



## THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of: )  
 ) Investigation Nos.:  
MAGNESIUM FROM CHINA ) 731-TA-1071 and 1072  
AND RUSSIA ) (Review)

Tuesday,  
December 7, 2010

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

The hearing commenced, pursuant to notice, at  
9:30 a.m., before the Commissioners of the United States  
International Trade Commission, the Honorable DEANNA  
TANNER OKUN, Chairman, presiding.

## APPEARANCES:

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Staff:

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CONGRESSIONAL APPEARANCE:

THE HONORABLE CLAIRE McCASKILL, United States  
 Senator, Missouri  
 THE HONORABLE MICHELE BACHMANN, U.S.  
 Representative, Minnesota

STATE GOVERNMENT APPEARANCE:

THE HONORABLE DANIEL REITZ, State Representative,  
 Illinois General Assembly

In Support of the Imposition of Antidumping Duties:

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On behalf of US Magnesium LLC:

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In Opposition to the Imposition of Antidumping Duties:

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and The Magnesium Group of the North American Die  
Casting Association (NADCA):

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MICHAEL DIERKS, Vice President, Spartan  
MICHAEL SPARKS, Executive Vice President of  
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Division, Pace Industries  
ALLEN SCHROEDER, President, Mag-Tech Casting  
Corporation  
ALAN TOTTEN, Sales Manager, PCC-AFT  
ERIC TREIBER, President, Chicago White Metal  
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On behalf of PSC VSMPO-AVISMA Corporation (AVISMA):

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P R O C E E D I N G S

(9:30 a.m.)

CHAIRMAN OKUN: Good morning. On behalf of the U.S. International Trade Commission I welcome you to this hearing on Investigation Nos. 731-TA-1071 and 1072 (Review) involving Magnesium From China and Russia.

The purpose of these five-year review investigations is to determine whether revocation of the antidumping duty orders covering magnesium from Chin and Russia would be likely to lead to continuation or recurrence of material injury to an industry in the United States 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 the parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the Secretary.

1           Speakers are reminded not to refer in their  
2 remarks or answers to questions to business  
3 proprietary information. Please speak clearly into  
4 the microphones and state your name for the record for  
5 the benefit of the court reporter.

6           If you'll be submitting documents that  
7 contain information you wish classified as business  
8 confidential, your requests should comply with  
9 Commission Rule 201.6.

10           Before we begin, I would note that  
11 Commissioner Pinkert is recused from these  
12 investigations and is therefore not participating in  
13 today's proceedings.

14           Madam Secretary, are there any other  
15 preliminary matters?

16           MS. ABBOTT: Madam Chairman, there are no  
17 preliminary matters. All witnesses for today's  
18 hearing, though, have been sworn in.

19           (Witnesses sworn.)

20           CHAIRMAN OKUN: Very well. Will you please  
21 announce our first congressional witness?

22           MS. ABBOTT: Our speaker is the Honorable  
23 Claire McCaskill, United States Senator, Missouri.

24           CHAIRMAN OKUN: Good morning and welcome,  
25 Senator.

1 MS. McCASKILL: Thank you. Thank you,  
2 Chairman Okun and the other members of the Trade  
3 Commission. My comments this morning will be very  
4 brief.

5 I understand that all of these decisions are  
6 difficult because there's always two sides to the  
7 equation. In this particular instance, I come to ask  
8 you to consider jobs, and in this instance I think  
9 this tariff is hurting jobs, particularly in the parts  
10 of America that need manufacturing jobs so desperately  
11 right now.

12 I can speak about my state. Scattered  
13 across my state are dozens and dozens and dozens of  
14 die cast manufacturing operations. In one small area  
15 of Missouri in rural Missouri there are over 1,000  
16 jobs associated with companies that use magnesium.

17 Their inability to compete with the price of  
18 magnesium internationally is causing these jobs to dry  
19 up, and that has a devastating impact on these  
20 communities. Out of proportion to the size of the job  
21 loss is the devastation that occurs in communities of  
22 this size.

23 So while I understand that some tariffs are  
24 necessary, some tariffs are important to the strength  
25 of the American manufacturing, in this instance I ask

1 the Commission to look at the big picture and whether  
2 or not the disproportionate price of magnesium to  
3 these small manufacturing operations is in fact the  
4 side of the sword that we really should be worried  
5 about because we all know this is a double-edged  
6 sword.

7 And so on behalf of all those small  
8 companies and all the wonderful, hard-working  
9 Americans that have made wonderful products with  
10 magnesium over many decades, I ask you to allow this  
11 tariff to expire so these companies have a chance to  
12 continue to make products that are lighter and  
13 stronger than aluminum and very important in our  
14 domestic auto production, along with many, many other  
15 types of industrial manufacturing.

16 And I thank you very much for the  
17 opportunity to come to you this morning and speak  
18 about this matter. It's vitally important to the  
19 people I work for.

20 CHAIRMAN OKUN: Thank you very much for  
21 appearing here. Let me just see if my colleagues have  
22 any questions. Vice Chairman Williamson?

23 VICE CHAIRMAN WILLIAMSON: Senator  
24 McCaskill, I apologize for being late. I had another  
25 commitment I just didn't want to miss.

1           But one of my colleagues never fails to take  
2 the opportunity to say something special when someone  
3 from Minnesota is present, and as someone born and  
4 raised in St. Louis this is my first opportunity to  
5 express --

6           MS. McCASKILL: Go Cardinals.

7           VICE CHAIRMAN WILLIAMSON: Go Cardinals.  
8 Right. And I also think about the importance of  
9 manufacturing in Missouri and the importance of Rolla  
10 School of Mines.

11           We've seen several examples here of that  
12 shall we say institution's contribution to our  
13 competitors, so I just wanted to express our  
14 appreciation for you coming this morning and to say  
15 rah-rah Missouri.

16           MS. McCASKILL: And I think we forget  
17 sometimes honestly, Mr. Williamson, that so much of  
18 manufacturing in this country goes on outside of our  
19 major cities, and I think there is a tendency for us  
20 to assume that this is all about large manufacturing  
21 and large companies.

22           Really we're talking about thousands and  
23 thousands of jobs that are impacted currently in this  
24 country, many of them outside of the bustling cities  
25 of America in the parts of Missouri like Palmyra and

1 Monroe County and Mexico, Missouri.

2           These are the places that really need us to  
3 pay attention right now to the job situation there,  
4 and that's why I think it's important that this tariff  
5 be allowed to expire.

6           VICE CHAIRMAN WILLIAMSON: Thank you.

7           MS. McCASKILL: Thank you so much.

8           CHAIRMAN OKUN: Thank you.

9           MS. ABBOTT: Our next speaker is the  
10 Honorable Michele Bachmann, United States  
11 Representative from Minnesota.

12           CHAIRMAN OKUN: Good morning and welcome.

13           MS. BACHMANN: Good morning. I'm Michele  
14 Bachmann. I represent the people in the Sixth  
15 District of the State of Minnesota. Would you like me  
16 to begin my statement?

17           CHAIRMAN OKUN: Yes, please.

18           MS. BACHMANN: Thank you very much. Madam  
19 Chairman and members of the International Trade  
20 Commission, I want to thank you this morning for the  
21 opportunity to be able to address this body, and I  
22 want to thank you for your willingness to listen on  
23 this important topic.

24           I'm before you today because I have been  
25 visiting manufacturers in my district and listening to

1 their pleas of those constituents. The Sixth District  
2 of Minnesota is the home of two magnesium-based die  
3 casters. They're suffering right now, and I've  
4 observed this firsthand, because of the antidumping  
5 orders that are under your sunset review today.

6 It's on behalf of small businesses like the  
7 Pace Industries of Maple Lake, Minnesota, that I want  
8 to urge you to revoke these orders forthwith. The  
9 revocation would allow competition into magnesium  
10 pricing, which would result in the expansion of small  
11 businesses and the protection or creation of the  
12 crucial manufacturing jobs that are the backbone of  
13 the American economy.

14 The antidumping order employs high barriers  
15 to imports from both China and from Russia. This in  
16 turn means that United States manufacturers are paying  
17 higher cost for magnesium than anywhere else in the  
18 world right now, and as a result we have seen  
19 thousands of jobs lost or not created since the  
20 inception of these orders with thousands more at  
21 stake.

22 The continuance of these orders will drive  
23 even more designers of magnesium products to select  
24 manufacturing suppliers that are outside of our nation  
25 or select heavier materials that compromise product

1 performance -- again, I observed this firsthand in a  
2 tour of manufacturing companies in my district just  
3 two months ago -- fuel economy and competitiveness.

4           According to the North American Die Casters  
5 Association, the antidumping orders have already  
6 contributed to the losses of 1,875 jobs in the U.S.  
7 die casting industry and over 8,000 jobs in supporting  
8 industries. American die casting experienced nearly  
9 38 percent unemployment. I just want to repeat that.  
10 They experienced 38 percent unemployment in 2009 and  
11 30 percent unemployment in 2010. That's more than  
12 three times the national unemployment rate.

13           They're staggering numbers, but they can be  
14 ameliorated by the actions of this Commission.  
15 Revocation of these orders will boost domestic  
16 magnesium production and recycling in my district and  
17 also across our country. Revocation will save or  
18 create critical U.S. jobs in design, in manufacturing,  
19 and distribution and sales of magnesium involved  
20 products. Additionally, revocation will save or  
21 create jobs in ancillary industries, including  
22 construction, auto manufacturing and defense.

23           Domestic manufacturing has been hit  
24 especially hard in these tough economic times.  
25 Lifting this order would significantly provide relief

1 to this important industry. According to the Uruguay  
2 Round Agreements Act, the Department of Commerce is  
3 required to revoke antidumping orders after five years  
4 unless revocation would be likely to lead to more  
5 dumping and material injury to the domestic industry.

6 Members of the council, I am here today to  
7 urge you and I submit that material injury to this  
8 domestic industry has been inflicted by these very  
9 antidumping orders meant to protect it. The  
10 antidumping orders are stifling business. They're  
11 killing jobs here in the United States, but today you  
12 have, happily, the opportunity and ability to revoke  
13 these orders.

14 Level the playing field across the globe and  
15 let American manufacturers grow their businesses.  
16 Thousands of jobs are on the line. And I thank you  
17 for this opportunity to speak to you today.

18 CHAIRMAN OKUN: Thank you very much for your  
19 testimony. Let me see if my colleagues have any  
20 questions. Commissioner Pearson?

21 COMMISSIONER PEARSON: Madam Chairman, as  
22 the Vice Chairman has reminded me, it is my custom to  
23 greet fellow Minnesotans.

24 MS. BACHMANN: Thank you.

25 COMMISSIONER PEARSON: So I just wanted to

1 observe that I think this is your first opportunity to  
2 appear before the Commission?

3 MS. BACHMANN: It is, and it's especially  
4 apropos in light of the temperatures that are outside  
5 today.

6 COMMISSIONER PEARSON: Yes. It's much nicer  
7 to be working inside than outside.

8 MS. BACHMANN: Yes, it is.

9 COMMISSIONER PEARSON: I agree. I just  
10 wanted to welcome you, and we look forward to seeing  
11 you again in the future.

12 MS. BACHMANN: Thank you, and thank you so  
13 much for your consideration of my remarks this  
14 morning.

15 CHAIRMAN OKUN: Thank you.

16 MS. BACHMANN: Thank you.

17 MS. ABBOTT: Our next speaker is the  
18 Honorable Daniel Reitz, State Representative, Illinois  
19 General Assembly.

20 CHAIRMAN OKUN: Good morning and welcome to  
21 the Commission. You may proceed.

22 MR. REITZ: Good morning, Madam Chairman and  
23 members of the Commission. I appreciate your  
24 indulgence. I'm Dan Reitz. I represent the 116th  
25 District in Illinois, and in my district is Spartan

1 Light Metal. They have a die casting business that  
2 employs over 600 people.

3 The current tariff, I can tell you, has  
4 impacted the State of Illinois. We passed a  
5 resolution that you should have a copy of. We've lost  
6 at least one manufacturer in northern Illinois I  
7 believe directly because of this tariff and the  
8 increased costs of magnesium alloy. It's cost us  
9 hundreds of jobs I think in my area by limiting the  
10 options for the die casting material that is part of  
11 plan. This tariff has stymied their innovations by  
12 limiting the use of magnesium alloys.

13 We have I believe many laws and rulings that  
14 you deal with and we deal with that have unintended  
15 consequences. I believe this is one. I think the  
16 unintended consequence of the current tariff has been  
17 the loss of jobs that it was really intended to  
18 protect.

19 We've lost thousands of jobs in the midwest  
20 because of the provisions that you're dealing with  
21 today. We've lost mainly I think opportunities for  
22 new innovations from the talented people that they  
23 have at Spartan Light Metal in my area to find ways  
24 they can help us increase our fuel efficiency, things  
25 of that nature.

1           The question before you today is considered  
2 whether material injury will occur, and I submit to  
3 you that my district has suffered a material injury  
4 already due to this tariff. Spartan Light Metal is  
5 doing its best to survive and to compete without being  
6 able to consider one of its most important allies.  
7 They have been the leader in technology and in new  
8 innovations for the last 40 years and we'd like them  
9 to continue that, but I think you've taken one of  
10 their important tools out of their tool chest.

11           I'd also submit to you that our country has  
12 suffered by limiting the research and testing of these  
13 new products. We're already at a competitive  
14 disadvantage I believe to other countries with wages  
15 and environmental costs, and I believe eliminating  
16 this tariff will be a small step toward addressing our  
17 country's problems.

18           We need to create more jobs. We definitely  
19 need jobs in our area. We're suffering, like other  
20 states, a tremendous budget deficit and we need to  
21 create jobs and opportunities so that we can produce  
22 the taxes and the revenue we need to run the state.

23           In Spartan Light Metal's case, it would also  
24 help solidify the plant in Sparta. As I said, they  
25 have 600 jobs, but it would help retain that

1 workforce, allow them to stay in Illinois, to stay in  
2 the midwest and to make a good product for all of us.  
3 I'd appreciate your consideration of our request to  
4 lift this tariff and allow all the stakeholders to  
5 find a better solution.

6 From the understanding I have in discussions  
7 with the people at the plant in Sparta, there are a  
8 lot of other options out there that would be better  
9 suited. And I think the intent of the initial tariff  
10 decision, since then things have changed. I think  
11 there are better solutions to allow them to take care  
12 of the initial impact that was addressed in this  
13 tariff, allow us to have the raw product brought in so  
14 that we could manufacture that.

15 I think right now the understanding that I  
16 have is it's probably easier to manufacture the  
17 product overseas and bring it in and sell it cheaper  
18 than we can get the raw product for. And I think that  
19 definitely wasn't the intent of this tariff and  
20 appreciate your indulgence in turning this over.  
21 Thank you.

22 CHAIRMAN OKUN: Thank you. Let me see if my  
23 colleagues have any questions.

24 (No response.)

25 CHAIRMAN OKUN: Thank you very much for your

1 appearance here today.

2 Madam Secretary, can we turn to the opening  
3 remarks?

4 MS. ABBOTT: Yes, Madam Chairman. Opening  
5 remarks in support of continuation of the orders will  
6 be by Stephen A. Jones of King & Spalding.

7 CHAIRMAN OKUN: Good morning and welcome.

8 MR. JONES: Good morning, Madam Chairman,  
9 members of the Commission. I am Steve Jones of King &  
10 Spalding representing US Magnesium, LLC and Local 8319  
11 of the United Steelworkers Union.

12 The orders under review are textbook  
13 examples of how the antidumping duty law is supposed  
14 to work. During the original period of investigation,  
15 dumped imports of alloy magnesium from China and both  
16 pure and alloy magnesium from Russia were surging into  
17 the U.S. market at very significant volumes and very  
18 low prices.

19 Alloy magnesium from China was gaining  
20 market share with the largest end use category, U.S.  
21 aluminum companies, which were willing and able to  
22 substitute alloy magnesium for pure magnesium for the  
23 magnesium units needed to produce aluminum can stock  
24 and other products.

25 In addition, dumped imports of both pure and

1 alloy magnesium from Russia were flooding the market,  
2 unfairly taking market share in all significant end  
3 use markets. In addition, it was clear that imports  
4 of alloy from China and pure from Russia were fiercely  
5 competing against each other and against the domestic  
6 industry for sales to aluminum producers. In  
7 addition, Chinese alloy and Russian alloy were  
8 competing head-to-head for sales to die casters, which  
9 make alloy magnesium parts of the automotive sector.

10 Based on the documented and growing  
11 competition between alloy and pure, the Commission  
12 determined that there is one like product encompassing  
13 all unwrought magnesium, pure and alloy, primary and  
14 secondary, ingots and granular.

15 In addition, the Commission found that  
16 imports from China and Russia should be cumulated  
17 based on their fungibility in the market and the  
18 head-to-day competition between each other and with  
19 the domestic industry nationwide. These  
20 determinations were unanimous and neither were  
21 appealed. Nothing has changed that would warrant  
22 departure from these findings in these reviews.

23 The orders have had the anticipated benefits  
24 for the industry. Because exporters in China and  
25 Russia are unable to sell commercial quantities of

1 magnesium in the United States without dumping, the  
2 orders resulted in a significant decline in subject  
3 imports. Prices were able to increase as the unfairly  
4 traded material exited the market. As a result,  
5 domestic producers were able to regain market share  
6 and the financial results improved.

7           The improved financial condition has enabled  
8 the domestic industry to stay in business, invest and  
9 grow. US Magnesium was able to continue its  
10 modernization and expansion project begun in 2000 and  
11 increase its nameplate capacity from 40,000 tons to  
12 49,000 tons in 2006 and to 52,000 tons in 2008. The  
13 company is currently engaged in an additional  
14 expansion to 63,500 tons by 2013. None of these  
15 investments would have been possible without the  
16 orders.

17           In addition, the orders have enabled a new  
18 primary magnesium producer, MagPro, to enter the  
19 market. The orders have also made possible  
20 significant investments in downstream industries that  
21 use magnesium such as Allegheny Technology's new  
22 titanium sponge plant next door to US Magnesium's  
23 plant in Raleigh.

24           In short, the orders have been and continue  
25 to be effective, providing import pricing discipline

1 and a stable and predictable commercial environment.  
2 Contrary to arguments you will hear today from certain  
3 magnesium die casters, fair pricing has not depressed  
4 demand for magnesium die cast parts.

5 Three new magnesium die casting operations  
6 have been established in the United States since the  
7 orders were imposed, and the die casters' own data  
8 show that aluminum and zinc, not subject to any  
9 antidumping orders, die casting shipments sell at  
10 about the same rate as magnesium die casting shipments  
11 during the period of review.

12 Moreover, in Canada where there was no  
13 protection from dumped magnesium imports, three die  
14 casters declared bankruptcy, again demonstrating the  
15 absence of linkage between the orders and the  
16 condition of U.S. magnesium die casters. The  
17 available evidence squarely contradicts the die  
18 casters' position.

19 If the orders are revoked, the market  
20 quickly would return to preorder conditions. Price  
21 remains the number one purchasing factor and  
22 purchasing decision. Imports from China and Russia  
23 would flood the market, driving prices down in the  
24 U.S. as they have driven down prices in other  
25 unprotected markets.

1           The Chinese and Russian magnesium industries  
2 both have significant underutilized capacity, and  
3 products currently exported or sold at home likely  
4 would be diverted to the United States. Faced with  
5 renewed underselling by imports, US Magnesium would be  
6 forced to reduce volume, cut prices, reduce employment  
7 and suffer deteriorating financial performance.

8           Moreover, it would likely discontinue its  
9 modernization and expansion projects. The industry's  
10 survival would be in jeopardy. The available evidence  
11 demonstrates that revocation of the orders would be  
12 likely to lead to a continuation or recurrence of  
13 material injury within a reasonably foreseeable time.  
14 We therefore respectfully urge the Commission to reach  
15 an affirmative determination in these reviews. Thank  
16 you.

17           CHAIRMAN OKUN: Thank you.

18           MS. ABBOTT: Opening remarks in opposition  
19 to continuation of orders will be by Lewis E.  
20 Leibowitz of Hogan Lovells and John M. Gurley of Arent  
21 Fox.

22           CHAIRMAN OKUN: Good morning and welcome.

23           MR. LEIBOWITZ: Good morning, Madam  
24 Chairman, members of the Commission. It's a pleasure  
25 to be here before you. I am Lewis Leibowitz, a

1 partner of Hogan Lovells US LLP and counsel for the  
2 Magnesium Committee of the North American Die Casting  
3 Association and Spartan Light Metal Products, an alloy  
4 magnesium producer and die caster.

5 We support the revocation of the orders on  
6 magnesium from Russia and alloy magnesium from China.  
7 We support a finding that there are in reality two  
8 domestic like products, pure magnesium and alloy  
9 magnesium, divided by the tariff definition of 99.8  
10 percent purity.

11 The Commission should find that revocation  
12 of these orders would not be likely to lead to the  
13 recurrence of material injury within a reasonable  
14 period of time whether there is one like product or  
15 two. The Commission should not cumulate the effect of  
16 imports from Russia and China, but cumulation again is  
17 not critical to our case. It would not change the  
18 outside of the case. There is no realistic prospect  
19 that imports from Russia or China would increase to  
20 injurious levels after revocation.

21 The magnesium die casting industry is  
22 inextricably tied to alloy magnesium production, both  
23 primary and, as represented by Spartan Light Metal in  
24 this case, recycling of alloy magnesium. The orders  
25 under review are in turn related to the outlook for

1 magnesium die casters.

2           The domestic pure magnesium producer cannot  
3 credibly claim to be injured. Alloy magnesium  
4 producers other than recyclers are also not injured.  
5 The only question is whether the current good  
6 condition of these producers would end because of the  
7 orders being revoked. It's evident that they would  
8 not.

9           As we'll see, the die casting industry,  
10 which is a major user of alloy magnesium and cannot  
11 use pure magnesium, has suffered because of the  
12 isolation of the U.S. market from global competition.  
13 Demand for alloy magnesium in the United States has  
14 declined as a result because many die casters have  
15 gone out of the magnesium die casting business for  
16 other material or have shifted their production to  
17 other countries.

18           The dramatic growth in exports of alloy  
19 magnesium at globally competitive prices from the  
20 United States is evidence of this dramatic change and  
21 the precipitous decline of die casting in the United  
22 States. Revoking these orders will give die casters  
23 and their alloy magnesium suppliers a fair chance to  
24 re-establish their position as key suppliers to the  
25 automotive and other important industries and thereby

1 increase demand for alloy magnesium in the U.S.

2 Alloy magnesium producers, both primary and  
3 recyclers, will benefit from the revocation of these  
4 orders and pure magnesium will not suffer because pure  
5 magnesium will continue to be under antidumping  
6 protection from China.

7 We look forward to exploring these  
8 compelling reasons for revocation during the hearing  
9 today. Thank you very much.

10 CHAIRMAN OKUN: Thank you. Good morning and  
11 welcome.

12 MR. GURLEY: Good morning, Madam Chairman  
13 and members of the Commission. My name is John  
14 Gurley, and I'm with the law firm of Arent Fox. We  
15 represent VSMPO-AVISMA. VSMPO is one of the two  
16 Russian producers and exporters of magnesium.

17 First, I agree with the comments of my  
18 colleague, Mr. Leibowitz, with respect to the issue of  
19 like product. Since the Commission last looked at  
20 this case, there have been fundamental changes in the  
21 world and U.S. magnesium markets. First, US Magnesium  
22 itself is much stronger than it was five years ago.

23 Second, the Russian producers are both  
24 smaller in terms of capacity and production. Indeed,  
25 both VSMPO-AVISMA and the other Russian producer,

1 Solokomps, are focusing more their efforts now in  
2 supporting their production of titanium sponge.  
3 Importantly, US Magnesium can make the same claim.

4 As you will hear more in detail today, US  
5 Magnesium has a new and captive customer in Allegheny  
6 Technologies, a larger U.S. producer of titanium  
7 sponge. The importance of titanium sponge for Russian  
8 producers and US Magnesium represents a profound  
9 change in the U.S. and Russian markets and is a  
10 fundamental shift which clearly benefits US Magnesium.

11 Another important change since 2005 is the  
12 exit of Canada from the world magnesium market. In  
13 2005, Canada was the single leading exporter of  
14 magnesium to the United States. It now has zero  
15 production.

16 Two other important points will be discussed  
17 today. First, both VSMPO and Solokomps exited the  
18 U.S. market after receiving low dumping margins and at  
19 a time when U.S. prices were relatively high. This is  
20 truly uncommon. I think this fact would help the  
21 Commission in its analysis of the likely discernable  
22 adverse impact of the subject imports in the absence  
23 of the order.

24 Second, when the Russian imports were in the  
25 U.S. market, in the vast majority of cases Russian

1 products were sold at higher prices than those sold by  
2 the U.S. industry.

3 With respect to Russia the fact pattern in  
4 this review is truly novel. There is simply no reason  
5 for the continuation of the order after Russia. Thank  
6 you very much.

7 CHAIRMAN OKUN: Thank you.

8 MS. ABBOTT: Will the first panel in support  
9 of the imposition of antidumping duties please come  
10 forward and be seated?

11 (Pause.)

12 CHAIRMAN OKUN: Mr. Jones, it looks like  
13 your panel is all seated. Please proceed.

14 MR. JONES: It looks like we're ready.  
15 Thank you, Madam Chairman. Again, I'm Steve Jones  
16 from King & Spalding representing US Magnesium and the  
17 United Steelworkers Local 8319. It's a pleasure to be  
18 here today.

19 Our first witness from the panel is Mike  
20 Legge, the president of US Magnesium.

21 MR. LEGGE: Good morning. I am Mike Legge,  
22 president of US Magnesium, LLC. US Magnesium has its  
23 headquarters at Salt Lake City, Utah, and its  
24 production operations at Raleigh, Utah, on the western  
25 shore of the Great Salt Lake.

1           I joined the predecessor of US Magnesium in  
2           1979 and was appointed president of the company in  
3           1993. On behalf of US Magnesium and its approximately  
4           450 workers, I would like to thank the Commission for  
5           its 2005 affirmative determination in the original  
6           investigation of Magnesium From China and Russia.

7           Without this affirmative determination, US  
8           Magnesium would no longer be in business. That is not  
9           an exaggeration. Over the past 20 years, low-priced  
10          import competition has put out of business every other  
11          producer of primary magnesium in North America,  
12          western Europe and India. We have survived because  
13          these orders were imposed and have been enforced.

14          Because magnesium is a price sensitive  
15          commodity product, our business is extremely  
16          vulnerable to dumped imports. Back in 2002 to 2004,  
17          the original period of investigation, a significant  
18          volume of dumped imports from China and Russia  
19          increased their share of the U.S. market due to one  
20          and only one reason: Their low prices.

21          We could not shut off our electrolytic cells  
22          when we lost substantial business to dumped imports.  
23          Doing so would have destroyed the cells, and it would  
24          have been cost prohibitive to rebuild them. As a  
25          result, we were forced to follow the market price

1 down, even if it caused us to operate at a loss.

2           When the cost for energy and other inputs  
3 rose and market prices declined, we were caught in a  
4 cost/price squeeze that resulted in severe losses.  
5 The orders, however, enabled us to continue our  
6 modernization plans and install technologically  
7 advanced, lower cost and environmentally friendly  
8 electrolytic cells.

9           The centerpiece of the plan was a new type  
10 of electrolytic cell called the M cell, which was the  
11 product of several years of intensive research and  
12 development. The M cell has proved to be the most  
13 advanced electrolytic cell technology in the magnesium  
14 industry.

15           The orders enabled us to complete the first  
16 phase of our modernization and expansion in 2006 as  
17 shown in Slide 1. As a result, our nameplate capacity  
18 increased from about 40,000 metric tons to about  
19 49,000 metric tons. We continued to invest as market  
20 prices continued to improve as a result of the orders.

21           We carried out a second expansion plan that  
22 increased nameplate capacity to approximately 52,000  
23 metric tons in 2008. Currently we are engaged in a  
24 third major expansion effort to increase nameplate  
25 capacity to 63,500 metric tons by 2013.

1           The facility infrastructure construction for  
2 this expansion is underway and is scheduled for  
3 completion next year. Construction and installation  
4 of the new and more advanced version of the M cells is  
5 scheduled to occur in 2012, and production is  
6 scheduled to commence in 2013.

7           If market conditions warrant, we have  
8 already prepared engineering and cost studies for  
9 further expansion. Please refer to Confidential  
10 Hearing Exhibit 1 for the amounts of the capital  
11 expenditures associated with each phase of this  
12 expansion. As you can see, the amounts we have  
13 invested to modernize our processes and add production  
14 capacity since these orders were imposed are  
15 significant.

16           I understand that one of the factors that  
17 the Commission must consider in a sunset review is the  
18 likely negative impact of dumped imports if the orders  
19 are revoked on the industries' existing development  
20 and production efforts, including efforts to develop a  
21 more advanced product. Our production technology is  
22 the most advanced in the world, and we intend to  
23 continue to focus on improving the efficiency of our  
24 production process.

25           If these orders are revoked, however, market

1 prices will plunge and lower prices will endanger the  
2 sufficiency of the return on our past and pending  
3 investment projects and make it impossible for us to  
4 carry out our expansion plans.

5 In conclusion, we respectfully ask the  
6 Commission to continue the orders on magnesium from  
7 China and Russia. These orders have enabled US  
8 Magnesium to stay in business, invest and grow. If  
9 either of these orders is revoked, dumped imports will  
10 quickly depress U.S. prices, requiring us to cut our  
11 prices to maintain sales volume.

12 Reduced profitability resulting from lower  
13 prices would prevent us from achieving an adequate  
14 return on our investments and would make further  
15 investments impossible. Within a very short period of  
16 time, we would be forced to shut down. Thank you for  
17 your attention.

18 MR. JONES: Thank you, Mike. Our next  
19 witness is Cam Tissington. Mr. Tissington?

20 MR. TISSINGTON: Good morning. My name is  
21 Cam Tissington, and I am Vice President of Sales and  
22 Marketing for US Magnesium, LLC. I have more than 25  
23 years of diversified experience as a business  
24 executive in the marketing, development and sales of  
25 magnesium.

1                   From 1982 to 1998, I was employed by Dow  
2                   Chemical Magnesium in various capacities in the  
3                   magnesium business, including Magnesium Marketing  
4                   Manager and finally Global Commercial Manager. Since  
5                   1999, I have worked for US Magnesium and its  
6                   predecessor company as Vice President of Sales and  
7                   Marketing. Therefore, I understand the commercial  
8                   realities, the economics and the technical aspects of  
9                   the U.S. and global magnesium industry.

10                   In the original investigation, the  
11                   Commission found that pure and alloy magnesium  
12                   constituted a single like product based on six factors  
13                   considered in like product determinations. None of  
14                   those factors have changed significantly since the  
15                   Commission's determination.

16                   Magnesium encompasses a broad continuum of  
17                   chemistries, raw material sources, form, sizes and  
18                   shapes. Any division of this continuum does not  
19                   reflect the realities of the marketplace.

20                   As some of the Commissioners saw during  
21                   their plant tour, the production process for pure and  
22                   alloy magnesium is exactly the same until the step in  
23                   which the molten magnesium enters the cast and is  
24                   either cast as pure magnesium ingot or with the  
25                   addition of small amounts of alloying elements and

1 possibly some scrap as alloy magnesium ingots.

2 Many consumers use pure and alloy magnesium  
3 interchangeably, as both are perceived as delivering  
4 the necessary magnesium volume for the purchasers'  
5 operation. With respect to channels of distribution,  
6 both pure and alloy magnesium are sold largely to end  
7 users.

8 Prices for pure and alloy magnesium are  
9 comparable. Slide 2 shows spot prices for pure and  
10 alloy magnesium as published by *Platts Metals Week*.  
11 The prices clearly follow the same pattern. To the  
12 extent pure and alloying contract prices vary, that is  
13 generally the result of timing, duration and other  
14 terms of the specific contract.

15 In the original investigation, the evidence  
16 demonstrated that pure and alloy magnesium were both  
17 used in a variety of end uses, including the  
18 production of aluminum alloy, the manufacture of  
19 reagents used in iron and steel desulphurization and  
20 in the production of ferroalloys and nodular iron.

21 Two large aluminum companies, Alcoa and  
22 Alcan Rio Tinto, stated publicly that they have  
23 purchased pure and alloy magnesium for their aluminum  
24 alloying operations. Aluminum alloying and iron and  
25 steel desulphurization alone account for the clear

1 majority of the U.S. magnesium market.

2 Pure and alloy magnesium are both used in  
3 the bulk of the magnesium market because it is within  
4 these applications that purchasers buy magnesium based  
5 on the pounds of magnesium content irrespective of the  
6 alloying element. Aluminum producers and others use  
7 alloy magnesium instead of pure when, on a pure pound  
8 of magnesium basis, alloy is available at lower  
9 prices.

10 US Magnesium supplies a number of aluminum  
11 alloyers in the U.S. market, and many of these  
12 purchasers can and do use both pure and alloy  
13 magnesium. We have provided confidential hearing  
14 Exhibit 2 which relates to this topic, which you may  
15 find informative during this testimony and this  
16 investigation.

17 About 94 percent of alloy magnesium sold in  
18 the United States is made to three ASTM  
19 specifications, AM 50A, AM 60B and AZ 91D. AM 50A  
20 generally consists of a nominal 95 percent magnesium,  
21 5 percent aluminum and less than .6 percent manganese.

22 For aluminum alloyers, the 5 percent  
23 aluminum content of AM 50A is as valuable as the  
24 aluminum to which the magnesium alloy material is  
25 added, and the nominal .6 percent manganese can easily

1 be tolerated or actually needed in the aluminum alloy.

2 Thus, aluminum producers can freely add  
3 magnesium to their product using either pure magnesium  
4 or AM 50A alloy. The same is true of both AM 60B  
5 alloy and AZ 91B alloy, both of which consist  
6 primarily of magnesium and aluminum.

7 Consumption of alloy magnesium by aluminum  
8 producers is no secret. Following the filing of the  
9 petition in 2004, *American Metal Market* observed the  
10 U.S. magnesium consumers, particularly aluminum  
11 producers, were using AM 50A alloy from China because  
12 they could obtain it without paying antidumping  
13 duties.

14 Third country suppliers, most notably  
15 Israel, have shipped greater volumes of magnesium to  
16 the U.S. markets following the imposition of the  
17 order. These third country imports, however, have  
18 generally been sold at nondepressed prices. US  
19 Magnesium of course recognizes that it cannot supply  
20 the entire U.S. market and acknowledges that fairly  
21 traded imports play an important role.

22 Many of these import sources in fact ship to  
23 the U.S. market because prices here are higher than  
24 other markets such as Europe where Russia and China  
25 compete fiercely on the basis of price. The public

1 pricing data in Figure V-5 of the public prehearing  
2 report as shown on Slide 3 illustrates this point as  
3 they show that U.S. prices have followed the same  
4 broad trend as prices in other markets as they respond  
5 to global supply and demand forces.

6           However, U.S. prices are simply higher than  
7 in other markets because Russia and China are unable  
8 to dump large volumes of material into the U.S.  
9 market. Russian and Chinese magnesium compete  
10 intensely in major markets such as the EU, and they  
11 compete based on price.

12           Before the orders were put in place in 2005,  
13 I watched pure and alloy from Russia and alloy from  
14 China compete head-to-head against each other and  
15 against US Magnesium for sales to consumers in all  
16 segments of the market. In light of this Russian/  
17 Chinese direct competition, the Commission properly  
18 cumulated Russian and Chinese magnesium in the  
19 original investigation and should do so in this sunset  
20 review. Without doubt, if the orders are revoked I  
21 fully anticipate seeing the same type of Russian/  
22 Chinese competition once again.

23           The antidumping orders have been very  
24 beneficial to the U.S. magnesium industry, especially  
25 with respect to pricing. After the petition was filed

1 in 2004, spot prices in the U.S. market started to  
2 improve quickly. However, our contract prices had  
3 already been locked in at the very low prevailing  
4 prices prior to the case.

5 Therefore, it unfortunately required some  
6 time for our contracts to expire and for new contracts  
7 to be put in place with prices that benefitted from  
8 the improved commercial environment. If the orders  
9 are revoked, however, there is no doubt that market  
10 prices will fall once again and so will our spot and  
11 contract prices.

12 Your affirmative determination in 2005  
13 allowed the improvements experienced by the domestic  
14 industry during the period of review. Revocation of  
15 the orders would quickly reverse that improvement.  
16 Thank you.

17 MR. JONES: Thank you, Cam. Our next  
18 witness is Susan Slade from US Magnesium.

19 MS. SLADE: Good morning to the Commission,  
20 and thank you for the opportunity to share my  
21 thoughts. My name is Susan Slade, and I'm the  
22 Director of Marketing for US Magnesium. I have more  
23 than 20 years of experience in the magnesium industry.

24 From 1989 to 1998 I was employed by Dow  
25 Magnesium in both technical service and sales

1 capacities with my primary focus being on the North  
2 American die casting market. After the closure of Dow  
3 Magnesium and from 1999 through 2006, I worked in  
4 sales and marketing for a Canadian magnesium producer,  
5 Niranda. You may be more familiar with the plant  
6 name, Magnolia Metallurgy. Since then and in 2006,  
7 I've worked for US Magnesium as the Director of  
8 Marketing.

9 I am from rural Missouri. I have a degree  
10 in Metallurgical Engineering from the University of  
11 Missouri School of Mines, and I believe that I  
12 understand the economics and the technical aspects of  
13 both the United States and the global magnesium  
14 industry.

15 Today I'd like to address the allegations  
16 made by NADCA in its submissions regarding the effect  
17 of the orders on die casting operations in the United  
18 States. In their public prehearing brief, the die  
19 casters, Spartan and NADCA, asserted that the  
20 continuation of the orders will continue a trend  
21 towards the production of die cast magnesium parts  
22 outside of the United States. This statement is  
23 unsupported and, frankly, untrue.

24 Consider the example of Canada. Die casters  
25 in Canada have had and continue to have unrestricted

1 access to low-priced imports from both Russia and  
2 China. At the time that the orders were imposed,  
3 there were three magnesium die casters in Canada --  
4 Meridian, Fisher Cast and Trimag. Since then, all  
5 three of these die casters have filed for bankruptcy  
6 protection under Canadian law, and of the three only  
7 Meridian continues to operate in Canada.

8 In contrast, and since the imposition of the  
9 orders, there actually have been three companies that  
10 have established magnesium die casting operations in  
11 the United States. Moreover, the majority of the  
12 parts that were previously made in Canada by the  
13 bankruptcy Canadian die casters, specifically Fisher  
14 Cast and Trimag, are now being manufactured in the  
15 United States.

16 Furthermore, NADCA's own data does not  
17 support its contention that magnesium die casters have  
18 been disproportionately affected by imposition of the  
19 orders. Slide 4 shows NADCA's data regarding U.S.  
20 shipment volumes for aluminum die castings, zinc die  
21 castings and magnesium die castings from 2004 prior to  
22 the imposition of the orders and through 2009.

23 Over that period, the volume of aluminum die  
24 castings declined on an annual basis at a rate faster  
25 than magnesium. In other words, access to dumped

1 magnesium imports has not been the key to die casting  
2 success or failure in either the United States or  
3 Canada.

