I'll point out Mr. Stewart seemed to be implying there was intimidation and things like that.

I point out that actually Bridgestone was a Petitioner in a case against China in the OTR case. So when the companies want to be active in these cases, they're certainly capable and able to do that. So I think it's a question of perspectives. We're obviously here to bring one perspective of industry and you heard everyone this morning.

COMMISSIONER WILLIAMSON: Okay. Mr. Marshak.

MR. MARSHAK: Yeah. I just wanted to say something about the employees definitely have a stake in the industry. They have a stake in their jobs. But employees go on strike, and when employees go on strike, do they represent the industry at that particular point in time? When you look at an industry, you're looking at the industry. You're looking at the shareholders, you're looking at the managers, you're looking at the CEO of the industry, and what's good for the industry.

A lot of it's for the employees, but not everything. Employment is one factor you look at. You look at profitability --

COMMISSIONER WILLIAMSON: I understand the factors we look at. I'm just ^^^^ he made the statement a couple of times about, you know, no member of the domestic industry was here. And the reason why I raise the question is that just looking at the C table, and you look at the overall, how much consumption has gone up in the U.S., and then you look at the numbers for employment growth and ** growth and all, and it's quite a big difference.

And even if you look at the sales or shipments to the domestic industry, none of those have gone up as much the consumption has gone up. Mr. Kaplan.

DR. KAPLAN: Thank you. Yeah, of course the employees are part of the industry, and employees need a factory to work in, and the factories and the capacity have remained relatively constant throughout the POI, and the employees have. Now we're on the factories.

The losses they were talking about occurred before the POI in general. There might be specific losses at a specific plant, but if you look at the data, there were offsetting gains at another plant. So you need capacity for the employment, the existing employees we've seen now work more hours. They get paid more, they make more annually.

COMMISSIONER WILLIAMSON: But not significantly more. Not compared to the increase in overall consumption.

DR. KAPLAN: And the reason is that the U.S. industry couldn't increase its share of consumption, because they were operating near full capacity. So if demands goes up and consumption rises, it's got to come from abroad, because there's no capacity here to make it.

What's changing is three new plants are being built. The labor force is going to increase by over 20 percent, and the employees knowing, not speculating, the employees are going to do very well over the next several years.

COMMISSIONER WILLIAMSON: Post-hearing, maybe you and the Petitioners can address this question of how quickly can the industry ramp up, because I heard this morning's testimony saying that it's very quickly for them to increase capacity, and that the capacity constraints were not that significant.

So I'm hearing just the opposite. So if you all can try to reconcile that post-hearing.

MR. ROTHSTEIN: Commission, if I might address that?

COMMISSIONER WILLIAMSON: Yeah.

MR. ROTHSTEIN: I would just make one comment about the point of ramp up where a comment was made that the day after relief came, November, December last year, shifts were ramped up, five new tire building machines were put on line. You know, the machines that the U.S. industry uses that all of the top tier or the top brand of manufacturers use are machines that are tens of millions of dollars a machine. They have 12-month lead times typically. So to say that you can flip a switch and ramp up production is erroneous. To think that the day after relief comes on the companies make a decision to flip up and ramp up production is difficult to accept when we know that there are very long lead times. These decisions that just the capital allocation process in a big company takes months and months.

COMMISSIONER WILLIAMSON: That has nothing to do with how much idle capacity you have or how many idle machines -- or which machines you're using and labor?

MR. ROTHSTEIN: Yes, sir, you're absolutely right. But as we've seen the data from industry shows that they are effectively at full capacity; 91 percent is effectively full capacity. Executives saying, we are at full capacity. Customers -- you know, the folks who buy and sell tires into the trade, into the channel have difficulty getting their orders filled from the U.S. producers because they are at capacity. There's not slack in this system as evidenced by the comments from management of these various companies.

COMMISSIONER WILLIAMSON: Okay. I don't think

I've seen any data on lead times. I do know in the purchaser questionnaires they talked about, you know, they can get product quicker from the domestic industry in those reviews. I don't remember seeing --

[SIMULTANEOUS CONVERSATION]

MR. ROTHSTEIN: See, when I'm talking about lead -- I'm talking about manufacturing equipment. So lead time to actually increase -- when they discuss equipment being dropped in and ramped up in the facilities, this is not adding a shift, this is adding capacity, adding equipment or retooling to meet evolving demands. Very different comments than a customer asking for tires to be delivered.

COMMISSIONER WILLIAMSON: Okay. What you can shed on this post-hearing on both sides would be helpful.

MR. KAPLAN: Commissioner, if you look at what the -- (Off microphone.)

If you look at what Petitioners did in their brief, they -- their increases in employment are all based on operating at capacity levels that are completely unrealistic. I mean, if pigs could fly, well, they'd operate at 108.4 percent. You've seen the industry over years they've never operated much above, you know, the low 90's, maybe there was one year. That's effectively full capacity. So this is in dreamland. This is capacity increasing to -- production increasing to levels where the factories blow up. There's just not enough equipment. There's not enough machinery. They're operating 24/7, 52 weeks a year or 50 weeks a year and operating at like in the low 90's and they're forecast to keep market share have them operating at over 100 percent. So it's incredibly unrealistic.

So I'm --

COMMISSIONER WILLIAMSON: I did question that 28,000 whatever it was in the corner this morning.

MR. KAPLAN: You did. And it's -- it's -- you know what it's like, yeah, if pigs could fly, we'll operate at 108.4 and we'll all get rich.

COMMISSIONER WILLIAMSON: Okay. But that's --

[SIMULTANEOUS CONVERSATION]

MR. KAPLAN: That's your assumption that you could -- what if it was 200 percent? I mean, nothing stopped it --

COMMISSIONER WILLIAMSON: Okay. Well, let's --

(Laughter.)

COMMISSIONER WILLIAMSON: Let's not go off to never, never land.

MR. SCHUTZMAN: Commissioner Williamson --

COMMISSIONER WILLIAMSON: Yes.

MR. SCHUTZMAN: -- we will address that issue in our post-hearing brief.

COMMISSIONER WILLIAMSON: Thank you.

MR. SCHUTZMAN: You're welcome.

COMMISSIONER WILLIAMSON: Good. Let's see, I do have time for another question. I'm sorry. Okay. Change respondents on page 33 and 34, their brief contends that the declining U.S. shipments to replace what market can be attributed to the decisions of producers to shift sourcing from domestic production to nonsubjects. How should we reconcile that assertion with the fact that non-subject imports lost market share during the period of investigation?

MR. MARSHAK: This is Ned Marshak.

COMMISSIONER WILLIAMSON: Yes.

MR. MARSHAK: When you look at the confidential information, and you look at the non-subject imports of the big domestic producers you're going to see a tremendous amount of tires coming in from the domestic producers importing non-subject merchandise into the United States.

Also the base of the non-subject imports is -- geez, it's much, much higher than the Chinese imports. There's a tremendous quantity of non-subject imports coming into the country and the non-subject imports are coming in at prices that are somewhere in between the very high-priced tires that are made in the United States and the lower-priced tires that are coming in from China.

[SIMULTANEOUS CONVERSATION]

COMMISSIONER WILLIAMSON: When did the non-subject lose market share?

MR. MARSHAK: Why would they --

COMMISSIONER WILLIAMSON: It wasn't the domestic industry.

[SIMULTANEOUS CONVERSATION]

MR. MARSHAK: One possible reason they would lose market share that people were buying lower-priced Chinese tires as their cars are on the road for a longer period of time. That particular low-end market segment may be increasing. It's something we could address more in our post-hearing brief but there are a lot of reasons why the Chinese are going to take more of the market share, the overall market share because they're at the low end of the market and cars are on the road for a longer period of time and consumers don't have the money to buy their second tire or their third tire for their 11-year-old car, and that could be one possibility.

COMMISSIONER WILLIAMSON: Yeah. Given that, if you think about some of the countries of the non-subject shipping may be comparable levels of development. But, okay, thank you for the responses.

Thank you.

CHAIR BROADBENT: Commission Johanson?

COMMISSIONER JOHANSON: Thank you, Chairman Broadbent. And I'm going to turn just very quickly to the issue of OEM tires and warranties since that's something that --

(Laughter.)

COMMISSIONER JOHANSON: -- I have an interest in.

I spoke this morning on how I was told following the blow out of a tire on I-95 in Connecticut that my OEM tire was not covered by warranty. From what I recall, and this was in 2007, I was told that this was a case as my tire was a performance tire. My experience conforms with the staff report, but not with the testimony of Mr. Mangola this afternoon and Mr. Johnson this morning.

Is it possible that OEM performance tires are commonly not covered by warranty or was I unfortunately taken advantage of?

(Laughter.)

MR. LIMA: I think that might be the case. Gus Lima here. But if you had a road hazard that may not be covered by the warranty. But I would go back and talk to that dealer and tell him you were here today --

CHAIR BROADBENT: That's a long drive.

MR. LIMA: And you have to talk to him again.

COMMISSIONER JOHANSON: It's been eight years. So I think I'll let it pass.

MR. LIMA: Yeah.

COMMISSIONER JOHANSON: But thank you for clarifying that. Sorry to take time on that, but I just had to find out since I have a room of experts in the room or a group of experts in the room.

Okay. Moving on to a non-personal question. In the preliminary determination the Commission found that the expiration of the safeguard duties resulted in greater underselling margins. If the underselling is simply a result of product differentiation as you contend, why did the underselling margins increase significantly at the expiration of the safeguards?

Mr. Kaplan?

MR. KAPLAN: This could be an issue of a product mix as well. Because the way the Commission collected data was on a company basis. And you're not sure if the -- which tier tire is increasing within the specification of the tire. So as you move to more higher value added tires, more OEM tires, and OEM replacements of first-tier tires and you're comparing them to Chinese non-branded tires, you can get a product mix issue that could do that.

So that's just one possible explanation and the data won't allow you to sort that out the way it's been collected by the Commission.

I'll see if I can look at public data and help with that.

COMMISSIONER JOHANSON: All right. Thank you, Mr. Kaplan, I appreciate your answer.

To the extent that you contend that the increases in subject imports are explained by seasonality and normal business cycles, how do you respond to the Petitioners' assertions that subject imports increased at a greater rate than non-subject imports during the same time period?

[PAUSE]

COMMISSIONER JOHANSON: And to help you out, this is at pages 11 and 12 of the Petitioners' pre-hearing brief.

MR. SZAMOSSZEGI: Hi, this is Andrew Szamosszegi. We will respond more post-hearing. But, I mean, once the duties were eliminated then, you know, the prices of the Chinese tries naturally declined because they no longer had duties on them. And so that allowed them to increase at a more rapid rate and get towards the share that they had achieved prior to the 421.

COMMISSIONER JOHANSON: Yes, Mr. Rothstein, did you want to add statement?

MR. ROTHSTEIN: Yeah. I just want to add and this somewhat addresses the previous discussion. If you look at the U.S. producers during the POI as being effectively at full capacity, they, I would say, wisely pushed up towards the higher end of the market as evidenced throughout the presentations. Where the profit is higher it makes more sense to compete and they can carve out a better niche and effectively capitalize on their brand equity. What that would do, given their constraints on capacity is leave a bigger gap at the low end of the market and the value segment, the economy segment and there at that segment is where Chinese imports obviously fair better against third-country tires that are lower-brand equity.

COMMISSIONER JOHANSON: That's consistent with the increasing profits seen by the industry. And, you know, there's a circle that needs to be squared by Petitioners. Profits are going up while imports are going up. And if these things are pure commodities, that's just not happening. So, that is evidence that there's something going on with respect to the types of products and the profitability. And what you're hearing from witness after witness here is that the U.S. industry is moving the higher, value-added, higher profit segments, in higher quantities and that it doesn't compete with the Chinese product closely and therefore while Chinese imports are increasing, profitability is increasing for the U.S. producers. That's consistent with product attenuation, it's consistent with the restructuring, it's consistent with the lack of injury, it's consistent with capacity being very high.

COMMISSIONER JOHANSON: Thanks for your

responses. On page 47 of the importers' brief, we see examples of three well-known tire trademarks. I think we are all familiar with them. Are you all aware if there are any Chinese tire producers who are investing heavily in advertising in the U.S. market? For example, will we someday soon see a Chinese tire company doing an advertisement at the Super Bowl or the World Series?

MR. MANGOLA: No. I don't -- I don't think that's feasible. You know, most of the Chinese products are -- because of the compression in pricing from the well-known brands, down to a brand that doesn't have very much brand recognition, it's going to be very, very, very difficult for any brand to enter this market and spend -- it's not just money. It's going to take a tremendous amount of time. It's going to take an OE position to start to get themselves into a position where they can start to really jump up into a high value or a premium line so they can get enough recovery to have an advertising budget.

Right now they have a very small advertising budget. They may advertise in the trade magazines here and there a little bit, but for the most part they can't stay competitive if they raise their price and if they increase their advertising budget to try to stay competitive. It's just not very realistic to think that they're going to enter into this market in the foreseeable near future.

MR. LIMA: Gus Lima. My experience in China is that the Chinese opened their markets and they don't have a tradition of marketing that the west has. We've been marketing for, I don't know, a thousand years or more. And they have learned by trial and error how to sell products. It was a completely closed dichotomy and now they came into a market that they got lost in and they're trying to find their way out. So they're learning things by trial and error. Some people have gone to China from Goodyear, Goodyear employees and they're trying to help them. But the whole concept of marketing, branding is new to them. And they're beginning to understand that branding, marketing, knowledge and investment is an important way for the future to erase the price on your product.

Now, in the United States a union member said that a tire is round, it's black, and it's got air. Well, no. Number one, tires are beautiful. It's one of the most beautiful things that I've seen in my life.

Number two is a highly technologically effective piece of industry that takes us everywhere that we go, and there's billions of dollars invested in the technology to move that product higher.

People talk about silica, silica is not just to reduce the wear, the road resistance, but it's also good for the ecology. It's preferable to have sand dissolve from a tire than carbon black. So all these new technological changes in tires that the west is leading have not gotten to China yet because they're still -- their industry in my estimation is at least seven years behind in technology which does not mean that they do not make a safe and good tire, it just means that they don't make a tire that somebody that buys a Corvette or a Mustang or BMW, they're not going to buy that tire and put on there.

COMMISSIONER JOHANSON: Thank you, Mr. Lima. And Mr. Kaplan, if you wanted to respond in like 30 seconds, if you can do that. If not --

MR. KAPLAN: I just wanted to say, the Commission has some experience. They had an ESPR case that went into rubber. There was a polyester case that went into tires, there was a Kevlar case that went into tires, it was a 337. It's a very sophisticated product and technology is advancing and the investments are enormous and it would take a lot of money for the Chinese to move up.

COMMISSIONER JOHANSON: All right. Thank you for your responses.

MR. ROTHSTEIN: May I, Madam Chairman? May I make one last comment on this point?

Just very quickly and I'll relate this back to China actually, even if a Chinese manufacturer came here and wrote a check for a Super Bowl ad, they would not get the boost and market share, it would not result in a boom to them. It would be a waste of money, quite frankly, because you look at brands, they take decades to build. And you look at the same thing, the same brands, Michelin, Goodyear, Bridgestone in China and other markets where they've spend hundreds of millions of dollars over decades to build their brands and gain leading positions in those markets just like they've done here.

COMMISSIONER JOHANSON: All right. Thank you, Mr. Rothstein. My time has long expired.

CHAIR BROADBENT: Commissioner Kieff.

COMMISSIONER KIEFF: Thank you, Madam Chairman and I join my colleagues in thanking the panelists and we greatly appreciate to our witness from China, hello (in Chinese). And thank you, (in Chinese) for coming.

Just if I could, a very, very brief answer from Mr. Mangola. This may be simply a vocabulary question or a definitional question, I hope.

Hankook, Chinese, Korean, both?

MR. MANGOLA: It's Korean that produces the majority of their tires in Korea and some in China.

COMMISSIONER KIEFF: Okay. So when discussed by the panels today, should we think about it as -- how should we think about it?

MR. MANGOLA: Well, Hankook, like many other brands has a pretty good market share in the U.S. And they've made it clear that they're going to build a factory here for a variety of reasons. And Hankook has been here for quite some time. So, yeah, I think Hankook should be viewed as not a Chinese tire manufacturer because the majority of the Chinese Hankook tires are meant to be sold in China.

COMMISSIONER KIEFF: Ten seconds, I'm sure, Dr. Kaplan, you'll have lots to contribute -- Mr. Kaplan to many of the rest if you think I really don't yet understand, you're welcome to add, but otherwise. Okay.

So, let me then ask, I think, the lawyers some questions that are the flipside of the questions explored this morning with your colleagues on the other side.

So, what -- there was an immense amount of detail offered by your witnesses. What if the other side were to say, great, and irrelevant to their argument? What if they -- do they lose their case if the concede almost all of the details of what your witnesses spend of their time telling us about variation in tiers, types, styles, whatever you want to call them?

Do they lose if they agree with those facts?

MR. SCHUTZMAN: Commissioner Kieff, Max Schutzman. Yes, they lose, but they lose based upon the record in this case. They lose based upon the facts.

COMMISSIONER KIEFF: Because I think I heard them say the opposite. I think they said, there are lots of differences and yes, some people buy high-end, some people buy low-end, but there are ripple effects across the market. And we are supposed to assess injury and causation and they're arguing injury on causation, not the lack of differences. So the presence of the differences I think they would say is not fatal to their case. Maybe it undermines some of the things they said. It was a long discussion. I'll have to look back, comb back through the record to do the point-for-point comparison. But if their big picture position is we're willing to concede many of the facts, are you sure they lose, or do you think if they concede the facts --

MR. SCHUTZMAN: We're sure they lose, Commissioner Kieff, because if --

COMMISSIONER KIEFF: What would they have to do to win if they concede the facts?

MR. SCHUTZMAN: The facts are --

[SIMULTANEOUS CONVERSATION]

COMMISSIONER KIEFF: Would the law have to be meaningfully different?

MR. SCHUTZMAN: Profits are up. Profits in the industry are up.

COMMISSIONER KIEFF: So if a patient gets better at the hospital and breaks his leg walking out, he's not injured?

MR. STOEL: Commissioner Kieff, if I could? Jonathan Stoel for the record. I think part of this has to do with what I regret to say was some mischaracterization of the record this morning. When I look at the record, I see stable shipments across the POI. I see stable production across the POI. I see stable capacity utilization across the POI. I see relatively stable pricing with fall-in costs.

COMMISSIONER KIEFF: I'm sorry. I'm just acutely aware that you've spent a lot of time through your witnesses explaining a lot of facts. And I apologize in part because of the shortness of our time constraints, but in part because of my own inability with my brain to process information when rattled off quickly. 108 percent, I think has been exceeded today. So, kudos to all of you for presenting such a rich case. But what I'm trying to understand is not how many things you can say, but why they matter. Let's assume the other side's businesses are doing well. I think let's treat that as a given. Why legally does that matter?

MR. STOEL: Because as I understand, Commissioners, the Petitioners is that case and we say a lot of bad things about our opposition, but they did a nice job in presenting it. Their case is basically that Chinese imports have come in and that's caused harm. And if the U.S. industry could do something differently, it would have taken that market share back or increased, but the facts are that they can't.

The reason why we win is because as Dr. Kaplan's explained, our witnesses explained, your record shows, the industry is operating as strongly and as best that it can. And maybe when these new factories come in and they can manufacture more, there's an opportunity that perhaps, you know, if China's market share keeps going up that that will somehow be some harm.

When a U.S. industry is operating as best it can, 13 percent profit, high capacity utilization, there can be no injury. And fortunately for us, not only can there be no injury today, but there can't be injury in the foreseeable future either. And that's where I think we win even if you --

COMMISSIONER KIEFF: Sir, let me make sure I'm following you then. Are you saying that their success has occurred independent of the unfairly traded imports, we're to presume they're unfairly traded because they've come from -- the record comes from Commerce with that decision baked in. Are we to assume that their success is happening independent of the unfairly traded imports because of the unfairly traded imports? Or is there some other possible connection I'm leaving off the table?

Because I think their argument is, the industry is doing okay. They might agree with many of your characterizations, but I think the crux of their argument is, it would be doing much better but for the unfairly traded imports.

MR. SCHUTZMAN: How could it do -- Max Shutzman. How could it do much better than operating at peak capacity?

COMMISSIONER KIEFF: Well, you've done such a wonderful job already today, each side in presenting a wealth of information at what I think is, if fairly counted, more than 100 percent of the throughput typically presented at a hearing. Bravo, but every one of you did that. So I think it's quite possible -- Scottie on the Enterprise can do more than 100 percent. Each of you has done more that 100 percent. We went through lunch that was -- you got out of your government today more than 100 percent. It all depends on baseline.

MR. MANGOLA: You know, in all of my conversations with all of the manufacturers, quite frequently, all of them say the same thing. They have absolutely no desire to manufacture tires in this segment where the Chinese are importing tires. Not just the Chinese, but import tires are coming in. They have no desire, zero to manufacture tires. Now, that's --

COMMISSIONER KIEFF: That's a profound statement. And --

MR. MANGOLA: And I want to make one more statement. That is really profound.

COMMISSIONER KIEFF: Let me just interject for a moment because --

MR. MANGOLA: Okay. Okay.

COMMISSIONER KIEFF: -- again, recognizing the limits that we all have --

MR. MANGOLA: Sure.

COMMISSIONER KIEFF: Please, I welcome both sides to provide evidence that will corroborate the position you have just taken. That in the post-hearing we will welcome that.

For example, if you could show that the domestic industry would not be open to added capital investment to expand capacity to enter that segment of the market I'd love to see it.

If the other side can provide evidence that they would be open to it, we'd love to see that too. We appreciate -- you're saying something significant. And we welcome more information on that.

MR. MANGOLA: And just so you know, in China none of the major manufacturers are interested in building tires in China, and they do a lot of it, Bridgestone, Goodyear, Michelin, all of those build tires in China to service the OE market in China. And it's interesting to note that the OE market in China is very similar to ours. Audi is number one and Buick is number two there. And it's interesting to note that none of the major manufacturers even in China want to build tires to service the entry level market, the value and budget or economy market, even in China.

COMMISSIONER KIEFF: So let me just ask a very, very brief, again, unfortunately this round is up. I just don't want to lose the train of thought. Are you saying then that we as a factual prediction should not anticipate increased production in this segment of the market coming from China?

MR. MANGOLA: We should not anticipate -- unless you have a 50 percent tariff or a 60 percent tariff on all tires coming into the United States, we should not anticipate by any stretch of the imagination that a U.S. producer is going to produce tires in this economy, fourth-tier section of the industry.

MR. SCHUTZMAN: Commissioner Kieff, I'm sorry. In my opening statement I quoted from a Goodyear executive. It appears in our brief. Goodyear states, "We do not want to play in that market, and we don't play in that market."

COMMISSIONER KIEFF: I mean, I'm just very mindful that we're already a little over, so on the next round let me just ask this question now, you can think about it on the next round to answer it. Are you then saying that the factual positions articulated this morning don't represent accurate predictions of what would happen in the domestic industry? They're inaccurate in what they think will happen.

Okay. So anyway, thank you so much.

CHAIR BROADBENT: Okay. Commissioner Schmidtlein.

COMMISSIONER SCHMIDTLEIN: Okay. Thank you very much. Thank you to all the witnesses for continuing to be with us this afternoon at 4:45.

So I guess I want to understand the attenuated competition argument. And I was trying to think of how I would best ask this question. But, when I look at the staff report, right, and I see we have six pricing products, we have 100 percent underselling in the comparisons. When I look at the questionnaire data, the chart that talks about U.S. producers, importers, purchasers and what do they think that Chinese and U.S. products are interchangeable. And you have the vast majority saying always or frequently. Few that say sometimes, right.

I look at the 421 decision from 2009 where the attenuated competition arguments were made there where you had underselling in six pricing products. You had margins of underselling increasing as the period went on. So if I wanted to write a negative in this case, how would I distinguish -- what would I say about all of those things?

In other words, what has changed in terms -- and I understand that you're saying that the U.S. doesn't want to produce in tier four, as you call it. But can you walk me through what it is that's changed in that -- or would I just have to reject the decision that was made in '09 or the basis of that decision?

MR. KAPLAN: I would ask the question how increasing imports, subject imports, are consistent with rising profits per tire and in the industry as a whole if the products were highly substitutable and the underselling margins were that large. There are two things the underselling margins could do. It could tell you that the products are very similar and the price that's higher is either going to lose share and they are going to have to drop it really quickly.

These products are the same, you can't have that big price difference last for a while and the top price has to fall.

COMMISSIONER SCHMIDTLEIN: Well let me interrupt you, so how do I account for the drop in raw material cost, because that makes sense to me okay so imports are going up, profits are going up but raw material costs are dropping quite substantially so why wouldn't it make sense that profits wouldn't increase?

MR. KAPLAN: Because if the products were closely related the prices would fall as fast or faster than the inputs.

COMMISSIONER SCHMIDTLEIN: But the Commission didn't rely on that in '09 right we had the same scenario where you had underselling margins that were -- the gap was widening and the Commission didn't take that and say, "Oh look, that's evidence that this is attenuated competition," right? It's the same thing.

MR. KAPLAN: Were the profits rising at the time?

MR. MARSHAK: This is Ned Marshak I think, on page 27 of our Brief you can see a chart very simply showing the differences in the period of investigation before the 421 in this period of investigation. And you look at for example the domestic AUV's in that period were from $48.00 a unit to $70.00 a unit. The best AUV's in this period are $96.00 a unit, you have -- it's a different animal that period of time domestic product was selling the much lower products.

COMMISSIONER SCHMIDTLEIN: I guess I'm asking a more principled question though. What I am trying to get at is the basis for the argument that there is attenuated competition. Aside from the fact that the Michelin man has been around forever and the Goodyear Blimp has been here forever, I mean they were here in 2009 as well right. So there I know that when you look at the 2009 decision the Commission did send out additional questionnaires to get information on I think the quantities in these perceived different tiers and found that there was a presence right despite all of the arguments that there wasn't.

But this argument that like we should take an underselling margin and use that as a basis to say well it must be attenuated competition because otherwise you would see the prices drop in response to the price of the Chinese product dropping and you had that in '09 and the Commission didn't use that as evidence of attenuation, so why should we use it here?

MR. MARSHAK: One there is tremendous different circumstances of sale, two you have a tremendous amount of precedent in other cases. When you have marked development in underselling that is so incredibly substantial throughout the POI from all of the products on the Commission case after case which we cited and that shows that there is attenuation. There's something about a margin of underselling in all of your product pricing comparisons that if they are always so incredibly different then you have large quantities at the high level and large quantities at the low level and the quantities aren't being affected, you have to be talking about different markets.

You have to be talking about different animals otherwise these prices at the high level just couldn't survive. There has to be something going on to make this tremendous difference where the very, very high priced products, the profits are going up, the companies are selling to high priced products and they are not losing anything to the low priced products. You still have tremendous quantities at high prices and you again look at the precedent there four, five cases that we cite to you where you have very, very similar circumstances on this tremendous difference in pricing and which shows which is the proof, the evidence of the attenuated competition, the differences in pricing at the high levels without substantial changes of quantities in your pricing.

COMMISSIONER SCHMIDTLEIN: And you think these cases were all after '09?

MR. MARSHAK: Sorry?

COMMISSIONER SCHMIDTLEIN: These cases were after '09?

MR. MARSHAK: The cases are all over the place. You know they are before '09, they are after '09, these are your -- you know dumping cases where you have had similar circumstances in other products over the years, very similar facts. And your '09 case is really different facts because you have much lower U.S. prices in '09. The difference in prices between '09 and now are just -- U.S. prices --

COMMISSIONER SCHMIDTLEIN: And you are talking about AUV prices?

MR. MARSHAK: In the tire, yeah.

COMMISSIONER SCHMIDTLEIN: AUV it's not the price --

MR. MARSHAK: We have to go look at the price.

COMMISSIONER SCHMIDTLEIN: Right.

MR. MARSHAK: If it's public, I don't know it may have been confidential. There's a tremendous difference, because it will restructure with the industry.

COMMISSIONER SCHMIDTLEIN: Doctor Kaplan?

MR. KAPLAN: I think that's a good point that was pointed out by both of you that that's a change that higher average prices, especially with falling costs tells you something about the quality and the tier and the brand and the performance of the products relative to the previous case so I think that's yet another piece of evidence that the products are differentiated and more so than the earlier case, along with all of the statements by the witnesses of everyone moving to the high value segment.

Everyone wanting to supply the high value segment because the profitability is being on it, the increase in technology which is more costly which now creates a larger share of the tires that are in the market. And what it goes to really is the success of the restructuring, that's what Goodyear said, we restructured and now we are this different company. We have higher prices, we are in the HVA, we are on a different tier and let the data speak to that, the witnesses speak to that and I think the evidence speaks to that as well.

COMMISSIONER SCHMIDTLEIN: So where does the -- I know that Mr. Mangola you have said in your presentation that the competition is very limited you said, so where is their competition between the U.S. and the Chinese product tier three? Two? Two and three?

MR. MANGOLA: I would say it is more in three and you know there's absolutely -- I don't see any competition in tier two.

COMMISSIONER SCHMIDTLEIN: And when you say that what do you -- how do you -- what do you base that on, what do you look at?

MR. MANGOLA: Brands, brands so you know we have to remember that there's a lot of brands that are brought in from China from the major manufacturers and the major manufacturers position those brands primarily in the value line, tier three is where they position their own brands and so you know there are brands that you have heard of, let's take Uniroyal for instance. A good portion of the Uniroyal line which is owned by Michelin is made in China and that product is squarely in the middle of the top end of the third tier, in the value line tire, the segment. So there's competition because it's made in China so it's an imported tier, but from a brand equity standpoint there's a significant difference between that and a Juan Lee or a brand that you have never heard of that is made in China that is clearly in the lowest segment from a pricing standpoint in the fourth tier.

And so there's competition there and it does affect certain companies like Cooper, it would affect them. It would affect certain manufacturers that are building associate brands in the United States to some degree but you know there's very few, there's very little of that, very little of that so and the manufacturers have chosen to bring in their associate brands, some of them have chosen to bring in their associate brands from China.

Like Goodyear has chosen to do something with Kelly and Bridgestone has chosen to do something and Uniroyal through Michelin but you know, the majority of the tires that come in here from China really are in a no-name category and really in the bottom tier.

MR. SHUTZMAN: Commissioner Schmidtlein, may I just add one thing.

COMMISSIONER SCHMIDTLEIN: Yes.

MR. SHUTZMAN: Looking at this issue where is there competition?
I think the Commission needs to look at where these tires are coming from because there may well be competition let's say in tier three between the Chinese product and a product being sold by an American company but that product is not American made and so you know I think you have the data to determine that by AUV's if nothing else, but there is an awful lot of non-subject imports that are being imported by U.S. producers so I think that's an important consideration in that analysis.

COMMISSIONER SCHMIDTLEIN: Well my time is up, but go ahead Mr. Kaplan.

MR. KAPLAN: If that overlap of competition was significant profits would have fallen. Now that's kind of the bell weather to look at so the industry as a whole has increased profitability per tire and overall. We are not denying that's like zero competition but it is very small and industry as a whole is improved. And that's -- I haven't heard an explanation of that other than input costs falling but prices didn't fall as much. You know a lot of time they rise and prices don't rise as much and you call it a cross price squeeze, this is the opposite.

I don't see how they explain the rising increase in profitability if all of this competition from rising imports is killing the domestic industry.

COMMISSIONER SCHMIDTLEIN: Okay all right thank you very much I have a couple more questions but I will wait.

CHAIRMAN BROADBENT: Okay forgive me here I am kind of re-running the same thing just to try to get this in my mind. If you look at Table 5-4 of the pre-hearing report we can see that 27 to 82% of Chinese pricing data depending on product is branded product as opposed to private label.

I am still trying to figure out what this means. Are the Chinese branded tires premium tire brands or are they something other than what you had said Mr. Mangola which is a branded tire, as Michelin, Cooper or Bridgestone or a Dunlap and Chinese tires are generally no name.

MR. MARSHAK: This is Ned Marshak. The information came from the questionnaire responses, probably the foreign producers and we could go back and we could give you or tell you exactly what brands we are talking about but these are you know the lesser brands, the very, very low end of the market where somebody brings in a tire from China and the name of the company is the brand that they put on it and that's how they answered the questionnaires.

So it is a brand but it is a brand that you never heard of which is --

CHAIRMAN BROADBENT: And that's my problem with understanding what you all are saying. I mean --

MR. MARSHAK: Well what we are saying though it's coming in from China is at the low end of the market as far as the pricing goes, if you want to call it a tier, but it is a very, very low priced tire and sometimes in the questionnaire response it was a brand, sometimes it was a private label, but whatever you called it it was at the very, very low price.

MR. KAPLAN: You have two producers of Chinese brands sitting here and which brand do you represent and do you represent and discuss.

MR. LIMA: The big companies in China have their own brands, Triangle, Seiloon, your brand is Aeolus. In China there are also factories that fill their capacities or try and fill their capacities by making brands for traders and I think that's the difference that we are discussing here. And you can get some -- you can go to a factory and say I want this brand of tires even though the company doesn't have its own brand like Triangle does.

CHAIRMAN BROADBENT: Okay but there is, things are being confused here between the branded and private label right?

MR. ROTHSTEIN: And so what he has described is private labels so when you know Triangle, Aeolus, West Lake brands -- branded tires, there are brands that play at the bottom segment. There are also private label tires that are made for a specific company or for a specific trader or distributor because they want to have a lower end offering, an economy or value offering to put into their -- in some cases they own a retail chain so they want a specific brand that nobody else can sell and some of the Chinese manufacturers can fulfill that for them so those are kind of the two that come out of the breadth of the Chinese producers and then as Dennis described there are the global producers that have capacity in China that produce their own sub-brands in some cases for export back to the U.S. which obviously in this case now they have the ability to move onto other markets and manage their own supply chain and continue to bring those brands to market.

MR. KAPLAN: In that 27% are brands like Triangle and Aeolus and that just goes to the point about brand investment. They are brands that you have probably or might not have been familiar with before the hearing. You were familiar with Michelin, you were familiar with Goodyear so you are going well what are these brands? Those are the branded products. And that kind of speaks to this product differentiation, what are the Chinese brands that are coming in and it is like who are they? They are in the fourth tier right now, their goal is to raise the brand over time but it takes a lot of money and a lot of work.

And when you go to the dealer they carry 14 brands and that is because all of these products are differentiated and they give you that opportunity but you probably didn't know that name was a branded product and that speaks to once again the differentiation and the lack of competition. Once again the 27% are branded and if we put a list of branded and house products in front of you, you might not be able to know the difference right now, which ones are Chinese brands, which ones are private label.

CHAIRMAN BROADBENT: Okay but it seems to me that are low-branded things that haven't built up their brands yet are competing with the Chinese product pretty directly.

MR. KAPLAN: Our low brands?

CHAIRMAN BROADBENT: Yeah.

MR. KAPLAN: Those are Chinese brands we are talking about.

CHAIRMAN BROADBENT: Yeah but what about Kelly in general and those lower brands.

MR. KAPLAN: Kelly is like it's a big name, they advertise.

CHAIRMAN BROADBENT: But what tier is Kelly in again?

MR. MANGOLA: Third, it's in the third tier.

CHAIRMAN BROADBENT: Okay and that's Chinese in the third tier.

MR. MANGOLA: Yeah but not really. They're -- let me just try to explain this to you. So because it is kind of confusing to some degree -- so you know if we just use the good, better, best mentality that the Petitioner used earlier. Good being Kelly in the Dunlop lineup, good being Kelly, better being Dunlop and best being Goodyear, they use this marketing philosophy today.

Then what really has happened you know since the 421 until now is this fourth tier has emerged for a variety of reasons that we have talked about and it has to do with vehicles are lasting, they used to last for 10 years on an average, now they are 11.4 years on an average and income has dropped so there is more demand now for this segment and so it is there and so there's another tier below Kelly.

Now some of the Kelly product, some of the Uniroyal product that is in tier three, some of these brands that you are aware of, some of them, some portions of their products are made in China and there is a lot of global sourcing going on for a lot of reasons in the industry and it has to do -- there's global synergistic reasons why they do that and so --

CHAIRMAN BROADBENT: But it's imports coming into the U.S. from China?

MR. MANGOLA: From China.

CHAIRMAN BROADBENT: Competing in those different tiers?

MR. MANGOLA: Competing well it's brands that are owned by companies here in the states that are marketed in the states but it is in the third tier. So the majority of the tires that are private brand, all of the tires that are private brand that you never heard of are in that fourth tier in the economy section. And then there are some brands that you have heard of, they have some brand recognition.

Some of those are built in China, some of them, not all of them, some of them are.

CHAIRMAN BROADBENT: Yes?

MR. KIRGIZ: Hi this is Kivana Kirgiz with Cornerstone Research. I also wanted to point out that the tier three brands who are at least brands that are categorized as tier three by modern tire dealer are really small. For example, Fusion as one person and market share according to modern tire dealer compared to Bridgestone and Firestone's home buy market share 50.5%. The same thing for Uniroyal, that's 1.5% market share compared to Michelin and Goodrich's combined market share of 30.5%. So even if there is competition it is limited in terms of volume.

MR. MANGOLA: Not all Uniroyal tires are manufactured in China, just the UHB part of it so you know it's kind of like -- it's hard to get your hands around it but it is very small.

MR. LIMA: This is Gus Lima. It's in the fourth tier there are no U.S. producers playing in that area. We are fighting amongst Chinese producers, other Chinese producers, Indonesians, Thailand, Vietnam and other countries. We don't have anybody in the United States that's interested in that market, making tires for that segment of the market.

CHAIRMAN BROADBENT: Okay Commissioner Williamson? Commissioner Pinkert sorry?

VICE CHAIRMAN PINKERT: Thank you. Now Dr. Kaplan, go ahead and finish your side bar. Okay, Dr. Kaplan why would domestic producers cede the low end of the market unless there had been a change in the profitability of the low end of the market relative to the profitability of the higher end of the market.

MR. KAPLAN: I think there is. I think the high end of the market, I think everyone in this room would agree, industry representatives, the tire guru, the former Goodyear representative that the high value added tires have the highest markup and what --

VICE CHAIRMAN PINKERT: But that wasn't my question, go ahead.

MR. KAPLAN: Well given the capacity that they have they want to sell in that part of the market and they are building new capacity to continue in that part of the market. Goodyear itself has said they want higher and I think Mr. Rothstein said they want higher profit, not just share everywhere. They are trying to be a profitable and more profitable company and that means moving up, that's -- Michelin said the same thing, Cooper said the same thing, I think Mr. Rothstein should discuss that further.

VICE CHAIRMAN PINKERT: First Mr. Schutzman then Mr. Rothstein.

MR. SHUTZMAN: Commissioner Pinkert you heard one of the gentlemen from the union this morning say that it is all about money. And that's what it is, U.S. producers can't make money at very low level tire and that's why they have ceded that business to others.

VICE CHAIRMAN PINKERT: So then you would say that there was a change in the profit margins on the low end of the market relative to the profit margins on the high or just absolutely a change in the profit margins on the low end of the market?

MR. ROTHSTEIN: Commissioner if I might this is Jason Rothstein. I would say that it wasn't a change in profit margins at the low end that caused this shift in management's objectives but rather a focus on higher profitable target market segments and so I will describe what I mean.

The U.S. market has been restructured and the tire market has actually been restructuring here for over a decade right and there have been a continual, Goodyear probably led it but all of the tire manufacturers went through it in some way, shape or form and in doing so effectively looked at the market, they looked at their production and they realized we cannot be everything, we cannot produce the entirety of the range at the levels of profitability of returns at the skew level that we want.

And they literally look at returns at skew levels and they will look at every skew, they will look at where they can price that, and they will look at what it costs to build a skew and decide is that above our hurdle return per skew. They will buy a skew. Now the reality is given the increasing complexity of the market, of the tires in the market the proliferation of skews in the market, the need for higher performance attributes, even at the mid-range of the market, it costs more to build a tire today.

So you can look at recent trends in raw materials and that makes a difference but if you look over a decade or more it costs more to build a tire today because of the makeup of that tire, silicon, the complexity of processing silicon. The folks that spoke this morning live and breathe that this is why it is more difficult to get through and put out of the factory.

So as tire prices and individual costs to produce the tires is going up the margins you can make on that independent of who else may be selling into this market has gone down and therefore again hat's off, the management I think is very astute in all of the top tier companies let's focus where the profit is and you know we have paid our dues.

We have built the brand that allows us to target these upper echelons and let's not worry about the bottom. The question was asked, if a limited cap, would they invest to build capacity off the bottom end, I believe they absolutely would not, they will not get the returns even in an insulated market at the bottom of the end of the market.

Elasticity -- the economists I don't want to step on their shoes but elasticity demand is there right. If they produce a tire at the lower end of the market that is priced too high nobody is going to buy it regardless of you know, whether someone is coming into the market to serve that segment or not.

VICE CHAIRMAN PINKERT: Mr. Stoel and then Mr. Marshak.

MR. STOEL: Thank you. Commissioners I just wanted to and I think this ties into something Commissioner Pinkert was asking about actually in the preliminary determination which is we actually have a national experiment which we have talked about before which is during the 421 what happened in the market.

It's true that U.S. production increased for various reasons but it is also true that as Chinese exported the market you had a very large increase in non-subject imports. And I think the reason for that is because the U.S. industry doesn't want to compete in that lower segment of the market. Those not-subject imports weren't entering to compete in the high value segments of the market where the U.S. industry was doing a great job of repositioning itself, production was able to become more profitable and to increase. There was not subject imports entering in the lower tiers of the market where the Chinese had been and replacing that void that we have talked about throughout this proceeding, we had our economist take a look at that, not to second guess you to be very clear, but because actually Commissioner Pinkert I was asking about Bratsk and about other issues in the period and we wanted to make sure that we had done a study, and answers to the questions but if I could just for the Commission's indulgence, ask Doctor Kirgiz to take a look at that.

DR. KIRGIZ: Sure. One of the things we looked at was we looked at the structure of the industry. So, when we did that we saw that there is discussion of productive differentiation. Then we asked, well, what does that mean in terms of observable predictions? Well, if the domestic producers are really not competing Chinese tires, if you have an external shock that will limit Chinese imports into the market, that would have specific prediction and that is that domestic production would not increase because the demand would not shift to domestically produced tires.

To test that theory, we collected data going back to 2000 and build the model of the domestic production. So, we took into account demand factors such as how many miles are driven on average, average age of cars, level of domestic car production. We took into account cost factors, such as prices of rubber, synthetic rubber. We took into account disposable income.

Based on this model we looked at what the production levels would have been between 2009 and 2012 and then compared it to actual levels. And that comparison showed that, statistically speaking, domestic production controlling for all other factors did not increase in a significant way. What happened, according to this analysis -- as the analysis showed was that other imports, imports from other countries increased to fill in the gap? And that to us confirmed the correct prediction that domestically-produced tires and tired imported from China are not direct competitors and the competition between them are very limited.

VICE CHAIRMAN PINKERT: Thank you. Mr. Marshak.

MR. MARSHAK: Between the three briefs we've given you, about 2,000 pages of material to read. And it's a lot, but I'll direct your attention to Exhibit 17 of Petitioners' brief where you have an interview with Rich Kramer, the CEO of Goodyear on February 17, 2015. And I think Mr. Kramer you know says it all, and he could say it a lot better than us, and he's probably the biggest expert in this field.

And he said, and I'll quote, "But I tell you how we built it into our business going forward. The low end of the market, by and large, is not a market where we have played. Our value proposition, and you've heard us talk about it, is playing in those target market segments where we can calculate, where we can capture the value of the Goodyear brand. Certainly, our North American business has been on the forefront of that, but also that's true in our Asian businesses, in our Latin American businesses increasingly so and in Europe as well."

And then Mr. Kramer continued, "Even in that tough market, we have engaged and said, hey, the market grow and let's go sell more tires for volume, for volume's sake. We haven't done that and you see that in a record fourth quarter and you see it in a record full-year results. So, we are managing it very well." Now that's the CEO of Goodyear and he's the expert and that's what he done and he's done it very, very well.

VICE CHAIRMAN PINKERT: Thank you. Dr. Kaplan, for the post-hearing, if you would take a look at this argument about what I'm going to call serial transmission of price effects. Let me explain what I mean and you can respond in the post-hearing. Suppose that we accept for the purposes of the discussion that there are maybe tiers or different levels of pricing in the market and suppose that the subject tires are coming in on the low end. Is it possible that they transmit a price impact to the tire just above them or the tires just above them and then those tires transmit to the tires just above them so that you have a price impact throughout the market even though there's not direct competition between that bottom tire and that top tire?

DR. KAPLAN: I'll look at that in the post-hearing. If there was you'd expect to see profits decline as those lower-priced imports increased and instead profits rose, which says that competition is attenuated, but I'll look at it carefully and give you a full response.

VICE CHAIRMAN PINKERT: Thank you. Thank you Madam Chairman.

CHAIRMAN BROADBENT: Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you. This is a series of questions. Mr. Mangola and I think others that have sort of said that the domestic industry is not interested in I guess the mid-range I think. I'm trying to think what do I make of what the union reps who have been negotiating with managements I guess and been in meetings with them about interests in -- you know the information about the new skill codes. I guess several people talked about introducing new skill codes and those they were targeting for I guess that mid-range level where the volume is. Are we just to discount that totally?

MR. MANGOLA: No, no, no. No, I think that's accurate. I think that with certain manufacturers like we've mentioned they're very interested in competing more in the value segment of the market, the third tier segment of the market and that's the reason why you're seeing a lot more of the Kelly brand. I mean back three, four years ago Kelly wasn't a factor. They weren't manufacturing any tires; now they are. Goodyear is manufacturing tires, Kelly tires to play specifically in their value line market. And so Cooper there's also a big market there and all of this being driven really by the affordability factor. There's a tremendous demand because of the age of the vehicles and because of the income level for this segment and so it's just a matter of getting after that.

Now, it's going to happen and the United States is going to get some benefit out of that. The manufacturers in the U.S. that want to be in that value tier they're going to get some benefit out of that and they will add more, but there's a lot more SKUs that are being added because the market has evolved into 18 and 19 and 20 and 22-inch tires from the 15 and 16 and 17-inch.

COMMISSIONER WILLIAMSON: Is that because of the SUVs and things like that?

MR. MANGOLA: Yes, it's because of the SUVs and it's because of more performance vehicles with 18-inch lower profile tires.

COMMISSIONER WILLIAMSON: How large is the fourth tier? Is there roughly just -- you know.

MR. MANGOLA: It's actually small in comparisons to everything else. As I said, 70 percent of the replacement market is in Tier 1 and Tier 2. And when you take a look at it, I think there's approximately 200 -- I don't know, 260 or 270 million tires sold in the replacement market and there's about 55 or 60 million tires that are being imported. And a portion of those -- and I'm not quite sure what percentage, but I would say there's a big portion of those that are coming in specifically for that fourth tier. There is a portion that comes in for the third tier, small, but there's a bigger portion that comes in for the third tier. So, I would say it's about 20 percent.

COMMISSIONER WILLIAMSON: And so some of the Chinese tires are coming in that third tier?

MR. MANGOLA: Some of the Chinese manufactured tires with some brand equity for manufacturers such as Uniroyal.

COMMISSIONER WILLIAMSON: Subject tires are coming in in that third tier. And I assume that if the Chinese are getting more competitive could that share grow?

MR. MANGOLA: I don't think it will. You know what's really happening here is the OE market -- one of the things that drives the after market is the OE market. And as I mentioned, the market has gone up significantly, so it's going to drive the after market. But I mean there's 6 million more cars, 30 million more tires in the OE segment that was built in 2014 than in 2009 and so that translates into the after market.

COMMISSIONER WILLIAMSON: But the Chinese producers just like the U.S. producers can see where the demand is going to be in the future, can't they?

MR. MANGOLA: Yes, but it certainly won't be for them in that segment.

MR. ROTHSTEIN: Adding onto that, could Chinese-produce tires, the Chinese brands push up more, compete more in the third tier? Sure, that's the aspiration, but then will they, that's the big question, right? What are consumers going to pay for? And this is what we see. Consumers don't pay for those brands.

COMMISSIONER WILLIAMSON: Those tires don't have to be with the Chinese brand name on it.

MR. ROTHSTEIN: Here's the point, right, so the companies -- Kelly doesn't produce -- I should say Goodyear does not produce Kelly in China. They're producing them here now. All of the manufacturers -- the global manufacturers shift tires around to meet global requirements, right? So, the bulk of those tires coming over from China from Chinese brands and they cannot effectively compete. Yes, they do compete with one another. They compete amongst themselves, but if you looked across the testimony, Kelly does not compete with Chinese brands. Kelly competes with Uniroyal, with BF Goodrich, Cooper. There's a handful of them, but the Chinese brands that are coming in, the vast majority of subject tires are fighting it out amongst themselves.

COMMISSIONER WILLIAMSON: Now are any of the big box stores with private label brands playing any significant role in the market?

MR. MANGOLA: Are they playing a significant role in the market?

COMMISSIONER WILLIAMSON: Or playing a role in the market?

MR. MANGOLA: With Chinese brands?

COMMISSIONER WILLIAMSON: First answer, are they playing a role in the market. That was my second question.

MR. MANGOLA: Yes, of course they are. Yes.

COMMISSIONER WILLIAMSON: And they could sort of sourcing it from wherever they want since people aren't going to necessarily look at where it was made.

MR. MANGOLA: Yes, I mean you know they have the tendency of using major brands, using brands that people have heard of.

MR. ROTHSTEIN: So, let's be clear, big box when you talk about Costco or Sam's Club, they sell Bridgestone, Firestone.

COMMISSIONER WILLIAMSON: Yes, I know. I understand that.

MR. ROTHSTEIN: That's all you can buy there. Actually, no, they don't play a role. Yes, that's exactly correct.

COMMISSIONER WILLIAMSON: I know because I just bought some there, so I know; but I thinking about there are a lot more big box stores than just those.

MR. ROTHSTEIN: The ones that play a major role in the U.S. market.

COMMISSIONER WILLIAMSON: Okay.

MR. ROTHSTEIN: And neither of them carry any Chinese brand.

COMMISSIONER WILLIAMSON: But do any of the others do private labeling?

MR. MANGOLA: Yes, they do.

COMMISSIONER WILLIAMSON: Okay. Thanks. On page 19 of the Petitioners' PowerPoint presentation, they note that domestic indices of industry profitability is relatively low -- this is the PowerPoint they gave this morning -- within the context of the business cycle and they estimate that their full business cycle is 10 years. And they are showing that for the entire industry that their profits are well below those of other industries -- other comparable industries. So, I was just wondering is this 10-year period for the business cycle reasonable one they should use and if so, why are the tire companies not operating at a level high enough to cover costs -- cost of capital? I'm sorry.

