UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	
	)	Investigation No.:
CLAD STEEL PLATE FROM	)	731-TA-739 (Third Review)
JAPAN	)	

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Thursday,
December 6, 2012

Room No. 101
U.S. International
Trade Commission
500 E Street, S.W.
Washington, D.C.

The hearing commenced, pursuant to notice, at 9:32 a.m., before the Commissioners of the United States International Trade Commission, the Honorable DANIEL R. PEARSON, presiding.

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MICHAEL MARKWARD, Sales Manager for Specialty Plate, ArcelorMittal USA
JEFF NICOL, Vice President & General Manager, Dynamic Materials Corporation
MICHAEL BLAKELY, Director of Market Development, Dynamic Materials Corporation
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P R O C E E D I N G S

(9:32 a.m.)

COMMISSIONER PEARSON: Good morning. On behalf of the U.S. International Trade Commission I welcome you to this hearing on Investigation No. 731-TA-739 (Third Review) involving Clad Steel Plate From Japan.

The purpose of this five-year review investigation is to determine whether revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

Schedules setting forth the presentation of this hearing, notices of investigation and transcript order forms are available at the public distribution table. All prepared testimony should be given to the Secretary. Please do not place testimony directly on the public distribution table.

All witnesses must be sworn in by the Secretary before presenting testimony. I understand that parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the Secretary.

Speakers are reminded not to refer to

business proprietary information in their remarks or answers to questions. Please speak clearly into the microphone, maybe more clearly than I'm doing now, and state your name for the record for the benefit of the court reporter. If you will be submitting documents that contain information you wish classified as business confidential, your requests should comply with Commission Rule 201.6.

Mr. Secretary, as an initial preliminary matter Chairman Williamson has asked me to express his regrets at his necessary absence from today's hearing. He is not recused. He will be participating fully, and of course he will have access to the transcript from this hearing.

So with that, Mr. Secretary, are there any other preliminary matters?

MR. BISHOP: No, Mr. Chairman.

COMMISSIONER PEARSON: Very well. Let us begin with opening remarks.

MR. BISHOP: Opening remarks on behalf of those in support of continuation of the order will be by Paul C. Rosenthal, Kelley Drye & Warren.

COMMISSIONER PEARSON: Good morning, Mr. Rosenthal.

MR. ROSENTHAL: Good morning, Mr. Chairman and members of the Commission. I'd like to especially acknowledge Commissioner Broadbent. It's nice to be here in my first hearing before you. I've been preparing for this for close to 30 years.

I'm Paul Rosenthal with Kelley Drye & Warren. We serve as counsel for ArcelorMittal USA and Dynamic Materials Corporation, domestic steel clad plate producers that strongly support the continuation of the antidumping order on clad plate imports from Japan.

First a few words of context. Earlier this week one of my European friends complained to me that during the recent Presidential election campaign there was no focus on the U.S. trading relationship with the EU. The entire focus seemed to be on China. Not surprisingly, though, I haven't heard that complaint from my Japanese friends, and it's not because I don't have any Japanese friends I just want to add. Rather, I suspect that the Japanese exporters are happy to have the focus be on China and the Chinese export juggernaut that has been the subject of the U.S. Government's attention largely in the last few years.

Yet when it comes to steel trade, we in the United States should not lose our focus on Japan and its continuing status as the largest exporter of flat steel products in the world. You don't get to be and stay the largest flat steel exporter without being very competitive in pricing, particularly in price sensitive steel products.

This case on clad steel plate is a perfect example of the domination by Japan of a particular steel industry and the damage that dumped imports can cause. The volume and market share of Japanese clad plate imports surged in the three years before the antidumping order was imposed. Underbidding by Japanese producers and importers on large contracts for clad steel plate caused significant price suppression. As a result, the domestic industry suffered from depressed sales and capacity underutilization that led to poor overall financial performance, operating losses and lost jobs.

Now, after years of being unable to sell clad plate to the United States in the face of the antidumping duty, Japanese producers would have you believe that they have lost interest in all export markets outside of Asia, including the United States. They claim that even if unrestrained by the order, the United States is not an attractive market for them and that domestic demand for clad plate is not really price sensitive.

But the Japanese export tiger has really not changed its stripes. Japanese production capacity, already large, has increased by nearly 10 percent over the period of review to a massive level. Unused capacity also increased steadily from 2006 to 2011, with a huge amount of Japanese producers' capacity sitting idle in 2012.

The high volume of unused Japanese capacity demonstrate that Asia cannot absorb all the Japanese producers' production despite their claims. Although Japanese producers argue that demand growth is concentrated in the Asian market, they have every incentive to increase their capacity utilization even by a small percentage by exporting to the United States if the order is revoked. Japanese unused capacity alone would destroy the U.S. industry even without Japanese producers shifting any volume away from existing export markets, particularly in Asia.

Japanese producers have also become more export oriented not only over the period of review, but since the original investigation. They have demonstrated an ability to quickly shift sales among export markets on a year-on-year basis. In fact, despite the claims of disinterest in the United States' market, Japanese producers maintain multiple sales offices in the United States selling nonsubject clad plate in the U.S. market.

Moreover, the Japanese producers have sold clad plate to our neighboring markets in Canada and South America. I ask you is it really credible that Japanese producers would sell subject imports to Canada and South America and nonsubject clad plate to the U.S. market, but would not sell subject clad plate into the larger U.S. market if they had the opportunity?

Information available to the domestic industry shows that Japanese producers engage in significant underselling behavior in third country markets. While Japanese producers claim that the United States' bidding process is too complex for them to participate, the same Japanese producers successfully took part in domestic market bidding during the original investigation and underbid domestic producers.

Domestic purchasers overwhelmingly stated in their questionnaire response that price is very important and one of the top three major purchasing factors. There's every reason to believe they would do the same now to dominate this price sensitive market if the Japanese dumping order is revoked.

The domestic industry and the Japanese producers do agree on one thing. Domestic demand is down. The significant decline in U.S. demand has affected production, shipments, revenues and employment within the domestic industry. All the trade and financial indicators have fallen in recent years.

Facing unfair competition from Japan now would have disastrous effects on U.S. producers. It is no exaggeration to say that revocation of the dumping order will lead to the demise of this very small and price sensitive industry. Thank you.

MR. BISHOP: Opening remarks on behalf of those in opposition to the continuation of the order will be by William Moran, White & Case.

COMMISSIONER PEARSON: Good morning, Mr. Moran.

MR. MORAN: Good morning, Mr. Chairman and members of the Commission. It's been a while since I've been here, so it's good to be back home. For the record, my name is William Moran. I'm from the Tokyo office of White & Case, and we are counsel to the Japanese producers, JFE Steel, Japan Steel Works and NSSC in this proceeding.

The record evidence in this review

demonstrates that the global market dynamics for the sale of clad steel plate have changed dramatically since the original investigation in 1995 and 1996. As we have demonstrated in the prehearing submission, the key shift is the concentration of demand for clad steel plate in Asia.

According to U.S. Customs statistics, for example, U.S. exports of clad steel plate to Asia in 2011 exceeded 5,000 tons, which is roughly equivalent to total U.S. apparent consumption last year. Similarly, European producers also have focused on Asia, exporting more than double this amount to the Asian market alone. More starkly, over 99 percent of Japanese clad steel plate shipments in 2011 stayed in Asia, including the Japanese domestic market.

In contrast, imports into the United States from all sources, including European suppliers on which there is no dumping order in place into the United States, have fallen dramatically. In 2011, U.S. Customs statistics show that less than 150 tons of imports into the United States enter into the United States from all sources, including Europe.

In contrast, the European producers alone exported nearly 30,000 tons to all other markets in 2011, but the European portion of imports into the

United States was approximately 50 tons -- 50 tons -- in 2011. If the U.S. market were so attractive as the U.S. producers have argued, certainly there would be more imports from other sources that face no restraint from an antidumping duty order.

This demonstrates that the Asian market is viewed globally and nearly universally as the key market. All indications point to the conclusion that demand in Asia will only continue to grow. DMC, for example, recently highlighted this expectation that demand in Asia will expand and that DMC is continuing with its expansion into Asia.

In February of this year, DMC's president stated that DMC's explosive metal working segment is evaluating opportunities in Asia for the establishment of manufacturing capacity and a broader sales and marketing presence. Such pronouncements stand in stark contrast to the bleak portrayal of the clad steel plate business made by the U.S. producers in their prehearing brief.

In this strong Asian market environment, the Japanese producers have little incentive to turn from this huge and expanding market to make the effort to develop sales channels to the United States. Mr. Asano will explain later today why it would not make sense for the Japanese producers to pull resources from Asia to try to establish sales to the U.S. market.

Therefore, we respectfully submit that the record evidence demonstrates that the Commission should find that revocation of the antidumping duty order on clad steel plate would not be likely to lead to the continuance or recurrence of injury to the domestic injury. Thank you.

COMMISSIONER PEARSON: Mr. Secretary, are we ready for the opening panel, for the first panel?

MR. BISHOP: Yes, Mr. Chairman. Would the first panel, those in support of the continuation of the order, please come forward and be seated?

Mr. Chairman, all witnesses have been sworn.

(Witnesses sworn.)

COMMISSIONER PEARSON: I've never before been involved in a hearing on clad plate, but still I see familiar faces so I guess this is good. Mr. Rosenthal, please proceed when you're ready.

MS. CANNON: Thank you, Mr. Chairman. Our first witness this morning will be Mr. Insetta.

MR. INSETTA: Good morning. It's good to see you again. Good morning. My name is Bob Insetta, and I am the Director of Specialty Plate for

ArcelorMittal USA. I appreciate the opportunity to testify before you today about the importance to our company of the antidumping order on clad steel plate from Japan.

My experience with plate products began 33 years ago with Lukens Steel Company. During the last three decades, I have been significantly involved with sales and marketing of plate products. Most recently and during the period of review, I have been based at ArcelorMittal USA's Coatesville, Pennsylvania, facility. I am responsible for directing strategic marketing, establishing pricing and obtaining competitive market intelligence for our plate products, including clad.

In the last five years, I have seen the benefits of the antidumping order on our clad plate business. The order has kept underpriced and unfairly traded Japanese clad plate out of the U.S. market. Without Japanese imports flooding the U.S. market, we have been able to sell more of our product at higher prices and keep the doors open at our Coatesville clad plate facility.

There is no question that if the order is revoked Japanese dumping will resume and injury to our industry will recur. We will likely see unacceptable drops in prices, volume and profits that will likely determine whether ArcelorMittal continues to produce clad plate in the United States.

The recent recession affected the heavy industrial projects on which our clad plate business depends, especially in the petroleum, refining and power generation sectors. Economic growth remains slow, and new projects are not plentiful. That is not expected to change in the foreseeable future.

ArcelorMittal USA already has experienced a number of challenging years during the review period. We continue to see overall shrinking of demand in the domestic clad plate market. Decreased demand makes our company and the U.S. industry vulnerable to underpriced imports from Japan were they to return to the U.S. market.

The decline in demand for clad plate in the United States is due to several factors. In the petroleum refining industry, for example, it has become common to import finished products like coke drums rather than the clad plate required to make those coke drums. We also continue to compete with alternative materials like stainless steel and nonmetallic products, including fiberglass.

Tougher environmental regulations have

created an uncertain future for coal-fired power plants, another important customer for us. A major end use market for the clad plate industry has long been chemical and petroleum refining vessels, but those vessels are now smaller than they were in years past, meaning that there is lower volume of clad required to produce those vessels.

Overall, the U.S. clad plate industry has seen business decline, not expand. The demand decline is not limited to the United States. The European Union is in an economic recession and continues to face debt crises. Asian demand for clad plate has weakened, and global shipbuilding orders have plummeted. As the demand for clad plate in the U.S. market has declined, our capacity utilization has fallen. We are more than able to increase production should demand increase.

While there are some indications that global demand for clad plate may grow in the long term, we do not expect that demand to increase in the next two years due to global economic conditions. Even if small, short-term increases in demand exceed our expectations, the Japanese oversupply is so great that any increase in demand, however big and wherever it may be, will not be able to absorb it.

The industrial and large capital projects that use clad plate may take years from the time of the initial inquiry to the time the required clad plate is actually ordered, and this is due to development, financing and procurement schedules. There is little opportunity for business outside of this lengthy competitive bid process. For that reason, significant underselling by Japan of the type we saw before the order was imposed can keep U.S. clad plate production facilities like Coatesville dark for long periods of time.

These market conditions have affected our business decisions regarding employment. We had to reduce the size of the production workforce quite a bit between 2007 and 2010. While we were able to bring on some workers in 2011, production employment in our clad plate facility never got back to our earlier levels. Production workers at our facility have also experienced an overall reduction in hours worked since 2007.

Nothing in the market leads me to believe that conditions will allow us to significantly increase our workforce any time soon. On top of all of this, Japan has a very large clad plate industry with significant overcapacity, and Japanese producers continue to add to that capacity even while decreasing production.

So where are increasing volumes of clad plate going to go? Even a fraction of the unused capacity -- a fraction of the unused capacity in Japan -- is enough to absolutely dominate consumption in the United States with capacity to spare. If that capacity were free to enter the United States without the order imposed by this case, it likely would do so in huge volumes and at prices that would destroy the U.S. industry.

As you know, this is not the first time the Commission has looked at dumped Japanese clad plate imports. In fact, in 1982 dumping duties were imposed against Japanese clad plate. The similarities in the market conditions between that investigation and this one are striking. We thought we had resolved our problems with dumped imports from Japan after the order in the earlier case was imposed, but several years after that order was revoked the Japanese product returned to our market at dumped prices again, leading to this order.

If this order is revoked, I expect the same unfair pricing behavior by Japan, just as when there were no restraints on Japanese clad plate imports prior. Having the order in place has allowed the domestic clad plate industry to weather the storm. In fact, ArcelorMittal USA has plans to make capital investments in the clad plate production area related to key equipment like welding machines. We would not even consider such reinvestment for our clad plate product line were it not for the antidumping order and its positive effects on the industry as a whole. If that order is removed, however, those planned investments likely will not be possible.

Clad plate is an important part of ArcelorMittal's business, but the health of our clad plate operation is delicate. Had the antidumping order not been in place, we would be in far worse shape than we are today, even if we were still in the business. The order was instrumental in creating the right conditions to prevent the U.S. economic collapse from having an even greater impact on our business.

If the discipline of the order is removed and large volumes of low-priced imports return, which I am convinced would happen, we anticipate significant resulting operating losses that we may not be able to survive. On behalf of my company, I urge you to keep this order in place. Thank you.

MS. CANNON: Our next witness will be Mr.

Insetta. I'm sorry. Will be Mr. Nicol.

MR. NICOL: Good morning. I'm Jeff Nicol, and I'm the Senior Vice President and General Manager of Dynamic Materials or DMC. I've been with DMC now for four and a half years. In addition to our U.S. clad plate operations in Mount Braddock, Pennsylvania, DMC has two operating bonding facilities in Europe, and I am responsible for all aspects of DMC's cladding operations and sales in both the United States and worldwide.

DMC produces a high quality clad plate product at our Mount Braddock facility. We manufacture a wide range of sizes and materials of clad plate for both domestic and the export markets. We appreciated the opportunity to host members of the Commission and staff at our facility earlier this year. For those of you who could not make the trip, we gave the staff a video of the explosion-bonding process, and we hope you were able to watch it as it shows our production process in some very nice detail.

I understand that some Commissioners and staff also traveled to the ArcelorMittal facility to see their roll-bonding process. I hope you came away from those tours understanding that while ArcelorMittal and DMC production processes are different, the vast majority of what we produce is very interchangeable.

All producers of clad plate are metallurgically bonding together, cladding alloy plate for corrosion resistance with a carbon steel backer for strength. DMC competes with ArcelorMittal and other roll bonders in the U.S. market on a regular basis for the same orders. DMC also competes with both roll bonders and explosion bonders for the same sales in our export markets. As Mike Blakely will explain to you in a few minutes, that includes significant competition with the Japanese plate producers.

For a large combination of materials, customers are largely indifferent to whether they purchase a roll-bonded or explosion-bonded product. Even though most Japanese clad plate producers use the roll-bonding method, they will compete for sales directly with DMC in the U.S. market, just as they do now in other export markets, if this order is removed.

Clad plate is sold to pressure vessel manufacturers and other fabricators for use in the chemical/petrochemical industries, as well as for shipbuilding, pulp and paper making and other industrial and defense applications. Price is a critical part of our customers' decision to buy clad plate rather than a solid alloy. They want the best material at the lowest possible cost to achieve the necessary mechanical, structural and corrosion resistent qualities.

The fabricator ordering the plate often has bid or is bidding on a project to supply a finished pressure vessel or other structure. These bids may be to downstream users or construction companies. Purchasers expect that all bidders will meet the specification and the delivery schedule, so price becomes the critical factor to the customer.

I'm very concerned about what will happen to prices and revenues in our market if the antidumping order is revoked. We have found the Japanese producers of clad plate to be the most consistently aggressive in pricing of all of our competitors in every market in which we face them. Fortunately, we have not had to face this aggressive pricing from the Japanese producers in the U.S. in recent years due to the antidumping order. If you revoke the order, I have no doubt they will resume their unfair pricing behavior in competing with us here.

Japan is the largest producer and exporter of clad plate in the world. Japanese producers have massive overcapacity that must be exported. Your report shows the Japanese industry with a staggering 65,000 tons of excess capacity. That is a truly concerning number. World demand for clad plate could not possibly expand enough over the next few years to even come close to filling the Japanese mills' excess capacity.

Europe is currently in a state of recession and is not likely to be an expansion market for Japanese clad plate. Shipbuilding, which has been a major market for the Japanese producers, is down worldwide. The Japanese producers have already saturated the major Asian markets like Korea, and local competition in these markets will begin to displace Japanese tons. For example, Korea plate producer Hanwha has tripled its production over the last five years.

The United States is the only other large market within their normal sphere of commercial operations to which they do not already ship. With average consumption of clad plate in the U.S. market running at only about 5,000 tons per year over the last three years, just a small part of Japanese excess plate capacity would be enough to swallow the entire U.S. market. If the antidumping order is revoked, we expect the Japanese producers to attempt to do just that using the aggressive pricing we have seen from them in other markets.

For those of you that made the trip to Mount Braddock, you saw the significant investment DMC has made in our plant and equipment during the period of review. Those investments were possible in large part because we have been able to get the returns necessary to support reinvestment in the business.

DMC makes only one thing at Mount Braddock -- clad plate. If the Japanese producers are permitted to resume underselling in this market the way they do in other markets they would present a serious threat to our entire U.S. operation. DMC cannot afford to face the same underselling in this market that we see from Japan in other markets and continue to support our U.S. operations and workers. Revoking the antidumping order will make the U.S. market a target for the huge excess capacity of the Japanese industry.

Combined with the aggressive underselling we have experienced from the Japanese producers elsewhere, a surge in imports from Japan would take DMC from profitability to losses in a very short order. On behalf of DMC and its employees, therefore

I urge you to leave this order in place. Thank you.

MS. CANNON: Thank you. Mr. Blakely will testify next.

MR. BLAKELY: Good morning. I'm Michael Blakely, Director of Sales for North and South America for Dynamic Materials Corporation. I've been with the company for four years, and my job responsibilities include overseeing and coordinating sales of clad plate for DMC throughout this hemisphere. I'm also involved in many of our other international sales.

I'm here today to support retention of the order imposed against dumped clad plate from Japan. To understand the serious problems DMC and other domestic producers will face if the antidumping order on clad plate is revoked, it is important to understand the nature of the sales process.

Sales of clad plate are typically made through a multilevel competitive bidding process. We often respond to several requests for bids from one or more fabricators of pressure vessels or other equipment for the same jobs. Those fabricators in turn prepare their own bids to general contractors as part of larger projects based in part on the bids they get from clad plate producers.

Once a fabricator has won a contract, we may then be asked to bid again against other clad plate producers to actually win the business at the fabricator that won the contract. Because each contract is produced to order to exact specifications, clad plate offered by different suppliers bidding on the same project is generally interchangeable. I am unaware of any U.S. or foreign producer and certainly no Japanese producer that has been unable to regularly produce acceptable clad plate on projects which they bid.

Quality and delivery are important to the sales process, but the customers expect you to meet those requirements because they are specified in the bid request. In such a bidding environment, price becomes the determining factor in the vast majority of sales of clad plate.

While the antidumping duty order on clad plate from Japan has led to virtually no imports from Japan in the U.S. market, DMC regularly competes head-to-head with Japanese clad plate producers in our major export markets. Time after time, when we lose an order to a Japanese producer it's because they have significantly underbid DMC.

Korea has been a significant export market for DMC. I think it's fair to say that the Japanese producers dominate the Korean clad plate market. We have lost many bids within the last three years in the Korean market to Japanese product based on substantial underbidding by Japanese producers. From the feedback we receive from our customers, we know that DMC has lost sales to Japanese producers whose bids have been as much as 50 percent lower than DMC's.

Once the Japanese producers have won large customers with low prices, they tend to do what it takes from a pricing standpoint to keep them. For Japanese producers to be able to undersell us by such a large margin is really extraordinary. DMC sources cladding and backing material for these sales at the most competitive international prices in order to be able to pass these cost savings through to our customers. Despite a successful effort to lower our cost and prices for Korea's sales, Japanese producers continue to underbid us by wide margins. In fact, their prices are often below our production costs.

The only thing we make at DMC is clad plate, so we cannot afford to sell products at or below production cost over the long term and expect to remain in business. As Jeff Nicol testified, Japan has the largest clad plate industry in the world. They have quality producers with enough excess capacity to swamp the U.S. market if given the opportunity. We are justifiably concerned at what will happen if that capacity is unleashed at dumped prices in the U.S. market.

Based on our own experience of competing with Japanese producers in third country markets, we believe that Japan would quickly enter the U.S. market at prices that are substantially below ours if allowed to operate without the dumping order in place. You should be skeptical of any claims that the Japanese industry would not be interested in pursuing sales in the U.S. market if the order were revoked. Japanese producers are already quoting and exporting clad plate in competition with DMC to important markets right next door, Canada and South America.

Within the past year, we have lost business with Canadian purchasers to Japanese clad plate that was priced well below DMC prices. Because the Japanese producers seemed to be willing to do whatever it takes to compete with DMC in Canada and have sold into South America in recent years, they would certainly be interested in selling clad plate into the even larger and more attractive U.S. market.

The U.S. market is the only market for clad plate in which DMC does not face significant competition from Japanese producers. Their absence from this market is due solely to the antidumping order. DMC's experience in our major export markets provides strong evidence of how these Japanese producers would likely compete in the U.S. market if they were given a chance to do so.