4           Going forward, NADCA itself estimates that  
5 shipments of magnesium die cast needs will increase at  
6 a rate comparable to the rates of increase for  
7 aluminum and zinc die castings. Additionally, in June  
8 of 2009 NADCA issued a press release noting:

9           In a recent survey of U.S. die casters, 78  
10 percent reported that they had seen the manufacturing  
11 of die casting parts come back from overseas during  
12 the last two quarters. One example actually quoted  
13 *Chicago White Metals* stating that in the previous year  
14 it produced magnesium die castings that had previously  
15 been sourced offshore.

16           In my 20 years of experience in the  
17 magnesium industry, I have found that demand for  
18 magnesium is price inelastic. That is, that lower  
19 magnesium prices do not necessarily lead to higher  
20 magnesium consumption. We believe that significant  
21 increases in demand and the use of magnesium die cast  
22 parts have in the past and will in the future come  
23 about primarily from increased stringency in U.S.  
24 federal fuel efficiency requirements.

25           The most recent CAFE or corporate average

1 fuel economy legislation requires average fuel  
2 efficiency to increase by 25 percent for passenger  
3 vehicles and light trucks from 2011 to 2016. As part  
4 of that, US Magnesium has been very proactive in  
5 seeking to promote the use of magnesium in the U.S.  
6 automotive market.

7 We've initiated several programs to  
8 encourage increased magnesium demand in the United  
9 States, as detailed in our confidential prehearing  
10 brief, as well as our public participation in the  
11 United States Council of Automotive Research known as  
12 USCAR, which is a joint government and industry  
13 research and development consortium.

14 We're certainly hopeful that our in-kind  
15 contributions of both metal and technical service will  
16 not only reach a new application, but also technology  
17 that can be compounded in the future.

18 Please understand that an expansion of U.S.  
19 demand for magnesium would not insulate the U.S.  
20 magnesium industry from injury due to a resumption of  
21 dumped imports. Regardless of whether magnesium  
22 demand is elastic or inelastic, magnesium purchasers  
23 will still invariably try to minimize all of their  
24 import costs, including the cost for magnesium.

25 Therefore, if the orders are revoked it is

1 assured that purchasers will either buy more dumped  
2 imports or force US Magnesium to meet the lower import  
3 prices. Thank you for your attention.

4 MR. JONES: Thank you, Susan. Our next  
5 witness is Cody Brown, representing the United  
6 Steelworkers Local 8319.

7 MR. BROWN: Good morning. My name is Cody  
8 Brown. I work as a senior vacuum wagon operator at US  
9 Magnesium's plant. I have worked at the plant since  
10 1986. I have been president of Local 8319 of the  
11 United Steelworkers since 1997.

12 Local 8319 represents approximately 360  
13 workers and their families at US Magnesium, as well as  
14 the workers at the new titanium plant built at ATI in  
15 Raleigh, right next door to US Magnesium's plant. The  
16 Steelworkers have represented workers at US Magnesium  
17 since 1974. The majority of these workers have over  
18 15 years of experience, and many of them have been  
19 there from the beginning.

20 I was last here in 2005 when the  
21 Steelworkers were very concerned that our magnesium  
22 plant would be forced to close due to the dumped  
23 subject imports. The Commission provided us with  
24 relief from those imports, and this relief has been  
25 very effective.

1           US Magnesium has continued to invest in its  
2 plant, expanding capacity twice since the orders were  
3 imposed. A third expansion is in process, and for the  
4 first time in many years employees enjoyed the benefit  
5 of the profit sharing program that is part of our  
6 contract. More importantly, this relief has allowed  
7 us to stay in business.

8           Our owners did not abandon us when things  
9 got tough. They have put money into the plant to  
10 improve our technology and our working conditions.  
11 Together we have been doing everything possible to  
12 modernize our plant and maintain our jobs.

13           And it's not just the US Magnesium jobs. As  
14 two of the Commissioners saw when they visited the  
15 plant, there are jobs at what we call fenceline  
16 companies around US Magnesium's plant that are  
17 dependent on us. These companies include Hills  
18 Brothers, Broken Arrow and Cargill, all of which make  
19 use of a portion of the salt harvested from the Great  
20 Salt Lake by US Magnesium.

21           The majority of the workers employed at US  
22 Magnesium, these fenceline companies and ATI live in  
23 the surrounding communities of Tkwila County. It is  
24 very true to say that those workers, their families  
25 and the communities are counting on the Commission to

1 continue these antidumping orders to help preserve the  
2 economic viability of US Magnesium.

3 Our workforce is one of the most dedicated  
4 and hard-working groups in the industry. Our worker  
5 safety record is very good with an injury rate that is  
6 a fraction of the rate for nonferrous metals  
7 industries in the United States. We have worked hard  
8 with management to improve our safety, as well as  
9 capacity and efficiency as a plant.

10 We are grateful for the relief provided by  
11 the Commission. Back in 2005, I said that I would not  
12 squander the opportunities that relief would give us,  
13 and we have not squandered those opportunities. We  
14 are not afraid of free trade so long as it is fair  
15 trade. We are concerned, however, that the removal of  
16 the orders will cause the imports to flood the market  
17 again at very low prices, putting us back in the same  
18 situation we were in when we appeared before you in  
19 2005.

20 On behalf of the US Magnesium workers and  
21 the ATI workers, I am asking you today to allow the  
22 domestic industry to continue to benefit from the  
23 level playing field created by the orders and continue  
24 the antidumping orders against subject magnesium  
25 imports. Thank you.

1                   MR. JONES: Thank you, Cody. Our next  
2 witness is Mr. Pat Hassey from Allegheny Technologies,  
3 Inc. Mr. Hassey?

4                   MR. HASSEY: Good morning, all. I'm glad to  
5 be here also. A little background. I've been in this  
6 business about 42 years, probably the oldest of the  
7 group here. I worked for Alcoa, so I've been on both  
8 sides of this equation. Today I'm Chairman and Chief  
9 Executive Officer of Allegheny, and the company is  
10 noted as ATI.

11                   ATI is one of the largest and most  
12 diversified specialty metals producers in the world  
13 with 2009 sales of about \$3.1 billion. We have  
14 approximately 8,900 full-time employees who  
15 manufacture a diverse array of products for end use  
16 markets. Those markets include aerospace and defense,  
17 oil and gas, the chemical processing industry,  
18 electrical energy, both generation and distribution,  
19 medical devices, automotive, food service, appliance,  
20 machine and cutting tools, and construction and  
21 mining.

22                   Our products include titanium, titanium  
23 alloys, nickel-based alloys, superalloys, stainless  
24 and specialty steels, zirconium, hafnium, niobium,  
25 advanced powders, tungsten materials, grain oriented

1 electrical steel, forgings and castings. Our U.S.  
2 production facilities are located in nine states  
3 throughout the United States.

4 Our newest manufacturing plant is a titanium  
5 sponge production facility located in Raleigh, Utah.  
6 I understand that some of you drove past this plant  
7 recently when you were visiting US Magnesium. Our  
8 Raleigh plant is right next door to US Mag's plant,  
9 and this is the reason that I am here: To support the  
10 continuation of antidumping duties on magnesium from  
11 China and Russia.

12 Construction of our new greenfield plant in  
13 Raleigh took more than two years to complete,  
14 beginning in 2007, was substantially completed at the  
15 end of 2009 with a final capital cost of \$500 million.  
16 The largest building at the plant site covers 230,000  
17 square feet. It's the length of five football fields,  
18 and the entire facility covers 125 acres.

19 The plant is designed to produce 12,000 tons  
20 of premium grade titanium sponge per year, which will  
21 approximately double ATI's capacity to produce this  
22 sponge in the United States. Our other sponge plant,  
23 which is located in Albany, Oregon, manufactures  
24 standard grade titanium sponge. That plant has been  
25 idle since 2009.

1           Having secure domestic sources reduces our  
2 reliance on imported titanium sponge; also on  
3 purchased titanium scrap. This is especially  
4 important to ATI at a time when demand for titanium  
5 mill products is expected to significantly increase in  
6 the next several years.

7           The premium titanium sponge that we produce  
8 at Raleigh, Utah, is the critical raw material  
9 required in the production of aerospace, medical and  
10 industrial applications for titanium products such as  
11 critical rotating parts for jet engines, both  
12 commercial and military; airframe structural parts,  
13 particularly for the next generation of aircraft,  
14 mostly the Boeing 787 and other derivatives.

15           As you know, the airplanes and jet engines  
16 made in this country both for commercial and military  
17 are the best in the world. The aerospace industry  
18 provides much needed global exports and high paying  
19 jobs that are so critical to the current and future  
20 economy of the U.S.

21           Two of ATI's largest customers for these  
22 products are Boeing Aircraft and GE, respectively the  
23 number one and the number two exporters in the United  
24 States. Just like the aerospace industry products,  
25 the titanium and specialty metals made by ATI are

1 strategic, core competencies of the United States.  
2 Our country must maintain and enhance its global  
3 technology leadership position in these advanced and  
4 critical special alloys.

5 Our premium grade titanium sponge is also  
6 used in medical applications such as knee and hip  
7 prosthesis, again in the area which the United States  
8 companies lead the world.

9 As the secular trend toward more titanium  
10 airplanes powered by innovative, new jet engines and  
11 the need for medical implants for an aging population  
12 begin to evolve, it became apparent to us that the  
13 United States needed an integrated source of titanium  
14 products from a geopolitically secure and stable area  
15 of the world.

16 Too often as the case with oil and gas, rare  
17 earth metals, government run or controlled foreign  
18 entities manipulate markets and put pressure on the  
19 U.S. and our allies by withholding critical raw  
20 materials and commodities. Considering what I have  
21 now said, we decided to build a new titanium sponge  
22 plant at Raleigh, Utah, because of its proximity to US  
23 Magnesium. I should mention this is the first new  
24 titanium facility in the United States in 60 years,  
25 the first new titanium facility in the world in 30

1 years.

2 US Magnesium is by far the largest  
3 manufacturer of primary magnesium in North America.  
4 We consider it the last standing magnesium facility in  
5 North America. We need magnesium for our titanium  
6 sponge production. By locating the plant adjacent to  
7 US Mag, we are able to purchase magnesium from US  
8 Magnesium in molten form, which saves us significant  
9 energy costs and allows for fenceline recycling of  
10 magnesium chloride, providing an inherent value for a  
11 product that was previously disposed of.

12 Moreover, ATI would be ensured of having a  
13 reliable, long-term, high-quality, cost-competitive  
14 supply of titanium sponge, reducing our reliance on  
15 importing sponge from other countries. The location  
16 of our titanium sponge plant next to a reliable source  
17 of magnesium -- stable and reliable source -- were  
18 among the key considerations in our decision to build  
19 this kind of a plant in the United States.

20 If US Magnesium were to cease production of  
21 magnesium it would, one, endanger the viability of our  
22 investment and put the profitability of our titanium  
23 business at risk. In addition, our domestic industry  
24 must import titanium sponge, even with our Raleigh,  
25 Utah, facility.

1           Again, we are not independent in raw  
2 materials such as magnesium and titanium sponge. If  
3 we're not, our industry could end up in the hands of  
4 the geopolitical whim of governments, particularly  
5 those who have not always been friendly to us. For  
6 example, two large exporters of titanium products into  
7 the United States are Russia and Kazakhstan.

8           Today our Raleigh, Utah, plant is producing  
9 titanium sponge, but it is not yet producing anywhere  
10 near full capacity. The work today focuses on  
11 standardizing the process and improving yields as part  
12 of our orderly production ramp up to ensure the plant  
13 consistently produces the best quality at the most  
14 competitive cost. Again, this is a Grade A plant for  
15 rotating quality critical core competencies of the  
16 products.

17           The exact timing is uncertain, but we expect  
18 to begin the qualification process for use of this  
19 sponge produced in Raleigh for aircraft engines in  
20 2011. When we're fully ramped up, the plant will  
21 employ 150 to 200 people with an average salary of  
22 \$45,000 base plus full benefits -- retirement, health  
23 care, vacation, holidays and all that we look for in  
24 good paying jobs.

25           Our workers in Raleigh are represented by

1 the United Steelworkers, as you've heard. During the  
2 job fairs we held in 2008 to recruit workers for the  
3 plant, over 1,000 people showed up to apply. We're  
4 happy to be able to provide additional high quality  
5 manufacturing jobs at a time when the U.S. economy  
6 really needs them.

7 In addition, the Raleigh titanium sponge  
8 facility enables ATI to employ many more people  
9 throughout our domestic facilities. At ATI, we  
10 believe to compete in the global market a U.S. company  
11 must have unsurpassed manufacturing capability. Since  
12 2004, ATI has invested over \$2 billion primarily in  
13 building the world's newest and most advanced titanium  
14 processing paths.

15 Our Raleigh premium plant provides much  
16 needed raw materials. Our Bakers, North Carolina,  
17 plasma arc melting facility is the newest and most  
18 modernized and advanced in the world. Our Richland,  
19 Washington, electron beam melting furnace is one of  
20 the largest and most modern of its kind in the world.  
21 We also have several vacuum arc remelt furnaces in  
22 Albany, Oregon.

23 Our recently completed titanium and  
24 superalloy forging facility in Bakers, North Carolina,  
25 houses the world's largest and most advanced press

1 forge and radial forge used in our industry. Our  
2 upgraded and expanded specialty plate facilities in  
3 Washington, Pennsylvania, produce what we believe to  
4 be the largest and flatest titanium plate in the  
5 world. The ATI processing path also passes through  
6 Ohio, South Carolina and Alabama.

7 In conclusion, ATI supports the continuation  
8 of antidumping duties on magnesium from China and  
9 Russia in order to ensure a long-term, reliable  
10 domestic supply of magnesium, and we urge the  
11 Commission to make an affirmative determination. I  
12 thank you for your attention. We'll be happy to  
13 answer any questions.

14 MR. JONES: Thank you, Mr. Hassey. Mr.  
15 Bishop, time check?

16 MR. BISHOP: (Away from microphone).

17 MR. JONES: Thank you. Thank you. This is  
18 Steve Jones again. The issues that I would like to  
19 address are domestic like product and cumulation. In  
20 my opening this morning I addressed the like product  
21 issue briefly. Mr. Tissington also touched on the  
22 like product issues. We would be happy of course to  
23 answer any questions about that. I'm going to move  
24 ahead to cumulation.

25 In the context of like product, though, I

1 would like to again bring the Commission's attention  
2 to our Confidential Hearing Exhibit 2, of which you  
3 should have copies, which we think really does speak  
4 quite loudly and clearly to an issue in the like  
5 product analysis of interchangeability between pure  
6 and alloy. So we bring that to your attention and  
7 again would be pleased to answer any questions about  
8 it.

9 In addition, I'd like to call up our Hearing  
10 Slide No. 2. This is again a like product factor  
11 regarding convergence of prices. In the original  
12 investigation it was certainly an issue and examined  
13 by the Commission whether prices for pure and alloy  
14 magnesium had converged. The Commission found that  
15 prices for pure and alloy had converged.

16 In Slide 2, the published prices show that  
17 convergence continues. The prices track very closely  
18 over the course of the period of review, so there's  
19 certainly no basis to distinguish pure and alloy on  
20 the basis of price.

21 With respect to cumulation, the Commission  
22 should exercise its discretion to cumulate subject  
23 imports from China and Russia. As in the original  
24 investigation, the subject imports and the domestic  
25 like product are likely fungible in the market. In

1 addition, the subject imports are fungible with each  
2 other.

3 Of course, as noted, the actual competition  
4 between the subject imports and the domestic like  
5 product and between the subject imports themselves  
6 have diminished significantly during the postorder  
7 period due to the existence of the orders. It would  
8 not be an accurate measure of fungibility to look  
9 solely at the postorder period.

10 Rather, the Commission must examine the  
11 situation prior to the order, as well as the  
12 Respondents' exports to other markets after the order,  
13 where magnesium from China and Russia continue to  
14 compete. By looking at the preorder conditions and  
15 then postorder in markets other than the United States  
16 that are not protected by antidumping measures, the  
17 Commission can determine what is likely to happen in  
18 the United States if the order is revoked.

19 Prior to the orders, there was no question  
20 that alloy magnesium from China and pure and alloy  
21 magnesium from Russia were competing with each other  
22 and with the domestic like product. Alloy from China  
23 was competing with alloy from Russia for business with  
24 U.S. die casters, and alloy from China was competing  
25 with pure from Russia for business with U.S. aluminum

1 producers. All subject imports were competing with US  
2 Magnesium, and US Magnesium was losing sales to dumped  
3 imports from both countries in these sectors.

4 The decline in subject imports because of  
5 the orders again does not mean that subject imports  
6 are no longer fungible or that they no longer compete  
7 or would be likely to compete with each other and with  
8 the domestic like product nationwide. Moreover, there  
9 is no basis for the Commission to find that the  
10 subject imports from either country are likely to have  
11 no discernable adverse impact if the orders are  
12 revoked.

13 Producers in both countries have sought  
14 administrative reviews at Commerce almost every year  
15 since the orders were imposed. Contrary to arguments  
16 that have been made, the evidence shows that both  
17 countries continue to be export oriented and continue  
18 to be interested in supplying customers in the United  
19 States.

20 The same conditions of competition prevail  
21 in the U.S. market. Purchasers continue to be  
22 extremely price sensitive, and demand is price  
23 inelastic. Business is won primarily on the basis of  
24 price, and there is every indication that revocation  
25 of either order would be likely to lead to increased

1 subject imports at very low prices, underselling  
2 domestic producers and depressing prices causing  
3 material injury.

4 The record shows that magnesium from China  
5 and Russia compete fiercely in markets outside of the  
6 U.S. in Europe and in Russia, primarily on the basis  
7 of price. Revocation of the orders would lead to a  
8 resumption of this competition in the U.S.

9 With respect to Russia individually, the  
10 following factors indicate that the likelihood that  
11 imports from Russia would have/will have a discernable  
12 adverse impact if the Russia order is revoked: The  
13 Russian magnesium industry is export oriented; there  
14 is significant unused production capacity in Russia;  
15 both major Russian producers have well-established  
16 U.S. sales networks and channels of distribution.

17 The Russian producers have not abandoned the  
18 U.S. market; they have reduced their shipments  
19 significantly due to the antidumping orders; and  
20 Commerce has determined that both producers would be  
21 likely to dump at significant margins if the orders  
22 were revoked. In addition, both Russian producers  
23 have been subject to antidumping rates that are higher  
24 than the rates that were determined in the original  
25 investigation.

1           Finally, there would be a substantial  
2           incentive for Russian producers to ship to the United  
3           States if the Chinese order were continued and the  
4           Russian order revoked because the price likely would  
5           be higher in the United States than in other markets  
6           where China is not subject to trade discipline such as  
7           Europe and Russia.

8           In sum, imports from both China and Russia  
9           would be likely to have a discernable adverse impact  
10          if either or both orders were revoked. Accordingly,  
11          the statutory threshold to cumulate imports from  
12          Russia and China have been met and the Commission  
13          should exercise its discretion to cumulate the subject  
14          imports in this review. Thank you.

15          And now Jennifer Lutz from Economic  
16          Consulting Services.

17          MS. LUTZ: Good morning. I am Jennifer Lutz  
18          of Economic Consulting Services. I will address the  
19          conditions of competition, the Commission's original  
20          determination and the benefits of the order.

21          In the original investigation, the  
22          Commission made several findings about the conditions  
23          of competition in the U.S. magnesium market which  
24          remain true today.

25          First, the demand for magnesium is derived

1 from demand in downstream consuming sectors. The  
2 demand for these end uses, including automotive parts  
3 and aluminum alloying, generally track overall  
4 economic activity, which has been depressed in recent  
5 years.

6 The U.S. industry is hoping to see further  
7 strengthening of the U.S. economic recovery, but is  
8 concerned that revocation of the orders would result  
9 in the subject Chinese and Russian producers being the  
10 primary beneficiaries of that recovery.

11 As Ms. Slade has explained in detail, the  
12 antidumping orders have not suppressed U.S. demand for  
13 magnesium. As noted, the demand for aluminum and zinc  
14 die castings has closely followed the same trends as  
15 for magnesium die castings as shown in Slide 4.

16 The strongest demand driver for magnesium  
17 die castings will continue to be regulatory  
18 initiatives such as the strengthening of the federal  
19 CAFE fuel efficiency standards. Nonetheless, the  
20 confidential record contains important information  
21 about the multiple proactive steps that US Magnesium  
22 has taken to encourage U.S. demand for magnesium.

23 The most important change in the supply  
24 conditions in the U.S. market since the orders were  
25 put in place has been the ongoing expansion of US

1 Magnesium's production capacity as described by Mr.  
2 Legge and shown in Slide 1.

3 A clear economic benefit of the antidumping  
4 orders has been the establishment of a positive U.S.  
5 market environment that has given US Magnesium the  
6 economic incentive to increase its production  
7 capacity. By 2013, the time within the framework of  
8 the reasonably foreseeable future for a capital  
9 intensive industry, US Magnesium's nameplate capacity  
10 was increased by about 60 percent.

11 A key supply condition found by the  
12 Commission in its original determination is that a  
13 primary magnesium producer must maintain high capacity  
14 utilization rates to avoid a damaging shutdown of  
15 electrolytic cells. This fact remains true today and  
16 applies equally to US Magnesium, as well as to the  
17 Russian producers, AVISMA and SMW, which similarly  
18 must keep their electrolytic cells in operation.

19 Significantly, the Commission further found  
20 that "when faced with price competition primary  
21 magnesium producers will tend to cut prices to  
22 maintain production volume."

23 The record of this review is very clear with  
24 respect to the fact that subject imports and domestic  
25 like product are highly interchangeable and are sold

1 on the basis of price. Magnesium is a classic  
2 commodity product. Questionnaire data indicates that  
3 virtually all U.S. producers, purchasers and importers  
4 report U.S., Russian and Chinese magnesium to be  
5 always or frequently interchangeable, as shown in  
6 Slide 5.

7           Given the essential fungibility of the  
8 product, it is no surprise that price is the most  
9 important characteristic shaping a purchaser's  
10 decision. The questionnaire data indicate that  
11 purchasers ranked price as the most important, but  
12 that they always placed importance on product quality  
13 and consistency.

14           However, more than 70 percent of magnesium  
15 purchasers report that they require a supplier to be  
16 certified or qualified before selling to the  
17 purchaser. Therefore, since the certification and  
18 qualification process largely standardizes for product  
19 quality and consistency, it is price that remains the  
20 key factor determining to which supplier a purchaser  
21 will award a contract.

22           The evidence makes clear that revocation of  
23 the orders against China or Russia would lead to  
24 material injury to the domestic industry. The  
25 statutory factors provide an effective road map for

1       laying out this evidence.

2                 First, the Commission found in the original  
3       investigation that volumes of subject imports had  
4       increased significantly, both absolutely and  
5       relatively. For example, subject imports from China  
6       increased by 94 percent from 2000 to 2003, while  
7       imports from Russia increased by 83 percent.

8                 The Commission also found significant price  
9       effects arising from an overwhelming underselling by  
10      the Chinese and Russian material which depressed  
11      domestic prices to a significant degree. Related to  
12      these low subject import prices, the Commission noted  
13      that purchasers confirmed a number of the lost sales  
14      and lost revenue allegations involving substantial  
15      tonnage.

16                The Commission further found that subject  
17      imports had a significant adverse impact on the  
18      domestic industry with respect to virtually all of the  
19      injury indicators normally considered by the  
20      Commission.

21                The domestic industry has benefitted  
22      substantially due to the orders. Most obviously, the  
23      orders caused sharp reduction in the volume of subject  
24      imports which permitted a significant increase in U.S.  
25      prices. Following imposition of the orders, as shown

1 in Slide 6, U.S. subject imports from China  
2 essentially ceased, removing this low-priced volume  
3 from the U.S. market.

4 With respect to Russia, the significant  
5 impact of the order is most clearly illustrated by  
6 Slide 7, which shows the quarterly volume of subject  
7 imports from Russia before and after the orders were  
8 imposed and annotations indicating the dates of  
9 relevant events with respect to the Russian order.

10 In AVISMA's 2006 annual report, AVISMA  
11 itself admits that "shipments to U.S. consumers  
12 dropped significantly due to the introduction of  
13 antidumping duty in the USA." The decline in the  
14 volume of subject imports from China and Russia  
15 permitted U.S. prices to rise to economic levels for  
16 the U.S. magnesium industry.

17 Indeed, across the period of review U.S.  
18 prices have risen to levels above the prices  
19 prevailing outside the U.S. market where dumping  
20 protection against the subject imports has not been in  
21 place, as shown in Slide 3.

22 The confidential records makes clear that  
23 the orders thus have significant volume and price  
24 benefits for the U.S. industry and hence financial  
25 performance benefits as well. As Mr. Brown reported,

1 the improved commercial environment has for the first  
2 time in years permitted US Magnesium to reward its  
3 employees through the profit sharing provisions of its  
4 union contract.

5 From the Commission's perspective, a central  
6 benefit permitted by the orders has been US  
7 Magnesium's continuing progress in upgrading its  
8 technology and expanding its productive capacity as  
9 explained by Mr. Legge and shown in Slide 1.

10 Moreover, in the wake of the order MagPro  
11 established new primary magnesium production  
12 operations in the United States.

13 MR. BUTTON: Good morning. I'm Kenneth  
14 Button of Economic Consulting Services, and I will  
15 address the likely results of a revocation of the  
16 order.

17 There is no doubt that if the orders are  
18 revoked subject imports from China and Russia will  
19 increase significantly and quickly reach a significant  
20 level. The threat from the Chinese industry is quite  
21 extraordinary.

22 The prehearing report states, "China has the  
23 world's largest capacity to produce primary magnesium  
24 by far." It adds that, "There are at least 66  
25 magnesium smelters located in China with an annual

1 production capacity of 1.3 million metric tons." To  
2 provide perspective, US Magnesium estimates that  
3 China's 1.3 metric ton capacity is 2.4 times as large  
4 as total world consumption of magnesium.

5 The prehearing report goes on to state, "A  
6 recent report indicated that even though China's  
7 magnesium industry is currently oversupplied, the  
8 industry is nevertheless continuing plans to quadruple  
9 its magnesium capacity within the next five years  
10 through the addition of another three million metric  
11 tons of annual capacity. This additional capacity has  
12 been approved, is currently under construction and is  
13 due to be completed by 2015."

14 Without doubt, the Chinese producers would  
15 greet revocation of the order as an invitation to ship  
16 some of their very large excess capacity to the United  
17 States. Similarly, revocation of the order would  
18 leave the Russian magnesium producers to resume  
19 substantial exports to the United States.

20 Most easily and most likely, the Russian  
21 producers would redirect exports from current third  
22 country destinations to the United States market. The  
23 Russian producers are substantial exporters of  
24 magnesium. In fact, according to SMW's public annual  
25 report more than 50 percent of the shipments by the

1 Russian producers are exports.

2 Slide 8 shows official Russian export  
3 statistics indicating that even in the recession year  
4 of 2009 the Russian producers exported about 10,700  
5 tons of pure magnesium, of which 87 percent went to  
6 the EU. You will note that the average unit value of  
7 the Russian exports to the EU were quite low, merely  
8 \$1.12 per pound in 2009, and even lower at \$1.03 per  
9 pound in the first half of 2010.

10 In contrast, in the U.S. market the prices  
11 in the U.S. market were much higher in these periods,  
12 as indicated by the U.S. imports AUV of \$1.84 and  
13 \$1.93 measured at Customs value at foreign ports.

14 Why is there such a U.S./EU price  
15 difference? AVISMA's annual report for 2006 helps  
16 provide the answer. It states, "Shipments to U.S.  
17 consumers dropped significantly due to the  
18 introduction of anti-dumping duty in the USA on AVISMA  
19 of 21.71 percent. Having lost the American market due  
20 to a high dumping order, Chinese producers shifted  
21 their sales to the European market; thus, the European  
22 market became even more challenging for AVISMA. The  
23 Chinese continue to expand their markets for  
24 magnesium, and now are supplying the Russian market.

25 All of these factors contributed to the drop

1 in magnesium output at AVISMA."

2 As noted by AVISMA, another source of volume  
3 for export to the United States is Russian domestic  
4 volume displaced by Chinese imports into Russia.

5 The trade press follows closely Russian-  
6 Chinese price competition, especially in Europe. For  
7 example, at Exhibit 18 of our prehearing brief, a  
8 September 2009 American Metal Market article quoted  
9 that, "For much of 2009, traders had been selling  
10 Russian magnesium in Europe at 'lower prices compared  
11 to Chinese-origin material.'"

12 The article noted that the Chinese magnesium  
13 then began undercutting the Russian prices. As a  
14 March 2010 article opens, it's noting lower prices for  
15 the Russian material. Russia's second-largest export  
16 destination is Brazil.

17 You can see in Slide 8 that Russian export  
18 AUVs to Brazil are significantly higher than its  
19 export AUVs to Europe. What makes Brazil an  
20 economically very rational choice for the Russian  
21 producers is that Brazil has in place an anti-dumping  
22 order against magnesium from China that keeps Brazil's  
23 prices above the otherwise severely depressed global  
24 markets.

25 It is the same rationale the Russian

1 magnesium producers would follow in redirecting  
2 exports to the U.S. market if the U.S. anti-dumping  
3 orders were revoked with respect to Russia, but  
4 maintained as to China.

5 Finally, the prehearing report's Exhibit D  
6 provides statement after statement from purchasers and  
7 importers themselves as exported, excerpted in Slides  
8 9 through 12, indicating that revocation would cause  
9 the U.S. import supply to increase, and U.S. prices to  
10 fall.

11 Based on the impact of Russian and Chinese  
12 planks competition in other markets, such as the EU,  
13 there is no doubt that renewed flows of subject  
14 imports would have an adverse effect on U.S. prices.

15 If the orders were revoked, all this would  
16 happen again. As discussed, magnesium is the  
17 commodity product, and in order to gain market share,  
18 the subject imports through China and Russia would  
19 have to undersell U.S. producers and third-country  
20 suppliers, causing U.S. market prices to decline.

21 The information regarding current pricing in  
22 third-country markets, such as the EU, shown in  
23 Slide 3, provides evidence that the low prices likely  
24 to prevail in the U.S. markets would be, if the orders  
25 were revoked.

1                   The Commission found, in the original  
2                   investigation, that the volume and prices of the  
3                   subject imports had an adverse impact on the domestic  
4                   industry, as described by the other witnesses.  
5                   Revocation of the orders would similarly result in the  
6                   domestic producers losing volume, reducing employment,  
7                   lowering prices, suffering deterioration in financial  
8                   performance, and endangering the core benefit arising  
9                   as a result of the orders: the ongoing major  
10                  expansion of the production capacity in the U.S.  
11                  industry.

12                  Thank you.

13                  MR. JONES: Madame Chairman, that concludes  
14                  our presentation. We'd like to reserve our remaining  
15                  time for rebuttal.

16                  CHAIRMAN OKUN: Thank you very much. And  
17                  let me take this opportunity to welcome all the  
18                  witnesses to the Commission, and in particular to  
19                  thank the company witnesses and labor witnesses who  
20                  have traveled to be here today. We very much  
21                  appreciate the time that you've taken to be here, and  
22                  to answer questions.

23                  Mr. Jones, am I correct in understanding  
24                  that Mr. Hassey and Mr. Walton need to depart the  
25                  Commission at 11:30?

1 MR. JONES: That's correct, Madame Chairman.

2 CHAIRMAN OKUN: Okay. In light of that, and  
3 in consultation with my colleagues, and to allow  
4 everyone the opportunity to question those witnesses  
5 if they so choose, Madame Secretary, we will do a  
6 truncated first round of questions, each allotted six  
7 minutes per Commissioner. And I ask my colleagues to  
8 be even more conscientious than they normally are in  
9 observing the red light in this circumstance.

10 And with that, we will begin our questions  
11 with Commissioner Pearson.

12 COMMISSIONER PEARSON: Thank you, Madame  
13 Chairman. And let me extend my welcome to all  
14 panelists. It's good to see many familiar faces here.

15 Mr. Hassey, let me go to you. What is the  
16 demand outlook for titanium? Is it similar to  
17 magnesium, or is it stronger?

18 MR. HASSEY: In the sense of supply, it's  
19 very strong. Because when we look at the aerospace  
20 business with the increasing build rates for aircraft,  
21 the use of titanium in the new-designed aircraft, the  
22 new engines. Engines basically have two, two metallic  
23 components: super alloys of nickel and titanium.  
24 The nickel is about 65 percent of the weight, and the  
25 titanium would be about, I'd say 30 percent of the

1 weight, and there's five percent fiberglass -- not  
2 fiberglass, but composites and other kinds of things.

3 So it's jet engines and airplanes, it's  
4 military. There are new designs in military land-  
5 based vehicles for light transport into a modern Army,  
6 and designs in forming for what I'll call a blast  
7 bucket on the bottom of a vehicle. The titanium  
8 designs look very promising.

9 So we have the defense business. We have  
10 the aerospace business, both in frame and jet engine.  
11 We also have uses in oil and gas. As you go into  
12 deeper and more difficult areas where there would be  
13 more corrosive or brackish, or deep under the ground,  
14 like salt water -- excuse me, the tar sands in Canada,  
15 or even in deep water. Titanium is a wonderful  
16 material; it doesn't corrode. And it has the ability  
17 to, to bend on the end of a string.

18 So if you go deep and horizontal, you would  
19 need a, say, titanium tip to that big, long string.  
20 That's another.

21 The other area you might see is  
22 desalinization around the world. A desalinization  
23 plant being built in the Middle East, for example,  
24 would use between 12 and 13 million pounds of  
25 titanium, or tube and piping if it's on a warm Gulf

1 shore. And these are great opportunities for the  
2 United States to improve its exports, to improve the  
3 position of, of companies to provide products that are  
4 not commodity, not commonly produced in emerging  
5 economies. These are high-tech kind of, kind of  
6 things.

7 And so I would say that the growth prospects  
8 for the titanium business are very good. And I  
9 haven't got to nuclear yet, which I think will come  
10 toward the end of the decade, when we're starting to  
11 look at, at those kinds of outcomes, also.

12 So I would say I tried to emphasize, and I  
13 don't want to be overly excited and overly pushy about  
14 this, but the United States, you know -- I'm here  
15 today because I believe we need a domestic source. We  
16 cannot lose another major magnesium producer for  
17 stable, secure supply.

18 My experience has been, in tungsten  
19 materials for example, when you have U.S. suppliers  
20 over time the price is more stable. Over time, the  
21 price is more cost-competitive. Because when the U.S.  
22 manufacturer goes away, the conditions of the sale on  
23 the material change dramatically. And we cannot  
24 afford to have the sporadic dependence.

25 Again, you can take any rare earth material,

1 oil, you know, gas on, gas off, oil availability,  
2 cartels, other priorities for the material within the  
3 foreign country. We just really need a U.S. mag-type  
4 producer in the country. And that's really what I  
5 wanted to tell you.

6 COMMISSIONER PEARSON: Okay, thank you.  
7 It's correct to understand that your new facility in  
8 Raleigh is ramping up its production currently?

9 MR. HASSEY: Yes.

10 COMMISSIONER PEARSON: Okay. And this might  
11 be confidential, I don't know what's on the record and  
12 what's not. You can respond in post-hearing if it is  
13 confidential. But what percentage of capacity is  
14 currently being utilized?

15 MR. HASSEY: I would rather respond post-the  
16 meeting. But I would tell you that this particular  
17 process we have there is, is a, what I'll call a  
18 grade-A-type process.

19 What we want to get out of this plant is  
20 rotating quality material. And that rotating quality  
21 material is quite different, and takes a very long  
22 qualification.

23 So you have to do many, many things to  
24 qualify it. You have to have standard practices. You  
25 have to have your equipment in control and capable.

1 You cannot make any changes to that process. So that  
2 when you're testing that material, which takes over  
3 two million pounds of testing to test it, you cannot  
4 have one problem in any part of the process, in any  
5 piece of material you've produced. That's for our own  
6 safety on these jet engines. We don't like them  
7 coming apart.

8 So it's a very, it's a very determined,  
9 determined process and ramp-up.

10 I will say that we expect the plant next  
11 year to ramp up between 15 and 20 million pounds.

12 COMMISSIONER PEARSON: Okay. And will that  
13 be full capacity? Or is there further ramp-up?

14 MR. HASSEY: No. The full capacity of the  
15 plant, it's built for 24 million pounds today. It  
16 could be expanded, if the market demands expanse.  
17 It's very limited supply in this world of this grade-A  
18 material.

19 COMMISSIONER PEARSON: Okay. So the ramp-up  
20 is being done somewhat gradually for technical  
21 reasons, to make sure that you can maintain the  
22 quality? Is that a correct understanding?

23 MR. HASSEY: We have to lock in on all  
24 processes. People training, equipment standard  
25 operating procedures. And then bring our end

1 customers in to see that. And then you start a  
2 qualification process.

3 It's sort of like a football game. You  
4 start down the field, if there's a problem any place  
5 along the way you can lose. And if you lose, it's  
6 Mother, may I. You have to go back to the beginning  
7 line and start again. So you want to make sure it's  
8 locked in and ready before you start the qualification  
9 process.

10 COMMISSIONER PEARSON: Thank you very much.

11 MR. HASSEY: Thank you.

12 CHAIRMAN OKUN: Commissioner Aranoff.

13 COMMISSIONER ARANOFF: Thank you very much.  
14 Thank you to all the witnesses for being here today.  
15 And I do want to thank those of you who were involved  
16 in the plant tour last month, for your hospitality and  
17 for the very helpful information you've provided.

18 I'm going to continue asking questions to  
19 Mr. Hassey, since he's leaving. As I understand it,  
20 your process was designed to use molten magnesium as  
21 an input.

22 MR. HASSEY: That's correct.

23 COMMISSIONER ARANOFF: Is there any way,  
24 other than receiving it from U.S. Magnesium, that you  
25 could possibly obtain molten magnesium to run your

1 process?

2 MR. HASSEY: Well, what we'd have to do is  
3 bring in cold. We'd have to find a way to put it in  
4 these furnaces and melt it, get it into molten form.  
5 And then we would have to introduce it into the  
6 process. So it can be done, it's just much more  
7 expensive.

8 COMMISSIONER ARANOFF: Okay. The  
9 Respondents in this case have made the argument that  
10 you are a captive customer of U.S. Magnesium; that you  
11 don't have the choice of purchasing magnesium  
12 elsewhere. And I think what you're telling me is you  
13 do, but there would be a cost differential.

14 MR. HASSEY: We hope we're good business  
15 people, and I think we've selected a good partner.  
16 But we have a long-term arrangement for the next few  
17 years. And outside of that arrangement, in looking at  
18 the, at the overall position, we can use, we can use  
19 cold material.

20 We actually have used cold material in our  
21 Oregon facilities for standard grade, for a number of  
22 years. What's nice about this process is that it's  
23 closed-loop, and that the magnesium that comes to us  
24 is used to, as a catalyst to precipitate out the  
25 titanium.

1           We return magnesium chloride to U.S. Mag.  
2           They separate the magnesium and the chloride, make  
3           chlorine gas that gets shipped to water treatment  
4           plants and other uses in the United States, and  
5           recirculate that magnesium back to us for use again.  
6           So it's a very economically efficient, green,  
7           wonderful position to, to be in.