DR. KAPLAN: The Commission looks at a business cycle, and there's a lot of precedent to get a full cycle, peak-to-peak or trough-to-trough because otherwise you're not getting the whole cycle. Point 1 of the summary of findings from Dr. Button is that the tire industry follows GDP. The trough is in 2001 where you might recall at the beginning of the Bush Administration and then the big recession was in 2009. So, if you're going trough-to-trough you go 2001 to 2009. If you're going peak-to-peak, peak is in 2007 and we haven't reached a new peak yet.

So, from the Commission's own standard, Dr. Button made up a business cycle out of whole cloth. It's not peak-to-peak. It's not trough-to-trough. And it can't be peak-to-peak or trough-to-trough given where the recessions were and where the peaks were.

The second thing he did is he made up two years of data. He said that there was data from the original case from 2004 and there was data from the current case, but there were two years that did not overlap. So, Dr. Button created those years using outside data to proxy the data he hoped would be if the Commission collected it. So, as a threshold matter, he didn't use a business cycle.

COMMISSIONER WILLIAMSON: Are you saying then that the return on capital that they have here is not accurate?

DR. KAPLAN: That's correct because he calls it a business cycle. You can look at the National Bureau of Economic Research. They're the ones that define recessions. They're the ones that define business cycles. This is not art.

COMMISSIONER WILLIAMSON: But in general, how would you say the domestic industry is doing on this measure compared to other comparable industries?

DR. KAPLAN: I would say that since over the period of investigation they're doing quite well.

COMMISSIONER WILLIAMSON: Except that's not a business cycle.

DR. KAPLAN: That's correct because I can't do it over the business cycle because we are in the middle of a business cycle. We haven't reached a new peak or a new trough since the last peak or trough. And I feel very uncomfortable with making up data for two years not out of whole cloth.

COMMISSIONER WILLIAMSON: Okay, good. Got your point. Thank you. My time is running out.

COMMISSIONER KIEFF: Recognizing the lateness of the hour and in keeping with my efforts with this morning's panel to, I hope, respect the concerns of witnesses or even attorneys who might be motivated to play close attention to everything we're saying even it turns out a question is not directed to you let me try to put lots of us at ease for planning purposes. And instead of expecting you to on-the-spot give a good answer, let me direct some questions to everyone in the hopes that in the post-hearing you can provide answers, you collectively can provide answers.

These are questions that, for me, reflect my confusion I guess of points of contact you had with my colleagues and with me and with your counterparties in debate or dialogue today. So, first of all, in no particular order, could you please in the post-hearing help us better understand what role, if any, is played by non-subject imports? More particularly, I have heard a range of views or at least I think I have heard a range of views. I may have misheard, but that's again why I'm asking the question. For example, do non-subject imports basically act like Chinese imports that you're describing on this panel that seem to not compete with domestic high-en tires or are they more high-value that do compete with domestic high-end in which case the decrease of unfairly traded Chinese imports would leave an unmet demand inside the U.S. that would then have to be met presumably by something. And I think I heard the morning panel say they'd like to meet it. And I think that's one of the harms they are expressing. And so I invite feedback on what I think from both sides so that I can figure out whether my thinking is an accurate reflecting of what each of you is saying. That's the non-subject import question.

The next question I'm still trying to wrestle with follows up on not only your discussion with Commissioner Schmidtlein, but also Commissioner Pinkert -- actually, I think perhaps with each of us -- there seem to be, roughly speaking, to categories of harm that the morning panel was discussing. One is the impact that Commissioner Pinkert was alluding to indirectly for high-end prices and the other is the impact on the so-called low end of the market.

So, could you please each briefly in the post-hearing flag is that an injury for the morning panel that you care about or want us to care about, if not, tell us what the injuries are. And for the afternoon panel, tell us why those are either not injuries or not caused by the subject imports.

Lastly, Mr. Stewart and I were having a discussion about a legal question that I want to just invite both sides to revisit because I still am confused by it. What if it turns out that we -- well, what if we're being asked to think about the following question. Let's imagine a domestic industry that includes the concerns of labor that may or may not be different from the concerns of management, but let's focus on the concerns of labor. And let's imagine that they are telling us that they are noticing let's call it two business models in the U.S. One that is prevalent today. It also was prevalent yesterday. And a second business model that joined the first yesterday and presently is not viable in the U.S. today.

What if management and shareholders enjoy plenty of profit from the first business model, but also would enjoy some positive benefit from the second model and labor would enjoy lots of positive benefit from the second model have the imports interfered meaningfully with the second model? Is that interference harm of the type we're supposed to consider under our statute? And is there causation or not? I think those are my questions as I understand the two panels.

I look forward to the closing arguments and to the post-hearing submissions. I don't have the reasonable expectation that we will manage to suss all of that out for the rest of the day, but I, in the interest of transparency, want to let you each know that's what I'm wrestling with and I hope that you can inform me each in your closing arguments because I think these are largely legal questions and in the post-hearing submissions with any evidence you can provide. Thank you.

CHAIRMAN BROADBENT: Commissioner Schmidtlein.

COMMISSIONER SCHMIDTLEIN: All right, thank you. Again, thank you all for being here with us so late. I do have a few more questions, though. Following up on Commissioner Pinkert's question with regard to the price effects, Mr. Mangola, you know I see that you were the founder of one of the largest wholesale tire distributors in the U.S. That you've owned and were the founder of the largest retail tire franchise in the U.S., so you might be uniquely positioned to answer that.

In your experience, are there price effects across these different tiers? So, when you were running the wholesale tire company and the retail franchise company, would the price of a Tier 3 tire affect the price of at Tier 2 tire or vise versus in the real world?

MR. MANGOLA: You know price and brand equity sort of run hand-in-hand. And so, you know when you have a brand, especially a Michelin or a Bridgestone or a Goodyear brand you know you're going to be able to get the price that you want to sell it for up there at the premium level. Does the third tier or fourth tier have a tendency of bringing the prices down or in another case bringing it up in any way, shape, or form? You know to some degree, yes. And it depends on --

COMMISSIONER SCHMIDTLEIN: It makes sense to me. I mean they're made from the same thing.

MR. MANGOLA: And you know it depends on the selling method because there's a lot of training going on in retail stores all the time that says, look, you can sell up to -- you can sell from a third tier value line up to a premium line by having additional warranties, taking advantage of the brand equity, and going through the series you know by saying this is a 40,000 mile tire. This is a 50,000 mile tire. This is a 60,000 mile tire. And this has a Uniroyal name, a BF Goodrich name, and a Michelin name.

And so you know you go through this with warranties and stuff like that, so you have a tendency of selling up because you make a lot more money when you sell up. Each one of these different tiers drives more margin for you as a retailer. So, you don't really want to sell a Chinese tire, a tire that's in that fourth tier that we consider the fourth tier or the economy line because assume that it doesn't have any brand equity and it doesn't have a warranty on it to speak up, other than a workmanship material.

It typically doesn't have a mileage warranty or anything, and it's typically for cars that are quite old you know and the used tired market has gone away. Retreads have gone away. So, you know this particular economy segment of the market has sort of taken that place.

COMMISSIONER SCHMIDTLEIN: Okay. Let me shift gears. I appreciate that. Thank you very much. Dr. Kaplan, I had a couple more questions for you. Again, I'm trying to tie up a few loose ends in my own mind here, so I apologize if they seem a bit disjointed; but earlier there was this whole discussion of capacity. And I've looked back at the slides that you have that the U.S. industry is close to its maximum capacity or at maximum capacity when you take into account these things that would naturally cause you to be below 100 percent, right? And so my question was, and I apologize if this was part of the discussion and I just missed it; but in this case we see where the U.S. industry has lost market share. So, I understand the argument that where you have an increase in demand, an increasing market if an industry is at full capacity it takes a while for them to ramp up, that they're not able to take advantage of that increase in demand, but my question is why would you expect them to lose market share? Why wouldn't that -- even if they're already at near maximum or let's call it maximum capacity couldn't they have maintained their market share?

DR. KAPLAN: No.

COMMISSIONER SCHMIDTLEIN: No. I guess because the absolute numbers -- .

DR. KAPLAN: Let's say domestic's a hundred and imports are a hundred, so domestic market share is 50 percent. And let's say demand goes up because the number of new cars made increases and now we're selling 300. We still can only make a hundred.

COMMISSIONER SCHMIDTLEIN: Yes, I understand, but I guess the number was not small enough to even permit that small increase in absolute amount.

DR. KAPLAN: It's the same. It's like they stayed the same and then the demand went up and it was all filled because I mean an exaggerated version, but what you would expect if demand went up and you were tapped out on capacity is you'd expect your profits to go up because demand went up. You can't make any more so you charge more relative to your cost. So, if you're stuck at full capacity and you see a demand increase you raise your margins and that's exactly what we saw in this case, exactly, profits went up as imports came in.

COMMISSIONER SCHMIDTLEIN: Okay. I had another question about your report. And specifically on page 54 of it where you talk about -- this is part of the attenuated competition argument. And there's a statement in the report about how the change, let's put it. You have it bracketed. I'm not sure if it's confidential, but the change in the replacement market, the U.S. shipments to the replacement market could be accounted for by the exports and the sales to the OEM market, down at the bottom.

And so my question is I read that and I wasn't sure are you arguing there that the U.S. chose to export instead of sending to the replacement market -- selling to the replacement market?

DR. KAPLAN: I've given the details in some of the confidential nature.

COMMISSIONER SCHMIDTLEIN: You're respond to that in the --

DR. KAPLAN: I'll address that in the

post-hearing. That's the best way to go about it.

COMMISSIONER SCHMIDTLEIN: Okay. And you understand my question? When you say it's accounted for here like what exactly are you saying? That there was a choice they made -- okay. And then last question I had was to Mr. Rothstein. We took at look at the website for Aeolus, the American website. And on that website it has for cars an ultra high performance tire that you advertise, and for SUVs and light trucks I guess a high performance tire. And so my question is are those tires part of Tier 3 or are there tires in Tier 3 that you would advertise as ultra high performance or are those Tier 2 tires?

MR. ROTHSTEIN: So, indeed, if you put yourself in Aeolus and I think Triangle reps would feel the same way. We'd say we produce very high quality and a broad range, including performance tires; but what really matters is when they come into market where do they fit in, in terms of who might purchase those tires. So, aspirationally, we create a full line.

COMMISSIONER SCHMIDTLEIN: So, what does that mean? You're trying to compete in Tier 2?

MR. ROTHSTEIN: We're trying to compete really in Tier 3 because we're not going to bet up and take share from the Hankook, the Yokohama, the Firestone, the folks in the second tier, but the aspiration is to move up into the

Tier 3. And really it's around getting distribution in the market and that is something we can probably go into detail, but it's important to all of the manufacturers. This is why again Goodyear focuses with the Kelly brand to have a full lineup in order to lock in its distributors so that they don't create room for alternative brands to come in, and not alternative Chinese brands, but alternatives like BF Goodrich or others to come in. So, for Aeolus as a new entrant into the U.S. market the last couple years, we wanted to provide an entire line, a full line that a distributor could take into a retailer and say, hey, here's a full line, try to sell these in. But the reality is very challenging for us and others to sell any kind of volume on those high performance tires.

COMMISSIONER SCHMIDTLEIN: So, the tires that you're advertising you're not expecting to sell a lot of.

MR. ROTHSTEIN: We're actually hoping to sell a lot of them, but I think the reality is that it is very difficult for us or any Chinese manufacturer to come in and sell tires above the tier in which we play at this point because the brand equity is not there and the consumer pull just isn't there.

COMMISSIONER SCHMIDTLEIN: And what would be the sign that you've crossed over into Tier 2?

MR. ROTHSTEIN: Good question.

MR. MANGOLA: Let me make something clear from a retailer and a wholesaler's standpoint. We would view this particular tire in the fourth tier, not in the third tier. We wouldn't position it in the third tier. I think he's got another four or five years to go before we would even consider putting it --

COMMISSIONER SCHMIDTLEIN: And why is that?

MR. MANGOLA: -- in the third tier. And I don't see it ever getting to the second tier.

COMMISSIONER SCHMIDTLEIN: And why is that?

MR. MANGOLA: It just doesn't have any brand recognition. It has none. So, in the third tier -- let's get it straight for a second. We have Kelly there. We have Uniroyal there. We have, to some degree, from a pricing standpoint, Cooper there and we have Hankook there and Cumo there and Nexen there. These are all brands that have either an OE position or have brand equity to some degree. There is no way in the world that we would have in any of the stores that we own and operate or any of the wholesale distribution centers a tier, a product -- sorry Jason -- but his particular product at anything other than the entry level product, which is the fourth tier.

COMMISSIONER SCHMIDTLEIN: But what would be the sign that a tire has changed tiers?

MR. MANGOLA: You know that's the point I'm trying to make. It's difficult because everybody --

COMMISSIONER SCHMIDTLEIN: Difficult to delineate between the tiers?

MR. MANGOLA: Yeah, because the third tier is relatively small. It represents maybe 10, 12 percent of the market. Seventy percent of the market is in Tier 1 and 2. So, the third tier is 10, 12 percent of the market and the fourth tier is about you know 18 to 20 percent of the market. And so, Chinese tires -- any brand that doesn't really have any brand recognition, which is primarily imported brands from China and Thailand and Indonesia would just not have a position in the third tier, not. Brands that have position in the third tier that are manufactured in China have brand equity. So, they're the only ones that are doing that and so nothing else competes there that doesn't have any brand equity.

MR. LIMA: Years back when Bridgestone which was not known in the United States wanted to come into the United States market, Japanese company, they bought Firestone and they started converting Firestone to Bridgestone and it took them many years, 20 maybe 30 years to get to the first tier. So all of us in the Chinese --

COMMISSIONER SCHMIDTLEIN: But how did you know they were in the first tier as opposed to the second tier?

MR. LIMA: Because they are the most expensive tires in the market.

COMMISSIONER SCHMIDTLEIN: Are there any price delineations between sale of the second tier and the third tier?

MR. MANGOLA: Absolutely.

COMMISSIONER SCHMIDTLEIN: So I would be curious if you could provide those in the post-hearing what you think the price delineation is --

MR. MANGOLA: Sure.

COMMISSIONER SCHMIDTLEIN: So that would be one way to tell if the tires are being sold at that higher price.

MR. MANGOLA: Sure and that chart that I have if you take a look at it with regards to the declining value of vehicles and so when we look at it we look at you know, different like we classify premium tires in a segment that goes from like 2015 vehicles first replacement to about 2011 and that's what we consider tier one or premium.

And then those tires, if you take a look at the six sizes that the Petitioner took and looked at, very few of them are in the tier one category. Some of them are but most of them aren't. And they are popular sizes but they are not the ones that are there.

So we take a look at those and we say, "Oh these are tires that we are going to have our first replacement from OE," which original equipment is Bridgestone, Michelin, Goodyear, Continental, Pirelli. These brands are the original equipment and brands of choice and so they would fall into that tier one category and they are going to be the most expensive. And I put a chart together just recently as an example, there's a 2014 Honda Accord that takes a size 205-55-16 and this size 205-55-16 is one of the sizes that the Petitioner had and it goes on -- it comes original equipment on a 2014 Honda Accord. It also fits all the way down to a 2004 Honda Accord, original equipment.

So we have several issues that we are dealing with in the aftermarket when we start pricing tires and positioning tires. One is we say "Oh the first replacement on this 2014 because Michelin was OE and Bridgestone was OE on it," is going to be a Michelin or Bridgestone tire and that is going to sell for about $200.00 a tire and the value of that car is somewhere in the neighborhood of $23,000.

Then you drop down to 2007 its valued at around $6,000 and that's going to be a different tier, that's going to be a different brand and it is going to go all the way down to 2004 and then actually a 205-55-16 goes down to 1998 and it's ironic but you know you could just think about it for a second. A 2004 Honda Accord has a value of about $2,000 so are we going to put a Michelin on there or a tier one on there at $200.00 a piece including balancing and stems and everything? That's a thousand dollars for a set of tires and your vehicle is only valued at $2,000 and there's this affordability factor there.

I mean those people really can't afford that and so the problem that we have is there's a lot of these cars out there now and because the age of the vehicle has gone up to 11 years so it's -- this is a significant issue as to why these Chinese tires are here and it is a significant issue as to why manufacturers in the United States don't want to build tires for that segment because they are not going to get the ROI, it is going to cost them a tremendous amount of money and they have a tremendous brand equity so why do it.

And the other problem that they really have and it's talked about often is you know the difference between prices from China and Indonesia and Thailand is about -- China has about 10 to 12%, 10 to 14% less than Indonesia and China so if you have whatever tariff we put on to China, everything is going to start to come from Thailand and Indonesia, it is already starting to happen so if you are a manufacturer and even if you want to address this fourth tier and they don't but if you were why should you.

I mean no one is addressing the other potential countries that are going to take the gap up from China so you know all of the manufacturers are saying the same thing, why should we do that. You know so why should we make that kind of incredible investment in the factory. They are making unbelievable investments in these factories simply because the demand for the first tier and second tier is huge and it is continuing to grow.

MR. LIMA: Commissioner if I owned a tire factory and I'm selling -- I make a million tires a year and I'm selling a million tires a year at $100.00 each, why would I make 800,000 tires make 200,000 tires to sell them at $30.00 a piece, that doesn't make any sense. And the tier thing I explained it very easily. It's a 747 you have first class, you have business, you have coach with extra leg room and you have the people in the back that sells Chinese in the bottom in the baggage compartment flying over here, that's the tier. It's not very difficult, that's the reality.

COMMISSIONER SCHMIDTLEIN: Yeah I understand that, I think I flew in tier four to Tuscaloosa so that's what you get with the government, all right I don't have any other questions thank you.

CHAIRMAN BROADBENT: Okay Commissioner Williamson?

COMMISSIONER WILLIAMSON: This proposed tiering, because I think the question that Commissioner Kieff asked is much more important but if somebody could just address on Table 4-18, maybe it's page 4 for 18, there's forecasts for

Chinese production in exports in 2015 and 2016 and there is a drop in expected sales to the U.S. and I was just wondering is that because they expect to lose this case or is something else going on, but we can get into that in post-hearing.

And also Mr. Kaplan you talked about the increase in employment that you expect coming into the industry and I think a lot of things and maybe you could give an indication of when these things are going to happen. I think some of it is going to be near term but some of the others I'm not sure about and with that I want to thank everybody for their testimony.

CHAIRMAN BROADBENT: Commissioner Kieff?

COMMISSIONER KIEFF: Just I think this is just a follow-up on the dialogue with Commissioner Schmidtlein but it is a question for both sides for post-hearing so that both sides have the full and fair opportunity to address it but let's not take that time here. Let me ask that you are talking Mr. Mangola about 10 year old cars and you are talking about what I think you would call a low value niche for them so a $2,000 car not rational to spend a thousand dollars on the tires okay.

Focused on those the legal question is what relevance if any is that market to this case? I thought that was one of the harms that the morning panel was asking us to focus on is that they would like to be in that market. Maybe I'm misunderstanding, please explain post-hearing.

The factual question other than the legal question, the factual question is you Mr. Mangola were telling Commissioner Schmidtlein that it's expensive and not profitable for the domestics to be meeting that demand so the factual questions are how would a domestic meet that demand? Would they buy brand new equipment designed to make tires using yesterday's recipes for yesterday's cars? Or would they find perhaps in their closet or in the secondary market equipment and recipes that 10 years ago were being used to make those tires and would the cost of spinning up yesterday's equipment and yesterday's recipes be low enough that they would in fact make money meeting that demand if they didn't have to compete with Chinese imports in which case to both sides would that be an injury and would it be caused by the unfairly traded imports?

I think that addresses the dialogue, that's it, thanks so much.

CHAIRMAN BROADBENT: Commissioner Pinkert?

VICE CHAIRMAN PINKERT: Thank you, you can answer this here or in the post-hearing but I'm trying to understand your argument about the persistence of underselling and how that demonstrates attenuation competition and what I'm wondering is does it matter for purposes of your argument whether the margins of underselling are expanding over time during the period of investigation or do you really have to have consistency in the sense that it is just the same margin over a period of time?

MR. KAPLAN: If the products are changing which they are and the categories include a wide variety of products you would expect the margins might change if you are comparing a tier one and a tier four or entry level versus a premium product. So the data is as I discussed earlier, could be affected by that. Once again the question is does that underselling cause harm? Whether it is expanding or contracting and what you see are expanding imports and expanding underselling and rising profits and that to me tells you differentiation.

I would ask you to compare it to other industries where you see things like that happen, where products are commodities and they compete and that stuff doesn't kind of happen or if it does you see generally falling profitability and decreased output. So the underselling pattern is hard to distinguish because the product mix issue within the pricing products, but in any case whether it is rising, falling or equal, the rise in profits shows that the underselling is not causing the harm you would expect if the products were very competitive with each other.

VICE CHAIRMAN PINKERT: Thank you any other comments?

MR. SCHUTZMAN: Commissioner Pinkert I think I mean in our ITC practice and procedure we refer to the difference in pricing as underselling but in this particular case since our position is that there is no competition at that level I think it is really not underselling, it is underpricing.

VICE CHAIRMAN PINKERT: Thank you.

MR. SCHUTZMAN: You are welcome.

VICE CHAIRMAN PINKERT: Anything else?

MR. MARSHAK: This is Ned Marshak again. You could just see from the prior cases on this issue when you had this tremendous difference, these products don't compete and I still have the quantities at the high price, quantities at the low price, incredible differences between high and low price, there's no competition there.

VICE CHAIRMAN PINKERT: Thank you very much, thank you Madam Chairman and I appreciate all of the testimony today from both sides.

CHAIRMAN BROADBENT: Okay if the Commissioners have no further questions does the staff have any questions?

MS. HAINES: Elizabeth Haines, staff has no questions.

CHAIRMAN BROADBENT: Okay, do Petitioners have any questions for this panel?

MR. STEWART: I have just one question this is for Doctor Kaplan and this goes to his claim that the claim that the domestic industry could supply the 28 million tires in 2014 that our projection showed. That was based on the sworn statement of the union representatives on the union facilities that produce more than 50%. My question to you Doctor Kaplan is are you asserting that the claims of the union people are inaccurate or false?

MR. KAPLAN: I'm asserting based on information from people that were senior executives in the production process in the United States and abroad how capacity works in plants.

And partly I want to know when questions were asked about how negotiations occurred with OEM's and how the industry worked that none of the witnesses on the panel could discuss that and Mr. Stewart answered it based upon his analysis of how other companies and industries deal with the auto sector by analogy.

MR. STEWART: And what does that have to do with the question on capacity?

MR. KAPLAN: It gives much less confidence in the understanding of the operations of a global international tire company. I think there's an enormous and a tremendous respect for the union reps. I think they know enormous amounts about the wages and the labor negotiations but I think that there are better sources of information on the level of production and capacity and I got those from questionnaires in my discussions so I have no reason to believe that there is any untruths or anyone is giving an opinion that they think is false at all.

MR. STEWART: Thank you, that's the only question.

CHAIRMAN BROADBENT: Okay I want to thank the panel for their testimony and dismiss you. With that we will come to our closing statements and those in support of the Petition have three minutes from direct and five for closing. I'll repeat that and adjust it. Those in support of the Petition have two minutes from direct and five for closing for a total of eight minutes and those in opposition have zero minutes from direct and five for closing for a total of five minutes.

As is our custom we will combine both of those and you do not have to take all of the time.

REBUTTAL/CLOSING REMARKS

MS. DRAKE: Commissioners, Commission staff, thank you for your attention during this long day and thank you for all of your hard work throughout these investigations. These cases are critical to the future of the domestic PVL tire industry and its workers. No one can deny that the volume of imports is significant. Imports from China nearly doubled since 2012 and seized almost 100% of the increase in demand over the period, primarily at the expense of domestic producers.

Chinese imports increased their market share by universally underselling domestic product. Underselling was significant and intensifying across the products examined regardless of brands or private label presence. The claim that this underselling is proof of attenuated competition is hard to swallow at best. In fact it would allow foreign producers to evade duty relief if they undersold even more and obviously that is not a result that would be contemplated under the law why their underselling demonstrates less competition rather than more severe injury as it actually demonstrates here.

Prices for China's imports declined faster than domestic prices across each of the six products examined leading to price depression. The result of these rising volumes and falling prices and intensifying underselling has been material injury to the domestic industry. The demand rose by nearly 10% over the period of investigation, the domestic industry did not benefit at all.

Domestic market share shipments, production, capacity utilization and employment have all fallen. Those in opposition to relief call these factors stable but they have fallen and they have fallen in a rising market that is a strong indication of present material injury.

Though domestic operating income increased, it rose only half as much as the industry savings and raw material costs over the period. The reason was the growing presence of low priced Chinese imports. But for the loss in market share to China, the domestic industry would have benefited by participating in rising demand. It would have achieved substantial increases in production, shipments, employment and profitability during the period. These improvements would have resulted in the industry achieving its cost of capital over the business cycle and helped to position it for the future.

We look forward to addressing the arguments made about ECS's business cycle analysis post-hearing.

Opponents understandably search for other reasons besides Chinese imports to justify the domestic industry's losses and under performance in a period of rising demand. First the issue of tiers -- they claim that U.S. and Chinese tires simply don't compete. The Commission previously rejected this claim and it should do so again here.

First the opponents claimed that we only look at tires without distinguishing the types of tires within a particular size. If they had bothered to turn the page from page 39 of our Brief to page 40 of our Brief they would have seen comparisons by the type of tire within a specific tire size showing the exact same thing but regardless of brand, regardless of tier, tires are sold at overlapping price points even when you look in specific types of tires within specific sizes and we have numerous examples in our brief.

Already we would be happy to submit more if we have enough paper in our office to continue to produce these examples but they all continue to show the same thing, no matter which way you cut it.

Now opponents to relief concede that we compete in tier three and that they compete in tier three so now that that competition is clear they say well now there is a new tier four, how do we define tier four? Well anything from China is in tier four so you don't have to worry about it. Obviously defining tiers by origin leads to the conclusion that tires of different origins don't compete but that is not how tiers are defined, they are not defined by origin, that's a self-serving definition.

Their own video that they have shown of Hankook which is supposed to be a tier two or tier three company says they are a tier one company. Triangle says it wants to be a global brand and says Chinese brands are brands that no one recognizes and no one cares about. Aeolus says it has no pretense to compete with higher brands but articles say that Aeolus is positioned precisely to compete with tier one and tier two brands and their own website advertises high performance tires.

The slide that Dr. Kaplan showed from Michelin showing the triangle with the different tiers -- right there in tier two a Chinese joint venture with Michelin. Chinese in tier two where they are not supposed to be so Michelin must be confused.

Again there is constant confusion among Respondents among those that responded to the Commission's questionnaires about the tiers question and even if tiers exist, there is broad base competition between the tiers as Commissioner Schmidtlein noted the vast majority of everyone responding to the questionnaires found Chinese and U.S. tires to be interchangeable and they compete on price.

Finally or not finally, excuse me, the Respondent's also claim that U.S. producers have abandoned the market and they don't have the capacity to serve the market. Domestic industry was here today this morning the domestic industry told you they have the capacity, they want to produce more, they can produce more and the only thing that allows them to produce more on existing equipment is when Chinese imports are disciplined by import duties.

We heard about idle tire building machines I believe at the Tuscaloosa plant which many of you visited. Maybe you had a chance to see those idle machines, it is not going to take a year to flip a switch and turn on those machines and start making new tires. And when they make those new tires they are going to make the economy tires.

We heard this afternoon that there is no interest whatsoever from domestic producers in serving the economy segment. Exhibit 7 of our Brief Sara Boccia, the Goodyear brand manager explained to Modern tire dealer what the new launch of the new Kelly tire line was all about, this nuance that happened after preliminary relief was imposed.

The new Kelly edge power line is the answer with 85 unique sizes to cover 89% of the economy tier market. Kelly edge is a very complete lineup. This is the new -- one set of new tire codes introduced under Goodyear's Kelly line after preliminary relief. With no interest in this market these domestic producers have a very strange way of showing it.

Excuse me, so clearly there are theories, there are excerpts that can be taken from certain presentations made perhaps out of context, but when one looks at the entire record, looks at all of the facts before the Commission, looks at the experience of the actual workers who work in the domestic industry every day it is very clear that there is the ability to increase production with existing capacity and that there is the eagerness and interest in doing so once Chinese imports are disciplined.

Finally with few facts on their side opponents resort to arguing that this Commission should deny relief because management has not shown up and the workers don't know how their industry operates. The Commission should simply reject these arguments, they fly in the face of core principals of our trade remedy law and Congress has long recognized that the law must be available to both workers and management on an equal basis.

We must honor those principals in this case and therefore we would respectfully ask you to reach and affirmative determination. Thank you.

CHAIRMAN BROADBENT: Thank you Miss Drake. You may begin when you are ready.

MR. STOEL: Thank you Commissioners. I actually want to say thank you for all of your questions today. I think it has been a very educational day for all of us. I think you focused on the key issues and I want to go back and highlight a few of them.

First if you look at the record we believe that there has been no injury to the domestic industry. Production is stable, capacity utilization stable, hourly wages going up, total hours worked going up. And that's not to say anything about the low profitability which has increased to levels as we start off our presentation this afternoon this Commission has rarely ever seen.

This is not just a matter of dollars. This is a matter of new capacity. New capacity that is being built here in the United States here today, new jobs that are entering the market today -- today and in terms of your analysis of threat point out for the future. These are all very positive tangible signs. What do you have on the other side? Do you have a series of conjectures? You have asked me to look at an 11 year cycle which you have never done in your history and you have a three year POI, we would ask you to look at that.

If you are going to look at the business cycle, you have heard from Mr. Kaplan that the business cycle looks at 2009 until today. I also want to focus a bit on the allegation that the domestic industry can fulfill some unfilled demand by building today. I want to read to you from what Toyo has said "We have had significant growth in 2013 and '14 and our growth really is stunted by capacity. That is why we have made the major investments. The company is not afraid to add additional capacity in the U.S. because we really are one of the key markets for Toyo worldwide."

I want to leave you with that Commissioners because I believe that tells you a lot about the state of the industry today. There is very limited competition from China. We have talked a lot this afternoon about attenuated competition. We don't disagree that there is some competition in the market, the question is how significant and whether that competition is having any adverse impact on the domestic industry.

Respectfully submitted there has not, we ask you to submit a negative decision on critical circumstances and a negative decision on material injury and a negative decision on threat, thank you.

CHAIRMAN BROADBENT: Thank you I want to again express the Commission's appreciation to everyone that participated here today. Your closing statements, post-hearing brief, statements responsive to the questions and the requests of the Commission, and corrections to the transcript must be filed by June 16, 2015. Closing of the record and final release of data to the parties will be July 8, 2015. Final comments are due on July 10, 2015 and with that this hearing is adjourned.

(Whereupon the meeting adjourned at 6:17 p.m.)

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Certain Passenger Vehicle and Light Truck Tires from China

INVESTIGATION NOS.: 701-TA-522 and 731-TA-1258 (Final)

HEARING DATE: 6-9-2015

LOCATION: Washington, D.C.

NATURE OF HEARING: Final

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 6-9-2015

SIGNED: Mark A. Jagan

Signature of the Contractor or the Authorized Contractor's Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker identification and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceedings.

SIGNED: Gregory Johnson (Greg)
Signature of Proofreader

I hereby certify that I reported the above-referenced proceedings of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceedings.

SIGNED:
Signature of Court Reporter

Office of the Secretary

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

PUBLIC
HEARING MATERIALS

June 9, 2015

MEMORANDUM

TO: Docket Services
Office of Administrative Services
Office of the Secretary

FROM: William R. Bishop
Supervisory Hearings and Information Officer

SUBJECT: **PUBLIC** Hearing Materials of June 9, 2015

RE: Inv. Nos. 701-TA-522 and 731-TA-1258 (Final)(Certain Passenger Vehicle and Light Truck Tires from China)

Attached please find the following **PUBLIC** hearing materials for the above referenced hearing:

1.) Memorandum of Record

2.) Final Calendar of Witnesses

3.) Statement of the Honorable Jeff Sessions, United States Senator, Alabama

4.) Statement of the Honorable Tim Kaine, United States Senator, Virginia

5.) Statement of the Honorable David Price, U.S. Representative, 4th District, North Carolina

6.) Testimony and hearing materials in support of imposition of antidumping and countervailing duty orders submitted by Stewart and Stewart

7.) Testimony of Jonathan T. Stoel, Hogan Lovells US LLP

8.) Hearing exhibits submitted by Dr. Seth T. Kaplan, Capital Trade Incorporated

9.) Economic rebuttal submitted by Dr. Seth T. Kaplan, Capital Trade Incorporated

10.) Hearing presentation submitted by Hogan Lovells US LLP

11.) Hearing testimony concerning critical circumstances of Craig A. Lewis, Hogan Lovells US LLP

William R. Bishop
Supervisory Hearings and Information Officer

Office of the Secretary

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

MEMORANDUM OF RECORD

RE: Investigation Nos. 701-TA-522 and 731-TA-1258 (Final)

CONCERNING: Certain Passenger Vehicle and Light Truck Tires from China

A public hearing in these investigations was held on:

June 9, 2015

A copy of the calendar of this hearing is attached. For further information, consult the transcript of the hearing, the exhibits, and the minutes of the Commission.

FILED BY: ______________________________

William R. Bishop
Supervisory Hearings and Information Officer

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject: Certain Passenger Vehicle and Light Truck Tires from China

Inv. Nos.: 701-TA-522 and 731-TA-1258 (Final)

Date and Time: June 9, 2015 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, DC.

CONGRESSIONAL APPEARANCES:

The Honorable Jeff Sessions, United States Senator, Alabama

The Honorable Sherrod Brown, United States Senator, Ohio

The Honorable Tim Kaine, United States Senator, Virginia

The Honorable David Price, U.S. Representative, 4th District, North Carolina

The Honorable Robert B. Aderholt, U.S. Representative, 4th District, Alabama

OPENING REMARKS:

Petitioner (**Terence P. Stewart**, Stewart and Stewart)
Respondents (**Max F. Schutzman**, Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP)

In Support of the Imposition of
<u>Antidumping and Countervailing Duty Orders:</u>

Stewart and Stewart
Washington, DC
<u>on behalf of</u>

United Steel, Paper and Forestry, Rubber,
Manufacturing, Energy, Allied Industrial and
Service Workers International Union, AFL-CIO, CLC ("USW")

Stan Johnson, International Secretary-Treasurer, USW

Mark Williams, President, USW Local 351L

Rodney Nelson, President, USW Local 207L

Steve Jones, President, USW Local 1023

David Hayes, President, USW Local 12L

Kenneth R. Button, Ph.D., Senior Vice President, Economic Consulting Services LLC

Jim Dougan, Vice President, Economic Consulting Services LLC

Steven Byers, Ph.D., Director of Financial Analysis Services, Economic Consulting Services LLC

Terence P. Stewart)
Elizabeth J. Drake) – OF COUNSEL
Philip A. Butler)

In Opposition to the Imposition of
<u>Antidumping and Countervailing Duty Orders:</u>

Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP
Washington, DC
<u>on behalf of</u>

Sub-Committee of Tire Producers of the China Chamber of
Commerce of Metals, Minerals & Chemical Importers
The China Rubber Industry Association ("CRIA")

Yu Yi, Vice Chairman, China Chamber of Commerce of
Metals Minerals & Chemicals Importers & Exporters

Gustavo Lima, Chief Executive Officer, Oriente Triangle
Latin America, Inc.

Jason Rothstein, General Manager of North American Operations,
Aelous Tyre Co., Ltd.

Seth Kaplan, Senior Economic Advisor, Capital Trade Incorporated

Andrew Szamosszegi, Principal, Capital Trade Incorporated

Chen Yang, Attorney, Jincheng, Tongda & Neal

Zheng Xu, Attorney, Jincheng, Tongda & Neal

Max F. Schutzman)
Ned H. Marshak)
Kavita Mohan) – OF COUNSEL
Elaine F. Wang)
Yun Gao)

Hogan Lovells US LLP
Washington, DC
<u>on behalf of</u>

ITG Voma Corporation

Dennis Mangola, Chief Executive Officer, DMC Consulting, Inc.

Kivanc A. Kirgiz, Ph.D., Principal, Cornerstone Research

Jonathan T. Stoel)
Craig A. Lewis) – OF COUNSEL
Wesley V. Carrington)

In Opposition to the Imposition of
Antidumping and Countervailing Duty Orders (continued):

Jochum Shore & Trossevin, PC
Washington, DC
on behalf of

American Omni Trading Company

Marguerite Trossevin) – OF COUNSEL

REBUTTAL/CLOSING REMARKS:

Petitioner (**Elizabeth J. Drake**, Stewart and Stewart)
Respondents (**Jonathan T. Stoel**, Hogan Lovells US LLP)

-END-

CERTAIN PASSENGER VEHICLE AND LIGHT TRUCK TIRES FROM CHINA
INVESTIGATION NOS. 701-TA-522 AND 731-TA-1258 (FINAL)

STATEMENT OF SENATOR JEFF SESSIONS
PUBLIC HEARING BEFORE THE
UNITED STATES INTERNATIONAL TRADE COMMISSION

JUNE 9, 2015

I want to thank the Commission for the opportunity to testify today in support of Alabama workers' petitions on passenger car and light truck tires from China. These petitions are important for our domestic tire industry and its workers not only in Alabama, but also around this country.

This commission is well aware of our current trade deficits and the debate that surrounds it. You know about the role foreign governments and corporations play to get around internationally agreed upon trading rules, all done in the name of "free trade." I don't accept the notion that we should send thank you notes to nations that ship us goods at illegally subsidized prices, that have the result of eliminating American competitors and shifting their unemployment to the United States.

As a result, this nation is facing very serious challenges to its strong manufacturing base. Currency manipulation, tariffs, and non-tariff barriers hammer American industries and workers.

Our trade competitors strongly desire access to our market, and we have every right, and a duty, to ensure that such access is accompanied with compliance with the rules of trade. This is not free trade. And this nation cannot be so tied to a religion of free trade that we enable such bad behavior.

This Commission plays a key role in making trade work for the American people. Your work has been critical to the competitiveness, and indeed the survival, of many important domestic industries, including American tire manufacturers. Your work promotes trade by resisting anti-trade actions.

In 2009, this Commission found that a surge in Chinese tire imports was disrupting the U.S. market and recommended that a remedy be imposed, resulting in three years of safeguard tariffs that protected American manufacturing from state-owned enterprises, manipulated currencies, and illegal product dumping in our domestic market. From 2004 to 2008, tire imports from China more than tripled, while the American industry was thrown into a downward spiral of lost shipments, declining productivity, and disappearing contracts. From 2004 to 2009, before relief was imposed, the industry closed or announced the closure of eight tire plants, including Michelin's plant in Opelika, Alabama. As a result, U.S. industry lost a massive 60 million tires of annual production capacity.

But this Commission's actions to push back against trade abuses have been very successful. With the safeguards you authorized in place, imports from China dropped dramatically and the hemorrhaging of the domestic industry stopped. By 2011, the domestic industry's shipments, employment, and operating income had started to improve. However, when the safeguard tariffs expired in 2012, Chinese producers came back in force. Your prehearing staff report shows that they dramatically ramped up their exports by 84 percent from 2012 to 2014, once again, rapidly seizing market share from domestic producers. As a result, the domestic industry has yet again seen its production, shipments, and employment all decline, even while demand increased following the recent recession.

The Commerce Department's preliminary report found that Chinese producers are dumping their product in the U.S. market at prices significantly below market price. The report states that Chinese products arrive in the U.S. market between 18.58% and 87.99% percent below fair market price.

Furthermore, Chinese producers also benefit from an array of government subsidies, including export subsidies, and an artificially depressed currency. The Commerce Department's preliminary report also found that government subsidies range from 11.74 percent to 81.29 percent. This dumping and subsidization has permitted Chinese producers to engage in widespread and significant undercutting of U.S. prices at every turn. The fact is, when American's are offered a level playing field, our workers can win. However, these numbers prove that this is not free trade. The United Sates should not acquiesce to the loss of a single job to unfair competition. That day is past.

Alabama is home to three plants that produce passenger car and light truck tires. Michelin has two plants in Dothan and Tuscaloosa, and Goodyear operates a plant in Gadsden, employing more than 3,000 people.

When Michelin's plant in Opelika, Alabama closed, we directly lost about a thousand good paying jobs. After the safeguard tariffs expired in 2012, Michelin's plant in Tuscaloosa, Alabama, had to cut production and lay off 100 workers. Goodyear's plant in Gadsden, Alabama also had to reduce production and hours and lay off workers. Michelin's Dothan plant likely faces similar declines. With Commerce's preliminary relief in place, these plants have begun to recover, rehiring workers, and making new investments.

For the sake of these plants and their workers in Alabama and around the country, I urge the Commission to vote in the affirmative so this vital, and justified, relief can remain in place for years to come. Thank you.

CERTAIN PASSENGER VEHICLE AND LIGHT TRUCK TIRES FROM CHINA
INVESTIGATION NOS. 701-TA-522 AND 731-TA-1258 (FINAL)

STATEMENT OF SENATOR TIM KAINE AS PREPARED FOR DELIVERY
PUBLIC HEARING BEFORE THE
UNITED STATES INTERNATIONAL TRADE COMMISSION

JUNE 9, 2015

Chairman Broadbent, Commissioners, thank you for the opportunity to be here today to testify. I am here on behalf of the people of Virginia in support of the United Steelworkers' petition for relief from dumped and subsidized imports of passenger and light truck tires from China.

Last September, I, along with 29 other Senators, sent a letter to the Department of Commerce in support of the Department's decision to initiate these investigations. In that letter we noted the importance of America's trade laws and the enforcement of those laws in combatting unfairly traded imports from China. As we noted, when fair trade conditions are restored, and U.S. producers are on a level playing field, we can out-compete anyone.

I believe this was shown a few years ago when Chinese imports were subject to duties as a result of the United Steelworkers' safeguard petition. I am glad the Commission and President stood up for American manufacturers. Following imposition of tariffs then, the volume of imports from China fell significantly and prices began to improve. In other words, the U.S. market found the stability it needed. We then saw rebounds in domestic production, shipments, and employment, and eventually the industry was able to earn the profits it desperately needed to reinvest.

However, it is important to think about what necessitated this relief. From 2004 to 2008, imports of Chinese tires soared. The market share of Chinese imports grew to reasonably large numbers. At the same time, U.S. production decreased, the market share for domestic producers fell, and thousands of workers lost their jobs. The surge in Chinese imports resulted in the closure or the announced closure of U.S. tire plants. If not for the safeguard relief, Chinese imports would have continued to cause injury to the domestic industry.

The record before the Commission today shows similar patterns. Since 2012, China has been flooding the U.S. market with dumped and subsidized tires. The pre-hearing staff report shows that imports from China increased by 84 percent between 2012 and 2014. The Commission's preliminary determination indicates that the levels of underselling by Chinese imports increased significantly after the safeguard measured expired, underscoring how important the safeguard relief was in bringing pricing stability to the U.S. market.

While the surge in Chinese imports occurred during a time of economic recovery and increased domestic consumption, Chinese imports benefited from the U.S. recovery but the domestic industry did not, as U.S. production and U.S. shipments declined. Thus, the market share for Chinese imports increased from 11.5 percent of the U.S market in 2012 to 19.3 percent in 2014. This increase came at the direct expense of domestic producers, whose market share feel from 46.6 percent to 41.9 percent in that period. American jobs were lost over this period despite the economic recovery and growth in consumption of nearly 10 percent.

Some of those jobs were lost at the Yokohama plant in my home state of Virginia. The plant is located in Salem, Virginia and has 910 employees, including 718 United Steelworker members, some of them here today. However, that was not always the case. When the safeguard duty was in place, the Salem plant was producing 18,000 tires a day. After the safeguard relief expired, and Chinese imports resurged into the market, production at Salem quickly dropped, falling to 16,000 tires a day in 2013. By June of last year, when these petitions were filed, production was down to 15,100 tires per day. I understand that production continued to fall in 2014. So in a period of strong growth in demand for tires, the Yokohama plant reduced production by nearly forty percent – the direct result of surging imports from China.

Over the past decade, Chinese producers have repeatedly inundated the U.S. market with unfairly traded tires and harmed the U.S. tire industry and the industry's workers. This has been driven by targeted Chinese government support policies and generous subsidies by the Chinese government to benefit the Chinese tire industry. The Department of Commerce preliminarily countervailed thirty subsidy programs available to the Chinese tire industry, resulting in subsidy margins ranging from 11.74 percent to 81.29 percent. Additionally, the Department of Commerce made a preliminary finding that Chinese producers were dumping tires in the U.S. market at margins ranging from 19.17 percent to 87.99 percent. I think we must question how we could expect anyone to compete against such massive levels of dumping and subsidization.

However, just as Chinese producers retreated from our market when the safeguard relief was imposed, Chinese imports again fell sharply after preliminary duties were imposed in these investigations. Monthly imports from China dropped in December of last year after preliminary countervailing duties were imposed. In the first quarter of this year, imports from China are below what they were in the same period last year. The preliminary relief from dumped and subsidized Chinese tires is making a big difference in my state. I understand that production in Salem has already begun to increase. The plant has even been able to recall some of the workers it had to lay off. This is welcome news for our domestic manufacturers.

When China's unfair trade practices are neutralized through antidumping and countervailing duties, the domestic industry can recover the market share, volume, and employment that unfair trade practices have limited. I believe trade, under the right conditions, is important, and Virginia is a global gateway for this activity. I hope you are able to find in favor of U.S. manufacturers and allow them to compete on a level playing field.

Thank you.

CERTAIN PASSENGER VEHICLE AND LIGHT TRUCK TIRES FROM CHINA
INVESTIGATION NOS. 701-TA-522 AND 731-TA-1258 (FINAL)

STATEMENT OF REPRESENTATIVE DAVID PRICE
PUBLIC HEARING BEFORE THE
UNITED STATES INTERNATIONAL TRADE COMMISSION

JUNE 9, 2015

- Chairman Broadbent, Commissioners, I appreciate the opportunity to be here today to testify before the Commission. As the representative of North Carolina's Fourth Congressional District, I am here today to support the United Steelworkers' petition for relief from dumped and subsidized imports of passenger and light truck tires from China.

- North Carolina is home to two passenger car and light truck tire plants: a facility run by Bridgestone in Wilson, North Carolina and a Goodyear's tire plant in Fayetteville, which is located in the Fourth Congressional District. Together, these plants have the capacity to produce 75,000 tires a day and employ thousands of workers. They provide significant economic benefit to their local communities and to the state of North Carolina.

Commission's price comparisons. The result is that Chinese producers have increased their market share from 11.5 percent of the U.S. market in 2012 to 19.3 percent of the U.S. market in 2014. This increase came at the expense of our domestic producers, whose market share fell from 46.6 percent to 41.9 percent in that period. As a result, domestic production is down, domestic sales are down, and employment is down.

- There seems to be ample evidence that the increased competitiveness of Chinese tire manufacturers can be directly tied to state-sponsored efforts to boost production, including but not limited to below-market loans from state-owned banks, grants, tax breaks, and the provision of key raw materials from state-owned suppliers. Other witnesses will provide you with additional details on that front, but it's safe to say that this is nothing new, particularly with regard to the trade-distorting practices historically employed by the Chinese government.

- To illustrate the importance of ITC action on this front, let me share with you how my constituents at the Goodyear plant in Fayetteville have been affected. As Darryl Jackson, President of USW Local 959 at Fayetteville testified last June, with the 2009 421 relief in place and the affirmative determination in this matter and level the field for U.S. workers.

- Thank you again for your attention to this matter.

PUBLIC HEARING BEFORE THE
U.S. INTERNATIONAL TRADE COMMISSION

CERTAIN PASSENGER VEHICLE AND LIGHT TRUCK TIRES FROM CHINA

INVESTIGATION NOS. 701-TA-522 AND 731-TA-1258 (FINAL)

JUNE 9, 2015

TESTIMONY AND MATERIALS
IN SUPPORT OF IMPOSITION OF
ANTIDUMPING AND COUNTERVAILING DUTY ORDERS

LAW OFFICES OF STEWART AND STEWART
2100 M Street NW, Suite 200
Washington, DC 20037
(202) 785-4185

Counsel to Petitioner
United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC ("USW")

CERTAIN PASSENGER VEHICLE AND LIGHT TRUCK TIRES FROM CHINA
INV. NOS. 701-TA-522 AND 731-TA-1258 (FINAL)

PUBLIC HEARING BEFORE THE
UNITED STATES INTERNATIONAL TRADE COMMISSION

JUNE 9, 2015

STATEMENT OF STAN JOHNSON
INTERNATIONAL SECRETARY-TREASURER
UNITED STEEL, PAPER AND FORESTRY, RUBBER, MANUFACTURING, ENERGY, ALLIED INDUSTRIAL AND SERVICE WORKERS INTERNATIONAL UNION

Good morning. My name is Stan Johnson, and I am the International Secretary-Treasurer of the United Steelworkers union. I also chair the Rubber and Plastics Industry Conference of the USW.

I have extensive experience in the tire industry. I worked at Armstrong's passenger car and light truck tire plant in Madison, Tennessee, for more than 20 years. I left the plant to join the USW after the Rubber Workers merged with the USW in 1996. As part of my responsibilities, I have been involved in major bargaining with the tire companies that employ USW members both in 2009 and in the most recent rounds of bargaining.

The USW filed these petitions on tires from China for one simple reason: to fight for our industry. When we fought for our industry in 2009, the safeguard duties we obtained made all the difference. When we brought that case, China had more than tripled its exports of passenger and light truck tires to the U.S. from 2004 to 2008, leading to job losses, factory closures, and a struggling domestic industry. Indeed, the harm was so serious that three additional plants were slated for closure before 421 relief and all closed by the end of 2011. When this Commission recommended relief and the President acted to impose safeguard duties, the turnaround was remarkable. Imports from China dropped from a peak of 46 million tires in 2008 to just 30 million in 2010, dropped again in 2011, and stayed below 32 million in 2012. The bleeding in the domestic industry had stopped. Workers were called back, investments were made, production increased, and market share was being regained. In short, the tariffs have worked.

Before the safeguard duties expired, importers were so eager to re-flood the U.S. market with Chinese tires that some of them set up their own warehouses as free trade zones so they wouldn't have to wait for tires to enter the port. As one publication explained, key players were planning to resume shipments of Chinese tires "at 12:01 of the 27th" of September, the day after the duties expired.

The impact was dramatic. From 2012 to 2014, U.S. imports of tires from China jumped by more than 84 percent. At the same time, average unit values for the most popular tire sizes began to plummet.

The resurgence of Chinese tires has come at the direct expense of U.S. producers, who lost shipments, production, and market share even as demand was growing. Indeed, the annual loss of market share was nearly as great from a much smaller base in the 2011-2014 period as it had been in the pre-safeguard period. For our members, the nightmare was recurring with as much horror as we experienced from 2004 to 2008. As the USW local presidents with me today will attest, this led to reduced production, lost hours, lower staffing levels, and layoffs at the tire plants that we represent. The unused capacity at the nine USW plants alone would have permitted enough additional production during the period of investigation to supply a substantial portion of the market share lost to rising Chinese imports.