Given the huge unused capacity of Japanese producers to produce clad plate and their aggressive pricing behavior in the other major export markets, I have no doubt the Japanese producers will resume aggressively selling larger volumes of low-priced clad plate to the United States as well if the order is revoked.

A return of significant volumes of low-priced dumped imports from Japan will mean lower prices and lost sales by DMC and other domestic producers. To preserve our operations in Mount Braddock, Pennsylvania, and the jobs of our workers employed there, I urge you not to revoke this order. Thank you.

MS. CANNON: Our next witness will be Mr. Markward.

MR. MARKWARD: Good morning. I am Michael Markward, Sales Manager for Specialty Plate at ArcelorMittal USA. As those of you who participated in the plant tour at our facility, I work at Coatesville, Pennsylvania, and I have been in the steel business for 41 years and at Coatesville for 34 years. When I first began to work at Coatesville the facility was known as Lukens Steel Company.

I have been involved in the sale and production of flat plate at Coatesville since 1982 and testified at the ITC hearing in the original investigation that led to imposition of the antidumping order against Japan. I remember all too well the injury that dumped imports from Japan inflicted on our company at the time and am very concerned that removing the order would cause the same injury to occur once again.

Let me describe for you this morning some of the dynamics in the clad plate market and why I am so certain that Japanese producers would undercut our prices and take much needed sales if the order is revoked. As you saw during the tour of our facility, ArcelorMittal USA uses the roll-bonded method of producing clad plate, but, as we emphasized during our tour, clad products are generally interchangeable regardless of production method.

At Coatesville, we produce a wide variety of clad plate products in a broad range of thicknesses and dimensions using different types of cladding materials. We compete directly with DMC, which uses an explosion-bonded production process. Although roll-bonding and explosion-bonding production methods are quite distinct, the product that is produced is the same.

We also of course compete directly with companies that use a roll-bonding production method. Most of the Japanese producers use the roll-bonding method. Our production operation is very similar to the production operation used in Japan. The clad plate products that Japan produces competed directly with the product we produce at Coatesville before the order was imposed and would again if the order was revoked.

The primary basis on which the competition occurs is price. We did not lose orders to dumped Japanese product because of better quality or other aspects of their product or service. We lost sales due to lower prices. The market for clad plate is based on bids for discrete orders with the lowest priced bid generally winning the sale. The details of the underlying contract on which we are bidding are specified by the purchaser, so the only real difference between varying producer bids is price.

The market for clad plate is highly price sensitive. Japanese producers who sell at dumped prices are easily able to make inroads into our market simply by offering lower prices to purchasers. That was precisely the means that Japan used before the order was imposed, causing us to lose sales and cut prices to compete with them.

Although a qualification process is required by many purchasers, that process is not time intensive nor difficult. It takes just a few months at most to become qualified to bid. That qualification process is minuscule relative to the project maturation process, which may take a year or more generally.

The Japanese producers are well recognized to be suppliers of a quality product, and in fact they are already qualified at many of the global end users and engineering companies that operate in the U.S. market. They will quickly become qualified to bid. We don't have long-term or even short-term contracts in our industry, so the Japanese producers will almost immediately begin competing with us for sales as new bid opportunities arise.

Based on my experience and my understanding of how the same Japanese producers continue to aggressively price in third country markets, it won't be long before we are again losing bids or cutting our prices to unprofitable levels to compete with them. In fact, we routinely see Japanese product in our efforts to sell clad plate to Canada and know we would see those same sales here but for the antidumping order.

We will include in our posthearing brief confidential details on a recent sale that showed Japanese efforts to sell clad plate here but for the antidumping order. Given these competitive conditions, it would be very easy for the Japanese producers to re-enter our market by selling at low prices as they do in other markets, causing us to reduce our prices and to lose sales.

As you see from the data, we have plenty of capacity to supply the U.S. market and would like to increase our use of that capacity to put more employees to work. If dumped imports come back to this market, the opposite will occur. We will be laying off employees instead.

The Japanese producers also have excess capacity, and the volume of that unused capacity is huge. The dumping order is the only reason they are not putting that idle capacity to use and exporting clad plate here. Given the size of their available capacity, it would not take much to swamp the U.S. market with dumped imports. Those sales would come at the expense of our production and workers in Coatesville.

Those of you who toured our plant learned what a long history we have in producing steel, including clad plate, at our Coatesville plant. Our steel mill is located in the heart of the community and supports many jobs. I personally have worked there for most of my career. If the order is removed, the jobs at our mill will be in jeopardy and our ability to undertake continued investment will disappear.

We recently celebrated our 200th anniversary of steel making in Coatesville and hope that this long manufacturing tradition continues. We have suffered many difficulties over the year, but a return of dumped imports is one of the worst threats to our continued survival. On behalf of my company and our workers, I urge you to leave this order in place. Thank you.

MS. CANNON: Thank you, Mike. Mr. Gregg will testify next.

MR. GREGG: Good morning. My name is Sheldon Gregg. I'm the president of United

Steelworkers Local 1165, Coatesville, Pennsylvania. The United Steelworkers, or the USW for short, is the largest industrial union in North America with 850,000 active members producing a wide variety of manufacturing goods.

I have been a proud member of the USW in Coatesville for 19 years and have had the great honor of representing my members, USW Local 1165, as president for more than three years. I appreciate the opportunity to testify before you this morning to lay out the effects that revocation of the antidumping duty order for clad plate from Japan would have on my fellow USW members, our families and the Coatesville community.

While the U.S. clad plate industry may not be as large as some other industries the Commission examines, it is still very important to the American workers, families and communities that rely upon its continued viability. Simply put, the outcome of this case will affect the lives and family-supporting jobs of many USW members.

We've been making steel in Coatesville for over 200 years. As those of you who visited our plant saw, the Coatesville community has literally been built around our steel plant, which is located right in the middle of town. Our facility offers some of the best jobs available in the area.

My fellow USW members working there have definitely benefitted over the years from this trade case. This antidumping order saved the U.S. clad plate industry by stopping a devastating onslaught of dumped Japanese imports. Please remember that during the time this order has been in place the Coatesville mill has changed hands several times. If not for the antidumping order, I doubt that our clad plate operations would have survived these changes, just like so many other mills and steelworker jobs did not survive that period.

Today we are trying to recover from the great recession. We are still far from getting back to prerecession production and employment levels, so we continue to struggle and orders remain depressed. In fact, demand has actually worsened recently when we had way too much unused capacity.

While we have avoided layoffs at Coatesville thus far, our clad plate operations have been downsizing through attrition. We are not hiring replacements for those that retire. As is true of many other Americans today, my members at the mill have a continued sense of uncertainty for the future.

The USW and its members have worked hard to help make Coatesville as efficient and as successful as possible. On October 18, we ratified a new three-year labor agreement with ArcelorMittal USA and successfully avoided a shutdown. We have one of the most highly trained, expert workforces in the world, but there is only so much we can do if unfairly traded imports are permitted to return to the U.S. market without the discipline of the order.

If the order is revoked, I have no doubt the Japanese clad steel plate will surge back into the U.S. market under present market conditions and at the level we are currently operating. I'm extremely worried about the future of my members if that happens. With the current economy, steelworkers who lose their jobs are unlikely to find other well-paying jobs. As you can imagine, this would have devastating ripple effects on members' families and the Coatesville community.

We want to continue making clad plate in Coatesville, but every ton of dumped clad plate that is allowed to enter our market is a ton of clad plate the steelworkers in Coatesville will not have the opportunity to make. No USW member should lose their job to keep steel mills full in Japan.

On behalf of all the USW members, their families and the community of Coatesville, I urge you to please continue the antidumping duty order on clad steel plate from Japan. Thank you.

MS. CANNON: Thank you, Mr. Gregg. I will wrap up the testimony this morning.

For the record, my name is Kathleen Cannon of Kelley Drye, and I will conclude our presentation today by providing a summary of the record data that support an affirmative finding in this case consistent with each of the statutory factors.

Let's begin with the likely volume of subject imports. The sheer size of the capacity and unused capacity to produce clad plate in Japan is enormous. As Slide 1 shows, capacity to produce steel plate in Japan in 2011 was almost 116,000 tons, and as you see that capacity level reflects a significant increase from the capacity existing in Japan in 2006.

To have some appreciation for this volume level, compare it to U.S. consumption. Average U.S. consumption in the 2009 to 2011 period was roughly 5,000 tons, as you see in Slide 2, so capacity to produce clad plate in Japan is more than 20 times the size of the U.S. market.

If the Japanese producers were using all or almost all of that capacity to service their home markets or other markets like Asia, the volume might be of slightly less concern. Unfortunately, that is not the case. Based on data in the prehearing report, the Japanese producers are using only about half of their capacity, leaving over 60,000 tons idle in 2011 as shown in Slide 3.

The amount of excess capacity in Japan has also increased over the past six years. Japanese producers are highly motivated to find some outlet for this unused capacity. Even more amazingly, Japan continues to increase its capacity further. As Slide 4 shows, JFE, the world's number three clad steel maker, is effectively doubling its capacity over the next two years.

Slide 5 compares unused plate capacity in Japan with demand in the United States. Unused capacity -- this is unused, not total -- in Japan dwarfs U.S. demand for clad steel plate. As U.S. demand has declined and Japanese capacity has increased, that delta and the unused capacity available has surged relative to U.S. consumption.

We received revisions to foreign producer data on the eve of filing our brief. Chart 1 of the proprietary handout that you should have in front of you, the pink sheets, shows these data as revised. Those revised numbers, as you see, continued to show huge unused capacity in Japan that would swallow the U.S. market and displace all U.S. production.

It is difficult to overemphasize this massive capacity overhang. In other cases, we might see idle capacity at foreign steel mills even on a cumulative basis that could capture maybe 10 or 20 percent of the U.S. market. Those levels are considered to be significant. Here the Japanese could capture all of the U.S. market from their idle capacity alone. In fact, as your Confidential Chart 2 shows, it would not even take the unused capacity of the entire industry in Japan to decimate U.S. production.

Japanese steel producers have an economic incentive to improve their production efficiencies by increasing sales when possible. Indeed, as Slide 6 shows, JSW has announced in its 2012 annual report that it's planning to do exactly that -- increase capacity utilization and expand sales of clad plate. You see from the final bullet it wants to raise the capacity utilization rate to make full use of the state-of-the-art production equipment, which is to be expected and terrifying to the U.S. industry.

The existence of this massive level of unused capacity that Japanese producers are trying to fully utilize alone provides reason to project likely increased imports of a new market like the United States suddenly has unimpeded access to Japan, but that is not the only factor indicating likely volume increases.

Japanese producers are significant exporters of clad plate. A comparison of Japanese exports at the end of each stage of this sunset review proceeding shows significant increases in Japanese exports of clad plate at every stage. By 2011, Japan was exporting over 30,000 tons of clad plate. And remember, that volume compares to a U.S. market of roughly 5,000 tons.

The export focus by Japan has also increased. Slide 8 shows Japanese producers' clad plate exports as a share of their total shipments have grown substantially over the past six years. In 2006, Japanese exports were less than 45 percent of their total shipments, still a significant number, but by 2011 roughly 60 percent of Japanese production was being exported.

We know that JSW and JFE are major exporters of clad plate because the U.S. producers compete against them in other markets. Although Nippon claims to lack interest in exporting clad plate at all and Asahi says it is not interested in exporting to the United States, take a look at a couple of their press statements.

Slide 9 shows a Nippon press statement emphasizing a focus on increasing exports of heavy plate as part of its overall strategy. The cited article, which is appended to our brief, expressly identifies clad plate as part of Nippon's strategic plan. Confidential Chart 3 in your handout provides additional insight into Nippon's export plans.

Another article, shown in Slide 10, emphasizes Asahi's focus on growing its U.S. market share of the explosion-bonded product. Absent the order, the United States will be a prime target of the Japanese product. Japanese producers are already selling clad plate into Canada and have aggressively competed with U.S. producers in South America as well. Japanese producers are also exporting nonsubject clad plate to the United States, as the highlighted blue line in Slide 11 reveals.

JSW, JFE and Nippon all retain U.S. sales offices. Purchasers report that they expect imports from Japan to increase if the order is revoked and state that qualifying the Japanese suppliers will take place in three months or less. Market conditions in the United States are ripe to allow Japanese producers to quickly regain U.S. sales.

As our witnesses also testified, the U.S. market is highly price sensitive. Slide 12 summarizes findings from the purchaser questionnaires. Purchasers said price is very important in their buying decisions, that price was one of the top three factors identified and that the lowest priced product generally gets the sale.

No long-term contracts insulate U.S. producers from subject imports. When sales are put out to bid, Japanese producers will once again use low prices as they did before the order was imposed to gain sales. If you have any doubt about that, look at what they are doing in the other export markets in which they compete.

Mr. Blakely told you that Japanese producers are extremely aggressive in undercutting DMC's prices in other markets by margins of 20 to 50 percent. Confidential Chart 4 to your handout lists a number of examples of Japan underselling levels as compared to DMC prices in other markets, including Canada. The Japanese prices are so low they are even below DMC's costs in some cases. Similar pricing behavior in this market will undercut U.S. prices and cause lost sales, price depression and price suppression.

Increased volumes of clad plate will quickly cause injury to a U.S. industry that is already experiencing a weak market and declining shipments. U.S. demand has fallen significantly over the review period as shown in Slide 13. This demand decline in turn has led to declines in U.S. industry trade and financial variables, as Confidential Chart 5 to your handout shows. The U.S. industry's capacity utilization can best be described as anemic. Its operating income has dropped significantly. Further declines will prevent needed reinvestment in this business.

Given the sheer size of the Japanese industry and their aggressive pricing behavior in third country markets, large volumes of low-priced imports from Japan are almost a certainty absent the order. The domestic industry that is already struggling with declining demand will quickly suffer worker layoffs, closures of facilities and financial losses if that happens. In sum, there's a Japanese juggernaut poised to decimate the U.S. clad plate industry.

The Japanese producers attempt to counter this unavoidable conclusion in several unsupportable ways. They first contend that they focus on the Asian market almost exclusively and will continue to do so We do not disagree that Asia is a large market for clad plate from Japan and other producers, but their argument that they would not shift sales from Asia fails to acknowledge a key fact -- their huge unused capacity.

While they may prefer to sell in Asia, the Asian market cannot come close to absorbing their capacity. As JSW stated publicly, they need to use that capacity by increasing sales, which means finding a new market. The Asian market, while large, is having problems of its own with declines in shipbuilding and other areas. A very recent article quoted in Confidential Chart 6 to our handout indicates that Asian steel demand continues to weaken and oversupply is rampant.

Even if that market were to grow by the modest amount that Respondents predict, and please focus on the years too because we're only looking out two years and not 20 years as some of their charts show. But even if that growth were to occur, it would still leave much idle Japanese capacity.

As shown in Slide 11, Japan continues to sell clad plate to many countries outside of Asia, including Canada and the United States. As we discussed and as shown in Confidential Chart 7, Japanese producers continue to sell clad plate into our neighboring market in Canada. Although those volume levels may be small compared to their Asian exports, they are significant compared to U.S. demand and would be injurious to U.S. producers to lose those sales.

I would encourage you to focus particular attention on Confidential Chart 8 of our handout. This chart that I cannot describe very much publicly is extremely telling of the Japanese producer at issue, the timing of the sale, the country at issue and the volume sold relative to U.S. demand. This chart, Chart 8, alone refutes many of Respondents' claims.

Respondents also assert that Japanese roll-bonding producers would not compete with DMC, an explosion-bonding producer. As Confidential Chart 9 indicates, that claim is wrong. Products produced by roll-bonding and explosion-bonding compete against one another across the spectrum of sizes of clad plate. Further, Japanese producers would not only be competing with DMC; they would also be competing with other roll-bonding producers in the United States.

And last, Respondents urge you to look only at individual Japanese producers and not at producers in the aggregate. They submit signed statements by Nippon and Asahi that those two companies will not export to the United States and ask you to ignore those producers' data.

We have cited evidence as to why that request is unfounded, but even were you to ignore those two producers remember that JSW, one company alone, caused the injury to the U.S. market before the order was imposed and likely would do so again. JFE is also actively exporting clad plate and undercutting U.S. prices in third country markets and likely would do so here as well without an order.

And finally I point out that while Nippon and Asahi submitted statements appended to their brief that they would not export to the U.S. market, please note that neither JSW nor JFE did so. This glaring omission of similar statements by JSW and JFE suggests plans by both of these producers to export clad plate to the U.S. market absent an order. Those exports would be devastating to the U.S. industry.

Thank you for your attention. That

concludes our testimony today.

COMMISSIONER PEARSON: Thank you for those enlightening presentations, and I appreciate the effort that people have made to come here, Mr. Gregg in particular. To have union representation always is helpful.

With that, let's turn to the questioning with the regular order today. We will begin with Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you, Mr. Chairman, and I join the Chairman in thanking all of you for being here today to help us to understand these issues.

I want to begin with something that is emphasized by the Respondents, and that is the efforts of U.S. producers to sell into the principal Asian markets. I have a series of questions on this, but I want to begin with a simple relevance question. What relevance do you find the issue of sales by U.S. producers into the principal Asian markets?

MS. CANNON: Let me start with the legal relevance, and then I can have the witnesses chime in with their points.

I think first you must appreciate that the U.S. market is small and so our industry is trying to sell here and they are obviously trying to sell as well. We do not disagree that the Asian market is a large market for clad plate. The problem is it's not big enough to absorb the amount of capacity that the Japanese have and that they have worldwide.

But -- and this is where I'd like the industry to chime in -- the importance is that the industry is not sustainable by exports alone. If this industry did not have the U.S. market to sell into and they were forced simply to live on exports it would not survive.

We discussed this yesterday, and let me ask Mr. Nicol if he could supplement more specifically here.

MR. NICOL: Asia is a big region, so I think we have to look at it region-by-region. We cannot sell into Japan. It has been impossible for us to do so. China is very difficult for us to sell into. What tends to be the open zone is Korea. And so when we talk about Asia we typically talk about Korea as being our biggest export market.

Can you continue? Did I answer your question or --

COMMISSIONER PINKERT: Yes. I have a followup on that, but if you want to continue that line of thinking go ahead.

MR. ROSENTHAL: I was just going to say, to go back to the legal relevance, I don't think it is particularly relevant from a legal point of view. Really while we're obviously looking at the vulnerability of the domestic industry and what's going to happen in the U.S. market, that's really what the focus ought to be.

The assumption that because the U.S. producers are also exporting and everyone agrees that Asia is a big market, I would say in legal terms so what?

COMMISSIONER PINKERT: Okay. Now just a quick question on China. You said that there's difficulty selling into China. Do the Japanese producers have less difficulty selling into China? And if you know, how would you explain that?

MR. NICOL: I don't have any knowledge of their success in China. I don't know.

COMMISSIONER PINKERT: Okay. Now staying with the Asian markets, I understand that there was testimony about possibilities of future demand in the Asian markets, but I want to go back to that period of 2009 to 2011, which is featured in many of your slides. Was demand up in the principal Asian markets during that period, 2009 to 2011?

MR. NICOL: I would say no. I think what we saw in the U.S. during the recession was felt kind of around the world, so I do not think that during that time period, 2009 to 2011, that sales were up there.

COMMISSIONER PINKERT: Okay. Well, if you can supplement that in the posthearing I think that would be very useful for us.

MR. NICOL: Okay.

COMMISSIONER PINKERT: And finally, staying with the principal Asian markets, does demand in those markets in any way explain the maintenance by Japan of this unused capacity that you testified about?

Now, I understand your point, Ms. Cannon, that the unused capacity is not currently going to the principal Asian markets. That's why it's considered to be unused capacity. But if you look at the amount of demand in those markets, would there be some expectation on the part of Japanese producers that they have to maintain a certain level of capacity, or is that capacity explained in some other way?

MS. CANNON: Well, again I'll allow the industry to supplement, but what we're seeing in the numbers is such a staggering disproportion in terms of what is unused relative to even if you look at their charts and some of their projections in demand growth, they're only talking about minor percentages over the next couple of years, which is what we're looking at in a sunset review.

There's nowhere that that capacity could be absorbed. There's nothing that is going on that really would account for it. And in fact, to the contrary. As you see in our brief, we're seeing a lot of declines in demand for certain sectors like shipbuilding, which has dropped off enormously, just increasing the amount of unused capacity sitting there idle at these roll-bonding producers who have every incentive to try to get those mills running, which is why timing-wise if this order were to be revoked in the dynamics you're seeing globally in the marketplace there's nowhere else over the next few years for that product to go. They're dying to get it into this market.

MR. ROSENTHAL: I want Mr. Blakely to chime in here, but I want to add one other thing. Another factor that's affecting the Japanese and their use of their capacity is that there is indigenous capacity coming onstream, as you heard about, in Korea and in China, so markets that were previously potential markets and in the case of Korea actual markets are getting less hospitable to the Japanese exports to those countries.

The Chinese have basically been building up their capacity and their shipments to their domestic markets, so again the Japanese opportunities, if you will, are shrinking in places where they were hopeful they would have opportunities.

MR. BLAKELY: Just as a point of clarification, the capacity that exists in Japan could not be consumed in Asia or any other part of the world aggregated together by any increase in demand that anyone in this room would forecast in the next year or two years or multiple years.

It's incredible to look at the volume, and you've seen the slides, of unused capacity and compare it to the most optimistic growth expectations for this market. There's absolutely no way that that capacity would be consumed in Asia or otherwise. None.

MS. BECK: Commissioner Pinkert, may I also just direct you to Confidential Chart 6, the first bullet point? I think that goes directly to your question in terms of demand in Asia and one company in particular in Japan, what their strategy is, despite trends in demand in the near future.

COMMISSIONER PINKERT: Thank you. Now, I

only have a couple minutes left in this round of questions, but I want to throw out the question to you that it seems to me that there is a difference of opinion between your panel and the Respondents about the ease with which Japanese producers could sell into the U.S. market, particularly with regard to sales infrastructure.

Is this just a question of pure difference of factual assertions, or is there kind of a middle ground here somewhere that yes, they do have sales infrastructure in the United States, but perhaps they are not familiar with the customers for this particular product. Is that the middle ground?

MR. BLAKELY: Let me take it. Japanese steel manufacturers distribute their products through trading companies in the U.S. and other markets. These same trading companies that they've used in the past and continue to use for their other steel products would easily be energized to sell clad plate.