8           This is how we want to do it, rather than  
9           have a byproduct. The byproduct is actually magnesium  
10          chloride. Some states use it to melt snow, other  
11          states put it in landfills.

12          COMMISSIONER ARANOFF: Okay. Your Oregon  
13          plant, which you said is not currently in operation,  
14          is that correct?

15          MR. HASSEY: That's correct.

16          COMMISSIONER ARANOFF: So when you were  
17          discussing with Commissioner Pearson demand prospects  
18          for titanium, do I take it that the demand prospects  
19          for the standard grade are not very good? Or is there  
20          another reason why that plant is not in operation?

21          MR. HASSEY: That plant I would describe as  
22          a swing plant for us. Currently we're able to buy the  
23          grades that we're looking for from outside suppliers,  
24          but we cannot get the amount of this particular grade  
25          in Raleigh, Utah, the A grade.

1           But the standard grade is a grade that can,  
2           that can be used for all industrial-type applications,  
3           and some aircraft aesthetic-part applications.

4           We have elected to idle the reduction part  
5           of that plant at the moment. We do use the, I'll call  
6           the finishing operations, the separation, the crushing  
7           separation and all the back end of that plant today.

8           But we will have some of our suppliers out  
9           of, out of the rest of the world have told us that  
10          their availability of sponge to the United States, in  
11          the grades that we would like them to come in, will  
12          end after 2012. So that plant will be back in  
13          operation. In my view, it's just temporarily idle.

14          COMMISSIONER ARANOFF: Okay. Now, the type  
15          of magnesium that you're using to make titanium, you  
16          can use only the pure primary magnesium, is that  
17          right?

18          MR. HASSEY: We use a very pure grade that  
19          U.S. Mag has agreed to deliver to us. We want the  
20          minimum number of contaminants coming in to the  
21          reduction vessels.

22          COMMISSIONER ARANOFF: Is that, is that the  
23          product that our record is calling ultra-pure? Or is  
24          it just the regular pure grade that they produce?

25          MR. HASSEY: I think I'd let Mike Legge

1 answer that question.

2 COMMISSIONER ARANOFF: Okay. Mr. Legge?

3 MR. LEGGE: Yes. We take the magnesium that  
4 goes to ATI off our electrolytic cells, and so it is  
5 not processed to ultra-pure.

6 COMMISSIONER ARANOFF: Okay. So that's  
7 basically the same, the same pure primary magnesium  
8 that you're selling to certain other customers who buy  
9 that product in the market. Except for the fact that  
10 it's going directly in this loop.

11 MR. LEGGE: And it hasn't went through the  
12 cast-off.

13 COMMISSIONER ARANOFF: Right, okay. Okay.  
14 With that, Madame Chairman, I think I don't have any  
15 more questions for this witness. So I'll just pass it  
16 along to the next Commissioner.

17 CHAIRMAN OKUN: Okay, thank you. Well, let  
18 me continue along, Mr. Hassey, with you. And this may  
19 relate to Mr. Legge, as well.

20 I know there is some information in the  
21 confidential record with respect to the terms of this  
22 contract. But if you could fill out the record for  
23 us, in terms of both the ramp-up expected in  
24 production and what that means in the contract, and  
25 whether there's any variation in prices that relate to

1 the ramp-up, I think that would be helpful for us to  
2 understand how important this customer is for you. If  
3 that, would that be possible?

4 MR. HASSEY: I would say that the, the  
5 contract has a maximum take that we can have. It's  
6 based on our 24 million pounds of capacity, as we're  
7 going to ramp this plant to its full capacity as  
8 quickly as we can qualify it. The qualification is  
9 about a two-year process once everything is locked and  
10 standardized.

11 So we'll ramp -- it's been developing the  
12 processes over the last year. We expect to produce  
13 somewhere in the range of 15 to 20 million pounds in  
14 2011. We hope to be at full production then in 2012.

15 CHAIRMAN OKUN: Okay. Any additional  
16 details that could be placed in the confidential  
17 version would be helpful.

18 MR. JONES: Yes, regarding the terms of the  
19 contract, we'd prefer to discuss that in the post-  
20 hearing.

21 CHAIRMAN OKUN: Okay, absolutely. I'm not  
22 asking for that here. I'm just, I'm trying to make it  
23 so we have a complete record for --

24 MR. JONES: We'd be happy to do that.

25 CHAIRMAN OKUN: -- confidential. And will,

1 Mr. Hassey, will the amount of magnesium that you need  
2 to produce the titanium sponge, does it change or is  
3 it just a set formula? So for every unit you  
4 produce --

5 MR. HASSEY: One for one.

6 CHAIRMAN OKUN: One for one.

7 MR. HASSEY: Yes.

8 CHAIRMAN OKUN: And that's just standard.

9 That --

10 MR. HASSEY: A little bit more, but yes.  
11 Basically standard in these kind of vacuum  
12 distillation processes.

13 CHAIRMAN OKUN: Okay. And then you spoke  
14 about kind of the business, the business plan that  
15 justifies what you did. And it's very interesting to  
16 hear how you view the world out there in business, and  
17 how to, how reliable supply is.

18 You had mentioned in response to one of the  
19 earlier questions on some of the non-subject  
20 suppliers, and I wasn't sure, are they, are the non-  
21 subject countries that supply the market, Brazil and  
22 others, are they capable of supplying -- I mean, I  
23 know I understand that you wouldn't get the molten.  
24 But are non-subject producers capable of supplying it?

25 MR. HASSEY: The other is the Dead Sea

1 magnesium out of Israel.

2 CHAIRMAN OKUN: Okay. So that would, the  
3 specifications --

4 MR. HASSEY: It's basically availability and  
5 the reliability of supply to a company that needs it  
6 on time, when it's supposed to be there, in the  
7 quality it's supposed to be delivered, without  
8 exception.

9 CHAIRMAN OKUN: Okay. And in that  
10 relationship, how, when you're looking at the  
11 suppliers, how important is price in what you're  
12 describing? You described a very particular need.

13 MR. HASSEY: Well, the price has to be what  
14 I would consider a competitive price for the, for the  
15 overall process that we're running. So we're  
16 interested in a stable supply; we're also interested  
17 in, then, longer-term arrangements that, for example,  
18 a domestic supplier can provide us, where we can't get  
19 that on a spot buy or year-to-year basis.

20 We can't invest this kind of millions of  
21 dollars, hundreds of millions of dollars, on the basis  
22 of what the supply might be or what the price might be  
23 from period to period. We can adjust, within the  
24 contract, based on what market conditions in the end  
25 will be. But I think we have to have a win-win

1 relationship to make sure that we get a product that  
2 is saleable and competitive on a world market, and  
3 also that our supplier stays in business.

4 CHAIRMAN OKUN: You talked about your  
5 customers. Do you have -- and you're a world-wide  
6 competitor. Do you have other U.S. competition for  
7 the titanium sponge? Or is this --

8 MR. HASSEY: There's one other titanium  
9 sponge producer in the United States, and that's  
10 Timet, out of Nevada. There's three suppliers for  
11 Boeing. The largest supplier is VSMPO out of Russia.  
12 Then there's two other suppliers, ourselves and Timet.  
13 That's the Boeing Corporation.

14 We are in many cases sole-source supplying  
15 on certain parts of the jet engine, directed supply,  
16 because of the kind of products that we make. And  
17 there's also, on the military side, there's some  
18 specifics, also.

19 CHAIRMAN OKUN: Okay. Very helpful, as  
20 there is a lot of discussion in the Respondent's brief  
21 about the growing demand for titanium sponge, that  
22 you've had an opportunity to respond to how you see  
23 that market. So I appreciate that. And I appreciate  
24 all the answers you've given us, and for your  
25 willingness to submit the specifics post-hearing.

1                   With that, that was my question for you, so  
2 I'm going to turn to Vice Chairman Williamson.

3                   MR. HASSEY: Thank you.

4                   VICE CHAIRMAN WILLIAMSON: Thank you, Madame  
5 Chairman. And I do want to express my appreciation to  
6 the witnesses for their testimony.

7                   And continuing with Mr. Hassey, I was just  
8 wondering, now or post-hearing, if you could give us  
9 an indication of what percentage of magnesium products  
10 are used in the production of titanium in the U.S.

11                  MR. HASSEY: I don't, I don't know what  
12 their total market share is of this market. I know  
13 that, you know, in our case, we will ramp up to, over  
14 the three-year timeframe I described, to about 24  
15 million pounds total.

16                  VICE CHAIRMAN WILLIAMSON: Okay.

17                  MR. HASSEY: We could use, we also use it in  
18 our plutonium business, for example. We also use it  
19 up in Oregon, if we -- but we have a second supplier,  
20 also, up there.

21                  VICE CHAIRMAN WILLIAMSON: Okay, thank you.

22                  MR. JONES: Mr. Vice Chairman.

23                  VICE CHAIRMAN WILLIAMSON: Yes.

24                  MR. JONES: U.S. Magnesium would be happy to  
25 provide that information, what percentage of their

1 sales goes to titanium, other end-use markets.

2 VICE CHAIRMAN WILLIAMSON: Thank you.

3 MR. JONES: Would that be helpful?

4 VICE CHAIRMAN WILLIAMSON: That would be  
5 helpful, thank you. Thank you for that.

6 I also wanted to ask Mr. Hassey about the,  
7 you talked about you can use other sources for the  
8 molten, you know, magnesium. And I assume that would  
9 be, at the plant in Utah, it would be a cost  
10 difference.

11 MR. HASSEY: Right.

12 VICE CHAIRMAN WILLIAMSON: And probably,  
13 maybe post-hearing you could give an indication of,  
14 you know, what would have to be, how much cheaper  
15 would that other have to be before you would have the  
16 same economic results.

17 MR. HASSEY: The way the process is designed  
18 there, this would probably slow our capacities down.  
19 We would probably produce less, because we would take  
20 time in the furnaces to be melting cold metal versus  
21 introducing molten into the process.

22 As it's designed, we would have a byproduct  
23 to dispose of. Because I don't think U.S. Mag, if it  
24 wasn't there or if we were using other people's  
25 material, wouldn't like us to send it back to them to

1 do something with.

2 VICE CHAIRMAN WILLIAMSON: I would imagine  
3 it's a matter of cost, of price.

4 MR. HASSEY: Well, it would be the logistics  
5 of the whole design. I have to say that it's, it is  
6 possible to do, but it is not something we would want  
7 to do.

8 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.  
9 I was wondering about the, the process in Russia. You  
10 had the discussion about the magnesium and chloride.  
11 Do they do, are they doing basically the same process  
12 there? And do they have the same issues to deal with,  
13 or the chloride?

14 MR. HASSEY: I would say they own their own,  
15 this is all one company so it owns its own magnesium  
16 input to their titanium facilities. And I don't know  
17 how they run.

18 VICE CHAIRMAN WILLIAMSON: Okay. You also  
19 mentioned that after 2012, one of your foreign  
20 suppliers would not be available. I think I  
21 understood that correctly. Was there a reason for  
22 that? I mean --

23 MR. HASSEY: Some of our foreign suppliers  
24 are backward, I would say for us, they're forward-  
25 integrating into melting. Like most other industries,

1 people would like to move further up the value chain.  
2 They'd like to provide product, so there is an  
3 alliance coming between Kazakhstan and South Korea to,  
4 with Posco of South Korea, to produce titanium milled  
5 products, like products that are not in our flat-  
6 rolled side of the business. It would be products  
7 similar to what we produce at the industrial market  
8 initially.

9           The issue is that, the issues are that our  
10 suppliers can sell to whom they choose. And as the  
11 market continues to increase, without domestic supply,  
12 there is no doubt that the prices for sponge would  
13 skyrocket to domestic producers that are trying to  
14 produce mill products for finished components.

15           And so part of the strategy overall to  
16 having a domestic titanium sponge facility is to make  
17 sure that the materials we're buying from other sponge  
18 producers around the world has a competitive nature to  
19 them, also, rather than our past experience. You  
20 folks probably know about it better than I do.

21           But the problem is that when we lose these  
22 domestic industries, what seems to be the current  
23 price in a competitive situation turns into a lopsided  
24 situation of leverage to the producing country.

25           And so it just isn't a good strategy to have

1 someone to say to you, me, or anybody else in the U.S.  
2 today well, we can get these materials outside the  
3 United States forever at these prices. It just  
4 doesn't happen that way.

5 You can until there's not a domestic  
6 industry available any longer, and then the prices  
7 change.

8 VICE CHAIRMAN WILLIAMSON: Thank you. I was  
9 about to ask you to say that usually someone who's  
10 sourcing wants to have competition to your sourcing.  
11 But I guess, I think you probably answered the  
12 question by saying you want viable, I mean, you want  
13 the competition, but you need a domestic producer to  
14 make it a viable position.

15 MR. HASSEY: Well, I'm a longer term.  
16 Believe it or not, there are CEOs that just don't go  
17 quarter to quarter.

18 VICE CHAIRMAN WILLIAMSON: Okay.

19 MR. HASSEY: Okay. You know, believe it or  
20 not, there are CEOs that really care about jobs in the  
21 U.S. manufacturing side, too. We've invested about  
22 \$2.5 billion since 2003. We are transforming our  
23 company, recapitalizing it into a world-class U.S.  
24 producer of specialty metals that have the technology  
25 that is not yet spread throughout the world.

1           Our strategy is to sell the products, not  
2 the technology. We have an invitation every month to  
3 build a plant someplace outside the United States, as  
4 long as we share our technology to do it.

5           So this strategy of having domestic  
6 production stabilizes prices over the long term,  
7 stabilizes supply over the long term, stabilizes the  
8 investments that we've made for our 9,000 people in  
9 the United States.

10           And so it produces the parts that are  
11 necessary to make, you know, to make the things we all  
12 enjoy in life, make a better life. It's energy, it's  
13 oil and gas for our cars, it's airplanes, it's jet  
14 engines. It's security, it's personal armament for  
15 soldiers and vehicles, it's submarines. It's  
16 everything that we take for granted these specialty  
17 materials do.

18           So part of our strategy is to make sure we  
19 are strong, we don't sell our technology outside of  
20 our company, we produce the products. We want to sell  
21 them overseas. The government -- I agree with the  
22 President. We need to double exports. We want to  
23 sell these products to people that need them to build  
24 their infrastructures, too.

25           So the strategy is to make it here in the

1 United States, provide the jobs in the United States,  
2 get the technology in the United States, sell the  
3 products, and for the betterment of the world. That's  
4 what we're doing, sir.

5 VICE CHAIRMAN WILLIAMSON: Thank you very  
6 much. And I hope the Chairman, I apologize for going  
7 over. But we wouldn't have had, this witness would  
8 not have had a chance to make his statement later, so  
9 thank you.

10 CHAIRMAN OKUN: Commissioner Lane.

11 COMMISSIONER LANE: I want to thank all of  
12 you for being here. And Mr. Hassey, I have to say  
13 that by telling us you were going to leave early, you  
14 made yourself a target for being the only one that  
15 gets questioned. So thank you for being so optimistic  
16 and in such good humor about being picked on solely in  
17 a panel of dozens of people.

18 MR. HASSEY: My pleasure, ma'am.

19 COMMISSIONER LANE: And I will make up time,  
20 because I only have one question.

21 You said that the Raleigh plant is not at  
22 full capacity, and that you still have to import  
23 titanium for domestic use.

24 MR. HASSEY: Yes.

25 COMMISSIONER LANE: Will there ever be a

1 time that your facilities here in the United States  
2 will be able to produce all of the titanium that you  
3 need?

4 MR. HASSEY: The answer is, I hope not. I  
5 hope that we can grow these mill products and these --  
6 we want to make sure that the full value chain, where  
7 we're a fully integrated supplier here, where we melt,  
8 we make the primary metal -- which is called sponge,  
9 but it's basically primary titanium. Then we melt it  
10 into a form, then we put it into a semi-fabricated  
11 form, and then we make a mill product. In many cases  
12 we go down to the finished components.

13 So we're a fully integrated supply chain in  
14 all these plants I mentioned in the United States, not  
15 a virtual supply chain of trying to get things done  
16 differently.

17 So I hope that our business is, our  
18 intention is to grow to at least 60 million pounds of  
19 this product. We do not have, at this point in time,  
20 enough sponge capacity to produce 60 million pounds,  
21 especially in the higher grades, so we have long-term  
22 arrangements with Japanese suppliers primarily. And,  
23 in a longer-term fashion. I think we'll be  
24 supplementing our supply.

25 But if we need to -- here's an important

1 point, Ms. Lane. If we need to, we can expand these  
2 facilities to counteract problems around the world, or  
3 to make sure that we're competitive, and our prices  
4 are not exorbitant on the, on the one side.

5 I would say today we had to backward-  
6 integrate into tungsten materials for cutting tools  
7 for the same reasons. Sometimes the materials are  
8 available, and then next year they're not going to be  
9 available. And I don't see how an industry in the  
10 United States that wants continuous employment and  
11 shipping on a global basis -- in our particular  
12 company, one out of three dollars comes from overseas.  
13 We sell one out of three dollars of our products  
14 outside the United States.

15 We need a consistent, reliable,  
16 geopolitically secure base of operations. And we want  
17 to buy globally, too, to make sure that our prices are  
18 competitive across the board. So it's a balance.

19 But I would say that I hope always we have  
20 some outside supply, so we, at least an 80/20 kind of  
21 relationship. And I'd like the company to grow as  
22 large as it can, and be a major innovator, exporter,  
23 job provider.

24 And I just want to -- I know I'm talking a  
25 lot. I'm sorry. But I want to say these are the jobs

1 that build the middle class in America.

2 COMMISSIONER LANE: Okay, thank you. And  
3 Madame Chair, that's all I have.

4 CHAIRMAN OKUN: All right, thank you. And  
5 we will now just return to the regular 10-minute  
6 rounds. So Commissioner Pearson.

7 COMMISSIONER PEARSON: Thank you, Madame  
8 Chairman. Mr. Hassey, I have one more question for  
9 you.

10 MR. HASSEY: Sure.

11 COMMISSIONER PEARSON: Do you --

12 CHAIRMAN OKUN: It's 11:26.

13 COMMISSIONER PEARSON: Do you have a sense  
14 of whether the start-up of your ATI facility had an  
15 effect on the magnesium market in the United States?  
16 Did it tighten things up a bit? Do you have any  
17 feeling for that?

18 MR. HASSEY: I think we had very, very  
19 little effect on the, because of the quantity that  
20 we're using, on the magnesium market pricing in the  
21 United States.

22 I think it had a great effect on what we  
23 would have paid for primary metal coming into the  
24 United States for titanium. Versus having this plant.

25 COMMISSIONER PEARSON: Okay, thank you.

1 You're a free agent now; at least, I have no more  
2 questions for you.

3 MR. HASSEY: I enjoyed being here and  
4 talking with all of you. Thank you very much for your  
5 questions.

6 CHAIRMAN OKUN: And I would just note that  
7 if there are other questions that come up later, we'll  
8 just submit those to Mr. Jones to give to you to  
9 answer. Commissioner Pearson.

10 COMMISSIONER PEARSON: I'd like to focus a  
11 bit on Slide 3 from your presentation, which is from  
12 the prehearing staff report Figure V-5. Yes, that's  
13 the one.

14 Now, there has been some discussion of this  
15 already. But what I'd like to consider is whether  
16 there are factors other than the anti-dumping duty  
17 orders that are leading to that quite wide price  
18 spread between prices in Europe and prices in the  
19 United States.

20 We have, you know, earlier in the period of  
21 review, the prices were closer together; now they are  
22 far apart. I can see that the anti-dumping duty order  
23 may have played a role in that.

24 Help me to understand why it isn't just the  
25 anti-dumping duty order that's leading to that price

1 spread.

2 MR. TISSINGTON: Yes, Mr. Commissioner. The  
3 difference in price that you see on that chart is  
4 because of the anti-dumping order in the United  
5 States. When the order was imposed in 2005, it took  
6 quite a while for U.S. Magnesium to be able to  
7 effectively change its prices, if you will. We had a  
8 significant amount of contract volume. And until  
9 those contracts were replaced with prices that were  
10 more reflective of the commercial realities after the  
11 order was imposed, we weren't really able to, to see  
12 that difference in price.

13 Now, as you get out towards this period of  
14 time, our prices and our contract prices certainly  
15 reflect the commercial realities of that order. And  
16 that's why you see the large gap between the European  
17 price levels, if you will, and the U.S. price level.

18 The customers, the market segments, are  
19 very, very similar, if not identical, in the different  
20 areas of the world. In a lot of cases you'll see  
21 multi-nationals, such as the large aluminum companies,  
22 that are consuming the same products, the same type of  
23 quantities, in different areas of the world.

24 MS. SLADE: Yes. This is Susan Slade. If I  
25 might just add one comment.

1 COMMISSIONER PEARSON: Please.

2 MS. SLADE: If you look at one of the slides  
3 in our exhibit, Slide 7, showing Russian imports into  
4 the United States, you can see that one of the impacts  
5 on Russian imports declining significantly was later  
6 in the period of review, when they received larger  
7 anti-dumping duty margins from administrative reviews.

8 So earlier on in the period, the actual  
9 margins for Russia were smaller, were smaller margins.  
10 And the higher margins later certainly had an impact  
11 on the amount of quantity that was coming in, and the  
12 resulting prices.

13 We saw a similar situation from, I guess in  
14 this case non-subject pure magnesium from China,  
15 where, later in the period of review, this period of  
16 review, they also received higher margins, which had  
17 an impact on overall magnesium market prices, as we've  
18 seen both pure magnesium from China, alloy magnesium  
19 from China, and metal from Russia all competing  
20 against each other.

21 So it was really a bit later in the review  
22 that we saw some of those margins starting to make an  
23 impact on price.

24 COMMISSIONER PEARSON: Right. But part of  
25 the point that I would like to make, it involves

1 information in the confidential staff report. But  
2 allow me to characterize it as, in the early part of  
3 the period of review, the domestic industry was  
4 profitable. We see now the price spread being wider,  
5 we see the domestic industry being more profitable,  
6 not surprisingly. And prices in Europe also are  
7 higher.

8 Do we have any knowledge of whether the  
9 European producers are making money at current price  
10 levels in Europe?

11 MR. BUTTON: There are no European producers  
12 of primary magnesium. They, in Norway and in France,  
13 those producers have been put out of business, in  
14 essence by the subject imports.

15 COMMISSIONER PEARSON: Okay. But we have  
16 apparently some substantial production of magnesium,  
17 perhaps alloy, in a number of European countries. At  
18 least, if I'm understanding correctly the information  
19 in Table 4-12, which is in the public staff report, it  
20 shows non-subject exports -- it says, "Reported world-  
21 wide exports from 2004 to 2009."

22 And looking just at the year 2009, we've got  
23 substantial exports from the Netherlands, Austria,  
24 Germany, Czech Republic; smaller amounts from the  
25 United Kingdom, Belgium, and Denmark.

1           So there is some magnesium industry in those  
2 countries. Is that what we would consider a different  
3 product, or is it a product that would be subject to  
4 this review?

5           MR. BUTTON: That will include alloy  
6 magnesium. But I'll let Mr. Tissington comment.

7           MR. TISSINGTON: When we take a look at  
8 imports or exports from Europe, you are going to see a  
9 lot of secondary magnesium alloy, but you're not going  
10 to see any prime production in Europe, or in Norway,  
11 any more.

12           So the types of materials that you would  
13 find being produced in Europe are not going to be  
14 primary pure, they're going to be secondary alloy  
15 magnesium.

16           The prices that are reflected in the Platts  
17 Metals Week Chart are simply the prices that consumers  
18 in Europe would be paying for those materials, or for  
19 materials that would come from any other what we would  
20 consider to be a subject country or a non-subject  
21 country.

22           So the European market is really dominated  
23 by Chinese and Russian, both pure and alloy. And then  
24 there is secondary magnesium alloy that's actually  
25 produced locally in Europe.

1           COMMISSIONER PEARSON: Okay. And is it  
2 correct that there is not currently an anti-dumping  
3 duty order in effect in the European Union against  
4 magnesium from any source?

5           MR. TISSINGTON: There are no anti-dumping  
6 orders in Europe. There are no, there are no primary  
7 producers in Europe, either. So we have secondary  
8 magnesium producers of alloy as the production  
9 industry in Europe, and there are no, no orders.

10           COMMISSIONER PEARSON: You're arguing for  
11 two like products, primary and secondary. I mean, at  
12 least you're, I would infer from your comment that you  
13 see the industry in Europe in these several countries  
14 that I mentioned as very different than what we have  
15 in this country. That as we, you know, the domestic  
16 industry that we're trying to understand, to determine  
17 whether there would be material injury if we revoke  
18 the order.

19           MR. TISSINGTON: Actually, the same means of  
20 competition occurs in Europe or in the United States.  
21 It's really no different. We compete here in the  
22 United States with prime pure, with prime alloy, with  
23 secondary materials, and the same thing happens in  
24 Europe as well.

25           COMMISSIONER PEARSON: Okay, but --

1 MR. TISSINGTON: In the European market you  
2 have prime pure, prime alloy that is imported into  
3 Europe, as well as secondary alloy that is produced in  
4 Europe. And they all compete head to head.

5 COMMISSIONER PEARSON: Okay. So these, the  
6 firms in these countries that I've listed, they would  
7 potentially stand to be injured by imports, the dumped  
8 imports, from either China or Russia.

9 MR. TISSINGTON: Absolutely.

10 COMMISSIONER PEARSON: Okay. I just wanted  
11 to make sure that you're not arguing that they benefit  
12 from low-priced imports of --

13 MR. TISSINGTON: Oh, no, no.

14 COMMISSIONER PEARSON: -- primary magnesium,  
15 because then they can produce low-cost secondary  
16 magnesium.

17 MR. TISSINGTON: No. And if the question is  
18 why do they not have an order, it would be hard for me  
19 to answer that.

20 COMMISSIONER PEARSON: Ms. Lutz wants to  
21 offer a comment.

22 MS. LUTZ: Right. We've been looking at the  
23 numbers back here. And for example, there are, it  
24 reports considerable exports from Germany. And there  
25 is simply no pure magnesium production there.

1           A lot of this is presumably trans-shipments  
2 of Chinese or Russian material to other markets. For  
3 the, for the pure magnesium, at least.

4           COMMISSIONER PEARSON: Okay. Well, my time  
5 is expiring, so thank you very much.

6           CHAIRMAN OKUN: Commissioner Aranoff.

7           COMMISSIONER ARANOFF: Thank you, Madame  
8 Chairman. I wanted to ask a few questions that go to  
9 the like product issue.

10           We have some data which, the specifics of  
11 which are confidential in our report, but having to do  
12 with off-specification secondary alloy magnesium. And  
13 that some if, in fact a fair bit of this product is  
14 being sold in the U.S. market.

15           Can you tell us, who uses off-specification  
16 secondary alloy magnesium? And what are they using it  
17 for? And if they didn't have that product, what would  
18 they be buying instead?

19           MS. SLADE: Yes, certainly. The, as you  
20 indicate, there's a difference between off-  
21 specification magnesium alloy and ASTM-grade magnesium  
22 alloy. Just for clarification, the ASTM-grade  
23 magnesium alloy is primarily going to the die-casting  
24 industry.

25           The off-specification magnesium alloy would

1 be considered used by traditionally pure industries  
2 that are buying magnesium units at the lowest price  
3 possible. And they could use any range of magnesium  
4 alloy containing, you know, say anywhere from,  
5 typically in the market, anywhere from 90-percent  
6 magnesium up to 100-percent pure magnesium, to alloy  
7 magnesium, into their furnaces to make aluminum alloy.

8 COMMISSIONER ARANOFF: Doesn't the fact that  
9 this is not only alloy, which requires certain  
10 additional steps I assume to be taken, where you would  
11 otherwise use pure in the production of aluminum, but  
12 now you have something that's off specification. So  
13 wouldn't it have more impurities in it that you'd have  
14 to get rid of?

15 MR. TISSINGTON: In actuality, aluminum --

16 CHAIRMAN OKUN: Can you bring your  
17 microphone a little closer to you, please, Mr.  
18 Tissington?

19 MR. TISSINGTON: An aluminum alloyer that  
20 would purchase what we refer to as off-specification  
21 alloy is really looking for the magnesium content in  
22 the material.

23 So what that would mean is if they want to  
24 make an addition to a furnace to get a certain amount  
25 of magnesium content in there, they simply will need

1 to add more pounds of the off-spec alloy than they  
2 would pure magnesium. Because the off-spec alloy will  
3 have anywhere from probably 90-percent to 95-percent  
4 magnesium.

5 So you're going to make a larger addition to  
6 the aluminum furnace to get the magnesium content that  
7 you need.

8 When we say off spec, it's off spec only  
9 from a standpoint of it does not meet ASTM  
10 specifications for magnesium alloy, because it's  
11 usually designed for a casting industry.

12 For the aluminum industry, they can be very  
13 careful, but those same contaminants are not  
14 necessarily a problem for them in a large degree.

15 Now, if there are contaminants in that alloy  
16 that they can't handle in their aluminum alloy, then  
17 obviously they wouldn't purchase it. But when we say  
18 off spec, it doesn't mean off spec for the aluminum  
19 consumer; it means off-spec versus ASTM casting alloy.

20 COMMISSIONER ARANOFF: Right. I'm just  
21 trying to understand, because I was surprised when I  
22 looked at our report, and how much of that product is  
23 being sold commercially in the U.S. And my  
24 understanding is no one makes it on purpose.

25 MS. LUTZ: Just to clarify, this product is

1 largely made by recycling, magnesium recyclers. And  
2 they are using scrap largely from die-casting  
3 operations.

4 So the scrap that is going into it was made  
5 to an ASTM specification. So it would have the same  
6 aluminum, manganese, et cetera. Just the product that  
7 comes out will not have it, have those elements in the  
8 exact same proportions as the ASTM-spec alloy would  
9 have.

10 COMMISSIONER ARANOFF: Okay. Well, I don't  
11 want to belabor this point because I'm not sure where  
12 I start treading on confidential information. But  
13 post-hearing, the issue that I'm interested in is this  
14 issue of overlap in uses of alloy magnesium in  
15 applications that normally would use pure.

16 And there is some data in our report that  
17 goes to this off-spec secondary product, which is what  
18 I'm looking at.

19 Let me kind of ask some questions about the  
20 Russian industry that I'm going to ask the witnesses  
21 this afternoon, but I wanted to give you the  
22 opportunity to speak to, if you have any information.

23 Your claim with respect to Russian capacity  
24 that's available to reenter the U.S. market, is that  
25 based on just the two Russian producers that have been

1 discussed? Or is there other capacity in Russia --  
2 mothball producers or something else out there -- that  
3 the Commission hasn't picked up on?

4 MS. SLADE: Yes. Certainly our main concern  
5 would be the two major producers involved, AVISMA and  
6 Solikamsk. We feel that they continue to be major  
7 global suppliers and export substantial quantities of  
8 material.

9 As we stated in some other testimony, we  
10 believe that they will have significant incentive,  
11 financial incentive, to ship to the United States, as  
12 opposed to other export markets. And we know that  
13 they stated in some of their briefs that they don't  
14 have so much interest in shipping to the U.S. market.

15 I have to admit, we're a little skeptical  
16 about that. We certainly know that they maintain  
17 close contact with the consumers; we know that from  
18 the consumers that we talk to. We've also seen recent  
19 shipments increase from those suppliers into the  
20 United States.

21 And the fact of the matter is that it would  
22 take very little volumes coming from either of those  
23 major producers to have an impact on prices.

24 COMMISSIONER ARANOFF: Okay, okay. I just  
25 mainly want to make sure that we've got the universe

1 of production facilities accounted for in our records.

2 MS. SLADE: If I may only make just one  
3 comment. There is one other project in Russia that  
4 has been considered on the table for some time, and  
5 that is a project, an electrolytic project to utilize  
6 magnesium from the serpentine tailings, Ural Asbest.  
7 And that's a project that's certainly in the future; I  
8 think it was maybe a 50,000-ton project in Russia,  
9 that we'd certainly keep a close eye on, and would be,  
10 would have concerns about, as well.

11 COMMISSIONER ARANOFF: But that's not a  
12 facility that could possibly come into operation in  
13 the next year or two.

14 MS. SLADE: Correct.

15 COMMISSIONER ARANOFF: Okay. AVISMA, in  
16 their brief, they talk about how their output is  
17 restricted by a mine disaster involving some input  
18 product. Is it your understanding that that's  
19 creating a permanent restriction on their production  
20 capacity? Or was that a temporary thing?

21 I'm going to ask them this afternoon, but I  
22 wanted to give you the opportunity to speak to that if  
23 you wanted to.

24 MS. LUTZ: I think it's been temporary. We,  
25 doing some research on line, we found the 2009 annual

1 report for the Russian carnilite producer, Silvinet.  
2 And they say, they mention the mine disaster here;  
3 they say they've supplied AVISMA since then. They say  
4 they completely meet the requirements of the Russian  
5 producers of magnesium. And they say they're  
6 expanding their capacity to produce carnilite, as  
7 well.

8 COMMISSIONER ARANOFF: Okay, I appreciate  
9 that answer. I'm bouncing around from topic to topic.  
10 But the Respondents also argue that the domestic  
11 industry has a growing focus on export markets, and  
12 that this focus is evidence that the domestic industry  
13 has become globally competitive; and thus, is not  
14 likely to be injured in the event of revocation.

15 Do you want to respond to that argument,  
16 please?

17 MR. BUTTON: We'd like to make a primary  
18 response in a confidential submission.

19 However, I'd note two things. One is that  
20 we'll provide some information about the industry's  
21 activities prior to the order. And then we'll talk  
22 about what's happened since the order. And there are  
23 some intricacies as to how exports occur that will be  
24 I think significant to lay out. We'll do it in a  
25 confidential submission, please.

1                   COMMISSIONER ARANOFF: Okay. Let's see, my  
2 time is almost up, so I'm not going to start another  
3 question. Thank you for your answers. Thank you,  
4 Madame Chairman.

5                   CHAIRMAN OKUN: Let's see. Let me -- I will  
6 probably jump around, as well, but let me start with  
7 some questions for the producers with respect to the  
8 facts we see in this case, and how we should analyze  
9 it in terms of what impact revocation of the order  
10 would have. And in particular, on the state of the  
11 industry itself.

12                   And I know, Mr. Jones, in your opening you  
13 talked about that you can, that looking at this  
14 record, one sees the benefit of the order.

15                   Respondents have argued that it is a case  
16 where, if you look in particular at the recessionary  
17 period when, in other cases -- you know, not the  
18 product before us -- domestic producers have not done  
19 well, have gone down with the market; that in fact, it  
20 is a little counter-factual to that. And whether  
21 that, whether that means that we have an industry that  
22 is strong enough, has improved so much that lifting  
23 the order would not mean there would be recurrences of  
24 the injury.

25                   So I just wanted to have the producers talk

1 about the state of the industry, and how we evaluate  
2 in terms of if it has strength, as it looks like it  
3 has, how do we take that into account in our analysis.

4 And I know we don't want to get into  
5 confidential information, so a lot of this will have  
6 to be post-hearing. But again, since it's an  
7 argument, I don't know if there are some general  
8 observations that producers or Mr. Button would like  
9 to make in terms of, again, a record where we've seen  
10 good numbers.

11 MR. BUTTON: Thank you. One of the roles of  
12 an anti-dumping order, of course, is to permit the  
13 domestic industry to recover from a situation of  
14 material injury. And the issue here I think you're  
15 raising is the one of vulnerability. And the  
16 suggestion by the Respondents that if this company is  
17 no, is not, shall we say, on the verge of collapse,  
18 and as they describe it as doing well, then therefore  
19 it won't be hurt.

20 I believe that comments that have been made  
21 by Mr. Legge about the company, and otherwise about  
22 the market, shows that the domestic market's pricing  
23 is very vulnerable to the impact of the subject  
24 imports. In other words, absent the order, the  
25 pricing would come down. And so, too, would volume.

1 And that would work its way through to the financial  
2 side as well, and the industry would no longer be  
3 doing well. I think that's simply the calculus.

4 The investments being made by U.S.  
5 Magnesium, for example, are all premised on receiving  
6 a return on investment, something that they did not  
7 have prior to the order. And during this period, this  
8 is at return of our investment, that more positive  
9 economic environment in general, that permitted these  
10 various expansion activities.

11 And you can imagine those will be vulnerable  
12 to a reduction in price, and reduced expectations of  
13 future earnings associated with them. So in that  
14 sense, I would say the industry is vulnerable. And  
15 I'll let Mr. Legge comment further, if there's  
16 additional points he'd like to make.

17 CHAIRMAN OKUN: Mr. Legge?

18 MR. LEGGE: Yes. What I would add  
19 specifically is if you look at the expansions that we  
20 are completing now, and we have substantially more  
21 capitalization finished, that was started in 2000/2001  
22 period. So we've had the lapse of nearly a decade to  
23 finish.

24 And during that same period of time, we can  
25 also cover this in a confidential submission, but we

1 not only stopped that project, but there were a lot of  
2 other things we didn't do. And the recent condition  
3 of the industry is, is not enough to regain a lot of  
4 what we did not do. And we are currently engaged in a  
5 lot of projects to improve the maintenance of the  
6 plant and so forth. And it was, if you will,  
7 deferred. But we can get into the exact details on  
8 that.

9 CHAIRMAN OKUN: Okay, I appreciate you doing  
10 that post-hearing, and Mr. Jones and Mr. Button, but  
11 post-hearing. So there's not -- I mean, there is the  
12 vulnerability question. But that doesn't, of course,  
13 answer the ultimate question of whether, whether there  
14 could be recurrence of injury. I mean, in other  
15 words, you know, you can have a non-vulnerable injury.

16 So I'm trying just to understand what  
17 factors are in place. So let me ask my next question,  
18 which is, Respondents, both in their, in their briefs  
19 in their opening statements today, focused on changes  
20 since the original investigation. And I'd ask you to  
21 comment on those and how we take those into account.

22 One of those changes we spent quite a bit of  
23 time on, which was the titanium sponge, growth in that  
24 market, and how much that protects the U.S. industry  
25 when you have a client like Mr. Hassey behind you.

1 And I don't know if there's anything else that you can  
2 say in the public session with respect to that part of  
3 the market. I know it's not the whole market, but  
4 just in terms of having a customer.

5 MR. LEGGE: I might add that as we started  
6 going to the expansions again and increasing  
7 production capacity, we did not have the titanium  
8 market exclusively in mind. The intent of the, of  
9 that expansion is to service not only that need at  
10 HEI, but it's to service the need of the domestic  
11 demand.

12 And so our expansion is, is addressing needs  
13 across all of our, all of our product lines and all of  
14 our end-use businesses.

15 CHAIRMAN OKUN: Yes, Mr. Tissington, if you  
16 want to add something.

17 MR. TISSINGTON: Specific to the titanium  
18 operation. And first I want to tell my boss that he's  
19 not a very good seller; he should have called that  
20 super-super-super-high-quality special magnesium for  
21 the titanium industry, even though it happens to be  
22 commodity-grade plain vanilla.

23 (Laughter.)

24 MR. TISSINGTON: The titanium plant,  
25 titanium plants in the United States -- there's two --

1 even when fully ramped up, they represent a  
2 significant amount of material, but not a huge amount  
3 of material when you take a look at the size of the  
4 U.S. market.