It is Chinese imports that are the cause of this injury. I understand that some who oppose relief argue that Chinese tires cannot be hurting the domestic industry because management has not taken a public position on our case. Their theory is that management wanted to lose their share of a growing market as part of some corporate strategy, and therefore they could not have been pushed out or injured by Chinese tires.

These arguments are just wrong. First, if the mere fact that management does not show up when workers bring a case is enough to preclude an affirmative determination, then the equal treatment our trade laws give to management and labor will mean nothing. This is our industry just as much as management's industry. The USW represents workers at nine plants around the country that account for 40 percent of the industry's capacity. We are the ones who build tires in this country, and we are the ones whose jobs and livelihoods are on the line. While the Commission sends questionnaires to the companies and does not request input from the workers in the companies separately, under the law, we have standing to bring cases.

Indeed, I understand that the Commission received subpoena power from Congress back in 1958 exactly because Congress understood that there could be situations where management's focus was on non-U.S. interests and that subpoena power would permit the Commission to gather the information it needs to determine the facts when the workers come forward seeking relief. This case is exactly that type of situation. As you know, eight of the nine U.S. producers are heavily invested in China. Whether for concerns about products they may import, concerns about relations with China (including possible concerns over retaliation), or other reasons, management did not request the opportunity to present testimony. But they all sent questionnaire responses and the workers are here to explain just how vital the relief is in these cases.

Moreover, the claims that competition with Chinese tires is attenuated, and that employers in fact have no concerns about Chinese imports are ludicrous. We regularly discuss market conditions and corporate strategy with management, including through interim meetings between bargaining sessions. The issue of Chinese imports and our ability to compete with those imports is a constant topic of discussion. It comes up in almost every meeting that we have. The persistent pressure on us to be more efficient and cost-effective is a direct result of this competition. As every one of our local union presidents will testify, production in our plants directly responds to the presence or absence of Chinese imports in the market. Our members, our employers, and our plants feel the direct results of competition with China every single day. Any claims to the contrary are just not based on the reality in which we live.

The importance of these cases for our industry has come into sharp relief over the past six to seven months. The massive subsidies and dumping that characterize imports from China has drastically skewed the market. Relief under the law is helping to restore the level playing field that every Administration and Congress in recent memory has promised working men and women. As our local presidents will testify, since preliminary relief was imposed, our companies have launched new tire lines, ramped up production, added hours and shifts, canceled planned shutdowns, hired new workers, and made investments in new and improved equipment. The plants represented here today are not alone – the story is the same at all of the plants the USW represents. Management's decisions to increase production and expand their presence in the market since preliminary relief was imposed belies any claim that they don't see the value in these cases or that U.S. producers are not adversely affected by dumped and subsidized imports from China.

I am proud of our union for taking the lead to fight for our industry. We cannot sit idly by as our industry once again loses market share, production, and jobs to unfairly traded Chinese imports. The law gives us the right to seek relief. And the record in these cases strongly supports providing that relief. When market distortions are corrected, our industry can regain the market share that unfairly traded imports have stolen. The benefits of relief are very real for our members, their families, and the communities in which they live. That is why the union filed these petitions, and it is why we are here today to ask for an affirmative vote.

Thank you.

CERTAIN PASSENGER VEHICLE AND LIGHT TRUCK TIRES FROM CHINA
INV. NOS. 701-TA-522 AND 731-TA-1258 (FINAL)

PUBLIC HEARING BEFORE THE
UNITED STATES INTERNATIONAL TRADE COMMISSION

JUNE 9, 2015

STATEMENT OF RODNEY NELSON
PRESIDENT, LOCAL 207L
UNITED STEEL, PAPER AND FORESTRY, RUBBER, MANUFACTURING, ENERGY, ALLIED INDUSTRIAL AND SERVICE WORKERS INTERNATIONAL UNION

Good morning. My name is Rod Nelson. I am the President of USW Local 207L, which represents workers at Cooper's passenger car and light truck plant in Findlay, Ohio.

I have been with Cooper for 34 years, and I have been the president of the local for 9 years. In my time at Cooper I have done nearly every job there is. I have worked in the mill room doing material prep, and I have worked with the banbury mixers, in the tire room, as a tuber operator, and more.

Our plant produces tires for the replacement market for Cooper's own brands as well as dealers' private labels.

One of the most important factors affecting the fortunes of our plant in recent years has been imports from China.

When President Obama imposed safeguard tariffs on Chinese tires in 2009, the impact on our plant was immediate. The order imposing duties came out on Friday, September 11. That next Monday, our plant manager told me we were going to hire 100 more workers and invest $20 million in the plant to keep up with the increased demand for our tires. Even that estimate was conservative – all together we ended up hiring 150 more people, and we invested in new curing presses and made other improvements. And those workers were kept extremely busy; we were racing to keep up with the demand for our tires.

But the relief didn't last. In contract negotiations in 2011, management said we needed to cut costs and roll back our wages to prepare for the tariffs coming off. As we got closer to September of 2012, management warned us that there were ships loaded with Chinese tires waiting off the coast of California for the tariffs to expire. Once the tariffs ended, and Chinese imports came flooding back in, the effect was immediate.

While the tariffs were in place, we would run about 21,500 tires a day. After the tariffs came off, our daily production fell by almost 20 percent, to 17,400 tires a day, in 2013 and 2014. This equals a loss of more than 1.4 million tires a year. In addition, as production dropped, management started taking days out of our schedule. We only operated 41 weeks in 2013, a loss of at least another million tires of production. While we were operating 298 molds before the tariffs ended, we fell down to 242 molds in 2014. We've lost workers as well. Through attrition, we went down from 1,050 workers in 2012 to only 840 in 2014.

I am proud that our union took action to counteract Chinese imports. I have seen first-hand the dramatic improvements that are possible if we can get relief from dumped and subsidized tires from China. In December, the month after Commerce's preliminary subsidy determination, we got two new curing presses, and we are now in the process of installing 14 more new presses. We didn't hear anything about getting this new equipment until the preliminary tariffs were put on. We are now operating 270 molds, up from the 242 molds we were operating last year. We've been able to add jobs, and we are working on a full schedule with no days taken out.

And this is just the beginning. Management is still getting its plans in place so we can take full advantage of the important opportunity the tariffs have created. The month before Commerce made its preliminary subsidy determination, management bought some land next to our plant. Now they are trying to get Cooper to approve an expansion. They are hoping to be able to get up to operating 330 molds – a lot more than the 298 molds we operated under the safeguard. Our plant can adapt very quickly to increase production if the demand is there – and with duties in place, believe me, the demand is there and we are eager to meet it.

Anyone who claims that Chinese tires do not compete with our product and have no impact on our industry has not been to Findlay, Ohio. They haven't been in our plant and seen the new equipment, the increased daily ticket, the workers who are able to work a full schedule and bring back more pay to their families. There is only one reason for these improvements: Chinese tires are retreating from the market.

Just as our plant suffered when Chinese imports flooded in after the safeguard ended, our plant thrives when imports from China are required to compete fairly. Our union sees the cause and effect, and our management does as well. Local management was very clear with us why production, hours, and employment all had to go down when the safeguard ended: because we couldn't compete with the tide of Chinese tires entering the market at very low prices. As Cooper itself explained in its 2013 annual report, its reduced volume in North America "is a result of increased competition from imports." The company also noted "unfavorable pricing" in North America in 2013. The immediate positive turnaround from management when duties were imposed only underscores how closely our plant's fate is tied to disciplining Chinese imports so the playing field is level.

These cases are critical to our plant's ability to compete. For the sake of my 925 members and their families, I hope the Commission will vote in the affirmative and will allow duties on Chinese tires to stay in place.

Thank you.

CERTAIN PASSENGER VEHICLE AND LIGHT TRUCK TIRES FROM CHINA
INV. NOS. 701-TA-522 AND 731-TA-1258 (FINAL)

PUBLIC HEARING BEFORE THE
UNITED STATES INTERNATIONAL TRADE COMMISSION

JUNE 9, 2015

STATEMENT OF MARK WILLIAMS
PRESIDENT, LOCAL 351L
UNITED STEEL, PAPER AND FORESTRY, RUBBER, MANUFACTURING, ENERGY, ALLIED INDUSTRIAL AND SERVICE WORKERS INTERNATIONAL UNION

Good morning. My name is Mark Williams, and I am the former President of USW Local 351L. Our members produce passenger car and light truck tires at Michelin's plant in Tuscaloosa, Alabama. I was pleased that a number of Commissioners and staff were able to visit Tuscaloosa in April of this year, and I hope you enjoyed learning about our plant.

I started my career as a tire builder at the Tuscaloosa plant in 1976, when it was owned by BFGoodrich. Our plant makes a wide range of tires, with rim diameters from 14 to 20 inches. We produce tires for both the OEM market and the aftermarket.

When President Obama imposed safeguard duties on Chinese tires in 2009, it led to a lot of optimism at our plant. In 2011, management launched a plan to add equipment and hire additional staff in order to increase production. They put up a big board with a football theme – we are big University of Alabama fans, of course. It had goals for growth, a countdown, and a big picture of Bear Bryant. Our daily production grew from 12,000 tires to a peak of 16,500 tires in early 2012. This translates into added production of nearly 1.6 million tires a year.

But by mid-2012, when we were facing the expiration of the tariffs , management took down the big board tracking our expansion progress. The growth plan suddenly went away.

Once the tariffs were removed and imports flooded back into the market, the situation at our plant deteriorated quickly. In 2013, production was cut to 13,500 tires a day, and the plant was shut down for four weeks. Even this was not enough to adjust to the surge of Chinese tires.

In October of 2013, Michelin laid off 100 workers at our plant, and we also stopped backfilling jobs lost to attrition. By mid-2014 our production was at 12,000 tires a day, less than 75 percent of our potential, and we again shut down for three to four weeks. Of the 60 to 65 tire building machines in our plant, about a third were sitting idle and unmanned. To see so many machines idle, so many fewer tires produced, and so many of my union brothers and sisters forced to take layoff in a market where demand was growing rapidly was a very hard blow after the optimism we felt when the safeguard was in place.

The reason for these losses was the surge in imports from China. When we entered contract negotiations with Michelin in 2013, the threat posed by Chinese tires was openly discussed. They talked about the number of tire plants being built in China and the tremendous growth in Chinese imports. Management also discussed the intense pricing pressure they were facing. When we ratified our contract, the company stated that the agreement was reached "in a very cost competitive and challenging environment." Our contract does not protect us from future layoffs or from a complete closure of our plant or our sister plant in Fort Wayne, Indiana.

Fortunately, the preliminary duties on imports from China are making a difference. As imports have plummeted, optimism has returned to our plant. Michelin has introduced new tire codes under the BFGoodrich label. The company recognized that it had lost too much of the middle range of the market and that its BFGoodrich label had the opportunity for growth now that Chinese tires are being disciplined by duties. Our plant is a direct beneficiary of Michelin's decision to take advantage of the relief that these duties provide.

In October of 2014, the month before Commerce's first preliminary determination, management increased our targeted production to 13,500 tires a day. We are working hard to reach that goal. All 100 workers that were laid off in 2013 have been hired back, and we've hired nearly 100 more new workers on top of that. We've gotten a lot of new molds with all the new tire codes we are running. The new BFGoodrich tires we make are in very high demand, with sales far above what was forecast. We've been told that we won't take our regular shutdown in July this year so we can keep up with the demand for our tires.

Plant management has told us that Michelin is planning seven new tire launches over the next five years as long as the market holds. They are seeing the positive impact the tariffs are having on their sales, and they want to be able to take full advantage of that opportunity. With a third of our plant's tire machines still idle, I am hopeful we can respond quickly and increase production even more if these cases are successful.

In closing, I understand some who oppose our petitions claim that Chinese imports have no impact on the domestic industry, or that we occupy some niche of the market that is insulated from competition with Chinese imports. These claims simply do not reflect reality – certainly not the reality at our plant in Tuscaloosa. Michelin would not tell us that we have to cut costs to compete with China if it did not believe it competes with Chinese imports. Michelin would not track the number of tire plants being built in China if Chinese imports were of no concern. Management would not rush in to launch new mid-level tire lines and to increase production once Chinese tires retreat if it saw no value in that market. Production and employment at our plant would not rise and fall depending on whether relief from Chinese tires is in place if we did not compete with Chinese tires head-to-head across the market.

Our experience shows the domestic industry can regain production, make new capital investments, add jobs, and compete successfully when unfairly traded imports from China are subject to duties and not flooding our market. The Commission's decision in this case will determine whether or not we are given that opportunity to compete.

Thank you.

CERTAIN PASSENGER VEHICLE AND LIGHT TRUCK TIRES FROM CHINA
INV. NOS. 701-TA-522 AND 731-TA-1258 (FINAL)

PUBLIC HEARING BEFORE THE
UNITED STATES INTERNATIONAL TRADE COMMISSION

JUNE 9, 2015

STATEMENT OF DAVID HAYES
PRESIDENT, LOCAL 12L
UNITED STEEL, PAPER AND FORESTRY, RUBBER, MANUFACTURING, ENERGY, ALLIED INDUSTRIAL AND SERVICE WORKERS INTERNATIONAL UNION

Good morning. My name is David Hayes. I am the President of USW Local 12L, which represents workers at Goodyear's tire plant in Gadsden, Alabama.

I have worked at Goodyear for nearly 40 years. My father worked at the plant and was also president of the local. My five brothers and a couple brother-in-laws also worked at the plant, and I have a couple nieces and nephews that also work there. I spent most of my career working the extruders in component prep; I have also worked as a tire builder and in final finish.

Our plant makes both passenger and light truck tires. We have the capability to make a wide range of sizes, from as small as 13 inches diameter to as high as 24 inches. We make tires for the OEM and replacement markets, and for Goodyear's own labels, including Dunlop and Kelly, as well as private labels.

After the safeguard duties expired, the surge of imports from China directly impacted our plant. In 2012, while the safeguard duties were still in place, we were producing from 21,500 to 23,927 tires a day at our plant. In October of that year, right after the duties ended, we dropped to 15,090 tires a day. The plant also shut down for 10 days due to high inventory, and our work schedule was reduced from 42 hours a week to 40. In 2013 and 2014, our production was about

20,000 tires a day for most of the year. This translates into nearly 1.4 million tires of lost annual production compared to the daily peak we were able to achieve with the safeguard duties in place. As our production dropped, 53 workers were laid off, and we lost more through attrition. In August of 2012, we had 1,456 members in our unit. By June of 2014, we had only 1,350.

As I testified in June of last year, Goodyear was hoping to increase production at Gadsden by introducing 22 new tire codes. Goodyear wanted to regain share at the mid-level of the market where they have been directly pushed out by Chinese imports. To succeed, however, Goodyear must be able to make a profit on those tires, a prospect put into jeopardy by ever-growing volumes of low-priced Chinese imports. In May of 2014, a Goodyear Vice President came to Gadsden and explained to us that the expansion plans might have to be shelved if the company cannot regain the market share it lost to China since the safeguard duties expired.

I am happy to say that the plans did not have to be shelved. The reason is these cases. When Commerce imposed preliminary duties on Chinese imports in November 2014 and January 2015, import volumes shrank dramatically. And import unit values rose, relieving some of the price pressure on our products. Goodyear moved ahead with its plans, launching a new product line called Assurance Fuel Max. Goodyear raised our daily ticket to 22,200 tires a day at the end of 2014 so we could produce the new tires. In April of this year, Goodyear also announced a new tire line under its Kelly brand, and we are now producing 22,700 tires a day.

The company invested in new tire building equipment to raise our capacity to 24,500 tires a day, capacity we can reach if duties stay in place and our production continues to rise. Since preliminary duties were imposed, we have gotten five new tire machines, we have expanded our curing operation, and we have added eight new presses. We also installed new equipment in final finish and added labor to component prep on equipment that had been idle during the night shift. We have hired at least 188 new employees since last year, and we have been hiring nearly every week. We are working full out every shift and management canceled our normal July 4th shutdown, which means more money in the pockets of our members and their families.

Goodyear jumped at the chance to expand its presence in the mid-range of the market after duties were imposed. Management explained to us that this market was difficult to compete in successfully because of rising imports of low-priced tires from China. They see enormous potential in this market, and they are ramping up to retake the market share China took from us. Management's name for the project says it all: "Rocket Launch." With duties in place to tame Chinese dumping and subsidies, the domestic industry is willing and able to rapidly increase production by activating the capacity that has been idled and investing in new capacity.

Sales of our new tires are through the roof. Management has told us that if these cases are successful, 2015 will be a lot better year than 2014. But they have also told us that if the duties terminate, 2015 could be another bad year and days would again have to be taken out of schedule. The fate of our plant hinges on these cases.

If the duties are not allowed to stay in place, I am deeply concerned about what would happen to our plant. In many ways the only way our plant was able to stay afloat after the safeguard expired is because we were able to absorb production from Goodyear's Union City plant that closed in 2011. But that cannot sustain us for long if imports from China continue to grow and seize market share. If that happens, our plant could be the first on the chopping block at Goodyear. While our current contract protects the plant from being closed down entirely until 2017, management can lay off more than 250 workers during the life of the contract.

This would be a huge blow to our members and their families, and indeed the entire Gadsden community. My family is not the only one in Gadsden that has supported itself through generations of hard work at the plant. A 2006 study of our plant found that it contributes $360 million to the local community in direct and supported economic activities and supports 4,200 jobs in the state of Alabama. If the plant were to close its doors, the impact would be devastating.

This Commission's vote will make all the difference for our plant, our members, and the generations of families in Gadsden that have made their livelihoods in the tire business.

Thank you.

CERTAIN PASSENGER VEHICLE AND LIGHT TRUCK TIRES FROM CHINA
INV. NOS. 701-TA-522 AND 731-TA-1258 (FINAL)

PUBLIC HEARING BEFORE THE
UNITED STATES INTERNATIONAL TRADE COMMISSION

JUNE 9, 2015

STATEMENT OF STEVE JONES
PRESIDENT, LOCAL 1023
UNITED STEEL, PAPER AND FORESTRY, RUBBER, MANUFACTURING, ENERGY, ALLIED INDUSTRIAL AND SERVICE WORKERS INTERNATIONAL UNION

Good morning. My name is Steve Jones. I am the President of USW Local 1023, representing workers at Yokohama's tire plant in Salem, Virginia.

I started working in the Salem plant in 1991. I have worked as a press operator in the curing operations, as a green tire man, and as a tire builder. We make both passenger car and light truck tires, with a focus on 16 and 17 inch tires for the aftermarket. The tires we produce under Yokohama's brands are physically very similar to the private label tires we produce.

Our plant has tried to focus on the 16 to 17 inch high performance and light truck tires in the hopes that it would insulate us from import competition. Unfortunately, that has not been the case. In early 2012, with the safeguard tariff on Chinese tires in place, our plant was producing up to 18,000 tires a day. That fell sharply once the tariffs were taken off. As imports from China surged, our production dropped to an average of 16,000 tires a day. By the end of 2014, we were only producing 11,000 tires a day – a huge decline of nearly 40 percent from the daily production we enjoyed in 2012. The difference between our peak daily production with duties in place and the lowest daily production in 2014 is a gap of nearly 2.5 million tires a year.

We also lost production due to reduced shifts and overtime. Management cut shifts from our schedule, regularly using one shift a week for maintenance instead of production. Management greatly reduced overtime, which is an important source of income for our members and their families. In March of 2014, management also stopped hiring new workers to replace those lost through attrition. Due to these pressures, management insisted that our most recent contract, which was ratified in June of last year, be cost neutral. While our plant is protected from being shut down during the life of the contract, there are no restrictions on the number of USW members that could potentially lose their jobs.

Last year, I testified that I was worried Yokohama might have to let workers go if Chinese imports continued to grow and take our market share. Unfortunately, the surge only accelerated as importers tried to stockpile Chinese tires before duties were put in place. In January of this year, management did have to lay off workers, cutting 29 jobs at our plant. The workers were certified for Trade Adjustment Assistance.

These cuts in production, hours, and jobs were directly due to the rising volumes of Chinese imports that undercut our market after the safeguard duties expired. Yokohama's own public statements show that management agrees it is Chinese imports that caused the injury we have suffered.

In its 2013 annual report, Yokohama explained that the termination of the safeguard duties undermined it sales in North America. In November of 2013, the President of Yokohama was described in a news article as "concerned about the influx of Chinese tires into the U.S. market" since the tariffs ended. He noted that low-priced imports from China were affecting the prices for the whole range of tires on the market. In January of last year, Yokohama's President explained that he expected to see increased competition in the U.S. market, stating: "There are many low-cost imports, which are impacting everyone in the market."

With duties in place to offset China's unfair trade practices, the tide of Chinese imports is receding. Our plant is already beginning to see some of the benefits. From the low of 11,000 tires a day at the end of last year, we are now producing 13,500 tires a day. Management is hoping we can get production back up to 14,000 a day by the end of the year. And, of the 29 workers who were laid off, 26 have already been re-hired to replace workers lost to attrition.

Even with these improvements, we still have lots of unused capacity. We have 43 tire machines at our plant, but only have the manpower to run 31 machines. If duties are allowed to continue and the market keeps improving, it would be very easy for us to rapidly increase production with the equipment we already have.

Unfortunately, if these duties end, our plant will be in the cross-hairs. We were already hit so hard by the wave of low-priced imports from 2012 to 2014 that I am not sure how we would survive even greater volumes of Chinese imports. Chinese producers have large amounts of excess capacity, and have shown they are eager to penetrate our market. If no relief is put in place, I am concerned that our plant and the members of our local will suffer even more injury than we already have: additional production cuts, reductions in hours and pay, and more layoffs. I hope the Commission will help ensure this does not happen, and allow the benefits of the duties to endure, by reaching an affirmative determination in these investigations.

Thank you.

PASSENGER VEHICLE AND LIGHT TRUCK TIRES FROM CHINA

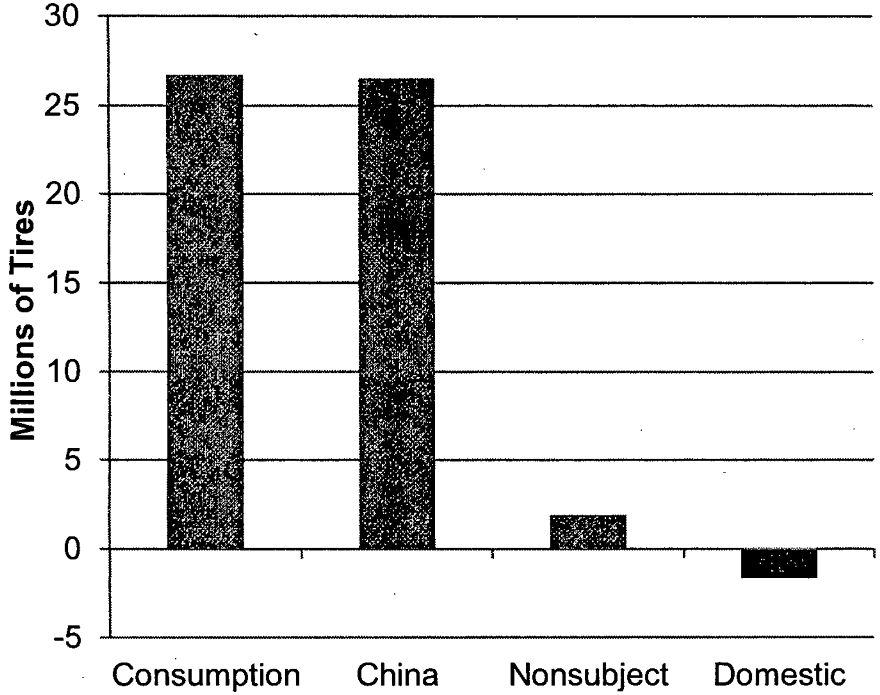
INV. NOS. 701-TA-522 AND 731-TA-1258 (FINAL)

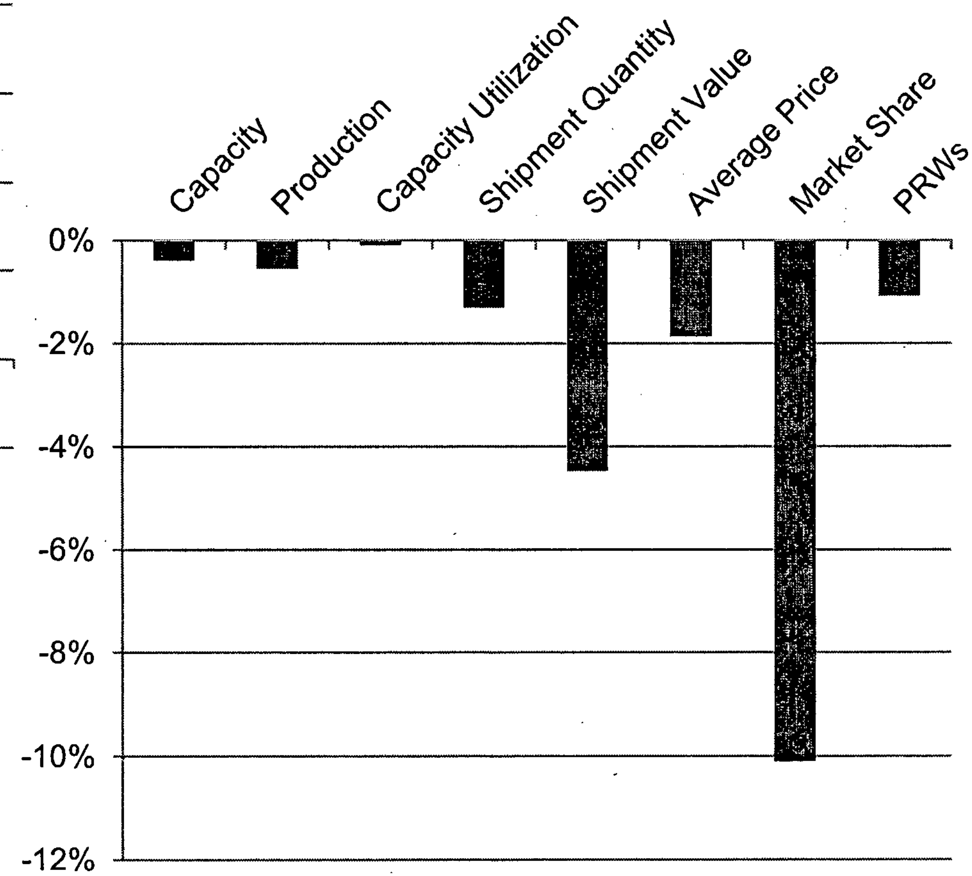
PETITIONER'S PRESENTATION

U.S. INTERNATIONAL TRADE COMMISSION PUBLIC HEARING

JUNE 9, 2015

In a growing market, the domestic industry saw widespread declines from 2012 to 2014

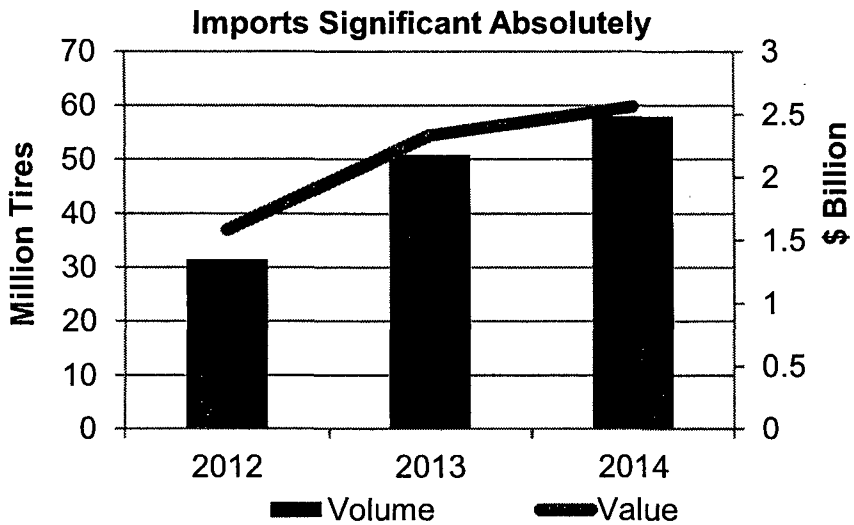


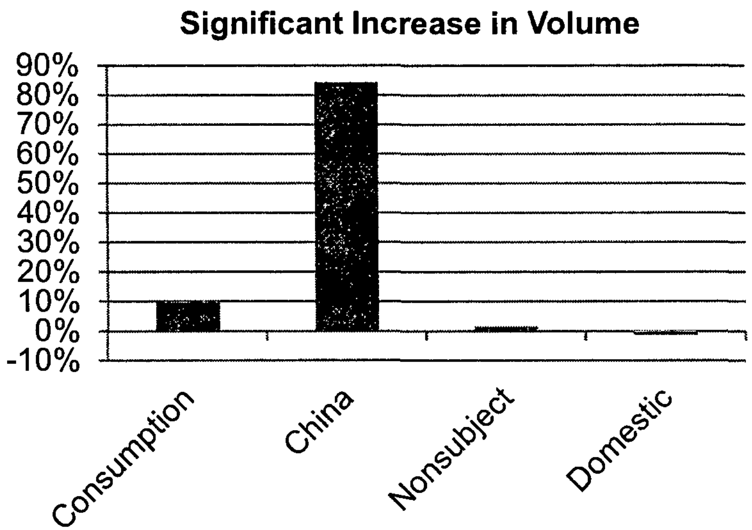


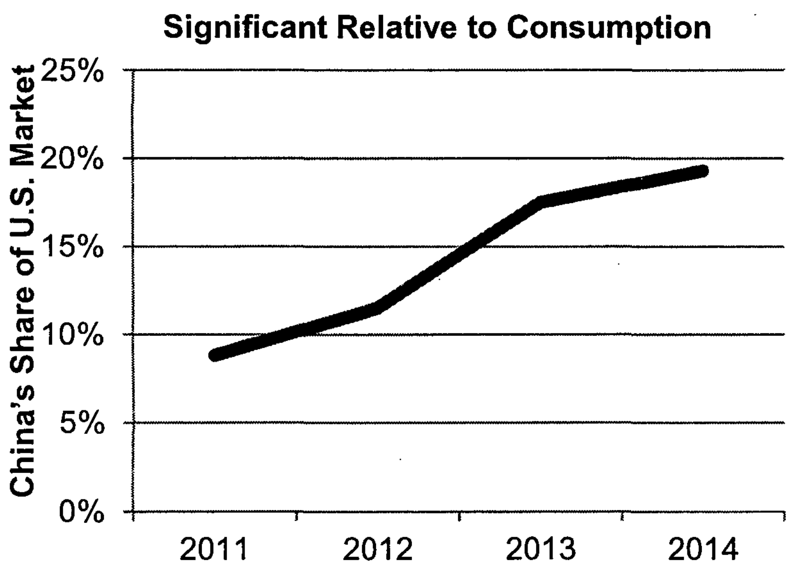
Absent the surge in Chinese imports since 2011, the industry would have benefitted from rising demand

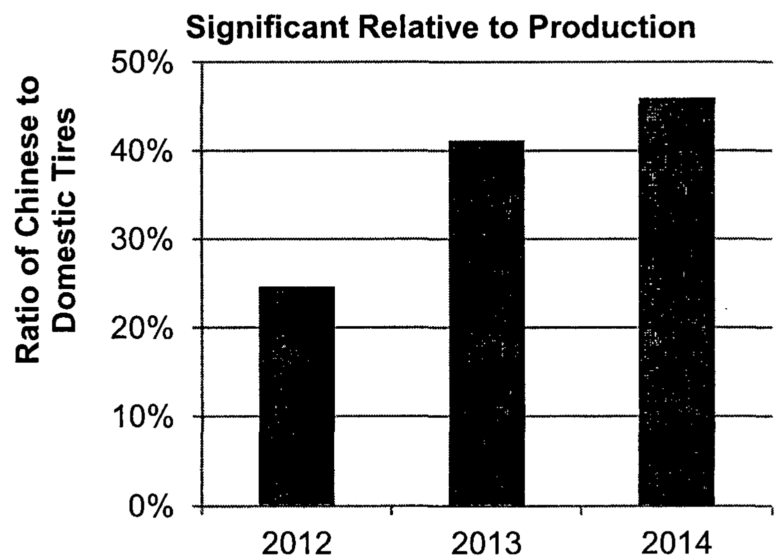
	2014 Industry Actual	2014 at 2011 Market Share	Lost to Imports
Net sales (th tires)	149,829	178,325	**28,496**
Net sales ($ mn)	$13,005	$15,478	**$2,473**
Production (th tires)	148,673	176,949	**28,276**
PRWs	25,026	29,786	**4,760**
Hours (1,000)	52,590	62,592	**10,002**
Wages ($ mn)	$1,389	$1,654	**$265**
Operating income ($ mn)	$1,676	$2,644	**$968**
Operating margin	12.9%	17.08%	**4.18 ppt**

VOLUME OF IMPORTS FROM CHINA







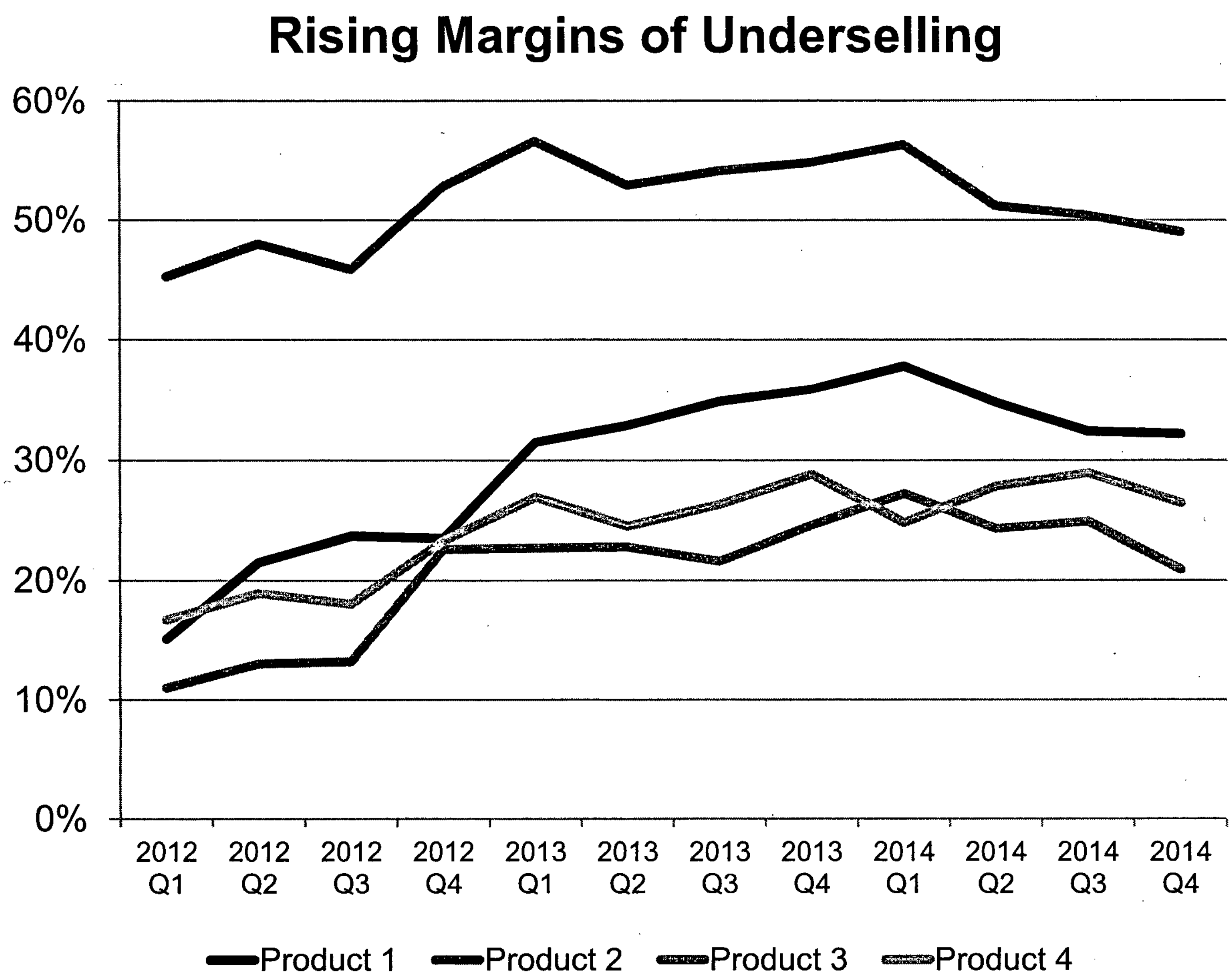


PRICE EFFECTS

Underselling in 100% of 72 quarterly comparisons

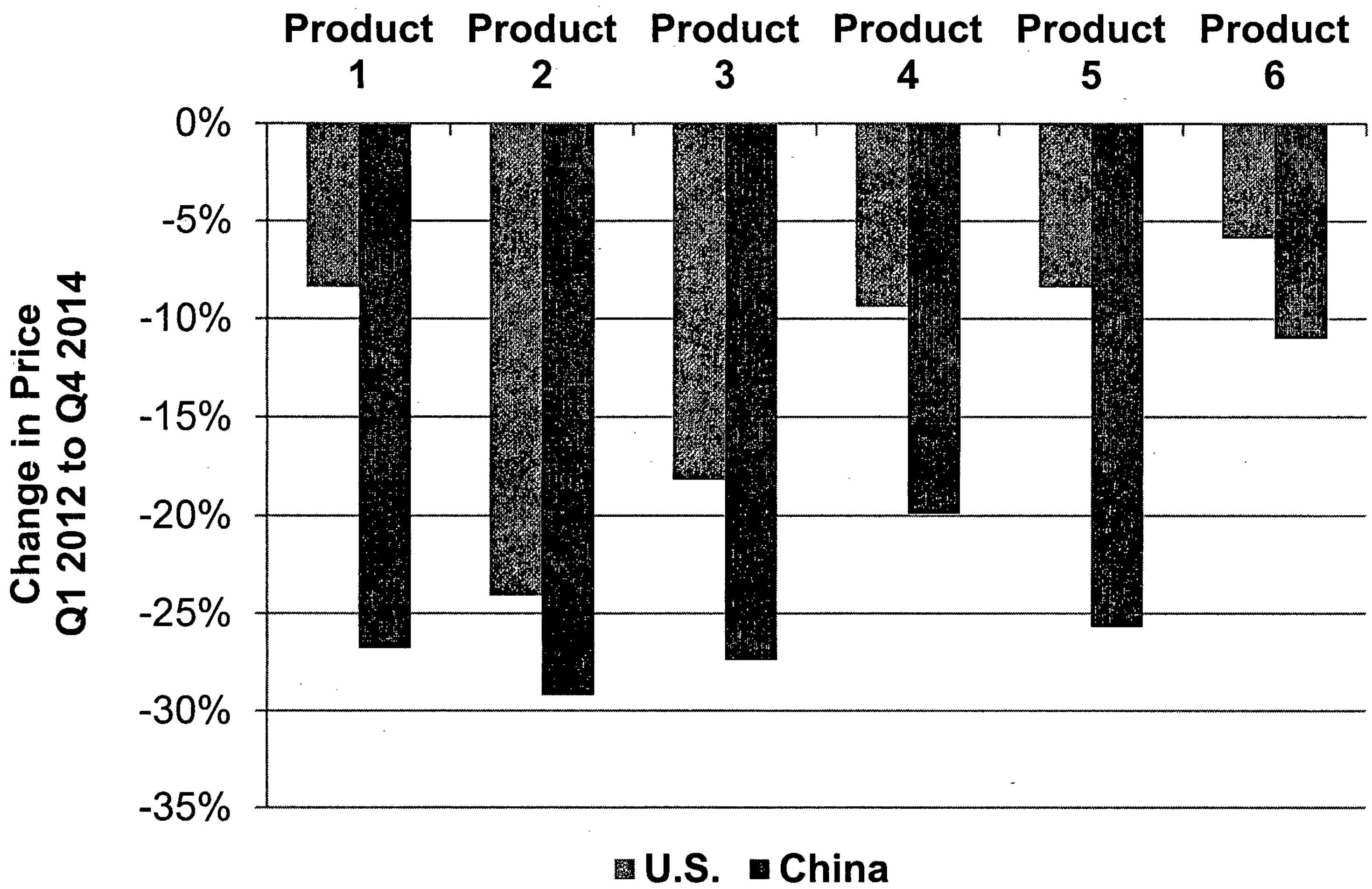
Product	Size	Underselling
1	205/55R16	12 of 12 quarters
2	P215/55R17	12 of 12 quarters
3	225/60R16	12 of 12 quarters
4	P235/75R15	12 of 12 quarters
5	LT245/75R16	12 of 12 quarters
6	LT265/75R16	12 of 12 quarters

PRICE EFFECTS



PRICE EFFECTS

Price Depression Led by Chinese Prices



PRICE EFFECTS

"Chinese brands are coming into the U.S. market and the price level is coming down. Cheap tires are coming in and the Tier Two and Tier Three brands are reducing their prices to compete with the Chinese product. Then the Tier Two and Tier One have to adjust also."

- Yokohama President, Nov. 2013

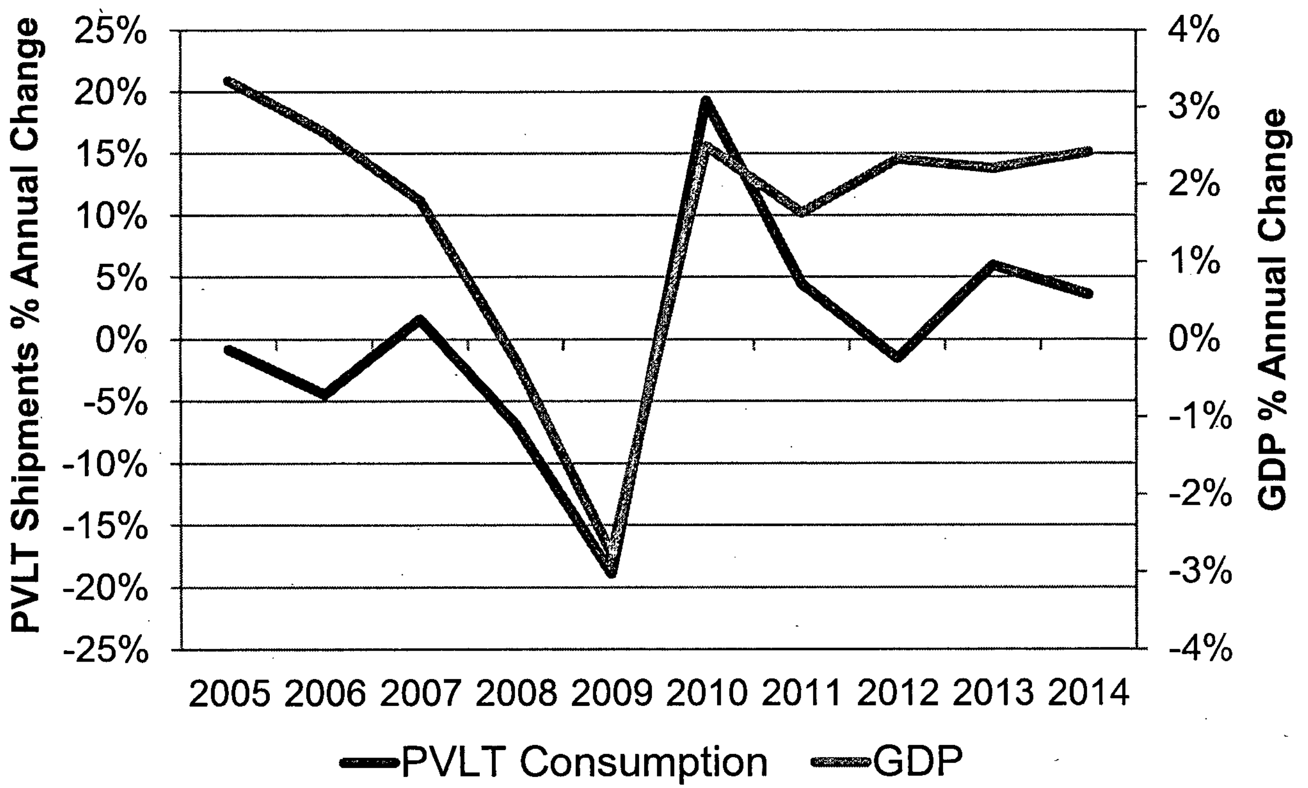
PRICE EFFECTS

"The best advantage Chinese-made tires have to offer is still price ... with that advantage comes the ability to impact the market as a whole through price fluctuation. Following the expiration of the elevated tariffs on Chinese-made consumer tires in September 2012, prices of Chinese tires decreased substantially, contributing – along with reduced raw material prices – to devaluation on tires across the board."