The consumers of clad plate in the U.S. are exactly the same people that they sell their steel plate to. The relationships and customer knowledge that they would require to access those markets are already established. They are also large and well-known producers. They're known as high quality producers. Access to our market and quick qualification on projects would not be an issue for them.

MR. HUDGENS: Commissioner Pinkert, if I might add? Many of the consumers are multinational companies that have operations both in Asia and the U.S., so it's the same consumer purchasing clad plate in Korea that might be purchasing clad plate in the United States or Canada.

MR. ROSENTHAL: So, Commissioner Pinkert, there really isn't a middle ground. You're right.

COMMISSIONER PINKERT: Thank you very much. Thank you, Mr. Chairman.

COMMISSIONER PEARSON: Commissioner Johanson?

COMMISSIONER JOHANSON: Thank you, Mr. Chairman. I'd like to welcome all the witnesses for appearing here today, and I'd like to give a special welcome to the folks from ArcelorMittal in Coatesville and the folks from Dynamic Materials Corporation or DMC in Mount Braddock, Pennsylvania. I visited both of those plants this fall, and I appreciate you all taking the time to show me around.

For any of my colleagues who have not visited those facilities, Coatesville is a very large factory town, or the factory is very large within the town. I understand that clad plate is a relatively small portion of the plant, but it's very impressive to see that operation. In Mount Braddock I got to see a real explosion or at least feel it. I mean, they really use explosive technology. I didn't know what to expect, and I came out a little shaken, but it was very interesting.

I'd like to begin my questions now. Mr. Insetta, you noted that demand for clad plate has declined in the United States. Perhaps you could clarify something for me. The petroleum sector is by far the largest market for clad plate. The U.S. natural gas industry has expanded significantly in recent years. How much clad plate is used by natural gas producers?

MR. INSETTA: I can tell you in our case there is no clad that we sell that goes into the natural gas market. Ours is petroleum processing related.

COMMISSIONER JOHANSON: Okay. Thank you. That answers my questions. Also, you stated that petroleum vessels have become smaller. Why is that the case?

MR. INSETTA: There really are very few new, big plants being built, so what we're seeing are smaller plants at smaller capacities being built throughout the different regions of the country to accommodate a more regional approach, so the vessels have become smaller.

In some cases design of the vessel and the engineering of the vessel is able to perform the same process more efficiently with a smaller vessel than in previous years where it would have taken a larger vessel. Some engineering factors are involved with that as well.

COMMISSIONER JOHANSON: Are those vessels primarily for refineries?

MR. INSETTA: Refineries and chemical, chemical processing.

COMMISSIONER JOHANSON: Okay. Thank you for your response.

This is a question for any members of the panel. Why have U.S. imports of clad steel plate from all sources declined since the 1993-1995 period examined during the original investigation?

MR. BLAKELY: Mike Blakely, DMC. First of all, Commissioner Johanson, thank you right back at you. We appreciated having you at our factory and facility. I know we like showing off what we do and we're proud of our workers and our facilities, so thank you for coming.

But to answer your question, we all are proud of the way we serve the U.S. market. We are competitive in our pricing and delivery, and we are still able to maintain some level of profitability within that pricing and delivery. Competitors from outside of the U.S. would certainly enjoy having a slice of the U.S. market, but I think it's fair to say that we serve it well and further to that that the competitors outside the U.S. that have access to the U.S. market compete on a more even playing field when they try to participate in the U.S. market.

They certainly win some business, as I think the record shows, but because they come in with fair pricing practices and expectation to maintain some profit they do not attempt to sell their plates and materials at prices below our costs, and therefore we are able to serve the market well.

COMMISSIONER JOHANSON: All right. Thank you for your response. The U.S. clad plate industry is a fairly significant exporter. Is competition from Japanese producers present in most or all of the markets where you ship overseas?

MR. BLAKELY: Absolutely. Yes. As you may recall from my testimony, every market that we participate in outside of the U.S. we see competition from the Japanese. It's maybe most obvious in Asian markets like Korea, but it's also present in near domestic markets like Canada or South America. They are certainly present in those markets and aggressive in their pricing.

It's absolutely the case that we've lost business in Korea, Canada and South America to Japanese producers with pricing practices that I would deem as unfair.

COMMISSIONER JOHANSON: Thank you. Does the project-by-project nature of clad steel plate purchases make it easier to enter new markets?

MR. NICOL: This is Jeff Nicol from DMC. A couple things going back to that subject. I think you have to look at the maturation process of a project. A lot of these projects that we deal with take a year and a half, two years to mature from feed stage or front end engineering and design stage to the actual purchase of materials.

So anyone who is cognizant of a project at the feed stage has ample time to get involved with that project and go through whatever qualification process might be needed to get on that project.

COMMISSIONER JOHANSON: Does that thus make it easier to enter a new market?

MR. NICOL: I'm sorry?

COMMISSIONER JOHANSON: Does that thus make it easier to enter a new market?

MR. NICOL: Yes, it does I think because you have to be cognizant of the project and then it's dealing with that regional company or owner/operator of a facility.

And again, like we said before, a lot of these owner/operators, the big companies, they're worldwide and global so there's not that many of us in the world that produce this stuff, and they typically know who we all are and understand our quality even before we were to bid on a project.

MS. CANNON: Commissioner Johanson?

COMMISSIONER JOHANSON: Yes?

MS. CANNON: If I could just supplement that? I think this contrasts with some other steel cases you've seen where you have maybe some long-term contracts or short-term contracts in place that companies have lined up to sell products over time, whereas here, because every product is put out for bid as soon as the order is removed, Japan can come right back in and start bidding immediately.

So I think it is a significant factor. As Mr. Markward testified, the ability to get in quickly under a very short qualification time, to the extent that's needed even -- with some of the multinationals it may not be; but even if it is -- is very quick, so we would expect the nature of the bidding process to open the doors extremely fast here for imports.

COMMISSIONER JOHANSON: Thank you.

MR. NICOL: And I'd like to supplement one thing. Because we export, we understand what it's like to go into a foreign country and what it takes to be successful. We don't see the U.S. market being any more difficult to operate in than any export market that we've been involved with.

COMMISSIONER JOHANSON: I would think though, even though you all do not have long-term contracts, that through the nature of project-by-project bidding I assume you develop relationships with different companies, which make it easier perhaps to facilitate the process of getting projects.

MR. NICOL: Yes, that's true. I think any time you deal with a customer over and over again you develop a sense of track record with them. Mainly then once you win an award is what's your ability to perform with respect to delivery? Will you do what you say you're going to do?

MR. BLAKELY: And further to that, while we are proud of the relationships we develop with our customers, I think the survey that you performed will spell out that price is a key factor in their purchase decision.

I like to put it that our customers make decisions on four main factors -- price, price, price and sometimes delivery -- so price is really important to these guys, and while relationships are key to getting the inquiry and understanding the needs of the customer, price usually wins the day.

COMMISSIONER JOHANSON: I would assume that delivery would be fairly high, a fairly high factor in determining from whom to accept a project given that you have a specific project going on and you need that product soon.

MR. BLAKELY: It's a good question, but, as I said in my testimony, the expectation of the client is that you will meet their quality requirements and you will meet their delivery requirements. These are expectations. So once those are taken care of all that you've got left is price.

There are occasions when you can't meet a certain delivery requirement, but usually that will exclude you from a project, not cause some exception.

COMMISSIONER JOHANSON: All right. Thank you for your responses. My time will expire in just a few seconds, so I will stop for now. Thank you.

COMMISSIONER PEARSON: Commissioner Broadbent?

COMMISSIONER BROADBENT: Thank you. This is for Jeff Nicol or Mr. Insetta. We're trying to grapple with the capacity levels in Japan, sort of how to interpret it in this industry, and I couldn't help noticing that the U.S. industry also has a lot of excess capacity, and it's been increasing.

As we consider the growing excess capacity in Japan, can you sort of help us understand what's going on in the domestic market that would require increased capacity, which is kind of lowering your percentage usage numbers, capacities?

MR. INSETTA: Yes. This is Bob Insetta. I think the first point I would make is that the increase, any increases in U.S. capacity, which I think is what you're asking about.

COMMISSIONER BROADBENT: Yes.

MR. INSETTA: I can tell you at our company we have not increased our capacity. We have a lot of latent capacity that is unused, so we have a significant amount of unused capacity. We have not added capacity. Perhaps my colleague at DMC can respond to that question regarding their company.

The fact is there is still plenty of unused capacity in the United States, and I can tell you and the facts are clear that there is tremendous unused capacity in Japan. What happens as we try to operate in these businesses is every pound of clad that we can secure as a piece of business for us over a minimum threshold in order to maintain the equipment we will be very aggressive to pursue that business and take that business.

Now, I've been in this business a long time, and everybody here knows that with capacity so underutilized that the only thing you can do is try to price your product at just above your variable cost to try to compete, get business and cover some fixed. So we do that every day because we have unused capacity. That same approach is absolutely the approach that Japanese businessmen will take as they look at their unused capacity.

So I think our unused capacity and the global unused capacity has to be looked at in context of how we will operate in this kind of market where demand is so much depressed from the capacity that actually is available. So I don't know if I answered your question partially or completely.

COMMISSIONER BROADBENT: Well, I mean, the project nature of this business. Don't you need a certain amount of excess capacity so you can be nimble enough to respond to actually successfully compete for a big project that comes along?

MR. INSETTA: Yes. And we have that capacity at our company and we have done that. As a matter of fact, the order that Mr. Markward referenced that we'll provide you with more information on in a posthearing brief is one of those cases. It's a fairly large order, and our excess capacity has allowed us to secure that business away from the Japanese and others.

So there are these ups and downs in clad demand. Some markets will spike for a period of time and then drop, but the fact is that there is so much excess capacity that even with the spikes, and Mr. Blakely referred to this in his testimony earlier. Even with the spikes that anyone can foresee there is no way that the excess capacity will ever be used in the foreseeable future. So, yes, there are spikes. Does that take care of excess capacity? Not at all.

COMMISSIONER BROADBENT: Okay. Mr. Nicol, would you want to respond?

MR. NICOL: Yes. I concur with that, and I think you've got the marketplace defined right. It's very difficult to level load these projects, these types of projects, so you do need to have some amount of small, latent, idle capacity to be able to respond to a project quickly.

COMMISSIONER BROADBENT: You said small?

MR. NICOL: Yes. And so we've gained capacity at DMC through efficiency and building some of that capacity to be able to respond quickly to that drop-in project that causes that surge of demand to go up momentarily.

You can't add -- we can't add -- tons of extra capacity because we can't support that. The projects are spiky type projects. They're not sustainable enough to sustain large amounts of excess capacity.

COMMISSIONER BROADBENT: And how much excess capacity have you added in the last two or three years?

MR. NICOL: Twenty percent, 30 percent.

COMMISSIONER BROADBENT: That seems a lot to me. No?

MR. NICOL: Well again, some of it is just because of gain of efficiency. We're getting better and better at what we do so some of it came along that, and I would say maybe 10, 15 percent of that was kind of built for being ready to respond to these spikes.

COMMISSIONER BROADBENT: Okay.

MR. NICOL: I don't know if that answers your question.

COMMISSIONER BROADBENT: Yes. Thank you. Why don't you think -- or maybe you do think. How is Japan competing in the European market? It seems to me that it's not heavily engaged there. How is that market different from the U.S. market?

MR. BLAKELY: Europe is an interesting market. It's certainly not the same as the U.S. market. Purchasers in Europe, it's not unusual for them to have a certain amount of protectionism in their practices. Germans like to buy from Germans, for instance.

Further, the Japanese have shown a propensity to participate in what I'll call the Pacific Rim, and within that I'll include Canada and South America and Asia. And the only part of that circle where they don't compete today is in the U.S.

So I think it's not entirely appropriate to compare Europe where the purchasing practices are slightly different and the sphere of influence of the Japanese producers may be somewhat different and the U.S., which is essentially surrounded by areas where they already compete. I'm confident that their next stop if this order were to be lifted would be on our shores.

COMMISSIONER BROADBENT: So it's just sort of a geographic and protectionism in Europe that keeps them out?

MR. BLAKELY: I don't know their sales strategy.

COMMISSIONER BROADBENT: Yes.

MR. BLAKELY: Maybe it's a question you can ask them why they choose not to participate or are unable to participate in the European market in the volumes, but I do know the U.S. market well enough that there would be very little hinderance to them coming here, and certainly if they were coming here with aggressive pricing models they would have success here.

MR. HUDGENS: Could I make one comment here? The record does show that the Japanese producers are participating in the European market, though.

COMMISSIONER BROADBENT: Yes. I mean, can you give me a sense? I know you talked about it in your testimony, and I think I didn't fully absorb. What is the level there that the Japanese are involved in the European market?

MR. HUDGENS: Well, most of that data is confidential because it's part of the form producer's questionnaire responses.

COMMISSIONER BROADBENT: Yes.

MR. HUDGENS: So can we respond to that in a posthearing brief?

COMMISSIONER BROADBENT: Okay. Thank you. And this would be probably for Mr. Nicol. You report price competition from Japanese products and other markets yet your exports are high and growing. Are you suggesting that the prices of your export shipments are suppressed because of Japanese competition in steel clad plate?

MR. NICOL: Yes.

COMMISSIONER BROADBENT: Okay. I think that's all I have. I'll turn the time back to you, Chairman. Thank you.

COMMISSIONER PEARSON: In many of the cases that we've dealt with over the past couple of years, we've seen a pattern where the lowest level of domestic sales has been in the year 2009 right in the heart of the recession. On this record we don't see that. Instead, the lowest level of apparent consumption was in 2010. Is there some reason for that, I mean, something unique about clad plate that gives that result?

MR. NICOL: Well, I can explain for DMC. If you recall, the time period 2008 was a pretty large build year, and because these projects run pretty far out in terms of lead time, we had a pretty significant back log that was built up in 2008 that we then shipped into 2009. But the order levels began to drop significantly in about November of 2008, and so because of backlog and lead time, we didn't see the shipment effect of that until about 2010.

COMMISSIONER PEARSON: Okay, and that's just kind of a normal phenomenon for this industry that there is a considerable lag between when an order would be placed and when the product is delivered?

MR. NICOL: It was during that time period. Right now, we're working at a very kind of concerning low visibility on projects. In other words, we're not sustaining the same levels of backlog that we did back then. The lead times have become much quicker, so you don't have those orders on your books well in advance to see them.

MR. BLAKELY: And to supplement that, Mike Blakely, DMC. The nature of the projects that clad plate goes into is typically one with a very long cycle, and investment decisions are made before the purchase of clad is actually done. There's preparation of site. There's engineering that needs to be done, and once the ball is rolling, sometimes it's hard to stop.

So while many projects were put on hold at that time, some things continued to fruition. And as Jeff pointed out, we did maintain a backlog at that point which allowed us to have shipments throughout what maybe in your eyes should have been the beginning of that downturn and just shifted it for us a period.

COMMISSIONER PEARSON: Okay, and we could understand also that clad plate is not an inexpensive item and so a user would not want it delivered several months in advance. They'd want it delivered just when they need it.

MR. BLAKELY: I would say that is likely the case to have clad plate in advance is not necessarily an advantage, but because there is usually a lead time associated with it, a delivery lead time, you need to make some commitment to purchase it in advance and place your order well in advance of when you'll need it.

COMMISSIONER PEARSON: Okay. In most years of the period of review, the domestic industry's U.S. shipments were larger than its export shipments. However, that situation reversed somewhat notably in one full year and in one interim period. What are the reasons for the change in emphasis between the domestic and export markets that we see on this record?

MR. BLAKELY: Commissioner Pearson, could you clarify which year you're talking about specifically?

COMMISSIONER PEARSON: I think that I can. All of this data is confidential. If I discuss the year, Mr. Corkran, would that be acceptable because I know it's confidential, but I don't know why, okay.

MR. CORKRAN: It's because of the concentration of the industry. We treated the year as confidential, but it occurred relatively late in the period that we're looking at, the year with --

COMMISSIONER PEARSON: Okay, should we leave it at that?

MR. CORKRAN: -- plate and the period.

COMMISSIONER PEARSON: Okay.

MS. CANNON: Commissioner Pearson, I

discussed with Mr. Nicol, and I believe we have information to answer that that we would need to put on the proprietary record as to what explains that shift.

COMMISSIONER PEARSON: Okay. Well, that would be fine. It's just it's an unusual pattern that we don't often see, and so I assume there would be something that would help us understand it.

Mr. Blakely, you've indicated that there's substantial underselling by Japanese producers in some of the third countries where you compete with them. I think in Korea you indicated that their underselling could be as much as 50 percent of your offer price.

If the underselling is so significant, how has the U.S. industry managed to make any export sales?

MR. BLAKELY: It's a question we ask ourselves sometimes. For certain projects, we find that either we are able to secure material -- now, keep in mind and you may remember from my testimony, DMC doesn't produce steel and we don't produce the cladding material. We purchase both of those.

And we are aggressive in the international market to find the best deal we can on both of those materials so we can pass good pricing along to our customers. So we thing that we have very competitive input pricing and, therefore, very competitive pricing to our customers.

There are cases where we have found that sweet spot of super competitive material from somewhere that we can get quickly, and quickly sometimes is the key, and delivered to our customer quickly, or we've got capacity in our shop that's open where we can produce quickly.

And I hate to say quickly over, and over, and over again, but I don't think our success has been driven by price. It's been driven by other factors. Either it's a material combination that we've been successful in finding the right materials at the right time, or we've been able to produce at a delivery schedule that satisfies that customer for maybe a very important or very fast project.

But all things being equal, I think that it would surprise us to win as much business as we do in Korea. We need to find very narrow niches, very certain specific marketplace conditions where someone needs us, otherwise they'll go to the Japanese and the lower price.

Further to that point, Commissioner Pearson, it may be fair to say, although I don't know if we've got the data to fully bear it out, that the highly aggressive dumping type prices from the Japanese is not on every order. There are some orders where they need to recoup some of their costs, I assume, and in these cases where competition is more level, we have more opportunity to participate. This may be the case as well.

Although we don't always receive feedback from our customers on competitive pricing, we do sometimes, and I think you'll find that we've submitted some of that to you in some of the confidential information where you can see how the marketplace typically will play out.

COMMISSIONER PEARSON: A question for counsel. Is there any other country that provides an import restriction against Japanese clad plate?

MS. CANNON: Not to our knowledge.

COMMISSIONER PEARSON: Okay, so from the Korean point of view, what they're importing would be freely traded because obviously they have anti-dumping mechanisms that they could use if they felt that was appropriate?

MR. ROSENTHAL: And maybe we'll see a case at some point in the future, but you heard testimony earlier indicating that the Korean domestic capacity is beginning to grow. They haven't had that significant of an industry up until this point, but it is growing now.

COMMISSIONER PEARSON: Well, I know I've observed some other times that in an open and competitive market any firm can't get every sale it tries to get because the other firms have to get some sales or they'd go out of business.

And so it's not clear to me whether what's been discussed regarding Korea is just what we might consider open competition where you get one sale, you don't get the next and the market goes forward.

MR. BLAKELY: I think that that's a mischaracterization of our participation in Korea. Our margins and expert markets are usually significantly different than they are in the U.S. market and maybe it's something for us to talk about further in the posthearing brief about margins and market space specifically. But I know we treat them differently, and I don't think you should view them the same way either.

COMMISSIONER PEARSON: Okay. Well, thank you, and if you are able to put something on the posthearing record, that could be helpful. My time has expired, so I turn now to Commissioner Aranoff.

COMMISSIONER ARANOFF: Thank you. This wasn't where I was planning to start, but I actually want to pick up right where Commissioner Pearson left off. I think this was like tenth or twelfth on my question list.

You've given us some data in your slides and in your prehearing brief that do show a number of third country sales that were lost to allegedly low-priced competition from Japanese producers, and what I don't get a sense of from the data you've presented is how much of the universe of competition that represents.

Are these just the five or ten worst examples you could come up with? Is that half of everything that's happened during the period of review? Is there anything that you can do either now or post hearing to give us more sense of what the comprehensive data would like for competition with the Japanese outside the U.S. market?

MS. CANNON: Yes, Commissioner Aranoff. We can do that and I think this is confidential in some of the information we have in our brief, as you know, but I believe that some of that information was more general about what specific people were experiencing in other markets more broadly as opposed to the examples that were provided.

They tried to provide us what they could in specifics, but I think there's also information that suggests that that is part of a comprehensive aggressive pricing behavior that they are seeing generally, but we will see if we can get any more to supplement that proposed hearing.

COMMISSIONER ARANOFF: That would be helpful, and I can see that what Commissioner Pearson was trying to get at is if we have very specific evidence of a certain number of lost sales involving certain pricing behavior but we know that you are winning some sales and we don't what the pricing looked like in those competitions, you know, it would be helpful to have a fuller picture. So anything you can add would be helpful.

Let me go back now to where I was going to start which is actually following on some of the questions that Commissioner Broadbent asked about capacity.

Since we know that both the U.S. industry and the Japanese industry have fairly significant excess capacity at this point, I wanted to ask producers, are there costs associated with maintaining unused capacity; or alternately, are there costs associated with shutting it down in some permanent fashion?

MR. INSETTA: Yes. This is Bob Insetta from ArcelorMittal. There is a tremendous cost of overhead in maintaining clad production capability, and that's a point that we address as best we can by variablizing our cost as much as we can, but at some point, we get to the level where volume being very low just simply can't cover the overhead that we have.

And beyond overhead, it also gets to reinvestment. Within our company which, as you know, has gone from an individual Luken Steel Company to now a global company as ArcelorMittal, we compete for capital globally.

So when we have a need, for instance, in the clad department like we do now for some investment, when our volumes are as low as they are, it's very difficult to compete for capital and make the investments we need to make for sustainability.

The issue we face is that if these dumping orders are removed, we are absolutely going to lose more volume and the costs you talk about like overhead, beyond variable costs, become even a bigger factor for us to consider and that next step of capital investment becomes even more difficult. So I hope I answered your question.

COMMISSIONER ARANOFF: Yes. You did very much so. I don't know if anyone from DMC wants to add anything on that point.

MR. NICOL: The same is true for us. If you understand our process, you understand that we actually shoot inside of a mine cavity. We have two mines that we shoot in, and we have to lease both of those mines.

And because we mix our own explosives, we also have a lot of site licenses associated with being able to do that activity. It's, as you can imagine, a highly regulated business. So only if it would be warranted would we keep that capacity open because of the oversight involved with that.

COMMISSIONER ARANOFF: Okay, well, I appreciate all those answers, and they lead to my next question which is because this is a third review, we have data that are going back all the way to the original investigation with some holes because we did some expedited reviewed.