5 The second thing is these titanium plants  
6 take a long time to ramp up. The commercial market  
7 for U.S. Magnesium is very, very critical to our  
8 survivability during the ramp-up process, but even  
9 when they get to full rate. Because it just does not  
10 represent a dominant amount of magnesium consumption  
11 in the U.S.

12 And the first thing I would say is any ramp-  
13 up schedule or any optimism about any industry is  
14 very, very difficult at this point in time. Certainly  
15 the folks in the titanium industry are optimistic.  
16 We're very optimistic about the auto industry, as  
17 well. But that has to be tempered with the realism of  
18 the state of the aerospace industry and the state of  
19 the automotive industry.

20 So the commercial market just is, is really  
21 critical to U.S. Magnesium's future.

22 CHAIRMAN OKUN: And another -- thank you for  
23 those responses. Another change since the original  
24 order, and you all, you've had an opportunity to  
25 comment on it in some, in your testimony, but I wanted

1 to explore further.

2 Which is, what impact did the loss of the  
3 Canadian producer mean for the U.S. market in some of  
4 these areas that you've described? I'm trying to  
5 understand the impact of that, and what it might mean.  
6 Was it an opportunity? And what do we see on subject  
7 imports that came into the market after that? Ms.  
8 Slade.

9 MS. SLADE: Sure. Certainly, I'm familiar  
10 with the impact of the loss of many North American  
11 producers, not just Hydril in Quebec, but Magnola in  
12 Quebec and Dow before that. I think there have been  
13 six producers in North America that have been shut  
14 down, so that production has been taken away.

15 But at the same time, both U.S. and global  
16 production has increased more than the capacity that  
17 was taken off line in North America. So what we've  
18 seen since that time has been not only increased  
19 production and shipments from U.S. Magnesium, but also  
20 increased shipments, production and shipments from  
21 non-subject countries into the United States.

22 So our experience has been that the United  
23 States market has been well supplied throughout the  
24 timeframe. And unfortunately, having come from those  
25 producers and experiencing it through the time, with

1 each of those shutdowns, ironically, the price  
2 continued to decline, until essentially the 2007,  
3 late-2007/2008 period, which we consider is when the  
4 higher dumping margins were placed on Russian and  
5 Chinese material.

6 But prices went through a decline through  
7 the time that Dow started shutting down their plants  
8 in the late 1990s; declined as Noranda was coming up,  
9 declined with Hydril shutting down again until we saw  
10 some other changes in the marketplace.

11 So we've seen a significant increase of  
12 imports, as well as our own production supply in the  
13 U.S. market.

14 CHAIRMAN OKUN: Okay. My red light has come  
15 on. I have some follow-up questions, but I'll come  
16 back to them on another round.

17 Vice Chairman Williamson.

18 VICE CHAIRMAN WILLIAMSON: Thank you, Madame  
19 Chairman. Ms. Slade, you can finish that out. I  
20 don't know if you addressed, explained why the  
21 Canadian industry went down.

22 MS. SLADE: Certainly. The Canadian  
23 industry went down because they couldn't compete any  
24 better against lower-priced imports from both Russia  
25 and China, than Dow in the United States could. Or

1 Northwest Alloys in the United States could, prior to  
2 the orders.

3 VICE CHAIRMAN WILLIAMSON: And they just  
4 didn't bother to use their dumping law.

5 MS. SLADE: Yes. Unfortunately, they did  
6 not bother to use their dumping law. And I guess I  
7 can't get into Canadian politics and their export and  
8 import trade balance. But as an employee at the time,  
9 I certainly wish they might have.

10 VICE CHAIRMAN WILLIAMSON: Thank you. In  
11 the original investigation, two Commissioners found  
12 granular magnesium to be a separate-like product. If  
13 I were to consider this issue, what would your  
14 argument be? Mr. Jones?

15 MR. JONES: Vice Chairman Williamson, I'd be  
16 happy to try to address that.

17 Granular pure magnesium is pure magnesium.  
18 So it's the same chemistry as, as pure magnesium in  
19 ingot form, it's just in a ground form. It's in a,  
20 it's in not necessarily a powder; it could be in a, in  
21 what's called the form of a turning, which is a small,  
22 almost a shaving of magnesium. There are various  
23 forms in which, in which magnesium can be processed.  
24 And it really is a continuum of form, from the very  
25 finest powder through the very largest ingot. It's

1       been our position for many, many years now.

2                       Certainly with respect to  
3       interchangeability, the record has shown over the  
4       years that granular has been used for the same  
5       purposes as ingot, for various end-use products. With  
6       respect to perception, there are things that one would  
7       prefer granular for, as opposed to ingot. But those,  
8       those differences were not considered significant  
9       enough to constitute, or we certainly wouldn't  
10      consider those differences significant enough to  
11      justify more than one like product.

12                      And there are some, there are some  
13      relatively minor uses of powder that, for which ingot  
14      cannot be used. But the record in previous  
15      investigation showed a significant overlap in some of  
16      the significant end-use markets, including aluminum  
17      alloy, which showed that, that there really was not,  
18      was no justification, in our view, for two like  
19      products.

20                      We don't think the facts on this have  
21      changed significantly over the past five years. You  
22      know, we'd be happy to address that further in a post-  
23      conference brief if it would be helpful. But we don't  
24      think the facts have changed, in that we don't think  
25      there's any basis for granular being a separate-like

1 product.

2 VICE CHAIRMAN WILLIAMSON: Okay, thank you  
3 for that response. Is it possible for aluminum  
4 alloyers to use beryllium containing alloy magnesium  
5 by blending it with pure magnesium, and thereby  
6 reducing the overall beryllium content? Mr.  
7 Tissington?

8 MR. TISSINGTON: Mr. Commissioner, beryllium  
9 is an issue that we certainly talked a fair amount  
10 about at the hearing five years ago, as well. And  
11 what you'll normally find in aluminum alloyers, in  
12 particular, is that, well, there's no such thing as  
13 beryllium-free. So on any contaminant there will be a  
14 specification level.

15 And typically with aluminum alloyers, it  
16 might be .0001 beryllium in the alloy material that  
17 they might buy to use in their aluminum-cast stuff.

18 So the critical issue becomes whether the  
19 alloy magnesium or the pure magnesium contains more  
20 than .0001 beryllium. And that's certainly a level  
21 that, that anyone that's producing magnesium alloys  
22 can certainly hit or be beneath.

23 So the secondary magnesium alloy industry  
24 and the magnesium alloy industry is able to provide a  
25 product to these aluminum alloyers; they just have to

1 be certain that the beryllium level is below that  
2 .0001. And that really covers the full gamut of  
3 aluminum alloyers. There's no one that I am aware of  
4 that has a specification lower than that. In a lot of  
5 cases, the specifications for an aluminum alloyer  
6 might be much higher than that.

7 VICE CHAIRMAN WILLIAMSON: Okay, so you  
8 wouldn't consider it an issue.

9 Respondents argue against accumulation  
10 because the Russian product is now primarily pure  
11 magnesium, while they said the Chinese product is  
12 alloy magnesium. How do you respond to that, their  
13 argument?

14 MR. TISSINGTON: We've watched Chinese  
15 alloy, Russian pure, Russian alloy, and our own  
16 products all compete at the same customers for the  
17 same business. Certainly, pre-order 2005, I watched  
18 it happen at account after account, where customers  
19 looking for the lowest-priced magnesium molecule would  
20 gravitate toward wherever that product was, be it  
21 Chinese alloy, Russian pure, or our product.

22 In the end, price is the issue in almost all  
23 cases. And if the magnesium molecule in Chinese alloy  
24 is cheaper than the magnesium molecule in Russian  
25 pure, then that's what the business has decided on.

1                   VICE CHAIRMAN WILLIAMSON: Okay. Thank you.  
2 Your prehearing brief did not address in detail the  
3 issue of discretionary decumulation based on differing  
4 conditions of competition. Could you please address  
5 these now, or else in your post-hearing briefs?

6                   MR. TISSINGTON: Vice Chairman Williamson,  
7 we did have a section on accumulation in the brief. I  
8 guess physically I'm wondering what your question is.  
9 What is it that we, we didn't address, that you would  
10 like us to cover? Differing conditions of competition  
11 with respect to imports from China and Russia?

12                   VICE CHAIRMAN WILLIAMSON: If we may, if we  
13 were to find that there were differing conditions,  
14 that might give us the discretion to decumulate. And  
15 I was just wondering which of these -- what would you  
16 view the anti-cumulation?

17                   MR. JONES: Well, we would oppose it.

18                   VICE CHAIRMAN WILLIAMSON: And why?

19                   MR. JONES: Well, as I, I tried to  
20 summarize, and I'll do it again. And we'll certainly  
21 address in our post-hearing briefs, as well.

22                   Based on, really on what Mr. Tissington just  
23 said about the significant competition between alloy  
24 and pure in the market, there would be no basis for  
25 determining that the subject imports at issue here are

1 not fungible. They clearly are.

2 We've seen it documented in the record,  
3 certainly in the original investigation. It's not  
4 quite as much since then because of the orders. The  
5 imports, subject imports, have declined significantly.  
6 But certainly pre-order, we saw it, and we would  
7 likely see it again, in our view.

8 Regarding nationwide competition, you know,  
9 regardless of the port of entry, the subject imports  
10 from China and Russia have competed nationwide. That  
11 was clear in the original investigation. And again,  
12 to the extent that the post-order record may not show  
13 that competition to the same extent, we think it  
14 clearly likely would be that way if the orders were  
15 revoked.

16 And finally, on discernible adverse impact,  
17 I think we've shown that, that the impact of imports  
18 from China and/or Russia would be adverse if the  
19 orders were revoked. And would that impact be  
20 discernible, I would note in that regard that the  
21 Commission has stated a discernible adverse impact  
22 need not be as significant as a material injury.

23 I mean, the statute is not requiring you to  
24 make your ultimate determination in the cumulation  
25 analysis. A discernible adverse impact is clearly

1 something less than material injury caused by subject  
2 imports. And I would just, I would just note that I  
3 think the record clearly establishes that imports from  
4 China and/or Russia would have a discernible adverse  
5 impact.

6 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.  
7 Well, my time is about to expire, so I won't have  
8 further questions. I'll come to you later. Thank  
9 you.

10 CHAIRMAN OKUN: Commissioner Lane.

11 COMMISSIONER LANE: Good afternoon. Dr.  
12 Button, I will start with you. And then if other  
13 members of the panel want to respond also, I would  
14 appreciate it.

15 I was really struck this morning by the  
16 Congressional witnesses who appeared here this  
17 morning. Because generally when we have Congressional  
18 witnesses, they are in support of maintaining the  
19 order. And these witnesses, all three, want the order  
20 taken off because of the effect upon the purchasers of  
21 the product.

22 I would like for you to give me your  
23 analysis of their position.

24 MR. BUTTON: Thank you, Commissioner Lane.  
25 First of all, I believe that the Congressional

1 witnesses made some economic assumptions that I'm not  
2 sure are valid; and I think have been subject to  
3 comment by Ms. Slade and Mr. Tissington.

4 First off, the Congressional witnesses have  
5 assumed that there's been a decline in the  
6 consumption, the demand for magnesium die castings.  
7 And it is because of, primarily because of the price  
8 of magnesium.

9 I believe that, in fact, is not the case. I  
10 think that what the evidence indicates is that there  
11 has been a decline in the demand for die casting  
12 parts, be it aluminum, zinc, or magnesium, associated  
13 with other factors. Including the dramatic decline in  
14 the U.S. auto sector, which is not associated directly  
15 with demand for U.S. magnesium.

16 I think that the, the other comment,  
17 information that we have is that there is indeed  
18 opportunities for expansion for the U.S. magnesium  
19 die-casting demand because of the CAFÉ requirement  
20 that Mr. Tissington and Ms. Slade have commented on  
21 again. So I think that they have the causation  
22 linkage incorrect that way.

23 I would just note that the, I believe many  
24 of the, some of the employment statistics they might  
25 have cited may appear to be with respect to all the

1 die-casting operations, as opposed to just magnesium  
2 die-casting operations. And there are other factors,  
3 as we discussed, that affect the overall demand for  
4 die-casting products in the United States.

5 So might I perhaps ask that Mr. Tissington  
6 and Ms. Slade, if they have further comment on that.

7 MR. TISSINGTON: I would like to make one  
8 comment. And Susan Slade referenced this in her  
9 opening statement.

10 There are actually three new magnesium die  
11 casters in the United States that have, have been put  
12 into operation since the order was put in place in  
13 2005. And I don't, I don't mean to say that to say  
14 that, you know, it's okay to offset certain jobs with  
15 other jobs. But I think we're neglecting to think  
16 about those jobs, as well.

17 And I think that refers to what Mr. Button  
18 said about the reason for the decline of die casting  
19 in general in the United States. It's not because  
20 magnesium is a bad thing to die cast in the United  
21 States, or you wouldn't have these three entities, one  
22 of which is significant, a significant player now in  
23 die-casting start-up facilities here in America.

24 MS. LUTZ: This is Jennifer Lutz. We don't  
25 want to suggest that the magnesium die casters aren't

1 going through a really hard time right now, haven't  
2 seen a decline in demand, and haven't had layoffs.  
3 But it does not appear to be due to the effect of the  
4 orders.

5 MS. SLADE: Yes, Susan Slade. If I could  
6 just clarify. I mean, frankly, in my 20 years working  
7 in the industry, our hope is always to be on the same  
8 team with our customers. And we are as much for  
9 increased demand as they are. It's good for them, and  
10 it's good for us.

11 I think maybe, as Dr. Button commented, the  
12 question and debate is the cause. And they continue  
13 to indicate it's price. Whereas there have been some  
14 other factors that they have announced publicly in the  
15 2008 USDS Minerals Workbook that indicates that  
16 Spartan was laying off workers from their facility in  
17 Missouri based on significantly reduced production of  
18 the F-150 pickup truck. So that would certainly not  
19 only affect magnesium die castings, but steel sheets  
20 and steel frames and everything that goes into the F-  
21 150 pickup truck that doesn't have anything to do with  
22 the price of, of magnesium.

23 A similar comment came from Gibbs Die  
24 Casting in that same year, that they were laying off  
25 people because of reduced market share for the

1 traditional North American vehicle manufacturers and  
2 reduced production.

3           You know, we've essentially seen vehicle  
4 production be cut in half, from the early 2000s to  
5 2009. So that's a significant factor. Not only  
6 reduced production of vehicles overall, but  
7 specifically to the magnesium industry, reduced  
8 production of vehicles that are magnesium-intensive.

9           Magnesium early on has traditionally been  
10 put on pickup trucks and SUVs that were trying to meet  
11 corporate average fuel economy requirements by light-  
12 weighting. Those vehicles took a significant hit as  
13 gas prices started rising in the 2006/2007/2008  
14 timeframe, and consumers started buying some smaller  
15 cars for a period.

16           So reduced auto production, reduced auto  
17 protection for certain vehicles is certainly a point.  
18 And then the other factor is that there are a lot of  
19 these die casters that are certainly struggling, but  
20 they're not just magnesium-only die casters.

21           There are actually only a few die casters  
22 that produce magnesium-only. Most of the die casters  
23 produce both magnesium, aluminum, and zinc die  
24 castings all at the same time, and have some of the  
25 hit come from other materials, as well. And/or gray

1 iron castings, in the course of, in the case of  
2 Intermed.

3 So there are some other factors there that  
4 we think are as much a factor in reduced demand. And  
5 I think we're on the same side, and that we're very  
6 hopeful to see the automotive industry in the United  
7 States recover. And hopeful that greater CAFÉ  
8 legislation will provide more incentive for light-  
9 weighting.

10 COMMISSIONER LANE: Thank you. Dr. Button,  
11 can you reduce to a graph or something like that to  
12 show me and Tyler what you just said about causation  
13 linkage and that the price of the magnesium has not  
14 necessarily been damaging to the die casts. That  
15 there are other things going on with the die casts.

16 MR. BUTTON: Commissioner Lane, when you say  
17 to a graph, you mean something that would itemize the  
18 other forces, the other factors that have been  
19 involved?

20 COMMISSIONER LANE: Well, whatever you  
21 economists did to prove your point.

22 MR. BUTTON: We'll be happy to provide a  
23 display, which we think will --

24 MS. LUTZ: Commissioner Lane, I think slide  
25 4 helps illustrate the point that there is something

1 other than the price of magnesium affecting die  
2 casting output.

3 COMMISSIONER LANE: Okay. Thank you.

4 Are there any types or forms of magnesium  
5 produced in China and Russia that are not produced in  
6 the United States? And are there any types or forms  
7 of magnesium produced in the United States that are  
8 not produced in China and Russia?

9 MR. TISSINGTON: One that comes to mind is  
10 magnesium extrusion. Magnesium extrusion is something  
11 that was produced in the United States for decades and  
12 decades. The last extruder went to business probably  
13 about a year ago. So by extrusions, I mean round  
14 rods, bar, complicated shapes. Right now there are a  
15 number of extruders in China. And basically, what had  
16 happened was the aluminum or the magnesium extruded in  
17 the United States couldn't compete with the extrusions  
18 coming from China.

19 COMMISSIONER LANE: Okay. Thank you.

20 MR. JONES: Commissioner Lane, of course,  
21 magnesium extrusions are a downstream product, not  
22 subject merchandise here, but I think Mr. Tissington  
23 is just trying to be helpful in types of magnesium  
24 products. But within the four corners of this scope,  
25 Mr. Tissington is there anything that's produced here

1 and not in the other countries or vice versus?

2 MR. TISSINGTON: Within this scope, I can't  
3 think of any products.

4 COMMISSIONER LANE: Okay. Thank you.  
5 Madame Chair.

6 CHAIRMAN OKUN: Commissioner Pearson?

7 COMMISSIONER PEARSON: Thank you, Madame  
8 Chairman.

9 Mr. Tissington, in my most recent round of  
10 questioning, you had indicated that it took your firm  
11 several years to align contract prices with post-order  
12 commercial realities in pricing. This may have to be  
13 answered in the post-hearing briefs, but could you  
14 expand on this? The prices in the various markets  
15 were quite close going into 2008. Did it really take  
16 three years to raise prices on the vast majority of  
17 your contracts and when did you receive those price  
18 increases?

19 MR. TISSINGTON: It's important to point out  
20 I think at first that this chart that we have up is  
21 actually Platts Metal Week we published spot prices  
22 for magnesium. So they're not actually -- well,  
23 they're not U.S. magnesium transaction prices,  
24 obviously. But they also don't represent contract  
25 prices, per say.

1           In the period of time, though, from the  
2 order being imposed in 2005 to when U.S. magnesium  
3 realized that actual price increase that was due to  
4 the fact that we had some contracts that had pricing  
5 in place that couldn't be changed and that pricing had  
6 been put in place before the order.

7           COMMISSIONER PEARSON: Right. And you will  
8 provide that information in the post-hearing brief,  
9 regarding when the contracts expired, what the old  
10 pricing was, what the new pricing was, so that we have  
11 a sense of how that worked its way into the data that  
12 we have in the staff report?

13           MR. TISSINGTON: Certainly. And that has to  
14 be the answer. I just didn't do a good job selling  
15 during those years.

16           COMMISSIONER PEARSON: Thank heavens that  
17 Mr. Legge is such an understanding boss.

18           Ms. Slade, you had suggested that changes in  
19 the dumping margins on Russian material explained why  
20 U.S. prices didn't significantly diverge from other  
21 market prices until 2008. When I look at the import  
22 volumes from Russia, I don't see a pattern that fits  
23 this. Imports from Russia declined significantly  
24 during the years in which the anti-dumping duty rate  
25 was quite low. Are there other reasons why this

1 significant price divergence didn't occur until 2008?

2 MS. SLADE: There certainly was a decline in  
3 -- well, you see the Russian margins were imposed at  
4 21 percent in 2005. And after those margins were  
5 imposed, those volumes did start to go down. And then  
6 we get into, I guess, a bit more complicated issue  
7 where you have also Chinese pure. We saw significant  
8 quantities of Chinese pure coming in after that before  
9 the higher margins were placed on those. And I think  
10 that gets a bit into the interchangeability of Chinese  
11 pure, Russian pure, Chinese alloy, Russian alloy all  
12 competing for the same business.

13 COMMISSIONER PEARSON: So the argument is in  
14 part that Chinese product was beating out the Russian  
15 product in the time period in which the margins on the  
16 Russian product were relatively low?

17 MS. SLADE: Yes.

18 MS. LUTZ: I'd just like to add also the  
19 lines here indicate when the final determination was  
20 published. So for example, the second admin review  
21 margins the volume dropped prior to the publication of  
22 those margins, but there had been a prelim. And  
23 presumably, the Russian producers knew what was  
24 coming.

25 COMMISSIONER PEARSON: Okay.

1           MR. JONES: Commissioner Pearson, I'd just  
2 like to make the same point. I think there's a lag  
3 between what the Russian producers decisions are with  
4 respect to imports and what the published anti-dumping  
5 duty rate is. And I'd like to address that in the  
6 post-hearing brief because I think there is a  
7 correlation there that is not perhaps demonstrated by,  
8 as Ms. Lutz just said, the publication of a new tax  
9 deposit rates. Decisions with respect to shipments  
10 were made long before that.

11           COMMISSIONER PEARSON: Okay. Fair enough.

12           Regarding slide 4, Dr. Button, this is based  
13 on data from the North American Die Casting  
14 Association regarding shipments. Could you please  
15 clarify, does that include all shipments in the U.S.  
16 market, both domestic production and imports; or does  
17 it include only shipments of domestically produced  
18 items?

19           MS. SLADE: Certainly, I can't say -- this  
20 is NADCA's data, not my own data. So I can't say  
21 exactly what it is . I think the report is contained  
22 in our brief that has all the information, but my  
23 understanding it was a survey of die casters in the  
24 United States for shipments that they made in the  
25 United States.

1                   COMMISSIONER PEARSON:  If, for purposes of  
2 the post-hearing, you could provide information  
3 regarding the shipments of imports of die-cast  
4 products that were basically magnesium die castings  
5 that would be helpful.  That might help us to put this  
6 slide 4 in a broader context.

7                   MS. SLADE:  Certainly.

8                   COMMISSIONER PEARSON:  I note that the 2008  
9 U.S. Geology Survey Minerals yearbook includes a  
10 discussion of consumption of magnesium.  And among  
11 other things I can read here that softness in the  
12 North American auto industry, coupled with high  
13 magnesium prices affected several magnesium die  
14 casting companies, and it goes on from there.  And it  
15 then says, "Because of the escalation in magnesium  
16 prices General Motors Corp switched from annual fixed  
17 price to market based pricing effectively May 1,  
18 2008."  Could you discuss those comments in light of  
19 what you've previously told us, Ms. Slade?

20                   MS. SLADE:  Certainly, and some of the  
21 information regarding this I think will have to be  
22 included in a confidential brief.  But this is a  
23 backdrop.  General Motors, and it's certainly public  
24 information, now has had a long-term contract with at  
25 the time Hydro Magnesium that started in -- I might

1 get the exact year wrong, but I'm going to say 1997,  
2 '96. Mr. Tissington, I'm close? That was a 10- to  
3 12-year contract.

4 And in that contract they had at or below  
5 world market prices throughout that entire time frame.  
6 So it's a bit difficult for -- and it has been equally  
7 frustrating for us as producers, as I'm sure it has  
8 been for die casters that throughout that period when  
9 they had basically stable, low prices they did not do  
10 more with magnesium in their application development.

11 The fact of the matter is, and there was a  
12 report presented by Derrick Webb of North Hydro at the  
13 IMA conference in 2004, stating that development  
14 enrichment panel applications has actually peaked.  
15 This is prior to the start of the order in 2005. So  
16 at that point in time, the development of magnesium  
17 applications that General Motors had peaked, I think  
18 that was on the basis that they were already aware of  
19 a magnesium application that was going to be lost --  
20 instrument panel that was going to be lost back to  
21 steel, again prior to the imposition of the orders, so  
22 we saw most of that development. And from that time  
23 on, no further development from General Motors, but  
24 actually a loss of applications.

25 The fact of the matter is their decision had

1 nothing to do with any kind of these market prices  
2 that we see in the United States. For the entire time  
3 frame, and continuing through today they have very  
4 competitive prices that have nothing to do with what  
5 you see in those prices published in the market. So  
6 that's certainly been frustrating for all of us. And  
7 I can't completely explain it, only to say that there  
8 are other things that affect magnesium application  
9 development other than price.

10 I went to school in metallurgical  
11 engineering and learned nothing more than how to spell  
12 magnesium when I graduated. Than just to spell  
13 magnesium, all of your education is based on steel or  
14 based on aluminum and that is what the world has  
15 revolved around.

16 So the fact of the matter is engineers are  
17 very comfortable with other materials. It's certainly  
18 our job as an industry to educate them and help them  
19 feel more comfortable, but it's not just price that  
20 affects whether a young design engineer is going to  
21 say even if something is more competitive I'd like to  
22 use magnesium in this because he's got to explain to  
23 his boss why do you want to change materials and add  
24 some other risks.

25 So that's something that all of us -- I've

1 worked on 20 years in my career to try to help  
2 educate, and there's a whole lot of engineers between  
3 the producers and the die casters and all of us to try  
4 to educate to replace materials.

5 I would just comment that there are other  
6 factors beyond price, which was evidenced perfectly by  
7 General Motors and their long-term contracts.

8 COMMISSIONER PEARSON: If that issue with  
9 General Motors and the other auto producers and what  
10 was going on in the market, if that's not sufficiently  
11 developed in your pre-hearing brief, please go ahead  
12 and add to it for the purpose of the post-hearing.

13 MS. SLADE: Certainly.

14 COMMISSIONER PEARSON: Thanks.

15 MR. TISSINGTON: I'd like to add a quick  
16 comment, if I could?

17 COMMISSIONER PEARSON: Quick? Okay.

18 MR. TISSINGTON: Real quick.

19 COMMISSIONER PEARSON: I want to stay on the  
20 right side of the Chairman.

21 MR. TISSINGTON: And I'm not sure where that  
22 specific comment came from that Debra Cramer published  
23 in USCS, and we'll answer this more in a pre-hearing  
24 brief. But I can tell you that GM did not revert to  
25 market pricing. And one of the things they did,

1       though, is they reverted from a long-term contract  
2       with Hydro Magnesium for their raw material to a  
3       contract with U.S. Magnesium. So I suppose you could  
4       describe that as a change in their price, but they  
5       certainly did not revert to market pricing.

6               COMMISSIONER PEARSON: Okay. Thank you.

7               CHAIRMAN OKUN: Commissioner Aranoff?

8               COMMISSIONER ARANOFF: Thank you, Madame  
9       Chairman.

10              Let me pick up there and ask more generally,  
11       in the market has the average length of contracts for  
12       magnesium increased, decreased, or stayed about the  
13       same in the last few years and is there a reason?

14              MR. TISSINGTON: Certainly, from a U.S.  
15       magnesium standpoint, in the last few years we've gone  
16       to a higher percentage of long-term contracts,  
17       contracts exceeding one year in length. And it's not  
18       necessarily by our choice. It's really the market  
19       that decides how they want to buy.

20              We're seeing a trend now to go back to what  
21       we would refer to as short-term contracts, contracts  
22       of one year. So when we talk about 2010, we're seeing  
23       more of the percentage swing back to these one-year  
24       term contracts. So it's not really driven by us.  
25       It's really driven by the consumer, what they think

1 their position is, whether they want to do long-term  
2 contracts or now.

3 MS. LUTZ: Just to add, the way Pam  
4 described it to me was when prices are going up they  
5 want to lock into lower prices and long-term  
6 contracts. When they're going down, they want  
7 short-term contracts so they can hedge their bets.

8 COMMISSIONER ARANOFF: Who, if anyone, buys  
9 this product in the spot market as opposed to relying  
10 on a contract of some duration?

11 MR. TISSINGTON: There's a real variance in  
12 how consumers purchase magnesium. You'll see some  
13 cases where consumers will want to purchase a certain  
14 percentage of their volume under a one-year contract,  
15 a short-term contract and leave some for the spot  
16 market. And you'll see that at some very, very large  
17 consumers. And then you'll also see on the other end  
18 of the spectrum some very small consumers that want to  
19 do nothing but spot purchases. So it really does vary  
20 from customer to customer, and it varies the  
21 percentage which they keep for the spot market.

22 Building on what Jennifer referred to, we  
23 also see a case where she used the term "hedging their  
24 bets," certainly, in a down price market they'll want  
25 to leave a little more available for the spot markets

1 than they would under a tighter market, per say.

2 COMMISSIONER ARANOFF: Okay. In Exhibit 7  
3 of your brief, there's an American Metals Market  
4 article that refers to "unreliable" supplies of  
5 magnesium from China. Can you tell me what was meant  
6 by that characterization of Chinese supply and whether  
7 you agree with it? I should have come with a more  
8 precise pinpoint of where that was located, but you  
9 can answer post-hearing, if you'd like.

10 MR. JONES: Commissioner Aranoff, I think we  
11 probably need to look at the article and answer that  
12 question our brief.

13 COMMISSIONER ARANOFF: Okay. There's also a  
14 suggestion of Exhibit 7 in your brief there's a trader  
15 who suggests that increasing magnesium prices will  
16 drive automakers to competing lightweight metals. Can  
17 you tell me something about what the competing  
18 lightweight metals are and the extent to which you see  
19 them as being substitutable for magnesium based on  
20 changes in relative prices?

21 MR. TISSINGTON: Yes, there's a number of  
22 substitute materials that do compete with magnesium in  
23 the automotive arena. We certainly compete with  
24 aluminum. We compete with steel structures, although  
25 you're not going to die cast the same type of

1 component in steel. You can certainly make steel  
2 fabrications that we compete with. We compete with  
3 some of the engineering thermal plastics. There's a  
4 wide range of materials, depending upon the  
5 application that magnesium might compete with.

6 COMMISSIONER ARANOFF: And when people are  
7 talking about light weighting, not all of those things  
8 are equally helpful in terms of getting the weight of  
9 a vehicle down, right? Are there specific substitute  
10 products that have the same light weighting  
11 capabilities?

12 MR. TISSINGTON: When we talk about  
13 magnesium, we really are talking about a lightweight  
14 material. And you're talking to a magnesium sales  
15 guy, so you're going to get a pitch. But magnesium  
16 will actually save you weight in a vehicle. And even  
17 though we might compete with aluminum or steel or  
18 engineering thermal plastics, in the end on a part by  
19 part basis, magnesium will save you weight. But it  
20 quite often or mostly does it at a cost premium.  
21 There are some certain applications of parts, though,  
22 where we're not at a cost premium. We can actually  
23 save weight and do it at a very competitive cost.

24 An example would be an instrument panel  
25 support beam. A very large casting that goes from one

1 pillar to the other in a car. You can do some things  
2 in magnesium die casting that you can't do in other  
3 material. So in some cases it can be a substitution,  
4 magnesium in for other materials at a weight savings  
5 and cost neutral position. In a lot of cases,  
6 however, though it is done at a cost premium for  
7 weight savings.

8 COMMISSIONER ARANOFF: Okay. Thank you for  
9 that answer. Are there particular non-subject  
10 countries or producers that in your experience are the  
11 most competitive in the U.S. market for either pure or  
12 alloy magnesium, and have any of those countries or  
13 companies gained substantial market share from U.S.  
14 magnesium producers in recent periods?

15 MR. TISSINGTON: Certainly, we would say  
16 that all competitors are competitive in the U.S.  
17 marketplace. So when we talk about pure magnesium or  
18 alloy magnesium, we don't just compete with a select  
19 group of producers or traders of that product. We  
20 really compete with all of them. So at any particular  
21 account you might find one or a half a dozen  
22 competitors that are all legitimate for that piece of  
23 business.

24 Through the course of the order from the  
25 imposition in 2005 through to today, you're probably

1 going to see that exports from Israel to the United  
2 States, non-subject country, have certainly gained a  
3 lot of market share here in the United States. And  
4 U.S. Magnesium is realistic that we can't supply all  
5 the metal that the United States would consume. We  
6 think competition is necessary. We welcome  
7 competition. And for the most part, what we've seen  
8 is that the imports from Israel have gained market  
9 share here, but they've done them at what we would  
10 refer to as non-depressed prices.

11 COMMISSIONER ARANOFF: What about imports  
12 from -- I think the other two major non-subject  
13 suppliers would be Brazil and Kazakhstan? Do you see  
14 those products are a full range of customers or are  
15 they just sending a particular type of product to  
16 particular end users?

17 MR. TISSINGTON: I would say that products  
18 from Kazakhstan and Brazil do usually wind up at  
19 certain market segments at certain customers, but all  
20 of the folks that we compete with are sellers the same  
21 way Susan and I are, and we beat on all of the doors.  
22 They seem to have more success with certain market  
23 statements, with certain customers, as we do. But we  
24 bump into these folks everywhere.

25 COMMISSIONER ARANOFF: If there's anything

1 that you can tell us at post-hearing about how the  
2 non-subject producers market their product in the  
3 U.S., whether they have their own sales staff, whether  
4 they're using unrelated trading companies, that would  
5 be helpful to us in understanding how they operate in  
6 the market. And if there's other information you want  
7 to provide confidentially about where you see them  
8 specializing their sales or where you see them having  
9 more luck because you said there were end uses. That  
10 would also be helpful to us in rounding out the  
11 record.

12 MR. TISSINGTON: Certainly.

13 COMMISSIONER ARANOFF: Thank you very much.  
14 and with that I don't have any further questions.  
15 Thank you Madame Chairman.

16 CHAIRMAN OKUN: Mr. Jones, I wanted to go  
17 back to the Vice Chairman's request for further  
18 briefing on accumulation discretionary factors, just  
19 to make some specific requests. And I did read your  
20 brief, and in fairness, I think the Respondents  
21 focused more on the no discernible adverse impact and  
22 you did as well.

23 But for my purposes, I would like to see you  
24 go back and treat some of the discretionary factors  
25 that the Commission has looked at in other cases that

1 may or may not be relevant in this case, including the  
2 capacity and capacity utilization in China versus  
3 Russia, the home market in those two countries and  
4 particularly -- but again, those are the adverse  
5 discretionary factors that the Commission has looked  
6 at that I would like to see further briefing on. I  
7 appreciate that.

8           And then, just with respect to the  
9 information we have on producers in Russia and China,  
10 and taking into account that we have much greater  
11 participation from one than the other, I wondered if  
12 you could comment on your view. You had had in your  
13 exhibit or your appendix 13 where the *American Metal*  
14 *Market* October 14 article talking about the Chinese  
15 magnesium industry was set to quadruple capacity in  
16 the next five years.

17           That same article, however, stated magnesium  
18 producers in China are exporting less due to the  
19 rising value of the yen, quoted several producers  
20 talking about the domestic market in China. And I  
21 wanted you to comment, both on the impact, or how you  
22 view what other information you'd have us look at with  
23 respect to the domestic market in China as well as the  
24 impact of the export tax.

25           MR. JONES: We'd be happy to do that in our

1 post-hearing.

2 CHAIRMAN OKUN: Okay. I appreciate that.  
3 And then we had a fair amount of discussion on how you  
4 viewed the Russian producers and why. I think you  
5 focused mostly on, or arguing that they would take  
6 product out of current third country markets. Am I  
7 correct in understanding that your argument, that  
8 that's where you think that there would be a shift as  
9 opposed to -- is that accurate?

10 MR. JONES: That's part of the argument.  
11 The other is that there is existing under-utilized  
12 capacity in Russia, so it's both. It's that there is  
13 under-utilized capacity and there also would be a  
14 diversion product from third country export markets to  
15 the United States.

16 CHAIRMAN OKUN: And then, do you have any  
17 additional information. One of the other arguments  
18 made from the Russian producers is with respect to the  
19 growing demand for magnesium for titanium sponge, not  
20 much different than what we heard from ATI this  
21 morning. Can you comment on that specifically?

22 MR. JONES: We'll go into some detail on  
23 this in our brief, but we would not that like ATI  
24 those who are manufacturing titanium sponge need  
25 magnesium. And the more titanium sponge that is

1 produced the more magnesium you need. So to the  
2 extent that there is an expectation that demand for  
3 titanium will increase there were be a need to produce  
4 more magnesium to fulfill that need. And that  
5 applies in Russia as it does in the United States.

6 CHAIRMAN OKUN: And would you have any  
7 sense, based on the information on the record, or  
8 otherwise whether the incentive for the Russian  
9 producers would be to stay in their home market for  
10 some of the reasons that I think Mr. Hassey is  
11 describing in terms of customers who would want a  
12 reliable source of supply in the home market?

13 MR. JONES: Let me comment, if I might, is  
14 that we did provide some quotes from at least one of  
15 the Russian producers themselves, commenting on the  
16 impact of the Russian domestic market of the presence  
17 of the Chinese product, which has depressed their  
18 prices and which we believe makes them substantially  
19 encouraged to export to higher priced markets.

20 I'd also note that to the extent that a  
21 Russian magnesium producer would state that they're  
22 primarily interested in titanium production and they  
23 produce magnesium only to get at the chlorine values  
24 for that if they're going to produce more titanium and  
25 therefore need more chlorine and they get the chlorine

1 from producing magnesium there's going to be more  
2 magnesium to be produced, which would then -- they'd  
3 have to do something with and they would presumably  
4 send to the highest priced market available, which is  
5 the United States.

6 CHAIRMAN OKUN: With respect to competition  
7 between the Russian product and the non-subject  
8 product in the market, we've had some discussion in  
9 response to my colleague about this and you mentioned  
10 Israel and had a chance to discuss both Brazil and  
11 Kazakhstan, but vis-a-vis the Russian or the Chinese  
12 product, is there anything about what those countries  
13 are producing that would make them more or less likely  
14 to compete for the same customers and the same  
15 products.

16 MR. TISSINGTON: Our experience with the  
17 Russian producers goes back to probably about 1992.  
18 And they offer a full range of products from large  
19 ingots, which are either direct chill cast or soused,  
20 to small ingots. They produce all the alloys. One of  
21 the producers also has a venture to produce de-  
22 sulphurization reagents. So we would consider those  
23 folks Class A suppliers. They've got all the bells  
24 and whistles, big product line, very capable and  
25 established sales and marketing group.

1           So we see those folks competing head to head  
2 certainly with U.S. Magnesium, with non-subject  
3 countries and they also compete at the Chinese alloy  
4 and Chinese pure level as well. And we watch that go  
5 on, on a day-to-day basis in Europe now with the  
6 Russians competing head-to-head with the Chinese for  
7 market share there.

8           CHAIRMAN OKUN: Okay. Then turning to some  
9 further questions with respect to future demand, and I  
10 know that you have discussed some of this and put  
11 information in your brief as well. But I'm just  
12 trying to understand. In terms of what driving future  
13 demand and how that will affect whether you're  
14 producing more alloy or more pure in your plants, can  
15 you help me just understand that? What part is driven  
16 by the titanium sponge, what part is driven by other  
17 uses in terms of how you look at that and how you look  
18 at that in terms of your production going forward?

19           MR. TISSINGTON: Well, the growth segments  
20 of the U.S. Magnesium is certainly the alloy segment  
21 and that's why we're involved in some of the programs  
22 that we put in confidential briefs to you folks. In  
23 the auto industry, Susan talked about USCAR, our  
24 activities there for the long-term support of USCAR.