- Del-Nat Tire Co. President, April 2014
(Major importer purchased by TBC In 2015)

BUSINESS CYCLE AND CONDITIONS OF COMPETITION

- **The industry's performance should be analyzed in the context of the business cycle and relevant conditions of competition**
- **The PVLT tire industry has a business cycle which generally tracks the overall economy**



BUSINESS CYCLE AND CONDITIONS OF COMPETITION

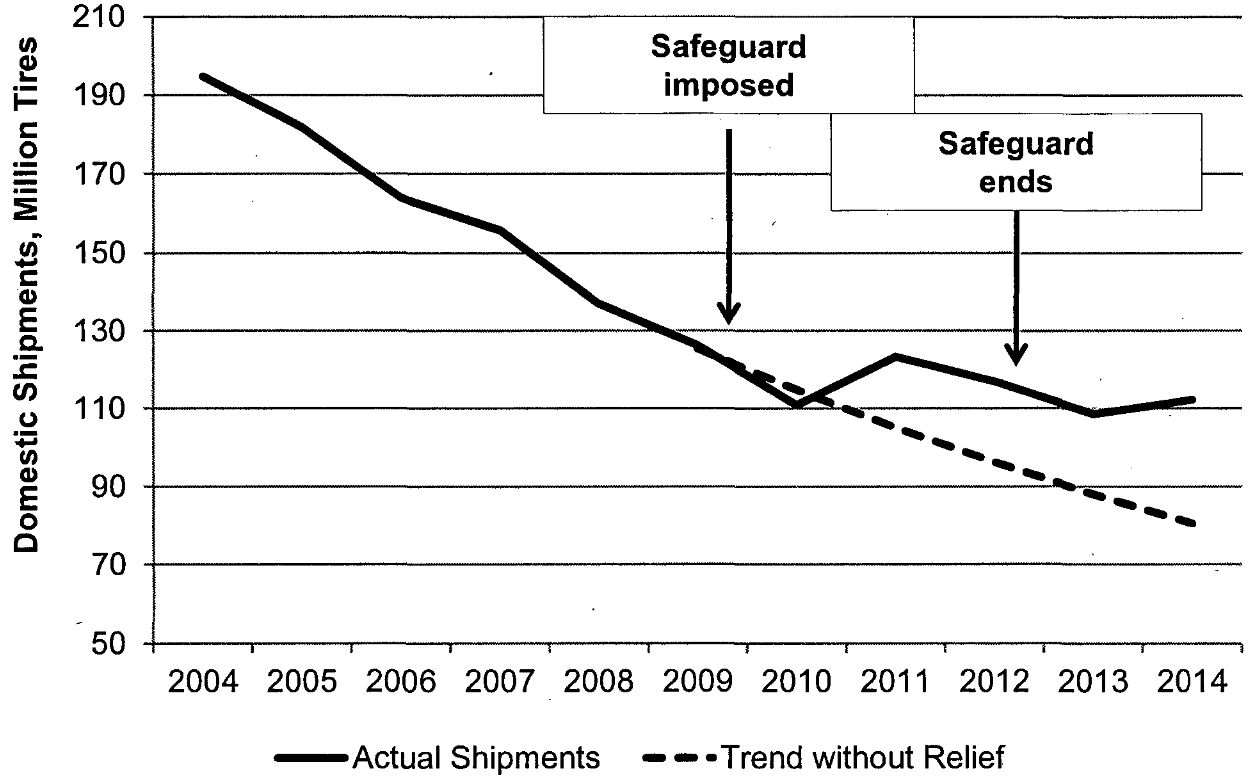
- **There are two conditions of competition distinctive to the PVLT tire industry**

  1. Safeguard relief that expired in September of 2012

  2. Unusually steep decline in raw material costs during the period of investigation

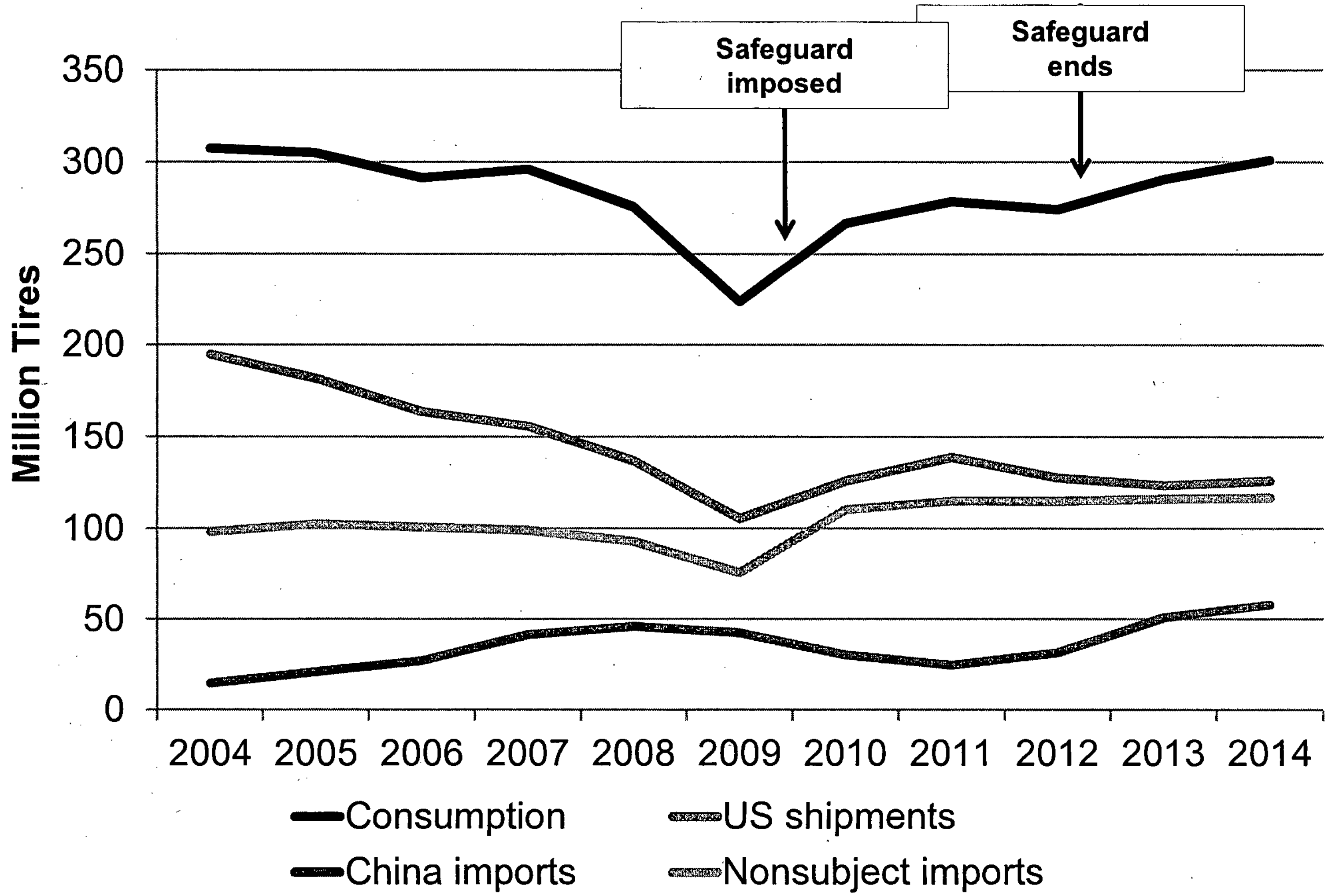
CONDITIONS OF COMPETITION - SAFEGUARD

- **Prior to the safeguard, the domestic industry faced shrinking demand and surging imports from China**
- **Seven plants closed or announced for closure by April 2009, additional closure announced prior to safeguard duties**
- **Industry lost more than 70 million tires of capacity**



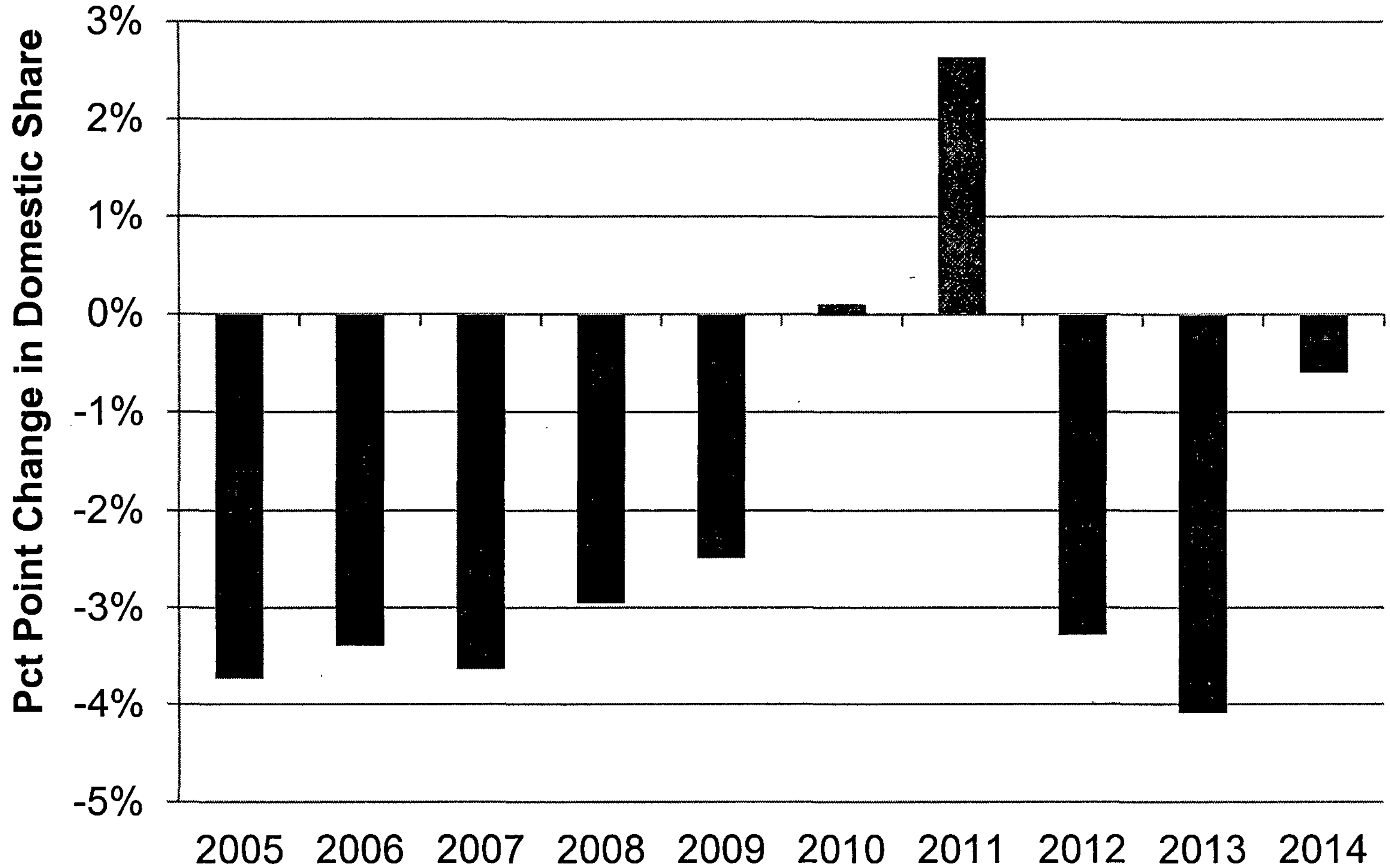
CONDITIONS OF COMPETITION - SAFEGUARD

Safeguard permitted industry to increase shipments in 2010 and 2011



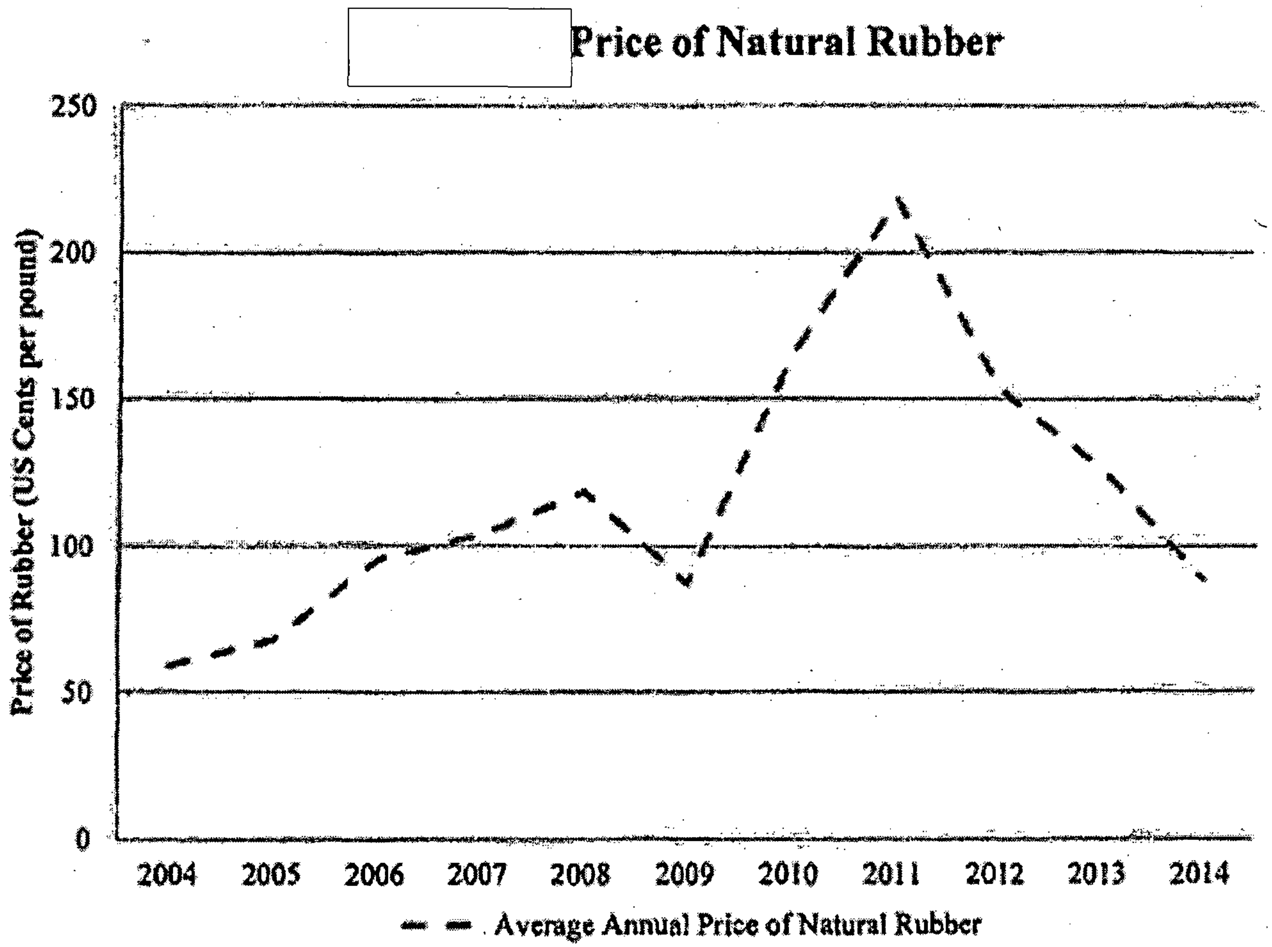
CONDITIONS OF COMPETITION - SAFEGUARD

Changes in domestic market share as Chinese imports rise and fall



CONDITIONS OF COMPETITION – RAW MATERIALS

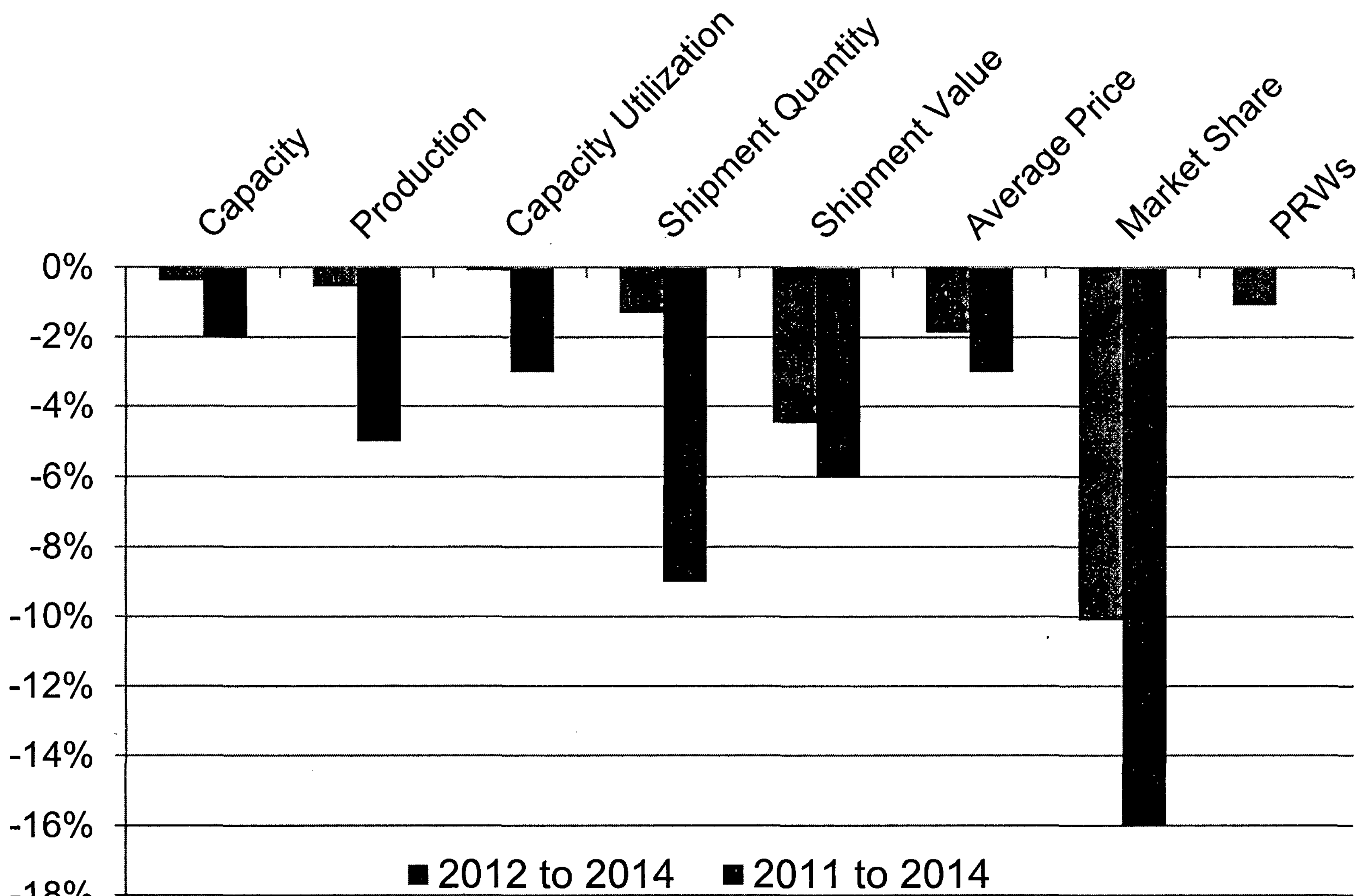
Sharp declines in raw material prices are another important condition of competition



Source: Singapore Commodity Exchange.

IMPACT

Industry declines across many factors during the POI



IMPACT

- Industry performance has been distressed over the course of the business cycle from 2004 to 2014
- Recent performance has not made up for prior losses and in some cases worsened

	2004 - 2014	2011 - 2014	2012 - 2014
Consumption	-2.1%	+8.1%	+9.7%
Market share loss	-21.4 ppt	-8.0 ppt	-4.7 ppt
Sales quantity	-32.5%	-5.9%	-0.8%
Capacity	-28.0%	-1.9%	-0.4%
Production	-31.9%	-4.6%	-0.6%
Employment	-31.3%		-1.1%
Hours	-30.8%		+1.7%
Wages	-22.6%		+4.9%

IMPACT

Rising demand and lower raw materials would have strengthened the industry but for the loss in market share to Chinese imports

	2014 Industry Actual	2014 at 2011 Market Share	Lost to Imports
Net sales (th tires)	149,829	178,325	**28,496**
Net sales ($ mn)	$13,005	$15,478	**$2,473**
Production (th tires)	148,673	176,949	**28,276**
PRWs	25,026	29,786	**4,760**
Hours (1,000)	52,590	62,592	**10,002**
Wages ($ mn)	$1,389	$1,654	**$265**
Operating income ($ mn)	$1,676	$2,644	**$968**
Operating margin	12.9%	17.08%	**4.18 ppt**

IMPACT

- **While the safeguard benefits and declining raw material costs permitted operating income to improve, the industry is not achieving adequate returns over the business cycle**
- **Average 2004 – 2014 operating margin is below other industries (operating income as % of net sales)**

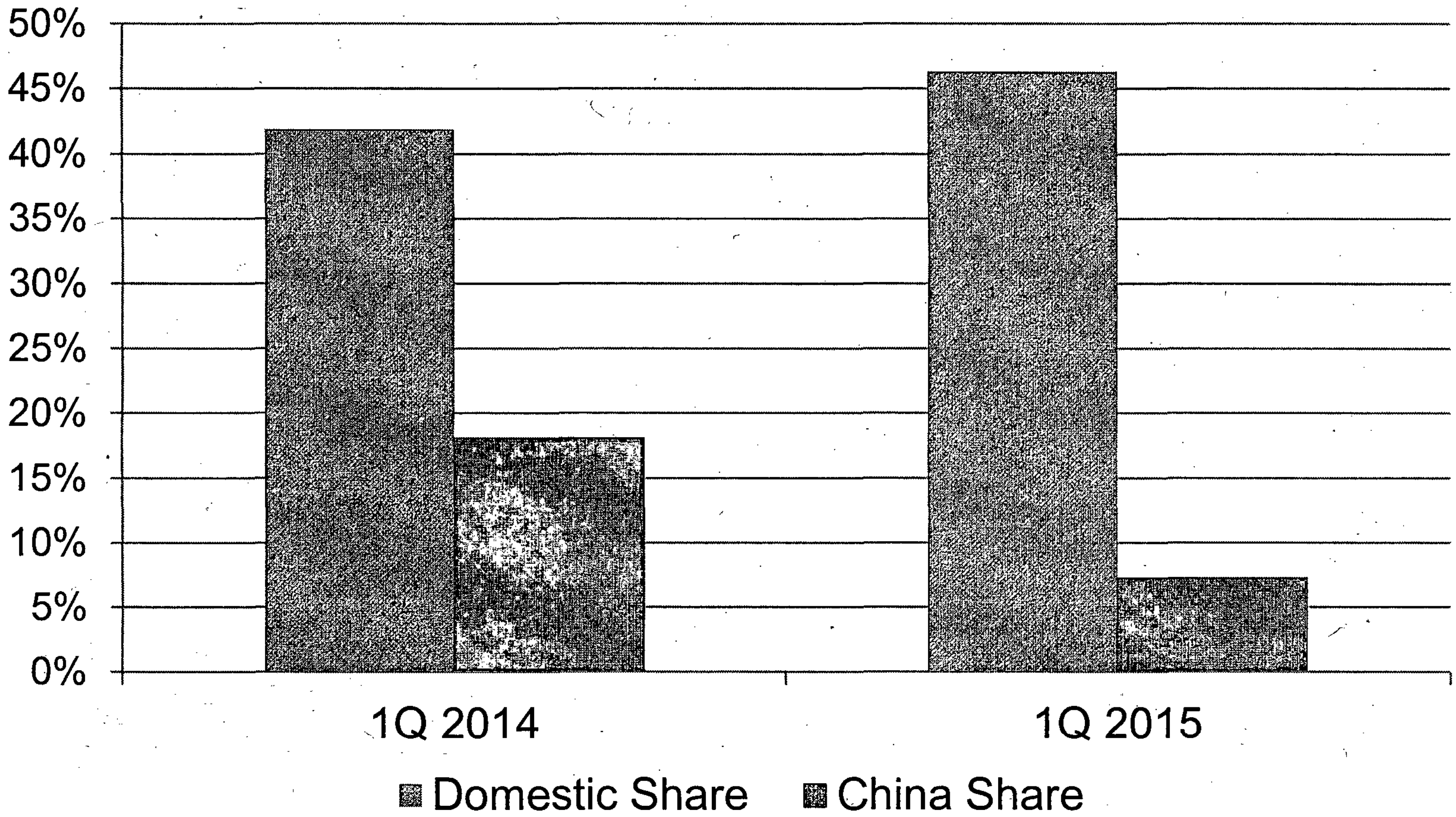
Industry	Margin	Industry	Margin
Manufacturing	6.9%	Machinery	8.2%
Plastics & Rubber	6.4%	Paper	6.2%
Chemicals	11.3%	Furniture	6.2%
Foundries	10.9%	Iron & Steel	5.8%
Fabricated Metal	8.6%	**PVLT Tires**	**~ 4.5%**

IMPACT

- **The industry's returns also did not cover the industry's cost of capital over the business cycle**
  - WACC = 11 to 13%
  - 2004 – 2014 return on invested capital $\approx$10%
- **The inability to meet the cost of capital is particularly problematic for a capital intensive industry**
- **But for import surge from China, industry would have met cost of capital and had reasonable operating income margins**

IMPACT – Q1 2015 BENEFITS OF RELIEF

Benefits of preliminary relief underscore that causal nexus between material injury and unfairly traded imports



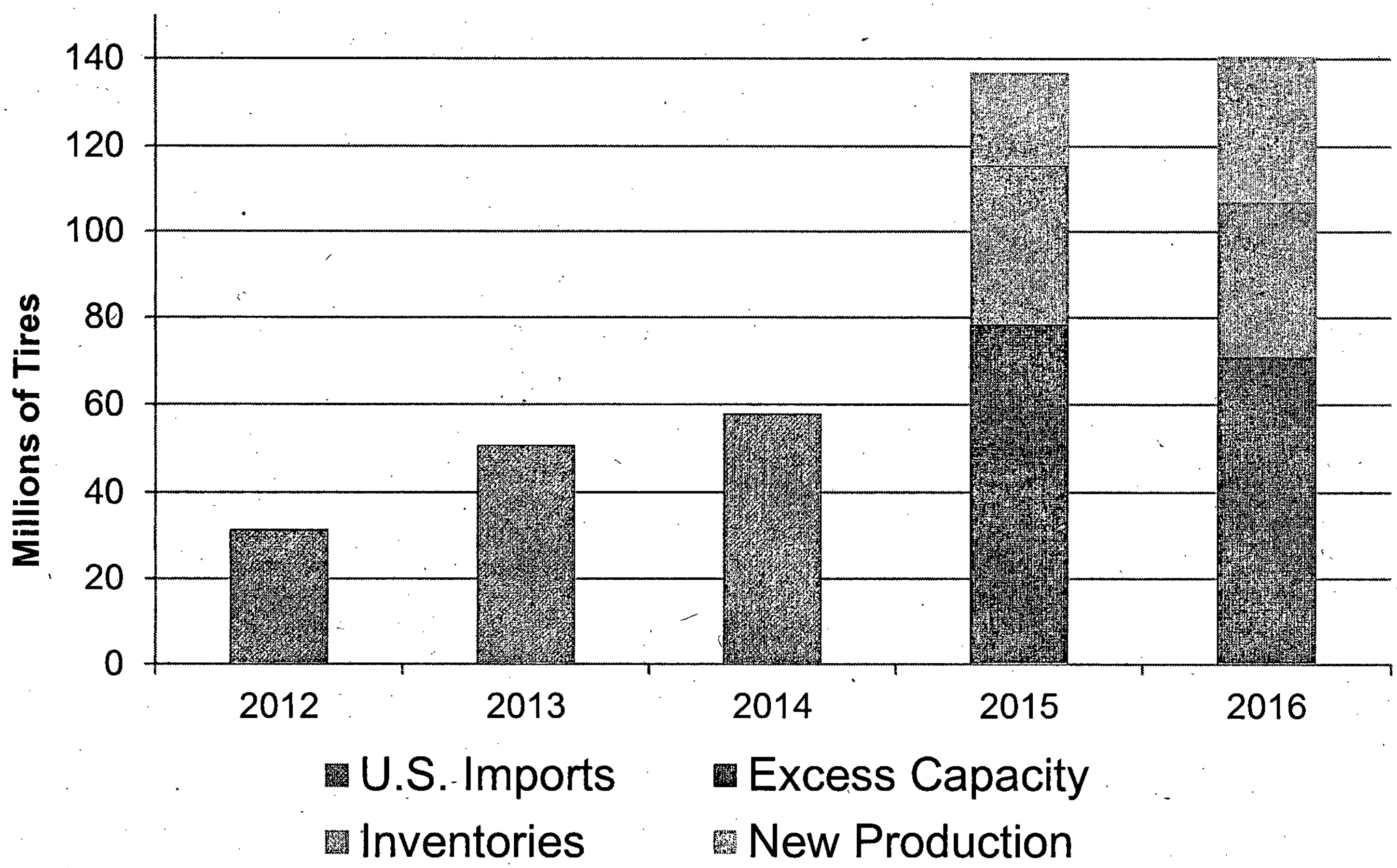
THREAT

Statutory factors for threat finding are also met:

- **Commerce's preliminary subsidy margins range from 11.74% to 81.29%**
- **This includes a number of export subsidies**
  - Discounted loans for export oriented enterprises
  - Export buyer's credits
  - Export seller's credits
  - Funds for "outward expansion"
  - Export credit insurance
  - Export credit guarantees
  - Export interest subsidy funds

THREAT

Foreign producer projections show massive excess capacity, inventories, and new production in 2015 and 2016



THREAT

- **Chinese industry publications cite:**
  - "overheated growth,"
  - 2014 capacity utilization at "historic low,"
  - "another tire industry with severe excess capacity."

- **Overcapacity will continue with recent and planned expansions**

Kenda Rubber	Qingdao Double Star
Techking Tyres	Double Coin/CMA
Maxxis/Cheng Shin	Triangle Group
Aeolus	Guangzhou Fengli
Linglong	Shaanxi Yanchang
Hangzhou Zhongce	Anhui HeDing
Sanshun Tire	South China Rubber & Tire
Hankook Tire	Himaxer
Sailun	

THREAT

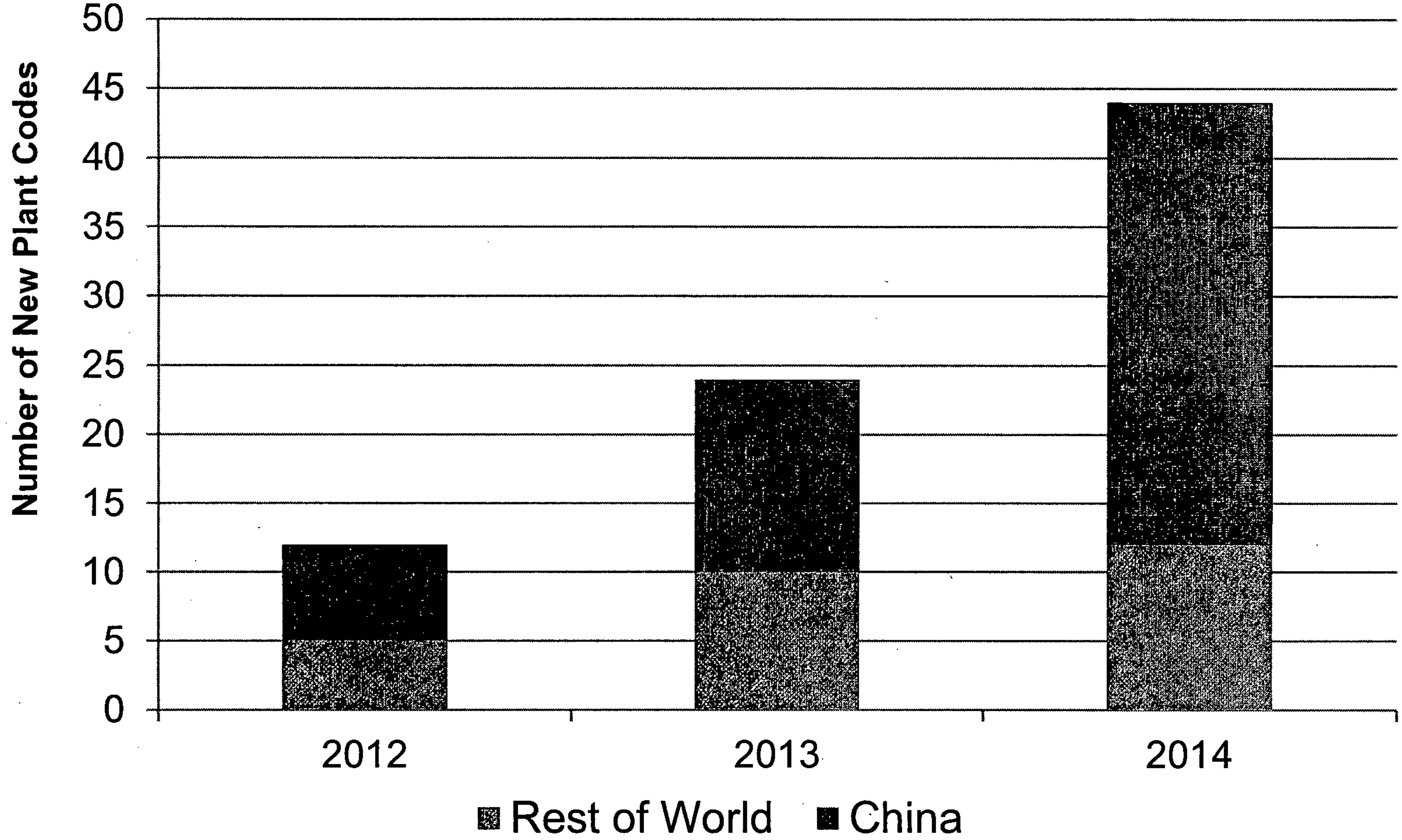
- The Chinese PVLT tire industry is highly export-oriented
- The share of responding foreign producers' shipments that went to the home market fell during the POI
- In 2014, 58% of all shipments were exported, driven entirely by an increase in exports to the United States
- The U.S. is the largest single export destination for Chinese producers
- The Chinese industry is expected to increase its reliance on exports in the imminent future

THREAT

- **China's strong interest in the U.S. market is further confirmed by:**
  - Importers' efforts to have Chinese tires already in inventory, ready to be shipped "at 12:01 on the 27^{th}" of September 2012 when 421 relief ended.
  - Aggressive efforts to introduce new products and brands in the U.S. market after the expiration of 421 duties.
  - At a 2013 industry exhibition: "almost every type of tire was available" from 90 Chinese companies … "The Chinese companies are making their move."
    - Close to twice the number of companies from China (50) at the exhibition in 2012.

THREAT

Most new DOT manufacturer codes are for plants in China



THREAT

If Chinese imports continue to grow at their 2014 pace, even if demand increases more than projected (1% a year), the domestic industry will lose more shipments, market share, and jobs

	2014	2015	2016	Change
Consumption	301,038	304,048	307,089	+6,051
China Imports	58,012	66,187	75,513	+17,501
Dom. Shipments	126,160	120,996	114,710	-11,450
China Share	19.27%	21.77%	24.59%	+5.32 ppt
Domestic Share	41.91%	39.79%	37.35%	-4.55 ppt
Capacity	163,219	163,219	163,219	-
Production	148,673	142,587	135,179	-13,494
Cap. Utilization	91.1%	87.4%	82.8%	-8.30 ppt
Employment	25,026	24,002	22,755	-2,271

THREAT

- **Prices for key materials have already started to increase and are projected to further increase in the rest of 2015 and 2016**
  - Crude oil
    - + 4.3% by Dec. 2015
    - + 8.4% by Dec. 2016
  - Natural rubber
    - + 4.9% by Nov. 2015

- **Continental: "Our guidance {includes} some increase in the raw materials in the second half of the year …. We still believe that there should be some increase."**

- **Cooper: "The longer term raw material outlook is for costs to generally trend slightly higher through 2015 with periods of volatility."**

THREAT

Together with continued loss of market share, adverse price effects will lower or eliminate profitability

If sales quantity and price fall by ...	... operating margins fall to:
4%	8.1%
6%	5.5%
8%	2.8%
10%	0.0%

OPPONENTS' CLAIMS

- **Opponents to relief seek to distract from this record of injury through various claims**
  - Attenuated competition
  - Underselling = brand premium
  - Market abandonment
  - "Healthy" domestic industry

- **The Commission has rejected similar claims before, and it should do the same here**

CLAIM #1: ATTENUATED COMPETITION

- **Confusion on existence of, and membership in, alleged "tiers"**
  - Five domestic producers, as well as some importers and purchasers, report there are no tiers
  - Other firms identify three, four, and/or five tiers
  - Wide variations in market share estimates for the tiers
  - Most brands classified in numerous tiers

CLAIM #1: ATTENUATED COMPETITION

Tier 1	Tier 2	Tier 3	Tier 4
Bridgestone	Bridgestone	Bridgestone	
Goodyear	Goodyear	Goodyear	
Michelin	Michelin	Michelin	
Continental	Continental		
Pirelli	Pirelli		
BFGoodrich	BFGoodrich		
Cooper	Cooper	Cooper	
Dunlop	Dunlop	Dunlop	
	Falken	Falken	Falken
Firestone	Firestone	Firestone	
Fuzion		Fuzion	
General	General	General	
	GITI	GITI	
		GT Radial	GT Radial
	Hankook	Hankook	
Kelly	Kelly	Kelly	Kelly
	Kumho	Kumho	
	Mastercraft	Mastercraft	
	Maxxis	Maxxis	
	Nexen	Nexen	Nexen
	Nitto	Nitto	
Sumitomo	Sumitomo	Sumitomo	
Toyo	Toyo		
Uniroyal	Uniroyal	Uniroyal	
Yokohama	Yokohama	Yokohama	

CLAIM #1: ATTENUATED COMPETITION

- **Brands, or "Tiers," do not attenuate competition**
  - If tiers exist, U.S. and Chinese tires compete across the spectrum
  - Good/Better/Best is common in many consumer products, but does not eliminate competition
  - Many top dealers carry both U.S. and Chinese brands side by side
  - Most purchasers do not specify a brand
  - Most of those who do specify a brand are convinced to switch by the dealer
  - The dealer determines the brand that is bought in as much as 85% of replacement sales

CLAIM #1: ATTENUATED COMPETITION

CLAIM #1: ATTENUATED COMPETITION

- **Dealers promote Chinese tires as competing with high quality tires**
  - “Aeolus will be promoted as being an alternative to tier one and tier two brands.”
  - Sailun performs “at a level at least as high as a Tier Two tire, but at a lower price point.”
  - TBC’s Chinese tires have “the same type of workmanship and material warranty that we have from the Tier One manufacturers.”
  - “No one believes in the quality of Chinese-manufactured tires more fervently” than the CEO of API: “We’re trying to be a very good second-tier supplier.”

CLAIM #1: ATTENUATED COMPETITION

Opponents' product examples show direct competition between their alleged tiers

Prices for P215/55R17

Tier	Brand	Price
Tier 2	Continental	160.96
Tier 2	Continental	154.96
Tier 1	Goodyear	149.99
Tier 1	Michelin	149
Tier 1	Michelin	145
Tier 1	Michelin	135
Tier 1	Goodyear	132.99
Tier 2	Continental	129.99
Tier 2	Dunlop	128.99
Tier 1	Michelin	126.99
Tier 2	Continental	123
Tier 3	Nitto	119.99
Tier 2	BFGoodrich	117
Tier 2	Hankook	116.99
Tier 2	Continental	116
Tier 2	BFGoodrich	115
Tier 2	Dunlop	115
Tier 2	General	115
Tier 2	BFGoodrich	114.99
Tier 2	Continental	114.3

Tier	Brand	Price
Tier 1	Goodyear	112.99
Tier 3	Hercules	112.99
Tier 2	Cooper	109.99
Tier 2	General	109
Tier 3	Cordovan	108.99
Tier 3	Jetzon	108.99
Tier 3	Multi-Mile	108.99
Tier 3	Eldorado	107.99
Tier 3	Sigma	106.99
Tier 2	Yokohama	106
Tier 3	Telstar	105.99
Tier 2	Firestone	105
Tier 2	Firestone	105
Tier 3	Vanderbilt	104.99
Tier 2	General	101
Tier 2	Firestone	98.28
Tier 2	General	92.6
Tier 3	Eldorado	75.99
Tier 3	Kenda	71.99

CLAIM #1: ATTENUATED COMPETITION

- **Domestic producers' own statements identify direct competition with Chinese imports, refuting attenuation**
  - Goodyear: The U.S. market continues to "face disruption from the anticipation of a tariff on consumer tires imported from China .... As a result of the speculative buying during the second half of 2014, channel inventories remain at high levels, which we expect will impact our volumes in the first half of 2015."
  - Cooper: "While our shipments were up ... they were negatively impacted by the pre-buying ... as customers had stockpiled inventory of imported tires ahead of the initial tariff determinations."
  - Michelin: The "huge bump" in Chinese imports in 2014 was an "incredible" change in the U.S. market.
  - Yokohama: "Chinese brands are coming into the market and the price level is coming down."

CLAIM #2: BRAND PREMIUM

- **Brand premiums do not explain underselling**
  - U.S. and Chinese pricing products in both private label and brand
  - Universal underselling in all products regardless of brand or private label percent

	Brand % of Domestic	Underselling Margins
Product 1	75.4%	15.1 – 37.8%
Product 2	91.3%	45.3 – 56.6%
Product 3	69.6%	11.0 – 27.2%
Product 4	94.6%	16.7 – 28.9%

CLAIM #3: MARKET ABANDONMENT

- **Domestic producers have not abandoned private labels or lower "tiers"**
  - Most purchasers report U.S. tires are comparable to Chinese tires in terms of private label availability
  - Domestic producers have expanded their presence in the mid-range of the market, particularly after preliminary CVD and AD relief from imports:
    - Goodyear announced new Kelly tires in January 2015 in sizes covering 89 percent of the "economy" market
    - Michelin released new lines of BFGoodrich tires in late 2014 and early 2015

CLAIM #3: MARKET ABANDONMENT

- **Claims of abandonment to focus on "high value added" tires ignore that Chinese producers are also focused on such tires**

- **Numerous Chinese brands that advertise "high value added," premium, or ultra high-performance tires:**
  - Aeolus, Fullrun, GITI, GT Radial, Hangzhou Zhongce, Landsail, Linglong, Sailun, Sentaida, Triangle Tyre

- **Chinese government and industry policies have promoted and rewarded production of high-performance and high value added tires since at least 2010**

CLAIM #4: "HEALTHY" DOMESTIC INDUSTRY

- Commission doesn't focus on any one factor in evaluating whether statutory standard is met.
- Industry has shown declines across a broad array of indicators despite rising demand; operating income has improved because of the two specific conditions of competition
- But for the surge in dumped and subsidized Chinese imports, the industry would have performed better on all elements, so that industry performed significantly worse than it should have during the period of demand growth.
- Even with improvements in operating income during the POI, the industry is underperforming other sectors over the business cycle and not meeting its cost of capital over the cycle, but would have but for the surge from China

PASSENGER VEHICLE AND LIGHT TRUCK

TIRES FROM CHINA

Inv. Nos. 701-TA-522 and 731-TA-1258 (Final)

Hearing Testimony of Jonathan T. Stoel

June 9, 2015

Good afternoon, Chairman Broadbent, Vice Chairman Pinkert, Commissioners, and Staff. My name is Jonathan Stoel, and I am a Partner at Hogan Lovells here today representing ITG Voma Corporation. It is a pleasure to be before the Commission once again.

I want to start Respondents' testimony this afternoon with two simple truths. First, this case is exceptional. No member of the US domestic industry producing passenger vehicle and light truck tires is a Petitioner seeking the imposition of duties on Chinese imports, and no industry witnesses are here today to provide the Commission with their views on the state of the industry. This has made the Commission's task in this investigation even more challenging than usual, and I would like to commend the Staff for its diligence.

The Commission must weigh seriously whether the domestic industry's public absence from this proceeding is because of the second simple truth: the domestic industry has not been materially injured by reason of subject imports. On the contrary, as we will detail later in our presentation, both financial and non-financial metrics evidence the prosperity of the domestic industry. Most impressively, the Prehearing Report shows that not only has the industry's profitability been increasing throughout the Commission's period of investigation, but each member of the domestic industry earned a profit in all three years of the POI.

Now you've heard today from the Petitioner's witnesses a litany of "what ifs" and "might have beens". For example, Petitioner's economist asks the Commission to focus on what might have happened to the domestic industry had raw material costs not declined, but he ignores that economics dictates that there would have been a corresponding adjustment to pricing. And, Petitioner's lawyers suggest without citing any precedent that the Commission must assess the industry's condition over a purported 11-year business cycle, notwithstanding the complete lack of factual support and the Commission's standard three-year period of investigation.

But, the Commission need not engage in such conjecture and speculation. Instead, I would like to focus the Commission on the most tangible evidence of the industry's strength and success: the ongoing capacity expansions by existing domestic producers and the new capacity under construction by new entrants in the industry. The domestic industry's expansion plans are both impressive and unprecedented: as detailed in our Prehearing Brief, five existing members of the industry and three new entrants have announced investments totaling more than $3.3 billion that will increase the industry's capacity by 42 million tires annually – or 25 percent of the industry's current capacity. These expansions are expected to create more than 6,700 new U.S. jobs.

Existing industry member Bridgestone has stated that its expansion "is intended to meet growing market demand in key segments." And, Toyo has explained that it has had "significant growth in 2013 and 2014" and thus is making "major investments."

Since the domestic industry is not here today, I want you to hear from one of its existing members, Continental, about the new $500 million plant that the company constructed in Sumter, South Carolina. This plant is already operational, employing new workers, and ultimately will produce 8 million tires annually.

Video 1 – ***March 28, 2012 Groundbreaking at Continental's New Tire Plant in Sumter, SC (USA)***

I now want to turn your attention to the three new entrants to the US industry – Giti Tire, Hankook, and Kumho Tire – which are building new tire manufacturing plants in South Carolina, Tennessee, and Georgia, respectively. Petitioner's presentation and Prehearing Brief completely ignore these mammoth new facilities, which will require more than $1.75 billion in new investment. Giti Tire explained in June 2014 that its investment in South Carolina is due to "{e}xisting business and strong demand for Giti Tire's passenger and light truck tires."

Again, rather than hearing from me about the industry's enthusiasm for its new facilities, I'd like you to hear directly from one of its new entrants, Hankook Tire.

Video 2 – *"Hankook Tire's Future in America"*

Construction on this new U.S. plant began in 2014. Hankook will begin producing 5.5 million tires next year, in 2016, and the plant will employ as many as 1,800 U.S. workers. The construction of new plants by new entrants show that not only is the domestic industry not suffering material harm, but the industry is strong enough to expand and attract additional investment from both existing members and new entrants.

What else does the building of these new plants tell us about the condition of the domestic industry? First, these plants are being built in order to satisfy U.S. tire demand for premium, high-value tires that is not being met by the domestic industry because U.S. manufacturers are effectively operating at full capacity. The data collected by the Commission demonstrate that the domestic industry operated at 91-percent capacity utilization at both the start and the end of the POI. Moreover, domestic producers and other U.S. market participants have reported shortages of tires during the POI. To cite one public example, Barry Littrell, the Chief Operating Officer of American Pacific Industries explained that "{t}he higher tier manufacturers have not been able to keep up with demand and their fill rates are poor to the replacement market….consistent with the very limited production capacity currently available to U.S. producers."

COO Littrell's comment takes me to the final point I would like to make to the Commission this afternoon. The new capacity coming online for U.S. producers is designed to fill demand in the OEM market and the premium, high-value segment of the replacement tire market. For example, Michelin has explained that the company "must have additional capacity for high performance passenger car tires to meet our customers' needs."

The Commission thus must strive to understand in this investigation how the U.S. tire market operates, including the market segmentation between the high-end, premium tires produced by U.S. manufacturers and the lower-end, value and economy tires produced by manufacturers in, among other countries, China, Thailand, and Indonesia.

To address these questions, I'd like to turn to Dennis Mangola who has more than 30 years of experience in the tire industry and who is a Senior Consultant to ITG Voma.

Passenger Vehicle and Light Truck Tires from China

Inv. No. 701-TA-522 and 731-TA-1258 (Final)

June 9, 2015
Presentation at the USITC

CAPITAL TRADE
INCORPORATED

Dr. Seth T. Kaplan
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Overview

Performance of the Domestic Industry

Conditions of Competition

Import Prices and Quantities

Threat

Performance of the Domestic Industry

Conditions of Competition

Import Prices and Quantities

Threat

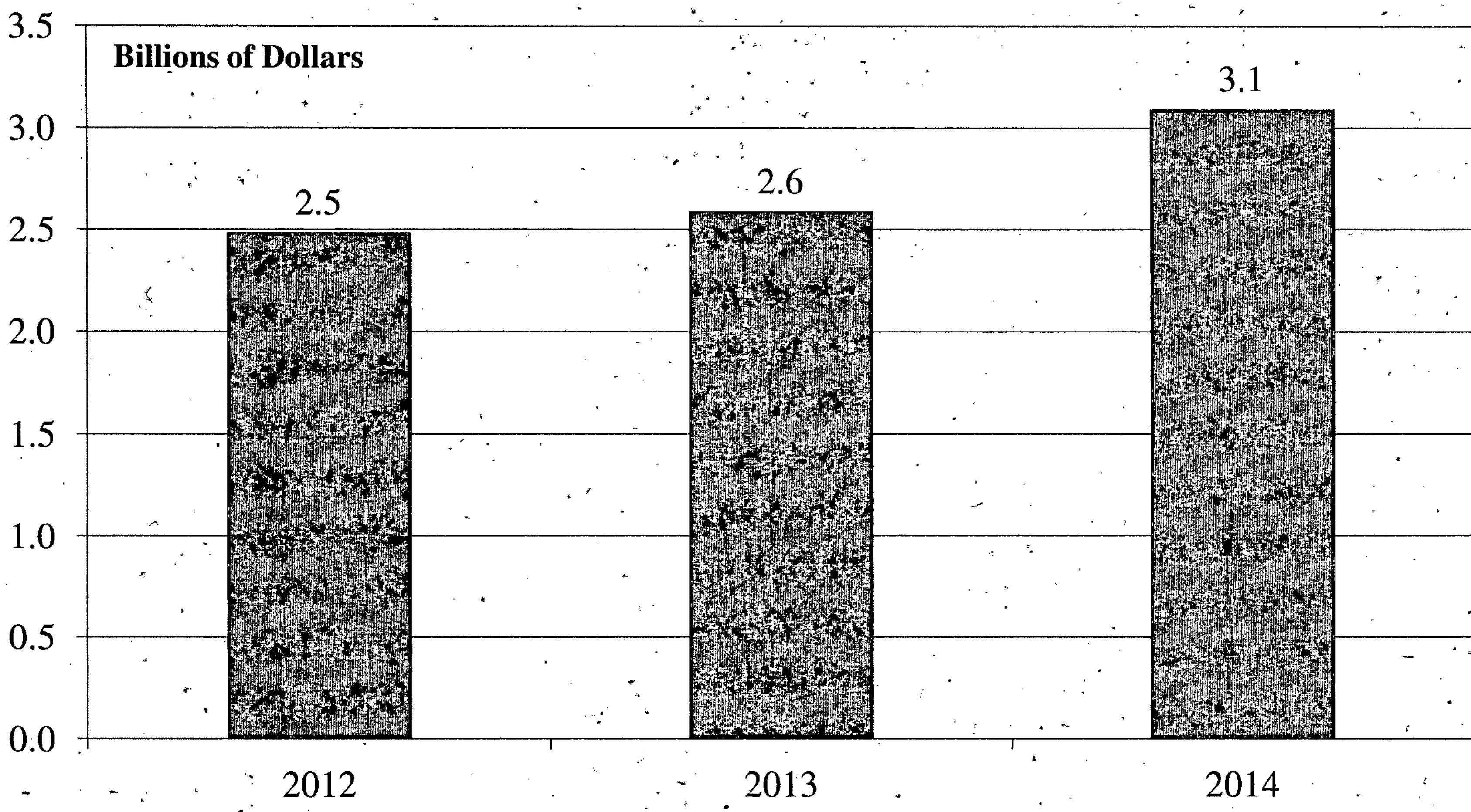
Summary

- Financial, employment, trade, and investment performance indicators either increased or remained high throughout the POI.
- Production and shipments remained stable while inventories fell.