But if you look at the data going back to at least the 1990s, you see that more or less the domestic industry's been facing declining demand for a while. There have been some swings but has increased its production capacity to the point where it's certainly a good deal bigger now than it was at the time of the original investigation even though demand is less.

So what I'm trying to understand is why would rational businesses who have fixed costs that they have to cover be maintaining capacity and, indeed, sometimes investing in additional capacity in a market that looks like this one has since the early nineties?

MR. INSETTA: This is Bob Insetta from ArcelorMittal, and as I testified a few moments ago, we have not increased our capacity at ArcelorMittal to produce clad. But even beyond that, we have not -- when we talk about investment, we're talking about sustaining what we have in our case.

So we still have, depending on the mix of the product that we're producing, we still have tremendous excess capacity as you can see from the data.

COMMISSIONER ARANOFF: Now, are you in an all or none situation where you only have one line and if you close it down you're gone because it just seems like it would have made sense at some point in the last 15 or 20 years to have reduced capacity as opposed to continuing to maintain it.

MR. INSETTA: Yeah, we are a single line. It's all or nothing, and what we've done is we've variablized as much as we can meaning we have manned the facility for lower levels. The issue we have is the overhang of the fixed costs.

The equipment cannot be reduced in scope. All of the various equipment it takes to produce these products are needed regardless of whether, you know, we are selling at capacity or below capacity. We still need the same equipment to do that. So that's where the point is the fixed costs are really a problem as volume goes down.

MS. BECK: Commissioner Aranoff, this is Gina Beck from GES. Two points. One I think to address your question has to do with as you first mention because of some of the holes in the record from the expedited reviews that will explain some of the increase, but also, just from looking at the last four years from 2008 to 2011, I think it's significant to note that the trends have either been flat and even somewhat declining.

COMMISSIONER ARANOFF: Okay. Let me turn to DMC because as was taking place in your conversation with some of my colleagues, you were talking about increased deficiencies that have added to capacity and other modest additions that have been made. So I guess I should put the same question to you that I put to Mr. Insetta. Is it, your equipment, you have to have it no matter what level you're operating at, or are there ways that you could have reduced capacity without just stopping production?

MR. NICOL: Well, we can certainly reduce capacity by variably reducing work force. I mean, we're probably more work force dependent than my colleagues down at the end of the table. They're more fixed asset driven, and we're more people dependent. But there are some sticky costs in our process as well around maintaining mines, and site licenses, and explosives.

In terms of our addition of capacity, I think over the time frame that you talked about which is quite longer than this review period, I can only assert now if I can define this for you is that you have to understand our technology started out kind of as a laboratory thing, and you have to legitimize yourself as a producer.

And you need to have a certain level of capacity for us to even compete against our colleagues at the end of the table here on certain projects. If you don't have that capacity, there's no way we could have actually even competed with ArcelorMittal.

So over that time horizon, you're talking about, it's a pretty long time horizon I think that was probably at DMC's objective is to be a legitimate player in the U.S. domestic market. And you have to have something that's pretty comparable to what's in Coatesville to be able to do that.

COMMISSIONER ARANOFF: Okay. I have one more question that was going to sort of fill out this discussion, but with very little time left I'm going to save it until my next round. So thank you very much. Thank you, Mr. Chairman.

COMMISSIONER PEARSON: Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you, Mr. Chairman. Staying with that answer, Mr. Nicol, and going back to the issues we were talking about earlier about why Japan maintains so much capacity, would they give the same answer that you just gave that in order to be competitive players in this business they have to maintain that excess capacity even if current orders don't suggest that they'll be able to make sales to the level of that capacity?

MR. NICOL: I don't know how they'll answer that. My guess is that's how they'll try to answer it, but again I think as we've testified, the amount of capacity that they have even with the spiky projects that we see, it's not even going to make a dent in what they've got. I think that's the concern.

COMMISSIONER PINKERT: Thank you. Now, turning to the issue of vulnerability. I just have a sort of basic methodology question about that. Should we be taking a one-year or short-period snapshot in order to determine whether or not the industry is vulnerable, or should we be looking at longer term trends?

MR. ROSENTHAL: I do think you need to look at a longer-term trend in general. I don't think that a snapshot is sufficient in looking at vulnerability

COMMISSIONER PINKERT: So you would be focused, then, on the trend in terms of whether or not this industry is vulnerable?

MR. ROSENTHAL: Well, let me expand. I was unusually concise in my first answer. When you're looking at vulnerability, you're looking at more than one factor, and some of them are more susceptible to looking at trends.

But for example, demand in my view is an important factor when you consider vulnerability, and declining demand over time, the trend, is something that must be looked at I think over a longer-term period.

I think it's also, since you're looking at other factors such as revenues and profits, et cetera, again it has to be looked at over a longer term period because frankly declining demand even with a good year of profits and one particular year or a couple of years suggests that there still may be vulnerability because those profits may not be sustainable as demand declines and imports come into the market when you consider such things as Mr. Insetta just testified to which is the fixed overhead costs and the need to maintain the ability to continue to produce.

So I think all of those factors have to be looked at over time and a simple narrow snapshot for a year or even two does not give a sufficient picture to really determine vulnerability.

MR. HUDGENS: And if you review chart five of the confidential charts, you'll note that almost in all criteria there's been a significant decline in all of the criteria that the Commission looks at in terms of determining injury. There's been a significantly declined over the period of review.

COMMISSIONER PINKERT: Would you say that those declines are from levels that are historically unusually high or are they from levels that are normal levels for this industry?

MR. HUDGENS: Well, it's something that we'll put in the posthearing brief, but we would say that the decline has been from levels that are perceivably normal and in the period of investigation you have particularly in terms of volume and production is significantly lower than in any period that that Commission has looked at over a 20-year period.

MS. CANNON: Let me supplement that, Commissioner Pearson, if I might. I think if you look at the volume factors in particular, these are not -- I'm not sure what normal is sometimes, but they're not anything that would be something to write home about. Let's put it that way.

The past utilization even at the start of the period wasn't great, and look at it now and all your trends in terms of shipment and production are very low on an absolute level, and I think that's what we are trying to emphasize here, the revenues, the shipment volumes, the employment. Everything is very small.

You know, you need dollars to re-invest in a business, and when you look at how much there is here, it makes it very difficult for an industry to sustain itself especially when you're looking at the staggering volumes of unused capacity in Japan that could come in here.

So it's that very small amount of volume that has declined over the period even from where it started that is of tremendous kern and suggests vulnerability here.

MR. ROSENTHAL: One more point, if I might. You were talking about the trends with respect to the domestic trade factors, declining shipments, et cetera, employment, you name it. But one other important trend to look at when you're considering vulnerability is the trend and the increase in excess capacity in Japan.

That is an important factor when you consider the vulnerability of the domestic industry. It's that delta. It's the declining demand in the U.S., the declining market, and the unbelievably large amount of unused capacity in Japan that causes the vulnerability to the threat because it won't take much given where the industry is today to be that tipping point, to take away that last bit of volume, those tons that make the difference between profit and loss, between staying in business and getting out of business. That's the crux of this case.

COMMISSIONER PINKERT: Thank you. And finally, I wanted to ask you a question or two about your points about the hot rolled steel review. Now, I understand that your points about that relate to what happened after the revocation in that review. But if you could go back either in your testimony here or in the post hearing and tell us what are the similarities in the positions that the Japanese producers took in that case and in this case?

MS. CANNON: Well, let me refer you to, I think, some of the testimony that was provided at the hot rolled hearing by some of the Japanese producers as to plans as what they would do if the order was revoked.

There were claims made as to behaviors that would transpire once the order went away, and the Commission accepted some of those claims and looked at other factors as well, fairly. But when the order was removed, as you see from the chart appended to our brief, the Japanese imports spiked into this market and came almost immediately back upon revocation.

As I also stated in the brief, we're not suggesting to the Commission that any one case is a predictor of how things would happen because there are always facts that are going to be unique to each product in each industry, but I think that example is a cautionary tale to suggest that simply relying on claims of producers as to what their behaviors will be is not a good way to anticipate what will actually occur when you look at what did occur in that particular case.

COMMISSIONER PINKERT: Well, in particular what I'd ask you to take a look at is the claims that are made about the buoyancy of regional markets and the focus on regional markets. I think we're hearing or we will hear today about how the Japanese producers are really focused on those Asian markets, and I'm wondering the degree to which there's a parallel in the hot rolled.

MS. CANNON: Absolutely, and I don't remember those numbers as well as I might given the number of steel cases, and I'm not even sure what's confidential or public, so I'll have to look back at that.

But what I can say is that the enormity of the unused capacity here is so different than any other case including hot rolled, that's a huge difference. In almost all of the cases that we've been before you on recently involving Japanese producers, there have been claims of focus on the Asian market to different degrees.

And it's true. They do send a lot, sell a lot, to Asia. But the difference here is the Asian market is no way able to absorb the massive capacity that is available in Japan to produce clad plate, and that is not a factor that was true in the hot rolled steel case.

MR. ROSENTHAL: Real quickly. It's true. You've heard every Japanese sunset review saying don't worry. We're not shipping to the United States because Asia's going to take up every pound of steel we can ship there. In many instances or several of those instances, you had capacity utilization at, let's say, 90, 100 percent.

We know enormous rates of capacity utilization, and they said, well, we can't possibly ship another ton to the U.S. because we're so busy shipping to Asia and we have these long term contacts with captive or related customers.

That's why you'll never see a pound of steel ever coming to the U.S. in that particular product. That's a slight overstatement but that's the general thrust of it. Here, you've got nowhere near the capacity utilization you've seen in some of these other cases where those claims have made, not the long term supplier customer relationships that are tied and not the long term contracts.

You don't need to change anything with respect to your shipments to Asia for this particular product to have a tremendous amount of capacity and ability to sell to the U.S. So that's a major difference from some of the other cases. We'll get you more in the posthearing.

COMMISSIONER PINKERT: Thank you very much. Thank you, Mr. Chairman.

COMMISSIONER PEARSON: Commissioner Johanson.

COMMISSIONER JOHANSON: Thank you, Mr. Chairman.

This is a question for DMC. The Respondent's brief included limited information regarding your plans for possible operations in Asia. Would you please comment on those plans, what they are and what is their status. And if this is proprietary information, if you could please respond in your posthearing brief. Thank you.

MR. NICOL: Yeah, I can respond a little bit, but most of it will come confidential in our posthearing. Sustainability of exports from the U.S.

into Asia will be difficult for us. When you're moving costly, heavy large plates from U.S. to Asia with depressed margins already in that region because of the pricing structure that's in the Asian region, the only way for us to be competitive is to have regional supply.

So in general, that's what you've seen talked about at the corporate level from DMC as we certainly have a strategy or philosophy that we think to be successful for the long-term we need to have regional supply there to cut down the cost structure sufficient enough to compete in that region.

COMMISSIONER JOHANSON: All right. Thank you for your response. The staff report indicates in Section five that the prices of stainless and nickel alloys have changed as a result of major changes in nickel and molybdenum prices.

Has there been any difficulty in obtaining these or other raw materials during the review period and do you believe that this fluctuation is likely to happen in the reasonably foreseeable future? Thank you.

MR. NICOL: We've seen none, no impact on that. We're not concerned about that because of the situation where all of our products are made to order.

Any fluctuation of raw material costs are built into our cost structure, and the project that we're supporting is kind expecting those raw material costs in there.

COMMISSIONER JOHANSON: All right. Thank you. Mr. Insetta, did you want to add something?

MR. INSETTA: No, just in our case our raw material is a different type of raw material than DMC. Of course, DMC, their raw material is a plate product that they bond together.

In our case, it's actual either stainless plate or in some cases where we can melt the stainless ourselves, it would be some of the alloys. But we see no issue with availability of those alloys, and we continue to see variability in pricing but that's kind of a normal phenomenon in the market that does go in cycles.

COMMISSIONER JOHANSON: Thank you for your response. I have just one more question, and this is for ArcelorMittal. How similar or different is ArcelorMittal market experience for clad steel plate compared to its predecessor Lukens in the early to mid 1990s?

MR. INSETTA: Would you give me a little more on that, Commissioner, in terms of what --

COMMISSIONER JOHANSON: For example, how has the market changed since that period of time, so from the early to mid 1990s, to whom are you selling, how much has the industry changed to which you are selling?

MR. INSETTA: Yeah, there have been changes, and one was in my testimony regarding the fact that the demand is down. Demand is down, and we don't anticipate that it will come back, number one.

Number two, we've seen a change in some of our end user markets and one in particular is the coal fired power plant industry. That at one point was a very large market for us, and with current policy in that area, we don't anticipate that business coming back.

And we've also seen a decline in consumption of clad four vessels, and part of that is the Japanese bringing vessels in to this country and displacing many of the fabricators of those vessels, to whom we used to sell.

So the big change is that demand is down overall, and we see little hope that it will get back to those, you know, previously high demand that we experienced in prior years.

COMMISSIONER JOHANSON: Does your industry by chance sell into the nuclear power market?

MR. INSETTA: We do. We sell both some clad and some other products into that market.

COMMISSIONER JOHANSON: Because there's always talk about that possibly growing, but of course, what happened in Japan two years ago, I assume dampened enthusiasm for much more construction.

MR. INSETTA: Yeah. We're not expecting any tremendous opportunities in the nuclear business in the U.S. in the foreseeable future.

COMMISSIONER JOHANSON: Okay. Thank you for your responses.

COMMISSIONER PEARSON: Commissioner Broadbent.

COMMISSIONER BROADBENT: Thanks. I guess this is for Mr. Insetta and maybe to Mr. Nicol too as well. As corporations with, you know, big multinational corporations, how do you decide where to locate your production facilities and how do you service it?

Do you look for investment opportunities that are close to markets that you're trying to supply, or are you sort of buying existing traditional facilities that are there and updating them?

MR. INSETTA: This is Bob Insetta from

ArcelorMittal. In our case, we take a regional approach to serving markets, and as you may know, we have a sister company in Europe that also produces clad steel. And that company, Industeel, may elect to invest in their business regionally. At the same time, we'll invest in our business here in the United States on a regional basis.

Corporately, if there's an opportunity to expand beyond these two clad producing locations which is all we have at the moment, that decision would be based also on a regional type approach.

COMMISSIONER BROADBENT: Okay, so you wouldn't sell something from here into Europe. You'd service the European market out of Europe?

MR. INSETTA: That's correct. Unless there's an opportunity for us to supplement something that our sister company needs in terms of volume, for instance, a quick requirement on volume, and we can help with that, we'll do that, but typically not.

COMMISSIONER BROADBENT: Okay. Mr. Nicol.

MR. NICOL: From DMC's perspective, what we've done in the past has been a little bit by default. The reason being if you look at our technology, the technology that we use was originally developed by Dupont Corporation and they licensed that technology around the world.

And the origins of our company was one of the original licensees, but our facilities in Europe were also some of the original licensees, and so over time, Dynamic Materials in the U.S. has grown to be the parent company and has essentially bought the companies that were in France and Germany.

So a little bit was by default. They were already located there. So any strategy we have going forward would really be by choice; why would you regionally put facilities there.

As I mentioned earlier in questioning, it's very difficult for us to see a sustainable way to compete in Asia from the U.S. on the volume of projects that really are kind of at that sustainable level. We think we have to have a regional presence in the are some place to cut down on shipping costs and to be able to absorb lighter margins in those regions.

COMMISSIONER BROADBENT: But then you say that the Japanese can come here pretty easily.

MR. NICOL: Yes, from the standpoint that we see them in Canada quite readily, so if they can come to Canada easily, they would have the same issue with cost of shipping to Canada as they would to the United

States.

COMMISSIONER BROADBENT: Maybe the staff could help me here a little bit about what we can ask about the numbers that we saw on the sales into Canada. What kind of a question can we ask on the public record? I guess I'm curious. Is that one sale that's on your chart? All right.

COMMISSIONER PEARSON: Mr. Corkran, is it obvious how a question might be structured on this topic?

MR. CORKRAN: Although the numbers differ somewhat, volume numbers regarding export data from Japan to Canada can be taken from Table 4-4 that appears on Page 4-9 of the staff report.

COMMISSIONER BROADBENT: Is there anything you all can tell me about your sales into Canada, like, anything on the nature of them? The Japanese sales into Canada, excuse me.

MR. BLAKELY: Mike Blakely, DMC. This may be helpful. I think I can say this openly. In our confidential information we made reference to a specific case to give you some color.

COMMISSIONER BROADBENT: Yes.

MR. BLAKELY: On a specific order. But it's clear and we can add more of this later that that's not the only case of them selling material into the Canadian market. The Japanese sell multiple orders of material into that market. I'm not sure if that's the question you were working toward.

COMMISSIONER BROADBENT: Okay. Thank you very much. I appreciate it. When I was looking through our staff report, kind of looking at the demand for steel clad plate and it seems to really vary widely depending on industry specific cycles governed by global investment cycles or finding cycles.

Then there was some mention of political cycles. Are there a proposed government policies that lead to increases or decreases in demand for steel clad plate?

MR. INSETTA: This is Bob Insetta, ArcelorMittal. Yes, Commissioner, I believe I mentioned earlier, one of the big changes we've had from a policy standpoint has been the coal fire power industry and policy toward that industry, and there has been a significant reduction for us in our participation in some large clad projects that were used to scrub coal fired power plants. So that's been a major change for our business in the clad required for scrubbers in coal fired power plants.

COMMISSIONER BROADBENT: Okay, so it's hard for me to imagine a scrubber using a big -- but I guess it does.

MR. INSETTA: Yeah. It's basically in the chimney section of the scrubbers.

COMMISSIONER BROADBENT: Got it. Okay. So the demand there is falling because of environmental regulations on the particular facilities that use those scrubbers?

MR. INSETTA: Correct.

MR. ROSENTHAL: And as mentioned earlier, the nuclear industry was a potential user and policies that either encouraged or discouraged the building of nuclear plants is an example.

One of the policies that has turned out not to make much difference in this industry contrary to what some people might have thought has to deal with the whole boom in natural gas and fracking because, oh, this is a great opportunity for this industry.

COMMISSIONER BROADBENT: Yes.

MR. ROSENTHAL: As a matter of fact, clad plate really does not go into that market. So that's public policy that people might have thought had made a difference in demand, but it really doesn't effect this particular product. They effect other products.

COMMISSIONER BROADBENT: See, I was under the impression it was used to build the terminals where we're going to exporting a lot of this ONG.

MR. BLAKELY: Clad plate and natural gas have a certain partnership, but it's only when the gas is coming from, and it's usually off shore, deep, hot, corrosive wells.

In that particular instance or those instances, the gas and other things produced out of the ground may require processing through clad equipment until they remove the CO2, and sulfur, and other corrosive elements. We have not found an instance where Shell gas or recent gas finds in North America are requiring that clad material at all.

You mentioned terminals. We have a very small amount of non-subject product that we sell into export terminals, but it wouldn't be related to this case.

COMMISSIONER BROADBENT: And then what about Buy American amendments? Are you ever competing on contacts that would be governed by them?

MR. BLAKELY: The answer is no. We have seen cases where a Buy American influence was at least told to us at the beginning of a project, but by the end of the project and actual placement of orders, they certainly didn't follow through with a broad Buy American scope, so I don't think we've got --

COMMISSIONER BROADBENT: Sorry. When you say they didn't follow through with that scope?

MR. BLAKELY: Well, it was never clear to me. Keep in mind, we're pretty far down the food chain and we don't always get all the information from the original project folks.

COMMISSIONER BROADBENT: Right.

MR. BLAKELY: But it was made clear to me early stages of a particular project that because there was investment by the DOE and there was dollars that were coming from the America Recovery Act that there was stipulation within that project for purchasing of American content.

And by the time the project made it through to fruition and inquiries had gone out and fee studies, as Jeff had mentioned before, the front-end engineering design studies were completed, they opened the scope broader, more broadly, and certainly didn't purchase in any exclusive manner from U.S. producers.

COMMISSIONER BROADBENT: Thank you.

MR. INSETTA: This is Bob Insetta from ArcelorMittal. We see no requirements for Buy American on clad.

COMMISSIONER BROADBENT: Okay.

MR. NICOL: We have some material that we do make indirectly or directly for the U.S. Navy. It's Buy American, but it's less than one percent of our annual sales.

COMMISSIONER BROADBENT: Okay. Thank you very much.

COMMISSIONER PEARSON: You have indicated that you believe Japanese firms have suppressed prices in some of your export markets. Looking at the confidential data that we have for unit values don't really show what I'm seeing as significant differences between the prices you receive in the domestic market versus the prices you receive in export markets. How should I interpret that?

MR. NICOL: This is Jeff Nicol from DMC. We have the opportunity or choice, I guess, to pick and choose amongst those projects on an export basis whether we participate on or not. And we have chosen we're only going to participate on those projects for whatever circumstances allow us to make an adequate return.

So what you're not seeing, I think, are all the orders that are lost where we elect not to be a part of that are at those suppressed levels and so maybe that's not reflected in our data that we've submitted because we're only choosing to compete on and win those projects where we can make an adequate return.

MR. HUDGENS: Also, I might just point out that unit values in this case are not really that helpful or useful because they're such a large product mix both in terms of sizes, and cladding, and backing materials that cause huge variations in pricing within the product.

COMMISSIONER PEARSON: Okay.

MR. NICOL: The only thing I'll supplement to that is that volume of business that we choose to take on is not sustainable levels of business. In other words, we couldn't run our U.S. operations on those export orders alone.

COMMISSIONER PEARSON: Okay. A question for counsel. If indeed the domestic industry is only selling in export markets at prices that are adequately profitable and not selling at prices that are too low, is there a price suppression? I can see there could be foregone sales, but is there price suppression as we understand it?

MR. ROSENTHAL: Well, first of all, I'm not sure of the relevance of price suppression in third country markets. I'll start with that. I'm not sure that really matters at all.

I think when we're talking about the experience of the U.S. industry in third country markets what we're trying to demonstrate is the nature of the competition they're facing around the world and what they're likely to face in the U.S. market. But it's exemplary. It's not what I regard as conclusory.

The other point I'd make there is that you're not getting the total universe of the sales experience that was talked about earlier because all you're seeing are the sales that are one and the ones where they've decided did not accept lower prices or the price was acceptable. All of the sales that were lost or all of the sales where they lowered their price and still lost the sale aren't being reported.