25           And since Mr. Hassey is now out of the room,

1 I can say that titanium is certainly important and  
2 it's certainly a growth segment at times, but those  
3 folks are the most optimistic folks I have ever seen  
4 in any metals industry. And even when they're sliding  
5 down into the trough of the titanium cycle, they're  
6 optimistic that it'll be a short trough.

7 So we at U.S. Magnesium look at really die  
8 casting, automotive as our growth segments. And in  
9 the future, if we set out plans, our plans are  
10 certainly to go with the higher percentage of alloy in  
11 a future mix, not because that's necessarily what we  
12 want to do, but because that's what the market is  
13 going to demand. We're pretty much convinced the  
14 growth will be automotive.

15 CHAIRMAN OKUN: And that had reminded me of  
16 another question, Mr. Tissington, which I know that  
17 you did submit a business plan, which is very much  
18 appreciated. Receiving those is always helpful, to  
19 have something prepared, not just for purposes of  
20 litigation. But my question is whether you are  
21 changing or would be changing your demand for a test  
22 based on I guess what has been a recovery in the  
23 automotive sector maybe more quickly than some had  
24 anticipated, and I'm not sure if that's true. I mean  
25 maybe you already took into account what you thought.

1 But I'm just curious if there's anything that's  
2 changed dramatically that we should be aware of?

3 MR. TISSINGTON: No. We do plan on selling  
4 more and more alloy as time goes on. We have longer  
5 term plans to do some structural changes within the  
6 manufacturing group to be able to make sure that we  
7 can respond to the market needs. It's a growth  
8 segment for magnesium. It's always been the growth  
9 segment. We are cautiously optimistic, though.

10 Susan in her 20 years with different  
11 magnesium companies has always said there'll be an  
12 magnesium engine some day. Back in '89, I thought  
13 well that's young and ambitious and that's great.  
14 I'll be darned if she didn't do it five years ago, but  
15 it took 15 years before BMW decided a magnesium crank  
16 case made sense. So we know automotive is our growth  
17 segment, but in our business plan you'll find  
18 reflected a certain amount of caution about how  
19 quickly we're going to see that industry recover. And  
20 we know that it will only be driven towards  
21 lightweight material with CAFÉ. So our timing to the  
22 things we're going to do for alloy are really based  
23 around that CAFÉ.

24 MS. SLADE: Could I also just add that our  
25 more recent involvement with General Motors we feel is

1 a very positive thing. If anybody's going to choose  
2 to place magnesium, the material choice decisions are  
3 made at the OEM levels, not necessarily at the tier  
4 ones or at the die casters, but it's the OEMs that  
5 really make the final decision what material they're  
6 going to use. And we've had some long talks with  
7 General Motors about why things did or didn't happen  
8 over the 10 years. And with the new café legislation  
9 in place, they have a new perspective and I think  
10 they're really interested to work together to make  
11 sure that we can do the right things going forward  
12 that's hopefully for magnesium. So we're cautiously  
13 optimistic about that.

14 CHAIRMAN OKUN: Thank you for all those  
15 responses. Vice Chairman Williamson?

16 VICE CHAIRMAN WILLIAMSON: Thank you, Madame  
17 Chairman.

18 The Chairman has already asked you to give  
19 further briefing on the question of discretionary  
20 accumulation. I will note that, and it's referred to  
21 the discussion in your brief, which is mostly about no  
22 discernable adverse impact. But assume the  
23 Respondents will probably have some comments about  
24 accumulation this afternoon. So in responding, you  
25 might want to take those comments -- answers those

1 questions and points, too.

2           And just one final question, people often  
3 talk about infant industries and they say the problem  
4 is the baby never grows up. And I look here at what  
5 improvements you've made in technology and capacity,  
6 the relative profitability of the industry. And I'm  
7 wondering at what point do you say order is no longer  
8 necessary, even independent as maybe the behavior of  
9 the Respondent industries?

10           MR. BUTTON: As an economist, I'd say you  
11 make an investment you to have an return on it. When  
12 you produce a product, you want to be able to cover  
13 your costs. And this industry has seen over its life  
14 it's encounters with the subject imports and the  
15 prices were very, very low. I mean we're talking  
16 about less than a dollar.

17           I don't think it's a matter of industry or  
18 industries. I think this industry has invested a  
19 great deal to be very efficient. Some of the  
20 commissioners haven't seen what has been done in the  
21 way of efficiency. For discussion of the M cells,  
22 which the industry here believes is the most efficient  
23 way to produce magnesium in the world. And you've  
24 seen what you've gotten in the way of the source of  
25 magnesium bream to supply this. And they have honed

1 many aspects of the production to try and reduce cost  
2 as much as possible.

3           There's a structure there, which I think is  
4 durable so long as the prices are economic. And the  
5 Chinese with 1.3 million tons of capacity at this time  
6 and the Russians being very large producers themselves  
7 with exports that they are selling to low-priced  
8 markets that are suppressed by the Chinese, I think  
9 there are both sources there that would love to come  
10 to the U.S. market with the very, very predictable  
11 effect that U.S. prices will decline and economic  
12 returns for this industry may simply go away.

13           VICE CHAIRMAN WILLIAMSON: So I guess you're  
14 saying no matter how competitive you are, there is a  
15 risk that prices will be --

16           MR. BUTTON: They're competitive and have  
17 shown themselves in the post-order period to be  
18 efficient and becoming more some in attempting to do I  
19 believe what is something the law is intended to do,  
20 is to encourage the expansion of U.S. manufacturing  
21 capacity in areas where they can do it in an economic  
22 manner, but they can't do it in the face of -- dumped  
23 prices.

24           And I think that that was made clear here  
25 that these innovations which have advantages and

1 positive extranalties in the form of the ATI  
2 activities and all of its downstream production. All  
3 of these are based on U.S. Magnesium continuing to  
4 face prices in its merchant market sales and the new  
5 capita expenditure.

6 VICE CHAIRMAN WILLIAMSON: Thank you for  
7 that answer. I was just wondering about that  
8 question. And with that, I have no further questions.  
9 And I want to thank the witnesses for their testimony.

10 CHAIRMAN OKUN: Commissioner Lane?

11 COMMISSIONER LANE: Thank you. I just have  
12 two questions, and I don't think that they've been  
13 asked. And if they have been asked, just tell me.

14 The U.S. producers profitability as measured  
15 by the ratio of operating income or loss to net sales  
16 improved from in both 2008 and 2009, years in which  
17 the U.S. economy declined. What factors caused  
18 profitability to improve?

19 MR. BUTTON: Commissioner Lane, I believe  
20 that we would like to respond to that in a  
21 confidential submission in the brief.

22 COMMISSIONER LANE: Okay. Thank you.

23 Now my next question is in your pre-hearing  
24 brief at page 54 it states that for the first time in  
25 years U.S. Magnesium has been able to reward its

1 employees through the profit-sharing provision in its  
2 union contract. When did that profit-sharing occur,  
3 and was it a result of an improvement in U.S.  
4 Magnesium's financial condition?

5 MR. LEGGE: Generally, I can say we paid  
6 profit-sharing in a few years -- very few years, Cody  
7 Brown probably is much more focused on that, in the  
8 1990s and the most recent periods. But we can answer  
9 that in a post-hearing confidential submission and  
10 indicate exactly why that occurred in both instances,  
11 both in the nineties and then more recently.

12 COMMISSIONER LANE: And so you can tell me  
13 when you started and when you suspended it and then  
14 when you started up again?

15 MR. LEGGE: That's correct.

16 COMMISSIONER LANE: And why?

17 MR. LEGGE: Yes.

18 COMMISSIONER LANE: Thank you. And with  
19 that, Madame Chair, I have no more questions.

20 CHAIRMAN OKUN: Commissioner Pearson?

21 COMMISSIONER PEARSON: Thank you, Madame  
22 Chairman.

23 Ms. Slade, quickly educate me on which  
24 components of an automobile might feasibly be made of  
25 magnesium because when I think of magnesium stuff in

1 an auto I'm thinking of the fancy meg wheels, which  
2 are lovely, frankly, some of them. And you had  
3 mentioned, I believe, oil pans and dashboards. But  
4 how about other things. Can you cast an engine block  
5 with magnesium and make that work?

6 MS. SLADE: Sure. Just to give you a little  
7 bit of history. Magnesium started in some very simple  
8 applications like basically box covers, if you will,  
9 in the 1980s timeframe. We moved in 1990s to some  
10 more safe crash energy management applications where  
11 it took advantage of magnesium's as cast ductility  
12 that aluminum and some other materials don't provide.  
13 So things like steering wheels and we went through a  
14 real big period of instrument panels. General Motors  
15 was certainly very proactive in implementing some  
16 instrument panels.

17 In the last five years since the imposition  
18 fo the orders, there have actually been some real  
19 interesting applications that have come through and  
20 that are little bit more extensive than what we've  
21 seen in the past. Ford Motor Company was fairly  
22 aggressive in implementing magnesium in some front end  
23 modules, which goes across the entire front of the  
24 vehicle. It's called a booster. It's basically the  
25 top have of the radiator support. They put that

1 across their full-sized trucks and their SUVs, and  
2 it's been a real nice application to show crash energy  
3 management principles in a situation that is fairly  
4 vulnerable.

5 They've then taken that in just the last  
6 couple of years where they've developed a lift gate,  
7 which is basically the frame for the rear door on the  
8 back of the Lincoln MKT, the cross-over vehicles, and  
9 that's an application that is new for us in the last  
10 couple of years and I think really opened some  
11 opportunities and gives them some confidence in using  
12 magnesium in some more frame-type applications.  
13 They're looking at door frames, inner door panels  
14 and/or the halos that go around the window of the  
15 doors, and those are very unique and new applications  
16 for magnesium over the last couple of years.

17 You asked can you use magnesium in an  
18 engine. There is magnesium used in the power train of  
19 a vehicle. Transfer cases have been made out of  
20 magnesium for 20 years by both General Motors and the  
21 Ford Motor Company. As far as an engine itself, it  
22 took about \$100 million by BMW to develop that in  
23 Europe. And I'm not sure that that's the kind of  
24 money that some of the more everyday man's car in the  
25 United States car companies are wanting to spend.

1           BMW I was particularly involved in that  
2 because they used an alloy that I worked with in  
3 developing at Noranda. But we think it was marketing.  
4 BMW they're very in motor works and they want to show  
5 their differentiation in engine technology, so they  
6 spent a whole lot of money to show that they could use  
7 different materials in putting out a higher  
8 performance and lighter weight engine in some very  
9 specialty vehicles, if you will. So certainly,  
10 magnesium can be used in power train and has been used  
11 in the past. But I think we've seen in the United  
12 States some development trends toward crash energy  
13 management applications, long, thin casting. There's  
14 been some really good technical engineering work that  
15 has gone on that I think will provide some good focus  
16 for the future.

17           In the last couple of years, we've also seen  
18 as there's been a shift from North American  
19 manufacturers having the largest market share of  
20 vehicles in North America, you've seen the Toyotas and  
21 Hondas taking over more market share. We are also  
22 starting to see some new applications by those  
23 companies, whether it's an instrument panel by Acura  
24 or an intake manifold, which was an application in  
25 Europe, but was brought over to the United States by

1 Honda just in I think 2006 time frame was a new  
2 application for us.

3 So the transplant companies are starting to  
4 use magnesium here in the United States, which had not  
5 happened in the past, including BMW, who is making  
6 instrument panels also came about in the past five  
7 years for their assembly plant in South Carolina, who  
8 are starting to see some more applications outside of  
9 the traditional North American vehicle manufacturers  
10 of Ford, Chrysler, and GM, if you will.

11 COMMISSIONER PEARSON: Is it feasible to  
12 replace body panels that currently are made of more  
13 resistant steel sheet with magnesium sheets?

14 MS. SLADE: You're getting into a whole  
15 different subject there when you're talking about  
16 wanting to from magnesium without going into HCP  
17 structures and metallurgic engineering.

18 COMMISSIONER PEARSON: Feel free to respond  
19 in the post-hearing.

20 MS. SLADE: Exactly.

21 COMMISSIONER PEARSON: Okay. Thank you.

22 My last line of questioning focuses again on  
23 slide 3. If we extend the order, should we expect a  
24 relatively large price gap between the United States  
25 and Europe to be maintained for the next five years?

1 it's been in effect now about three years.

2 MR. BUTTON: To the extent that we believe  
3 the Chinese that they cited in the staff reports and  
4 other reports that their 1.3 million metric tons of  
5 capacity is going to continue to expand. It's going  
6 to be quadrupled. They're going to add another three  
7 million or so to that, then there will be a lot of  
8 magnesium globally out there. And if this material  
9 continues to be dumped, then I think the order would  
10 provide protection to the United States and you would  
11 find a difference between U.S. prices and those  
12 elsewhere. And the same thing with respect to Russia.  
13 If the Russian producers, as you've seen, have not  
14 been able to sell in the U.S. market without dumping,  
15 sell at commercial volume in the United States without  
16 dumping. They're selling their product in Europe  
17 primarily, and they're competing with the Chinese and  
18 selling at very low prices, the prices that are at the  
19 bottom line. Those likewise are dumped prices. So I  
20 think the short answer is probably yes.

21 COMMISSIONER PEARSON: Okay. I'm curious.  
22 What percentage of the demand base for magnesium in  
23 the United States is sufficiently insulated from  
24 import competition that it could survive over time a  
25 situation in which the price advantage that its

1 overseas competitors have amount to a dollar per pound  
2 of magnesium? I mean there's going to be some  
3 percentage of the U.S. demand base that will be able  
4 to survive that comfortably enough and some other  
5 chunk won't. Do you have a sense of how that would  
6 break down.

7 MR. BUTTON: I'll simply defer to  
8 Mr. Tissington and others, but first of all, I don't  
9 think there's a segment of the U.S. demand base that  
10 will be insulated. There may be volume segments for  
11 which there are relationships with U.S. industries  
12 providing the volume, but so long as pricing in the  
13 U.S. market forge some relationships that are  
14 associated with market prices, then the imports from  
15 these foreign sources, such as China or Russia, will  
16 have an effect on U.S. pricing. And even though any  
17 volume covered for price and the financial return on  
18 those sales will be affected.

19 COMMISSIONER PEARSON: Mr. Tissington, do  
20 you have a sense of looking at the marketplace? Are  
21 there some portions of the market that are relatively  
22 effectively insulated from foreign competition in  
23 magnesium such that they could pay a relatively higher  
24 price than their foreign competitors and do okay in  
25 the United States?

1           MR. TISSINGTON: One segment that does come  
2 to mind is there is a material sold into an  
3 application for the Department of Defense. It  
4 represents probably about 1 to 2 percent of U.S. total  
5 demand and it's a product that is specified as U.S. &  
6 C. So I suppose you could say that unless somebody  
7 change U.S. & C designation for that particular  
8 product, it would be somewhat insulated from  
9 production that didn't originate in Canada or the  
10 United States. Everything else, including the demands  
11 of the titanium industry is really not insulated.  
12 Mr. Hassey was very gracious and talked about how he  
13 really preferred to buy from U.S. Magnesium, but I can  
14 tell you during the contract negotiations he certainly  
15 ensured that it was not an insulated purchase of  
16 magnesium. And he certainly made sure that it was a  
17 beneficial arrangement for both parties, including  
18 ACI.

19           So we talk a lot about titanium and we talk  
20 a lot about that plant being next door to U.S.  
21 Magnesium, but I as a seller would not consider that  
22 to be an insulated market segment by any means.

23           COMMISSIONER PEARSON: Right. So if a  
24 period of years there was enough of a spread in  
25 magnesium prices, you would see U.S. titanium

1 production shifting overseas in order to take  
2 advantage of that potentially closing the ATI plants,  
3 is that --

4 MR. TISSINGTON: It's very difficult to talk  
5 about that contract at all, so I think in a  
6 post-hearing brief we could explain how that contract  
7 works. Certainly, there is a strong desire to keep  
8 titanium sponge production in the United States and to  
9 keep magnesium production able to supply titanium  
10 production in the United States. But insulated would  
11 not be a good word to describe that arrangement.

12 COMMISSIONER PEARSON: Okay. Madame  
13 Chairman, my time has expired. I'll come back.

14 CHAIRMAN OKUN: I think Commissioner Pearson  
15 you could just continue.

16 COMMISSIONER PEARSON: Thank you and  
17 apologies.

18 We'll get to Muncie pretty quickly. What  
19 I'm trying to understand is if there's a risk that the  
20 domestic magnesium industry could actually be hurt  
21 over time by a situation in which the domestic demand  
22 base goes away because users of magnesium can't  
23 compete effectively in the U.S. market against the  
24 imports of products containing magnesium? I would  
25 note that U.S. production capacity for magnesium is

1 roughly in line with apparent consumption, in other  
2 words with the demand as we measure it in the U.S.  
3 market.

4 And so if the domestic demand base shrinks,  
5 we could envision a situation in which the production  
6 capacity of magnesium in the United States is quite a  
7 bit larger than actual demand, and especially based on  
8 your testimony that no users are really insulated from  
9 that import competition. So I'm wondering if we  
10 couldn't have injury by keeping the order in place, by  
11 shrinking the demand base? Could you comment on that,  
12 Ms. Lutz?

13 MS. LUTZ: I think that Sam was answering a  
14 different question than what you just asked. I think  
15 he was looking at whether any of his markets are  
16 insulated against import competition.

17 The single largest end use of magnesium, I  
18 believe, is in aluminum alloy. Magnesium is about --  
19 I think canned stock is one of the major uses for  
20 these alloys. The magnesium content is 1 to 4 percent  
21 of the final alloy. So while certainly the producers  
22 would like to get lower magnesium prices, magnesium is  
23 not that big a percent of their cost. So the aluminum  
24 industry is probably not going to go out of business  
25 because magnesium prices are higher in the U.S.

1                   COMMISSIONER PEARSON: You're not  
2                   envisioning a situation in which aluminum with  
3                   magnesium would be alloyed overseas and then brought  
4                   into the United States for making beverage cans. You  
5                   would see that business as staying in the United  
6                   States?

7                   MS. LUTZ: I'll leave that to the marketing  
8                   experts.

9                   MR. BUTTON: I apologize for  
10                  misunderstanding your questions. When I referred to  
11                  the US&C order, I was looking at that as what portion  
12                  of demand in the United States must be purchased from  
13                  suppliers either in Canada or the United States. And  
14                  so it's a very, very small percentage of U.S. demand  
15                  that needs to be sourced here in the United States or  
16                  out of Canada.

17                  When we take a look at all the market  
18                  segments, we don't see any of them declining. The  
19                  growth opportunity is certainly magnesium die casting  
20                  and we are cautiously optimistic that we're even going  
21                  to see growth in that industry for the next few years  
22                  and then a lot of growth when the CAFÉ kicks in. The  
23                  other industries we all suggested as increasing  
24                  industries as well. So I guess we don't envision the  
25                  scenario you described where you might have decreasing

1 demand in the United States because the folks here are  
2 using less and less magnesium. We actually see it's  
3 the other direction, including aluminum alloy. As the  
4 aluminum industry recovers some strength, we're going  
5 to see more magnesium consumed in that segment in the  
6 United States as well.

7 COMMISSIONER PEARSON: Okay. We'll see what  
8 the Respondents have to say this afternoon, but they  
9 make an argument that -- particularly, in the area of  
10 die casting that there could be such a reduction in  
11 domestic die casting because of the big price spread  
12 that we're seeing between domestic and foreign  
13 magnesium that they might be see their production  
14 greatly reduced and that Ontario isn't that far away.  
15 Do your die casting there, bring it across the border.

16 So it's not inconceivable, to me, based on  
17 what I see on this record that demand could shrink to  
18 the point that U.S. production capacity for magnesium  
19 would exceed demand. And either the industry would  
20 have to become an exporter, which would be really  
21 interesting, given the price spread we're observing,  
22 or it would have to shrink and thus there would be  
23 damage to the domestic magnesium industry by keeping  
24 the order in place.

25 MR. BUTTON: Let me add a couple of points.

1 One is with respect to the aluminum alloyers, the  
2 concept there is that magnesium is a very small  
3 percentage of the total value of the downstream  
4 aluminum product. The price of magnesium is not going  
5 to significantly affect the total volume or demand  
6 ultimately for the aluminum product.

7 This affected the die casters, and  
8 particularly Canada, we would just point to the  
9 discussion that we've had about the long history in  
10 Canada of having access to unrestricted access to the  
11 Chinese and Russian products and still facing a  
12 reduction in the die casting industries there and  
13 particular companies. And so the point is that the  
14 price of magnesium is not the critical characteristic  
15 for that.

16 And the other point with respect to the  
17 Canadian production is that some of it came to the  
18 United States. So that there are other factors that  
19 we believe that the die casters perhaps are  
20 overplaying a concept that the cost of magnesium  
21 itself is the determining fact in the demand, and we  
22 go back to the exhibit we had for which you asked a  
23 question, which is a good question, which we'll pursue  
24 as to aluminum and zinc and magnesium die casting.  
25 What has shaped that trend?

1           And clearly, is that an accurate example of  
2 the United States market. There is something that's  
3 affecting all three of them. And that we wouldn't  
4 think that it all should be based on an assumption  
5 that magnesium is somehow driving those as well.

6           COMMISSIONER PEARSON: Ms. Lutz?

7           MS. LUTZ: Yes. I'd just like to add, since  
8 I'm sure you will hear this from the panel this  
9 afternoon, certainly magnesium is a larger portion of  
10 the cost of a final die cast magnesium product. But  
11 the die casters aren't deciding what material a part  
12 will be die casted -- what materials will be used.  
13 The auto manufacturers are, and magnesium is a very  
14 small portion of the percentage of the cost of a  
15 finished automobile.

16           COMMISSIONER PEARSON: Thank you very much.  
17 I think Madame Chairman that I've exhausted my  
18 questions. I would like to express appreciation to  
19 this panel for your answers and also for the time you  
20 took to help some of us understand better the  
21 electrolyte magnesium production process out in  
22 Raleigh.

23           With that, I have no further questions.

24           CHAIRMAN OKUN: If there are no further  
25 questions from my colleagues, let me turn to staff to

1 see if staff has questions of this panel.

2 MR. DEYMAN: I'm George Deyman, officer of  
3 investigations. The staff has no questions.

4 CHAIRMAN OKUN: Thank you. Again, thank you  
5 to all of you for being here today, for answering our  
6 questions. I know it was a long morning/afternoon and  
7 this would be a good time to take a lunch break. So  
8 we will return at -- I'm sorry. Mr. Secretary? I  
9 apologize, those in opposition have any questions for  
10 this panel?

11 MR. LEIBOWITZ: No questions.

12 CHAIRMAN OKUN: Thank you. They're recorded  
13 as no questions. Thank you very much.

14 And with that, it's time to take a lunch  
15 recess. I will remind everyone that this room is not  
16 secure, so please do not leave any confidential  
17 information in here. We'll recess until 2:15.

18 (Whereupon, a lunch recess was taken.)

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1 counsel to the Magnesium Group of the North American  
2 Die Casting Association and Spartan light metal  
3 products in this proceeding. As discussed this  
4 morning my clients are firmly opposed to the  
5 continuation of these orders. Appearing with me are  
6 my colleagues Jonathan Stoel and Charles Rosenberg of  
7 Hogan Lovells, US LLP.

8 I'll discuss two principal issues. First,  
9 the revocation of the order that's before the  
10 Commission in this proceeding are not likely to lead  
11 to the continuation of recurrence of material injury  
12 to the domestic industry or industries, as the case  
13 might be.

14 Second, the domestic magnesium die casting  
15 industries fate is tied to that of the alloy magnesium  
16 industry. The welfare of magnesium die casting is  
17 likely to affect the future of alloy magnesium  
18 production.

19 First point, the domestic pure magnesium and  
20 alloy magnesium industries would not be injured if  
21 these orders are revoked. We reach this conclusion  
22 whether there's one domestic like product or two.  
23 Alloy magnesium is globally competitive and does not  
24 need protection from imports.

25 One indication of this is the sharp increase

1 of exports in the last three years from the United  
2 States. In foreign markets, U.S. alloy magnesium  
3 exports have shown that they've competitive.

4 Now we have an exhibit that I'd like to  
5 share with you very briefly. The first one shows the  
6 quantity of U.S. domestic exports of alloy magnesium,  
7 and this is from the Census statistics that are  
8 published by the International Trade Commission. And  
9 you can see from 2006 to 2009 import growth and  
10 quantity has been dramatic. Next is the value of  
11 exports, again, alloy magnesium. And you can see the  
12 value takes a little different curve, but has grown  
13 dramatically.

14 And third, I'd like to show you the unit  
15 values, which is simply taken by dividing the value of  
16 export shipments by the quantity. And you can see  
17 what's happened to the average unit values.

18 Now these represent actual sales of alloy  
19 magnesium that were produced in the United States and  
20 you can see that the unit values have been declining  
21 while the value and quantity of shipments has been  
22 rising dramatically. We think this is because first  
23 of all U.S. product is competitive overseas and  
24 secondly, there is less of a demand, less of a market  
25 in the United States, so exports are a natural

1 consequence.

2           Second, U.S. alloy magnesium producers never  
3 faced serious competition from China or Russia before  
4 or after the imposition of these orders. The combined  
5 quantity of imports of alloy magnesium from China and  
6 Russia fell from approximately 16,000 metric tons in  
7 2004 to 142 metric tons in 2009. More over, there  
8 have been no exports of alloy magnesium from Russia to  
9 the U.S. since 2005, all pure.

10           Third, there is currently an anti-dumping  
11 duty order on pure magnesium from China, which also  
12 covers non ASTM magnesium alloy. The order on pure  
13 and off-spec alloy magnesium from China is not part of  
14 this sunset review, nor is the separate order on  
15 granular magnesium from China. Thus, the domestic  
16 pure magnesium industry would continue to be protected  
17 if the orders in this review are revoked.

18           Now Russia is another story, and Mr. Gurley  
19 is going to go on shortly. But with respect to China,  
20 the pure and off-specs alloy industries are not  
21 covered by this sunset review. So injury to the one  
22 producer of pure magnesium in the United States is not  
23 possible from revocation of this order on China.

24           Regarding whether China will increase  
25 exports to the United States in the event of

1 revocation, there's simply no evidence to support that  
2 assertion. China has a 10 percent export tax on pure  
3 magnesium and alloy magnesium, which has been in  
4 effect since 2008. Prior to that time, they had an  
5 export tax rebate on magnesium. Now this shows as  
6 clearly as anything can that China does not have a  
7 policy to encourage exports to the United States, or  
8 anywhere else.

9 In fact, we believe that revocation will  
10 increase demand for U.S. produced alloy magnesium. As  
11 you will hear from us today, the U.S. die casting  
12 industry predicts that revocation will result in  
13 increased demand for magnesium die cast products from  
14 end users, especially the U.S. auto industry. The  
15 restoration of competitive conditions will slow the  
16 exodus of production and jobs from the U.S.

17 It will also stem the replacement of  
18 magnesium with other heavier metals or composites in  
19 vehicle design. More demand will naturally result in  
20 more domestic production of alloy magnesium, both  
21 primary and through companies like Spartan, through  
22 increased supply of scrap in the U.S., and increased  
23 recycling of magnesium. As a consequence, revocation  
24 of the order is likely to increase demand for U.S.-  
25 produced magnesium.

1           Second point, the U.S. die casting industry  
2 is suffering. It has declined as a result of these  
3 orders. As you will hear in testimony later today,  
4 the U.S. die casting industry is unable to access  
5 alloy magnesium in the U.S. at globally competitive  
6 proxies. I think we have agreement on that with the  
7 other side. Russia has lost interest in the U.S.  
8 market. China never really had an interest. Because  
9 of the increased and decreased supply, U.S. die  
10 casters cannot effectively compete with their foreign  
11 rivals. We believe that a significant price disparity  
12 exists today between the U.S. and other major markets.

13           This is caused customers to purchase  
14 magnesium sub-assembly from non-U.S. die casters and  
15 see increased exports. Customers have also switched  
16 away from magnesium to materials made cheaper than  
17 magnesium because of the order, mainly, aluminum and  
18 thermal plastics. As a result, research and  
19 development as well as jobs have left the United  
20 States. U.S. die casters have been declaring  
21 bankruptcy and ceasing operation.

22           The International Magnesium Association  
23 notes that 50 percent of technical papers on magnesium  
24 technology came from the U.S. just a few years ago,  
25 while in 2009 only 10 percent did. The U.S. die cast

1 industry will benefit of the revocation of the order  
2 and the restoration of a competitive opportunity in  
3 the U.S. market. Our succeeding witnesses will  
4 elaborate further on these points in their testimony.  
5 Mr. Stoel?

6 MR. STOEL: Good afternoon, Madame Chairman.  
7 My name is Jonathan Stoel of Hogan Lovells. I also am  
8 counsel to Spartan Light Metal Products and the  
9 Magnesium Group of the North American Die Casting  
10 Association. I will discuss briefly two principal  
11 issues that are important for the Commission's  
12 consideration.

13 First, the Commission should find that there  
14 are two domestic light products at issue in this  
15 sunset review. Pure magnesium and alloy magnesium are  
16 very different products that must be considered  
17 separately.

18 Second, the Commission must not cumulate  
19 imports of Russian and Chinese magnesium. The two  
20 anti-dumping orders at issue in this sunset review  
21 cover different subject merchandise and the  
22 Commission's statutory and discretionary factors  
23 warrant decumulation.

24 Pure magnesium and alloy magnesium are  
25 separate light products. Spartan Light Metal and the

1 Magnesium Group of NADCA strongly support revocation.  
2 This result is mandated whether there is one or two  
3 light products. As producers and consumers of alloy  
4 magnesium, however, Spartan Light Metal and NADCA have  
5 a strong view on the light product issue.

6 The overlap between pure and alloy  
7 magnesium is insufficient to conclude that pure and  
8 alloy magnesium are a single domestic light product.  
9 In fact, I would point you to Exhibit 2-2 or the  
10 public staff report that demonstrates precisely this  
11 point. In fact, pure magnesium and alloy magnesium  
12 are two separate light products operating in entirely  
13 different markets.

14 We recognize that the Commission decided  
15 otherwise in the original investigation five years  
16 ago, and their subsequent substantive review of the  
17 order on pure magnesium. I would respectfully submit,  
18 however, that the Commission did not have all of the  
19 facts on the light product issue when those decisions  
20 were made.

21 We have detailed in our brief, and our  
22 questions and responses that the role of the die  
23 casting industry alone and the alloy magnesium  
24 industry want separate treatment of that domestic  
25 light product. We look forward today to answering any

1 questions about the Commissioners earlier treatment of  
2 pure and alloy magnesium.

3           Second, the largest two uses of magnesium in  
4 the U.S. market are pure magnesium for aluminum  
5 production and alloy magnesium for structural uses,  
6 such as die casting. Prior Commission determination  
7 have fixated on the fact that aluminum manufacturers  
8 can use both pure magnesium and alloy magnesium. This  
9 is not an accurate assessment of the situation.  
10 Aluminum manufacturers predominately rely on pure  
11 magnesium and only rarely consume alloy magnesium.  
12 Again, the Commission's own staff report demonstrates  
13 precisely this point in Exhibit 2-2.

14           Die casters, on the other hand, exclusively  
15 use alloy magnesium. More over, both the die casters  
16 and aluminum manufacturers do not consider pure  
17 magnesium and alloy magnesium to be interchangeable.  
18 The Commission thus should consider pure magnesium and  
19 alloy magnesium as two separate light products,  
20 consistent with their two distinct ACS-US  
21 classifications.

22           The Commission should revoke the order  
23 regardless of whether the Commission decides to  
24 decumulate Russian and Chinese imports. However,  
25 Spartan and NADCA are of the view that there are

1 substantial differences between the industries  
2 producing magnesium in Russia and in China. We also  
3 believe that imports from Russia and China be  
4 considered separately in this proceeding.

5 Mr. Gurley will be addressing this issue in  
6 detail on behalf of the SMPO. We'd be pleased to  
7 answer any questions from Commission on this issue. I  
8 now turn it over to Mr. Sparks.

9 MR. SPARKS: Good afternoon, Madame  
10 Chairman. My name is Michael Sparks. I'm the  
11 Executive Vice President of Operations for Spartan  
12 Light Metal Products. I worked at Spartan for 22  
13 years. And Spartan Light Metals strongly favors  
14 revocation of the orders that are being considered  
15 today by the Commission. Our continued presence as a  
16 producer of recycled alloy magnesium hangs in the  
17 balance.

18 Spartan Light Metal has been a industry  
19 leader in making both alloy magnesium and die cast  
20 parts from alloy magnesium for over four decades.  
21 Spartan Light Metal, like most die casters is a small  
22 business. It's been owned and operated as a family  
23 business since 1961 and employees 685 people. We  
24 operate die casting and recycling facilities in  
25 Illinois as well as die casting facilities in

1 Missouri.

2 Magnesium die casters operate in the global  
3 economy. We increasingly depend on suppliers and  
4 customers that operate in the global market. Like the  
5 other U.S. die casters today, Spartan depends on a  
6 healthy, robust, and efficient domestic magnesium  
7 industry. We depend on the U.S. magnesium industry to  
8 supply our magnesium requirements. We also recycle a  
9 significant amount of magnesium alloy and magnesium  
10 alloy scrap to meet the requirements of our customers.

11 Die casting requires alloy magnesium. Die  
12 casters cannot use pure magnesium. In fact, our  
13 operations use only certain alloys that are specified  
14 by our customers. We join the other members of the  
15 die casting industry here today in urging the  
16 Commission to find that pure magnesium and alloy  
17 magnesium are separate products with separate markets  
18 and distinct pricing.

19 Alloy magnesium ingots constitutes as much  
20 as 50 percent of our product cost. A portion of it  
21 demand that the purchase its primary alloy magnesium.  
22 The remainder of our magnesium requirements are  
23 internally produced through the recycling of generated  
24 and purchased alloy magnesium scraps. Were the orders  
25 in place, we were at a 40 percent disadvantage on cost

1 compared to our foreign competitors. We initially  
2 lost our export business to foreign competitors and  
3 material substitution. We're now seeing our domestic  
4 business being lost to the very same causes, that is,  
5 foreign competitors and material substitution.

6 As a result, our magnesium die cast business  
7 has dwindled since the imposition of the order. In  
8 2004, magnesium die cast products accounted for nearly  
9 25 percent of our total business and demand for  
10 innovative products was growing. Today, however,  
11 magnesium die cast products have shrunk to only 12  
12 percent of our total business. By 2015, we forecast  
13 it to be 5 percent or less. And I might add, this  
14 removes the issue of the contraction causing demand to  
15 be down for die casting. This is a percent of total  
16 business, so our aluminum business is affected in like  
17 manner.

18 At this level, it is likely we would  
19 discontinue our magnesium recycling operations. Our  
20 Illinois and Missouri plants could lose up to 120  
21 direct manufacturing and support jobs, other  
22 businesses we support, such as tool and die shops in  
23 Illinois and Missouri will also lose jobs.

24 Let me tell you how the orders have directly  
25 impacted our business. Our customers have changed

1 their purchasing pattern. Whereas, they previously  
2 purchased magnesium parts and sub-assemblies from us,  
3 they now purchase these items from our direct foreign  
4 competitors. In addition, some customers have  
5 switched to competing materials, namely, aluminum and  
6 thermal plastics, or a composite. Please understand  
7 that Spartan is a customer-intimate company and we  
8 constantly strive to move upstream, so we are two to  
9 four years ahead of the start of production with the  
10 development of raw material uses and selections.

11 Asian OEMs represents about half of our  
12 total business. Here's example, in 1999, Spartan  
13 Light Metal converted Ford's F150 engine head cover  
14 for the 5.4/4.6 engine from thermal plastics to  
15 magnesium. This conversion improved weight,  
16 durability, costs, as well as noise, vibration, and  
17 harshness referred to its MBH of the engine head  
18 covers. Unfortunately, magnesium costs increased  
19 dramatically in 2005 after the imposition of the  
20 order.

21 In order to save costs, Ford required us to  
22 convert these magnesium parts to aluminum. This  
23 change was made even though aluminum is about  
24 one-third heavier than magnesium and thus, lowers an  
25 automobile's fuel economy. We'll be losing this

1 business entirely in 2011 because Ford is replacing  
2 our aluminum parts with thermal plastics for weight  
3 and cost savings. Outcomes such as these certainly do  
4 not benefit the domestic magnesium industry, whether  
5 it's defined as alloy alone or both alloy and pure.

6 In summary, if the orders are revoked,  
7 Spartan Light Metals and our 685 workers believe that  
8 the competitive conditions for alloy magnesium will be  
9 much improved than if the orders are continued.  
10 Magnesium parts for autos, airplanes, hand-held power  
11 tools, and defense equipment will be more aligned with  
12 alternative materials.

13 Accordingly, with the revocation of the  
14 order, we predict future growth for magnesium die cast  
15 products and a need for us to increase our purchases  
16 of primary alloy magnesium. These improvements will  
17 allow us to continue to operate as a magnesium die  
18 caster in the U.S.

19 The revival of our industry will also  
20 directly and positively affect domestic magnesium  
21 producers as demand for our products increases we'll  
22 purchase additional magnesium from domestic alloy  
23 magnesium producers. More over, the improved alloy  
24 magnesium scrap stream will enable us to increase our  
25 production of magnesium alloy in the United States

1 through our recycling facilities.

2 For these reasons, Spartan Light Metal  
3 believes that the order should be revoked. Domestic  
4 producers of pure magnesium and alloy magnesium no  
5 longer need their protection. I look forward to any  
6 questions you may have.

7 MR. LEIBOWITZ: Thank you very much. Next  
8 is Dan Twarog, President of North American Die Casting  
9 Association.

10 MR. TWAROG: Good afternoon. My name is Dan  
11 Twarog. I'm the president of the North American Die  
12 Casting Association. I have a degree in metallurgical  
13 engineering from IIT and I've been in the metal  
14 casting industry for over 32 years.

15 Thank you for the opportunity today to share  
16 an NADCA's view on the decision about continuation of  
17 the anti-dumping orders on magnesium.

18 This decision is critically important to the  
19 U.S. magnesium die casting industry, which my  
20 association represents. NADCA strongly favors  
21 revocation of the orders that are being considered in  
22 this proceeding by the Commission.

23 NADCA represents the North American Die  
24 Casting Industry, and is committed to promoting the  
25 growth of the industry in the global marketplace,

1 ensuring industry awareness of relevant issues, and  
2 voicing our members concerns. We're headquartered in  
3 Wheeling, Illinois and we're comprised of both  
4 individual and corporate members located in the United  
5 States, Canada, and Mexico.

6 The U.S. die casting industry primarily  
7 consists of small to medium-sized companies, which are  
8 predominately concentrated in the Midwestern states.  
9 The U.S. die casting industry supports many  
10 manufacturing segments, including the automotive,  
11 transportation, aerospace, military, lawn and garden,  
12 and industrial equipment sectors.

13 My members rely on a healthy, robust, and  
14 efficient domestic magnesium industry. The  
15 overwhelming majority of die casters want to buy alloy  
16 magnesium from domestic producers and have done so for  
17 many years. Unfortunately, the U.S. magnesium die  
18 casting industry is deteriorating. My members are  
19 losing the competitive battle for magnesium business  
20 because U.S. alloy magnesium prices are unsustainably  
21 high.