Performance

Financials

Gross Profit Increased Over the POI

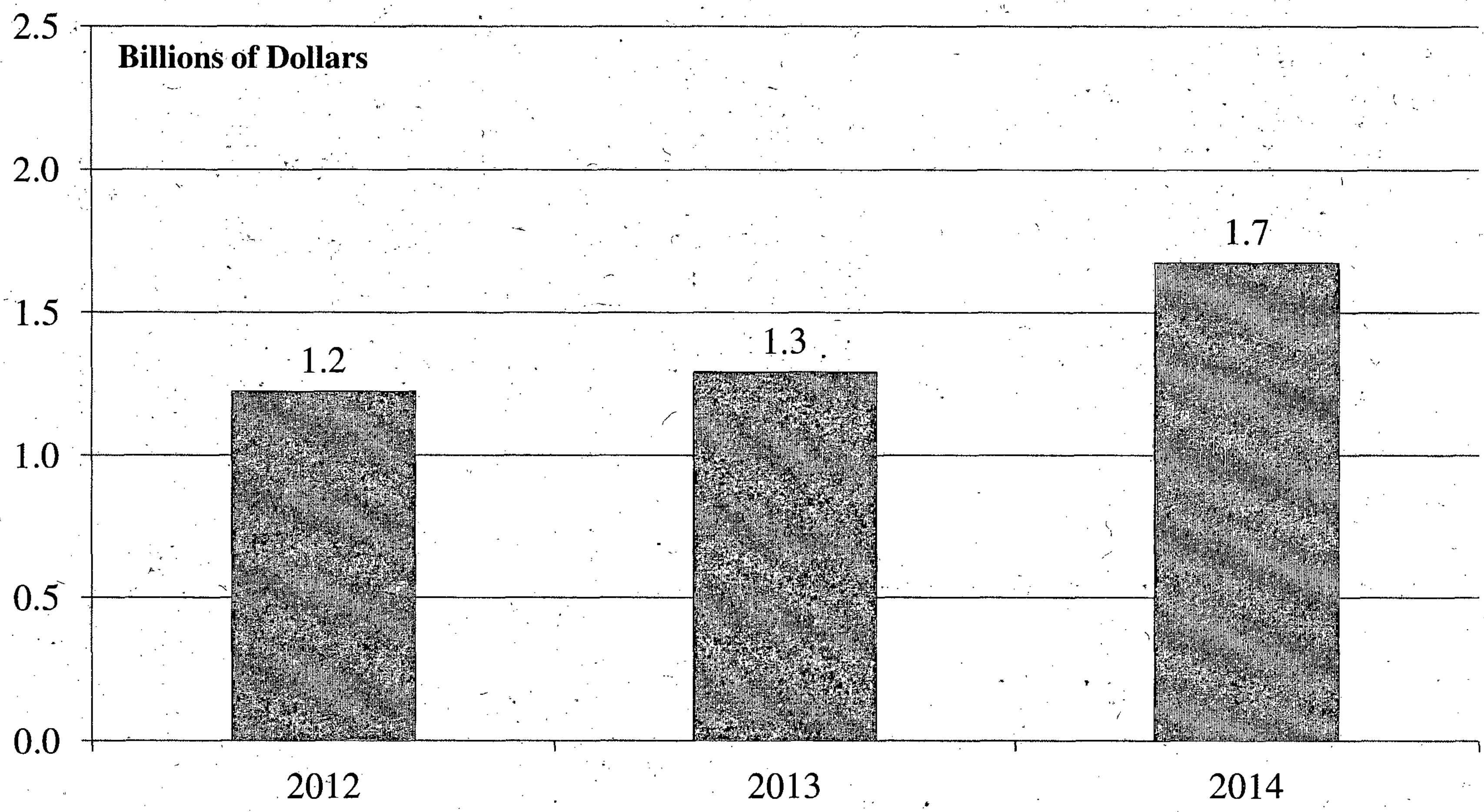


Source: Prehearing Staff Report at Table VI-1

Performance

Financials

Operating Income Increased Over the POI

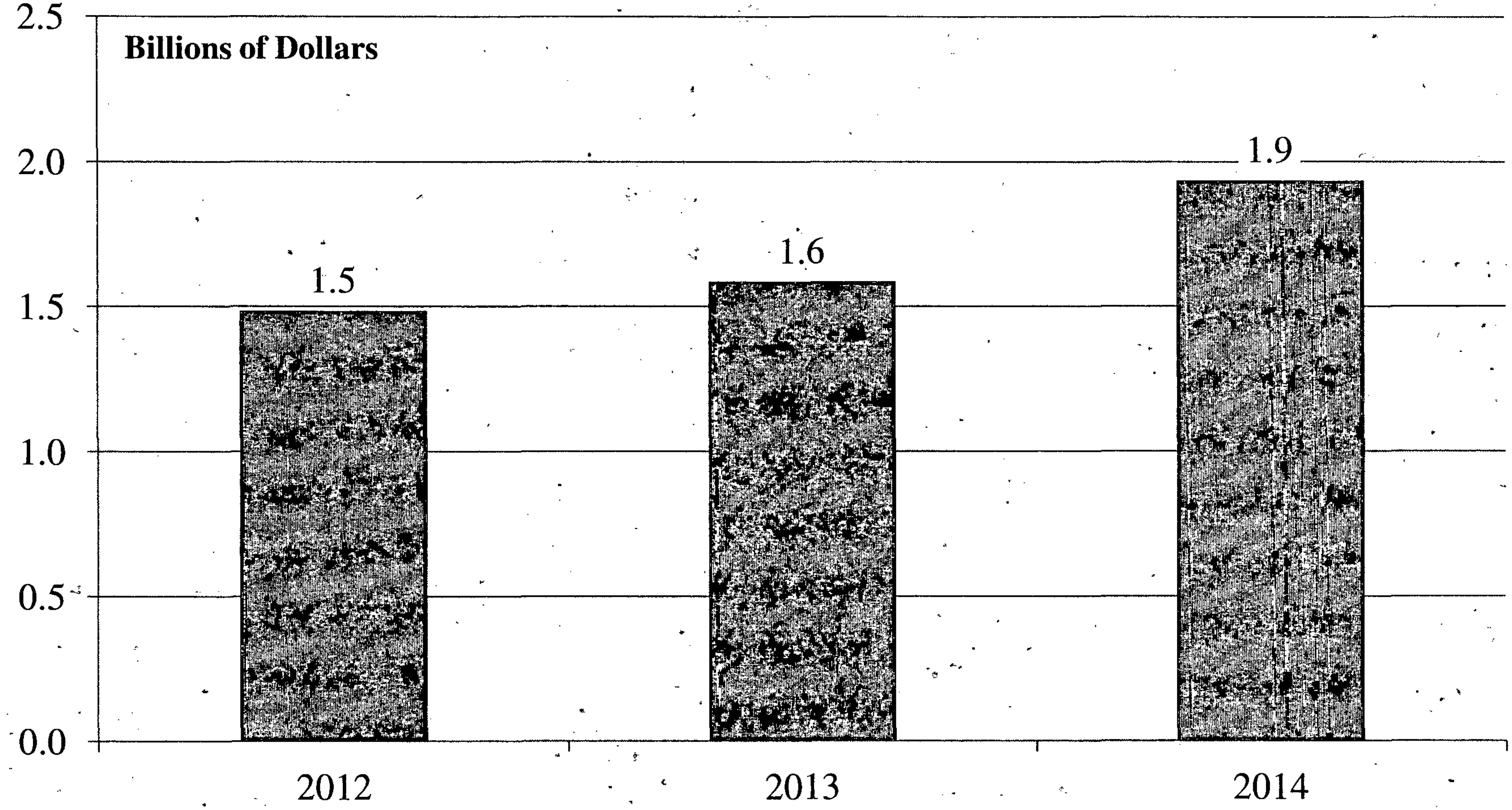


Source: Prehearing Staff Report at Table VI-1

Performance

Financials

Cash Flow Increased Over the POI

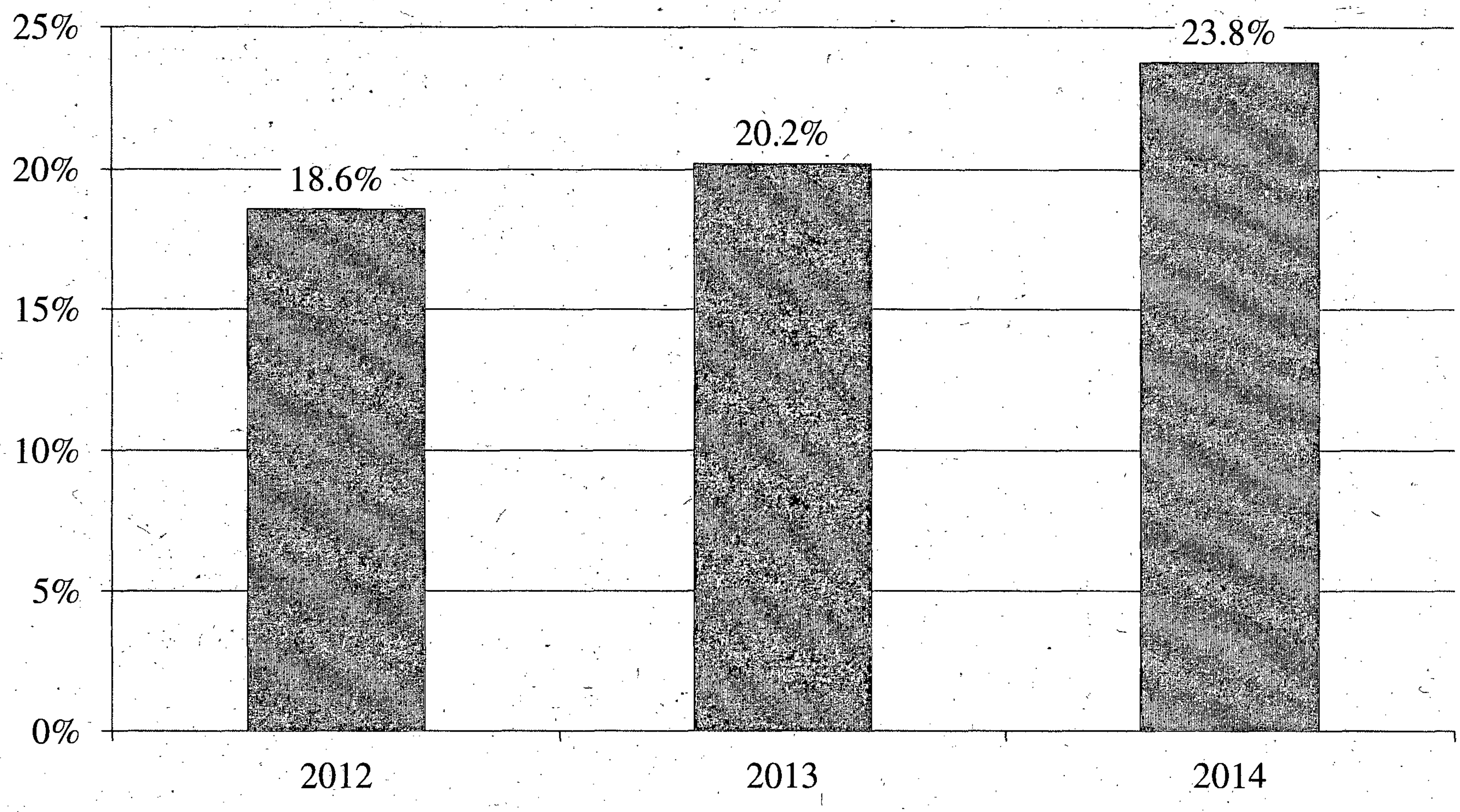


Source: Prehearing Staff Report at Table VI-1

Performance

Financials

Gross Profit Margin Increased Over the POI

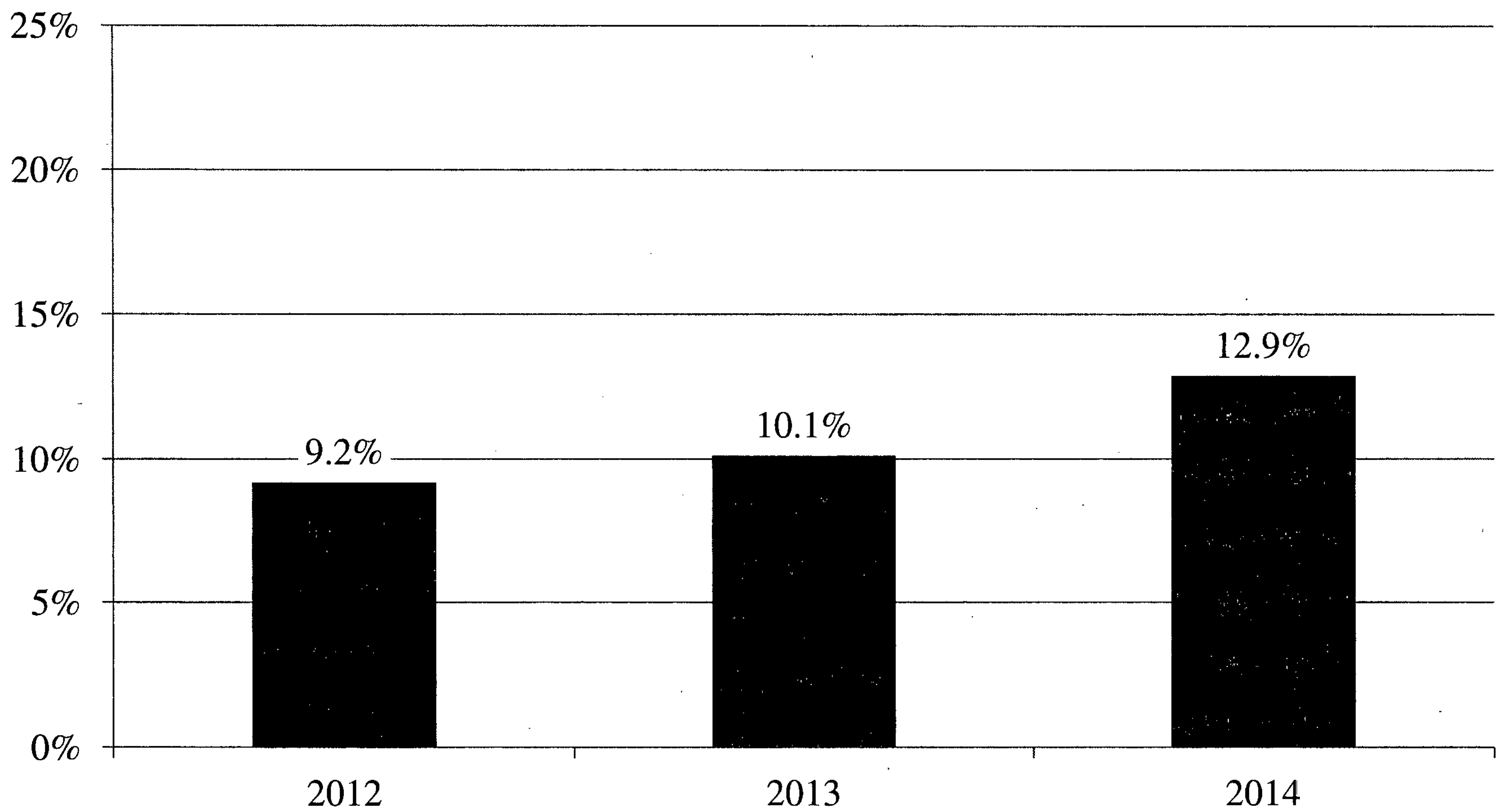


Source: Prehearing Staff Report at Table VI-1

Performance

Financials

Operating Margin Increased Over the POI

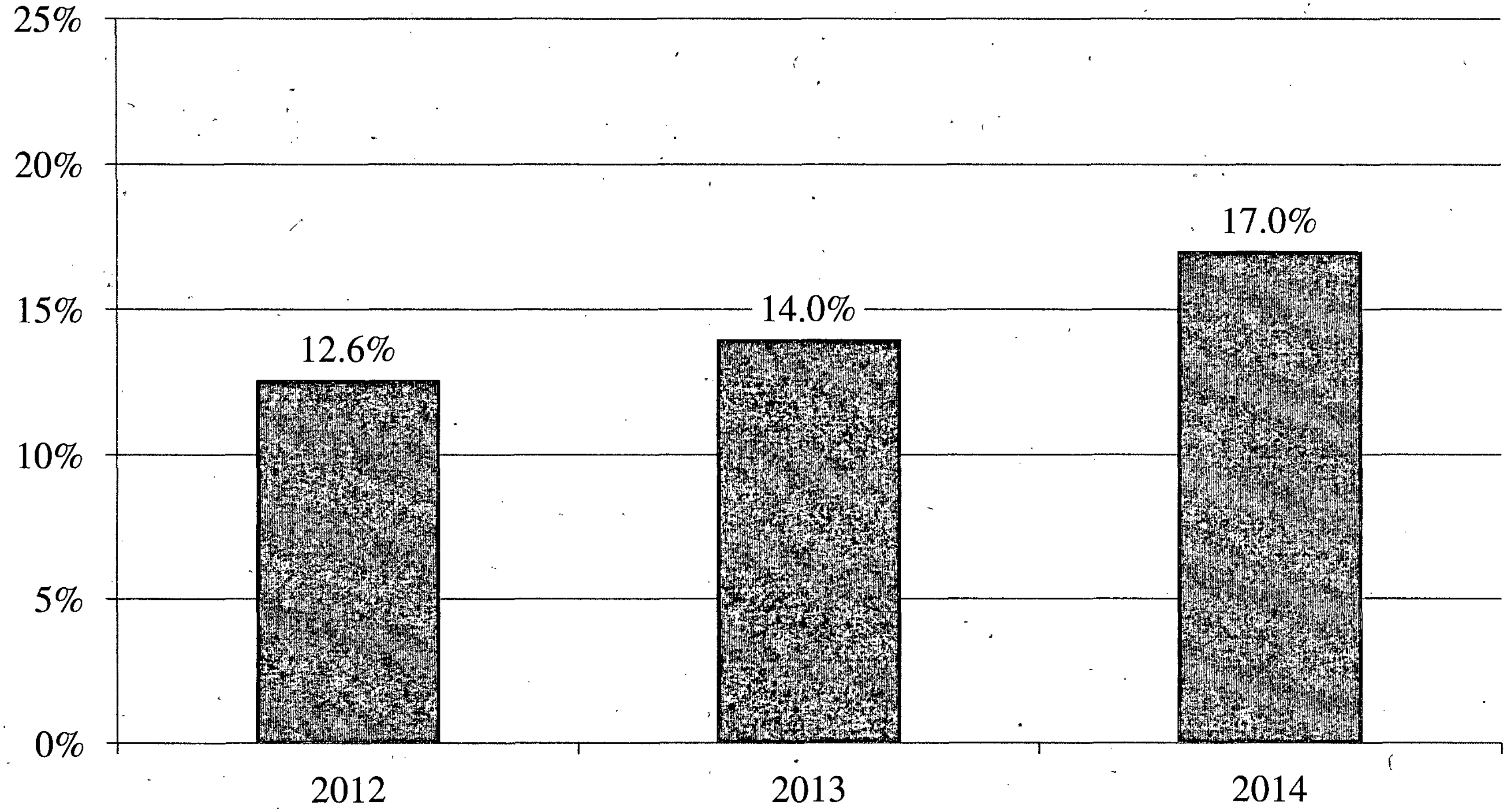


Source: Prehearing Staff Report at Table VI-1

Performance

Financials

EBITDA Margin Increased Over the POI

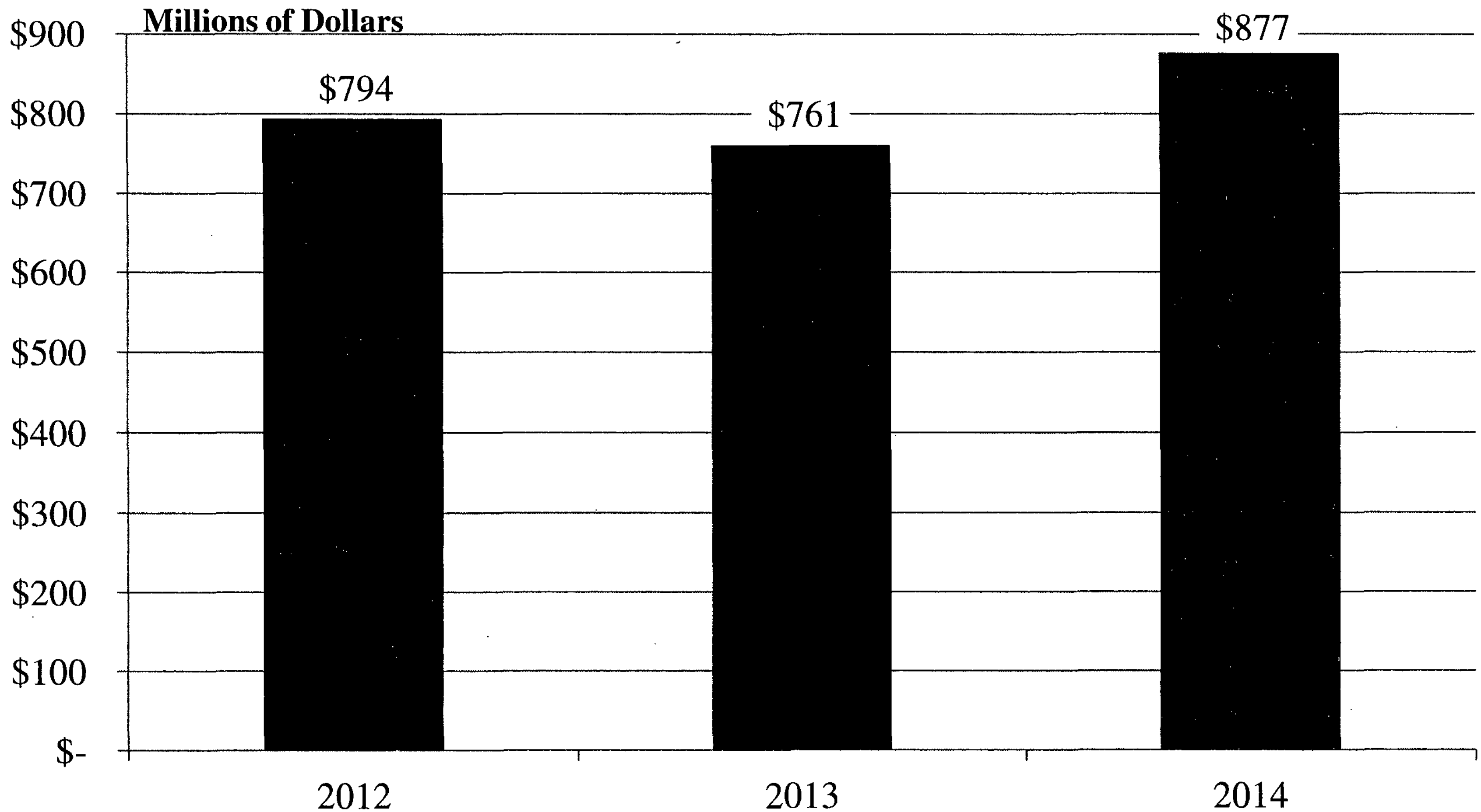


Source: Prehearing Staff Report at Table VI-1

Performance

Financials

Capital Expenditures Increased Over the POI



Source: Prehearing Staff Report at Table C-1.

The Domestic Industry Made Significant Investments Since 2012

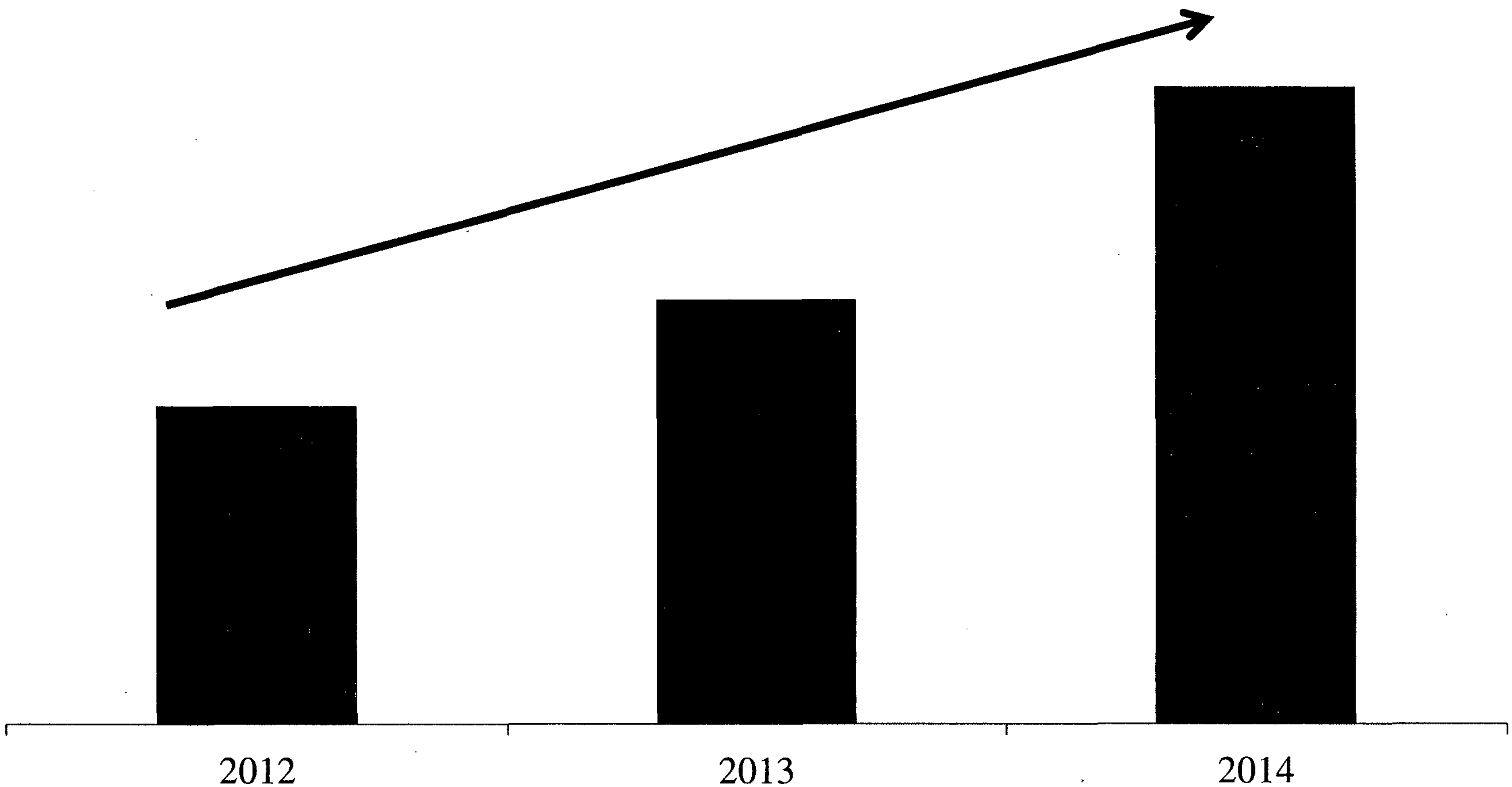
Company	Investment	Location
Goodyear	Upgrade & Capacity Expansion	Lawton, Oklahoma Fayetteville, North Carolina
Michelin	Employment Increases	Fort Wayne, Indiana
	Added Tire Variety	Tuscaloosa, Alabama
Continental	Capacity Expansion & Employment Increases	Mt. Vernon, Illinois
Cooper	Capacity Expansion & Employment Increases	Tupelo, Mississippi
	Upgrade	Tupelo, Mississippi
	R&D Center	Findlay, Ohio
Toyo	Expansion	White, Georgia

Source: See CapTrade Report at pp 20-24 and 32 – 33.

Performance

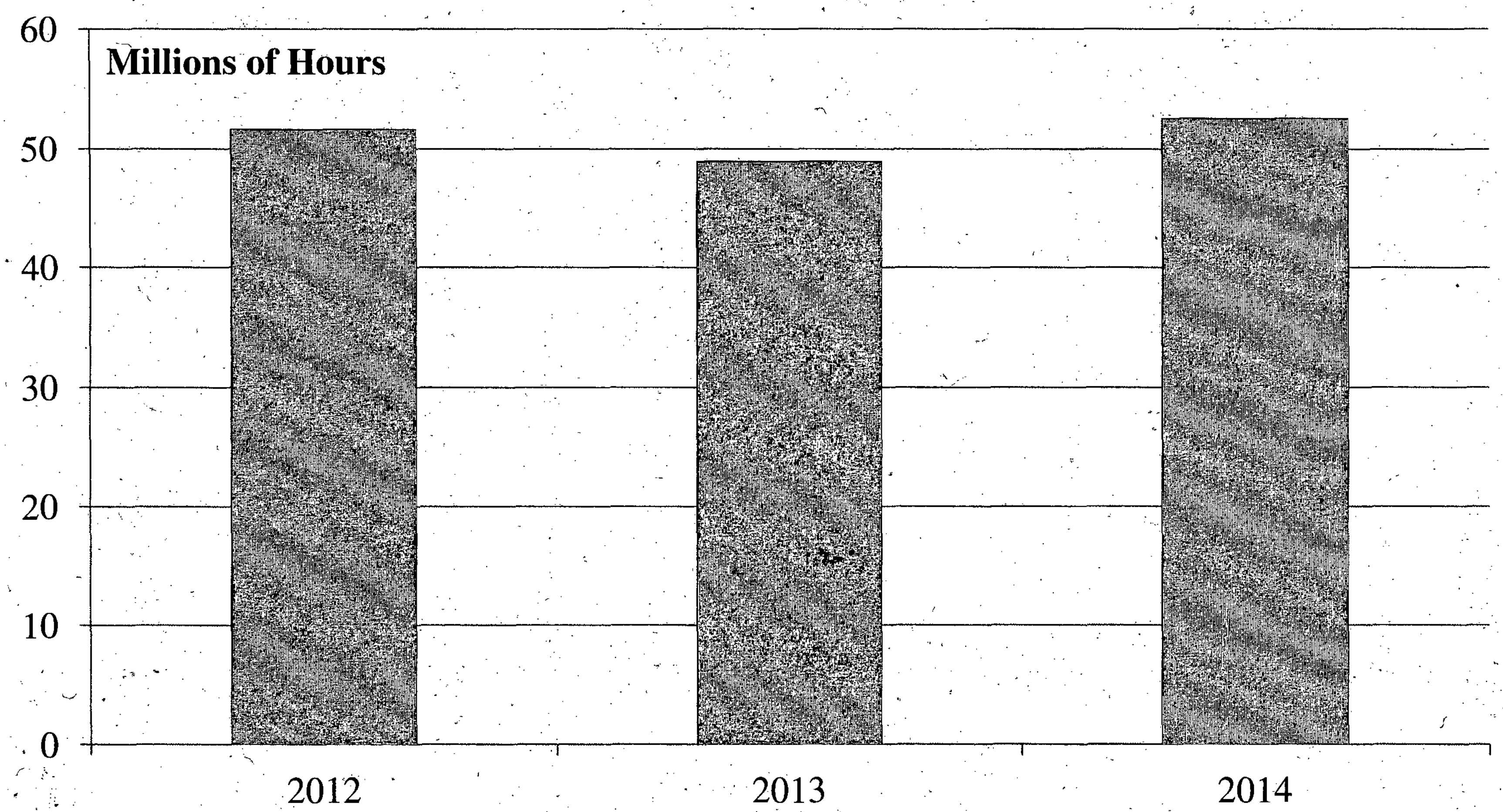
Financials

Return on Assets Increased Throughout the POI



Source: Confidential Prehearing Staff Report at Page VI-17.

Total Hours Worked Increased Over the POI

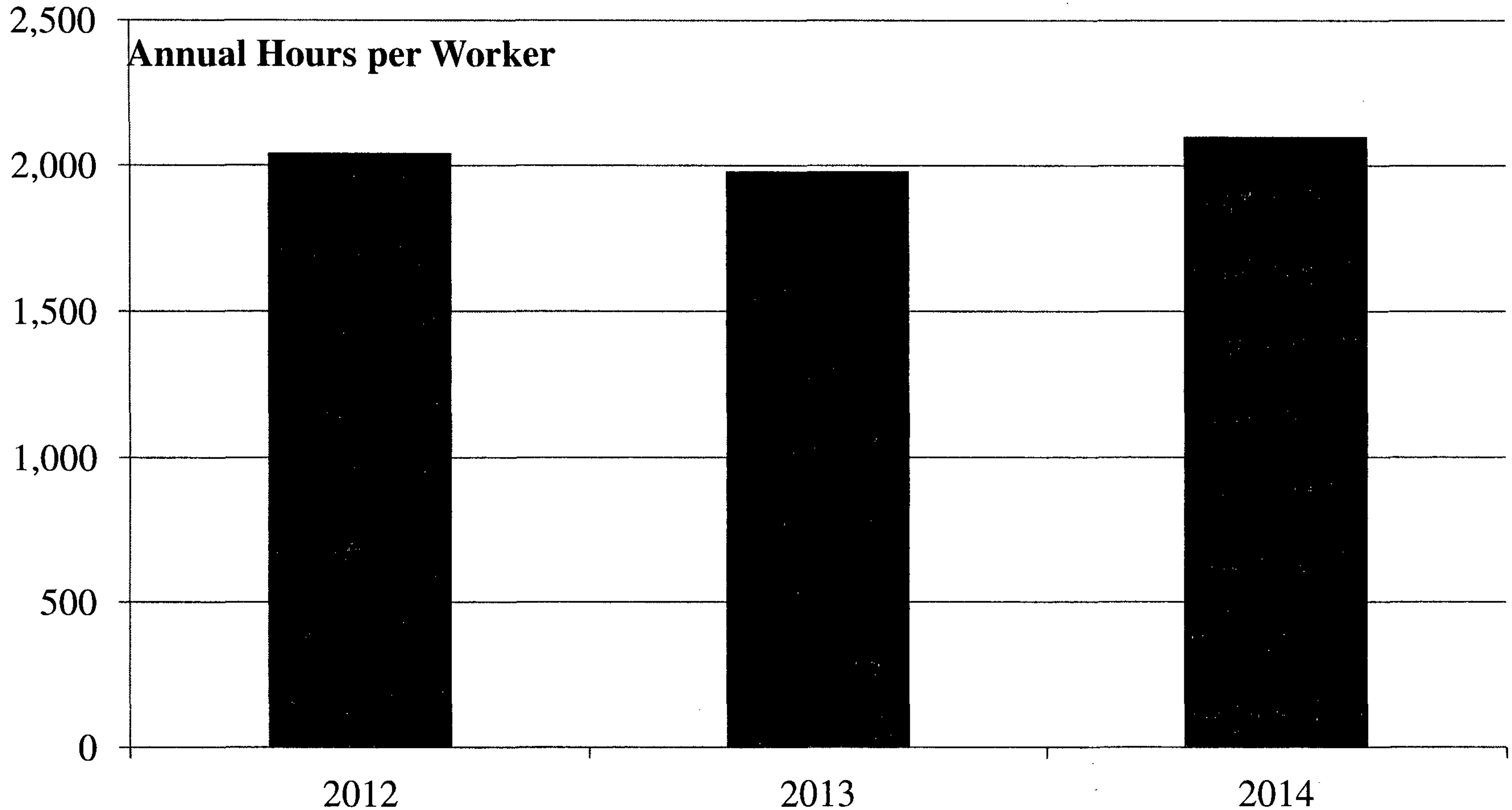


Source: Prehearing Staff Report at Table C-1.

Performance

Employment

Annual Hours per Production Worker Increased

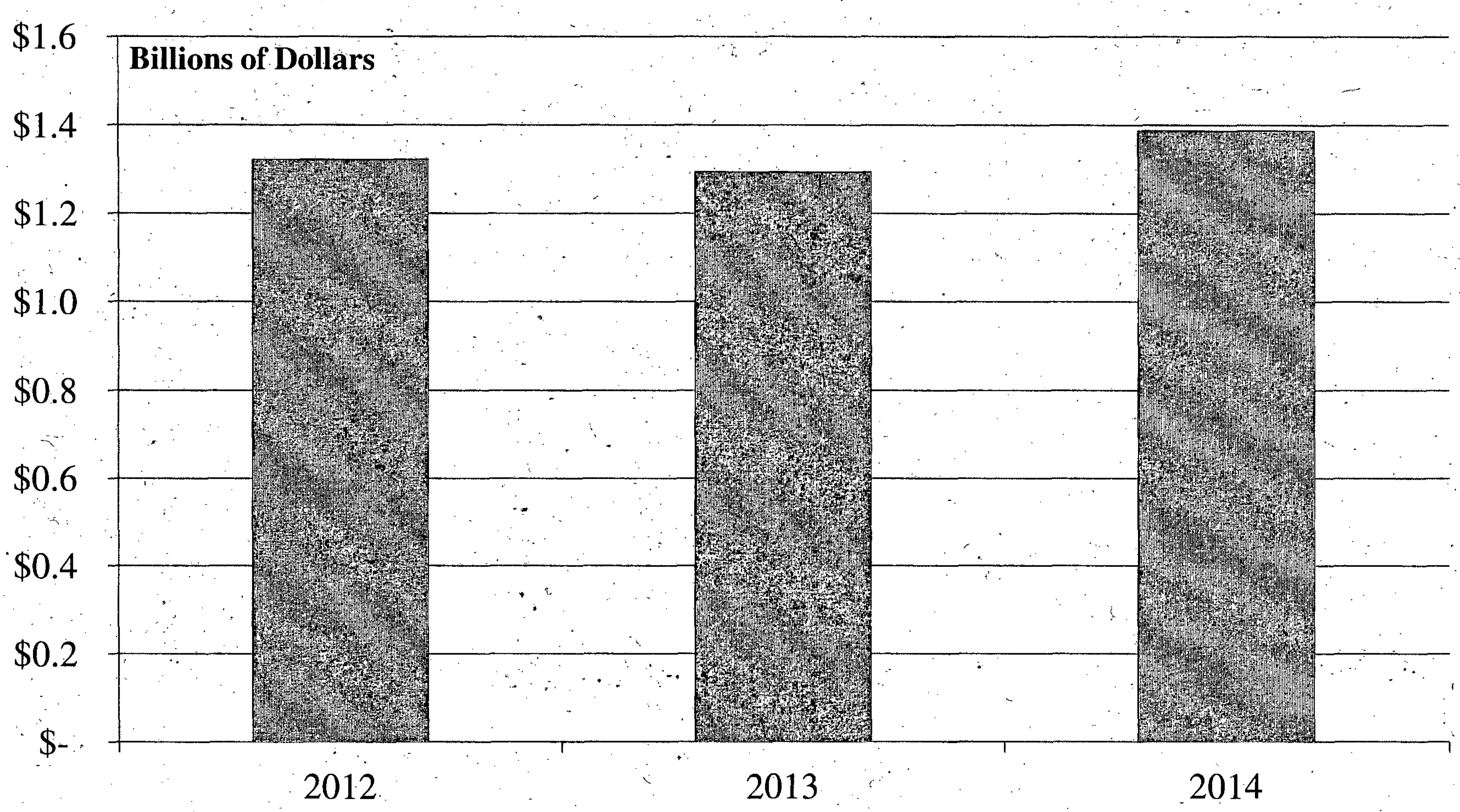


Source: Prehearing Staff Report at III-24.

Performance

Employment

Overall Wages Increased

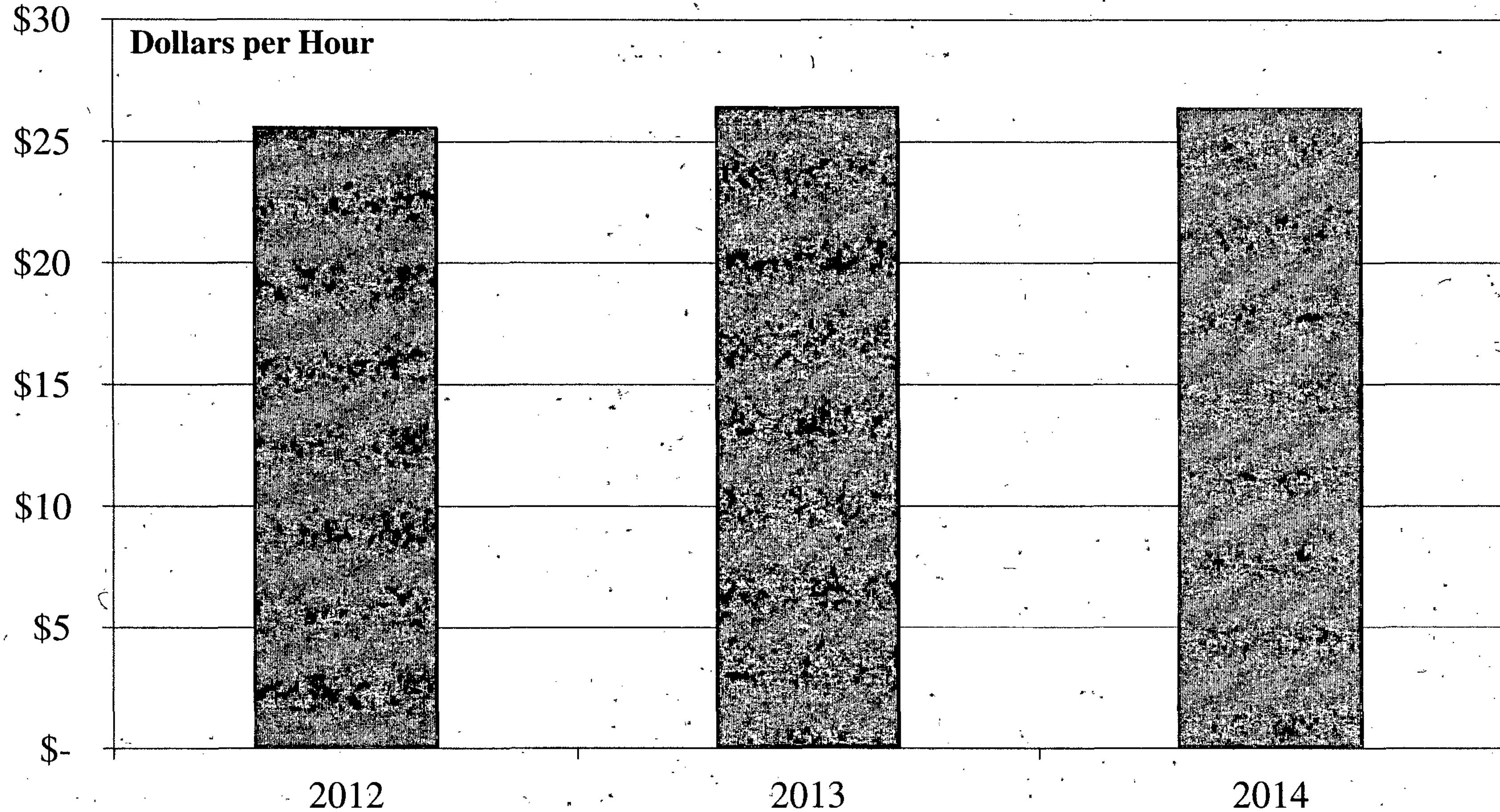


Source: Prehearing Staff Report at III-24.

Performance

Employment

Hourly Wages Increased

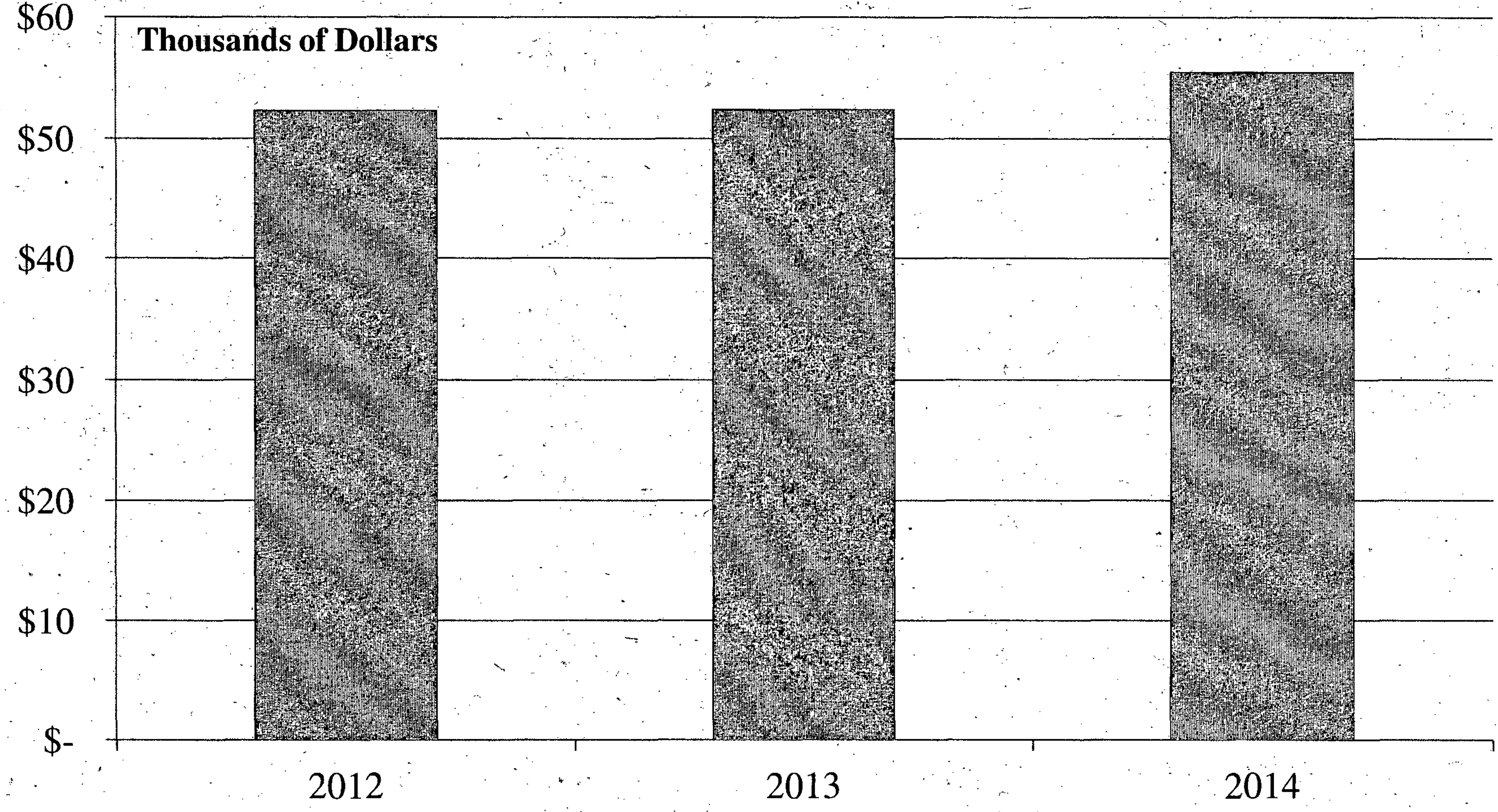


Source: Prehearing Staff Report at III-24.

Performance

Employment

Labor Income per Worker Increased

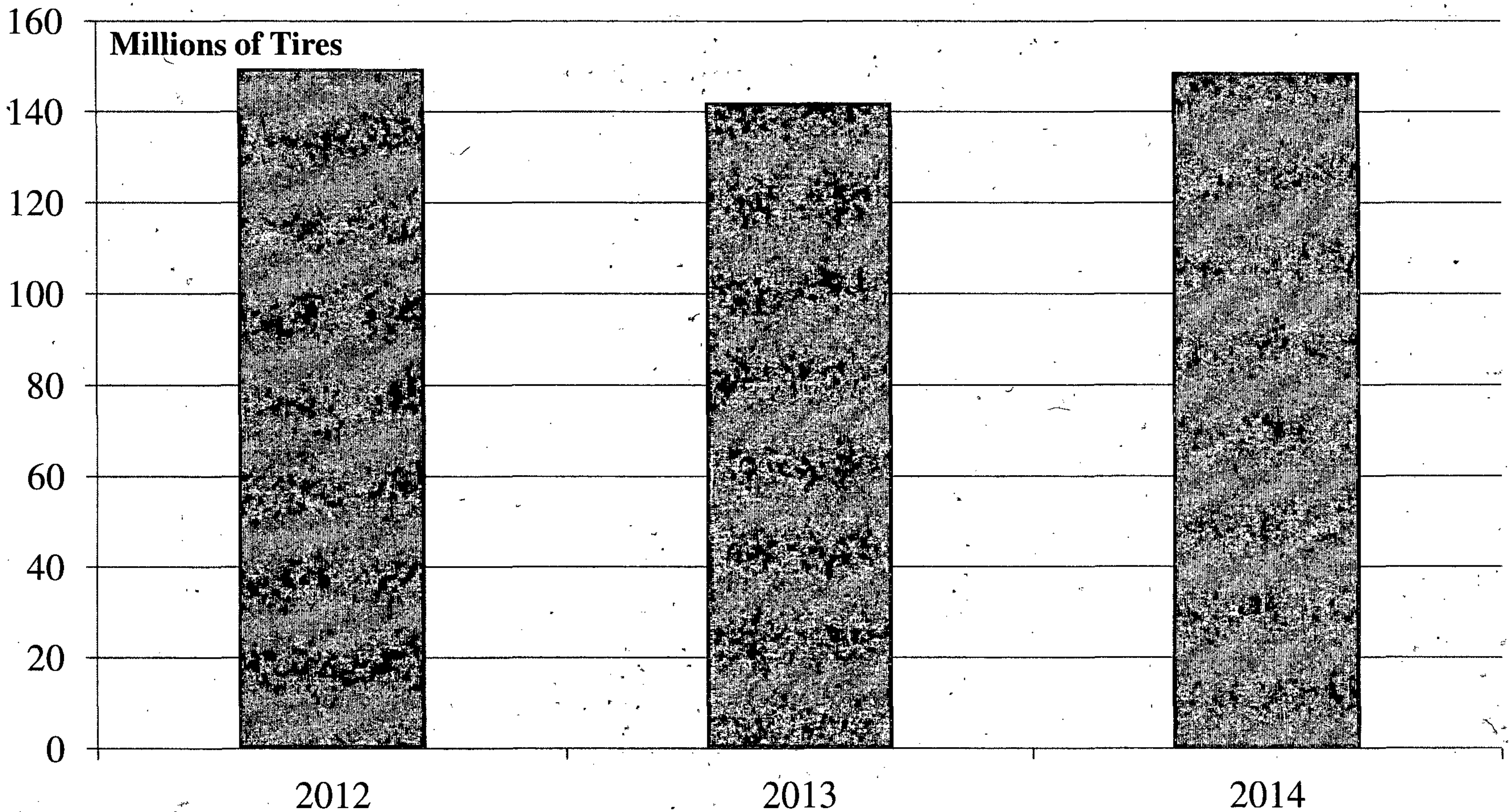


Source: Prehearing Staff Report at III-24.

Performance

Trade

Production Quantities Remained Stable

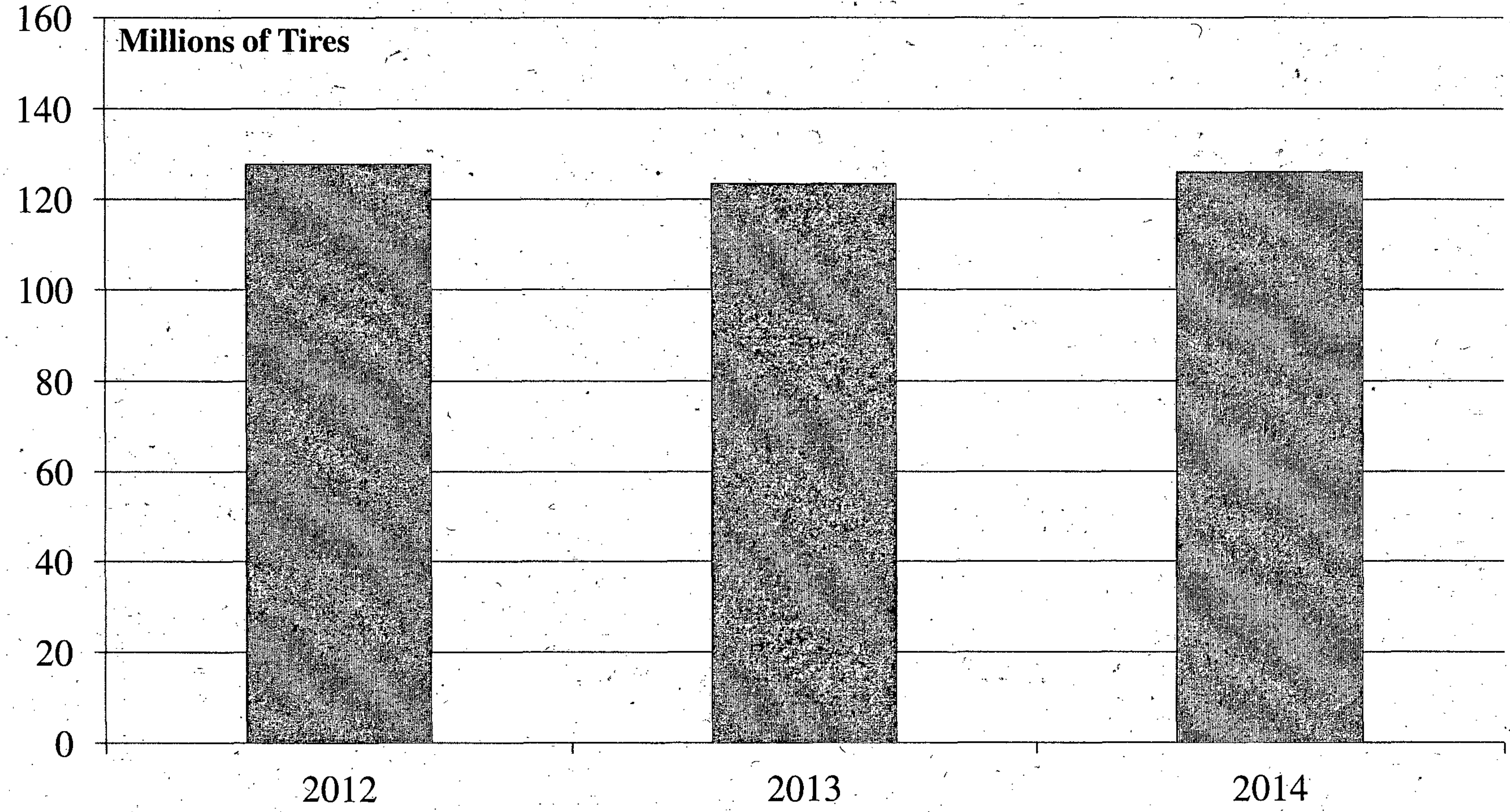


Source: Prehearing Staff Report at C-1.