The last thing I would say here is, and this is something that I think is important and it goes back to Commissioner Pinkert's question with respect to vulnerability, if the universal of sales that the domestic industry is making whether it's in third country markets or in the U.S. is shrinking because there are fewer and fewer sales in which they can make a profit.

That demonstrates vulnerability, and so that even if they are showing some profit, the fact that they've declined to accept sales at suppressed and depressed prices because they can't make a profit suggests that this is an industry that will be profitable until they decide, or the Japanese in this case decides, to come to the market and then the volume goes away, and the switch gets turned off, and they go out of business.

It's what I regard as a very tenuous position to be in where you can make profits on fewer and fewer sales until you can't make enough to sustain your overhead.

COMMISSIONER PEARSON: Okay. Ms. Cannon?

MS. CANNON: Yes. I was just going to add that legality I think the critical point for which we have cited the pricing in the third country markets is the underselling levels by Japan, the pricing levels. And we've cited several cases in our brief at which the Commission has recognized that such type of underselling behavior in a third country market could be indicative of how the Japanese would price here absent an order.

And were that to happen, then as Mr. Rosenthal described, basically the domestic industry is left with two choices here, either lose the sale because you can't compete with that or cut your price to an unprofitable level. So it's the projection, if you will, in a sunset context of what that type of pricing behavior here is going to do to the U.S. producers' operations for which we are relying on that data.

COMMISSIONER PEARSON: Okay. That's a great counterfactual way to look at this counterfactual analysis.

On this record we don't have as much comparative price data as we often have. We don't have much in the way of head-to-head competition, and it seems to me we have relatively little discussion of price levels in other countries.

And of course, it's rather common that we have an argument made that prices in the United States are higher than elsewhere and will draw product in. Do we have any knowledge of this at all or for the post hearing could we augment the record?

MS. CANNON: Let me start legally and then the industry members can supplement. We have not focused on relative price levels for a couple of reasons here. First, as you see, these are project by project bids, so it's not a commodity product that you can define and then compare two prices as you can in some other steel product areas and that limits the ability to say relatively, you know, this is the price in Asia versus the United States.

But also, when we have relied on those relative pricing information in other cases, it's generally to show that a foreign producer has incentive to shift sales from one market to another because the prices are relatively higher.

So when they're selling full out, say, and they're using all their capacity in selling to Asia, and we're saying they're likely to come here, the Commission asks why, and we say prices are higher.

In this case, our argument really is focused on the unused capacity. They have idle capacity there. In that situation, you don't need higher prices in the U.S. market relative to other markets to have an incentive to sell because you're motivated simply to maximize your production and efficiencies to sell if you can cover your fixed cost. And that's what we are completely projecting that they will do irrespective of the price levels comparing between the two markets.

With that being said, however, I think our industry sense is that from what they have seen, the price levels are higher at this point than in the other market simply because of the absence of Japanese competition. But let me let Mr. Blakely or Mr. Nicol expand on that.

MR. NICOL: I think Kathy said it correctly. We do see higher price levels in the U.S., and we've testified to that. And we can only surmise what will happen based upon what we're seeing in export markets what could happen into the U.S. market if allowed in.

COMMISSIONER PEARSON: Okay. If no other comments, I will move to the next question.

Is the yen dollar exchange rate an issue that we should consider? Has there been a change in that condition of competition between the mid nineties and now? If it's the same rate it was then, I would say there's no change as a condition of competition. If there is a change, maybe we should look at it.

MR. HUDGENS: We'll address that in the posthearing brief.

COMMISSIONER PEARSON: Okay.

MS. CANNON: We can look at it further for posthearing, although I would also point out that the Commission has recognized that using past exchange rate fluctuations to project future behaviors is somewhat limiting because you don't really know what the future exchange rates are going to be relative to one another. So I'm not sure how valuable that factor is in any event, but we'll happy to look into it.

COMMISSIONER PEARSON: Of course, but here we have the original finding now some 16 years ago under a set of conditions that may have changed, and so to the extent that we can understand those changes, that may be helpful.

My time is about to expire, so I will pass the torch along to Commissioner Aranoff.

COMMISSIONER ARANOFF: Thank you, Mr. Chairman. So at the end of my last series of questions, I was asking about past utilization, and I had one more question that I'm going to come back to.

In their brief, the Respondents say, and I think this is a quote, that available product capacity is a fundamental aspect of the clad steel plate business and that producers always seek to have enough capacity kind of sitting around ready for that order that might come in because you never want to say no.

And then if that's the case, the way that the Commission asks producers to report capacity in this investigation as sort of annualized and then look at the excess is really not a very meaningful way to look at capacity in this industry at all, and I wanted to get your thoughts on that.

MR. INSETTA: This is Bob Insetta from ArcelorMittal. I think the point on this would be that the excess capacity that exists in the Japanese clad mills is so great that even with the spikes in business levels that might result from a need for clad quickly for a particular job, I cannot envision that that capacity would be used and they would not operate at full capacity.

But even if we were to accept that idea, I think that the idea would be that there are times when that capacity would be full. That would be the argument. But most of the time that unused capacity is unused, so in those periods of time, there are very few additional places for the Japanese to go with that capacity.

So even if you accept the premise that there are spikes that would get you to capacity which I personally don't accept, but even if you were to accept that, the bottom of that cycle is just such a huge over supply that it has to go somewhere.

Now, we've seen the Japanese north of us. We've seen them south of us. They're in this side of the world competing hard for business, and I find it just not credible that they would not try to fill that capacity and not come to the United States. It just does not make business sense for them to behave that way.

MR. MAILER: Commissioner Aranoff, let me just add something. If you look at Table 4-3 in the staff report and look at the Japanese industry's capacity utilization rate, you do see some fluctuation but you're talking six or seven points, not accounting for 30, or 40, or 50, or even 60 percent under utilization of capacity.

The other thing to think about is when they're talking about they have to be ready for fluctuations, what they're saying is there is some episodic business, so what happens in between those episodes? What do they do with that capacity?

They still want to make as much as they can. Give them another 5,000/6,000 ton market and it would be illogical for them not to want to fill in between those episodes with opportunities in this market.

COMMISSIONER ARANOFF: Okay. Well, I understand all those arguments. I guess what I'm struggling with in this case is we have both the U.S. industry and the Japanese industry have substantial excess capacity.

You could argue about who has more and why, but I'm still trying to figure out if it's true and the record seems to support it for the periods of time for which we have data that seldom if ever get those spikes that get you anywhere close to using all your capacity. I'm just not sure how to weigh the degree of excess capacity on both sides and what it should tell me about the way this industry operates. So if there's anything you want to add posthearing, it's getting a little existential.

MR. ROSENTHAL: I understand why you're asking that question and I actually understand the question, but I'm not sure -- because capacity is being measured the same way on both sides of the ocean and if you measured it a different way, my suspicion is you'd end up with the same relative places which is there's still plenty of excess capacity and what are the Japanese, in this case, going to do with it.

The reasons you've heard for why the numbers look the way to do, but I don't know a better way to do it and especially when you've got the nature of this production process, I don't know a different way to make it better.

COMMISSIONER ARANOFF: Well, I think the answer may go to pricing. I think the answer may go to everybody could sell more. Everybody might want to sell more. Who is selling more and what is it about the pricing that's making that happen.

MR. ROSENTHAL: And one other thing that's so important in this case -- I'm sorry. I keep coming back to it, but I have to -- which is it's not just unused capacity. It's unused capacity compared to in this case demand in the United States.

And no matter what measure one could envision, the ability of the Japanese to use whatever capacity they've got to come in and take this market, this is like tip money, if you will, for them. There's such a gigantic disconnect between what they have to sell and the size of this market, this industry could be wiped out in a matter of months based on tonnage being taken away.

MR. NICOL: One thing if I could supplement, please. This is Jeff Nicol from DMC. One thing that we haven't spoke of and I think I'd ask the Commission to reflect on this is that, I can't speak accurately to their strategy but it seems to me like the capacity strategy.

They've built centers around a lot of the clad plate that they sell into the pipe market, and that's even a more grossly spiky market than what we're considering to be the vessel market. Those projects can ramp up by tens, twenties, 50 kilometers of pipe material.

So I believe, and you'll have to ask them, that they have maybe built their capacity strategy around that pipe market and, referring to what my colleague back here said earlier, the question is what do they do with that capacity between those pipe projects because they are not level loaded at all. They are very cyclical, and I think that's what our concern is.

MR. BLAKELY: And further to that, and this point may have been made in some regard earlier but I want to make sure that you understand, if the argument is made that this excess capacity in Japan is in place for spiky pipe projects or other increases in demand that have very short duration, when that demand is gone, when it diminishes -- and we know it doesn't sustain for a year. You can see it in the data. It's more gone than it's present -- you need to fill that capacity with something else and this becomes vessel work and that's vessel, and heat exchanger, and other smaller orders, and these are the things that are typically done in the U.S.

We don't have large pipe mill manufacturers in the U.S. that make kilometers and kilometers of pipe. The projects here are much smaller than that.

For us they're significant, but in the world of pipe they seem very small. But you need that to fill in the gaps, the spaces, the in between the spikes so that you can more level load your shop. It's very important.

COMMISSIONER ARANOFF: Okay. Let me turn to an argument that the Respondents made in their brief that I just wanted to give you the opportunity to respond to.

The Respondents have argued that because of the multi-step bidding process that's involved in selling product in the U.S. market, that U.S. producers are at a competitive advantage in somehow getting in at the early stages of the process to get to influence the design perimeters in a way that sort of helps them lock in ultimately the business. Can you respond to that?

MR. BLAKELY: If the Commission could help me find a way to lock in my product to any of these projects, I would appreciate the advice. I know you don't owe me a posthearing brief, but if you want to send me an email it would be much appreciated.

But in all seriousness to answer your question, these projects that happen in the U.S. are no different than any other project that happens in the world.

There's owner companies that are big names that everyone's heard of that want projects to be done. They may hire an engineering company to engineer and execute this project for them. Again, these are not names that are specific to the U.S.

And occasionally they'll hire a fabricator, sometimes in the U.S., sometimes in Korea, sometimes in other markets to produce pipe, pressure vessels, heat exchangers requiring clad plate for these projects.

There's nothing special about the U.S. market, and there certainly is no advantage to a local presence other than maybe I can go visit more often, but they have sales offices here. They have a presence here. The Japanese know this market very well. I would say that there's absolutely no difference and no advantage.

COMMISSIONER ARANOFF: Okay. Thank you very much. Thank you, Mr. Chairman.

COMMISSIONER PEARSON: Commissioner Pinkert?

COMMISSIONER PINKERT: I thank the panel. I have no further questions for the panel.

COMMISSIONER PEARSON: Commissioner Johanson?

COMMISSIONER JOHANSON: I have no further questions.

COMMISSIONER PEARSON: Commissioner Broadbent?

COMMISSIONER BROADBENT: I just want to thank the panel. No further questions. Thank you.

COMMISSIONER PEARSON: Commissioner Pearson. I have one quick comment and question. I regret that I didn't have a chance to tour either of the facilities. Both sound fascinating. I've seen roller mills before but never a clad one.

And I have some previous experience using explosives as a tool, largely to remove tree stumps from the ground when I was much younger and I still have all of me here, all my parts.

But I'm curious. What's the nature of the explosive? I wish I had been able to see it. How do you apply it to the cladding to get it to do what you want it to do?

MR. NICOL: It's a compound of ammonium nitrate mixed with fuel oil, and it goes on much like flour. I mean, it's the consistency of flour, and it's poured on top of the plate in a layer that's two to three inches tall, so it goes across the entire plate surface.

And that mixture is ignited on only one corner or one portion of the plate, so when it explodes or burns, it burns in a directional path across the plate, and that directionality then pushes the two plates or impacts the two plates together.

COMMISSIONER PEARSON: Okay. Thanks. I'll take your word for it.

MR. NICOL: If you get a chance, I think maybe Mr. Johanson has a copy of our modern marvels video that was made for them, the History Channel, and there's eight minutes on there that shows our process very nicely. It's really outstanding work and it's one of our best marketing tools, so if you get a chance, watch those eight minutes.

COMMISSIONER PEARSON: Okay. And it would be similar to gun powder that it burns kind of from one end to the other rather than all at once.

MR. NICOL: Exactly.

COMMISSIONER PEARSON: And you're taking advantage of that reality here in your process.

MR. NICOL: Exactly. And the trick is controlling it, the speed that it burns, the impact that it exerts. That's where the science is.

COMMISSIONER PEARSON: Yes. I think it's a lot easier to blow stumps.

COMMISSIONER JOHANSON: I might add as well that when I went there, I thought that maybe they took this compound down to the basement and locked the door and, you know, told everybody that it's going to blow up. It's not that. There's a big cave. They drive you up to a big cave. It's like way back into a mountain and blow it up, so it's really quite interesting.

MR. ROSENTHAL: Commissioner Pearson, just a bit of legal advice. Don't try that at home.

COMMISSIONER PEARSON: Fair enough. Thank you. Since there are no more questions from the desk --

COMMISSIONER ARANOFF: Commissioner Pearson, you forgot to ask me if I had any more questions.

COMMISSIONER PEARSON: Well, I am rusty at this chairing visit. Commissioner Aranoff.

COMMISSIONER ARANOFF: Well, as a matter of fact, I do have one or two more questions. Thank you. I did see the video, actually. It was very interesting.

Once question that I wanted to follow-up on, during the period of investigation, exports to the United States from Europe have been modest and sporadic would be my description although I note that there was some discussion in the brief about competition from Voest Alpine, the one European producer that's not related to a domestic producer.

Does the pattern of exports from Europe during the most recent period tell us anything? Is it informative in anyway about the likely volume of imports from Japan if you were to revoke since European product is not restrained?

MR. BLAKELY: Mike Blakely, DMC. I think I mentioned this earlier, but I'll restate it in answer to your question. It's my opinion that the competitive practices of the European producers is not nearly as aggressive as the competitive practices of the Japanese and, therefore, we do see them participate here but they participate in such a way where the playing field stays somewhat level and they aren't aggressively seeking to dump their product in our marketplace.

MR. INSETTA: The other thing I may add -- this is Bob Insetta from ArcelorMittal -- is that I'm not sure which period you're talking about Commissioner, exactly, but when we combined with our sister company Industeel in 2007, at that point we went to the regional concept of production.

I can't tell you sitting here how much

Industeel France clad came into the country prior to that, but there was competition between Industeel and Lukens at the time, and they were present here in the U.S. That doesn't exist anymore, so that may have some effect on the numbers as well.

MS. CANNON: Yes, Commissioner Aranoff. I was going to make that point, and that's equally true of DMC. You have affiliates that are going to, as they said as their strategy, have regional sales, and so the Industeel and DMC operations in Europe are selling there, and then their U.S. operations are selling here.

So Voest Alpine is the only other sort of significant producer, and they do see them compete, but not at the aggressively low prices of Japan.

COMMISSIONER ARANOFF: Okay. Just to round out my understanding on another point, the non-subject clad plate that's coming in from Japan, what is that product and what is it used for?

MR. BLAKELY: Mike Blakely. DMC. I think we could make some assumptions, but I personally don't know. We may have that information. I don't know. It may be a better question for them.

MR. HUDGENS: We believe that some of it is actually strip. It's clad strip, and so it does not meet the dimensions of the scope.

COMMISSIONER ARANOFF: As opposed to it being product that's been clad with something else that's outside the scope, you're saying it has to do with the size dimensions?

MR. HUDGENS: Right.

COMMISSIONER ARANOFF: Okay. That's helpful. I almost hesitate to ask this question, but I'll ask it as my last question and at the risk of sounding mean.

At the current time, the U.S. industry holds a very dominant market share in the U.S. market and it's based on only really sporadic import competition from anyone during this most recent period of review.

In these circumstances, what volume or market share of imports would it take for the Commission to find that that would likely be injurious in particular, for example, relative to the, I think, it was 11 percent was about the high share achieved during the original period of investigation? Does it have to go to 11 percent, half of 11 percent, one percent?

MR. ROSENTHAL: With respect, I think you could have one percent with aggressive pricing and the domestic companies deciding they need to lower their prices to hang onto their own volumes so they can cover their overhead.

So it's not a matter of import penetration going up into double digits. It is what's the nature of that competition. And as you know, the injury could be caused by price suppression or by lost sales. So I don't think there's a priority number to come to that because it depends on how they decide to meet that aggressive competition.

MS. CANNON: I would also add that while putting a number on it is a little difficult to say a specific percentage is injurious, if you just look at what some of the charts were that we circulated and compare some of the volumes you've got of unused capacity or sales into other markets relative to U.S. demand, it is so big that you're way beyond, really, the levels of what was injurious even pre-order.

COMMISSIONER ARANOFF: Okay. One last question. Mr. Gregg has sat back there very patiently all of this time, and I was feeling a little bad for you at one point as we were hearing references to the way that costs are being variablized and I was thinking that you and your fellow workers are one of the things that are being variablized I would suspect.

You had talked about employment being

reduced through attrition. When is the last time that a new worker was hired in the plant?

MR. GREGG: Our last new hire would have been probably 2011. I'll say we've had some sporadic hiring and most of them were crafts people. As far as production workers, probably 08, and they went through the layoff processes with the recession. They have since been back to work. They've been recalled back to work, but in that process we've lost about a dozen workers. Through attrition to this point we've attrited about 20 to 25 people.

COMMISSIONER ARANOFF: Okay. Do you want to comment at all on this issue of variable costs and what that means for a typical worker's work schedule and pay?

MR. GREGG: Hours of work and job classifications, lower pay. Reduced hours.

COMMISSIONER ARANOFF: Okay. Well, thank you very much. I want to thank everyone on the panel for all your answers this morning and for you patience.

MS. BECK: Commissioner Aranoff, I'm sorry. You're prior question, I just wanted to add one point. You had mentioned how the Respondents claimed that a certain level of unused capacity is necessary.

I think it would be helpful if you look back at the original investigation at what capacity utilization rates were for the Japanese producer that responded and participated, and I think that will be very helpful for you to see.

COMMISSIONER ARANOFF: Okay. Again, thank you all very much for your answers and for your patience this morning.

Thank you, Mr. Chairman. Now I really am done.

COMMISSIONER PEARSON: And to be very certain, any further questions from Commissioners Pinkert or Johanson? Commissioner Broadbent?

COMMISSIONER BROADBENT: Sorry. I just had one more clarification. You all had referred to sales into Latin America that were going to be surrounding the U.S. market to include, you know, the Canadian sales but then you referred to Latin America. Are you talking about -- and I'm looking at slide 11 on your public presentation -- is this the Brazil number in 2006, I guess? No. It's a Mexico number in 2006 and then a Brazil maybe 2010?

MR. BLAKELY: More than Latin America, I would say South America. The propensity for projects is in South America, Brazil specifically. We see them participate in Argentina, Peru, other South American countries.

COMMISSIONER BROADBENT: Okay, on this chart there's nothing in Argentina, right?

MR. BLAKELY: They may not have during the period of review exported material there, but we're seeing them begin to participate, and by participate I mean they're being inquired on projects.

COMMISSIONER BROADBENT: Okay.

MR. BLAKELY: And as clarification, they did have some export work in 2007 to Argentina.

COMMISSIONER BROADBENT: Got it. All right. Thank you.

COMMISSIONER PEARSON: Seeing no further questions from the desk, Mr. Corkran, do members of the staff have any questions for this panel?

MR. CORKRAN: Douglas Corkran, Office of Investigations. Thank you, Mr. Chairman. One very brief question directed to Mr. Blakely based on some of the testimony from this morning.

Mr. Blakely, you've been describing some of the prices that you had seen in competition in Korea, and over the course of this morning there was discussion both about bids that were won in Korea and bids that were lost in Korea. Would you say that DMC was successful in bids for product that involve thicker material, say more than two inches in thickness versus the bids where it sometimes saw Japanese competition below production cost?

MR. BLAKELY: Historically I think that there's been an understanding that explosion welded clad is less comparable to roll bonded clad in certain thickness ranges because of where -- and I think you'll see in some of the exhibits that were produced by the Japanese that we talk about having a sweet spot and a place where our business fits better.

We've tried very hard and I think successfully at DMC to be able to create or produce products at thicknesses that wouldn't traditionally have been thought of as, to use that word again, our sweet spot. We are comparable to make thinner clad than two inches at very competitive pricing.

That being said, I think in a general sense we expect that we will be more competitive still on thicker plate. It's difficult for me to say that two inches is a good cutoff or would it be an inch, or an inch and-a-half, or three quarters of an inch where we would expect to be more or less competitive.

I think that's difficult to talk about, but I think that any of those thicknesses are easily producible by a comparable qualified roll bonder. Two inches does not hit their limit by any stretch of the imagination. We certainly can produce at that thickness and thicknesses well beyond that.

And so competition at that thickness would be just as strong as at thicknesses above or below that. Does that answer your question, Mr. Corkran?

MR. CORKRAN: It does, and I thank you very much. And with that, staff has no additional questions. Thank you.

COMMISSIONER PEARSON: Mr. Moran, do those in opposition to continuation of the order have any questions for this panel?

MR. MORAN: We have no questions, Mr. Chairman.

COMMISSIONER PEARSON: Okay. Well, it seems to me like a perfectly good time to take a lunch break. So I propose that we recess for a little over an hour and return at 1:30. I probably should mention like always, the room is not secure so if you have valuable items, please take them with you.

(Whereupon, at 12:26 p.m., the hearing in the above-entitled matter was recessed, to reconvene at 1:30 p.m. this same day, Thursday, December 6, 2012.)

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

(1:31 p.m.)

COMMISSIONER PEARSON: This hearing is now reconvened. Mr. Secretary, as a preliminary comment, I would just note that Stuart Weiser of the Chairman's office is following this hearing apparently quite closely from the comfort of his office, and I received an email from him shortly after I made the comment at the end of the first session of the hearing in indicating I hadn't had a chance to see the explosion bonding.

His email said well, I've got the video right here in my office, look at over lunch, so indeed I did that, and so now I've at least had a look at explosion bonding as the History Channel understands it, so thank you for prodding me in that direction? Are there any other preliminary matters, Mr. Secretary?

MR. BISHOP: Mr. Chairman, this afternoon's panel, those in opposition to continuation of the antidumping duty order have been seated. All witnesses have been sworn.

COMMISSIONER PEARSON: Okay. Please proceed, Mr. Moran. Welcome to all of you.

MR. MORAN: Good afternoon again, Mr.

Chairman and members of the Commission. We'd like to begin this afternoon with Mr. Esumi.