22 Our foreign competitors are able to access  
23 alloy magnesium, including U.S. exports at prices we  
24 cannot obtain. A significant price disparity exists  
25 today between the U.S. and other major markets for

1 alloy magnesium. In other words, due to the  
2 anti-dumping order, U.S. die casters are struggling to  
3 compete. More over, we're seeing new magnesium  
4 product development and magnesium technologies once  
5 lead by U.S. businesses being atrophied and moved  
6 outside the United States and union jobs, too.  
7 Approximately 50 percent of my member companies are  
8 union shops. These facilities alone employ over  
9 28,000 people. The U.S. die casting industry suffered  
10 nearly 38 percent unemployment in 2009 and in 2010 we  
11 project our unemployment to be about 30 percent.  
12 That's three times more than the national average.

13 In recent years, I've witnessed  
14 consolidations and bankruptcies in the industry. I  
15 know of seven U.S. magnesium die casters that have  
16 terminated their magnesium business in the past three  
17 years. These include Lutz, Empire, Quad Cast,  
18 Context, Delmi, Delmar and Northern. That's over 300  
19 people have lost their jobs.

20 If the anti-dumping duties orders are  
21 revoked, NADCA believes that there would be no  
22 significant adverse impacts on the domestic alloy  
23 magnesium supply industries. My members will still  
24 rely principally on alloy magnesium suppliers in the  
25 United States as they are trusted suppliers of quality

1 alloy magnesium. My members have faces a vicious  
2 cycle of volatile prices and uncertain supply that  
3 have harmed their ability to produce U.S. magnesium  
4 die cast parts.

5 NADCA is convinced that the revocation of  
6 the orders will help to stop the cycle and to enable  
7 our members to increase production of die cast parts.  
8 This will, in term increase the demand for U.S. alloy  
9 magnesium.

10 I want to thank U.S. Magnesium for  
11 recognizing NADCA's shipment information and  
12 forecasts. That was Slide No. 4 in their evidence  
13 record. It should be noted that both the shipment  
14 information and the forecasts were based on North  
15 American information and not solely on the United  
16 States. And it's important to note that because we  
17 used to do just U.S. data, but since we lost so many  
18 magnesium die casters in the past five years, we have  
19 to rely on a wider base of data and information. So we  
20 actually look at North American data for the magnesium  
21 industry.

22 In 1999, the average automobile contained  
23 about eight pounds of magnesium die cast components.  
24 It's projected that by 2020, the average automobile  
25 will contain 35 pounds of magnesium die cast

1 components. Without the revocation of the orders,  
2 however, these die cast components will not be  
3 produced here in the United States. They'll be  
4 manufactured elsewhere.

5 In summary, NADCA respectfully submits that  
6 the revocation of these orders will enable the U.S.  
7 die casting industry to regain lost business and jobs  
8 right here in the United States. This revival of the  
9 U.S. die casting industry will positively affect  
10 domestic magnesium production. As demand for  
11 magnesium die cast products increase in the United  
12 States, my U.S. members will purchase additional alloy  
13 magnesium from domestic producers. The order should  
14 be revoked. Thank you.

15 MR. LEIBOWITZ: The last speaker in this  
16 segment is Eric Trieber of Chicago White Metal  
17 Casting.

18 MR. TRIEBER: Good afternoon Madame Chairman  
19 and members of the Commission. My name is Eric  
20 Trieber. I'm the President and CEO of Chicago White  
21 Metal Casting, CWM. I've worked in our family  
22 business for over 20 years and we strongly favor the  
23 revocation of the anti-dumping orders on all magnesium  
24 from Russia and certain alloy magnesium from China.

25 My grandfather founded CWM in 1937 as a

1 custom zinc die caster. Later, we started casting  
2 aluminum, and in 1979 we began casting magnesium. We  
3 operate today under a third generation Trieber family  
4 management from a 125,000 square foot facility in  
5 Bensonville, Illinois, where we employ 130 people.

6 If the orders are revoked, we do not expect  
7 to ship our demands to China or Russia. But we do  
8 expect that the ability of these producers to be in  
9 the market will make that market more competitive.  
10 Die casting requires alloy magnesium. Die casters do  
11 not and cannot use pure magnesium. And in fact, can  
12 use only certain alloy. Alloy magnesium and pure  
13 magnesium are not in any way interchangeable in our  
14 die casting operation.

15 We join others here in urging the Commission  
16 to find that pure magnesium and alloy magnesium are  
17 separate products with separate markets and distinct  
18 pricing. Since the orders were imposed in 2005, we  
19 have experienced dramatically higher prices for alloy  
20 magnesium. Higher costs for our raw material has  
21 reduced the demand for magnesium die casting in the  
22 United States, and demand has continued to decline.

23 In 2004, magnesium die cast products  
24 accounted for nearly 51 percent of CWM's revenues.  
25 However, today magnesium die cast products have shrunk

1 to 32 percent of total revenues of CWM. Lower demand  
2 has resulted in the loss of 21 jobs at our company and  
3 additional jobs are in jeopardy. Our customers  
4 continue to substitute less expensive material, mainly  
5 aluminum. They have also changed from purchasing  
6 magnesium parts and sub-assemblies from us to  
7 purchasing from foreign competitors. We've lost  
8 several die casting projects to European and Asian  
9 competitors due to the price of alloy magnesium.

10 Let me give you two examples. CWM supplies  
11 magnesium castings to an automotive customer in  
12 Europe. In 2008, our sales to this customers dropped  
13 by 82 percent from \$1.5 million to \$265,000 due to  
14 material pricing. Up to that point in an effort to  
15 hold onto the business, we had absorbed the delta of  
16 the material price increases, but could no longer  
17 continue to do that.

18 Once we attempted to pass those increases  
19 along to the European customer, they discontinued  
20 placing almost all orders in favor of an alternate  
21 source outside of the U.S. More recently, CWM's  
22 largest customer was forced to substitute aluminum for  
23 a 7-pound magnesium casting we'd been producing since  
24 2002. The average annual revenue for this magnesium  
25 casting was \$600,000. These are but two examples of

1 direct financial losses our company has sustained due  
2 to these orders.

3           If the orders are revoked, we believe it  
4 will open up the U.S. market to fair competition.  
5 That is what the magnesium die casting industry needs  
6 in order to make a go of it in this country. We won't  
7 be able to compete on equal terms with alternative  
8 materials, especially aluminum and thermal plastics.  
9 And this will allow for more part designs in magnesium  
10 as well as some applications coming back to magnesium  
11 that had been converted to alternative materials.

12           The auto industry's comeback will benefit  
13 our industry as more fuel efficient cars and trucks  
14 are built. These changes will not only help the die  
15 casting industry to survive in the U.S., it will also  
16 save fuel and money for American motorists.

17           If the orders are revoked, we predict growth  
18 for magnesium die cast products and the need for CWM  
19 to purchase greater quantities of alloy magnesium.  
20 This will allow us to continue to operate as a  
21 magnesium die caster in the United States. More over,  
22 the revival of our industry will directly and  
23 positively affect domestic magnesium producers. As  
24 demand for our products increase, we will purchase  
25 additional magnesium from domestic alloy magnesium

1 producers.

2 For the reasons and examples, I shared we do  
3 not believe the domestic magnesium industry needs the  
4 protection of these orders and such the orders should  
5 be revoked. Thank you.

6 MR. LEIBOWITZ: This is Mr. Gurley on behalf  
7 of ALISMA.

8 MR. GURLEY: Good afternoon. My name is  
9 John Gurley. I'm with the law firm of Arent Fox. I'm  
10 here with my colleague Diana Class. We represent  
11 VSMPO-AVISMA, a Russian producer of magnesium and  
12 titanium.

13 I agree with the comments made today by  
14 counsel for Spartan and Die Casters with respect to  
15 light product accumulation. But I wanted to focus my  
16 testimony today on some of the fundamental changes  
17 that have taken place since the Commission first  
18 reviewed this matter five years ago. We will address  
19 a few other factors today, which makes this sunset  
20 review truly unique.

21 Since the Commission last considered the  
22 issue of injury to the U.S. magnesium industry, there  
23 have been tremendous changes in the U.S. and world  
24 magnesium markets, especially in the context of  
25 Russia. Both VSMPO-AVISMA as well as Solikamsk, the

1 only producers in Russia, have undergo substantial  
2 changes in terms of corporate structure and  
3 production.

4 VSMPO-AVISMA today is a much different  
5 company than it was in 2004, when the Commission first  
6 investigated the company then called AVISMA Titania  
7 Magnesium Work.

8 Today, the company is known as VSMPO-AVISMA.  
9 Notice the first name, VSMPO. VSMPO is very much a  
10 titanium company. Indeed, after going through a  
11 merger in 2005, the new company made a decision to  
12 reduce its production of magnesium to an amount  
13 necessary to support titanium sponge. Magnesium is an  
14 off suit of VSMPO's very important titanium  
15 production. Indeed, magnesium revenues represent only  
16 3 percent of VSMPO's total sales in 2009.

17 After VSMPO made a decision to reduce its  
18 production of magnesium, a natural disaster hastened  
19 that planned reduction. The key raw material in the  
20 production of commercial magnesium is carnallite. As  
21 documented in its review, VSMPO's carnallite supplier,  
22 Urikali suffered a massive mine collapse in 2006.  
23 Both by design and necessity, VSMPO's production  
24 decreased from approximately 26,000 metric tons in  
25 2006 to less than 10,000 metric tons today.

1           The carnallite problem is one that has not  
2 gone away. The upshot of all these changes is that  
3 VSMPO's capacity and production of magnesium is much,  
4 much lower than it was give years ago.

5           Solikamsk has also reported decreases in  
6 capacity and production. Solikamsk too is getting  
7 into the titanium business. Public information filed  
8 in this review confirms that Solikamsk is already  
9 diverting part of its magnesium capacity to the  
10 production of titanium sponge and that will continue.  
11 Titanium is a big and profitable business. and both  
12 VSMPO and Solikamsk are acting accordingly.

13           Due to all the foregoing reasons, total  
14 Russian capacity and production is dramatically down  
15 since 2005. This is indisputable. U.S. Magnesium  
16 points to a possible large Russian facility that they  
17 believe may go online in 2011. Of course, this is the  
18 same Russian facility U.S. Magnesium mentioned in its  
19 2005 ITC legal brief. There is no evidence at all  
20 that this facility is close to being built or that it  
21 will ever go online.

22           In short, the Russian magnesium industry you  
23 are looking at today is very much smaller and with a  
24 much different focus. The Russian focus on titanium  
25 sponge is not unique to them. As we heard today in

1 vivid detail, U.S. Magnesium has entered into its own  
2 very important agreement to supply magnesium to  
3 Allegheny Technologies, ATI. Public information  
4 provided in our brief documents U.S. Magnesium's  
5 important new role in the titanium sponge industry.  
6 It's captive customer is ATI. ATI is a very big  
7 customer. Indeed, one, it is described in the metal  
8 market as one of the largest in the United States.

9 The testimony today of Mr. Hassey confirms  
10 how large it is. He reported that in 2012 they  
11 estimate production of 24 million pounds. That's the  
12 equivalent of 11,000 metric tons. As you know,  
13 there's a one-to-one ratio between the titanium  
14 production and the need for magnesium. This is an  
15 11,000 ton customer that did not exist in 2005.

16 Yet, another key difference today from five  
17 years ago is the exit of Canada from the magnesium  
18 business. In 2005, Canada was the largest exporter in  
19 the United States market. She had exported almost  
20 \$100 million in magnesium. Today, Canada produces and  
21 exports zero magnesium. That means \$100 million in  
22 business is now up for grabs. VSMPO and the Russians  
23 did not attempt to fill this void. More over, there  
24 are no new, big, non-subject foreign producers to take  
25 the place of Canada.

1           While Israel took some of the former  
2 Canadian share, there's more than enough room for U.S.  
3 Magnesium and others to expand. This is very good  
4 news for U.S. Magnesium.

5           I've mentioned today three major changes  
6 since 2004 -- the substantial decrease in Russian  
7 capacity and production, the arrival of ATI as a big,  
8 captive customer for U.S. Magnesium, and the exit of  
9 Canada from the world magnesium stage. All of these  
10 changes are important and all of them benefit U.S.  
11 Magnesium. They're in an enviable position.

12           But I would also like to address some of the  
13 unique facts in this case, which are important to the  
14 Commission's cumulation analysis.

15           For the Commission to cumulate import from  
16 Russia with those of China, it must first find that  
17 the Russian imports likely will have a discernible  
18 adverse impact on the U.S. industry if the orders were  
19 revoked. In its analysis the Commission normally  
20 considers the likely volume and the like price of such  
21 imports and the impact on the U.S. industry, if the  
22 orders were revoked.

23           We have already discussed the like lower  
24 import volume due to much lower capacity and  
25 production in Russia. But pricing is also a key

1 issue. But let's look at what the Russians did when  
2 they were in the U.S. market. The staff report states  
3 that in 19 out of 23 quarterly comparisons the  
4 Russians were overselling their U.S. counterparts,  
5 sometimes significantly. This is not a common fact  
6 pattern in sunset reviews. But this pattern clearly  
7 suggests there would be no adverse impacts if the  
8 Russians were to reenter the U.S. market.

9 Of course, that's an important question.  
10 Would the Russians reenter the U.S. market in a  
11 meaningful way if the order were revoked. It is very  
12 easy for Respondents, such as VSMPO to claim that  
13 their interest in the U.S. market is limited. I  
14 understand that. But the actions of both VSMPO and  
15 Solikansk speak volumes. Solikansk left the U.S  
16 market in 2006 just after its anti-dumping rates went  
17 from 18.65 percent to 3.77 percent, after.

18 VSMPO started exiting the U.S. market in  
19 2007 as a result in change in company strategy and  
20 because of the carnallite supply problem.  
21 Coincidentally, it's anti-dumping margins then decreased  
22 from 21.71 percent to zero in 2007. To be clear,  
23 these Russian companies ceased exporting significant  
24 amounts to the United States after their rates dropped  
25 close to or equal to zero. Indeed, imports from

1 Russia since 2007 have been negligible.

2 It's worth noting that VSMPO has a zero  
3 percent margin again today. They received a  
4 preliminary rate of zero in May 2010. Despite this  
5 market advantage, VSMPO did not participate in any  
6 bids for 2011 sales New York market. VSMPO had no  
7 exports in 2009, no exports in 2010, and has no plans  
8 to export in 2011 either.

9 If you want to predict future behavior, look  
10 at past behavior. The record is clear that both VSMPO  
11 and Solikamsk left the U.S. market for their own  
12 reasons, even with low margins and relatively high  
13 U.S. prices. Again, this is a novel fact pattern and  
14 one that supports our statement that the U.S. market  
15 is of limited importance to the Russian producers.

16 That concludes my testimony today. I look  
17 forward to answering any questions you might have.

18 MR. LEIBOWSKI: Thank you, Mr. Gurley. This  
19 concludes the prepared portion of our testimony. I  
20 wanted, though, the Commissioners to meet some  
21 additional witnesses that we have on our panel who  
22 didn't offer direct testimony, but are here to answer  
23 questions. Two additional officials of Spartan Light  
24 Metal are Mike Yost and David Peek. Doug Harmon,  
25 who's the CEO of Twin City Die Casting is to my right.

1 Alan Schroeder, President of Mag Tech Casting  
2 Corporation and Alan Totten, sales manager of PCC-AFT,  
3 and Jeff Rivers, Division President, Product Tech  
4 Division of Case Industries in the great state of  
5 Minnesota. Thank you very much.

6 CHAIRMAN OKUN: Thank you. And again, thank  
7 you to all of the witnesses for being here,  
8 particularly, those representatives from companies who  
9 have taken the time to travel and be away from their  
10 business to answer our questions and testify today.  
11 We very much appreciate your presence here.

12 And we will begin the questions this  
13 afternoon with Commissioner Aranoff. I would ask,  
14 since we have several rows of witnesses, if you could  
15 be sure and identify yourself when you answer a  
16 question for the benefit of the court reporter and for  
17 us as well. Thank you. Commissioner Aranoff?

18 COMMISSIONER ARANOFF: Thank you, Madame  
19 Chairman and welcome to all the witnesses on this  
20 afternoon's panel. We very much appreciate so many of  
21 you taking today away from your businesses to come and  
22 answer our questions. I, of course, forgot that I was  
23 going first. And so you'll pardon me for a moment  
24 while I peruse my list of questions.

25 (Pause.)

1                   COMMISSIONER ARANOFF: Let me ask you this.  
2           One thing that I hear in the testimony of the two  
3           groups that make up this panel it's an apparent  
4           contradiction that I'd like to ask you resolve for me.  
5           And that is on the one hand the assertion that Russian  
6           producers are not going to be very interested in the  
7           U.S. market in the event of revocation and probably  
8           won't send much, if any, products here. And on the  
9           other hand, the assertion that revocation of this  
10          order would result in domestic prices for magnesium  
11          that are more closely aligned with global prices.  
12          Does the latter part depend on revocation of the  
13          Chinese order, or is there a way to reconcile those  
14          two with respect to the Russian order?

15                   MR. LEIBOWITZ: Well, I'm sure that  
16          Mr. Gurley can respond for his clients. I want to  
17          speak to the larger question. This is Lewis  
18          Leibowitz, by the way. I'm sorry, Madame Chairman.

19                   The competitive condition is what is  
20          important. Companies can choose to participate in the  
21          United States market or not. And it's those  
22          competitive conditions that mean a lot to the  
23          magnesium die casting industry. Whether or not imports  
24          are likely to increase to injurious levels is for the  
25          Commission to decide. The evidence that we see is

1 that there is not too much evidence to support that.  
2 It doesn't mean imports won't increase at all. It may  
3 mean that Russia doesn't come in. I'll let Mr. Gurley  
4 speak to that.

5 As far as China is concerned, we don't know  
6 what they will do, except that the evidence before us  
7 suggest that they are not particularly keen on the  
8 alloy magnesium industry anyway and they have an  
9 export tax, which suggest that the Chinese government  
10 is not particular keen on exportation of alloy  
11 magnesium.

12 Mr. Gurley, do you want to add to that?

13 MR. GURLEY: Yes. I can only comment really  
14 on the issue of the pure market. I don't think that  
15 revocation of the order with respect to pure magnesium  
16 would impact the price in the United States one way or  
17 the other. Russia has not been in the market for  
18 several years in a meaningful way. And even when  
19 Russia was in the market, its prices were higher than  
20 the domestic industry. And a third issue will be that  
21 we're a much different company now than we were five  
22 years ago, both VSMPO an Solikamsk have much reduced  
23 capacity. So even if the capacity were revoked and we  
24 started exporting, we have not that much to export.

25 COMMISSIONER ARANOFF: Okay. Well, I

1 appreciate those answers.

2 Mr. Gurley, do you agree with the  
3 descriptions offered by the domestic industry, that  
4 Russian producers are export-oriented?

5 MR. GURLEY: Well, I think you can look at  
6 the questionnaire responses filed by the Russian  
7 producers, and you'll see -- I mean, the facts are  
8 what the facts are. We have a pretty buoyant home  
9 market, one we have had for many years and hope to  
10 continue to have. And we've also had some exports.

11 So I don't know how you characterize it,  
12 whether export-oriented. But it's certainly easier  
13 for us to sell in the domestic market, and we  
14 anticipate the domestic market will be, will be  
15 strong, and we'll have a lot of focus of our sales  
16 there.

17 COMMISSIONER ARANOFF: Okay. Well, as you  
18 know, in a number of sunset reviews where we've had  
19 subject producers tell us that, you know, their  
20 production is pretty much committed, and that  
21 therefore there's not much left over to send to the  
22 U.S. market, one of the things that's been very  
23 helpful to us is to really have that laid out in terms  
24 of listing long-term customers and the volumes that  
25 they traditionally receive over a period of years, or

1 long-term contracts that are in existence. Or in this  
2 case, how much of production is being used captively  
3 in the production of titanium.

4 I don't know whether your client, much less  
5 the other Russian producer that you don't represent,  
6 are able to provide that kind of information. But I  
7 would encourage you to, you know, hone in on as much  
8 of that as possible, because I think that would be  
9 helpful for the Commission in assessing this idea that  
10 there's easily divertable or excess capacity in  
11 Russia.

12 MR. GURLEY: We will do that.

13 COMMISSIONER ARANOFF: Okay. Well, let me  
14 continue with you, Mr. Gurley. One of the arguments  
15 that you made was you pointed to pricing by the  
16 Russian product in the U.S. market during the period  
17 of review, and suggested that it's uncommon for the  
18 Commission to see overselling.

19 And I guess I would disagree with you there.  
20 It's probably, we don't see it in every case, but we  
21 do see it. And as a general rule, I think the  
22 Commission's assessment has been that in predicting  
23 likely pricing behavior, a better guide would be  
24 pricing behavior by foreign producers when they were  
25 not under the discipline of an order, during the

1 original period of investigation, than during the  
2 period of review.

3 And you're suggesting that we look at it  
4 differently in this case. So I guess I'd ask you to  
5 explain why.

6 MR. GURLEY: Well, a couple of reasons.  
7 First, I mean, technically we're a different company  
8 now than we were when we were in the original  
9 investigation. Again, that was AVISMA Magnesium  
10 Titanium Works; now we're VSMPO-AVISMA. We have  
11 separate management and a new focus on what we're  
12 trying to do.

13 Secondly, even if you do look at the prices  
14 prior to, during the investigation period, while I  
15 think I can say on the public record they were  
16 slightly lower, but the key word is slightly lower, it  
17 is not the business of VSMPO to try to be the low  
18 person in the market. And you can see the focus of  
19 our company since 2005 is to be the highest-priced  
20 competitor in the U.S. market when we were here. But  
21 now we're not here.

22 COMMISSIONER ARANOFF: Okay. Let me turn to  
23 Mr. Leibowitz and his panel. And then, Mr. Gurley, if  
24 you want to comment as well.

25 There is extensive questionnaire responses

1 from purchases, as well as some of the testimony that  
2 we've heard today from some of the die casters, which,  
3 the upshot of which I take to be that if these orders  
4 were revoked, prices would go down in the U.S. market,  
5 or at least equalize with global prices, which  
6 currently everyone seems to agree are lower than U.S.  
7 prices.

8           Isn't that an admission against interest? I  
9 mean, isn't that a factor, you know, that weighs  
10 against revocation of the orders?

11           MR. LEIBOWITZ: Well, I don't think it's an  
12 admission against interest, because it can be  
13 adequately explained.

14           I think the competitive conditions is what  
15 we've been referring to in our testimony today, and I  
16 certainly invite our, the other panel members to weigh  
17 in on this. We don't know what will happen in terms  
18 of import competition, subject or non-subject.

19           But we can surmise that the competitive  
20 conditions in the U.S. market, if there is a stable  
21 global competitive environment, are likely to be more  
22 predictable. That will encourage U.S. auto companies  
23 and others to beef up the magnesium content of their  
24 fleet; and in so doing, will create more demand for  
25 alloy magnesium. Which, based on those same

1 competitive conditions, is likely to result in more  
2 business for alloy magnesium.

3 I want to just point out one connection  
4 that's very important, that we didn't hear this  
5 morning. Alloy magnesium consists of primary and  
6 secondary magnesium, and they're both inter-dependent  
7 on each other, and they're both very important.

8 Now, that Spartan Light Metal, which is an  
9 alloy magnesium producer, does so by recycling that  
10 secondary magnesium. Pure magnesium can't be produced  
11 that way, only alloy magnesium can.

12 So the synergy between recycling and primary  
13 alloy magnesium production is very important to  
14 increasing demand, and increasing the health of the  
15 economy. That happens when this order is revoked, and  
16 demand for alloy magnesium can go up.

17 COMMISSIONER ARANOFF: Okay. So I'm  
18 understanding your argument to be that pricing  
19 predictability, a result of revocation, would increase  
20 demand ultimately for domestic magnesium. And  
21 supposing that I accept that argument, we are in an  
22 industry where there are a lot of long-term contracts  
23 where the prices that people are going to pay for  
24 magnesium in 2011 and maybe in 2012 have already been  
25 set, and we have to look at what's going to happen in

1 the reasonably foreseeable future.

2 Can this affect, assuming we find that there  
3 is such an effect, can it translate into a sufficient  
4 increase in demand for domestic magnesium in the  
5 reasonably foreseeable future to offset the price  
6 effect, the negative price effect?

7 MR. LEIBOWITZ: Well, I'd like the panel  
8 members to comment on that, because they have much  
9 more detailed knowledge of the market.

10 But I think what you heard this morning  
11 really relates to pure magnesium. I don't know, I'm  
12 not sure that that is the same answer with respect to  
13 alloy magnesium.

14 COMMISSIONER ARANOFF: Well, actually, let  
15 me ask. I see that my time is up. Can I wait for the  
16 answer to this, Madame Chairman?

17 CHAIRMAN OKUN: Yes, please. Go ahead.

18 MR. TREIBER: I would like to respond to  
19 that question. Eric TREIBER, Chicago White Metal.

20 The length of contracts I think really bears  
21 definition. For Chicago White Metal, one year is, is  
22 the maximum that we would extend any contractual  
23 obligation. And that's the longest we've ever done.

24 So we are already established for 2011.  
25 That's commonplace; here we are in December of 2010.

1 But beyond that, it's open. I think my associates --

2 COMMISSIONER ARANOFF: Mr. Sparks.

3 MR. SPARKS: Yes, thank you. Spartan Light  
4 Metal. I think one thing about the pricing of  
5 magnesium, and the reason we feel it might drop, is  
6 the emotional side of pricing.

7 When you saw the price run up, it was so  
8 dramatic in '08, we really don't know why exactly that  
9 happened. But I get feedback from some of our  
10 suppliers that they are reluctant to participate, or  
11 they're afraid to compete, for various reasons. It's  
12 risky, too much of a hassle, too much here. And I  
13 think there's a reluctance to serve, perhaps, and I  
14 think that might soften and the price might drop for  
15 that reason.

16 Our contracts are shortening in length. And  
17 maybe Mr. Peek would jump in and speak to that. But  
18 we do not extend long-term contracts, either.

19 MR. PEEK: I would agree with Mr. Treiber.  
20 Our contracts, as well, are for a period of one --

21 COMMISSIONER ARANOFF: Would you just state  
22 a name for the court reporter?

23 MR. PEEK: My name is David Peek.

24 COMMISSIONER ARANOFF: Thanks.

25 MR. PEEK: Thank you. I agree with the

1 comments made by Mr. Treiber. Our contracts, as well,  
2 are for a period of one year.

3 MR. TWAROG: I'd just add one more thing.  
4 Oh, Dan Twarog, North American Die Casting.

5 When somebody doesn't start tomorrow to say  
6 okay, I'm going to make this an aluminum part, and  
7 then just start producing in a week, there is a long  
8 lead time to that. And if the orders are revoked,  
9 that's news that we can carry to our customers, and  
10 then they can start to plan to either bring parts back  
11 or convert parts that they had previously thought they  
12 could do, but didn't because of the cost or the price  
13 of the aluminum, as well as other factors.

14 So by revoking the order, there is not going  
15 to be an immediate jump in the demand for magnesium,  
16 but there's going to be a movement back towards  
17 magnesium, we feel. And by the time some of the  
18 contracts run out, there will be maybe some stuff in  
19 play that will increase the demand.

20 COMMISSIONER ARANOFF: Okay. Well, I thank  
21 you all for the answers. I thank my colleagues for  
22 their indulgence. I've got us off to a bad start this  
23 afternoon on timing. I apologize.

24 CHAIRMAN OKUN: Let's see. I'm going to  
25 continue with some questions with respect to pricing

1 in this market in the event the orders are revoked.

2 I think the first question I'd like to ask  
3 is -- and I guess I can't -- we spent some time this  
4 morning on the domestic industry's Chart 3, which  
5 talks about magnesium prices in the U.S. market versus  
6 the European and Chinese market prices, and the spread  
7 between those two.

8 So the first question that I wanted to ask  
9 is the die casters' impression of what was going on in  
10 the market, particularly in the 2008 time period,  
11 where we see this spread, and it's large. And if in  
12 responding to that you can also discuss the role of  
13 non-subjects, because there are a lot of non-subjects  
14 in the market you don't see, or in this part at least,  
15 I don't see the pricing pressure.

16 So if you could just talk about pricing in  
17 the market and what factors you see going on. Maybe I  
18 could start up on this front row, and then continue on  
19 back.

20 MR. RIVERS: I'm Jeff Rivers with Pace  
21 Industries, Product Tech Division.

22 It is very difficult for me to explain the,  
23 the run-up in 2008. Pace Product Tech, as we are  
24 known as, Product Technologies, as we are known in the  
25 early days of our business, was a very small player in

1 the magnesium casting industry. We'd never purchased  
2 any material off shore.

3 Some of my market knowledge mostly comes  
4 from what I hear from the supply base, or what I can  
5 read in articles. And I believe it's my understanding  
6 that a gap did widen in advance of concerns over the  
7 2008 Olympics being placed in China, and an interest  
8 in them to clean up their air pollution.

9 Now, I don't believe it was just the  
10 magnesium industry that was affected by this. And  
11 again, my recollection of it is there were controls  
12 put in place on the manufacturing that tightened the  
13 worldwide supply for everyone at that time. As I  
14 believe we can see that in the other worldwide  
15 markets, it responded in a, in a likewise direction.

16 And I believe that with regard to the U.S.  
17 market, there was some residual market fear that it,  
18 you know, better get on board now, or lock it down and  
19 give our customers some level of confidence in knowing  
20 where it was going to stop.

21 So that's, you know, my recollection and  
22 belief in what was going on there, to a contributing  
23 degree.

24 CHAIRMAN OKUN: Mr. Harmon?

25 MR. HARMON: Yes. My name is Doug Harmon

1 with Twin City Die Castings Company.

2 CHAIRMAN OKUN: If you'd bring your  
3 microphone closer. Thank you.

4 MR. HARMON: And I would concur with Jeff in  
5 regard to the 2008 run-up. I mean, we know that with  
6 the Olympics being in Beijing, there was a situation  
7 of air pollution. They did take some manufacturing  
8 off line to clean up, clean up the environment and the  
9 air around the Olympics. And that's why, that's one  
10 of the reasons at least I, you know, I have read about  
11 and heard from vendors on why that would have spiked  
12 up to that, to that extent.

13 And you know, the U.S. market just followed  
14 that trend.

15 CHAIRMAN OKUN: Okay. Mr. Twarog.

16 MR. TWAROG: Thank you. I have a little  
17 different take on that. I agree a little bit with the  
18 Olympic thing, but I also look at the market  
19 conditions overall for commodities at that point in  
20 time.

21 We were just entering into a recession in  
22 here, and even a global recession. And speculators  
23 love to try to find places to put their money in  
24 differently, that they might make somewhere else.

25 So if you take a look at most materials,

1 most metals around that timeframe, there was a huge  
2 jump in price. And I think it's got more to do with  
3 speculators jumping in the market, trying to put their  
4 money somewhere that they couldn't make other places.  
5 They, I think, quickly jumped out of it when they  
6 figured out that it's not an easy business to make  
7 money in.

8 CHAIRMAN OKUN: Okay. Mr. Sparks.

9 MR. SPARKS: Yes, two things. One thing  
10 that really hurt us is the, the zero ratio of  
11 magnesium-to-aluminum pricing that occurred then.  
12 Because the run-up of magnesium prices, as compared to  
13 aluminum, was dramatically different. And that ruined  
14 a lot of decisions then that affected two to four  
15 years out on the selection of material. And so we  
16 monitored this on an ongoing basis.

17 The most famous quote I received from  
18 suppliers when asking them why the price is so high,  
19 is because it can be.

20 CHAIRMAN OKUN: Mr. Treiber?

21 MR. TREIBER: Yes, Eric Treiber. You  
22 mentioned non-subjects. We have a direct experience  
23 with quoting non-subjects, where the U.S. price was at  
24 one level, the, say, Chinese or Russian price was at a  
25 level lower than that. And they were quoting right in

1 the middle, so to speak. And they were very clear  
2 about the fact that that was a price that was higher  
3 than they could sell for, and did sell for in Europe.  
4 But they didn't, in order to garner more sales they  
5 didn't need to sell at the level that the United  
6 States, you know, was selling at.

7 And the question, why are you doing that,  
8 and as Mr. Sparks just said, because we can. That was  
9 the answer.

10 CHAIRMAN OKUN: Yes. Is that Mr. Totten?

11 MR. DIERKS: Mike Dierks with Spartan.

12 CHAIRMAN OKUN: Okay, Mr. Dierks.

13 MR. DIERKS: Going back to Mike Sparks'  
14 comments, I think you have to look at competing  
15 materials. Right before this took place, there was  
16 large purchases of scrap aluminum in the Chinese  
17 market, which brought magnesium, by volume cost, in  
18 line. You have to look at it by volume, not by price.  
19 Brought magnesium in line volume-wise, volume cost-  
20 wise, with aluminum. And there were a lot of new  
21 projects being looked at.

22 And I've been in the business since 1979.  
23 And any time there's a lot of new product development  
24 or a lot of people looking at magnesium, everybody  
25 gets this dream that they can charge whatever they

1 want for the material and people will pay it.

2 And I think that led a lot to the price  
3 escalation that took place right after that.

4 CHAIRMAN OKUN: Okay. Another hand is up.  
5 Mr. Gurley.

6 MR. GURLEY: Yes, this is John Gurley from  
7 VSMPO. A couple of comments.

8 First off, to be clear, this chart  
9 represents spot prices. And many companies, including  
10 VSMPO, when we were active in the market,  
11 traditionally sold certainly to people like Alcoa or  
12 Alcan or these larger aluminum producers, on an annual  
13 basis. So this chart sort of can be misleading when  
14 you look at that.

15 Secondly, you also have to remember that  
16 there is a fundamental difference between the U.S.  
17 market and sales to Europe. First off, the United  
18 States has an eight-percent import duty, which is  
19 significant. Secondly, this is probably around the  
20 time that freight rate increases also took a dramatic  
21 increase.

22 So while this, I'm sure there was a  
23 differential between EU and U.S. prices, I think you  
24 have to look at the fact that there is also a big duty  
25 difference, and a big freight difference, as well.

1 Thank you.

2 CHAIRMAN OKUN: Okay, I appreciate that. I  
3 see another hand. Yes.

4 MR. STOEL: Jonathan STOEL.

5 CHAIRMAN OKUN: Mr. STOEL.

6 MR. STOEL: Madame Chairman, two things.  
7 One, don't forget that January 1, 2008, was when the  
8 export tax on Chinese exports of alloy and pure  
9 magnesium went into place. So that's a 10-percent  
10 bump in the pricing right there, which I think  
11 explains, at least to some degree, sort of the jog  
12 that you see in the line.

13 Then I think as 2008 goes on, obviously we  
14 have two very interesting things. One, we have the  
15 beginning of the financial crisis, recession,  
16 whichever term you want to use, which I think  
17 resulted, at least in part, in the decrease in pricing  
18 that you see, particularly on the U.S. side.

19 In terms of the Chinese price, don't forget  
20 that what's happening with the export tax, it's not  
21 only having an impact in the U.S. and in other  
22 markets, it's having an impact on China. It's  
23 depressing the price of magnesium in China.

24 That is, whenever you're keeping more  
25 product in the country, you're increasing supply. And

1 so therefore, that's going to enable the price to go  
2 down for consumers within the country that has the  
3 tax.

4 So even though the price of Chinese material  
5 was entirely going down in China because of their own  
6 presumably economic problems, you also had the impact  
7 of the tax, that I think is causing some of the change  
8 in the Chinese price.

9 CHAIRMAN OKUN: Okay. Yes.

10 MR. TOTTEN: Alan Totten from AFT. One of  
11 the things that we experienced in 2008 was a supply  
12 dry-up. We purchase our magnesium quarter-to-quarter  
13 basis, and we had a very difficult time of even  
14 finding magnesium in 2008. It was a very difficult  
15 problem that we faced at that time.

16 CHAIRMAN OKUN: And did that ease subsequent  
17 to 2008?

18 MR. TOTTEN: It did, yes. We had to go out  
19 and really beat, beat the bushes for new suppliers.  
20 It was very difficult to find. But it did actually  
21 subside later on in the year. But it was very scary  
22 for about six months.

23 CHAIRMAN OKUN: Okay. I'm not sure that  
24 that helped me understand what would happen if the  
25 order were revoked or not, because of a lot of kind of

1 a different take on the pricing. And so I will come  
2 back to that. My red light has just come on, so I  
3 will turn to Vice Chairman Williamson.

4 VICE CHAIRMAN WILLIAMSON: Thank you, Madame  
5 Chairman. And I, too, want to express my appreciation  
6 for the witnesses coming today.

7 Mr. Leibowitz, I'm just wondering, under  
8 what authority can we consider the effects on  
9 purchasers like the die casters in our analysis? Can  
10 you point to where the statute, you know, give us  
11 those details?

12 MR. LEIBOWITZ: Sure, we'd be happy to  
13 elaborate on this in our post-hearing brief. I very  
14 rarely do legal arguments justice at a hearing.

15 But briefly, the Commission is entitled to  
16 consider any economic factor that they consider  
17 significant, including the effect on downstream  
18 industries.

19 But the question you must answer is, will  
20 the domestic industry likely suffer material injury if  
21 the orders are revoked, the domestic industry  
22 producing the product that you're investigating. I  
23 accept that, and I think that our presentation speaks  
24 to that issue.

25 In looking at the demand for alloy magnesium

1 especially, because we do think they're separate-like  
2 products, the die casting industry is the major user  
3 of alloy magnesium, and their welfare affects the  
4 production of alloy magnesium.

5 In this case, perhaps uniquely, perhaps not,  
6 recycling and primary production are very important  
7 in, in supplying this product. And because recyclers  
8 are often either one and the same as the die-cast  
9 producers, or very closely allied with the die-cast  
10 producers, the availability of recycling material in  
11 the U.S. market is critical to meeting demand, and to  
12 keeping competition up in the alloy industry.

13 Now, that's not true in the pure segment,  
14 because there is no recycling of pure magnesium, or  
15 essentially none.

16 So I think that the point we're making is,  
17 in the last analysis, the increasing demand that would  
18 result from the restoration of a globally competitive  
19 condition, whether imports go up or not, will increase  
20 demand, will increase the activity of end users, such  
21 as the auto companies, to design end magnesium. And  
22 over the course of time, will create a stable market  
23 and increase demand for alloy magnesium, which is what  
24 the Commission has to investigate. I hope that helps.

25 VICE CHAIRMAN WILLIAMSON: Thank you. Well,

1 I hope you will cite any precedent, prior cases or  
2 anything that would support your point. But let me  
3 get some clarification.

4 You're saying, you point to the increased,  
5 and if the orders are revoked, you said the increased  
6 demand for magnesium in the United States? It would  
7 generate more recycled material? Is that the point?

8 MR. LEIBOWITZ: Yes, because the die-casting  
9 industry is, at the moment, migrating. They're either  
10 migrating to other materials, or they're migrating  
11 outside the country.

12 And therefore, there is less material  
13 available to recycle. Because the recycling occurs in  
14 the countries where the die castings are made.

15 If that activity starts to return to the  
16 United States, there will be more recycled material,  
17 which behaves synergistically with primary alloy  
18 magnesium, and creates the conditions where there can  
19 be stable demand and stable supply.