Performance

Trade

U.S. Shipment Quantities Remained Stable

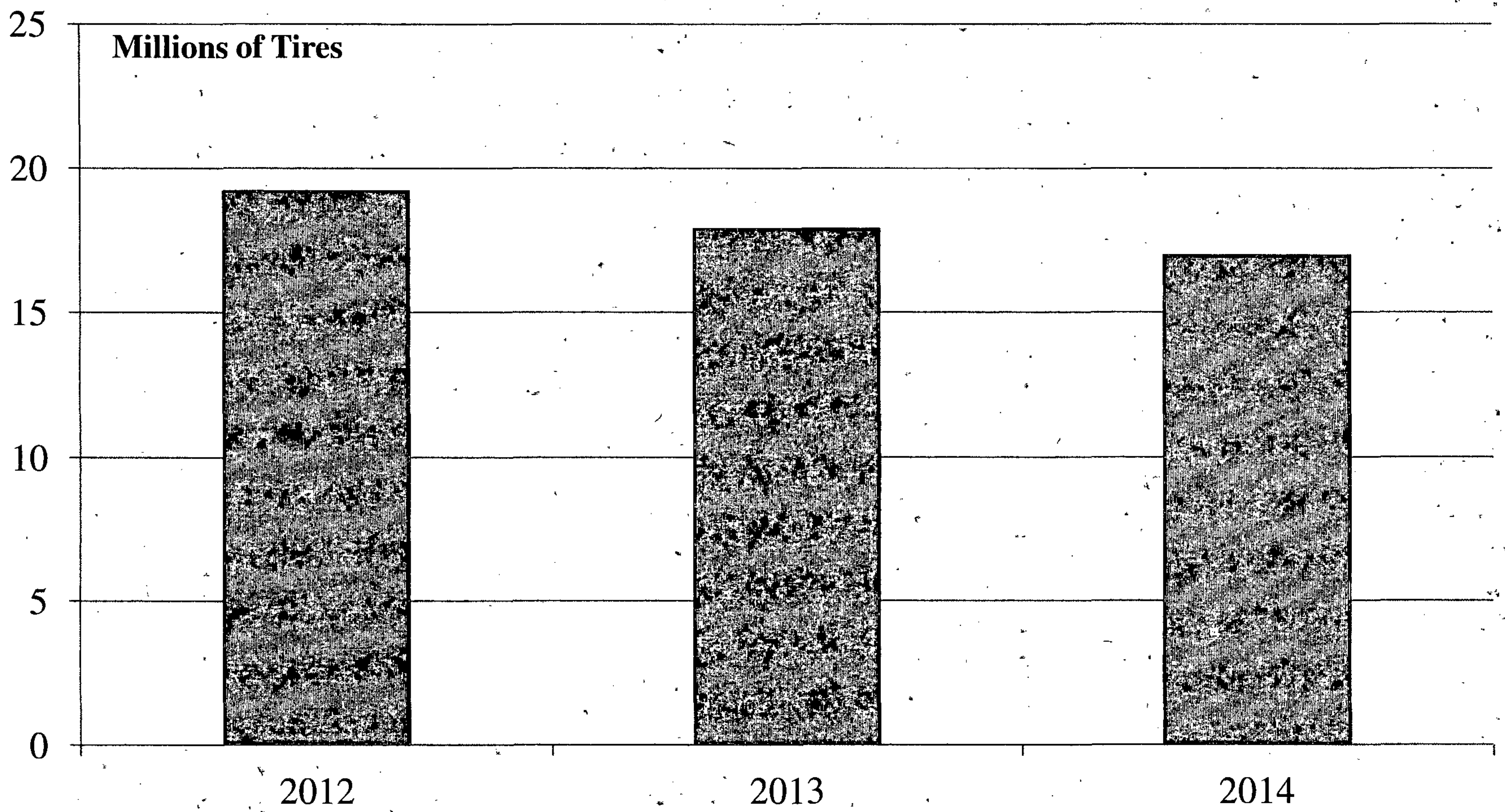


Source: Prehearing Staff Report at C-1.

Performance

Trade

Inventories Fell During the POI

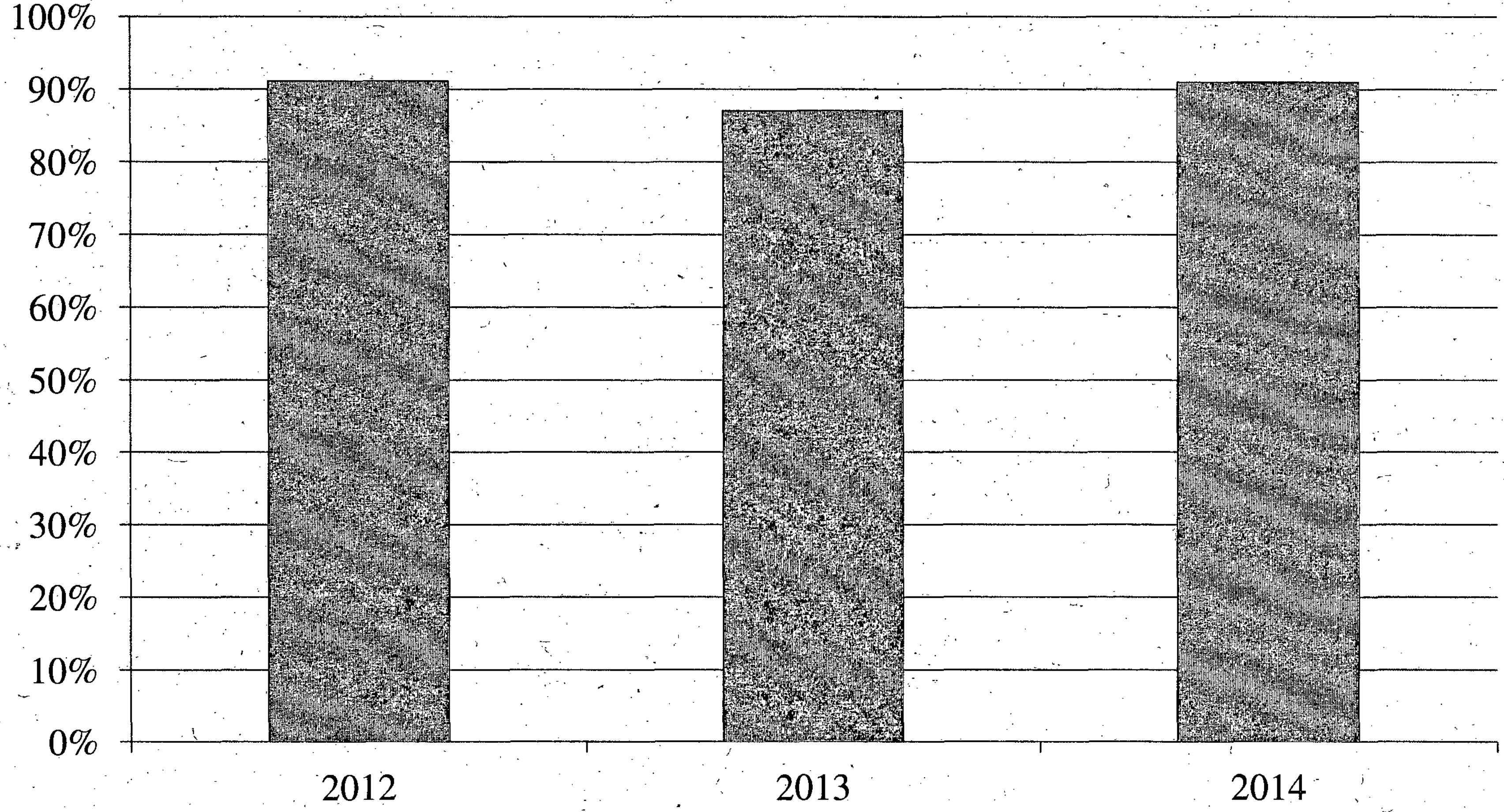


Source: Prehearing Staff Report at C-1.

Performance

Trade

Capacity Utilization Remained Stable



Source: Prehearing Staff Report at C-1.

Performance of the Domestic Industry

Conditions of Competition

Import Prices and Quantities

Threat

Summary

- The U.S. PVLT tire industry is operating at or near full capacity.
- Domestically produced and subject imported tires are differentiated by branding, performance, and pricing.
  - The business strategy of major U.S. producers is based upon branding and production differentiation.
  - Product differentiation and attenuated competition is recognized by independent authorities, such as Consumer Reports and the tire trade press.
- The U.S. PVLT tire industry has successfully restructured.

Conditions of Competition

Capacity

The U.S. Industry and Many Individual Firms Are Operating at or Near Effective Capacity

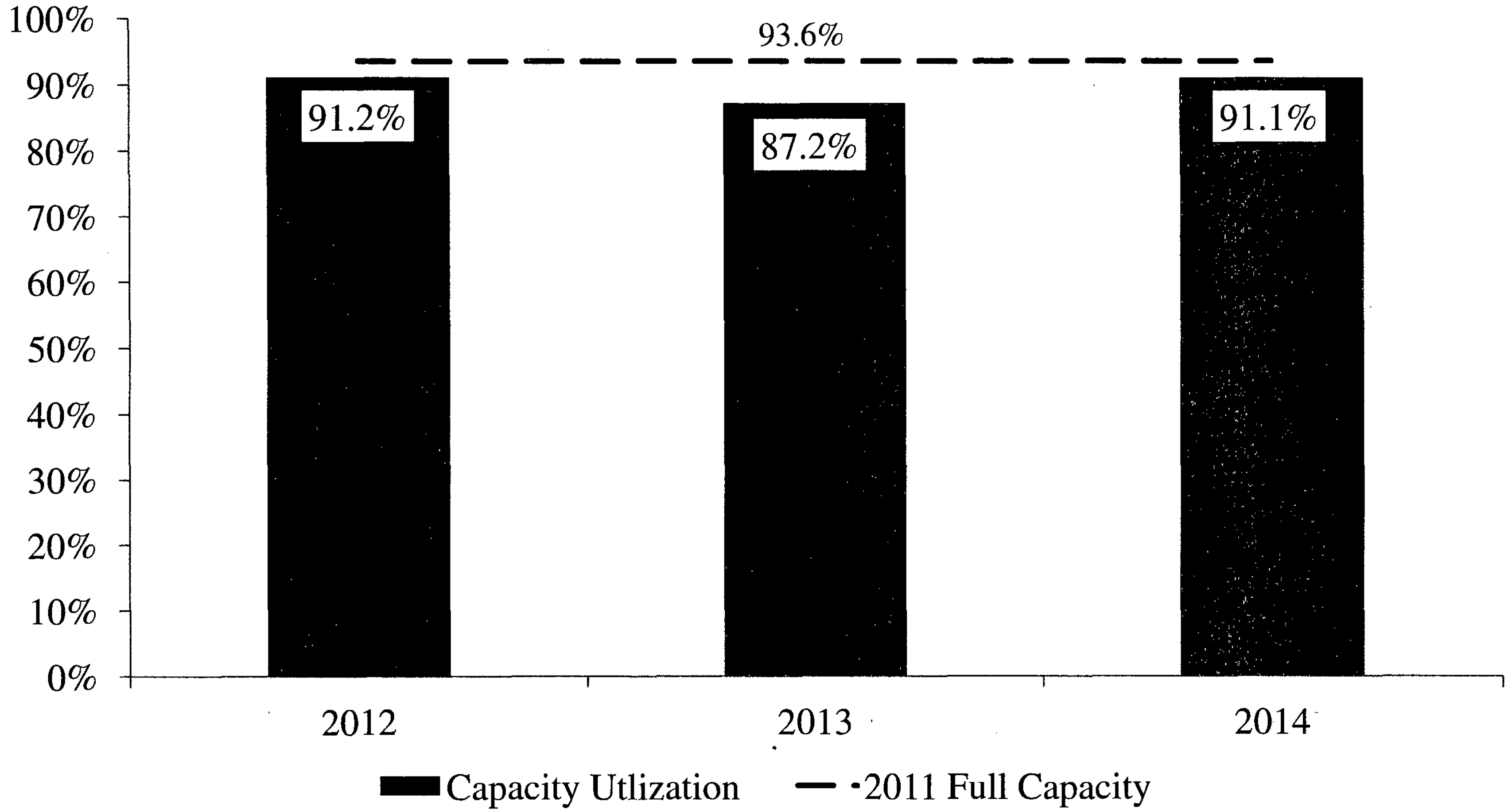
- Statements by U.S. Producers indicate they are operating at or near full effective capacity.
- In 2011 capacity utilization was **<u>93.6</u>** percent but U.S. producers were operating at full capacity.
  - "We have been bombarded from every side for additional tires, and we can't keep up...We are at maximum capacity, and all shifts are maxed out." – *David O'Connell, Continental's VP of OE in the Americas*
  - Michelin was also running at full capacity. – *Autoweek (June 2011)*

Source: U.S. Producer Questionnaires at III-3; : David Sedgwick and Mike Colias, "The Scramble for Scarce Tires." Autoweek. June 26, 2011; Preliminary Prehearing Staff Report at C-1.

Conditions of Competition

Capacity

U.S. Industry is Operating at Levels Consistent With Historical Levels of Full Effective Capacity



Source: Prehearing Staff Report at C-1; Preliminary Prehearing Staff Report at C-1.

Utilization of Practical Capacity Will Be Less than 100 Percent: Recurring Unplanned Events

- Weather-related disruptions.
- Unplanned machine downtime and maintenance.
- Disputes between labor and management.
- Holidays.

Source: Confidential Prehearing Staff Report at III-3

Utilization of Practical Capacity Will Be Less than 100 Percent: Change in Product Mix

- Practical capacity is based on tire throughput which can vary due to:
  - Larger tires require larger molds and longer curing times.
  - Increased variety of tires require frequent mold changes. The number of tire sizes has doubled since early 2000s.
  - Shorter run times require more downtime to change molds between varieties.

Source: David Sedgwick and Mike Colias, "The Scramble for Scarce Tires." Autoweek. June 26, 2011

Conditions of Competition

Attenuation: OEM

The OEM Market is Overwhelmingly Dominated by Domestic Producers

- **"Ford contends that the market for OEM tires is distinct from the replacement market and that subject imports do not compete in the OEM market** because they are unable to meet the technological and service demands of U.S. car producers." – *2014 Preliminary Decision.*

U.S. Producers' Questionnaire – PVLT tires   Page 14

II-8. Channels of distribution.-- Report your firm's commercial U.S. shipments by channel of distribution.

Quantity (*in 1,000 tires*)			
	Calendar years		
Item	2012	2013	2014
Channels of distribution:			
Commercial U.S. shipments:			
To OEMs (*quantity*) (M)			
To replacement market (*quantity*) (N)			
To all other[1] (*quantity*) (O)			
[1]Please describe:			

Source: Preliminary Commission Opinion at Footnote 131, page 20; U.S. Producers' Questionnaires at p 14.

Conditions of Competition

Attenuation: Branding

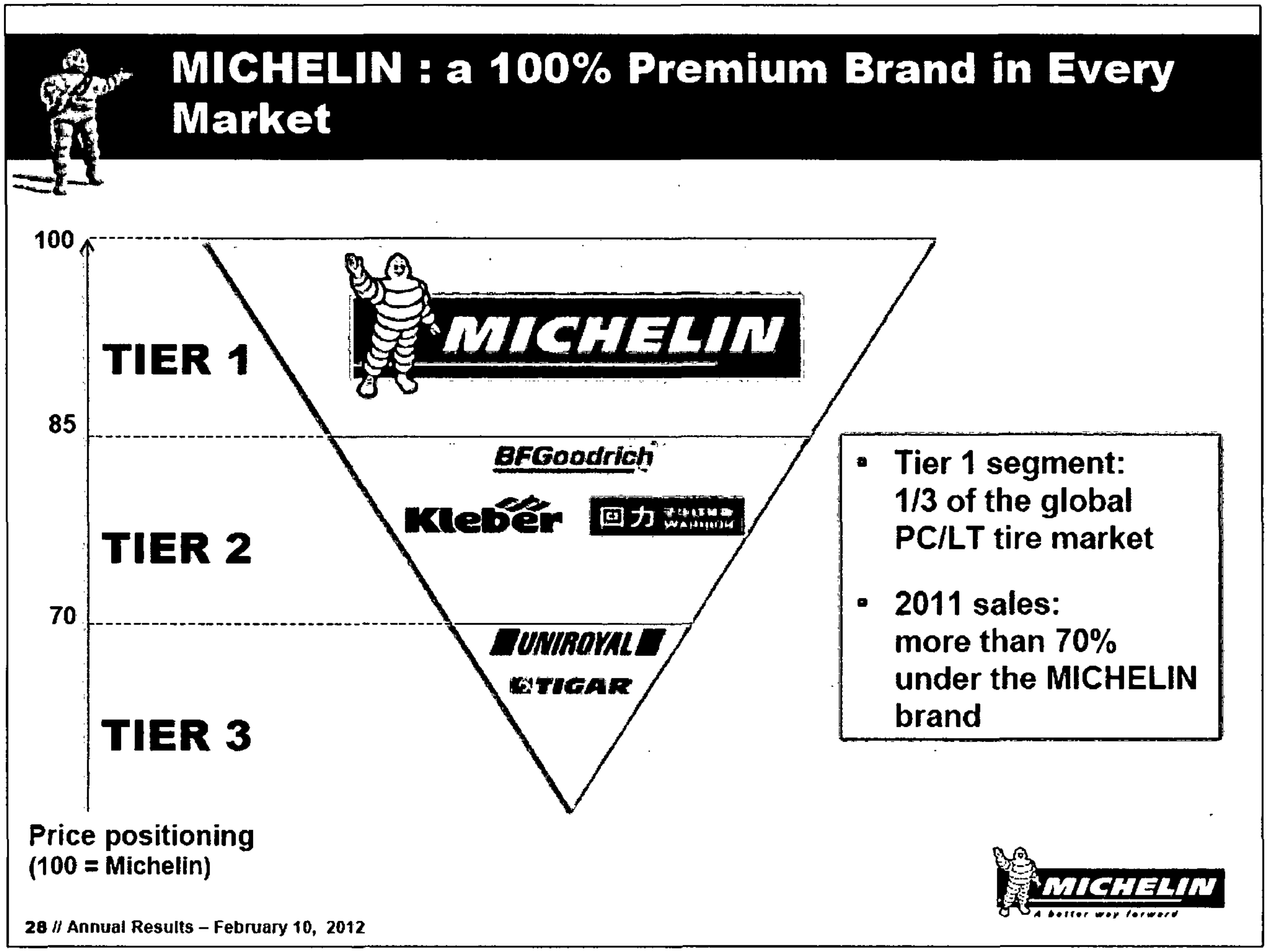
Domestic Producers Differentiate Their Brands

Michelin Group	Goodyear Tire and Rubber Co.	Bridgestone Group	Continental A.G.
MICHELIN	GOODYEAR	BRIDGESTONE	Continental
BFGoodrich Tires	DUNLOP	Firestone	GENERAL TIRE
UNIROYAL FOR EVERYTHING YOU VALUE	KELLY TIRES	FUZION	

Conditions of Competition

Attenuation: Branding

Domestic Producers Differentiate Their Brands



Source: Michelin 2012 Annual Report at 28.

Domestic Producers Acknowledge Price Premiums Based on Brand

- "The Michelin brand is our premium brand. ...So if you want the best tire, you buy Michelin. **You'll pay a premium. About 10% to 15%.** We also have BFGoodrich, which is the next tier down, a little bit less expensive...We also have another brand called Uniroyal...and Uniroyal is also a lower-priced tier brand." – *Pete Selleck, Chairman and President of Michelin North America*

- "We're building a **branded business** and **we're competing in the most profitable segments in the market.**" – *Steve McClellan, President of Goodyear North America*

Source: Maria Bartiromo, "Bartiromo talks tires with USA's Michelin man." Usatoday.com. (June 17, 2014); and "Goodyear Reinstates Dividend." Tire Business. (October 14, 2013).

Domestic Producers Discuss Branding

- "For this year, Goodyear launched an entirely unique line of tires for the Kelly brand to match its current offerings of Goodyear light truck and passenger vehicle tires. **The innovative Kelly tires were developed by Goodyear in response to its customers' rising need for the branded products superior to private label or Asian imported tires**." – *Guru Focus*

Source: "Goodyear Tire & Rubber's New Products Will Drive Growth." Guru Focus. (May 6, 2015).

Conditions of Competition

Attenuation: Branding

Premium Brands Sell at Higher Prices

Parent Company	Brand	% Above or Below Mean Price
Michelin Group	Michelin	29.50%
	BFGoodrich	11.30%
	Uniroyal	-6.90%
Bridgestone Group	Bridgestone	12.40%
	Firestone	-11.30%
	Fuzion	-20.90%
Goodyear Tire & Rubber Co.	Goodyear	16.80%
	Dunlop	5.00%
	Kelly	-22.70%
Continental AG	Continental	17.60%
	General	-5.70%

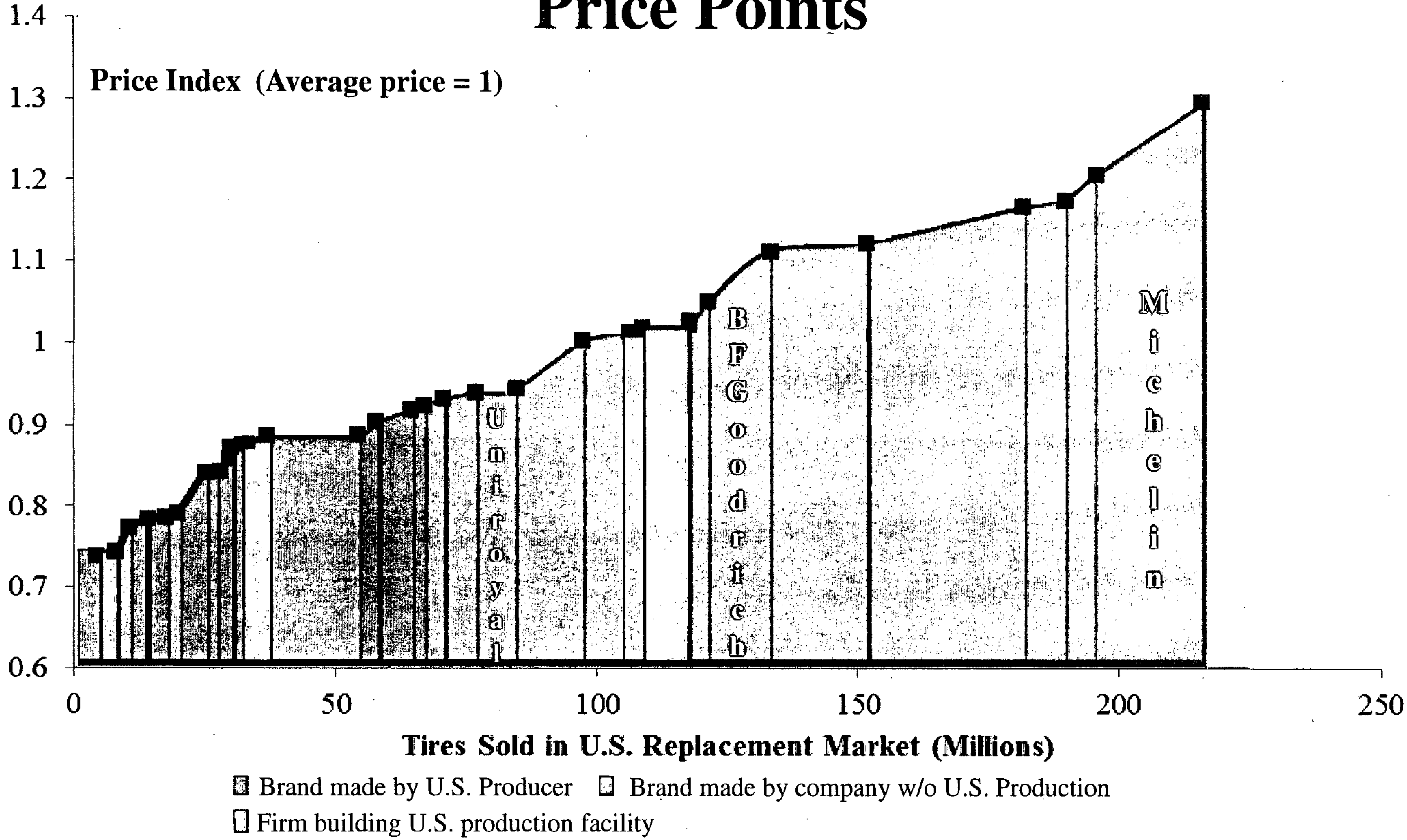
Note: Each online offer measured as a percentage of the mean price for its type, as defined by USITC Pricing product definitions. Minimum and maximum observation for each brand were removed (except for Fuzion and Kelly, due to limited observations).

Source: Prices from online retailers Tire Rack, Discount Tire, Sears, and Simple Tire. See CapTrade Report, Exhibit 3.

Conditions of Competition

Attenuation: Pricing

U.S. and Subject Tires Compete at Different Price Points



Source: 2014 sales quantity from Modern Tire Dealer, Facts Issue 2015. Prices from online offers on Tire Rack, Simple Tire, Discount Tire, and Sears. See CapTrade Report, Exhibit 3. Brands classified based on questionnaire responses.

Conditions of Competition

Attenuation: Performance

The HVA Segment Dominated by U.S. Producers Have Better Performance

Allow me to expand. A high-value-added tire is more complex to manufacture than a low-value-added tire. There's no accepted definition for a high-value-added tire, but The Goodyear Tire & Rubber Company defines it as having additional tread compounds (silica), reduced sidewall height, premium speed ratings, diameters greater than 17 inches, and several more attributes.

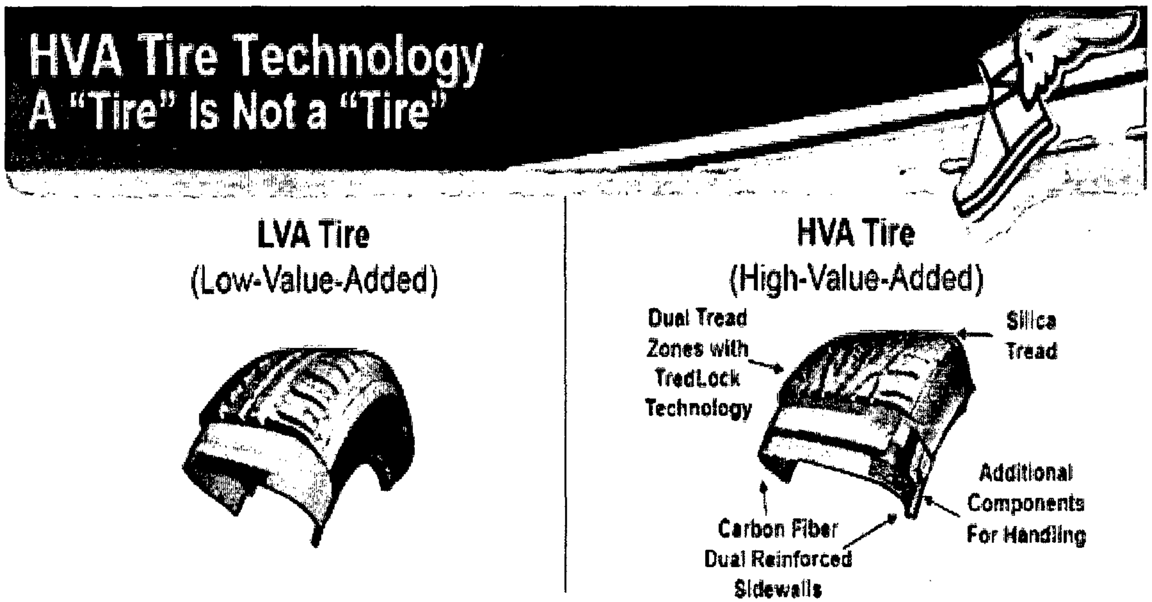


Image source: Deutsche Bank Leveraged Finance Conference presentation

Source: Maxx Chatsko. "5 Things the Goodyear Tire & Rubber Company Wants You to Know." The Motley Fool. (November 24, 2014).

Conditions of Competition

Attenuation: Performance

Consumer Reports Prefers U.S. Tire Makers

What brands make the best tires?

Consumer Reports rank the top tire maker

Published: March 13, 2015 03:00 PM

1. Michelin

Across the board, Michelin offers nearly a perfect blend of grip, handling, low rolling resistance for good fuel economy, and long tread life. In many instances, tread wear is class-leading, and Michelin has tread wear warranties on all replacement tires, including winter and summer tires. (Most competitors do not.) However, Michelin tires can be pricey and that holds back a lot of potential buyers. It's too bad because if you factor in the outstanding tread wear, the Michelins might be a bargain compared to other tires with a lower price.

Top models

All-season: Michelin Defender


Michelin Defender

2. Continental

Nipping at the heels, if not looking back at Michelin at times, Continental consistently offers high-scoring tires. Handling and impressive stopping grip on dry and wet roads are typical of this brand. As a bonus, they are attractively priced.

Top models

All-season: Continental ProContact EcoPlus (discontinued model in limited supply). The new TrueContact is being tested right now.

Performance all-season: Continental PureContact

Ultra-high performance: Continental ExtremeContact DW


Continental ExtremeWinterContact

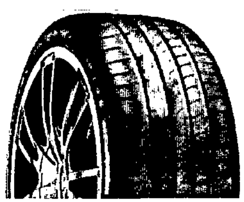
3. Goodyear

Not every model is a hit, but in the last two years Goodyear has come on strong with some recommended truck and ultra-high performance tires. All-season car tires are a bit long in the tooth; still the Goodyear Assurance TripleTread All-Season car tire is impressive. If you need an all-season tire with great snow traction, the Goodyear Assurance ComfortTred Touring is it.

Top models

All-season: Goodyear Assurance TripleTread All-Season

Ultra-high performance: Goodyear Eagle F1 Asymmetric All Season, Eagle F1 Asymmetric 2 (summer)


Goodyear Eagle F1 Asymmetric

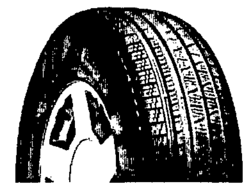
4. Pirelli

Known for ultra-high performance tires, Pirelli supplies original equipment rubber for many prestigious sports cars. Pirelli also offers some solid models for less exotic vehicles, too. Tread life is not always a strong point, but in recent years there have been updates with a "Plus" added to existing models, some of which we are testing now.

Top models

All-season: Pirelli P4 Four Seasons. We are testing Pirelli P4 Seasons Plus.

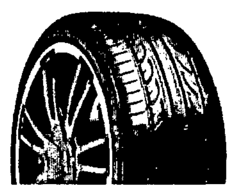
Performance all-season: Pirelli P7 Cinturato A/S is big on dry and wet grip, and handling, though tread life and stopping on


Pirelli Scorpian Verde

5. Hankook, Cooper, Noklan, Yokohama

This final ranking is a tough spot to call, as there are many fine brands vying for the title. Rather than make a single selection, we consider this a four-way tie. Here's the rundown:

Hankook has the top-rated Dynapro AT-M in the all-terrain category, and it has a couple impressive ultra-high performance tires: the Hankook Ventus S1 noble 2 (all-season) and Ventus V12 evo2 (summer). The Winter I*cept evo has been around for a number of years and still impresses with its well-balanced grip on cleared and snow-covered roads. Absent are all-season tire models that the company is now updating.


Hankook Ventus V12 evo2

Source: "What Brands Make the Best Tires?" Consumer Reports. (March 13, 2015).

Conditions of Competition

Attenuation: Performance

In 9 Tire Segments, CR Recommended U.S. Producers 34 out of 44 times

Type	Brand	U.S. Producer?
Performance All Season	Michelin	Yes
	Continental	Yes
	Michelin	Yes
	Continental	Yes
All Season	Michelin	Yes
	Continental	Yes
	Goodyear	Yes
	Pirelli	Yes
	Yokohama	Yes
UHP All Season	Michelin	Yes
	Goodyear	Yes
	Hankook	2016
	Pirelli	Yes
	Cooper	Yes
UHP Summer	Pirelli	Yes
	Michelin	Yes
	Yokohama	Yes
	Nokian	
	Continental	Yes
	Goodyear	Yes
	Hankook	2016
	Vredestein	

Type	Brand	U.S. Producer?
All Season Truck	Michelin	Yes
	Goodyear	Yes
	Michelin	Yes
	Pirelli	Yes
	Continental	Yes
All Terrain Truck	Cooper	Yes
	Hankook	2016
	Goodyear	Yes
	Michelin	Yes
	Cooper	Yes
	Falken	No
Winter	Michelin	Yes
	Hankook	2016
	Pirrelli	Yes
	Uniroyal	Yes
	Bridgestone	Yes
Performance Winter	Nokian	
	Michelin	Yes
	Nokian	
Winter Truck	Michelin	Yes
	Continental	Yes
	Nokian	

Source: "Recommend Tire Guide." Consumer Reports. Retrieved June 6, 2015.

Conditions of Competition

Attenuation: Performance

CR Recognizes U.S. Tires Have Better Performance

- "Chinese tire brands don't have that oversight, and some **may not have the marketing foresight to design products well-suited to the specific requirements of the U.S. consumer.**"

- Consumer Reports reviewed 2 Chinese-branded tires out of 167 tires in 9 market segments – these brands were not ranked highly.

Source: Consumer Reports website at "Ratings." Retrieved June 8, 2015; "Consumer Reports Finds Chinese Tires are No Bargain." Consumer Reports. (September 29, 2014)

Conditions of Competition

Attenuation: Performance

The OEM Market is Supplied Near Exclusively by Domestic Producers Due to Better Performance

- "**Ford contends that** the market for OEM tires is distinct from the replacement market and that **subject imports do not compete in the OEM market because they are unable to meet the technological and service demands of U.S. car producers."** – *2014 Preliminary Decision.*

Source: Preliminary Commission Opinion at Footnote 131, page 20.

Domestic Producers Converted to HVA Tires

- "Goodyear is spending $150 million at Lawton [Oklahoma] to convert 5 million units of annual capacity for low value-added tires to HVA products." – *Tire Business, March 2011.*

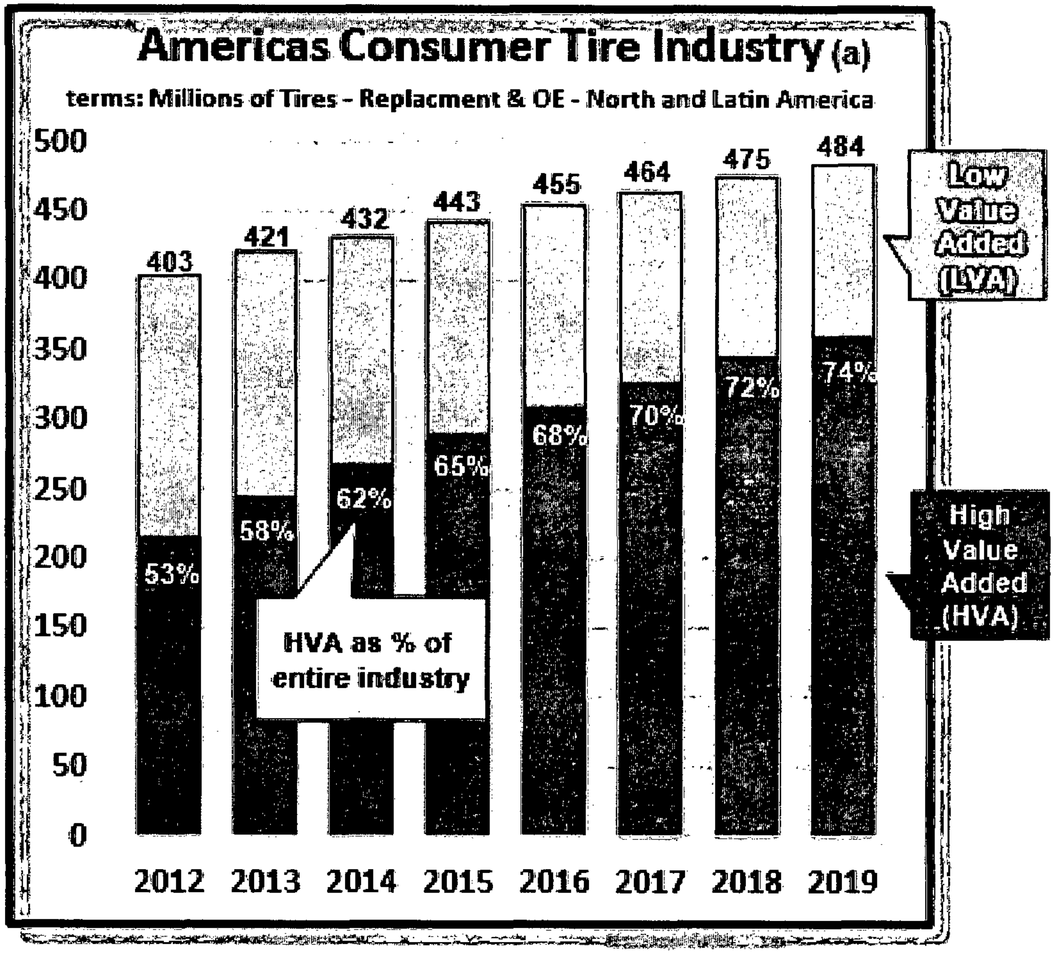
- "Our recent strategy has been to make sure that we do not produce tires that destroyed value." – *Michelin CEO Jean-Dominique Senard, January 2015.*

Source: "Michelin Aims to Fight Off Chinese Rivals on 2 Fronts." Automotive News. (January 12, 2015); and "Goodyear Investing in High Value-Added Tires." Tire Business. (March 28, 2011).

Conditions of Competition

Restructuring

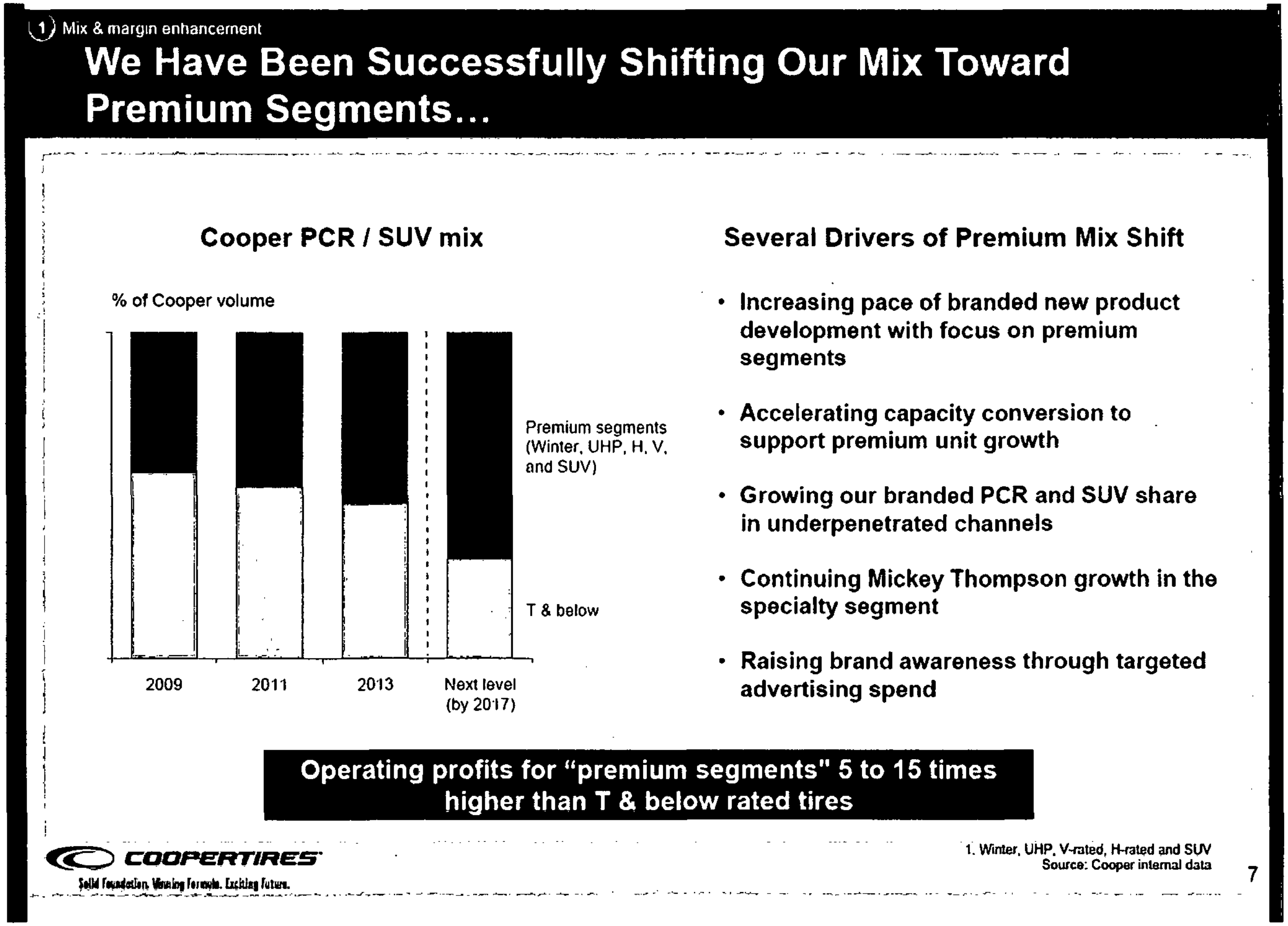
The Industry Has Restructured: The Move Toward High Value Added Tires



2014-2019 Growth
Total = +52M (~10M/year, ~2%/year)
HVA = +90M (~18M/year, ~6%/year)

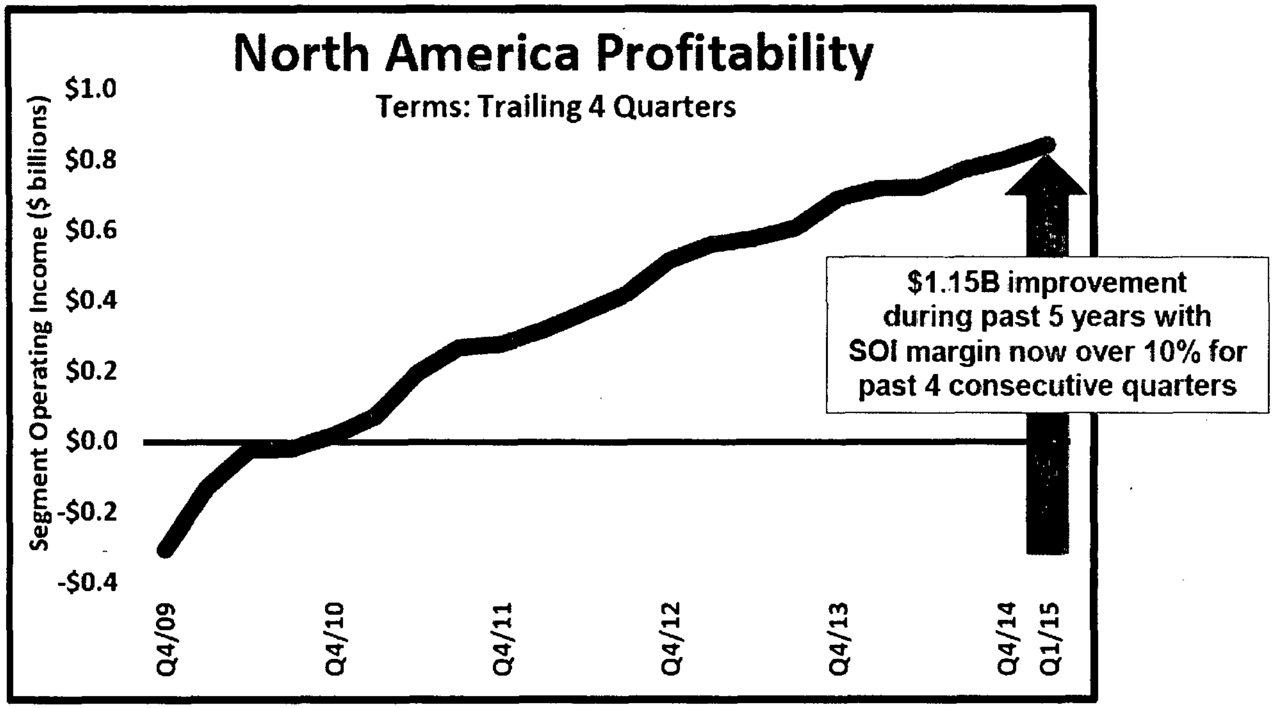
Source: Goodyear, slideshow for First Quarter 2015 Conference Call (April 29, 2015), slide 5.

Cooper's Product Mix Is Moving To HVA Tires



Source: Cooper Tires Presentation at Deutsche Bank Global Auto Industry Conference. (January 13, 2015) at slide 7.

The Industry Has Restructured: Goodyear's North American Profitability



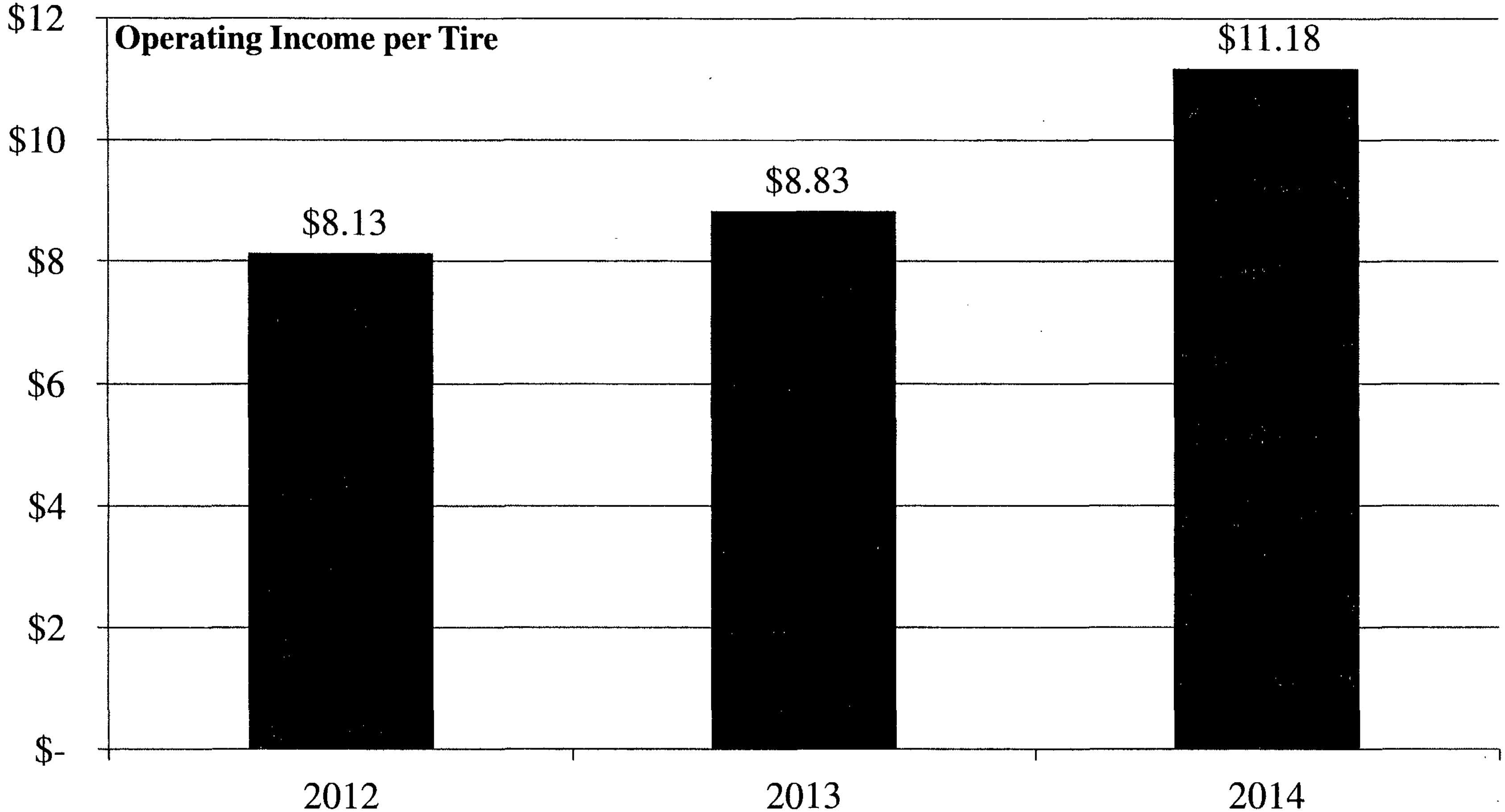
Consistent and dramatic performance has turned North America from a "turnaround story" into a "momentum story"

Source: Goodyear Tire & Rubber Co., slideshow for First Quarter 2015 Conference Call (April 29, 2015), slide 5.

Conditions of Competition

Restructuring

Unit Operating Income Demonstrates the Benefits of Restructuring



Source: Prehearing Staff Report at Table C-1

Domestic Producers Have Expanded Significantly Since 2012

Expansions Since 2012

Year	Firm	Plant Location
2012	Michelin	Lexington, South Carolina
2013	Goodyear	Lawton, Oklahoma
		Fayetteville, North Carolina
	Continental	Mt. Vernon, Illinois
	Giti Tire USA	Chester County, South Carolina
2014	Cooper	Tupelo, Mississippi
	Hankook Tire America Corp	Clarksville, Tennessee
	Toyo	White, Georgia
2015	Michelin	Fort Wayne, Indiana
	Kumho Tire	Macon, Georgia

Source: CapTrade report at pp 20-24 and 32 – 33.