MR. ESUMI: Good afternoon. My name is Takeshi Esumi. I am the Staff Deputy General Manager of the Sales Coordination and Operation Planning Department of JFE Steel. At JFE, I have the primary responsibility to coordinate the company's trade compliance matters, including antidumping. First of all, I'd like to discuss the participation of the Japanese producers in this sunset review.

JFE and JSW are member companies of the Japan Iron and Steel Federation, JISF. NSSC's parent company also is a JISF member. Asahi Kasei is mainly a chemicals company is not a member of JISF. Until now, Japanese steel producers and their affiliated companies have participated in many trade cases around the world on both as exporting companies and domestic industry. Consequently, we have a broad, systemic interest in the global trade remedy regime under the WTO agreements.

The United States is a leading country for trade remedies and often influences the practices of other countries that conduct trade remedy investigations. The Japanese government has cited U.S. antidumping duty measures that have been imposed for many years on several occasions. Japanese companies have been encouraged by the government to participate in sunset review proceedings as much as possible to that there are full reviews.

With this in mind, the JISF members that produce clad steel plate and NSSC decided to participate in this sunset review so that there was sufficient information for the Commission to conduct a full review. JFE Steel was selected as the company to coordinate the participation of the Japanese producers in this review. JSW and NSSC could not be here today, but if the Commission has any questions about JSW and NSSC that we cannot answer based on our general knowledge of the industry in Japan, we expect that JSW and NSSC will be able to provide written responses in our posthearing brief.

We also will reach out to Asahi Kasei if there are questions about that company. As Mr. Asano will discuss, JFE and its predecessor companies Had not exported clad steel plate to the United States at the time of the original investigation and have not since then. In addition, we do not have any business plans to do so in the future as we have concentrated our efforts on the Asian market, which is the largest market for clad steel plate by far.

As part of this effort, our shipments to other markets have declined as it is not efficient and does not make business sense for us to take sales resources away from the Asian market. I believe this can be said with respect to the other Japanese producers as well. The long-term demand for clad steel plate in Asia is high. Many fabricators, which are the main customers of clad steel plate, have moved production facilities to Asia and our sales have followed this trend.

Also, increasing energy demands in Asia, which require steel clad steel plate for new applications, such as clad steel pipe for line pipe, will only strengthen this trend. Given our proximity, we can service our key Asian customers in real time during our normal business hours and can advantage of the efficiencies of focusing on this large and growing market. We estimate that over 99 percent of the clad steel plate produced by the Japanese producers is sold in Asia. It is unlikely that this will change regardless of what happens to the antidumping duty order in the United States.

Next, I would like to touch upon some issues cited in the briefs of the U.S. domestic industry. First, the U.S. industry has suggested that the

Japanese exports of non-subject clad plate to the United States indicate that the Japanese producers of clad steel plate would be willing to export subject plate to the United States. We have tried to figure out exactly what non-subject clad plate products have been exported to the United States.

Japan Customs keeps export statistics by boat. We have looked at the export statistics, and it appears that the non-subject products were not produced by the Japanese clad steel plate producers. Rather, it appears that the non-subject products are what we call welded steel overlays or other non-subject products and produced by companies that do not produce clad steel plate. Welded steel overlays are not categorized as subject clad steel plate.

The Japanese producers of clad steel plate do not manufacture welded steel overlays. Welded steel overlay is manufactured by companies that do not produce clad steel plate. Thus, we do not believe that the existence of non-subject products provides any evidence of the purported willingness of the Japanese producers to export subject clad steel plate to the United States. Thank you very much.

MR. MORAN: Next, Mr. Asano will say a few words.

MR. ASANO: Good afternoon. I am Shigeo Asano, Manager of Titanium & Clad Steel Plate Section of JFE Steel. I joined the Fukuyama Steel Works of NKK in 1988. NKK began commercial production and sales of clad steel plate in 1985. Because NKK had not exported any clad steel plate to the Unites at the time of the original investigation, NKK did not participate in the proceeding.

NKK merged with Kawasaki Steel to form JFE Steel in 2003. Prior to the merger, NKK had not exported any clad steel plate to the United States, and to this day, JFE Steel has not exported any clad plate to the United States. Because of this, we do not have information on the U.S. market, so I'd like to speak about JFE's experience in Japan and other markets. I am also generally familiar with the other Japanese clad steel plate producers and will discuss them briefly.

I would like to touch quickly on certain key differences between the production of clad plate and other steel products like carbon steel and stainless steel. Carbon and stainless steel typically is produced through continuous production. Production of efficiency is emphasized in the continuous production of carbon and stainless. It is important as it is not efficient to start and stop the production of carbon and stainless.

In contract, clad steel is a high-value added product whose production is on a batch basis with many production bottlenecks. For example, the based steel plate must be welded manually to the cladding as one of the bottleneck production processes. Production efficiency is dictated more by the production bottlenecks and by other factors such as welding, thickness of plate, width of plate and types or grades of steel.

Production is stopped and started for each batch. Even when the output may appear small in terms of weight, we are operating at full capacity in that we cannot produce more clad steel at that time. Thus, the production capacity for clad steel plate is somewhat difficult to measure. A lot depends on the particular type of product we are producing in a particular batch and the constraints on producing the particular product.

Thus, to produce at full theoretical capacity when measured in weight, we would need to make only one type of basic clad steel plate that does not have product constraints. The utilization rate for the production of clad steel plate by necessity is lower than that of carbon or stainless, which requires continuous production. As a matter of profitability, it is better to produce difficult higher-value added products rather than base products even if by doing so our capacity utilization rate when measured by weight is always lower than our utilization rate for carbon or stainless steel production.

Next, I would like to explain some key changes in the sales trends for clad steel plate. About three years ago, a few European pipe producers contacted JFE to see if we could supply clad steel plate for their pipe applications, especially for their production in Asia. These pipe producers have opened production facilities in Asia over the past few years. Although they normally had sourced clad plate from European suppliers, they had been looking for a supplier for Asia for their Asian factories, which are not just ramping up production.

Previously, we have not produced clad steel plate for pipe applications. After these inquiries, JFE researched and developed clad plate products for use in pipe production. We can provide additional information on our sales to these customers and the estimated demand for this new sales channel in our posthearing submission, but given the expected increase in demand for pipe applications for Asian energy development, we expect significant increases in demand for clad plate for pipe end uses in the near future.

Similarly, given the increasing demand for clad steel pipe, I would expect that JSW, which is a major producer of clad steel pipe, will use more of its clad plate production through its clad steel plate production as pipe is a much higher value-added product. I was a bit surprised about the statement in the domestic producers brief regarding Japanese exports of clad steel plate to Canada and Mexico as suggesting that Japanese producers would export to the United States.

First, there have been no Japanese exports to Mexico since 2006. Second, exports to Canada have been comparatively small and declining. As our focus is on the Asian market, the Japanese producers no longer have much interest in other markets. Nearly all of our shipments are to the Asian market, including Japan. Back in 1996, the U.S. might have been an attractive market for clad steel plate, but this no longer is the case as Asia is the largest and growing market for clad steel plate.

The domestic industry has argued that JFE's sales office show that we have the ability and interest to sell clad steel plate to the United States. This is not correct as our two offices do not have the experience or technical know how to sell clad steel plate, which is a niche product. First of all, our Houston office sells only line pipe and OCTG and has no familiarity with other steel products.

Second, the sales and technical staff in our New York office only have experience in basic steel products. We have only two sales staff and two technical staff in our New York office. None have any experience with clad steel plate. As explained in the investor presentation and the other materials from DMC that we included in our prehearing brief, the sales of clad steel plate requires dedicated resources and highly-technical knowledge.

Sales of clad steel plate at JFE is handled by sales staff at the clad plate division and not by general sales staff. For the size of the market, it would not make sense for us to add the people necessary to support the sales of clad steel plate in the United States. I believe that such indications would be true for JSW and NSSC as well. Please allow me to briefly discuss the other Japanese producers.

Asahi Kasei is a chemical company that can produce clad product by explosion bonding. Their focus is on high-value, specialty products. They use explosion bonding to produce many different types of clad products other than clad steel plate. For example, they produce clad products that do not contain any steel, such as clad copper, clad magnesium and clad titanium. We understand that their exports of clad steel plate are to Asia.

For clad steel plate, NSSC is only in the domestic market. We have not ever seen them in any export market. We understand that NSSC can produce types of clad steel plate that typically are sold only in the Japanese domestic market and are not used in other markets. JSW is unique in Japan as they produce both clad steel plate and clad steel pipe.

As demand for clad steel pipe increases due to the expansion of demand for clad pipe in energy applications, mainly in Asia and the Middle East, we believe that they will use more of their clad plate in their own production of pipe, which they already produce in large quantities. Thank you very much. I would be happy to answer questions that you may have. Thank you.

MR. MORAN: Okay. I just have a couple of points that I would like to cover before we wrap up to supplement some of the information that the Japanese producers put in their prehearing submission, and first, it's something that the Commission was struggling with this morning as well, and I assume you will in your determination, regarding how to consider capacity utilization.

Before going into the particular information, it does bear mentioning that one of the Japanese producers had misunderstood the section in the Commission's questionnaire regarding production levels but did not identify this until after the prehearing staff report was prepared, and we do appreciate that counsel to the domestic producers did take that into account in their confidential exhibits that they provided you this morning, so we do appreciate that.

This producer has now submitted the corrected information to the Commission, and we believe that the corrected figures should be taken into account, and the numbers do appear a bit different. I'm not on the APO, so I don't know exactly what they are, but I believe that they're a bit different. Also, as discussed in the prehearing brief, how capacity and capacity utilizations should be viewed for the production of clad steel plate is probably the key question that you will have.

There are distinct differences between the production and sales experience of each of the Japanese producers, which should be considered. First, and Mr. Asano just mentioned this, NSSC produces clad steel plate only for the domestic market, and we mean only for the domestic market. There are certain production limitations in their production that does not allow them to make clad pipe products that are typically used in other export markets.

There's information on record that shows that this company has not exported clad steel plate to any market. They're sitting next door to the largest market for clad steel plate in the world, and they haven't exported an ounce, so it doesn't seem likely that if the order is revoked that this company will suddenly change its ways and export clad steel plate to the United States. One thing that I would like touch on, it was in the domestic producers prehearing submission, and they touched upon it today, was the article on NSSC.

The article that they've provided on NSSC regarding their plate exports were for plate. They weren't for clad steel plate, which is subject merchandise. The entire article was about duplex stainless, which is a product that competes with clad steel plate, and I think it's very telling that this company that doesn't export clad steel plate is investing in a product that competes with clad steel plate as an indication of what they will likely do in the future with regard to the subject merchandise.

Similarly, the record evidence shows that Asahi Kasei has focused on the Asian market, and there's no evidence that the company has any interest in any other export markets. We know that DMC's form 10K to the SEC refers to Asahi Kasei as a local brand and that DMC faces competition from them in Asia. DMC's 10K also discusses competitions in the Americas and Europe but refers to Asahi Kasei only as a competitor in the Asian market.

These factors should be taken into account along with Mr. Asano's explanation of the production processes for clad steel plate. Also, the testimony we heard this morning and in the original investigation regarding how the producers look at capacity utilization, and there always is a certain degree, and I don't know if there's any way to quantify it where there is what you could say excess capacity baked into their business model.

It's like a restaurant being able to hold a lunchtime crowd but having nobody there in the afternoon and a crowd at dinner. You measure capacity as to when you can sell a particular product or your lunches or your dinners, but you still have that infrastructure during the intervening hours where you don't have any customers and not much sales, so that's a little bit different than carbon or stainless, which is produced in a continuous fashion and can be produced to inventory.

We really don't have much information on pricing, especially the Japanese producer as they haven't been here for quite some time, but the information collected by the staff in the staff report I think is quite telling. There are statements in the staff report regarding the fact that the majority of purchaser, they're saying that eight of the purchasers reported purchasing clad steel plate from one source, although a comparable product was available at a lower price from another source because of availability, transportation, time to fill order and other factors.

If eight out of 12 or eight out 11 of the purchasers are buying at a higher price, it seems a bit of a disconnect with some of the testimony that we've heard earlier this morning. Also, and it's covered in the prehearing submission, but the emphasis on delivery times and availability, the number of times I just cited, is actually quite comparable, and the delivery times listed more frequently as the leading, the most important factor in the purchasers' decisions.

Mr. Asano can speak to this in more detail, but there was some questions this morning about the use of pipe in the United States as opposed to pipe in Asia, and it came out in the questions and answers this morning, but clad steel pipe is typically used in sour drilling situations, ocean drilling and many of the drilling operations in Asia, which is perhaps why the Japanese producers, including clad steel pipe producer JSW, are very familiar with this product, but there's less familiarity with pipe applications in the U.S. producers.

There's one other dynamic that was touched upon this morning and was touched also briefly in the Japanese producers' prehearing submission about the optimism towards the Asian market, so if you read the quarterly press releases of DMC, they actually say we're optimistic, taking about expanding into Asia. It was nice to learn today that there are Korean producers now, Han was cited specifically, that have tripled their capacity.

If there is so much over capacity already, why would a Korean producer all of a sudden triple its capacity where there apparently is a capacity glut, so there are interesting dynamics for this particular product, and it is quite different, than many of the other steel products that the Commission is familiar with, so that ends our affirmative presentation. We would be happy to answer any questions you my have.

COMMISSIONER PEARSON: Thank you very much for that testimony. We appreciate you being here, especially those who have come from Japan. Washington is a pleasant city in most circumstances, but I wouldn't normally recommend that people travel thousands of kilometers to come in December. We have no snow. It could be worse, so you are very welcome. We will begin the afternoon questioning with Commissioner Johanson.

COMMISSIONER JOHANSON: Thank you, Mr. Chairman, and also my thanks to all of you for appearing here today. I know that you came a very long way. My first question follows up on something which Mr. Moran was just discussing. In your brief, you explained that given the emphasis that purchasers place on delivery time, availability and sales support, it makes sense for Japanese producers to focus on local Asian markets. How often do your clad plate orders require quick delivery?

MR. ASANO: Almost every day, we have many inquiry from the customer, and quickly we answer to them. We say there are two stages. First stage is just inquiry, and what we call the budget, budget meaning either customers making project budget to something, and second stage is a bidding stage, and finally, a buying stage, so we everyday quickly answer some of budgetary or bidding or purchasing, the buying stage or something. Approximate time is three months from their order to delivery, and real time is three months.

COMMISSIONER JOHANSON: About how often do you all have requests for quick deliveries?

MR. ASANO: Sometimes two days or three. Recently, almost all order always customers very strongly request from us short-term delivery, but depending upon our capacity very, very much bottleneck, so many bottlenecks, so if we try to do by our best, two and a half or sometimes two months and one week or something. This is the very shortest, no more than three months needed.

COMMISSIONER JOHANSON: And how often are quick deliveries for products which might be called specialized products that your customer might need because they need it basically on an emergency basis like in order to keep their operations running?

MR. ASANO: Basically, the emergency short time delivery request is not much. The reason why, basically if we get the order before the start of the production, we discuss about the details with the customer, so basically, customer accepted three months or two months and five, 2.5 months, and again, we are manufacturer, so sometime we have facility broken or some trouble has occurred, but we have to keep the delivery time, so we have emergency quickly produce. That is why not so much emergency delivery, so sometimes one or two months one time or two times or something, or basically not so much, basically no.

COMMISSIONER JOHANSON: All right. Thank you for your response. Now I'd like to turn to what is happening in China. The ITC has almost no information on clad plate production in China. Our staff report states that there are an unknown number of producers of that product in China. China is reportedly one of your principal export markets. Have your exports to China increased or decreased since 2006, and also, to your knowledge, what is the current state of production in China?

MR. ASANO: After 2006, we have no export to China, and recently, some orders we received. The reason why we have no export to China, the reason is in those days, China has no producer, clad material producer in those days, the 10 years before something, but recently, some explosion company is there. In the morning session, the DMC's very good explanation that explosion bonding is a very severe regulation, the environmental stress on something.

I certainly just say my feeling that China is not so severe regulation about their environmental, so recently, so many explosion bonding producers is there, so we cannot export to the China market. China market supplies by themselves.

MR. MORAN: If I can supplement Mr. Asano's answer. He was speaking for JFE Steel obviously. We do know that Asahi Kasei has exports to China. I believe in the domestic producers brief, they put in an article about Asahi Kasei's exports to China. In the Japanese producers' prehearing brief at Exhibit 12, this is actually pulled directly from the staff report, showing export levels to China ranging from about 1,100 tons to 4,000 tons per years, so like most of the other markets, there is some fluctuation from year to year, but that's a typical trend, so there are still exports from Japan to China.

COMMISSIONER JOHANSON: But from what you understand, production is increasing internally in China?

MR. ASANO: Maybe. I think so.

COMMISSIONER JOHANSON: Okay. And do you all compete with Chinese product in third-country markets?

MR. ASANO: Completely not. The reason why, and mainly, our high-value added clad material is used for the pressure business, and pressure business is for petrochemical or refinery or some natural gas resources or something for refining, and sometimes that customer request only the condition is except Chinese one. The reason why is Chinese bonding material is not so good quality, so my personal understanding is China has no expert, not so much, cladding material. The research why depends on their quality.

COMMISSIONER JOHANSON: All right. So their using it in the Chinese market, and in outside markets they would not be accepted because of the quality problems?

MR. ASANO: Just my understanding.

COMMISSIONER JOHANSON: Okay.

MR. ASANO: So I worry about China's petrochemical or power plant, nuclear plant, or it's very worry about that, the reason why they're using the Chinese bonding clad.

COMMISSIONER PEARSON: Okay. Thank you. Now I'd like turn to the issue of capacity, which you all know was discussed this morning, and I assume it will be discussed more this afternoon after me, what is a typical size of orders for clad steel plate that justifies the need for the level of capacity maintained by the Japanese industry?

MR. ASANO: I'm sorry. It is a little to explain in details, and Mr. Moran used the analogy, restaurant analogy, and yesterday morning, I ate breakfast panini, and panini machine is batch by batch pressing, so someday children come to buy panini, they need small one. Small one, on batch, and the other day, the very big, big man come to purchase panini, but this is big one, so depending on which size or which thick or which grade is very important for the capacity, so I'm so sorry.

It is very difficult generally speaking what capacity is the normal one, abnormal, but just my personal sales experiences, some data shows the

Japanese producers have so much excess capacity, but my feeling is, lastly, almost always we face is a capacity limitation, the reason why some bottlenecks. Sometimes heat treatment, sometimes the salability or sometimes just pieces or something, so many reasons. The reason why, our cladding material is like produce panini.

COMMISSIONER JOHANSON: My time has expired, but I'll just finish this one question. Has your company or any of your companies ever faced a problem with bottlenecks where you cannot produce orders because you don't have enough capacity?

MR. ASANO: Yes. Main limitation of the capacity, as I'm a manager of the sales department, always I discuss and argue with factory person is heat treatment, and heat treatment is required very similarly depend on the ASME, American Standards of Mechanical Society, and ASME is a very, very basic standard for the pressure business, and ASME requires all our products by heat treatment, but our heat treatment capacity is the bottleneck always, so almost all export materials required by ASME standard, so sometimes we cannot produce much more orders.

COMMISSIONER JOHANSON: All right. Thank you for your responses, and my time has well expired.

Thank you.

COMMISSIONER PEARSON: I would just note, Commissioner Johanson, that you did an excellent job competing with the entertainment provided by the leaf blowers. That's one of the other aspects about heaving a hearing in December. Sometimes we get this extra activity. I trust they will be done soon, so let's continue. Speaking carefully into the microphones, I think we'll be able to hear. Commissioner Broadbent?

COMMISSIONER BROADBENT: Mr. Moran, I just wanted to draw you out a little bit on something you said about duplex stainless, which will probably compete with clad plate in the future. Who's investing in that did you mention?

MR. MORAN: This was an article put in by the domestic producers regarding NSSC, and it's a fairly lengthy article that discusses the amount of investment that NSSC has made in the production of duplex stainless. Duplex stainless, for some applications, can compete and displace clad steel plate.

COMMISSIONER BROADBENT: Okay. Well, from your perspective, what's driving demand for steel clad plate in the market, and why is the U.S. market diminishing?

MR. MORAN: We really learned everything we know about the U.S. market from the staff report, so for the Japanese producers, when looking at this market, because they haven't been present here for 15, 16 years, and when we say they haven't been present, only JSW had exported. We haven't any instance where another producer has exported to the United States, so it's limited to just JSW and limited to some shipments in the 1980s and 1990s, so we don't have current information on demand in the United States, but we did hear testimony from Mr. Asano about the relocation of fabricators to Korea, mainly.

This actually was in the testimony of the original investigation when they were talking about demand prospects, and I believe it was one of the Lukens officials was talking about the relocation of fabricators outside of the Unites States or the potential that they're competing not necessarily for their sales in the Unites States, a particular fabricator here, that's what I drew out of it, but the fabricators are competing amongst themselves.

We know definitely there has been a relocation of production of the fabricators mainly to Korea. Beyond that, we can't speak that much about demand in the United States.

COMMISSIONER BROADBENT: Okay. And in your sense, how much has capacity grown in Korea at this point?

MR. MORAN: How much has?

COMMISSIONER BROADBENT: I'm not sure who testified to this, but the Koreans have increased capacity for the steel clad plate.

MR. MORAN: There was testimony this morning about, if my ears are correct, Hanwha, and we can correct this later. It will be in the transcript, and it sounded like they had tripled their production, which seemed a bit odd to us if you're in a market with apparent over-supply or perceived over-supply, and the question was asked this morning as well, and for that company, why would they invest in more capacity?

COMMISSIONER BROADBENT: Right. Right.

MR. MORAN: And it makes for the business plans of the companies for whatever reason, and I necessarily can't explain it, but it's just how they view the particular market, especially when you have a new entrant or somebody's who tripling their capacity. It seems a bit odd. Also, DMC itself is talking about, and we heard testimony this morning about, their interest in producing in Asia, so if there's already a glut, why would you be investing in something that's already at over-capacity.

COMMISSIONER BROADBENT: I know the Japanese are exporting a lot to Korea right now. Is there any concern of a trade remedy case in Korea against Japanese exports?

MR. ASANO: Absolutely not. The customers in Korea always request for much more our capacity, much more our capacity or much more orders, always many orders give us the customers, and the other reason is there is more roll bonding produced in Korea. Only explosion producer in there, the name is Hanwha, and I heard that Hanwha recently much more expand their capacity, but my basic understanding is our roll bonding materials collect, and explosion bonding materials not so compete so much. We are separated, the thickness and sizes, so I have no feeling about the antidumping from Korea.