20 It doesn't necessarily have to consider  
21 imports unless there's just a flat shortage of the  
22 product in the United States. In which case we need  
23 to make up the shortfall with imports.

24 But right now, what we see in this industry  
25 is a, is kind of a spiraling downward. I don't want

1 to over-dramatize it, but that spiraling has to be  
2 stopped. And revocation of the order is one of the  
3 important things that can do that.

4 As far as precedent, I'll give you a little  
5 preview. I think that the sunset review of corrosion-  
6 resistant steel had a similar aspect to it, in 2006.  
7 I happen to know about that case personally, so I  
8 thought I would mention it, since you asked.

9 VICE CHAIRMAN WILLIAMSON: Okay, thank you.  
10 And you're saying that, so you would suspect that it  
11 wouldn't necessarily be the increased imports that  
12 would bring down the price. You're just saying the  
13 price would come down because of the alloy aluminum,  
14 and that would stimulate increased demand?

15 MR. LEIBOWITZ: The price might come down.  
16 I mean, I don't know what the competitive conditions  
17 are going to be elsewhere in the world. But I think  
18 the conditions here and the conditions elsewhere in  
19 the world would more closely approximate one another  
20 than they do now. And I think that is a key to the  
21 increased demand in the United States for alloy  
22 magnesium.

23 Now, remember, pure magnesium, nothing is  
24 going to happen as a result of this case. Because the  
25 order on the big producer of pure magnesium, China,

1 remains in effect.

2 VICE CHAIRMAN WILLIAMSON: Okay. I'm still  
3 having trouble sorting things out, but I think, it's  
4 Mr. Sparks, right?

5 MR. SPARKS: Michael Sparks. This is to  
6 explain. We're a producer of secondary magnesium  
7 alloy, because we can use either primary magnesium  
8 alloy or secondary to cast a product.

9 And it's like buying a model airplane, where  
10 you have a rudder that provides the part you sell.  
11 You trim off the good part and sell it, and you have  
12 about, if you have a two-pound part, you may have two  
13 pounds of offal that gets recycled.

14 We're in the business of recycling. So for  
15 every pound of magnesium die castings that are sold,  
16 you create a pound of secondary alloy magnesium to  
17 recycle. So to the extent that we can find that at a  
18 reasonably priced, at a reasonable price, we will  
19 expand that business. And we think the business will  
20 grow.

21 VICE CHAIRMAN WILLIAMSON: And the, that  
22 casting, say the rudder that you build may be  
23 primarily primary, or it could be secondary.

24 MR. SPARKS: Well, it becomes, it becomes  
25 secondary as soon as we cast the part. And so the

1 offal, or the trimmings, like when you have the model  
2 airplane and you trim off the good pieces, you can  
3 remelt that and reuse it. And that's the secondary  
4 alloy magnesium market.

5 VICE CHAIRMAN WILLIAMSON: Okay. I'm sorry?

6 MR. DIERKS: Mike Dierks from Spartan. I  
7 noticed from testimony earlier this morning that  
8 evidently you have visited U.S. Magnesium. To clarify  
9 this further, if needed, we would offer an invitation  
10 for you to come to Spartan to see how this operation  
11 works, so you can better understand it.

12 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.  
13 Thank you for that offer. I'm always happy to visit  
14 Missouri if I get time. But anyway, thank you. Okay.

15 I may come back to this, but let me go to  
16 some other questions. I asked this morning about  
17 granular magnesium, and being a separate like product.  
18 And I was just wondering, what is your views on that?

19 MR. LEIBOWITZ: I'll answer briefly -- this  
20 is Lewis Leibowitz -- and invite my colleague, Mr.  
21 Stoel, who talked about like product.

22 Granular magnesium has been determined in  
23 the Russian case, and I think only the Russian case so  
24 far, to be part of the same like-product grouping.

25 Chemically, it's pure magnesium. And it's

1 used for, for example, iron and steel  
2 desulphurization. If you put an ingot in a ladle of  
3 molten steel, it doesn't have the desired effect as  
4 when you put smaller pieces in, and they can kind of  
5 float around and absorb the sulphur. So that's a very  
6 different use.

7 I think the Commission has a lot of  
8 discretion on like product. But from the point of  
9 view of the die casters, their raw material is alloy  
10 magnesium. It's usually purchased or obtained in  
11 ingot form, so granular magnesium doesn't, doesn't  
12 really affect them one way or the other.

13 VICE CHAIRMAN WILLIAMSON: Okay.

14 MR. GURLEY: Commissioner, this is John  
15 Gurley. Our company doesn't make granular magnesium,  
16 and I'd prefer to address that in our brief, if that's  
17 possible.

18 VICE CHAIRMAN WILLIAMSON: Okay, that's  
19 fine. Thank you. Mr. Gurley, as far as cumulation  
20 analysis with respect to the recent overlap of  
21 competition, we looked at likely simultaneous presence  
22 in the market, geographic overlap, if the order were  
23 revoked.

24 In your brief you sort of focused on the  
25 data for the period of review. Could you please

1 address the likely overlap of competition if the  
2 orders were revoked? You know, sort of looking  
3 forward.

4 MR. GURLEY: Okay, we will do that.

5 VICE CHAIRMAN WILLIAMSON: Okay, thank you.  
6 I had also asked this morning about beryllium  
7 containing alloy magnesium. And the issue of whether  
8 or not, and the reducing of the overall beryllium  
9 content.

10 I was wondering, do you agree with what the  
11 Petitioners said this morning, or is there anything  
12 that could be added to it?

13 MR. LEIBOWITZ: The die-casting -- this is  
14 Lewis LEIBOWITZ.

15 VICE CHAIRMAN WILLIAMSON: Yes.

16 MR. LEIBOWITZ: The die-casting industry  
17 doesn't have a position on beryllium. It's not, it  
18 doesn't really affect their product.

19 I think the beryllium issue is related to  
20 pure magnesium, which is used as an aluminum alloying  
21 element principally. And because the can stock is  
22 used, comes in contact with food that's consumed by  
23 human beings, the beryllium issue arises.

24 Auto parts or die-case parts generally are  
25 not consumed by human beings.

1                   VICE CHAIRMAN WILLIAMSON: Okay, okay. Mr.  
2 Rivers.

3                   MR. RIVERS: Jeff Rivers. My understanding  
4 within casting, in the alloy magnesium, is that there  
5 is a presence of a moderate amount of beryllium in the  
6 alloy. It is there as a, as a processed benefit, not  
7 as the end product benefit.

8                   So alloy magnesium I believe within the  
9 standard does specify a certain amount of beryllium,  
10 which is there to help with the processing management  
11 and the way it behaves and presents, melt loss and  
12 things like that.

13                  VICE CHAIRMAN WILLIAMSON: Okay, thank you.  
14 My time has expired. Thank you for those answers.

15                  CHAIRMAN OKUN: Commissioner Lane.

16                  COMMISSIONER LANE: Good afternoon. Thank  
17 you for being here, and thank you for bearing with me  
18 when I ask these questions. Because it may appear  
19 that I am somewhat muddled after listening to all of  
20 this testimony. I'm getting a little confused.

21                  As I understand it, the purchasers of this  
22 product, the die casters, want the orders off because  
23 the prices of the subject imports with the, with the  
24 tariff, have made it very difficult for them to  
25 compete.

1           But then I hear the industry who produces,  
2           or who is importing magnesium, saying that if the  
3           orders are taken off, none of this product is going to  
4           come into the United States. And so I'm a little  
5           wondering about this disconnect.

6           And I think maybe with answers -- this  
7           question has been asked in various forms, but I want  
8           to make another stab at it.

9           MR. LEIBOWITZ: I invite the die-casting  
10          group to respond individually. I'll give you the, the  
11          overarching theory, if you will, just very briefly.

12          The order in effect is not helpful to this  
13          industry. We know that.

14          What is it about the orders that is harmful  
15          to the die-casting industry? Well, it's because the  
16          predictability, the certainty, the business climate  
17          for making products, die-cast products from alloy  
18          magnesium, is thrown off kilter by the existence of  
19          the order, because major producers are shut out of the  
20          U.S. market. And therefore, the competitors who are  
21          in the United States suffer from a tremendous  
22          disadvantage to people in all other countries.

23          That disadvantage, at least as relates to  
24          the uncertainty and the volatility of magnesium  
25          pricing, will disappear if the orders are revoked.

1 And that is a good thing because the uncertainty  
2 prompted by the orders is a bad thing.

3 COMMISSIONER LANE: So is the uncertain  
4 thing affecting the product use in the United States?  
5 Or is the uncertainty affecting the ability to sell or  
6 to export products using magnesium to other countries?

7 MR. LEIBOWITZ: It's primarily the former.  
8 I think that people can't bid on parts and so forth,  
9 because of the uncertainty. The auto companies, for  
10 example, can't tolerate the uncertainty. And  
11 magnesium producers who take that risk on themselves  
12 have a very sordid history of disappearing, of going  
13 broke, when the volatility strikes them and leaves  
14 them exposed.

15 So there is a shyness to get into this  
16 industry. That leads to replacement of parts from  
17 magnesium to aluminum, for example, in some instances;  
18 or otherwise to going to countries that don't have  
19 this uncertainty, and get the parts made there.

20 COMMISSIONER LANE: Yes, sir.

21 MR. TREIBER: I would like to just share  
22 again what I had said -- Eric Treiber.

23 COMMISSIONER LANE: Okay, thank you.

24 MR. TREIBER: I apologize. I'd like to  
25 share again, in working with a non-subject producer in

1 the past, they were quoting artificially inflated  
2 prices to sell to us in the United States, because  
3 they could. They openly stated that.

4 They're not, they haven't been part of this  
5 order. They had never been accused of dumping. But  
6 because they can, they do. And they sell higher than  
7 they do in Europe, and there's no -- if the order was  
8 lifted, I suspect a company like that would lose any  
9 ability perhaps to do that, or at least become a bit  
10 more competitive.

11 And to answer, to feed off of Mr.  
12 Leibowitz's comment, our customers are simply not  
13 designing products in magnesium going forward because  
14 of this uncertainty. And they continually reference,  
15 our customers reference this order.

16 COMMISSIONER LANE: Okay. And it may be in  
17 the record and I just don't remember. But over the  
18 course of the five years that the order has been in  
19 place, how much volatility has there been in the  
20 product coming in, the subject product coming in, and  
21 adding the tariff to them?

22 MR. TREIBER: As far as pricing?

23 COMMISSIONER LANE: Yes.

24 MR. TREIBER: I don't have those exact  
25 numbers. Perhaps one of my colleagues having exactly

1 from 2005 to 2010, the prices have gone as high as  
2 three-something a pound. And I'm talking  
3 domestically. And right now, it's around \$2.25, \$2.30  
4 a pound for domestic contracts.

5 And prior to that, excuse me, prior to the  
6 implementation of the order, I believe we were  
7 something under two dollars a pound.

8 COMMISSIONER LANE: And so are you  
9 attributing the volatility of the price solely to the  
10 order?

11 MR. TREIBER: No, not entirely.

12 COMMISSIONER LANE: So other than the order,  
13 what else would be responsible for the volatility?

14 MR. TREIBER: I believe Mr. Rivers talked  
15 about, in 2008, there was supply issues in China due  
16 to restrictions on production, due to the 2008  
17 Olympics, is one example.

18 COMMISSIONER LANE: Mr. Sparks?

19 MR. SPARKS: Yes, ma'am, thank you. We move  
20 upstream on product development two to four years, so  
21 we know, like for some North American OEMs, magnesium  
22 has been removed from the design guide as a potential  
23 material for certain product applications.

24 I heard this morning in testimony about an  
25 intake manifold designed in magnesium, that started in

1 2006. We began working on that in 2002, with an Asian  
2 OEM. And we're a joint supplier with a competitor  
3 that's called a child company of this Asian OEM.

4 And so this plant start-up for this new  
5 product that's magnesium has already been concluded to  
6 convert back to composite in the 2014 timeframe. So  
7 these things have long product life development  
8 cycles. And these designers are reluctant to, to  
9 select a material when there's volatility in supply or  
10 concern over supply delivery, or pricing volatility.

11 And the thing that really hurt our industry  
12 is when the price relationship of magnesium as  
13 compared to aluminum moved in different directions,  
14 moved much more, was much more volatility than  
15 aluminum or composite. And choices were being made,  
16 and are continuing to be made, with those materials  
17 that are no longer an alternative. And that's what's  
18 going to destroy us in the future years. That's why  
19 we're here today.

20 MR. LEIBOWITZ: If I can just add to that  
21 point --

22 COMMISSIONER LANE: Yes, go right ahead.

23 MR. LEIBOWITZ: -- Commissioner Lane. The  
24 price volatility and the price relationship are very  
25 important. We tend to quote dollars per pound of

1 material. Because, and I think Mr. Sparks raised this  
2 issue earlier, the price of magnesium per pound is  
3 likely to be higher than the price of any element  
4 that's alloyed with it, per pound.

5 Because when you die-cast a part, it's the  
6 volume of the part that matters in the first instance.  
7 So aluminum weighs about a third more than magnesium,  
8 okay, per unit of volume. Which means that the price  
9 should be off by about a third. That would make them  
10 equivalent. And now it's off by more than a third.  
11 And so magnesium is uncompetitive.

12 COMMISSIONER LANE: Okay, thank you. And --

13 MR. RIVERS: Commissioner Lane, this is Jeff  
14 Rivers.

15 COMMISSIONER LANE: Thank you.

16 MR. RIVERS: Back to your, what I believe  
17 your original question was, which was about the link  
18 between prices and the order.

19 In my opinion, I'm just a, I don't exactly  
20 know what would happen if the order was lifted. I am  
21 a believer in the long-term, medium- and long-term  
22 benefit of the marketplace. And I do believe that  
23 with the orders lifted, there are suppliers that we  
24 don't know who we don't know. We do not spend a lot  
25 of time seeking them out with the order in place,

1 because there is not a value to it, because it would  
2 not be of value to us.

3 I believe we don't know what suppliers that  
4 are in place might do to, in some part, change their  
5 business decisions. Dumping is wrong. Competitive  
6 prices is what we need on a worldwide basis to  
7 compete. And I do believe that in the longer term,  
8 that the watchdog of the marketplace, having suppliers  
9 be available to even bother to come and meet us and  
10 have us go meet them would do that.

11 I would have a long-term presence and  
12 preference, I'm confident of it, to stick with.  
13 Tried-and-true producers that we know have delivered  
14 consistent quality delivery. And hopefully costs that  
15 would be more similar to what we'd see worldwide. To  
16 me, that's the link that I would see, as a fan of an  
17 open economy to drive towards this.

18 COMMISSIONER LANE: Okay. Mr. Dierks, did  
19 you have a comment you wanted to make?

20 MR. DIERKS: Just a quick one to reinforce.  
21 Early in our testimony we talked about a globalization  
22 of our customer base. Most of our customers look at a  
23 world platform. They don't like producing a product  
24 in one material in one country, and another material  
25 in another country. They like to have one design, and

1 validate one design.

2 This sheer presence of this order raises  
3 doubt in our customers' minds. And that's one of the  
4 reasons why they look away from this as a design  
5 material.

6 So we believe that if the order is removed,  
7 that it will lead to increased applications not only  
8 in the United States, but also in our foreign markets.  
9 We used to export. And what we think will happen over  
10 time is, the price will equalize, not necessarily go  
11 down in the United States or up globally.

12 But that competition of the free market will  
13 cause an equalization of prices wherever they may be.  
14 Because consumption will go up because customers that  
15 have global platforms, which are the largest consumers  
16 of the material, will put it back in their design  
17 guide.

18 COMMISSIONER LANE: Okay, thank you. I'm  
19 sorry I went over, Madame Chair.

20 CHAIRMAN OKUN: That's the trend this  
21 afternoon. Commissioner Pearson?

22 COMMISSIONER PEARSON: Thank you, Madame  
23 Chairman. I'll see whether I can get on a different  
24 trend. Permit me to extend my welcome to the  
25 afternoon panel.

1           And since my colleagues would be terribly,  
2 they would think I was terribly negligent if I didn't  
3 offer a greeting to a panelist from Minnesota, allow  
4 me to do that. And note that in Minneapolis this  
5 afternoon, it's sunny and 14 degrees. So I would like  
6 to welcome you to the warm and cozy nation's capitol.

7           (Laughter.)

8           COMMISSIONER PEARSON: Mr. Leibowitz,  
9 perhaps I'll start with you. In your opening slides,  
10 you were giving information regarding the export of  
11 U.S. alloy magnesium. Now, did that include the  
12 export of magnesium die castings, or just the input  
13 material for magnesium die casters?

14           MR. LEIBOWITZ: Only the input material,  
15 which is I think 8401.19 in the tariff schedule.

16           COMMISSIONER PEARSON: Okay. So as I look  
17 at this, I think if there is enough alloy magnesium  
18 sloshing around the U.S. market so that a meaningful  
19 amount can be exported, there must be a lot of alloy  
20 magnesium here. And so what's your problem? I mean,  
21 can't you get the stuff and do what you need to do  
22 with it?

23           And if someone other than an attorney wants  
24 to answer, that's also fine.

25           MR. LEIBOWITZ: Well, I welcome that, but I

1 can't help myself, I'll answer first.

2 I think the answer is no. Because the  
3 testimony we've heard, which I invite my colleagues to  
4 amplify, suggests that there isn't as much activity in  
5 the United States, as a result of the order, as there  
6 used to be. And the alloy magnesium producers are  
7 therefore going where the action is. And so exports  
8 are increasing dramatically from the United States.

9 COMMISSIONER PEARSON: Mr. Twarog, did you  
10 have a comment on that?

11 MR. TWAROG: I just want to add, and they're  
12 competing globally on those prices. So the average  
13 price they're getting for exports is below what they  
14 charge domestically.

15 COMMISSIONER PEARSON: So you're suggesting  
16 price discrimination by the domestic producers.

17 MR. TWAROG: The average price they're  
18 getting for exports is below what they're charging  
19 domestically.

20 COMMISSIONER PEARSON: Mr. Harmon, did you  
21 have a comment?

22 MR. HARMON: Yes. There was a slide that  
23 was presented this morning, Slide 3, showing the  
24 European and Chinese market price.

25 COMMISSIONER PEARSON: Right.

1           MR. HARMON: And then it showed the U.S.  
2 market price going up through June of 2010, from the  
3 International Trade Commission.

4           You'll notice it's about a dollar,  
5 approximately a dollar a pound more is what the die  
6 casters in the United States have to pay, versus the  
7 die casters in Europe or South America or Asia.

8           And again, I agree with U.S. Mag in regard  
9 to the biggest market segment for magnesium is going  
10 to be automotive. You know, meeting CAFÉ standards  
11 and engine components, structural components, things  
12 like that.

13           But again, when we talk to these customers  
14 that are buying automotive parts, they look at a  
15 landed price in the United States. They compare our  
16 price to what it is to be produced over in Europe.

17           And because there's a discrepancy in this,  
18 in the raw material price, automotive buyers are  
19 looking at tenths of a penny in a part. And because  
20 of this discrepancy in the raw material, we're at a  
21 disadvantage.

22           I'm excited to see the charts, you know, the  
23 exports, where U.S. Mag Corp. has gone from 2005 to  
24 2010 from, basically they've increased their export 10  
25 times.

1           You know, in my particular case, my company  
2           has lost 50 percent of their magnesium production, so,  
3           during the same timeframe.

4           But again, we aren't getting the  
5           opportunities that we'd like to see, because our price  
6           isn't competitive for these structural components.

7           COMMISSIONER PEARSON: Okay. Well, Chart  
8           4-12 in the public version of the staff report  
9           includes a list of non-subject exporters of magnesium.  
10          And you know, there's some 280,000 tons of non-subject  
11          magnesium exported in the world.

12          Have any of your firms had any discussions  
13          with those non-subject exporters about perhaps buying  
14          some alloy magnesium from them? In the back, Mr.  
15          Dierks.

16          MR. DIERKS: Mike Dierks. We do buy from  
17          them.

18          COMMISSIONER PEARSON: Okay. And that  
19          provides somewhat more attractive pricing than you are  
20          able to obtain from domestic producers?

21          MR. PEEK: This is David Peek. I'm directly  
22          involved in some of those negotiations and contracts.  
23          Typically, those non-subject importers or exporters to  
24          the U.S., their pricing is typically competitive with  
25          the domestic pricing. I think that's, I think that's

1 the point, is that they are concerned about trying to  
2 undercut and sell their prices below what the domestic  
3 industry is doing.

4 And typically, the pricing that is quoted  
5 and put into the trades are typically basically, they  
6 try to match the buyers and sellers up. And they try  
7 to talk about the few spots. Very few customers buy  
8 on spot. And I can tell you that our company does not  
9 buy on spot. I know there are other die casters that  
10 are here today that do not buy on spot. I lost my  
11 point.

12 COMMISSIONER PEARSON: So you don't see a  
13 situation in which a European exporter's alternative  
14 is to sell for a dollar and a half in Europe, or he  
15 could sell it to you at two and a half, roughly, the  
16 domestic price; and you say well, I don't want to buy  
17 it at two and a half, but I'll split the difference.  
18 Let's each take 50 cents and walk away from this at  
19 two dollars. That sort of discussion does not take  
20 place?

21 MR. PEEK: Typically, no, it does not.

22 COMMISSIONER PEARSON: And the reason being?

23 MR. PEEK: That they don't offer that type  
24 of an option for us.

25 COMMISSIONER PEARSON: A lot less

1 competitive a marketplace than some we see.

2 MR. TWAROG: This is Dan Twarog. I think  
3 they know they can just go somewhere else and get it,  
4 get it at a lower price somewhere else in the world.

5 COMMISSIONER PEARSON: Ah, but I'm talking  
6 about the sellers now, and why the sellers would want  
7 a lower price is not obvious to me. Mr. Dierks.

8 MR. DIERKS: David's point I think is when  
9 they come into the domestic market here in the United  
10 States, they match the price. And they won't go below  
11 the set price in the United States, for fear of what  
12 will happen.

13 COMMISSIONER PEARSON: Well, again, their  
14 alternative is to sell it for a buck and a half in  
15 Europe. I'm still missing something.

16 MR. DIERKS: Well, there is a lot of cost to  
17 what we're doing here today.

18 COMMISSIONER PEARSON: Yes, but lots of  
19 things get put on boats and taken across the Atlantic.  
20 I mean, this is not a unique concept.

21 MR. LEIBOWITZ: This industry has shown a  
22 propensity for trade remedy cases. The magnesium  
23 industry, I'm referring to.

24 COMMISSIONER PEARSON: Well, I acknowledge  
25 that, but so have some other industries. And we have

1 seen more creative things in some of them, then. I  
2 mean, it seems to me like kind of a stultified market  
3 from what I'm hearing you describe.

4 Mr. Harmon, you had something to add. You  
5 don't want to touch that one, huh?

6 Mr. Twarog, a question for you. Do the  
7 NADCA data that were included in the Petitioners'  
8 Domestic Industries Chart 4, do they include U.S.  
9 shipments of imports of magnesium die casting from  
10 countries outside of North America?

11 MR. TWAROG: No. This data -- and I'd have  
12 to go back to verify it -- I can verify that the  
13 magnesium is for North America, and the aluminum is  
14 domestic, I believe it's just custom. We  
15 differentiate between custom and captive operations,  
16 not so much in magnesium.

17 But this is strictly die-casting pounds  
18 produced in North America.

19 COMMISSIONER PEARSON: Okay. Are there, is  
20 there information available that would give us some  
21 understanding of imports of die-cast products?  
22 Preferably both in tonnage and value?

23 MR. TWAROG: That's a little bit more  
24 difficult, because it normally comes wrapped in a  
25 finished product. So if there's an import of a

1 refrigerator or an appliance or something like that,  
2 it may have a magnesium die casting, aluminum die  
3 casting, or several in it. Or it may not. And we  
4 don't know where those die castings are made, and  
5 we're not sure.

6 COMMISSIONER PEARSON: Well, fair enough.  
7 But that would be for the production of a consumer  
8 durable in another country. And the competition that  
9 your members would face most directly would be with  
10 imports of parts of cars that are being made in Spain  
11 instead of in Illinois.

12 MR. TWAROG: Correct, correct. And there is  
13 no, there is no data about those types of castings  
14 coming in. It's a very minor amount, from what we  
15 understand.

16 COMMISSIONER PEARSON: Okay. Well, my time  
17 is -- oh, Mr. Sparks.

18 MR. SPARKS: I'd just like to add that we  
19 are seeing competition from Canada and Mexico. In  
20 fact, some of the liquidations of equipment that was  
21 liquidated in the states from companies were shipped  
22 to Mexico and Canada, only to turn around and make die  
23 castings to ship back to the States.

24 So in that regard, steering wheels from  
25 Mexico is a large product. And I think probably IP

1 braces from Canada. And the list data heard this  
2 morning is a magnesium part that's from Canada.

3 MR. TWAROG: But just to be clear, it's  
4 magnesium, and it's all included in the North American  
5 numbers here. So that's why the North American  
6 numbers in magnesium don't show as bad as if they were  
7 just U.S. numbers.

8 COMMISSIONER PEARSON: Because it was  
9 including --

10 MR. TWAROG: Right.

11 COMMISSIONER PEARSON: -- a meaningful  
12 amount of imports from Mexico or Canada into the  
13 United States.

14 MR. TWAROG: Right, right. Yes.

15 COMMISSIONER PEARSON: Okay, thank you. My  
16 time has expired. Thank you, Madame Chairman.

17 CHAIRMAN OKUN: Commissioner Aranoff.

18 COMMISSIONER ARANOFF: Thank you, Madame  
19 Chairman. And please don't toss a spitball at me if I  
20 get close to going over my time again.

21 According to the U.S. Geological Survey, the  
22 capacity to produce magnesium in Russia during I guess  
23 2008 was estimated to be 80,000 metric tons. And USGS  
24 footnotes reported capacity, say they're reporting  
25 capacity data including both material from operating

1 plants, as well as plants that are on a stand-by  
2 basis.

3 So Mr. Gurley, maybe I'll start with you.  
4 Can you comment, do you know the portion of this  
5 estimate for Russia that is at operating plants,  
6 versus the portion that is at plants that are on a  
7 stand-by basis?

8 MR. GURLEY: What I do know are the  
9 capacities reported in this review, which are the only  
10 two known producers in Russia. And I don't know why  
11 the USGS has it wrong; maybe they're putting in some  
12 theoretical basis for the plant that never does exist.  
13 Seemingly, the one that was supposed to be producing  
14 in 2005 and still hasn't produced. But frankly, I  
15 don't know.

16 COMMISSIONER ARANOFF: Okay. With respect  
17 to the two producers that did report their capacity,  
18 is it your understanding that they reported, that the  
19 way that they reported capacity would not have  
20 included capacity that's in some kind of stand-by  
21 mode? Or would have included it?

22 MR. GURLEY: I'd have to ask the client  
23 about what stand-by mode means in their world. But  
24 from what we know, we reported our actual capacity.  
25 And so either you have the capacity, or you don't.

1                   And so I'm not sure what they mean, what the  
2 USGS means by stand-by.

3                   COMMISSIONER ARANOFF: Okay. Well, for  
4 example, if you were, you know, using an electrolytic  
5 process, and you had, you know, part of your facility  
6 that was not currently operating, but maybe you could  
7 do a furnace reline or something similar to that and  
8 bring it back, bring a cell back into production. I  
9 guess I would maybe consider that to be in stand-by  
10 mode. I don't know if that's what USGS meant.

11                  MR. GURLEY: I will endeavor to give you  
12 more clarification in our brief.

13                  COMMISSIONER ARANOFF: Okay. Because I  
14 think that there are definitely claims in both the  
15 USGS data, as well as in some of the things that the  
16 domestic industry has said, that there is non-  
17 operational capacity in Russia that could be brought  
18 back on line, the implication being, you know, fairly  
19 simply. And I think we need to clean up the record on  
20 that.

21                  If there is capacity, if you tell us that  
22 capacity has declined in Russia -- that's what was  
23 reported -- there's a difference between, you know,  
24 turning something off and you can turn it back on  
25 later, and just selling off equipment, or demolishing

1 it, or something else that suggests that the decline  
2 in capacity is, in fact, permanent, and not easily  
3 reversible.

4 I don't know if there is anything you can  
5 provide to us which would help us determine which,  
6 which sort of capacity we're talking about here in  
7 terms of the declines.

8 MR. GURLEY: We will do that. And keep in  
9 mind the comments I think of U.S. Magnesium earlier  
10 today, in which they said one of their capacity issues  
11 is that they really couldn't turn off their  
12 electrolytic cells. I think that's what they said.  
13 They said they need to keep them operational at all  
14 times. That's probably a true statement.

15 And so they're either on or they're off.  
16 And if they're off, they're not working, and then  
17 they're gone. to a certain extent --

18 COMMISSIONER ARANOFF: Well, my  
19 understanding is they're not gone; they can be rebuilt  
20 and brought back on line. There's a cost, but it's  
21 not an insurmountable cost.

22 MR. GURLEY: Understood, understood.

23 COMMISSIONER ARANOFF: Okay. Now, the plant  
24 that's being discussed, the one that hasn't come on  
25 line, is that the Asvest plant?

1 MR. GURLEY: Yes, Commissioner.

2 COMMISSIONER ARANOFF: Okay. My  
3 understanding is that it's been reported that this  
4 plant is, in fact, expected to come on line in 2011.

5 MR. GURLEY: I believe that was from a 2009  
6 Google search performed by U.S. Magnesium. And we'll  
7 be putting some information on the record in our post-  
8 hearing brief.

9 But as far as we know, it's still  
10 languishing, and it has not been built.

11 COMMISSIONER ARANOFF: Okay. And by  
12 languishing and not built, you mean --

13 MR. GURLEY: The project is languishing.  
14 There's no financing.

15 COMMISSIONER ARANOFF: Okay, okay. All  
16 right. In the domestic producers' prehearing brief,  
17 and particularly at pages 29 and 30, they argue that  
18 both AVISMA and SMW have U.S. sales networks and  
19 relationships that could be easily engaged to sell  
20 significant volumes of subject merchandise if the  
21 orders were revoked.

22 Does AVISMA have sales networks and  
23 relationships? What sort of sales networks and  
24 relationships do you have in the United States that  
25 could be used to import magnesium?

1 MR. GURLEY: Well, AVISMA was in the market  
2 for several years, and clearly it knows the main  
3 players in the U.S. market. That's a fair statement.

4 Secondly, AVISMA and VSMPO has sales offices  
5 here, but those sales offices are designed for the  
6 sale of titanium. And even when they were selling  
7 relatively significant quantities of magnesium, they  
8 didn't have a magnesium person there. The person who  
9 was heading it up was a former Timet employee, whose  
10 specialty, and it still is, titanium.

11 So yes, we have a sales network. But it's a  
12 sales network dedicated to titanium.

13 COMMISSIONER ARANOFF: But is it through  
14 that same sales network that, during the earlier part  
15 of the period of review, there were sales of magnesium  
16 being made.

17 MR. GURLEY: That's correct. That's  
18 correct.

19 COMMISSIONER ARANOFF: Okay.

20 MR. GURLEY: If I could add one comment.

21 COMMISSIONER ARANOFF: Sure.

22 MR. GURLEY: Is that one of the things that  
23 we tried to lay out in our brief, and I think ATI was  
24 pretty good today at pointing out, is that titanium is  
25 a very good business. And if you only have a limited

1 number of people on your staff, and you have limited  
2 resources, frankly, there is more money to be made in  
3 titanium than there is magnesium.

4 And that's one of the reasons the company  
5 decided to focus, starting in 2006, on titanium. It's  
6 simply a value-added product that provides potentially  
7 very lucrative prospects. And I think statistics bear  
8 that out.

9 COMMISSIONER ARANOFF: Okay. I appreciate  
10 that answer. Do you know anything about SMW's sales  
11 mechanisms in the U.S.?

12 MR. GURLEY: Not enough to speak  
13 professionally about it. But I think that I probably  
14 can find information, or perhaps encourage SMW to make  
15 some comments after the, after the hearing.

16 COMMISSIONER ARANOFF: Okay, thank you very  
17 much on that. Let me turn then to a question about  
18 the Chinese industry.

19 We have an American Metal Market article on  
20 the record, as well as some other information in the  
21 staff report, indicating that capacity to produce pure  
22 and alloy magnesium in China during 2009 was about 1.3  
23 million metric tons; and that that capacity is  
24 supposed to significantly increase in the coming  
25 years.

1           Do you disagree with any of the figures that  
2 we have on the record with respect to the size and  
3 potential increase in size of the Chinese industry?

4           MR. LEIBOWITZ: I'd like to – this is Lewis  
5 Leibowitz. I'd like to reserve judgment on that until  
6 we can study the figures more thoroughly, and we can  
7 respond in the post-hearing submission.

8           COMMISSIONER ARANOFF: Okay.

9           MR. LEIBOWITZ: I just don't know enough  
10 right now to say yes or no. And I don't want to make  
11 an admission against interest.

12           COMMISSIONER ARANOFF: Okay. Well, with  
13 respect to both panels, if there's anything you can  
14 tell us about those data, how they break down between  
15 pure and allow, that would also be helpful, obviously.  
16 Because not all of that is subject merchandise in this  
17 review.

18           MR. LEIBOWITZ: We'll certainly do that.

19           COMMISSIONER ARANOFF: Okay, thank you very  
20 much.

21           One last question. With respect to the  
22 Russian industry, you had referenced the Carnallite  
23 mine incident. And I had ask the domestic industry  
24 panel about that this morning and they had come up  
25 with some press reports and a report by the mining

1 company suggesting that whatever problems had been  
2 caused by this mining problem had been resolved and  
3 that Carnallite was being supplied to AVISMA in  
4 adequate quantities. Mr. Gurley, you were suggesting  
5 that this was a more permanent problem. Can you help  
6 me in sort of figuring out what the situation is?

7 MR. GURLEY: It is a more permanent problem.  
8 In addition to the Carnallite mine basically sinking  
9 into a large abyss, the Carnallite enrichment plant  
10 also fell victim to the same cruel fate and so all of  
11 the enriching capability that they had been using went  
12 away. There was another company in Russia, which does  
13 do some limited amount of enrichment, but their  
14 capacity is extremely limited. So while there may be  
15 some Carnallite ore available, the bigger problem is  
16 enrichment. So this problem has not gone away and it  
17 is serious enough for them that they have installed a  
18 chlorination facility, which will allow them  
19 eventually to produce chlorine, which is really a  
20 byproduct of magnesium, as the chlorine that they  
21 need, in part, for their titanium sponge production.

22 COMMISSIONER ARANOFF: Okay. Thank you for  
23 those answers. I don't want to go over time. Thank  
24 you, Madam Chairman.

25 CHAIRMAN OKUN: I had my pen ready to throw.

1 Let's see, I want to direct this question to Mr.  
2 Leibowitz and Mr. Gurley and you might have different  
3 views and so I will either hear those or you can put  
4 them in post-hearing. In listening to the  
5 presentations and reading the briefs, I'm going to  
6 give you my simplified theory, one theory of the case  
7 and I want you to tell me whether that is supported by  
8 what you say or not. And, again, there might be some  
9 disagreement between you and Mr. Gurley on this, Mr.  
10 Leibowitz, which is, are you arguing that if the order  
11 is lifted, prices return to something close to pre-  
12 order levels and volumes return to close to pre-order  
13 levels, but that the U.S. industry is in a better  
14 position and, therefore, will not be injured by those  
15 conditions returning?

16 MR. LEIBOWITZ: I think that from the die  
17 casters' point of view, that's a fair summary. It  
18 would give some measure of equivalency between the  
19 competitors in the U.S. and the competitors outside to  
20 participate in the die casting marketing; yes.

21 CHAIRMAN OKUN: Okay. Mr. Gurley?

22 MR. GURLEY: That's not my theory of the  
23 case.

24 CHAIRMAN OKUN: Okay. That's what I  
25 thought. All right, go ahead. That's what I was just

1 trying to get to. Okay, Mr. Gurley, go ahead.

2 MR. GURLEY: Our theory is that prices for  
3 pure magnesium will be -- are now and will stay well  
4 above what they were pre-order. There are fundamental  
5 differences now between the U.S. and Russian  
6 industries. If you compare 2010 to 2005, you see a  
7 lot less Russian production and capacity. You see no  
8 Canada in the market. And you also see 12,000 metric  
9 tons of U.S. magnesium product going to a captive  
10 customer.

11 When we were in the market post-order, we  
12 were always the higher price. So, I think if the  
13 order goes away with respect to Russia, I think it's  
14 absolutely certain the prices will not drop. They'll  
15 stay high.

16 CHAIRMAN OKUN: Yes, Mr. Leibowitz?

17 MR. LEIBOWITZ: I have no dispute with that  
18 characterization with regard to the pure market. The  
19 alloy market is different.

20 CHAIRMAN OKUN: Right, which does also lead  
21 me to the second question I was going to ask, which I  
22 know you have not argued it this way. You say it  
23 doesn't matter whether like product is one or two.  
24 But, if it were two, I assume that theory works  
25 better.

1           MR. LEIBOWITZ: I think the theory works  
2 both because even if there's only one, there is  
3 attenuated competition between pure and alloy  
4 magnesium, even if it's one domestic like product. So  
5 the impact of revocation, first of all on Russia, you  
6 know, what he said. Mr. Gurley has explained what the  
7 likely effects would be. With respect to China on  
8 pure, no effect because the order doesn't go away on  
9 pure. With respect to alloy, Russia has never been a  
10 big player in the alloy market and I don't expect them  
11 to get into that. As far as China is concerned, I  
12 think we've discussed it already; but, again, they  
13 haven't been that much of a factor in the U.S. market  
14 either. The point is, in a real sense, there isn't a  
15 U.S. market. If this order goes away, this is a  
16 global market and that's the way it should be and all  
17 the people at this table are competitors in that  
18 global market and they shouldn't be hamstrung by an  
19 order that's currently in place.

20           CHAIRMAN OKUN: Okay. Then, let's see, I  
21 think a request for post-hearing, primarily to you,  
22 Mr. Gurley, but, Mr. Leibowitz, you might also want to  
23 do that -- and, again, I don't like to tell lawyers  
24 how they should or shouldn't argue something, but I  
25 know you focus, Mr. Gurley, on no discernible adverse

1 impact for purposes of your cumulation argument -- for  
2 purposes of post-hearing, if you could also go through  
3 the discretionary factors the Commission has looked at  
4 in deciding whether to exercise discretion to cumulate  
5 and, again, looking at whether you think the capacity,  
6 excess capacity looks the same, export orientation, a  
7 number of those factors. And, again, you may have  
8 already taken that into account in making your  
9 argument, but just for purposes of completeness of my  
10 analysis, it would be helpful to see it laid out in  
11 that manner.

12 MR. GURLEY: We will do that.

13 CHAIRMAN OKUN: Okay. Let's see, and then I  
14 know that you've discussed this in your briefing  
15 today, which is focusing on the changes since the  
16 original order, to determine whether those changes  
17 impact -- how much impact they would have if the order  
18 is revoked. And I think you all have discussed a  
19 little bit, but I want to make sure I understood it.  
20 When discussing the Canada -- closure of the Canadian  
21 facilities and what impact that has on the market, I  
22 think, Mr. Gurley, I've heard you to argue that,  
23 meaning there's more opportunity out there and,  
24 therefore, the market -- the domestic industry has a  
25 bigger playing field, I think if I understood that

1 correctly, and the export numbers support that. Am I  
2 hearing that correctly?