Performance of the Domestic Industry

Conditions of Competition

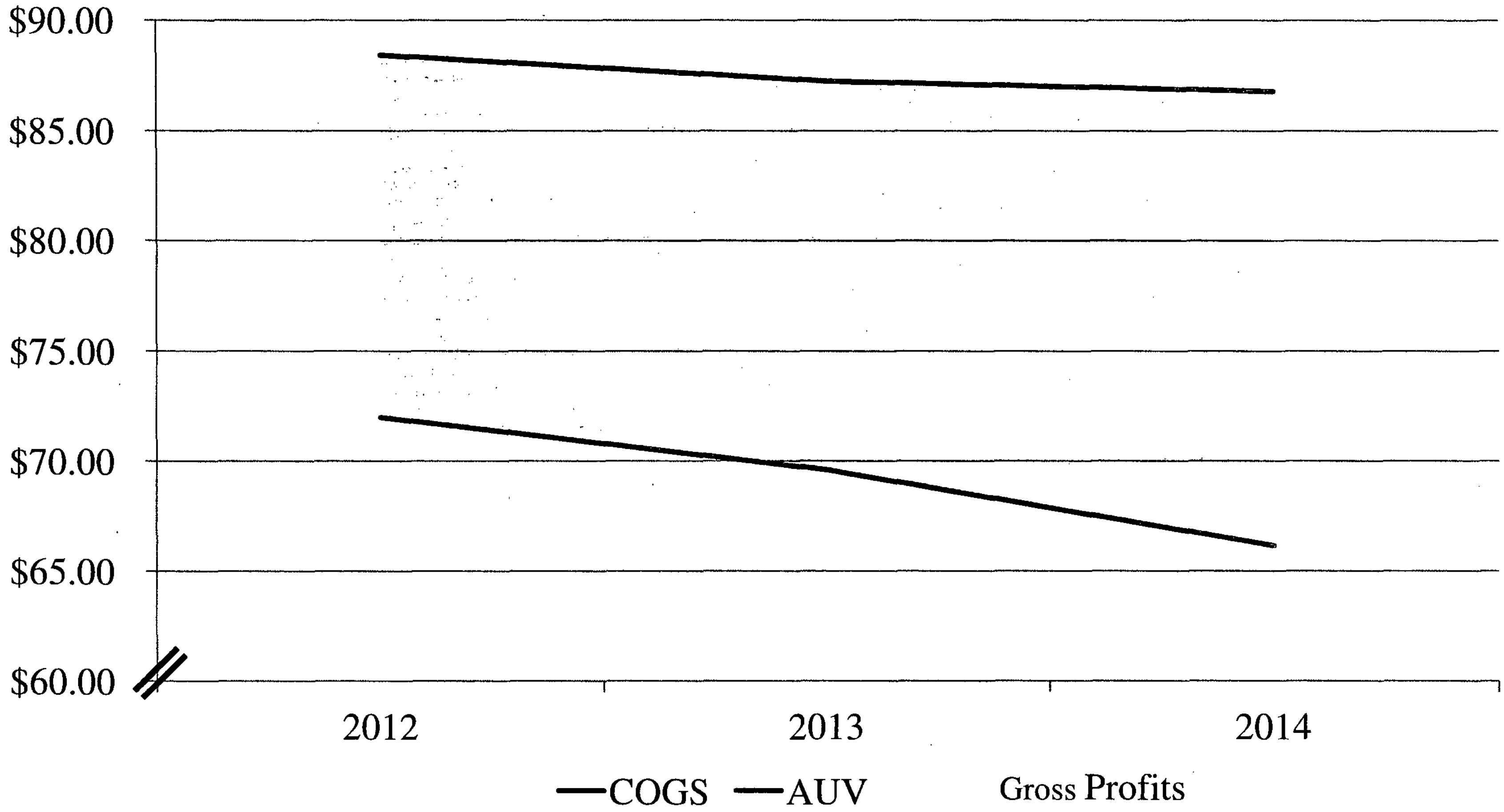
Import Prices and Quantities

Threat

Import Prices and Quantities

No Price Suppression or Depression:

Domestic Industry is Experiencing the Opposite of a Cost-Price Squeeze

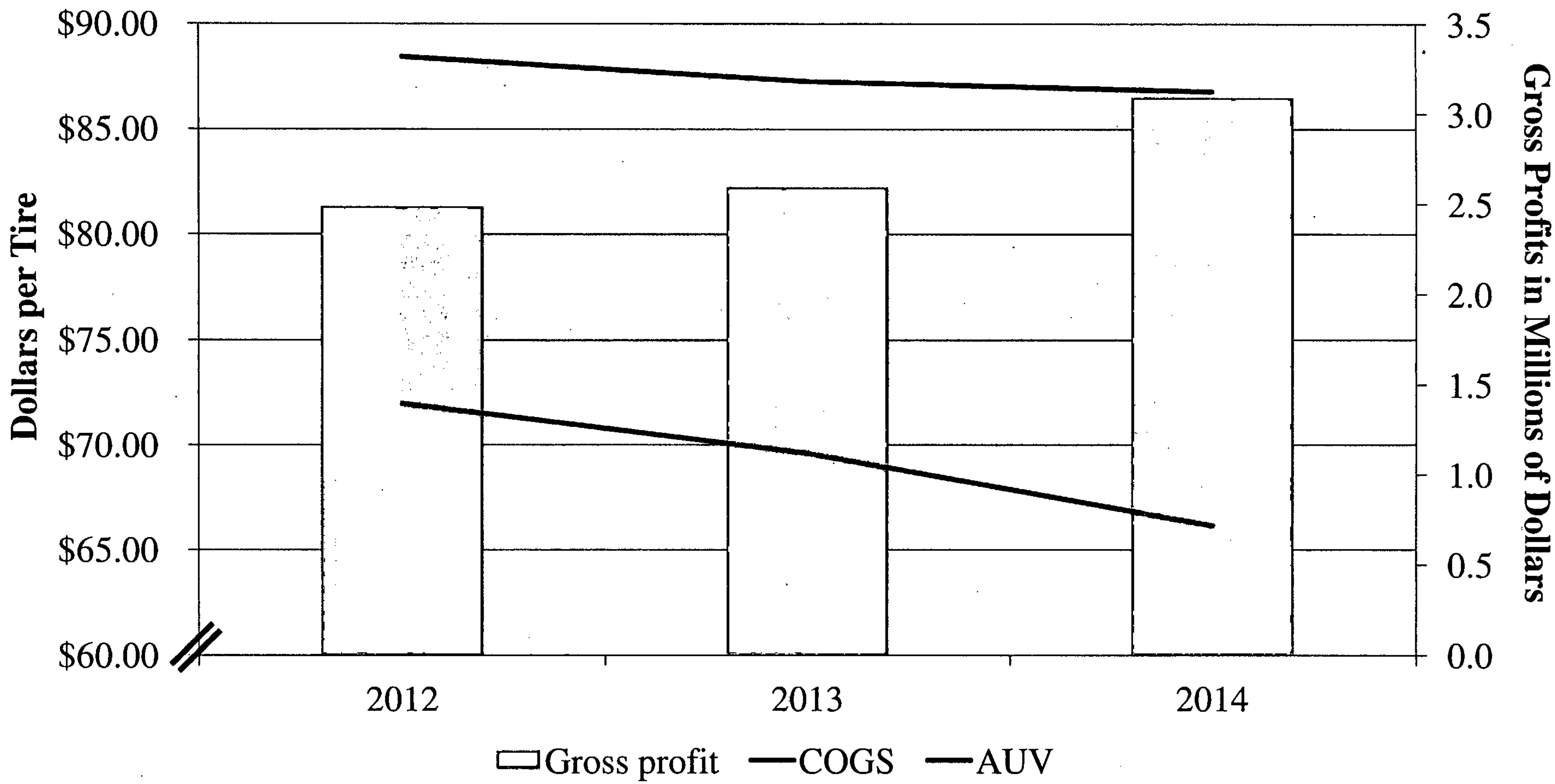


Source: Prehearing Staff Report at C-1

Import Prices and Quantities

No Price Suppression or Depression:

Profits Are Rising Over the POI



Source: Prehearing Staff Report at C-1

Investments and New Facilities are Consistent with Operating at Full Capacity with No Quantity Effects

New Facilities Opening in 2016

Company	Location
Giti Tire USA	Chester County, South Carolina
Kumho Tire	Macon, Georgia
Hankook Tire America	Clarksville, Tennessee

Investments Since 2012

Company	Location
Michelin	Lexington, South Carolina
Goodyear	Lawton, Oklahoma Fayetteville, North Carolina
Continental	Mt. Vernon, Illinois
Giti Tire USA	Chester County, South Carolina
Cooper	Tupelo, Mississippi
Hankook Tire America Corp	Clarksville, Tennessee
Toyo	White, Georgia
Michelin	Fort Wayne, Indiana
Kumho Tire	Macon, Georgia

Source: Captrade Report at 20-24, 30-33

Performance of the Domestic Industry

Conditions of Competition

Import Prices and Quantities

Threat

U.S. Producers Are Not Threatened by Subject Imports

- The domestic industry is not vulnerable.
- Actions and statements by the domestic industry demonstrate a lack of threat.
- Raw material costs are projected to remain low.
- Chinese demand for OEM and replacement tires is expected to increase.

Threat

Vulnerability

The Domestic Industry is Not Vulnerable

Performance Indicator	Increase over POI?
Gross Profits	☑
Operating Income	☑
Net Income	☑
Cash Flows	☑
Gross Profit Margin	☑
Operating Margin	☑
Net Income Margin	☑
EBITDA Margin	☑
Capital Expenditures	☑
Unit Operating Income	☑
Return on Assets	☑

Performance Indicator	Increase over POI?
Total Hours Worked	☑
Annual Hours per PRW	☑
Overall Wages	☑
Hourly Wages	☑
Labor Income per Worker	☑

Threat

Vulnerability

The Domestic Industry is Not Vulnerable: U.S. Producers' Expansions Over the POI

- Major U.S. producers have expanded production.

Company	Amount of Investment (Millions)	Annual Tire Output (Millions of Tires)	Jobs Created
Bridgestone	$346	4.6	300
Continental	$500	8	1, 600
Cooper	$140	n/a	n/a
Michelin	$200	n/a	270
Toyo	$371	3.8	650
Total	**$1,557**	**16.4**	**2,820**

Source: ITG Voma's Prehearing Brief at 61.

Threat

U.S. Demand

Increased Investment in the U.S. PVLT Industry: New Plant Openings

- 3 PVLT producers are opening facilities in the U.S. in 2016

Company	Location	Investment (Millions)	Planned Capacity (Million Tires)	Employees
Giti Tire USA	Chester County, South Carolina	$560	5.0	1,700
Kumho Tire	Macon, Georgia	$413	4.0	450
Hankook Tire America	Clarksville, Tennessee	$800	12.0	1,800
	Total	**$1,773**	**21.0**	**3,950**

Source: "2015 Facts Issue." Modern Tire Dealer. (January 2015); "$560M tire plant breaks ground in Chester County". WSOC TV. (February 12, 2015); and ITG Voma's Pre-Hearing Brief at 61.

Threat

U.S. Demand

The Domestic Industry is Not Threatened by SI: Views of U.S. Producers

- Goodyear reaffirmed its financial targets in its January 2015 Presentation.

Continue to reaffirm 10-15% SOI growth target for 2015; Expect positive momentum in NA to offset International headwinds

2015-2016 Financial Targets

- **We remain confident in our strategy**
- **Reaffirming 2015-2016 targets**
  - **Annual 10-15% SOI growth per year**
  - **Annual positive free cash flow from operations**
  - **Adjusted Debt to EBITDAP[(a)] ratio of ~2.0x by the end of 2016**

Reaffirming 2015-2016 targets; will update assumptions on Q4 call

(a) Total debt plus global pension liability, divided by net income before interest expense, income tax expense, depreciation and amortization expense, net periodic pension cost, rationalization charges and other (income) and expense

13

Source: Goodyear Presentation at the Deutsche Bank Global Auto Industry Conference. (January 13, 2015) at slides 10 and 13.

Threat

U.S. Demand

The Domestic Industry is Not Threatened by SI: Views of U.S. Producers

- Toyo predicts growth in the North American market:
  - "Toyo Tire & Rubber Co. Ltd. raised its forecast for fiscal 2014 tire division operating income 16 percent higher than the February projection and expects record sales of about $3.2 billion. **North America will account for all of the projected growth**, Toyo said." – *Rubber News*

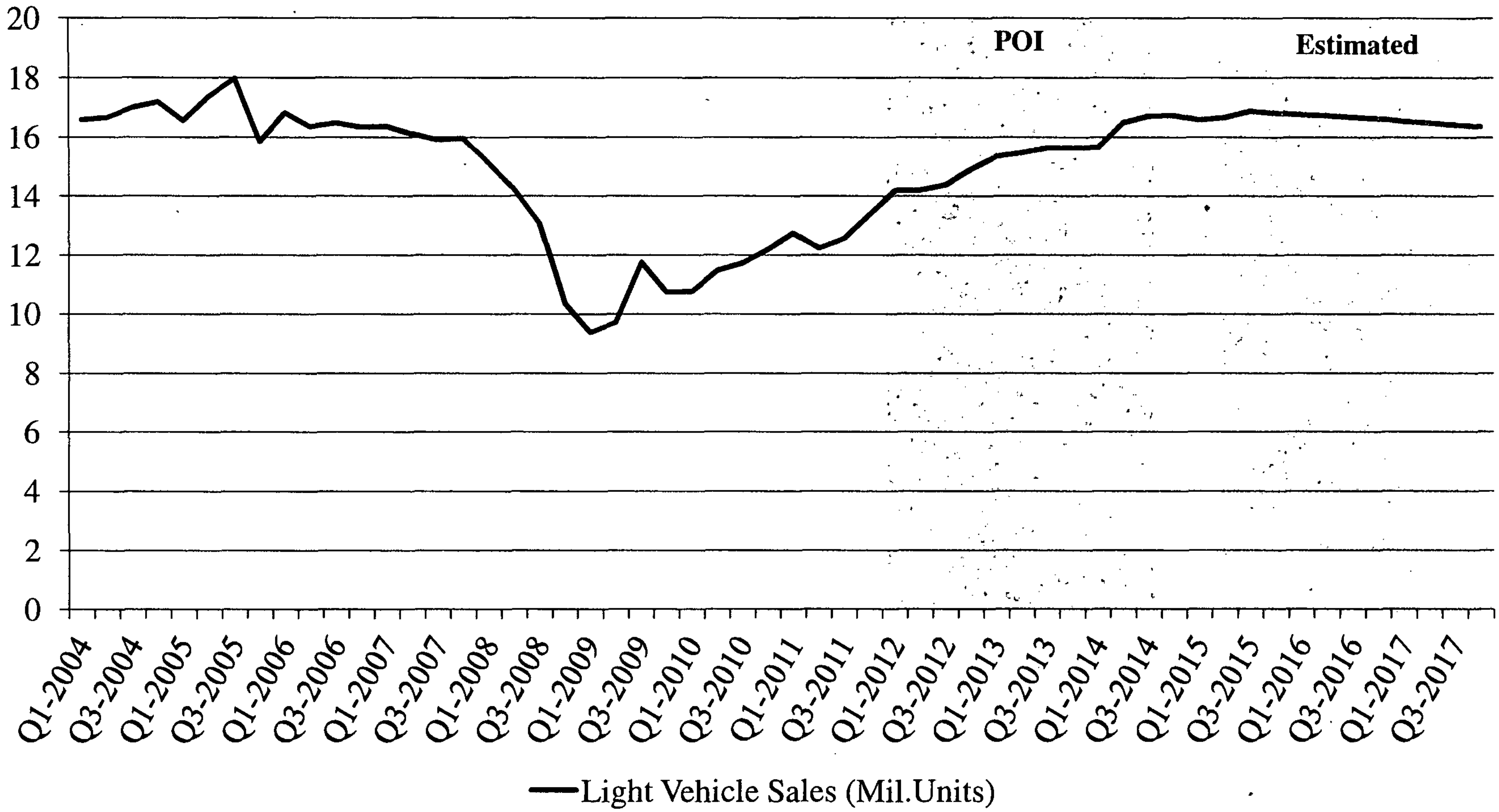
- Michelin expects its higher operating margins in the Americas in FY2015. The U.S. is Bridgestone's largest market in the Americas.

Source: "Tire Makers Expect Improved Earnings in Second Half." Rubber and Plastic News. (September 11, 2014); "Supplementary Information of 2015 1Q." Bridgestone. (May 11, 2015).

Threat

U.S. Demand

U.S. OEM Demand for PVLT Tires Will Remain High

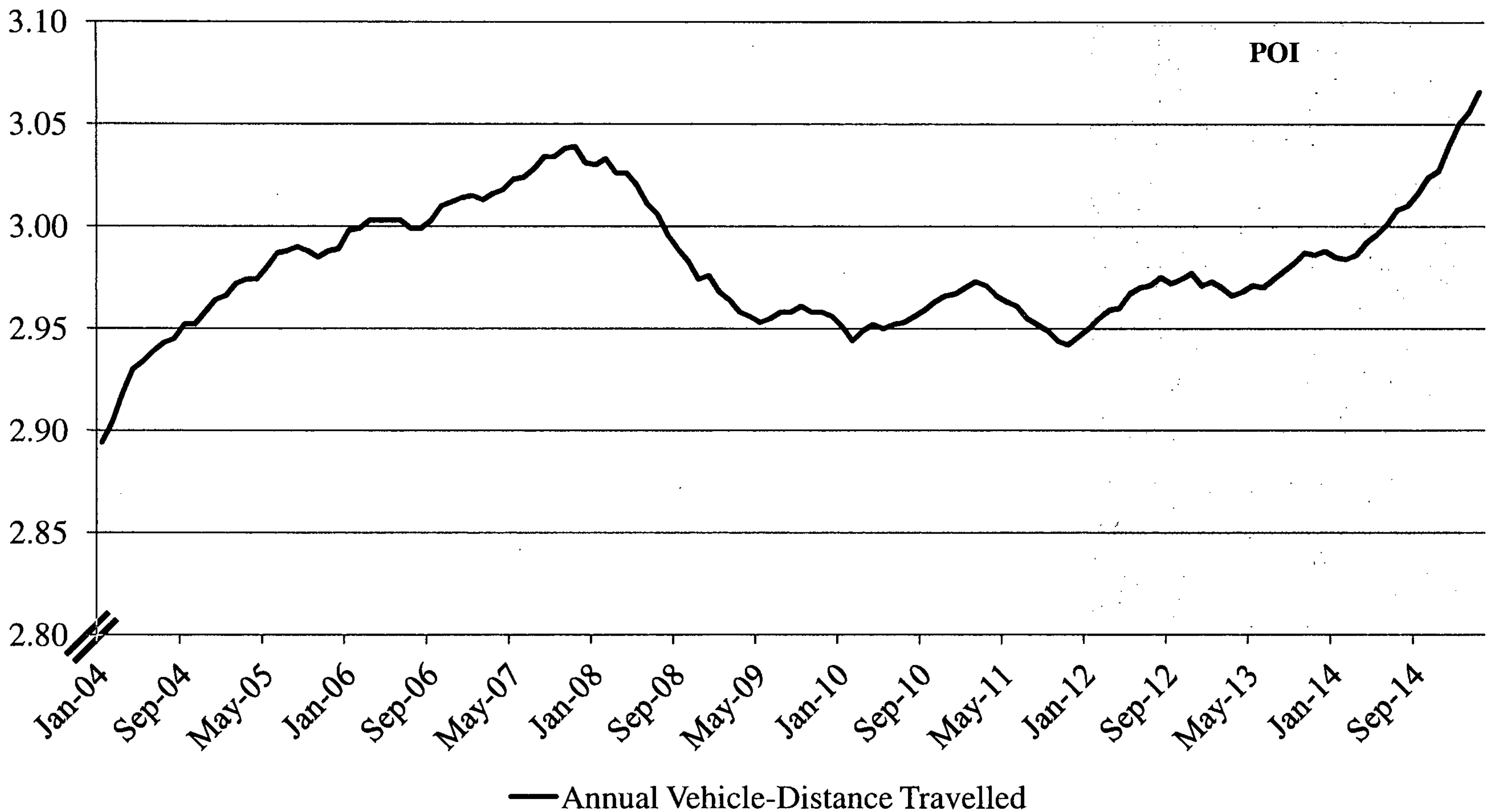


Source: Macroeconomic Advisers via Haver Analytics.

Threat

U.S. Demand

U.S. Replacement Demand for PVLT Tires Is Expected to Increase

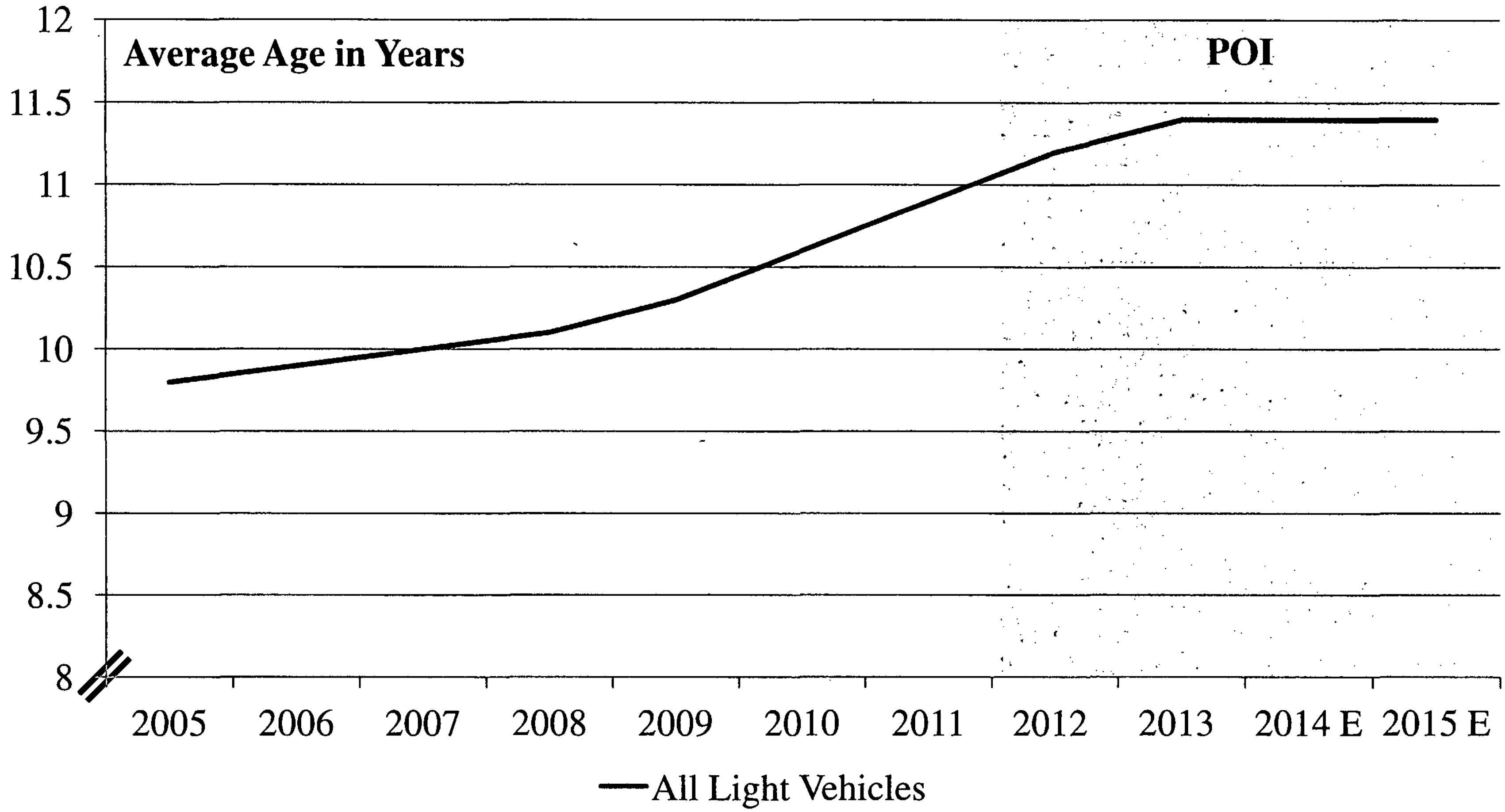


Source: "Traffic Volume Trends Report" Federal Highway Authority. (March 2015)

Threat

U.S. Demand

U.S. Replacement Demand Is Expected to Increase



Source: National Transportation Service Table I-26: Average Age of Automobiles and Trucks in Operation I (Updated January 2014); "Average Age of Light Vehicles on U.S. Roads Stayed Flat, IHS Says." Automotive News (June 9, 2014)

Threat

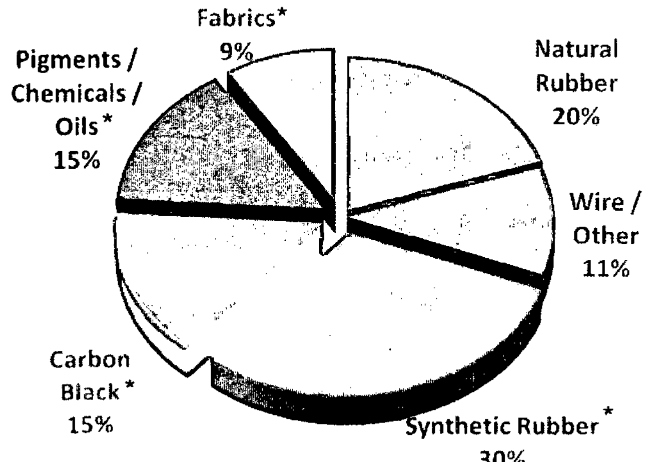
U.S. Costs

Raw Material Costs Are Likely to Remain Low

Raw Materials

- Raw materials ~50% of tire business cost of goods sold
  - Tires ~85% of total cost of goods sold
  - ~25% of raw materials cost not affected by commodity prices
- Around two-thirds of raw materials are ***influenced*** by oil prices
  - P&L impact lags spot rates by 1-2 quarters depending on commodity
- Approximately two-thirds of raw materials are purchased in USD
  - Largest foreign currency transactional exposures are from Euro, Real and Canadian dollar
- Customer agreements indexed to raw materials:
  - OE customers (~20% of sales)
  - Certain large Commercial fleets
  - OTR customers

Goodyear Global Raw Material Usage
2014 FY Estimate



*Petrochemical-based

Based on current commodity spot rates, we expect raw material costs to be down ~10% for the full year

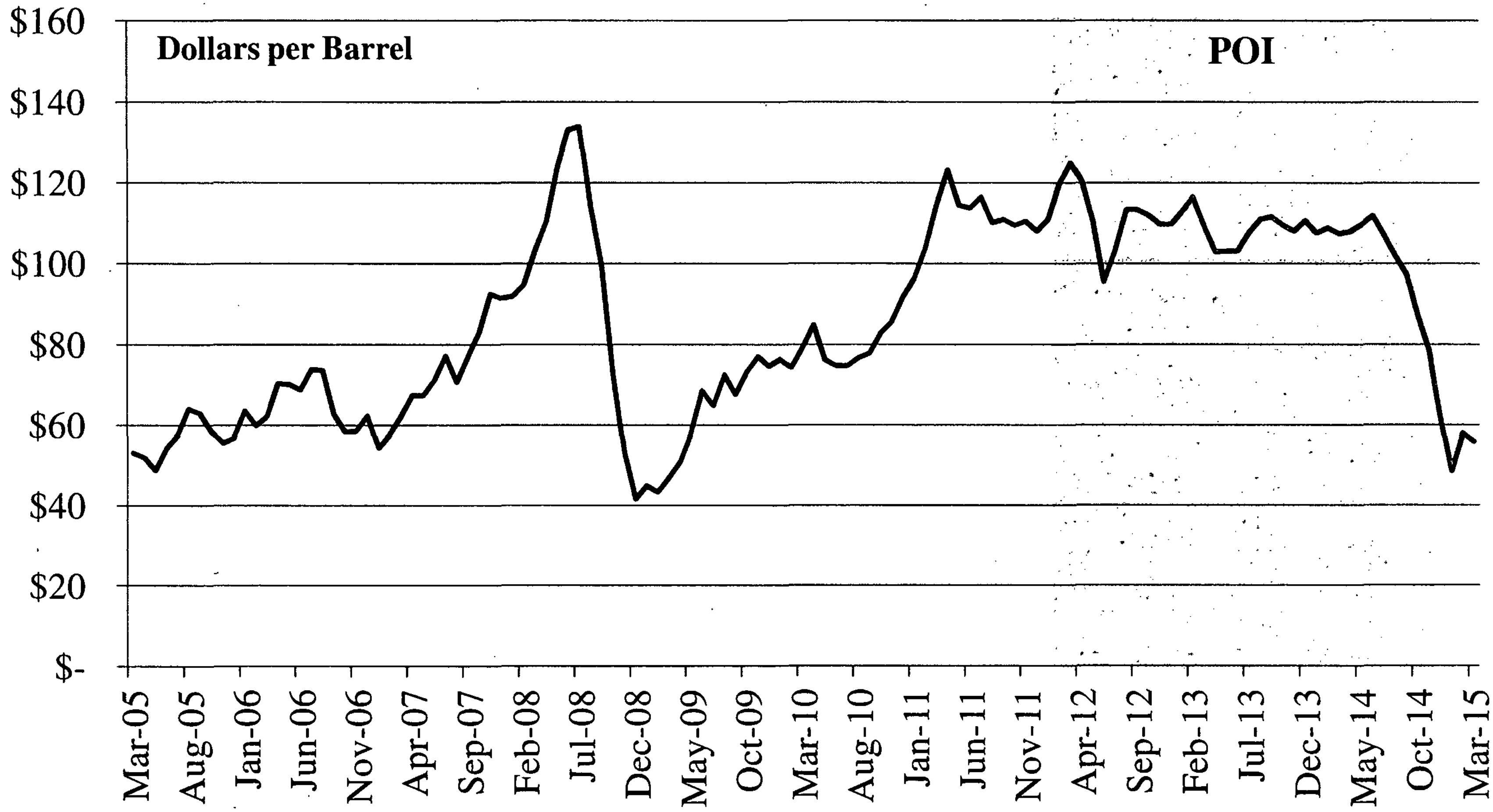
20

Source: Goodyear slideshow 2014 Q4 Conference Call (Feb 17, 2015) at 20.

Threat

U.S. Costs

Raw Material Costs Are Likely to Remain Low: Oil

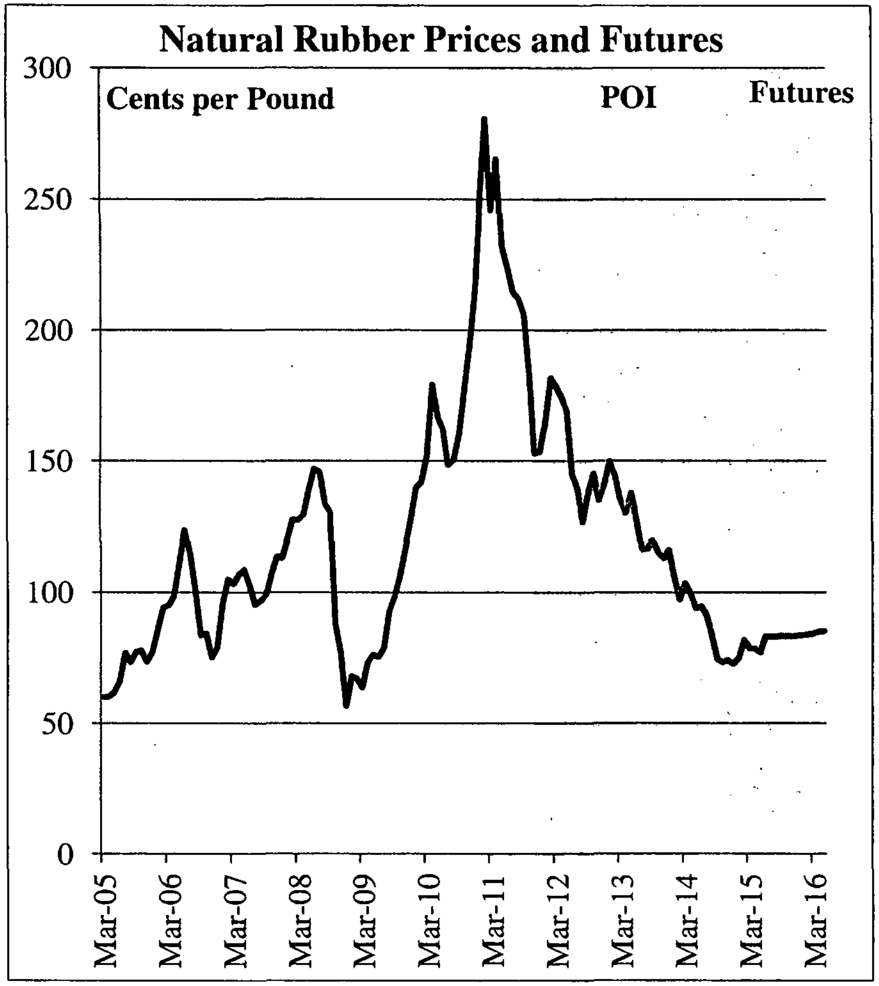


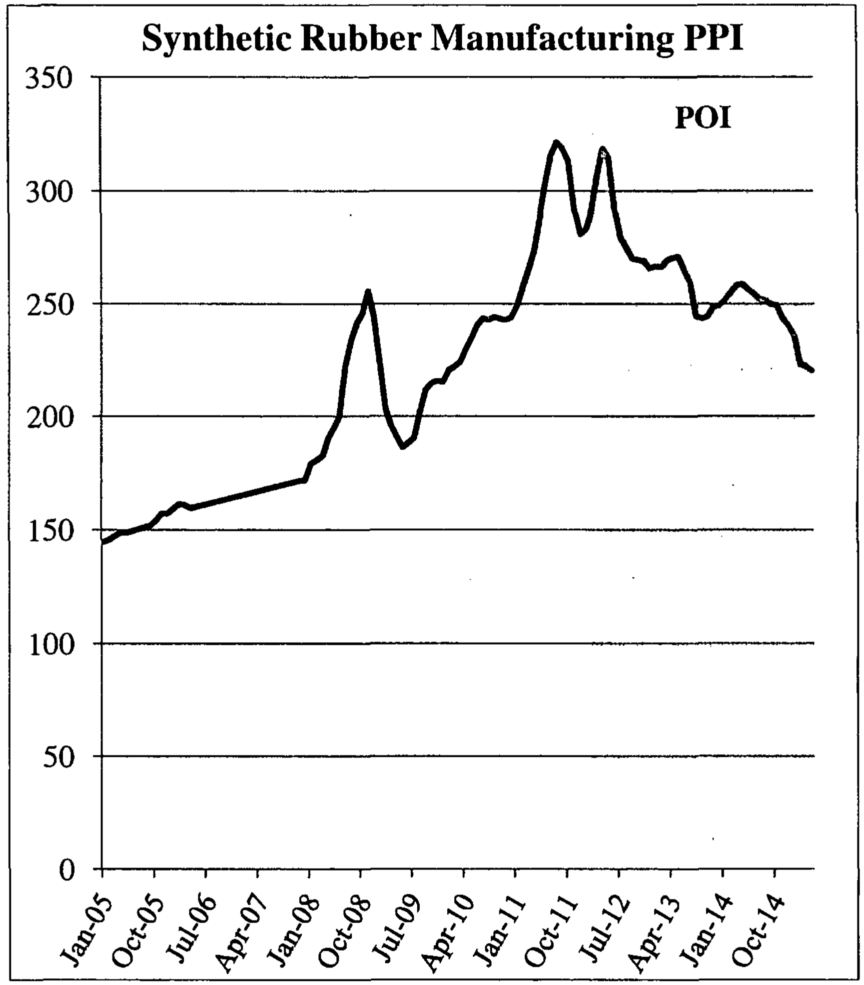
Source: "Crude Oil - Petroleum." Dated Brent Monthly Price via Index Mundi.

Threat

U.S. Costs

Rubber Costs Are Likely to Remain Low





Source: SICOM RSS3 Rubber Futures." Singapore Commodity Exchange via Quandl and Rubber, No. 3 Smoked Sheet (RSS3), 1st Contract." Singapore Commodity Exchange via Index Mundi; Bureau of Labor Statistics.

Threat

U.S. Costs

Raw Material Costs Are Likely to Remain Low

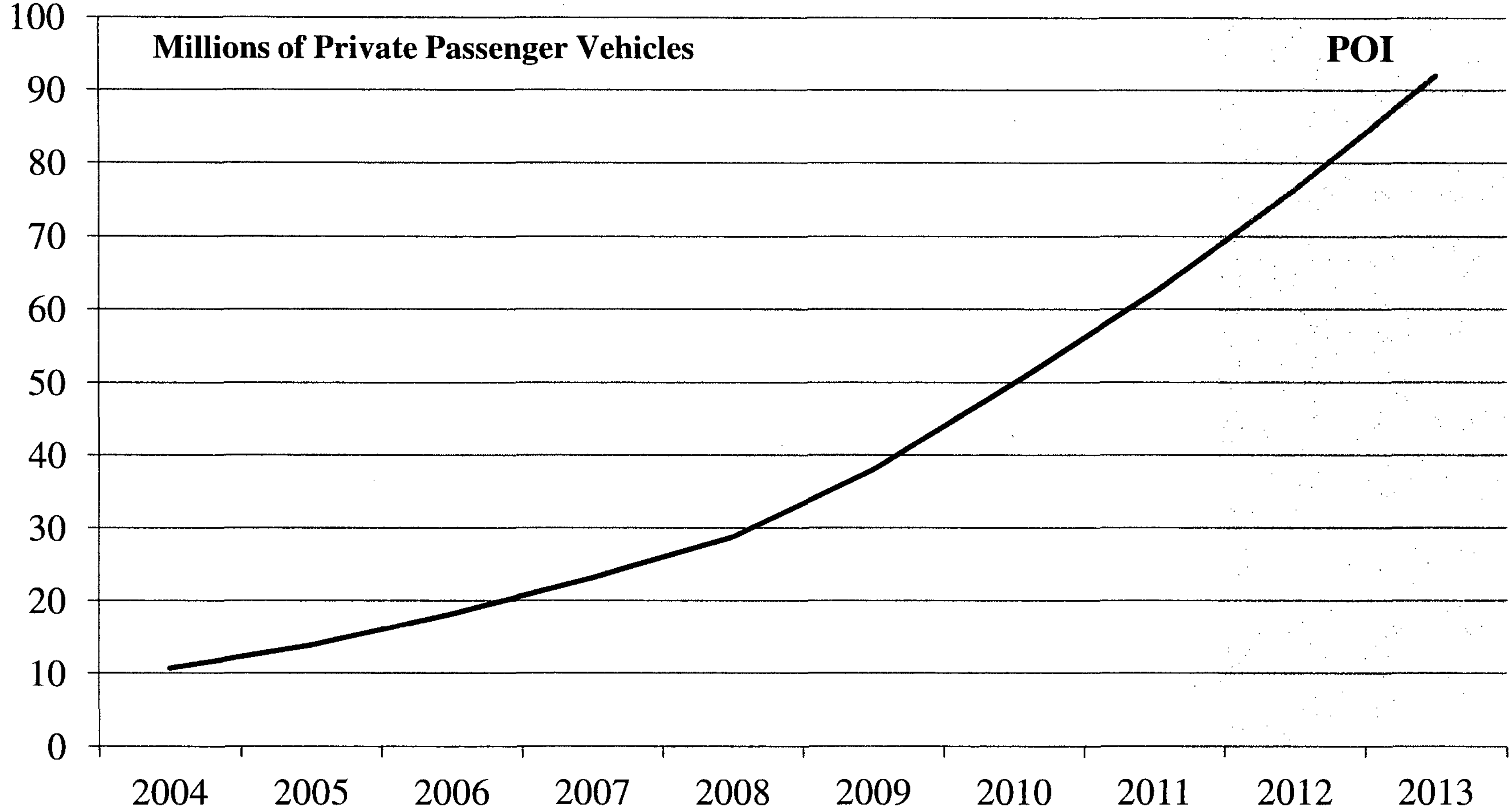
- "Based on current raw material spot prices, for the full year of 2015, **we expect our raw material costs will be approximately 14% lower than 2014,** and we expect the benefit of lower raw material costs to more than offset declines in price and product mix." – *Goodyear 2014 Annual Report*

Source: Goodyear 2014 Annual Report at 8.

Threat

China

The Number of Chinese Passenger Vehicles Has Increased Significantly from 2004 - 2013



Source: National Bureau of Statistics of China.

Threat

China

U.S. Producers Recognize Demand in China is Increasing

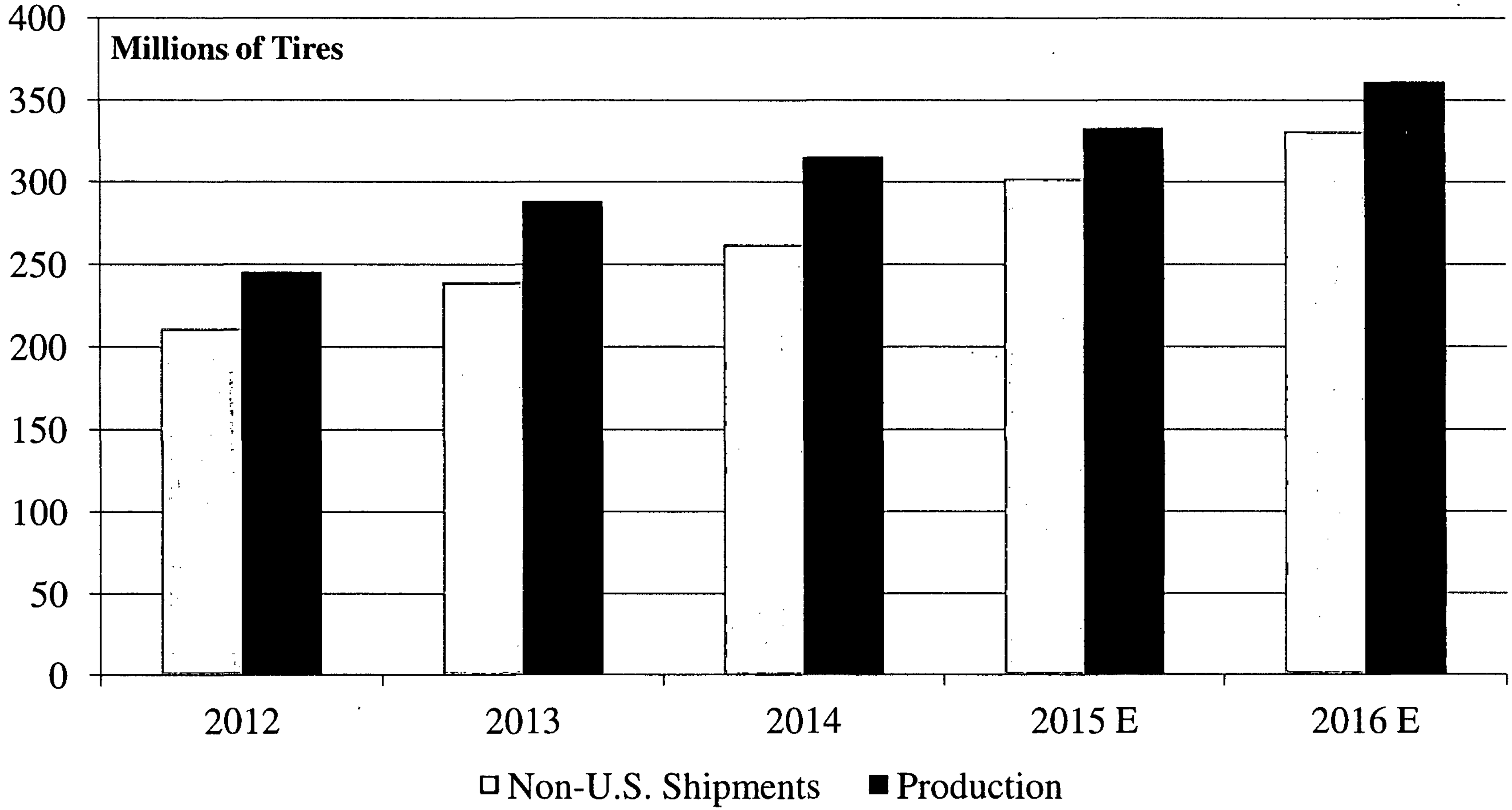
- "China is the world's largest and fastest-growing market for passenger cars and commercial trucks, and **critical** to Goodyear's growth strategy." *– Rich Kramer, Chairman and CEO of Goodyear.*
- "We expect our business to speed up by **two to three times** over the coming years, as the Chinese tire industry will maintain booming momentum, boosted by rapid growth of auto sales in recent years." – *Philippe Verneuil, President of Michelin China.*
- Michelin's 2014 Annual Report noted "continued robust growth" in China and projected continued growth for 2015.

Source: "Goodyear Talks Strategy for New China R&D Center." Tire Review. (March 26, 2015) and Michelin's 2014 Annual Report at 2. (February 10, 2015); "Michelin Opens $1.5 B Factory in Shengyang." China Daily. (January 29 2013)

Threat

China

China's Non-U.S. Shipments are Expected to Rise Faster than Chinese Production

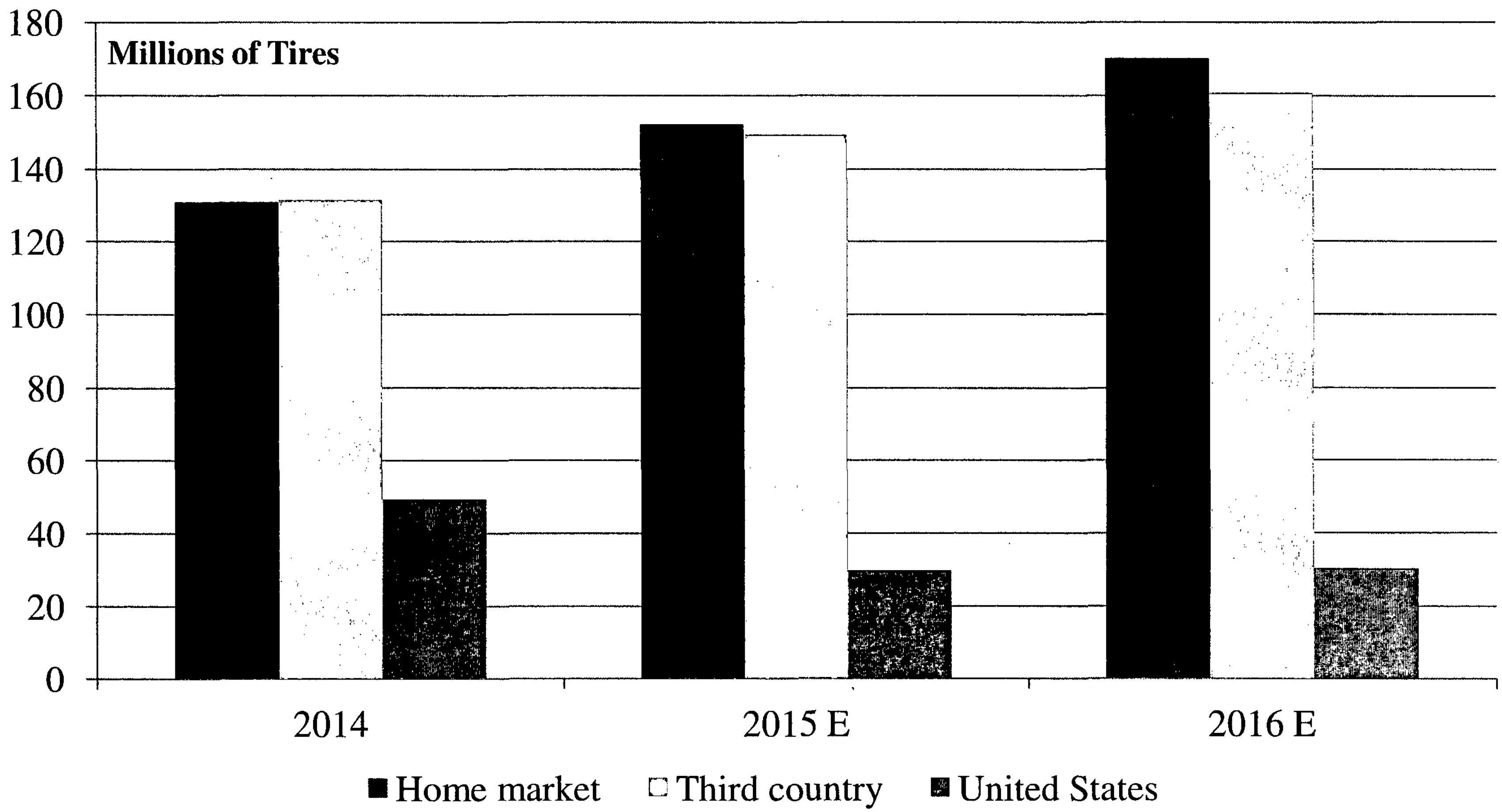


Source: Prehearing Staff Report at Table VII-4 at page VII-18.

Threat

China

Chinese Exports to the U.S. are Expected to Decrease



Source: Prehearing Staff Report at Table VII-4 at page VII-18.

Economic Rebuttal

Passenger Vehicle and Light Truck Tires from China

Inv. No. 701-TA-522 and 731-TA-1258 (Final)

June 9, 2015
Presentation at the USITC

CAPITAL TRADE
INCORPORATED

Dr. Seth T. Kaplan
skaplan@captrade.com
202-955-6814

Economic Rebuttal

Dr. Button's Report

I. SUMMARY OF ECONOMIC AND FINANCIAL ANALYSIS

-- The performance of the U.S. PVLT tire industry is cyclical and follows the U.S. general economic cycle.

-- Virtually all key performance metrics of the U.S. PVLT tire industry deteriorated during the 2012-2014 POI (capacity; production; U.S. shipments quantity, value, and AUV; market share; number of PRWs; total assets) with the exception primarily of increasing operating income performance.