COMMISSIONER BROADBENT: So no one's concerned about your pricing into Korea?

MR. ASANO: Sorry. No, no, no, no, no.

COMMISSIONER BROADBENT: Okay. Great. There was a statement, Mr. Asano, about growing opportunities in the Middle East. Is it cost-effective to sell from Japan to the Middle East? Do you plan to expand your sales in the Middle East and how much?

MR. ASANO: Yes, and the recent, the pre-immersion, who uses our clad materials, the final user is only a chemical company. For example, in the Middle East is, for example, Aramco, and Aramco uses so many pressure vessels for refinery or pipes that they bring the oil and gases, but in the Middle East area, in these days, there is no good fabricator in there.

COMMISSIONER BROADBENT: Right.

MR. ASANO: And the good fabricator mainly very, very 20 years ago, and the USA and European and the Japanese fabricator is very strong and good fabricator, but recently Korean fabricator is so strong and very good quality, so the site is in the Middle East, but fabrication in Korea, so we export to Korea so much, but in the Middle East area recently, some good fabricator, so we try to export to them.

This is the situation, and these fabricator wants the good quality clad materials. They need it, but only they can purchase from Japan or some other countries even though they're very long distance from the cladding material producer to the Middle East, so the same competition condition my understanding.

COMMISSIONER BROADBENT: Okay. Let's see, can you describe any experience you've had in exporting to South America?

MR. ASANO: To tell you the truth, just now, JFE does not export to South America, but I'm interested in the reason why the Petrobras, the big oil company here, so but just now we have no information much more.

MR. MORAN: I think in the Exhibit 12 of the Japanese producers' prehearing submission they separated the export statistics into markets, and you'll see that for South and Latin America total, last year it was zero. The year before, it was 141 tons, so these aren't very large markets, so it's hard to say. They seem to be quite sporadic. There's more zeroes than anywhere else.

I think there was testimony this morning about competition in Argentina, but the exports stats show only 19 tons shipped in 2007 to Argentina. There are some more exports to Brazil, but it's just in two years, so it seems to be quite random in terms of a market.

COMMISSIONER BROADBENT: Mr. Asano, you said in your statement that clad steel plate exports have declined. We had some testimony this morning that they'd increased. Have you had any orders in Canada recently?

MR. ASANO: Depending on the figure, testimony this session, the Table 4, the North America export/import from Japan is declined from 2009, 2010, 2011, so we have not much experience exporting for Canada, so I don't know much information much more.

MR. MORAN: Obviously, there is some competition in Canada. It's just a question of the size of the market. Last year, it was 13 tons. The year before, 47 tons, so I wouldn't call that a very large market or something that is indicative of any other behavior, and the trend for Canada is quite downward as you can see from the export stats prepared, gathered by the staff.

COMMISSIONER BROADBENT: Okay. Thank you.

COMMISSIONER PEARSON: Mr. Asano, I'd like to make sure that I understand your comments regarding capacity utilization in clad steel production. Are you saying that you have only so much equipment, and you have a choice. You either can make a relatively thin piece of clad plate, which is lighter in weight or a relatively thicker piece, which is heavier in weight, and that if you get maximum capacity utilization in tons, you must only make the thickest grades. Is this the point you were making?

MR. ASANO: Yes. Yes, so depending on if they're the thin plate that basically so many times my saying like a panini, so that sheet by sheet characterization is important, so how many sheets. For example, one sales on a sheet per month, for example, we produce, so, for example, one sheet the weight is not important. Thick plate is heavy, and thin plate is light, so I want to say is a bit depending on the size or width. Wider width is weight heavy, and thin width is light. This is the point.

COMMISSIONER PEARSON: Okay.

MR. MORAN: There was one other point about the production limitations with respect to JFE in particular, and I believe this is in your questionnaire response about heat treatment.

MR. ASANO: Yes, that's right. Heat treatment is our main capacity utilization.

MR. MORAN: And this in their questionnaire response, so you have a theoretical capacity number for total production, but a separate lower capacity number for heat treatment, and it's my understanding that the export applications require heat treatment according to their respective standards, so their effective capacity for export is governed by that heat treatment capacity and not their total capacity for producing clad steel plate, including non-heat treated applications.

COMMISSIONER PEARSON: Is the heat treatment process longer for thicker grades of plate, or is the length of time in the heating oven the same regardless of the thickness of the plate?

MR. ASANO: Yes, that's right, depending on the thickness or depending on the grade or depending on the customer's request standards, specification.

COMMISSIONER PEARSON: Okay. So I would understand that the heat treating is somewhat less of a constraint if the thickness of the plate is small. Thin plate you could put more pieces through the heating oven than with thick plate?

MR. ASANO: And it is a little difficult to explain the meaning is. Depending on the thickness time it is and compared with the tonnage weight, my understanding is tonnage looks much reduced the thickness. For example, the thickness is one inch compared with two inch, but the heat treatment time is not half of the time.

COMMISSIONER PEARSON: Okay. Mr. Moran, is it the Respondents' position that the capacity utilization figures that we have in the staff report based on tonnage, at least to some degree, overstate the amount of unused capacity that there is among producers in Japan?

MR. MORAN: I would think it would be for several reasons. One, we know that a particular portions of those figures is from a producer that doesn't export, ever, so that would be one that you should take into account. The other would be Asahi Kasei, and despite the presence of other markets, they're only in Asia, so how you look at them would be another.

Broadly speaking on the question of capacity, we know, for example, that once JFE hits that heat treatment total that if they get an order, they can't take another order for another heat-treated product, and I think this is something that we can put in the posthearing brief to respond to Commissioner Johanson's question about these large orders, and we've put in some of the articles on it as well as the counsel to the domestic producers in their prehearing submission about these 2,000-ton orders, and that's one order.

You have that order and a particular delivery time, and you take that into account, and I think at least for JFE, we can give you some example of those type of orders, the size of them, and how they have to be produced, Mr. Asano also touched upon for the heat treatment, for different standards, you would need more time, and that's not reflected in the total capacity figures.

For different widths or processing, you would need more time, different cladding materials would need different time, so it's a bit different, and in terms of the relevance of capacity or the number, it's not a pretty number, and I'll agree with that, and when considered, if you consider it against a carbon production or a stainless production or continuous mill where you have to run it, you can't turn off the furnaces, JFE produces by batches.

The explosion-bonded producers by definition produce in batches. You can't run that continuously, at least I don't think you can, so you can turn on and off to respond to the particular orders, and that's what's normally done in the industry. Now, how to quantify that, I can't give you a good number, but it seems to be consistent practice across the industry regardless of country or production method.

COMMISSIONER PEARSON: Well, I can raise one other possibility for measuring it because clearly we're measuring it now as capacity relative to theoretical tonnage if you were running the facility to maximize tonnage, and we have testimony that that's not the case, they're meeting specific orders that might have a higher value, but lower tonnage than some other orders.

It could be possible to think about overcapacity in terms of the percentage of time that some of the machinery is not being used and the percentage of time that machines are idle compared to the percentage of time that they are operating. Is that a way that we should look at the industry in Japan as we try to understand the question of capacity utilization?

MR. ASANO: Yes, I think so. So we'd like to answer in post briefing if that's okay?

COMMISSIONER PEARSON: That would be helpful. If indeed it's an important way to understand the capacity question, anything that you can give us in the posthearing would tell us more than we know now.

MR. ASANO: Thank you very much. I try to figure how to calculate our capacity.

MR. MORAN: And Mr. Chairman, one thing would be that it wouldn't be time for the entire production, so each of the production processes has its own specific time. We'll try to do something in the posthearing brief, but it was something that we briefly looked at previously, but it's quite a difficult exercise.

COMMISSIONER PEARSON: I can believe that.

A related question to some degree. Is the clad plate that's used in the manufacture of pipe relatively thin plate or relatively thick plate?

MR. ASANO: Relatively almost -- for example, recently line pipes, our roll-bonding cladding material for line pipes, thickness is approximately 20 mm, so one inch?

COMMISSIONER PEARSON: Eight-tenths of an inch.

MR. ASANO: Eight tenths, uh-huh. And our memory, the cladding plate for pressure vessel is always the same or a little lower. Almost the same.

COMMISSIONER PEARSON: The reason for asking is that if indeed in the future you are likely to be producing a high percentage of clad plate to be used in pipe and that would have a relatively thin profile, then that would suggest some limitation on capacity utilization if it's measured in tons. So you understand the purpose of the question, Mr. Moran.

MR. ASANO: We are building cladding material for pressure vessels. Other use is the same as line pipes, but the dimension is so wide, so thin plate to the thick plate. The same meaning that you take average.

So if in the near future line pipes much more order we accept, the other reason, the line pipes welded heat treatment, but this heat treatment, JFE Steel is without heat treatment facility. Only heat treatment system we have, PNTP.

So full pressure business, we have to use the off-line heat treatment system, but for piping we can use the on-line heat treatment systems.

The reason why, the pipe customer, after heat treatment buy service, so we can use such systems.

COMMISSIONER PEARSON: Thank you very much.

Commissioner Aranoff?

COMMISSIONER ARANOFF: Thank you, Mr. Chairman. Allow me to join my colleagues in welcoming you all this afternoon. We appreciate your being here.

I think as we've been exploring the capacity issues in this case, one of the points that the domestic industry's argument boils down to is that if the Japanese producers have excess capacity, and I think the understanding is that at least some of the time they do have available capacity, the argument seems to be that the existence of excess capacity is in itself an incentive and perhaps even an imperative to export to any market that's available at that time to take the product.

And in this, it seems to me it's based on the assumption I guess that first having excess capacity around is costly, and I explored that some with the domestic industry this morning. But also that it's always going to be better to make a sale that's going to contribute to spreading fixed costs than to just hold this excess capacity into a sale when the preferred market comes along.

I wanted to give you an opportunity to respond to this idea that the Commission should conclude that whenever excess capacity exists there is an incentive or even an imperative to expert to any market.

MR. MORAN: I think we probably will have to do a little bit more follow-up with this in the posthearing brief. But with the data set that we have, we have many counter-factual situations and we have to analyze this by proxy.

One thing that we mentioned earlier, the lack of European exports going into the United States. But for example, we know that there are significant U.S. exports to Mexico, several thousand tons, which would be approximately half of U.S. apparent consumption, but there haven't been any exports of Japanese steel, clad steel plate to Mexico since I think it was 2006. It's been several years.

So you have a situation where the U.S. industry is exporting in very large quantities, several thousand tons, to Mexico, but there's very little if any Japanese plate going in there for the past several years.

If we had to -- We have capacity, so we have to put it somewhere, then you would see it in other places where the U.S. producers, for example, are but the Japanese are not.

That's just one thing that we're struggling with. It's quite difficult to grapple with and I do appreciate the Commission's struggling with this as well.

I think also, again for the question that we received from Commissioner Johanson regarding the type of orders that they do have, so these large orders that if you're gearing up for that do you have to keep that available for those orders.

In theory, yes, it might make sense and I do understand the concept of trying to lower your fixed costs by taking any order that comes in, but you can make a reasonable business decision to forego those small orders to be available to have the high value, high profit orders when they do come in.

COMMISSIONER ARANOFF: Let's go to that, which is the reason for the business decision.

The Commission usually asks its questioners and we did ask in this case for contemporaneous business plans that were prepared in the ordinary course of business and not for this review, that would show that in fact the Japanese producers have taken a conscious business decision of the sort that you've described, and I'm not aware that we've received anything that would fall into that category.

MR. MORAN: While Mr. Okamoto is translating for Mr. Asano, at least for the other three producers, we can ask them to see if they had anything else, but it's my recollection, I'm not sure exactly what they might have put in but we will ask them to try to submit something if they have anything in their post --

COMMISSIONER PEARSON: These are global

producers and I don't think a decision is taken lightly to say we are not going to sell in the Americas. Usually you're going to find that in some corporate presentation, there's usually some document where somebody in the company has actually taken a decision. Otherwise, abandoning two continents is a pretty big deal.

MR. MORAN: We've tried to not be too speculative. Again, we'll follow up to see if we can get anything regarding particular business plans in the posthearing submission. But we've just been following the numbers and the numbers are speaking for themselves. If you have 99 percent, 100 percent of your shipments in one continent, there had to be something that drove that. So we will see what we can do in the posthearing submission.

COMMISSIONER ARANOFF: I understand what you're saying and that's certainly an argument that the Commission could consider. On the other hand, we also saw demand decline a lot during the period and we did see sales in the Americas earlier in the period. So I could see that the fall-off is because no one's asking for it right now which wouldn't necessarily tell me what might happen in the reasonably foreseeable future.

One other question that I wanted to ask, there's bene this debate between the domestic industry and the Japanese producers about what it would take to have a sales and customer service operation in the United States in order to be able to compete in this market. I've heard the arguments on both sides, but what I wanted to ask was, do the Japanese producers have an on-site sales and customer support operation in every country in which you sell your product? Or can you do that from Japan or somewhere else over some distance?

MR. OKAMOTO: My name is Kaoru Okamoto, I am the Chief Representative here in the United States stationed in New York.

To answer your question, we do not have sales staff or technical support people in every country that we sell materials into. However, we do have people stationed in the major areas of the world where we export our materials to support our sales effort.

So for North and Central and South America, my office in New York and also as it was mentioned in the submission, the office in Houston, is responsible for the Americas.

But to answer some of your questions a

little bit more in detail, my office has no one that is familiar with this clad steel pipe product. I have not, my staff or me have not visited any of the prospect customers that produces clad steel, that uses clad steel plate product. Quite frankly, I am learning this product in the last few days, that these people came from Japan to inform me about what they do and how they produce the material.

MR. MORAN: I think on the record we do have some statements by DMC in their 10K about how they've structured their sales process. We do have their statements in their investor presentation from last month holding out their customer relations as a barrier to new entrants. That's a quote right out of their presentation.

It would seem that it requires a bit more hand-holding than your generic steel product. So you'd be involved with the specifications throughout the entire project. So it would seem to be a bit more of a commitment than you'd find for your more standard steel products.

COMMISSIONER ARANOFF: Okay.

Domestic producers have provided some evidence in their brief and they testified this morning that the bid competition states that it involved with, particularly in Korea, that they have bene under-bid by, the numbers are confidential, but double digit percentages sometimes by Japanese producers for that business. Assuming that they're telling the truth based on what their customers told them, and there's no reason to doubt that, can we extrapolate from that what likely pricing behavior would be in the U.S. market if Japanese producers were to reenter the market?

MR. MORAN: I'd probably be in the best position to address that.

Fortunately in this case I'm not in the APO so I can't breach it so I'm a bit more comfortable here.

But we don't know, we assume that they're reflecting what their customers told them but it might not be in their customers' interest to tell them the exact number. Unless this was open pricing where you'd have some kind of number documentation it's hard to say whether this is accurately reflecting the situation. Also as was discussed in this morning's session, we don't know how big of a sample size this is, what percentage of sales it is, what the other reasons were at the particular, with the particular time.

So I don't know if, given the limited data set, how informative that would be for the practices of the Japanese with respect to a market that's, as opposed to a few hundred miles away, several thousand miles away.

COMMISSIONER ARANOFF: My time is up. I may come back to this on the next round, but thank you.

Thank you, Mr. Chairman.

COMMISSIONER PEARSON: Commissioner Pinkert?

COMMISSIONER PINKERT: Thank you, Mr. Chairman, and I thank all of you for being here today. I join my colleagues in expressing appreciation for helping us to understand the issues in this case.

You may recall that I asked the domestic industry panel about this disagreement between you and them concerning your ability to market this subject product in the United States in the event of revocation, and they talked about how the existing sales staff could be used to market this product, the subject product in the United States even if the staff had not been used for that purpose in the past.

I want to give you an opportunity to respond to what the domestic representatives said.

MR. ASANO: As my six managers for cladding plate to the customer might experience, and frankly speaking, instead of cladding business that JFE still has no exports to the United States. So we have no information who use our material for what grade, what size, what condition or something.

My best understanding is if the sunset lift off the limitation, it is difficult to enter the new American market. The reason why, we don't know who use our materials and we have no sales forces and technical support in the United States.

So we are facing limitation of capacity, facing limitation of manpower. So we'd like to manpower focus on the Asia and using it for cladded material for pipes.

So very difficult to enter the U.S. market. This is my understanding and my feeling.

COMMISSIONER PINKERT: Let me see if I understand what you're saying.

I understand that in the past you have not developed this information about the U.S. market, but how difficult would it be for you to develop this information if the order were revoked?

MR. ASANO: First, I'm a little surprised that today, this morning, I figure out this morning and the day before, two days before I read the paper, and only 5,000 short ton, metric short ton, the demand in the United States. This is the first time I understand this situation.

So I think is much more demand in Asia and some other countries. So USA only uses 5,000 metric tons. So just my thinking is the reason why, USA's, the oil chemical, petrochemical companies does not use so much clad materials. The reason why may be they don't need much more anti-corrosion pipe or materials.

So my feeling is we have to check how much volumes that USA customers will use or something.

What's attractive for me as a sales manager to the USA market, that is why the demand is not so much. And they are very expensive, so we have to take more time to enter this new market. Of course we need qualification and we have to make the new relationship between the customers for so much more.

COMMISSIONER PINKERT: For the posthearing, if any of the folks on this panel could actually give us some sort of an idea of how long it would take based on your experience in other markets, for example, or based on your understanding of the certification process, how long it would take to get up to speed in a market that you're not that familiar with. I think that would be very helpful.

MR. MORAN: We'll try to do so.

COMMISSIONER PINKERT: Thank you.

The respondent brief also discusses the natural advantages that Japanese producers have in focusing on the Asian market because of proximity, because of lower cost of customer relationships, transportation costs, and so forth. But we also note that there has been a substantial increase in U.S. exports to Asia, despite U.S. producers lacking the advantages of geographical proximity there.

So my question is, how do you explain that? If geographical proximity is so important, if it's so crucial in understanding what's likely to happen in the reasonably foreseeable future, then how is it that the U.S. industry has been able to increase its exports to the Asian market?

MR. ASANO: Only I can say what my experience is. In my experiences I have no compete with the American producers in the Asian market. I always faced the European producer for supplying in elsewhere, and I don't understand why we can never face compete with American producer.

One reason is the ability, the explosion building, JFE's new building is different size required category. The other bidders, I don't know why I never compete with in Asian market. Is my experience.

The other, just my thinking, so sometimes customer never prefer only price. They focus on delivering timing. The reason why our first customer is fabricator and the fabricator is always under high pressures for the owner or engineering company, short time delivery. So sometimes our customer requests the high price is okay, but short time is much more needed.

So sometimes the customer accept from the USA materials, just my thinking is it's depending on delivery time. So the reason why delivery time is, Asian market, Japanese mill is very close, but sometimes Japanese mill have capacity limitation.

So as I said delivery normally is three months. But where capacity is only four months or five months or six months. And we also to the customer, we are answering, we need five months or six months and the customer selects the overall, who can supply four months or something. Maybe American producer can produce three months and the delivery time one month, four months delivery from USA to the Asian countries. This is my thinking.

MR. MORAN: Commissioner Pinkert, when we go back to Tokyo we'll try to speak with JSW and Asahi

Kasei to see if we can get any information to respond to this question as well.

COMMISSIONER PINKERT: Thank you.

I also want to ask you a question that I do think is probably more appropriate for the posthearing submission than for an answer right now. Given that there's been a discussion in the petitioner's brief about the actions of Japanese producers following the revocation of the hot-rolled order, are there substantial differences between that case and the present case that would help us to understand why or why not the actions of the Japanese producers in that other case are relevant to this case.

MR. MORAN: We will try to address that in the posthearing brief.

MR. ASANO: As I said, so if we want to enter the American market, USA market, it takes a long time to prepare, so this is just now my opinion. And as I said, USA's cladding material market only 5,000 including explosion and roll-bonding. So sure size or thickness is not in work or something.

So if all of the size including only 5,000 short tons it is not so attractive for us. Just my thinking.

So if this situation, I am not so, I don't think so. The same situation as hot-rolled or something, some other materials.

COMMISSIONER PINKERT: Thank you.

Of course if you can supplement that in the posthearing it would be good.

I have to say that I agree with petitioner's caveats on this issue when they said that it's not strictly relevant to the decision in front of us in this case, but having said that, I'd like to understand what the different dynamics of the different industries might tell us about the relevance or the parallels between the two cases.

Thank you very much.

COMMISSIONER PEARSON: Commissioner Johanson?

COMMISSIONER JOHANSON: Thank you, Mr. Chairman.

The ITC has had a number of other steel plate investigations come before it and it is my understanding that some of these products were also sold on a project by project basis. Do you know if the Commission treated capacity in the original investigation on clad plate differently from capacity in the investigations on these other steel plate products?

I know of three such investigations. One is 1981 on stainless steel pipe; there's a 1992 investigation on cut-to-length plate; and also in the 2001 safeguards under President Bush, clad plate was included.

Thank you.

MR. MORAN: I think that would be appropriate to cover in the posthearing submission after taking a look at those cases, but I can speak to the Commission's decision in the original investigation and some of the things that were noted therein.

Some things that the Commission found, the sporadic nature of sales and production of clad steel plate and the difficulty that the Commission had looking at trends. Like how do you look at trends when things jump up and down and don't necessarily follow a particular pattern? We do have the testimony from the original investigation about having to have capacity available to produce to orders when they do come in.

Much of the information, however, was confidential so there will be some limitations on exactly how we'll be able to handle that. But we will give it a try in the posthearing submission.

COMMISSIONER JOHANSON: Thank you, I look forward to seeing that.

With so few imports from any source in the United States market, any increase in imports from Japan would necessarily come at the expense of the domestic market share. Does this increase the likelihood of injury?

MR. MORAN: We really are not in a position to say. We would have to look at the particular financials of the domestic producers. The information that is publicly available and the only thing we've been able to see are the quarterly financials and statements made by DMC. We know that DMC has continued to talk about its strong backlog of orders for clad plate. It's continued to talk about its continued profitability. So for at least a segment of the industry, notwithstanding the comments we heard today, there would seem to be at least pockets of health. Because much of this was confidential in the staff report we really can't get under the hood to speak to the domestic industry.

So we really aren't in a position to say that if we displace one pound of this will the domestic industry automatically be injured.

With that being said, the European imports have come in from time to time. So although I'm not sure, you probably could do an analysis of that to see how the U.S. financials were affected by the presence of other import competition. But beyond that there's not much we can speak to.

COMMISSIONER JOHANSON: All right. I appreciate that.

What are the largest markets for clad steel plate and how do such markets compare with the U.S. market?

MR. MORAN: The largest market is clearly Asia, and we can establish that by looking at the U.S. export statistics, the European export statistics, and the Japanese export statistics. The Japanese producers did touch upon that in their prehearing brief, but Japanese exports alone in 2011 were to Asia including, Asia not including the Middle East countries was 30,000 tons.

Mr. Asano can speak to particular applications in Asia but we really can't contrast that to what the demand is in the United States.

MR. ASANO: And I have no chance to investigate the American market so I don't know USA, what the situation.

But basically my understanding and our

general understanding of the cladding market is our materials mainly used for pressure vessels and refinery plant petrochemicals. Or the pipe choose. Only the customer uses our cladding material is anti-corrosion, anti-rust is important. So the Middle East areas, petrochemical, oil and gas contains very high H to S, high hydrogen to sulfur, very corrosion confidence including. So they need high quality anti-corrosion materials. So we focus on the Asia market.

But that information, only 5,000 short ton usage in the USA. Just my imagination, USA's oil or gas is not so much anti-corrosion contents in their gas or oil. I don't know, just my imagination.

COMMISSIONER JOHANSON: I think on the whole that's true.

Can you possibly provide any information on that in the posthearing?

MR. MORAN: I've seen information that Mr. Asano has shared with me about particular orders and applications that they've had recently, especially with respect to pipe. So that would probably be certainly something that would distinguish demand in Asia from demand in the United States. We will also see what we can do about the relocation of fabricators from Europe and the United States to mainly Korea and other Asian countries.

COMMISSIONER JOHANSON: Thank you.

Just one more question. It is my understanding that the IDT did not request order book information in this investigation. With so much emphasis on your capacity, I think it could be helpful to have such information. Could you possibly provide that to us?

MR. ASANO: Yes. I prepare.

COMMISSIONER JOHANSON: I think that would be helpful.

Also, would you describe your current order back levels as comparable to those of last year? And if that's proprietary you can put that into your prehearing brief.

MR. ASANO: Posthearing.

COMMISSIONER JOHANSON: Okay, I appreciate it.

Thank you all for the information you gave today. That concludes my questions. Once again, I appreciate you all came a very long distance, but thank you for appearing here.

COMMISSIONER PEARSON: Commissioner Broadbent?

COMMISSIONER BROADBENT: I wonder if someone could answer sort of, help me understand why the major exporters of clad steel plate don't really seem to be competing in their home markets. For example, why as Japanese exporters are you not trying to get into the European market?

MR. ASANO: As my experience in the roll-bonding producer, my understanding is roll-bonding producing is very difficult, high technological producing will need.

In Japan JSW and JFE Steel only can produce the cladding material for pressure vessels with heat treatment. NSSC cannot produce for pressure vessels. The reason why, they cannot heat treatment. On the other hand in Europe Voest Alpine in Austria, they can produce the very high quality roll-bonding materials. And some other. So not so much producers in both Japan and Europe.

So the reason why, it is very difficult to enter the European market. The European market facing Voest Alpine, they can produce by themselves. And in Japan we can produce JFE Steel, and for Japan to Europe the delivery cost is so high. Voest Alpine, if they want to export from Europe to Japan, the distance is so long, freight cost is so high. This is my understanding.

COMMISSIONER BROADBENT: One thing is the freight cost. Your first point I didn't quite understand on the high technology production. What was your first point? Sorry.

MR. ASANO: Sorry. If there is no high quality producer in Europe, the customer will purchase from Japan. So --

COMMISSIONER BROADBENT: If there's no high quality producer in Europe, the European community will purchase from Japan. But you're not selling much to Europe right now, so you think there are high quality producers there.

MR. ASANO: Yes.

MR. MORAN: I think he was saying if there were not, then perhaps we would be exporting --

COMMISSIONER BROADBENT: I see.

MR. MORAN: Because there are already existing large capable producers in Europe we're not exporting there.

But you do see significant exports from Europe to Asia. Last year was 21,000 tons from Europe going to Asia. So that direction is going, but I have no idea if any Chinese stuff is going into Europe. But we know from Japan in contrast what, last year total Japanese exports were 78 tons to Europe. So it's just one way going out of Europe into Asia, much like you see one way going out of Japan into Asia and you see one way going out of the United States mainly to Asia. I think it's about 60 percent. This figure was in the prehearing submission, about 60-70 percent of U.S. exports were to Asia. I think the other large market for the U.S. was Mexico.

But it seems ships not even passing in the night because they're all going in one direction.

COMMISSIONER BROADBENT: Thank you.

Can you talk to me about your raw material prices? Have you had difficulty getting cladding material or other raw materials during the review period? And have these prices fluctuated a lot?

MR. ASANO: At JFE Steel we can produce cladding material stainless steel and also base metal copper. We can produce by ourselves from blast furnace to the final process and the rolling. But the other companies have to purchase outside or something.

So just now we are facing the raw materials issue is the same as steel making situation. Raw material, iron ore, coke, going up the price or something. The same situation.

COMMISSIONER BROADBENT: They're going up.

And is this reducing your profits?

MR. ASANO: It is very severe. Gradually severe.

MR. MORAN: I think we can track down a number for you for the post --

COMMISSIONER BROADBENT: Just if you are able to pass along the price increase.

MR. MORAN: We'll examine that and get back to you in the posthearing submission.

COMMISSIONER BROADBENT: Great.

I think that concludes my questions right now.

COMMISSIONER PEARSON: There already has been some discussion regarding the production of pipe using clad steel plate. Just to fill out the record, and some of this may be for the posthearing, but what factors drive the decision to use pipe made of clad plate rather than using ordinary line pipe or some type of seamless or welded pipe?

MR. MORAN: I think I'll let Mr. Asano supplement this, but we do know that the corrosive applications for ocean drilling. Because of what you're pulling out, the properties of it, they refer to it as being sour, would require the corrosion resistant star fits so that clad steel is used in those applications.

This is something also we can put in the posthearing submission, but there have been certain European producers who have actually relocated production factors to Asia and JFE's been tracking those developments, and their plans have reflected that.

But in terms of the necessity of using clad for pipe, why is that necessary?

MR. ASANO: I'd like to explain, the customer at first they select which stainless steel or copper steel. They have to select the, depend on the gas or oil, how much sour or sweet. If sweet gas or oils they select copper steels. It is cheaper than the stainless steel. But if they have to use for instance very high corrosion contents in there, they have to select stainless steel. Stainless steel only welded, the oil and gases. So the customer certainly they have to compare with all of stainless or stainless clad. And customer's benefit is, if they select the clad materials, they only high price, only stainless is very thin, and the other one is copper.

COMMISSIONER PEARSON: That makes sense.

I would be correct to understand that most of the clad steel pipe then is used in sour oil applications and then perhaps also to connect the reactor vessels that we've been talking about in petrochemical plants?

MR. ASANO: That's right. So basically, I am not good at explaining.

COMMISSIONER PEARSON: Your English is much better than my Japanese. Please continue.

MR. ASANO: Thank you very much.

So at first originally the gas and oil from the off-shore or the on-shore, for example the off-shore, from the developed sources going out the pipes. And then they bring the oils. They need the anti-corrosion materials. Then on-shore the final plant there, they have high corrosion gas and oils entering the refining process. And refining process pressure vessels will need also anti-corrosion materials. So many cladding materials in the refining plant and also the piping. Piping for delivery. Pressure vessel for refining.

COMMISSIONER PEARSON: Okay. Thank you.

Am I correct to understand that the testimony has been that in recent years there has been a shift toward more production of clad plate for use in pipe?

MR. ASANO: Yes.

COMMISSIONER PEARSON: Would it be possible for the posthearing to provide some tonnage regarding plate that has gone for the production of pipe to give us a sense of how important this is relative to the business overall and the extent to which it's been increasing.

MR. ASANO: Yes, I will prepare in the post submission.

COMMISSIONER PEARSON: Thank you very much.

A question that I asked the domestic industry this morning, has there been a change in the yen-dollar exchange rate since 1996 that we should be aware of in our analysis? Is there a change in that condition of competition? And if so, what does it mean for us?

MR. MORAN: I think that's something best handled in the posthearing brief.

I know my yen is very valuable at the moment, but beyond that we'd have to look at the 1995-1996 and JFE wouldn't be in a position to really speak to the condition of the competition at that time.

COMMISSIONER PEARSON: That's fine, but if there is an argument that there's been some change in that condition that we should consider, I would like to see the argument made. If there's been nothing going on and it's irrelevant, then just tell us that and I'll focus on something else.

I believe that's my last question.

Let me turn now to Commissioner Aranoff.

COMMISSIONER ARANOFF: Thank you, Mr. Chairman. Just a few remaining questions.

We've talked a lot about the legal relevance of what's going on in terms of competition in third country markets and one of the reasons the Commission traditionally doesn't pay too much attention to that is because we don't have enough information in our record to assess whether conditions of competition in those third country markets are similar enough to what's going on in the U.S. to make a valid comparison.

In that regard I particularly wanted to ask about Canada.

The market in Canada, aside from its absolute size, relative to the size of the U.S. market, are there any important differences in conditions of competition? I'd certainly like the domestic producers to answer this question posthearing as well, if there are any competition that are different between the U.S. and Canadian market that would bear on how good a comparison that is.

MR. MORAN: I think that's something that we're going to have to cover in the posthearing submission. We only have JFE Steel here today so we'd have to speak with at least JSW to balance out our information on that.

I don't know, and this is something we'll have to lean on the domestic producers' posthearing submission on because we really can't compare Canada to the United States. We don't, beyond what's in the staff report, have --

COMMISSIONER ARANOFF: Does Canada have a domestic industry?

MR. ASANO: No cladding material producers. So just my only small experience in Canada, just a few things Canada imported from Canada customers. This is just imagine. So I will explain to you the cladding materials for the anti-corrosion usage. So Canada has always done, and United States I don't know exactly. So all there, so some fabricator is there. And the fabricator sometimes imported for us. And I heard about material from USA, always I heard from the information we compete with European Voest Alpine. I don't know exactly why American producer export to the Canadian fabricator. I don't know.

COMMISSIONER ARANOFF: Thank you.

One of the arguments that's been made is that the customers, or there might be a level down customers for this product, like large engineering firms and the like, are global companies and they tend to qualify suppliers on a global basis. And so my question is if one of these global engineering companies with which a Japanese producer is doing business say in Korea or the Middle East, comes to you after revocation of the order and says I'd like you to bid on a project in the United States, my understanding from the testimony today is that the answer at least for the company that's in front of us today would be no thank you. Under oath, is that your testimony?

MR. ASANO: Sorry. I need explaining, so sorry.

Our business is a layer system, so high line is the owner -- oil, petrochemical companies owner, the owner is there. And secondly the engineering companies. They accept a job from the job owner and then the third layer, the engineering company orders fabricator what pressure vessel have to do that or something. So we producer materials always faces fabricators. So Korean fabricator will face, almost, we have no chance to contact with the global petrochemical owners. I always face very real Korean fabricator, local Middle Eastern fabricators.

So of course if the owner control the initiative, the fabricator have to use some material or something, we follow the owner. But we never face such situation. Always the company rights, local company rights, fabricator discuss with us.

MR. MORAN: Commissioner Aranoff, perhaps how we might be able to address this is to make it a little bit more concrete.

I think one thing that we might be able to do in the posthearing submission is to actually go through their customer list and then perhaps figure out if, when Mr. Asano is talking about a Korean fabricator, maybe it is just a Korean fabricator. I don't really want to speculate whether the customers of JFE and let along Japan Steel Works are also fabricators that might be in the United States. I don't have enough information to speak for that. But what we could do is to actually get the customer list and perhaps that would give you a sense of the potential of a global customer that they're currently selling to to bring them from Korea to the United States.

COMMISSIONER ARANOFF: That would be very helpful information. I appreciate that.

With that, I don't have any further questions but I do want to thank all of you for your answers today and for traveling so far to be here. Thank you.

COMMISSIONER PEARSON: Commissioner Pinkert, did you have any more?

COMMISSIONER PINKERT: No further questions. Thank you very much.

COMMISSIONER PEARSON: Commissioner Johanson?

Commissioner Broadbent? After mishandling it this morning I want to be really certain that I'm not stepping on the toes of a Commissioner.

Believing there to be no further questions from the dais, are there any questions from the staff?

MR. CORKRAN: Douglas Corkran, Office of Investigations. Thank you, Chairman Pearson, we do have one question for the Japanese panel.

Would you be able to provide data with respect to your company's capacity to heat treat clad steel plate and your actual production of heat treated plate, knowing that that's a subset of both production and capacity, and we'd actually like to get comments on the utility of that particular comparison from both panels.

Thank you Chairman Pearson. The staff has no additional questions.

MR. MORAN: I think that's something we can address in the posthearing submission. This is an issue primarily for JFE, but I do understand that at least the heat treatment capacity was indicated in their questionnaire response, so you already have part of that answer on record already.

COMMISSIONER PEARSON: Do representatives in the domestic industry have any questions for this panel?

MS. CANNON: No questions.

COMMISSIONER PEARSON: Ms. Cannon indicates there are no questions.

We get to prepare for our closing arguments.

Those in support of continuation of the order have 13 minutes left for rebuttal and five minutes for closing for a total of 18 minutes. Those in opposition have 29 minutes for rebuttal and five minutes for closing for a total of 34 minutes.

And as is our general practice, we would, if there's no objection, we'll combine those times. Further, just so everyone knows, we don't score extra points for taking up the full amount of time. But make a fulsome argument by all means.

With that, thank you very much to all of you who have been with us this afternoon. We really appreciate your participation in this investigation. This panel may be excused.

(Pause.)

COMMISSIONER PEARSON: Welcome back, Ms. Cannon. Please proceed when you're ready.

MS. CANNON: Thank you, Mr. Chairman, and I will try very hard not to take up all of the minutes that I have still remaining.

JFE has begun by emphasizing that it has not exported clad plate to the United States. That first begs the question, where is JSW? As you may recall, JSW did export injurious volumes of clad plate to the United States pre-order and is probably the most likely company to resume that exact behavior that it engaged in before. The failure of JSW to appear and testify here today is telling in and of itself.

And remember also that JFE was formed, when it was formed the anti-dumping order was already in place, so that by the time they started looking at exporting clad plate to the United States they were facing a pretty hefty duty. It's not surprising they haven't exported under that duty. It may be surprising they haven't come in to try to prove they were not dumping, but they haven't done that either. And they've provided really no rational explanation today for why the United States would not be a primary target of their exports were the order to go away.

In fact while they were testifying, DMC was looking back through some of its information and calculated that in competition with JFE in the Korean market since the year 2009 JFE has lost $26 million in sales, and we will document that in our posthearing brief as well.

Let me turn to capacity because that was a big focus of their testimony and your questions. In many steel hearings we've heard respondents come in and say that we, the U.S. industry, have somehow overstated, misstated our capacity and therefore the unused capacity is higher than it really is or should be.

This is the first time I've heard the foreign producers come in and say that their own capacity is somehow overstated and should be ignored, because it is as they reported it and as they've now revised it. I see no justification for altering the very data that they have submitted to you.

Let me turn to a couple of the claims in particular that they've brought up this morning about that capacity.

First they say that they use this batch production process and that somehow that does not require utilization of all their capacity. They need these high excess capacity and don't really want to maximize capacity.

But remember, JFE is a roll-bonder just like ArcelorMittal USA. And you heard Mr. Insetta's testimony this morning that roll-bonders need to maximize utilization of capacity in this industry just as they do in other industries where rolling of steel is involved. The same is true of JFE. It is not true that it is very useful to them to have a significant amount of capacity unused here.

It is also not true that all vessel work requires heat treatment, so they're overstating the need for that as well.

Their continued claims that essentially the nature of clad plate requires low capacity utilization is simply not true. The domestic producers would use much more of their capacity if they could. The problem is that demand has declined here. They would, as well.

I would point you to JFW's annual report and we'll put further documentation in our posthearing brief, where they say they have a low capacity utilization rate at present because of reduced orders. That's why they're running low capacity. Not because they're trying to save capacity for some significant future work.

And I would most importantly refer you to the 1996 confidential staff report at Table VII-1 where you will see the capacity utilization rates of the Japanese producers before the order was imposed, and I would encourage you to look at those and contrast those levels with their claims today.

They next tell you that they don't have an experienced sales staff in the United States to sell clad plate because they haven't been selling it here, of course, because of the antidumping order. It would not be very difficult to train some of their people to sell clad plate, according to domestic producers. In act they said it would take one clad guy sent to work in Houston to sell clad plate.

They even conceded this afternoon that they don't have sales offices in many countries, so obviously that isn't even critical to selling clad plate. That's consistent with our information that representative offices of trading companies are actually selling clad plate in may countries and would be able to sell clad plate here. So they have a sales office, they have the ability to add people or train them, and they also have the ability to sell through these representative agencies.

In terms of the purchasers, we've emphasized that there are global purchases that are around the world that already have these companies, JSW, JFE and others qualified. We'll provide more documentation on that in our posthearing brief, but many of the projects in the United States are engineered and powered by a few large firms like Bechtel, Fluor and others, all of whom have manufactured products for these companies and these companies appear on their approved vendor lists already.

The Japanese also talked a little bit about their ability to supply clad plate in quick delivery requirements. I would refer you to Confidential Exhibit 3 of our prehearing brief where we have discussed at Paragraph 4 a specific instance of a quick delivery requirement, then the Japanese response to that requirement which shows that a quick delivery requirement or a short lead time is not going to be prohibitive to Japanese sales to this market.

There was also a claim by Mr. Asano in his affirmative statement that exports to Canada have been, quote, "comparatively small and declining". I can't say on the public record very much here, but again, please look at Confidential Chart 8 that I circulated with regard to that claim.

in terms of China, Japan's export statistics show that there are significant declines in Japanese exports to the Chinese market, so whether or not that is a growing market generally, it is not a growing outlet for Japan, and I believe JFE testified that it was not selling into that market today.

There was a question about Hanwha and its expansion of capacity despite what appears to be an over-supply situation. The fact that Hanwha, a Korean producer, would invest to expand, to compete with Japan in its own market is not surprising. It's the largest fabricator market in the world and it would like to supply its own market undoubtedly as would U.S. producers, so it's investing to be able to do that. U.S. producers have already invested and are trying to hold on, to be able to continue to do that in the face of the same threats that Hanwha is seeing in Korea.

Let me just conclude by saying that of all the points we have made today I would encourage you to continue to focus on the dramatic size of the Japanese capacity and the unused capacity relative to U.S. demand.

You heard claims today like oh, we're only selling 140 tons of clad plate to Brazil. Well 140 tons in a 5,000 ton market isn't that small. Or when you look at how many tons they've exported to some other markets and you compare that to a 5,000 ton U.S. market.

They would quickly gain huge market share simply by selling a very small amount of their total capacity that's available to them. And doing that would quickly wipe out the U.S. industry because it is so large and so disproportionate.

You're already looking at a U.S. industry that is not a large and vigorous industry but a small fragile industry that's facing declining demand and declines in most of its trade and financial variables. If you unleash Japanese dumped imports on this market it will likely lead quickly to the elimination of this small U.S. manufacturing sector. So we urge you to keep those duties in place.

I thank you very much for your attention today.

COMMISSIONER PEARSON: Thank you, Ms. Cannon.

Mr. Moran?

MR. MORAN: In keeping with the Chairman's admonition, I promise not to use all of our remaining time.

The Commission is faced in this review with the situation where there is a great disconnect between the views of the domestic producers and the views of the Japanese. Normally while we may in other cases differ in our interpretations of particular points, we seem not to understand each other and that's where the difference is in this case.

The Japanese producers have very little information about the U.S. market other than its size compared with its primary market.

So we are left to look with the trends in what the Japanese producers have been doing and it's been established very clearly where they are, where the growth is, and where they're likely to remain.

So the question would be facing these hurdles, would they pull off resources away from their key market to come to the United States, is the key question before the Commission. I would submit that the record does not support that the Japanese producers would deviate from their current practice of keeping nearly all, well over 95, 96, 97, 98,99 percent in the past few years, it's unlikely that that trend of keeping those shipments in Asia will change.

We've seen other markets, Europe. There's very little export there. Other countries. There's very little export and only sporadic, small quantities from time to time.

We will be able to develop further in the posthearing submissions further support on the likely forecast for sustained demand in Asia, and also to demonstrate how the Japanese producers view capacity as a practical matter.

We are faced with a situation in the statistical information we have where capacity is measured just in tons. And as Mr. Asano explained today and we will do further in the posthearing submission, that's just not how the Japanese producers view capacity and capacity utilization. It's measured or considered in different ways. We will develop that further in the posthearing submission.

We would encourage the Commission to be very careful given the limited factual information that we do have on this market and this product. It's a situation where there's not a lot of information available publicly because it is such a niche market, that the information that is on record should be viewed in its correct light. I recall, for example, the article that was cited prominently by the U.S. domestic industry's submission earlier today about, for example, NSSC. Binging out bold-faced, I don't know what the type font was, discussion about NSSC's production of a non-subject product as being indicative of what the company that's never exported any subject merchandise would likely do on revocation of the order.

So given the limited factual record that we have, it's very important to make sure that we are viewing the facts in the proper light.

But we believe that we've strongly demonstrated that the current trends for the Japanese producers to focus on Asia, stay within the Asian market, and not likely to divert shipments to any other markets supports the conclusion that the revocation of the antidumping duty order is not likely to lead to the recurrence or the continuation of injury to the domestic industry.

We'd like to thank you for your time, and especially the time of the staff and their efforts throughout this investigation. I know it's been a struggle to develop the record, but the efforts have been well appreciated.

Thank you.

COMMISSIONER PEARSON: Thank you, Mr. Moran.

The closing statement.

In accordance with Title 7 of the Tariff Act of 1930, I can advise that posthearing briefs, statements responsive to questions and requests of the Commission and corrections to the transcript must be filed by December 14, 2012.

Closing of the record and final release of data to parties, January 7, 2013.

Final comments are due on January 9, 2013.

Thank you all very much. This hearing is adjourned.

(Whereupon, at 3:47 p.m., the hearing in the above-entitled matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Clad Steel Plate from Japan

INVESTIGATION NO.: 731-TA-739

HEARING DATE: December 6, 2012

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: December 6, 2012

SIGNED: LaShonne Robinson
Signature of the Contractor or the Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) 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 proceeding(s).

SIGNED: Rebecca McCrary
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I hereby certify that I reported the above-referenced proceeding(s) 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 proceeding(s).

SIGNED: Gabriel Gheorghiu
Signature of Court Reporter