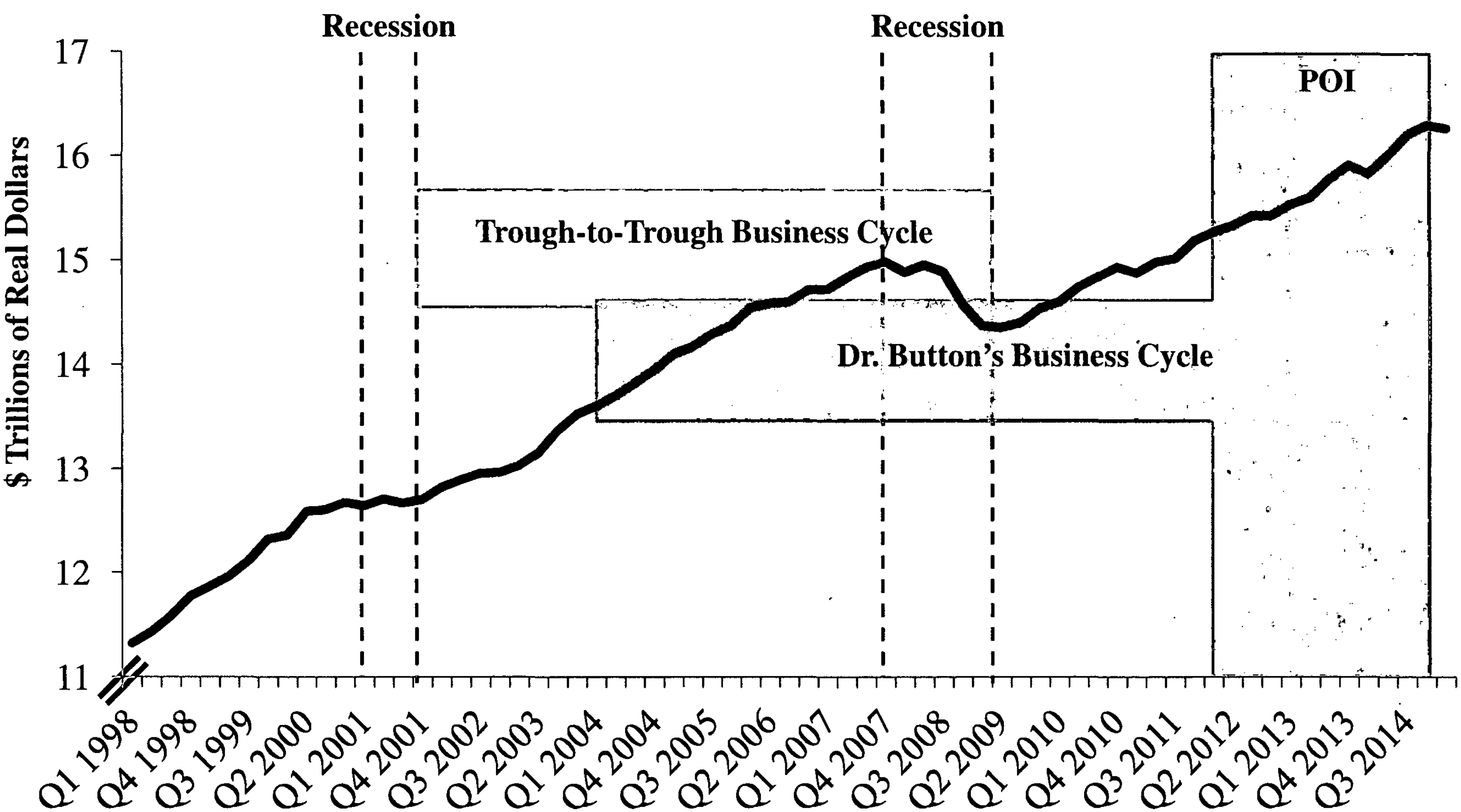
-- Across the ups and downs of the recent 2004-2014 business cycle, the U.S. PVLT tire industry has failed to achieve an average profitability which covers the industry's cost of capital over the period. With an average 10.1 percent return on invested capital (equivalent to 4.4 percent operating income margin), the industry did not reach the return on invested capital in the range of 11.0 percent to 13.0 percent (equivalent to an operating income margin range of approximately 5 percent to 6 percent) that was necessary to cover its cost of equity and debt capital during the period. "But for" the negative impact of the subject imports, the U.S. industry's financial performance during the POI would have been stronger than what was achieved.

-- The U.S. PVLT tire industry is threatened with deterioration in its financial condition in the absence of trade relief because it otherwise faces the virtually inevitable decline in profitability because of (i) the reversal in the prior trend of falling raw material costs (e.g., synthetic rubber and carbon black) which are now rising, (ii) the continued loss of U.S. sales volume and market share to the subject imports, and (iii) the continued decline in U.S. tire prices.

Economic Rebuttal

Business Cycle

The Business Cycle is Not from 2004 - 2014



Source: Bureau of Economic Analysis. Chained 2009 dollars, SAR; Recession NBER U.S. Business Cycle Expansions and Contractions; Economic and Financial Analysis Appendix to Petitioners' Pre-Hearing Brief at 1.c

Economic Rebuttal

Raw Material Costs

Raw Material Costs Are Likely to Remain Low

Raw Materials

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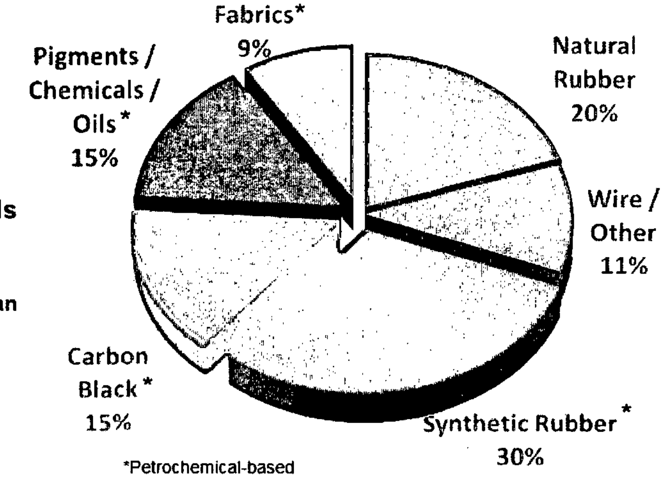
Goodyear Global Raw Material Usage

2014 FY Estimate



*Petrochemical-based

Based on current commodity spot rates, we expect raw material costs to be down ~10% for the full year

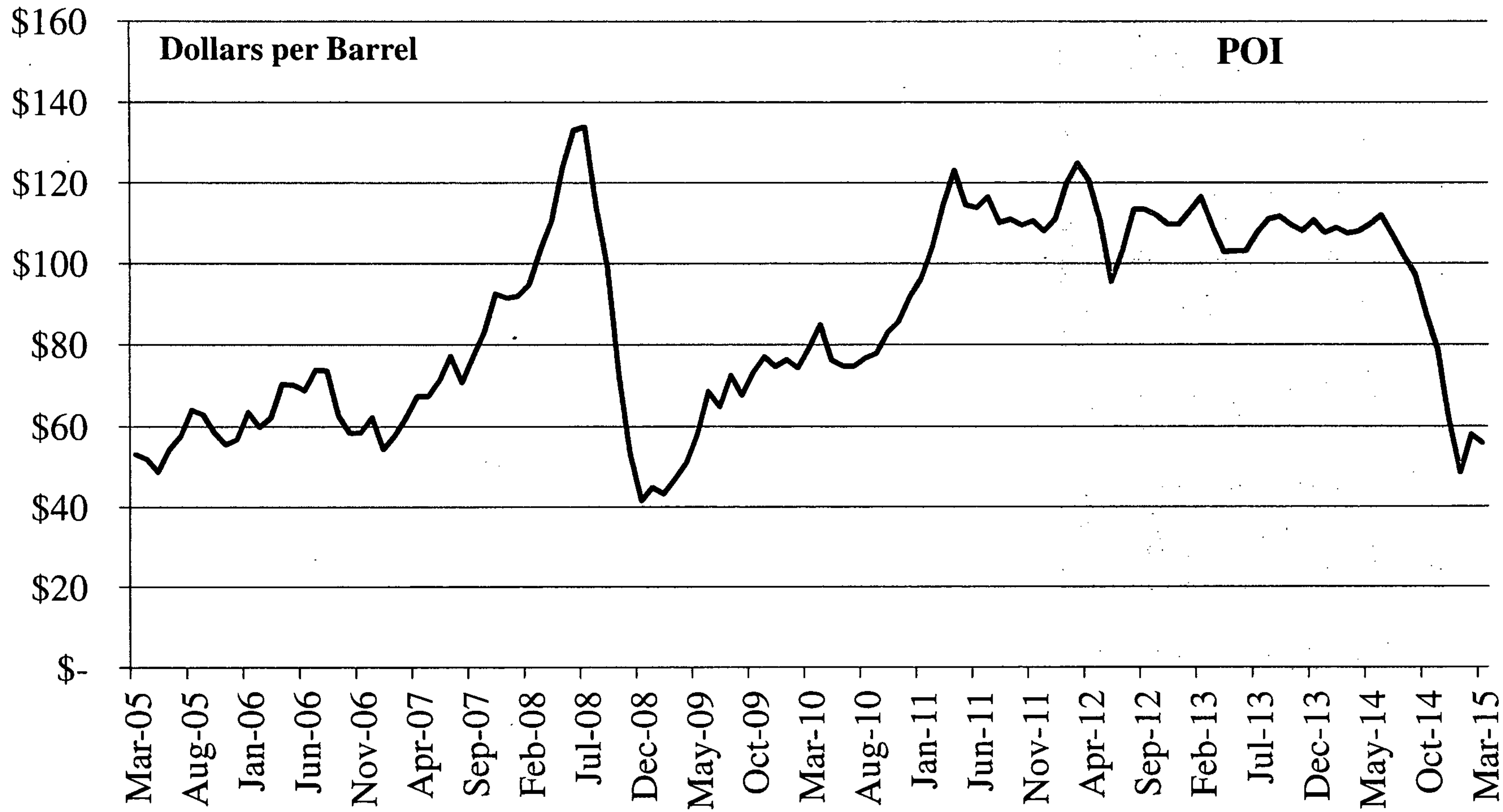
20

Source: Goodyear slideshow 2014 Q4 Conference Call (Feb 17, 2015) at 20.

Economic Rebuttal

Raw Material Costs

Raw Material Costs Are Likely to Remain Low: Oil

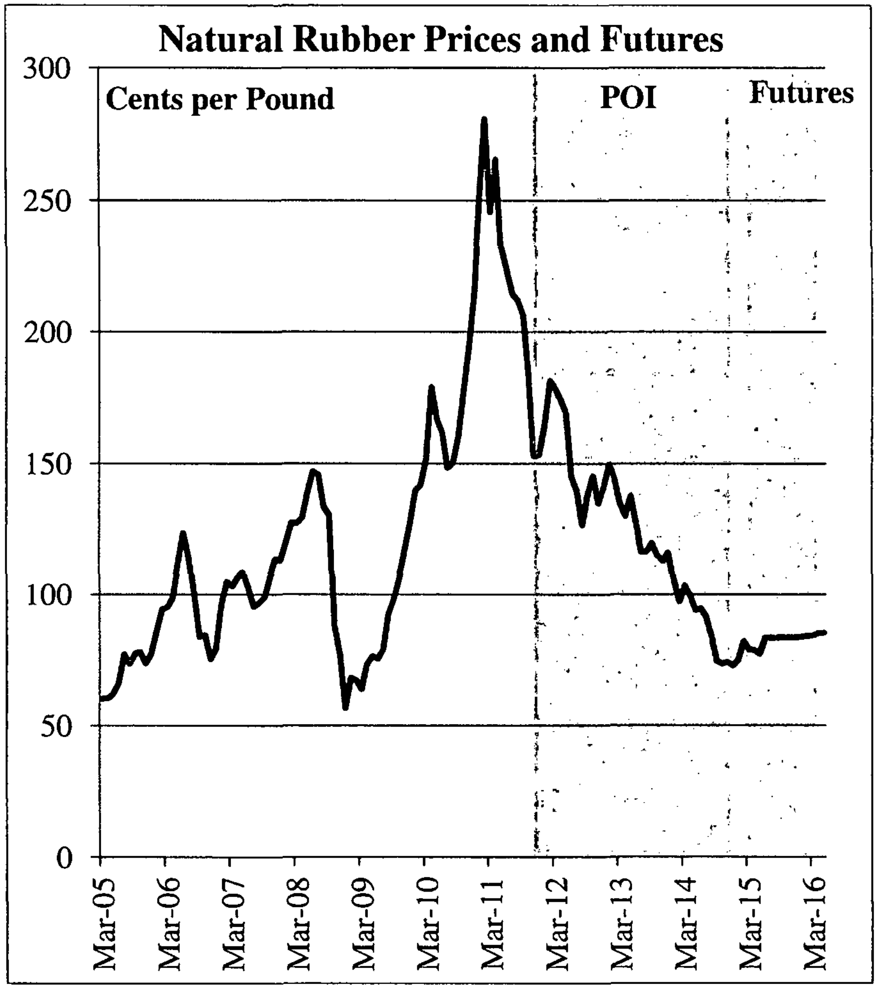


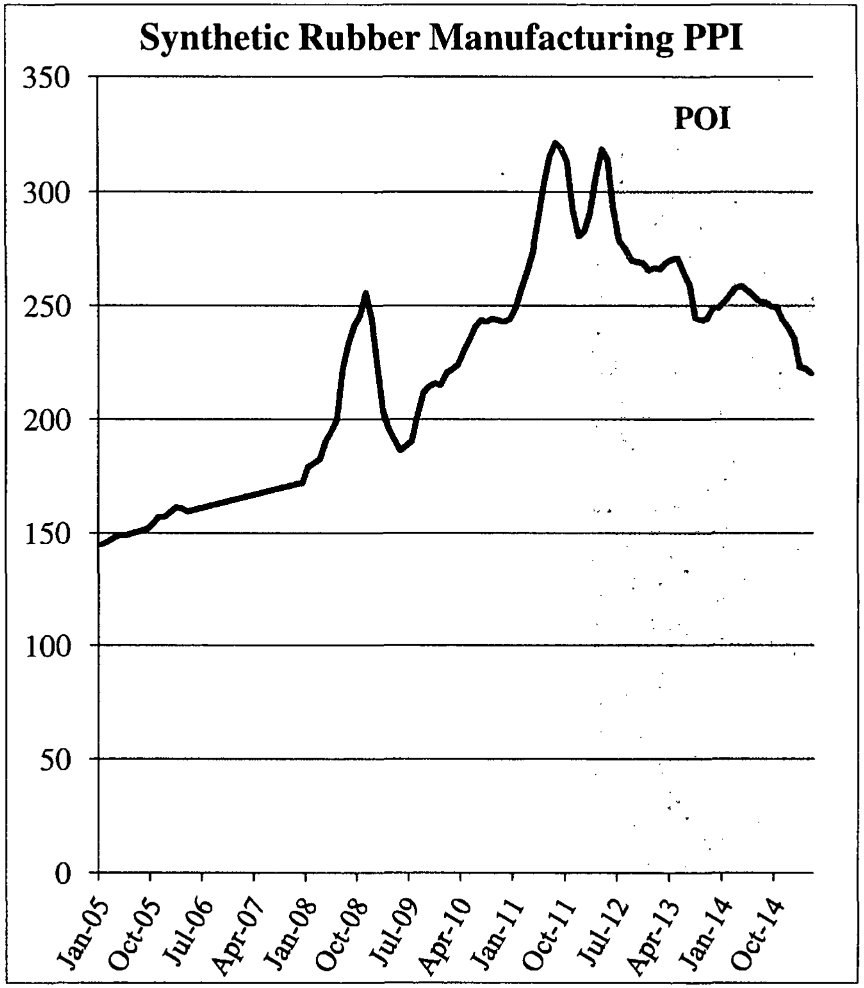
Source: "Crude Oil - Petroleum." Dated Brent Monthly Price via Index Mundi.

Economic Rebuttal

Raw Material Costs

Rubber Costs Are Likely to Remain Low





Source: SICOM RSS3 Rubber Futures." Singapore Commodity Exchange via Quandl and Rubber, No. 3 Smoked Sheet (RSS3), 1st Contract." Singapore Commodity Exchange via Index Mundi; Bureau of Labor Statistics.

Economic Rebuttal

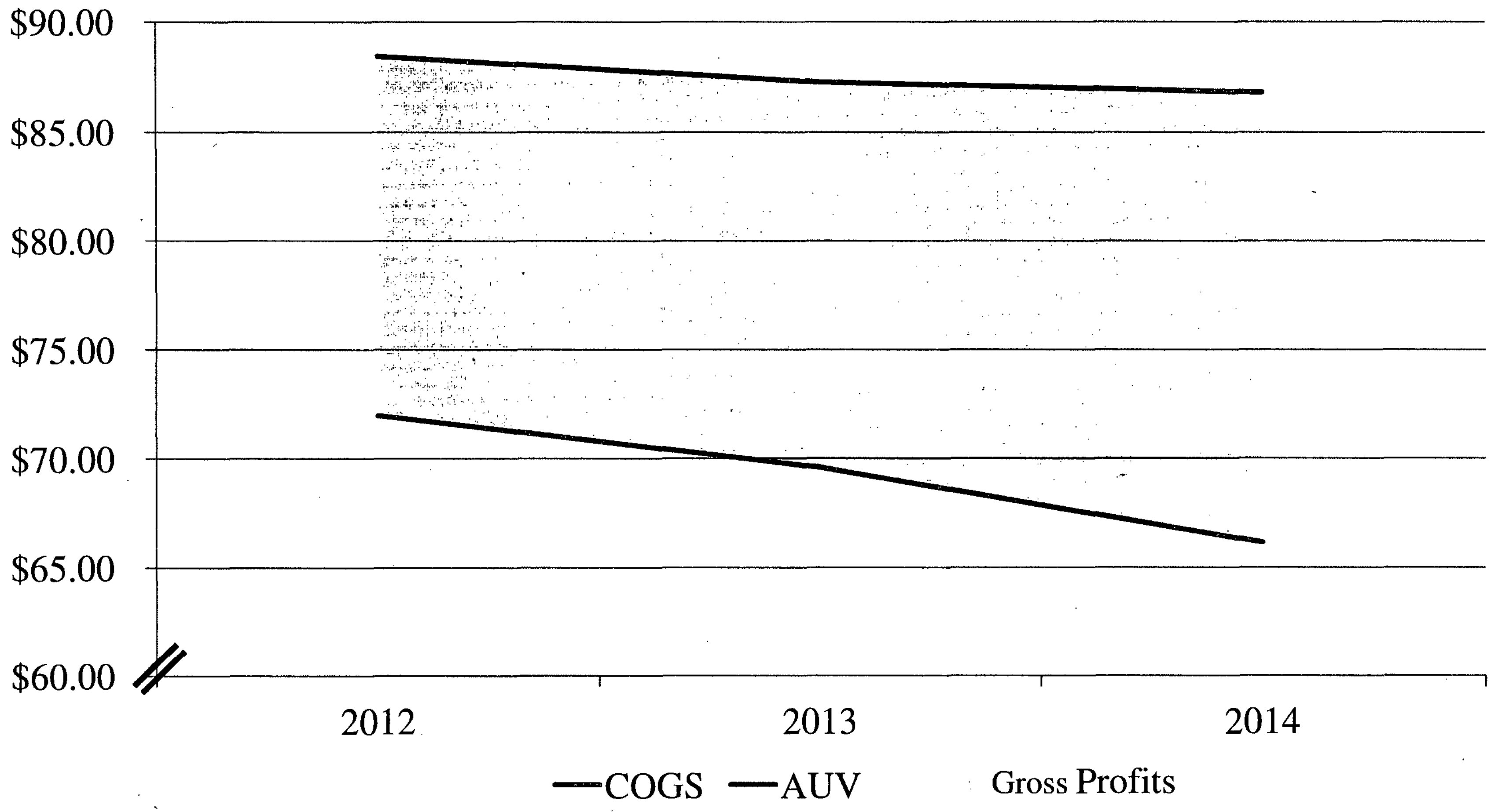
Capacity Utilization

Dr. Button's Analysis Assumes Unattainable Production

	2012	2013	2014	Change
Performance if Maintained 2011 Market Share				
Consumption	274,296	290,641	301,038	9.7%
Capacity	163,864	162,911	163,219	-0.4%
Domestic Market Share	49.9%	49.9%	49.9%	0 ppt
Shipments	136,816	144,968	150,154	9.7%
Sales Volume	161,698	172,162	178,325	10.3%
Production	160,006	166,617	176,949	10.6%
Capacity Utilization	97.6%	102.3%	108.4%	10.8 ppt
Employment	27,077	28,997	29,786	10.0%
Hours	55,319	57,449	62,592	13.1%
Wages	1,417,268	1,520,372	1,653,535	16.7%

Source: Petitioners' Prehearing Brief at 76.

Profits Increased Over POI

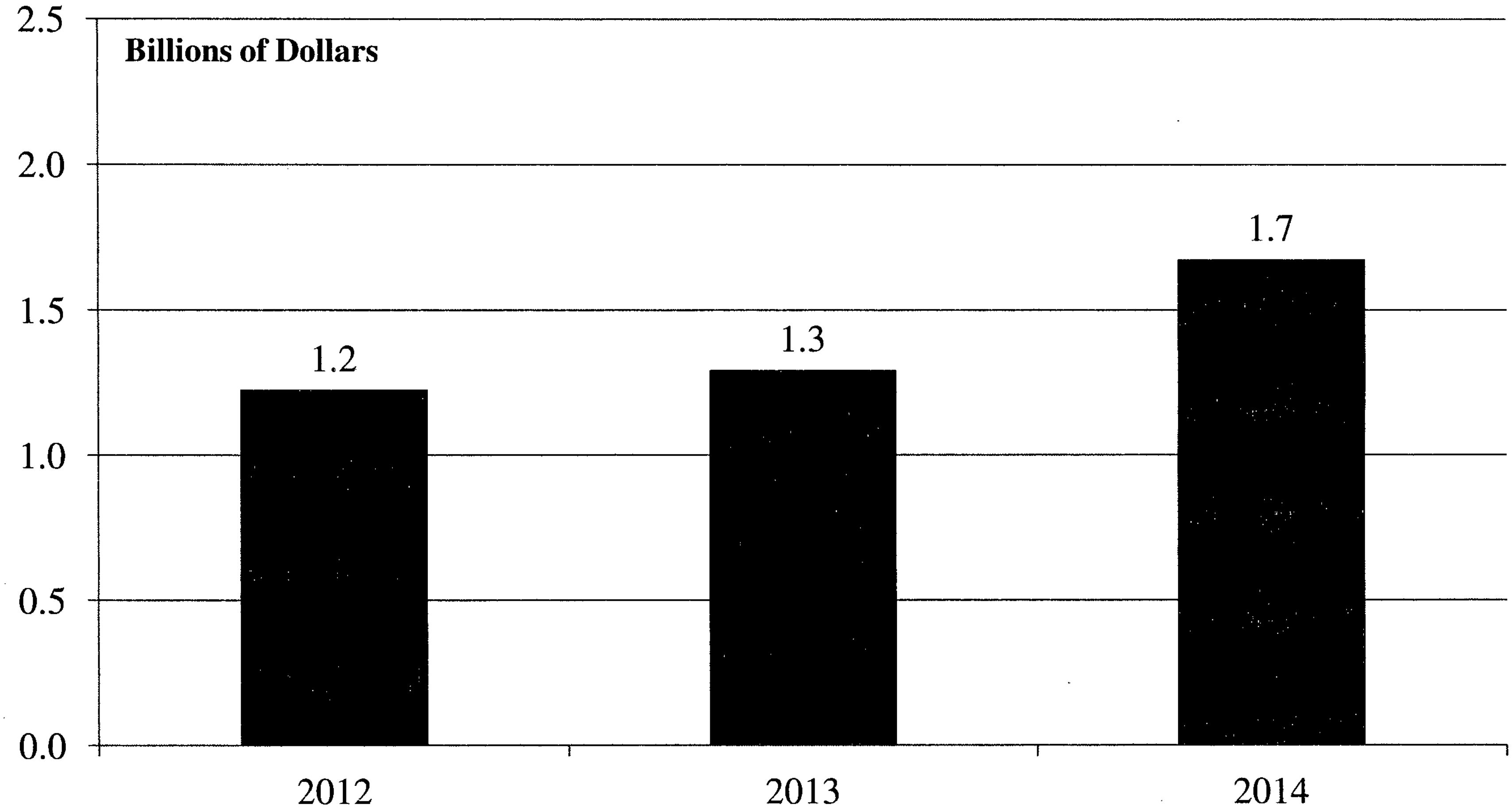


Source: Prehearing Staff Report at C-1

Economic Rebuttal

No Correlation Between Profits and Imports

Operating Income Increased Over the POI

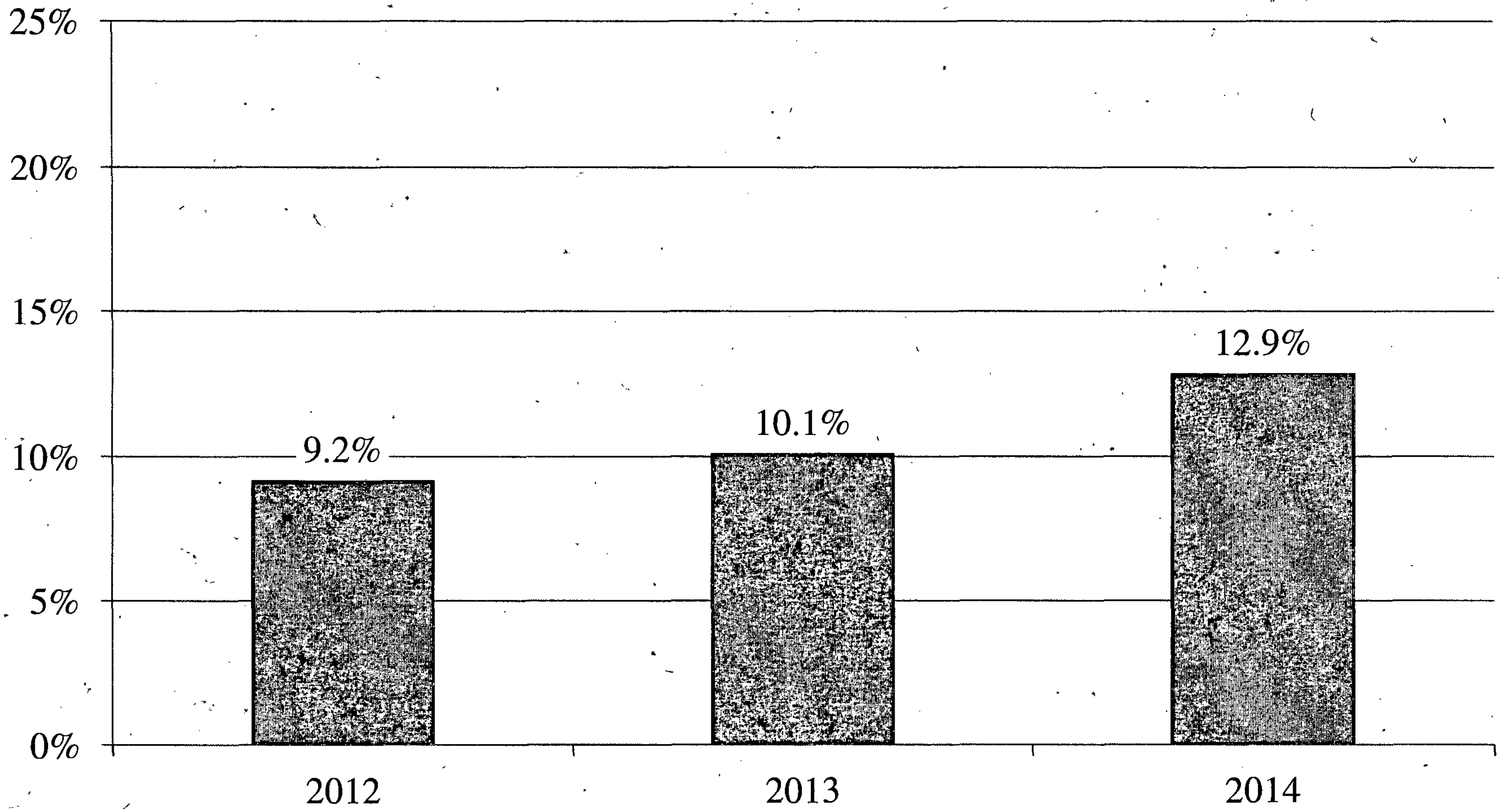


Source: Prehearing Staff Report at Table VI-1

Economic Rebuttal

No Correlation Between Profits and Imports

Operating Margin Increased Over the POI



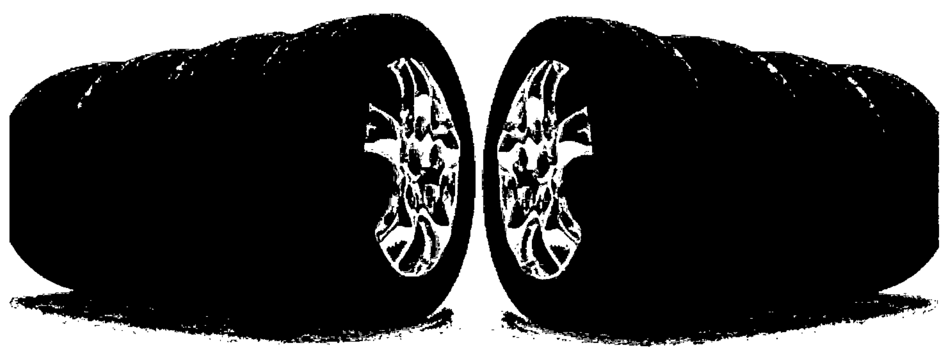
Source: Prehearing Staff Report at Table VI-1

SUBMITTED BY HOGAN LOVELLS US LLP

ITG VOMA
CORPORATION

Passenger Vehicle and Light Truck Tires from China, Nos. 701-TA-522 and 731-TA-1258 (Final) ITC Hearing Presentation

June 9, 2015



U.S. Producers Are Expanding Existing Capacity and Investing in New Facilities

Company	Amount of Investment (millions)	Annual Tire Output (millions)	Jobs Created
Bridgestone	$346	4.6	300
Continental	$500	8	1600
Cooper	$140	n/a**	n/a*
Giti	$560	5	1700
Hankook	$800	11	1800
Kumho	$413	10	450
Michelin	$200	n/a**	270
Toyo	$371	3.8	650
Total	**$3,330**	**42.4**	**6,770**

Source: ITG Voma and American Omni Prehearing Brief at 61.
See also Exhibit 1 to ITG Voma and American Omni Prehearing Brief.

U.S. Producers Are Expanding Capacity

- Bridgestone: "This capacity expansion at the existing Aiken County PSR/LTR tire plant announced today…is intended to meet growing demand in key market segments…"

- Toyo: "We've had significant growth in 2013 and 2014, and our growth really is stunted by capacity. That's why we have made the major investments in White."

Source: ITG Voma and American Omni Prehearing Brief at 59; Exhibit 1.

Video 1 – March 28, 2012 Groundbreaking at Continental's New Tire Plant in Sumter, SC (USA)

- Began production on January 28, 2014
- Investment: $500m
- Capacity: 5m units/year by 2017; 8m units/year by 2021
- Employment: 600 in 2014; expected to reach 1,600 when completed

Source: ITG Voma and American Omni Prehearing Brief at Exhibit 1, page 61 n. 218 (video).

Video 1 – March 28, 2012 Groundbreaking at Continental's New Tire Plant in Sumter, SC (USA)

New Entrants Are Building U.S. Factories

- Giti: "Existing business and strong demand for Giti Tire's passenger and light truck tires ... has made this significant investment in South Carolina possible."
- Hankook: "This new facility will help Hankook Tire accomplish our plan to establish a production base in all major markets."
- Kumho: "The North American market is a strategic market…the construction of the manufacturing plant in Georgia is predicted to quickly elevate the market status of Kumho Tire in the American market …"

Source: ITG Voma and American Omni Prehearing Brief at 62-63.

Video 2 – "Hankook Tire's Future in America"

- Hankook's Clarksville, TN plant
  - Began construction in October 2014
  - Investment: $800m
  - Capacity: 5.5m units/year in 2016; 11m units/year by 2018
  - Employment: expected to create 1,800 jobs

Source: ITG Voma and American Omni Prehearing Brief Exhibit 1; page 61 n. 218 (video).

Video 2 – “Hankook Tire’s Future in America”

The U.S. Industry is Operating at Full Capacity

- Prehearing Report: domestic industry's capacity utilization was 91 percent at the start and end of the POI
- Market participants believe that there is a shortage of PVLT tires in the premium, high-value segments of the market
- Barry Littrell, COO of American Pacific Industries, explained:

  > "The higher tier manufacturers have not been able to keep up with demand and their fill rates are poor to the replacement market....consistent with the very limited production capacity currently available to U.S. producers"

Source: ITG Voma and American Omni Prehearing Brief at 63-65 & Ex. 7, para. 5.

New U.S. Capacity Targets Premium, High-Value Tires

- Bridgestone: "This capacity expansion...is intended to meet growing demand in key market segments, including ultra high performance and light truck/SUV tires"
- Hankook: "We will be able to provide our customers, consumers and car makers with high quality tires...to meet the demands of the American market"
- Kumho: "{W}e are continuously expanding our tires supply to the premium end of the completed vehicle range with the North American market as the basis..."
- Michelin: "We must have additional capacity for high performance passenger car tires to meet our customers' needs"
- Toyo: "Toyo is increasing annual production initially at White by 2 million tires, with a majority of that new capacity targeted at its enthusiast products including Proxes {Ultra-High Performance ("UHP")} tires..."

Source: ITG Voma and American Omni Prehearing Brief at 58-60, 62-63

Dennis Mangola

- **Currently CEO of DMC Consulting, Inc.**
  - DMC consults with international trading companies on business opportunities, including global sourcing and supply chain management in the tire industry
- **Previous Positions**
  - Founder and CEO of AmPac Tire Distributors, one of the largest wholesale distributors in the USA
  - Founder and CEO of Tire Pros, the largest retail tire franchise in the USA today, including 40 company-owned retail stores. Sold after 28 years
  - Global Manager of the Tire Group for the Itochu International Trading Company, 1999-2010
  - Consultant to Itochu Tire & Rubber Group 2010-2014
  - Consultant to largest tire distributor in U.S.A. and Canada 2010-2014

How Does the U.S. Tire Market Operate?

- Market segmentation
- Tiers / categories
- Product differentiation

PVLT Tire Market Segmentation

OEM (Original Equipment Manufacturer)
Automobile and light truck manufacturers purchase OEM tires for installation in new vehicles

Replacement Tires
Sold directly to vehicle owners through tire dealerships, chain stores, service stations, department stores, and warehouse and discount clubs

Branded Tires
Brands differentiate the product in some way from other similar products, such as perceived quality and support for pricing position

Private Label Tires
Consumers expect to pay less and get less, primarily with mileage and/or performance. The perceived quality of private label tires is lower than branded tires

Source: ITG Voma and American Omni Prehearing Br. at 33; Ex. 3 at 12, 18-22; Ex. 6 at paras. 3-4, 6; Ex. 7 at paras. 4, 6.

Tiers in the U.S. Tire Replacement Market

Modern Tire Dealer categorizes the replacement tires sold in the U.S. market into four tiers based on the following factors:

- Brands and their marketing
- Brand recognition
- Price
- Perceived quality

Source: ITG Voma and American Omni Prehearing Br. Ex. 4, "Facts Issue 2015" Modern Tire Dealer at 36-38.

Tiers are Defined by Brand, Price, Perceived Quality & Marketing

TIERS – BRANDS

Highly recognizable brands such as Michelin, Bridgestone, & Goodyear

Recognizable brands such as BFGoodrich, Firestone, & Dunlop

Somewhat recognizable brands at a much lesser price such as Nexen, Kelly, Uniroyal, & Fuzion

Little or no brand recognition, price driven, typically on older vehicles

Source: ITG Voma and American Omni Prehearing Br. at 13-14, Ex. 3 at 24-30, Ex. 4, "Facts Issue 2015" Modern Tire Dealer at 36-38.

Michelin's Multi-brand Strategy for Tier Management

T I E R S – B R A N D S

PREMIUM
Michelin
Approximate price: $190 - $210

HIGH VALUE
BFGoodrich
Approximate price: $125 - $150

VALUE
Uniroyal
Approximate price: $75 - $100

EC
No offering

Source: ITG Voma and American Omni Prehearing Br. at 13-14 and Ex. 3 at 24-30.

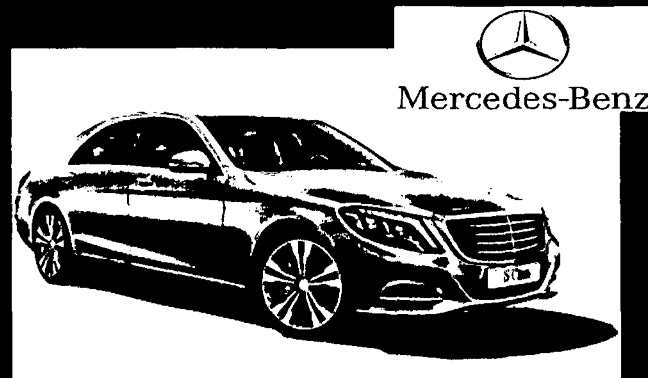
Differentiation within Each Tier

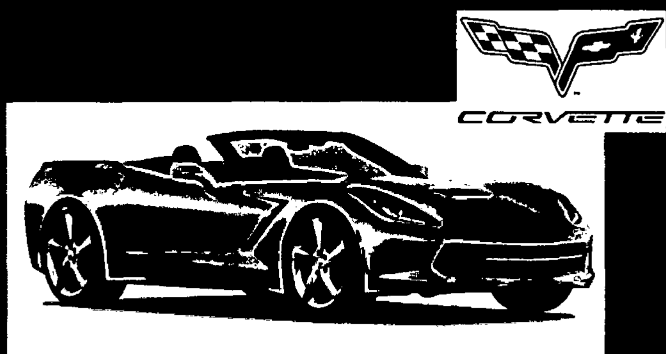
- It is important to understand how tires differ
- Products are differentiated by
  - Size;
  - UTQG ratings;
  - Speed ratings;
  - Price; and/or
  - Application

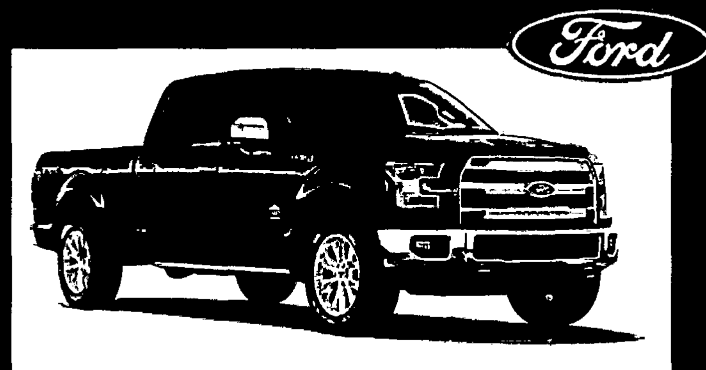
Source: Petitioner's Prehearing Br. at 24-26, 41-43.

Differentiation by Application

(4 tiers in each category)







Petitioner Is Comparing Completely Different Tires

Goodyear Eagle RS-A
$177
High Performance

Goodyear Eagle RS-A
$156
High Performance

Goodyear Eagle LS
$125
Performance Touring

Goodyear Assurance
$109
All-Season Touring

Goodyear Integrity
$87
All-Season Touring

Goodyear Ultra Grip
$86
Snow / Winter Tire

Firestone Destination
$235
Mud Tire

Firestone Destination
$187
On-/Off-Road AT

Firestone Winterforce
$143
Snow Tire

PUBLIC VERSION
Business Proprietary Information Removed from Brackets

PVLT Tire Brands and Prices from TireRack.com[154]

P225/60R16		LT285/75R16	
Brand	Price	Brand	Price
		Pirelli	$259
		Michelin	$243
		Goodyear	$243
		Goodyear	$241
		Firestone	$235
		Goodyear	$235
Goodyear	$177	Dick Cepek	$230
Goodyear	$156	General	$228
Michelin	$138	Goodyear	$223
Goodyear	$125	Dick Cepek	$221
Yokohama	$122	BFGoodrich	$216
Michelin	$115	Goodyear	$209
Goodyear	$109	Goodyear	$208
Bridgestone	$109	Dick Cepek	$208
Pirelli	$101	Yokohama	$203
Pirelli	$100	Michelin	$200
Hankook	$100	BFGoodrich	$195
Yokohama	$92	Kumho	$193
Firestone	$90	BFGoodrich	$193
Goodyear	$87	Firestone	$187
Goodyear	$86	Bridgestone	$185
Kumho	$82	Dick Cepek	$180
Firestone	$80	Yokohama	$179
Firestone	$80	Kumho	$177
Kumho	$79	General	$164
		Firestone	$158
		Pirelli	$149
		Firestone	$143
		Yokohama	$132
		Yokohama	$126

While the different price points also reflect the different features and performance profiles of the tires, brands or "tiers" do not explain price differences between tires with various

154 Advertising materials for these tires are attached to Petitioner's Comments on Draft Questionnaires (Feb. 4, 2015) at Exhibit 4. A similar comparison based on advertising materials from June of 2014 is in Petitioner's Post-Conference Brief (June 30, 2014) at 15 (citing the Petitions at Exhibit I-2).

Differentiation by Uniform Tire Quality Grade (UTQG)

- The Uniform Tire Quality Grade Standards (UTQG) is established by the National Highway Traffic Safety Administration (NHTSA) to help manufacturers and consumers to price and purchase tires based on
  - Treadwear
  - Traction
  - Temperature
- Required by law for most passenger car tires sold in the United States (not winter/snow tires)

Source: Petition at I-22 and Ex. I-18; 49 CFR Section 575.104.

Differentiation by Speed Ratings

- Speed ratings provide the maximum speed capability of new tires
- The most common tire speed rating symbols, maximum speeds and typical applications are shown below

Speed Rating	Maximum Speed	Vehicle Category
R	106 mph	H.D. Light Truck Tires
S	112 mph	Family Sedans & Vans
T	118 mph	Family Sedans & Vans
H	130 mph	Sport Sedans & Coupes
V	149 mph	Sport Sedans, Coupes & Sports Cars
W	168 mph	Exotic Sports Cars
Y	186 mph	Exotic Sports Cars

Source: Petition, Ex. I-6 at 1-03 , 2-05

U.S. Tires Have Significantly Higher UTQG Factors than Chinese Tires

Size	Origin	Load Speed Lowest	Load Speed Highest	Treadwear Grades Lowest	Treadwear Grades Highest	Traction Grades Lowest	Traction Grades Highest	Temperature Grades Lowest	Temperature Grades Highest
205/55R16	China	91T	91V	340	640	A	AA	B	A
	U.S.	89H	91Y	40	820	B	AA	B	A
P235/75R15	China	105S	109T	500	700	A	A	B	B
	U.S.	105S	108T	300	800	A	A	B	A
225/60R16	China	98H	98H	400	400	A	A	A	A
	U.S.	98T	98V	400	800	A	A	B	A
215/60R16	China	95T	95V	400	640	A	A	B	A
	U.S.	94V	95V	260	820	A	A	B	A
P215/60R16	China	94T	95T	640	760	A	A	B	B
	U.S.	94S	94V	340	800	B	A	B	A
P265/70R17	China	113S	113S	500	500	A	A	B	B
	U.S.	113S	113T	340	800	B	A	B	A
195/65R15	China	91T	91H	400	480	A	A	A	A
	U.S.	91T	95H	400	740	A	A	B	A
195/60R15	China	88H	88H	400	400	A	A	A	A
	U.S.	87S	88V	260	740	A	AA	B	A

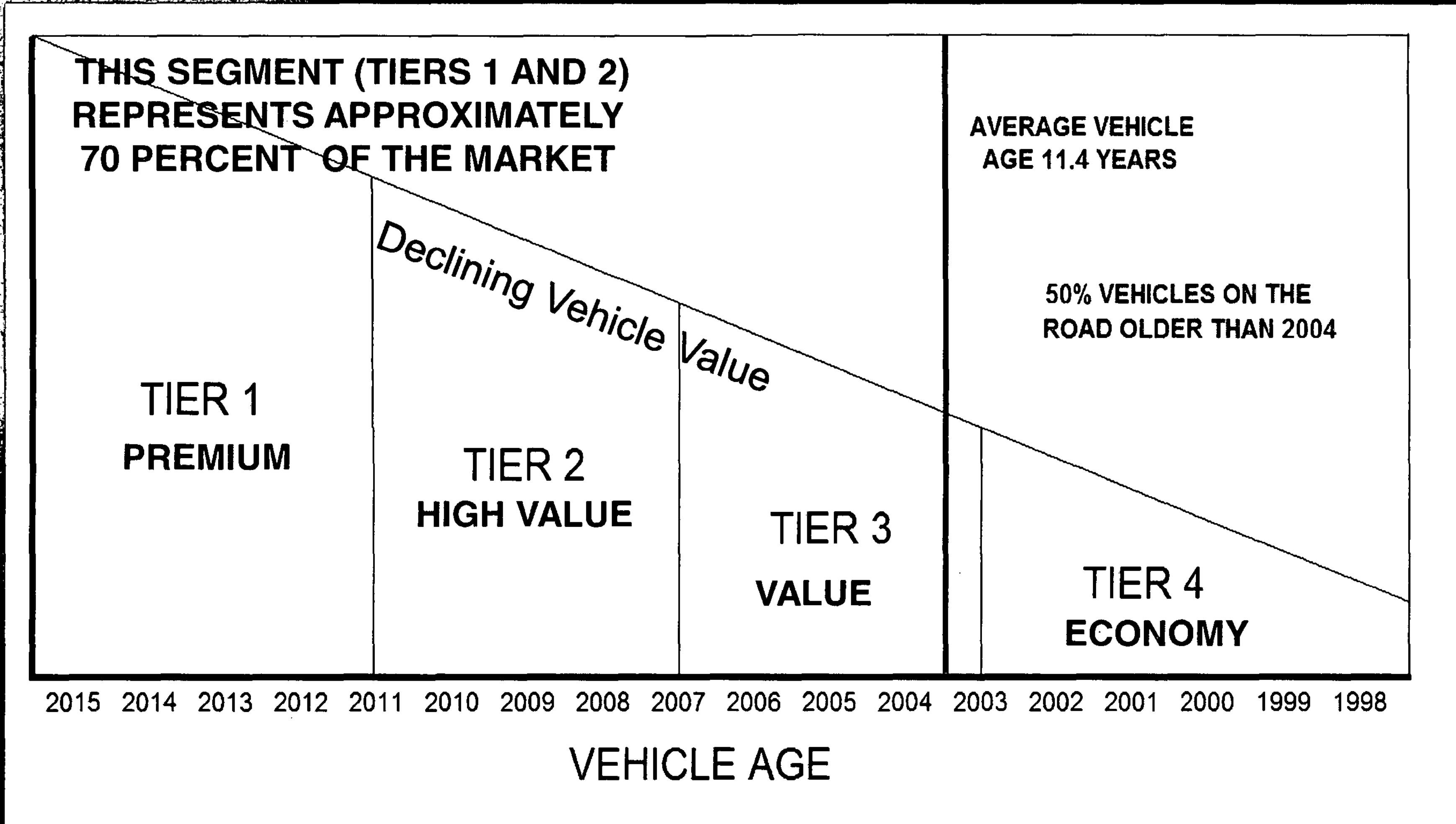
Source: Petitioner's Br. at 25

Increased Demand for Value and Economy Tires

- Demand for Value (Tier 3) and economy (Tier 4) tires has increased -
  - Approximately 50% of the vehicles are older than 2004
  - Median U.S. household income has decreased 8% to just over $51,000 annually in the last few years
- These facts have produced what I call the "affordability factor"

Source: ITG Voma and American Omni Prehearing Br. at 15-17.

Vehicle Lifecycle Related to Tier Management



Source: ITG Voma and American Omni Prehearing Br. at 16, 70-71 and Ex. 4, IHS.

Vehicle Lifecycle Related to Tier Management

- Newer vehicles use Premium and High Value tires (Tiers 1 and 2)
- Approximately 70% of the replacement market is in the Premium (Tier 1) and High Value (Tier 2) segments
- Chinese imports are servicing the economy segments of the market (Tiers 3 and 4)
- Competition between US-manufactured tires and Chinese manufactured tires is very limited

Source: ITG Voma and American Omni Prehearing Br. at 39, Ex. 3, 35-38.

Minimal Overlap between U.S. and Chinese Tires

- U.S. tire industry is focused on Premium (Tier 1) and High Value (Tier 2) demand; very limited Value (Tier 3) offerings
- U.S. manufacturers are not interested in producing Economy (Tier 4) tires
- Economy (Tier 4) demand is being addressed by global producers
- If Chinese imports are deterred, then other foreign countries (e.g., Indonesia and Thailand) will provide tires to fill demand

Source: ITG Voma and American Omni Prehearing Br. at Ex. 3, 35-50.

PASSENGER VEHICLE AND LIGHT TRUCK

TIRES FROM CHINA

Inv. Nos. 701-TA-522 and 731-TA-1258 (Final)

Hearing Testimony of Craig A. Lewis

June 9, 2015

CRITICAL CIRCUMSTANCES

Good afternoon, Chairman Broadbent and commissioners. My name is Craig Lewis, and I am also a Partner at Hogan Lovells here today representing ITG Voma. It is a pleasure to be before the Commission.

I would like to briefly address the issue of critical circumstances. As you know, the Department of Commerce has made affirmative critical circumstances findings for certain, but not all, Chinese exporters in the antidumping and countervailing duty investigations. This means that the Commission must now make its own independent determination under the very high legal standard applicable to the Commission's injury proceeding. In particular, the Commission must determine whether the subset of subject imports for which the Department made affirmative critical circumstances findings are likely to "undermine seriously the remedial effect" of a present injury finding.

The answer is an emphatic "no."

To begin with, it is important to remember that the legal standard – "undermine seriously" – is very high. The finding required of the Commission is not whether this subset of imports will have "some" impact, or even a "material" impact on the remedial effect of any order that is issued – the effect must be to undermine the order **seriously**. This is a difficult standard to meet – and purposely so. U.S, law and WTO law strongly disfavor the retroactive application of dumping and subsidy measures to imports made prior to affirmative determinations of dumping or subsidization and injury. As a result, the Commission has very, very rarely issued affirmative critical circumstances in the past. Indeed, we are aware of only one such case in the last 14 years – a case involving dramatically different factual circumstances than are present here. The question thus is whether this case is one of those exceedingly rare circumstances supporting this extraordinary measure.

It is not. First, the U.S. industry is profitable, competitive, and is not vulnerable to injury. Indeed, because there is no basis for an affirmative determination of present injury, the issue of critical circumstances should not even be reached.

Second, the increase in the volume of imports, inventories, and other circumstances do not rise to anywhere near the level necessary to support such action.

Commerce made negative critical circumstances for the mandatory respondents that received individual rates in the antidumping and countervailing duty investigations. Thus, most of the largest exporters of subject merchandise from China in either investigation were found not to have massively increased exports during the relevant period. Affirmative findings were made only with respect to a subset of exporters.

Even for the subset of imports for which such affirmative determinations were made, the volume of imports did not increase by levels that are large enough to warrant an affirmative finding by the Commission. While I am constrained in my ability to publicly discuss the specific factual data concerning the timing and volume of these imports, I urge the Commission to compare the increases at issue to those examined in prior investigations. I also urge the Commission to disregard Petitioners' attempts to inflate the import figures contained in the Staff Report based upon speculation. The tire executives quoted by Petitioners in their prehearing brief concerning Chinese imports do not provide any data for the Commission to consider. Color commentary is not the same as factual data.

As we documented in our prehearing brief, the volumes at issue, as reflected in the Prehearing Staff Report, are far below those found sufficient to support an affirmative determination in past cases and is quite small in comparison to a market of some 301 million tires. Moreover, as ITG Voma demonstrated in its prehearing brief, even this increase in volume is exaggerated in appearance because the period examined coincides with a regular seasonal increase in tire imports in the second half of the year and also coincided with a major West Coast port strike.

The same can be said for end-of-period inventories which, although they have increased, have not increased to levels that could seriously undermine the remedial effect of the order, and are only marginally higher than historical levels.

Finally, and as thoroughly discussed by this panel, there is at best extremely limited competitive overlap between Chinese imports and U.S. products. As Petitioners freely admit, substitutability and the intensity of competition, has been considered an important "other factor" for consideration by the Commission. This factor, too, weighs strongly in favor of a negative critical circumstances determination.

In short, the factual circumstances presented in this case all point strongly to a negative finding of critical circumstances.