3 MR. GURLEY: They had \$100 million in sales  
4 in 2005. They have zero in 2010. That's correct.

5 CHAIRMAN OKUN: Okay. And then just with  
6 respect to the other side, and if you've already  
7 responded to this go ahead and let me know, with  
8 respect to the die casters, which is what the domestic  
9 industry had discussed this morning, with respect to  
10 Canada, was this idea that if you look at Canada and  
11 what happened in Canada with respect to die casters,  
12 it tells us something about what's happening in this  
13 market. Did you have a chance to respond to that  
14 already?

15 MR. TWAROG: Meridian Die Casting is a  
16 Canadian company -- this is Dan Twarog, sorry -- and  
17 they are probably the world's largest die cast  
18 magnesium die caster. Their bankruptcy was not due to  
19 imported magnesium and not having a tariff. Their  
20 bankruptcy was due to the fact that they had agreed on  
21 a price for the magnesium and the seller to them  
22 increased the price and when they tried to go back to  
23 the automotive companies to increase the price, they  
24 wouldn't allow it. So, they either were going to eat  
25 the price or file for bankruptcy to get out of the

1 contracts with the automobile companies and so they  
2 filed bankruptcy instead. And they're still the  
3 world's largest magnesium die casting operation.

4 CHAIRMAN OKUN: Okay. So if there's any  
5 information that hasn't already been provided for  
6 post-hearing just for me to understand what's going on  
7 in the Canadian market, I'd appreciate seeing that, as  
8 well.

9 MR. LEIBOWITZ: Certainly, we'll do that.

10 CHAIRMAN OKUN: Okay. And then with respect  
11 to like product and, again, I didn't ask questions  
12 this morning and haven't asked questions mostly  
13 because I feel like I've gone through it several times  
14 and, again, one can come to the wrong conclusion,  
15 which I know you're arguing we have done, okay, so I  
16 understand that. But, I guess the Petitioners had put  
17 some information included in their confidential  
18 exhibit today, I think they cited again, it was  
19 confidential Exhibit 2, and I just want to make sure  
20 for purposes of post-hearing, if you can just address  
21 again one of the issues of whether there have been any  
22 changes since the last time I made this decision about  
23 like product, that I should be focused on, in  
24 particular in looking at the like product question,  
25 that's changed since I saw one like product.

1           MR. LEIBOWITZ: Certainly, we'll be glad to  
2 do that. I also note, though, the Commission has  
3 previously come to the correct conclusion.

4           CHAIRMAN OKUN: Some court cases in there,  
5 you know, a few things -- but, no, in all seriousness,  
6 it would be again for me in a review, having found one  
7 like product, the bar is slightly higher than if I  
8 were looking at a new case. So, I want to focus on  
9 those things, which are different, or which you  
10 believe were in error in how much weight we gave to it  
11 in the original, that would be helpful.

12           MR. LEIBOWITZ: Well, I'll just give you a  
13 sneak preview, Madam Chairman.

14           CHAIRMAN OKUN: Okay.

15           MR. LEIBOWITZ: We think the evidence is  
16 different. I'll have to go back and look and see what  
17 specifically has changed on the ground, but the  
18 evidence in this record is different.

19           CHAIRMAN OKUN: Okay, all right. And,  
20 again, just looking -- if you can just be sure, as I  
21 know you will, to do that for the industry, as a  
22 whole. I think it's very difficult for you sitting  
23 here with die casters surrounding you; I can  
24 understand how they see the industry. So, I get that  
25 part. It's just that when we are looking at that, all

1 the record evidence, trying to make sure that we  
2 understand the significance portion, you know, how  
3 much it represents and then what the law tells us,  
4 that would be great.

5 MR. LEIBOWITZ: Absolutely.

6 CHAIRMAN OKUN: Okay. I appreciate all of  
7 those responses and I look forward to hearing more in  
8 the post-hearing brief. And I'll turn to Vice  
9 Chairman Williamson.

10 VICE CHAIRMAN WILLIAMSON: Thank you, Madam  
11 Chairman. Just a couple more questions. Mr. Gurley,  
12 can you elaborate on footnote 18 of your brief? You  
13 state that the U.S. Geological survey data on Russian  
14 capacity likely includes raw magnesium, which cannot  
15 be used to make commercial magnesium. What is raw  
16 magnesium? Was that asked already?

17 MR. GURLEY: Well, it was, but this was an  
18 issue in the original investigation. AVISMA has a  
19 certain amount of raw magnesium that's part of a  
20 closed loop that goes into its titanium sponge  
21 production. It has not been used and cannot be used,  
22 from a geological point of view, to make commercial  
23 magnesium. So, it's directly tied into their titanium  
24 sponge. So one speculation as to where that higher  
25 amount came from other than the other phantom plant

1 that hasn't started yet was perhaps they're looking at  
2 the nameplate capacity for this raw magnesium that we  
3 use only and specifically for titanium sponge.

4 VICE CHAIRMAN WILLIAMSON: Okay, thank you.

5 MR. GURLEY: This was discussed, I think,  
6 pretty much at length in the original investigation.

7 VICE CHAIRMAN WILLIAMSON: Okay, thank you.  
8 Can you comment on the competition Russian producers  
9 face in third-country markets, particularly from  
10 Chinese magnesium? I think is particularly with  
11 respect to Europe.

12 MR. GURLEY: I would like to do that in the  
13 context of the post-hearing brief, if I could. I do  
14 know that the level of competition is, from our  
15 perspective, has gone down only because we have so  
16 much less to produce or export. But, we'll be in more  
17 detail in our brief.

18 VICE CHAIRMAN WILLIAMSON: Okay. So does --  
19 yeah, if you could address that and then I guess  
20 particularly what does that imply for the price of the  
21 change in magnesium in your --

22 MR. GURLEY: Okay.

23 VICE CHAIRMAN WILLIAMSON: Thank you.  
24 There's been reference to the 10 percent Chinese  
25 export tax that was imposed in 2008. And I guess one

1 question was how long was this going to last and has  
2 it really resulted in any decline in Chinese exports  
3 and also what is preventing the Chinese from  
4 withdrawing that tax anytime they feel they want to  
5 increase exports into the U.S.? Does anybody want to  
6 address that?

7 MR. LEIBOWITZ: This is Lewis Leibowitz. As  
8 we understand the export tax, it was imposed January  
9 1, 2008 and followed a period of several years -- I'm  
10 not quite clear on how many years -- of an export tax  
11 -- an export rebate of domestic value added taxes that  
12 are imposed by the Chinese government. And I think  
13 the spread from the rebate to the 10 percent tax is 23  
14 percent total. There used to be a 13 percent rebate.  
15 Now, there's no rebate and a 10 percent tax; so,  
16 obviously, a serious attempt by the government of  
17 China to keep more magnesium in China. And that is at  
18 least designed -- there's a WTO case on this product  
19 and several others. That's an attempt by the Chinese  
20 government, I think, to further the production of  
21 downstream industries, people like the folks that are  
22 surrounding me, in the United States.

23 So, how long is it going to last? I don't  
24 know. The U.S., the European Union, and Mexico filed  
25 the WTO case and that's currently in process and we'll

1 see how that comes out. I think it's very unlikely  
2 that the export tax would be altered or significantly  
3 reduced until that case has been resolved, just  
4 guessing, but that's --

5 VICE CHAIRMAN WILLIAMSON: Unless there's an  
6 opportunity for increased exports maybe.

7 MR. LEIBOWITZ: Well, but they've obviously  
8 made a conscious choice that they don't want to export  
9 magnesium. They want to export things made from  
10 magnesium and things made from the things that are  
11 made from magnesium. So, they're trying to move that  
12 downstream. That's the purpose of an export tax.  
13 It's to reduce the price in the home market of the raw  
14 material and to encourage more activity at home and  
15 then, if they choose to, to export further downstream  
16 value-added articles. That's what has affected the  
17 market here in the United States. So, I don't know  
18 how long that tax will last. I think the Chinese  
19 government has control over that. Even should they  
20 lose the WTO case, of course, they can decide to  
21 implement the decision or not to.

22 VICE CHAIRMAN WILLIAMSON: Okay. I guess  
23 the question is what implications should we draw in  
24 looking at this --

25 MR. LEIBOWITZ: I think the implication --

1                   VICE CHAIRMAN WILLIAMSON: -- revocation of  
2 the order.

3                   MR. LEIBOWITZ: -- excuse me.

4                   VICE CHAIRMAN WILLIAMSON: I'm sorry, go  
5 ahead.

6                   MR. LEIBOWITZ: The implication to be drawn  
7 is that the Chinese government, as an institution with  
8 some influence over commercial activity in China, does  
9 not put a great deal of importance on the exportation  
10 of pure or alloy magnesium. Their focus is on  
11 downstream product and I think that is not likely to  
12 change. The tactics they use may change. But, I  
13 think that's a key driver of their policy. And it's  
14 certainly not limited to magnesium, but it's a fact of  
15 life.

16                   VICE CHAIRMAN WILLIAMSON: Okay. This sort  
17 of leads me to a thing that's been bugging me. When  
18 you talk about if the orders are revoked, you're  
19 saying the die casters would be better off because  
20 there would be more certainty in the market, because  
21 the companies they sell to will be more inclined, I  
22 guess, to buy products or design products made from  
23 magnesium. And I'm trying to figure out -- I assume  
24 it's because they suspect the die cast products are  
25 going to be more affordable and that means the price

1 has got to come down. So what's going to push the  
2 price down? You've agreed that there's not going to  
3 be from Russian supply. Now, you're telling me  
4 there's not going to be Chinese supply. So I'm trying  
5 to figure out what's pushing the price.

6 MR. LEIBOWITZ: Well, for specific purposes  
7 here, it's not likely to be Chinese supply or Russian  
8 supply. But, it think you also heard testimony this  
9 afternoon from a couple of companies that when  
10 supplying -- when non-subject exporters are supplying  
11 into this market, they are concerned -- they're  
12 quoting prices that are at or about the level of the  
13 U.S. market, not of the global market. One can  
14 speculate on what drives that kind of decision-making.  
15 Commissioner Pearson was concerned about that. I  
16 don't want to speculate. All I can say is that there  
17 have been dumping cases and a countervailing duty case  
18 or two on magnesium for 20 years and that may have an  
19 influence on whether non-subject importers quote a  
20 different price. I think the market conditions would  
21 much more closely approximate the globe, so that if  
22 companies were inclined to use magnesium in their  
23 parts design, they wouldn't naturally shun the United  
24 States the way they are appearing to do right now.  
25 They would consider the United States on an equal

1 basis from all of their major alternatives and that  
2 would help the United States die casting industry.  
3 There's no doubt about it.

4 VICE CHAIRMAN WILLIAMSON: Are they shunning  
5 the U.S. because the price is higher or because there  
6 are just orders out there?

7 MR. LEIBOWITZ: They're shunning the United  
8 States, I think, because the conditions in the United  
9 States are sub-optimal and many of them have been  
10 burned already. And once you are burned by a sudden  
11 spike in the prices, you remember it for a long time.  
12 So, I think that the conditions that gave rise to that  
13 burning have to change.

14 VICE CHAIRMAN WILLIAMSON: Okay. Mr.  
15 Sparks, I'm sorry.

16 MR.SPARKS: Yes, sir. We have an office in  
17 Tokyo and an engineer there that was in the Nissan  
18 technical center and the response from the materials  
19 design engineer was that as long as duty in place, we  
20 will not develop magnesium in the U.S. And it was  
21 more the concern of having that duty in place and how  
22 that might appear, along with the concern of some kind  
23 of a supply interruption, that they don't understand.  
24 They are risk adverse. They do not like that. And  
25 we're seeing that with other Asian OEMs. And we have

1 -- for example, in 2002, we developed -- all V-6  
2 engines made in North America for Honda have magnesium  
3 cam covers on them and it reduced weight, it reduced  
4 cost, it improved MPH. By 2013, all of those vehicles  
5 are going to switch to composite because of cost and  
6 because -- they told me because of concerns over  
7 supply. Now, they may not trust the Chinese anymore  
8 than any other source of supply, but it's a concern  
9 over supply and price volatility. If it would move in  
10 a similar direction of other commodities, I don't  
11 think it would be as much of an issue for them. But,  
12 it has -- it's part of its emotion.

13 VICE CHAIRMAN WILLIAMSON: In 2008, prices  
14 were volatile for everything, everything we've seen  
15 practically. So, I'm not sure I -- I'm just having  
16 trouble understanding that.

17 MR.SPARKS: Well, the price for aluminum  
18 versus the price of magnesium --

19 VICE CHAIRMAN WILLIAMSON: Okay.

20 MR.SPARKS: -- did not move as -- it moved  
21 much more dramatically, much more dramatically for  
22 magnesium than it did aluminum.

23 VICE CHAIRMAN WILLIAMSON: And you say  
24 that's because of the orders?

25 MR.SPARKS: Yes.

1                   VICE CHAIRMAN WILLIAMSON: Okay. Does  
2 anyone else want to add in on this? I'm sorry, Mr.  
3 Stoel?

4                   MR. STOEL: Thank you, Commissioner  
5 Williamson. I just wanted to go back to square one  
6 for a second -- I see the red light is on, but --

7                   VICE CHAIRMAN WILLIAMSON: Oh, I'm sorry.  
8 Go ahead.

9                   MR. STOEL: Maybe I'll --

10                  VICE CHAIRMAN WILLIAMSON: I'll come back.

11                  CHAIRMAN OKUN: Just finish for  
12 completeness.

13                  VICE CHAIRMAN WILLIAMSON: You want to  
14 finish? Yeah, okay.

15                  MR. STOEL: Our premise is that you have a  
16 very strong and healthy domestic industry and they're  
17 here today. But there are other parts of the domestic  
18 industry, including sitting to my left, that are being  
19 hurt by these orders. These guys, the recyclers,  
20 folks like that are really hurting and that's because  
21 demand for the United States for their products have  
22 declined due to these orders. We want to bring these  
23 folks back. We also want to reinvent some competition  
24 in this marketplace. We're not seeking anything  
25 adding to the pricing. We're seeking competition. We

1 believe that competition will stimulate demand by all  
2 these folks sitting around this table, who have come  
3 here today to answer your questions, Commissioners.  
4 And we believe that when you do that, you're going to  
5 stimulate demand, not just from the downstream, but  
6 also from the upstream. You're going to get increased  
7 production from folks like Mr. Sparks and from some  
8 other folks, who you know about, from the APO record.  
9 So, we want to make sure that the domestic industry,  
10 U.S. Mag and others are healthy, as well; but, we also  
11 want to get competition back into the U.S. market and  
12 that's what we're seeking to do.

13 VICE CHAIRMAN WILLIAMSON: Okay. Thank you  
14 for those answers.

15 CHAIRMAN OKUN: Commissioner Lane?

16 COMMISSIONER LANE: Thank you. I just have  
17 one question and it may be in the record, but I  
18 couldn't find it. How much of the total magnesium  
19 industry in the United States, including both the  
20 domestic supply and the subject imports, go to the die  
21 casters?

22 MR. LEIBOWITZ: I am uncomfortable answering  
23 that off the top of my head. Can we supply that in  
24 post-hearing?

25 COMMISSIONER LANE: Yes, you certainly may.

1 Thank you.

2 MR. LEIBOWITZ: Sure.

3 COMMISSIONER LANE: And, Madam Chairman,  
4 that's all I have.

5 CHAIRMAN OKUN: Commissioner Pearson?

6 COMMISSIONER PEARSON: For the die casters,  
7 tell me more about how you observe competition in your  
8 industry? If you are bidding on a sale and not  
9 getting it, do you know whether you lost that business  
10 to another domestic producer or to an import? Mr.  
11 Sparks?

12 MR.SPARKS: We move upstream, like I  
13 mentioned before, two to four years, so we're a  
14 selected supplier for a lot of products before there's  
15 even competitive bidding. And the problem is that the  
16 raw material selection is made then and it effects the  
17 outcome of the product for up to seven or eight years  
18 after. And so what we're seeing is that magnesium now  
19 is being removed as alternative material. So when we  
20 get a chance to competitively bid, it won't include  
21 magnesium. So, it's just being diminished as a  
22 selection source.

23 COMMISSIONER PEARSON: So, you may be  
24 bidding then on a casting, which is aluminum, rather  
25 than --

1 MR.SPARKS: Aluminum --

2 COMMISSIONER PEARSON: -- magnesium?

3 MR.SPARKS: -- yes.

4 COMMISSIONER PEARSON: So, you get that  
5 opportunity, but just not --

6 MR.SPARKS: But, it removes one of our -- we  
7 changed our name to Spartan Light Metal in 1995  
8 because magnesium was a critical strategic material to  
9 the U.S. and to the domestic die casting industry. We  
10 may have to change our name back.

11 COMMISSIONER PEARSON: Mr. Dierks?

12 MR. DIERKS: Just to reiterate or reenforce  
13 that, we typically know -- all the people here know  
14 because, again, we're typically involved with the  
15 quoting and the development and if we don't get the  
16 job, it doesn't mean that they don't make the product,  
17 and when they make the product, it's pretty easy to  
18 ascertain who actually made the part. So, yes, we do  
19 almost always know who ended up making the part if we  
20 don't.

21 COMMISSIONER PEARSON: Okay. And based on  
22 that knowledge, obviously gained over a period of  
23 years, you are sensing quite a bit of competition from  
24 imported magnesium die cast items --

25 MR. DIERKS: Yes.

1                   COMMISSIONER PEARSON:  -- relative to the  
2 competition that you face from your colleagues around  
3 the hearing table here?

4                   MR. DIERKS:  Yes.  And, in fact, if you'll  
5 recall earlier testimony at the export hearing, we  
6 used to export.  We used to be globally competitive.  
7 We used to sell magnesium around the world and we  
8 don't anymore.

9                   COMMISSIONER PEARSON:  Okay.

10                  MR. DIERKS:  And we know who took every one  
11 of those jobs.

12                  COMMISSIONER PEARSON:  Okay.  Mr. Rivers?

13                  MR. RIVERS:  Thank you, Commissioner.  Jeff  
14 Rivers.  In our case, we have a significant customer  
15 in the power tool industry.  Our business, contrary to  
16 some of my competition here with us today, is a very  
17 non-automotive focus.  We have virtually no experience  
18 in the automotive arena.  We seek to find market  
19 opportunities that are things that are portable goods  
20 and things like that.  As such, a power tool  
21 manufacturer that we've been doing business with for  
22 quite some time, since these orders have gone in  
23 place, I won't say we maybe haven't gotten one or two  
24 projects, but certainly zero in the last four years of  
25 new products, simply continuing to run existing parts

1 for them while they are still in production on tooling  
2 that's established, product designs that are  
3 established. But when those products are up for  
4 redesign, we're seeing magnesium designed into  
5 aluminum for some nose cones, for example, on a drill  
6 line. We're seeing us having to share with a dual  
7 source particular products with new companies that are  
8 in China. We've been able to retain a fraction of the  
9 business, although we don't believe it to be 50  
10 percent, mostly as a strategic move on their part to  
11 potentially stem. If they had a supply interruption  
12 from Asia, they could ramp us back up, albeit at a  
13 higher cost. So, we do see those kinds of  
14 characteristics in the marketplace we've been  
15 experiencing.

16 COMMISSIONER PEARSON: Okay. I appreciate  
17 those comments because this obviously is the  
18 marketplace that I only partly understand, maybe not  
19 even partly, and so I appreciate that help.

20 Mr. Gurley, a question for you. I have been  
21 among the Commissioners, who has been willing at times  
22 to look at no discernible adverse impact. And so  
23 could I ask for purposes of the post-hearing, might  
24 you review some of my previous decisions and help me  
25 understand how finding no discernible adverse impact

1 in this case would -- would it be within the range of  
2 decisions I've made before or would it be outside the  
3 range?

4 MR. GURLEY: I can tell you right now, my  
5 answer would be right in the middle of that range.

6 (Laughter.)

7 COMMISSIONER PEARSON: Well, the reason for  
8 asking, I have not made a no discernible adverse  
9 impact finding for some time and so I'm a little bit  
10 rusty. It's not something we do every week.

11 MR. GURLEY: We'll try to help you along.

12 COMMISSIONER PEARSON: Thank you. Oh,  
13 another question for die casters. I understood the  
14 domestic industry this morning to say that there are  
15 three new entrants in the die casting business. Do  
16 you know -- can you comment on that? Is that correct?  
17 How should we see that? Mr. Clark?

18 MR. TWAROG: I can comment on it. I think,  
19 Mike, you want to follow-up on it. The three that  
20 they referenced are actually very small magnesium die  
21 casters. I think their total -- and we do it by how  
22 many machines they have and the size of their  
23 machines. I think their total number of machines, if  
24 you add up all three of them that are doing mag, die  
25 casting is about half the number of machines that Log

1 Manufacturing had when they closed. So the size and  
2 scope of those three operations are nowhere near what  
3 we've lost in just the last three years.

4 COMMISSIONER PEARSON: You may have said  
5 already, but how many die casters have closed in the  
6 past whatever the period of time would be that we're  
7 looking at?

8 MR. TWAROG: Well, I know of seven magnesium  
9 die casters that have stopped producing or making  
10 magnesium parts in the last three years. I have to go  
11 back and I'll use the old I'll put it in the record  
12 thing, but I remember several years ago, before the  
13 orders, that there were 27 die casters that made  
14 magnesium parts. And when I looked to try to gather  
15 the troops here to participate in this activity, there  
16 were less than 10. So, I know of seven in three  
17 years, but I think we went from 27 to less than 10 in  
18 the past six to eight years. And I'll get real  
19 specific in the record.

20 COMMISSIONER PEARSON: Okay, thank you. Mr.  
21 Rivers?

22 MR. RIVERS: Thank you. This is Jeff  
23 Rivers. I have some personal knowledge of one of the  
24 companies doing, in essence, the reverse of what we  
25 attempt to do at Pace Industries. In order to stay

1 relevant with higher raw material prices for the  
2 magnesium, itself, we do need to seek as an  
3 organization additional things for us to do in the  
4 value chain, supplying more finishing, extra service,  
5 working with terms of payment, things of this nature.  
6 I do believe that one of the new casting entrants  
7 actually is a supplier to our business within some of  
8 our other casting operations and they're in the  
9 finishing business. They do platings and coatings and  
10 things like this for their customers. And when some  
11 machines and equipment from another defunct die caster  
12 came to the market, it allowed them to do something  
13 that they may not have otherwise done because of an  
14 extremely low capital entry point, to simply put this  
15 in line with other things that they were doing. So,  
16 they didn't have -- did not have to go seek a supplier  
17 of brand new equipment or things like that. So, to  
18 me, that would make sense on how somebody with a part  
19 that they were already producing, a product line they  
20 were already producing, had a way to add value at a  
21 lower capital entry point. And after that, I'd have  
22 to stop because that's the extent of my knowledge on  
23 it.

24 COMMISSIONER PEARSON: Okay. Mr. Dierks and  
25 Mr. Sparks, whichever order.

1           MR.SPARKS: This morning, I heard testimony  
2 about a company called Cahine. It's a Honda child  
3 company in Indiana. And we started working in 2002 on  
4 a magnesium intake manifold, which was sourced and  
5 began in 2005. We jointly share production for that  
6 part. Cahine has four magnesium die cast machines for  
7 a single product, a single magnesium product. And I  
8 can say that with high probability, those products  
9 will convert to magnesium in the 2014 time frame,  
10 probably as they replace engines with L4 engines, 4  
11 cylinder engines, and Odyssey, which will take that  
12 out of the marketplace. So, I'm not sure what they'll  
13 do with those magnesium machines. I'm sorry, convert  
14 to composite, my apologies. So those product lines  
15 will convert to either different engines that already  
16 have composite intake manifolds or will switch to  
17 composite, which will take that out of the market.

18           COMMISSIONER PEARSON: Okay. Was there  
19 another comment? Mr. Treiber?

20           MR. TREIBER: Yes, Eric Treiber. To feed  
21 off of Mr. Twarog's comments, Lark Manufacturing, in  
22 our backyard in Illinois, at their highest time, it  
23 was an automotive supplier, 100 percent magnesium with  
24 annual revenues on the order of approximately \$70  
25 million, one of the -- I mean, privately-held, that's

1 really big for a privately-held die casting company.  
2 And they were decimated by this order and went  
3 bankrupt very shortly thereafter, as their designs no  
4 longer were reintroduced for them due to the weight of  
5 the casting. Fifteen, 20 pound castings were a dollar  
6 difference per pound, made a gigantic difference in  
7 the selling price. And the new entrants to the  
8 market, as Mr. Twarog said, combined are a minuscule  
9 portion of just the loss of that one major player in  
10 the industry. Thank you.

11 COMMISSIONER PEARSON: Okay. Thank you.  
12 Madam Chairman, my time has expired.

13 CHAIRMAN OKUN: Commissioner Aranoff?

14 COMMISSIONER ARANOFF: Thank you. A few  
15 more questions. Vice Chairman Williamson was asking  
16 about competition between Russian and Chinese  
17 producers in third-country markets and I won't repeat  
18 that question. But, the other piece of that question  
19 was, the domestic industry has argued that Chinese  
20 product is taking sales away from Russian product in  
21 the Russian home market and that that's one reason why  
22 we could expect an increase in imports in the event of  
23 revocation. Mr. Gurley, do you have any comment on  
24 that?

25 MR. GURLEY: First off, I think we can look

1 at the price in the Russian market and you'll see it's  
2 not as high as the U.S. market, but it's been pretty  
3 solid. Secondly, the citation they made was to a 2006  
4 annual report of VSMPO. So, while I agree it's  
5 relevant, but it's five years ago and I think the  
6 Commission should be more forwarding looking than  
7 that.

8 COMMISSIONER ARANOFF: Can you provide us  
9 with information that's more forward looking on  
10 competition between China and Russia in the --

11 MR. GURLEY: Yes, I will.

12 COMMISSIONER ARANOFF: -- Russian home  
13 market? Thank you, very much. One thing that came up  
14 in my first round of questioning was a discussion  
15 about how long it would take before the effect of  
16 revocation of these orders would be felt. And I think  
17 one of the things I heard was that on the die casting  
18 side of the market, it could take quite some time,  
19 that prices might not adjust right away, both because  
20 there could be these year long contracts where the  
21 prices are already fixed, in addition the designing  
22 process to get magnesium back into parts might take  
23 several years. And so the legal question that I have  
24 is -- I don't know if it's legal, but what should we  
25 be considering the time period for the reasonably

1 foreseeable future to be in this case? Because if  
2 it's about a year, which it frequently is, there's not  
3 going to be an effect or there's going to be a very  
4 small effect in the event of revocation because  
5 nothing is going to happen in a year.

6 MR. LEIBOWITZ: This is Lewis Leibowitz. I  
7 think we see some immediate effects, but they're not  
8 necessarily going to manifest themselves in market  
9 price reductions on long-term contracts and they're  
10 not going to necessarily manifest themselves in terms  
11 of a spike in imports. I think that's relatively  
12 speaking unlikely given the nature of this industry,  
13 the die casting industry I'm talking about. But there  
14 will be some immediate effects. I think the  
15 activities of these companies will change. They'll  
16 see an opportunity that they don't now see to develop  
17 new parts and new products. So, if you look at what a  
18 reasonably foreseeable time is, I think it has to be  
19 longer than the period of time that most of these  
20 contracts run out, but I think not a great deal  
21 longer. I think that in point of fact, until you see  
22 increased activity, in terms of manufacturing of these  
23 die cast parts, it's going to take some development  
24 time.

25 COMMISSIONER ARANOFF: Okay. I mean the

1 question that we're trying to answer is what happens  
2 to the domestic industry producing magnesium within a  
3 reasonably foreseeable time, as opposed to what  
4 happens to the die casting industry. I know you're  
5 saying they're linked.

6 MR. LEIBOWITZ: They're very much linked.  
7 I'm glad that you appreciate that point. My answer  
8 would be the industry will not be affected within a  
9 year or perhaps two. It depends on whether, again,  
10 you're talking about pure or alloy. I think the  
11 structure of those industries is very different. But  
12 it's going to take until the new contracts have to be  
13 renegotiated, in light of the revocation and in light  
14 of what the market discerns is going to be the  
15 presence of domestic production and imports. And I  
16 think the alloy magnesium producers, one of which is  
17 sitting right behind me, is going to see again  
18 opportunities right away. So, I think the prediction  
19 that we're making is that the alloy magnesium industry  
20 will start looking for opportunities to increase  
21 production in the likely event of an anticipated  
22 increase in demand for alloy magnesium. So that will  
23 counteract whatever concern there is about the  
24 increase in imports.

25 COMMISSIONER ARANOFF: Okay. I appreciate

1 that. Mr. Stoel, you wanted to say something?

2 MR. STOEL: Yes, Commissioner. I just want  
3 to supplement Mr. Leibowitz's comments. I think one  
4 thing you heard this morning and you heard it from the  
5 die casters, as well, is that folks do have one-year  
6 contracts. So to the extent that we already have high  
7 prices in the U.S. market, U.S. Mag has locked up  
8 those high prices for another year and I don't want to  
9 get into APO information, but they may also have  
10 longer term contracts that have such high-term prices.  
11 So, you know, that's going to give them breathing  
12 space for sure, to ensure that they remain profitable.  
13 You haven't heard them dispute that today, in any  
14 respect whatsoever, when Commissioner Pearson brought  
15 up that very point.

16 I think what we're saying is that while the  
17 domestic industry is going to continue to do well in  
18 the short-term, once we have a little more competition  
19 in the marketplace, you're going to see increased  
20 demand. Again, that's going to help U.S. Mag. It's  
21 going to help Spartan. It's going to help others in  
22 the marketplace. So as long as they're going to  
23 continue to do well in the short-term, and I think  
24 still one year is a perfectly reasonable time to look  
25 at, I think they'll continue to do well. And what

1 we're saying is that that's going to continue in the  
2 future because demand is going to increase, as folks  
3 around this table are going to increase their demand  
4 for alloy, which, I think you've heard from everybody  
5 today, is really the key to the magnesium market for  
6 the future.

7 COMMISSIONER ARANOFF: Okay. I appreciate  
8 those answers and I welcome the same question and  
9 post-hearing answers to questions. I have one final  
10 question. We've talked some about the like product  
11 issues today and I would note for the record that  
12 unlike my colleagues, I have found, to the extent that  
13 I've looked at this before, two like products. Now, I  
14 note that in, I think it was slide two from the  
15 domestic industry's presentation this morning, which  
16 was the one that showed the tracking between prices of  
17 pure and alloy magnesium. The domestic industry's  
18 argument was that that tracking supports the argument  
19 that there's a single like product because it shows  
20 that prices have converged and I wanted to give you  
21 the opportunity to disagree with whether that's the  
22 conclusion that I should be drawing from that chart.

23 MR. LEIBOWITZ: If you blow up the picture a  
24 little bit, I think you see some occasions where  
25 there's pretty serious convergence of the prices even

1 in this chart. Again, this is limited to spot prices,  
2 which is a fraction of the market. We don't know  
3 exactly how much of a fraction.

4 MR. STOEL: I'm actually not sure,  
5 Commissioner Aranoff, and maybe they told us this  
6 morning, I don't recall, but this actually doesn't  
7 discuss whether it's alloy or pure, exactly what's  
8 happening. As I see the pricing at the bottom, it  
9 talks about spot dealers, U.S. Spot Western, European  
10 market, Chinese market. So, we can't distinguish  
11 between alloy and pure from this chart. I think we'd  
12 have to address that --

13 COMMISSIONER ARANOFF: I think you are on  
14 the wrong slide.

15 MR. LEIBOWITZ: Wrong slide; two, not slide  
16 three. Yeah, slide two. It's alloy magnesium  
17 transaction price, U.S. pure spot Western -- and I  
18 note Petitioner is out west, so he had something to do  
19 with that -- and pure dealer import.

20 COMMISSIONER ARANOFF: I see that there are  
21 times on that chart where there's a divergence in  
22 prices. I mean, over the whole chart, they do seem to  
23 track each other pretty closely. I guess it depends  
24 on what scale you put on the chart. But, since  
25 there's sort of a set cycle at which, I think,

1 contract prices get reset for particular customers,  
2 they wouldn't always be in a position to jump in there  
3 and go, oh, look, there's this differentiation in  
4 prices right now, so right now, I'm going to renew my  
5 contracting and change the mix that I have of these  
6 products.

7 MR. LEIBOWITZ: No. I think contract prices  
8 tend to be -- tend to linger until the contract  
9 expires and that's usually a year or two. But, I do  
10 note that there are some divergences. And I'll point  
11 to another interesting fact that we found. I didn't  
12 put it on our export chart. But, I did a comparison  
13 of the unit value of exports from the United States  
14 and pure and alloy magnesium and I did it over 10  
15 years, just to -- you know, they go way before the  
16 orders. And the prices diverged quite considerably  
17 for a time and then they didn't converge, but there  
18 was a gap between them. And the interesting thing was  
19 the gap was that alloy magnesium export prices were  
20 higher per unit, per pound, than pure. Keep in mind  
21 that the lightest metal in the universe for these  
22 purposes is magnesium. So, you'd expect the alloy  
23 price to be lower than the pure price; but, instead,  
24 it was higher. And my only conclusion could be is  
25 that it is because the markets are different and the

1 cost of production is different for pure and alloy,  
2 which tends to suggest they're different like  
3 products. We'll certainly provide that chart in the  
4 post-hearing brief, so that you see it.

5 COMMISSIONER ARANOFF: Okay. Mr. Sparks?

6 MR.SPARKS: Yes, ma'am. The one thing  
7 that's important is that the die casting industry  
8 realizes that we compete with alternative materials,  
9 not pure. So, when we look at alloy, we're looking at  
10 how it compares to aluminum, how it compares to  
11 composite, how it compares to high-strength steel,  
12 those kinds of application. And let me say that the  
13 gap here between these two may be significant to us,  
14 because we're dealing in a few cents, which is  
15 critical to us. And so there may be -- that may not  
16 look like much; but in our world, it could be a very  
17 large gap, very large difference.

18 COMMISSIONER ARANOFF: Okay. Well, I  
19 appreciate those answers very much. And I've ran out  
20 of time and I believe I've also ran out of questions.  
21 Thank you, Madam Chairman.

22 CHAIRMAN OKUN: Commissioner Pearson? Or  
23 Commissioner Lane, do you have any other questions?  
24 Commissioner Pearson?

25 COMMISSIONER PEARSON: I haven't quite run

1 out of questions. The domestic industry spoke about  
2 the exit of the Canadian producer from the business  
3 and my understanding was that they believed that was  
4 due largely to the pressure of imports. Does your  
5 panel have any knowledge of why the Canadian producer  
6 went out of business and do you agree with the  
7 domestic industry? Mr. Treiber?

8 MR. TREIBER: We would like to include that  
9 in our post briefing. We need to do more research on  
10 that.

11 COMMISSIONER PEARSON: Okay.

12 MR. TREIBER: There is knowledge that's out  
13 there, but it was quite a long time ago. So, we would  
14 like to research that.

15 COMMISSIONER PEARSON: I remember a little  
16 bit about it from previous cases, but I'm fuzzy enough  
17 that I'm hardly going to try to remember it here.

18 MR. TREIBER: I'm about the same speed as  
19 you, so we'll just take some time to do that.

20 COMMISSIONER PEARSON: Okay.

21 MR. LEIBOWITZ: I applaud that answer, of  
22 course, but I also note that there were two major  
23 Canadian producers, not one, Magnola and Norsk Hydro.

24 COMMISSIONER PEARSON: That, I had  
25 forgotten.

1           MR. LEIBOWITZ: And one of them, and I  
2 believe it was Magnola, go the magnesium by refining  
3 asbestos tailings, which I think was concluded was a  
4 dangerous thing to do. It's not necessarily the  
5 vigors of international competition. And Norsk Hydro,  
6 I rely on my colleague's answer, I think you have to  
7 go back and do our homework on that one. But, I don't  
8 think it is just the inability to resist. Canada has  
9 a dumping law. It's not quite as draconian as ours,  
10 but it's pretty serious, and if that had been an  
11 option, I'm sure it would have been exercised.

12           COMMISSIONER PEARSON: Okay. I think my  
13 last question is one that I was posing to the domestic  
14 industry, in which I was raising the possibility that  
15 continuation of the order actually would put the  
16 domestic producers at risk, if enough of their demand  
17 base in the United States for magnesium goes out of  
18 business. How do you see that? Am I off the track on  
19 that one or is that within the realm of the possible?  
20 Mr. Treiber?

21           MR. TREIBER: I would say that we're in  
22 agreement with that. We're concerned with -- all of  
23 us are concerned with our viability and short term,  
24 long term. And as we go by the wayside and demand for  
25 magnesium continues to come down, then the market is

1 disappearing.

2 COMMISSIONER PEARSON: Mr. Dierks?

3 MR. DIERKS: Mike Dierks. I would agree  
4 also as a U.S. producer of like product. This is  
5 causing us issues right now. This is causing us harm  
6 today, this very issue of the market going down.

7 COMMISSIONER PEARSON: Okay.

8 MR. TWAROG: From a global -- domestic and  
9 global perspective -- this is Dan Twarog, sorry -- you  
10 know, I talked about designing for magnesium in  
11 automobiles and magnesium die castings, 96 percent of  
12 the market for them are for automobiles. And I talked  
13 about the use and application of additional magnesium  
14 die castings will grow, is projected to grow between  
15 now and 2020 and even beyond that, as well as  
16 worldwide production of automobiles. We were just in  
17 a conference in Spain in September and learned that  
18 they project worldwide that automobile production will  
19 be about 132 million a year. Currently, it's 61  
20 million. So that's quite a few more automobiles in a  
21 short amount of time.

22 The issue we have is we're seeing a  
23 disproportional amount of that market going somewhere  
24 else, other than to domestic die casting operations.  
25 And so there may be more design in magnesium. There

1 may be designing away from magnesium, certainly  
2 domestically. But, we heard about BMW and even  
3 Volkswagen uses a lot of magnesium in their cars. It  
4 won't happen here, as long as these orders are in  
5 place. So, there's going to be a huge amount of  
6 magnesium used, but not here.

7 COMMISSIONER PEARSON: Mr. Treiber?

8 MR. TREIBER: Yes. To further Mr. Twarog's  
9 comments, if you don't agree with that assertion, then  
10 what that means is that those products are going to go  
11 somewhere else and they're going to be made in other  
12 countries and that basically the United States  
13 magnesium die casting industry just goes by the  
14 wayside. So if that's okay, then that's the solution.  
15 The comment was made this morning that Chicago White  
16 Metal had been quoted that they had recently brought  
17 back two magnesium die castings that were previously  
18 made offshore. That's true. That was based on  
19 quality and proximity of the customer. I assure you  
20 and the Commission that there's been many more lost  
21 than those two that were brought back.

22 COMMISSIONER PEARSON: Mr. Rivers?

23 MR. RIVERS: Yeah. The question really  
24 boils down to that about pounds. If, in fact, if  
25 we're not successful in keeping our organizations in

1 business, I would think that that would be a hazard to  
2 the domestic industry. When the gap between the U.S.  
3 and other nations for procuring magnesium is higher,  
4 that forces us to only be able to sell magnesium into  
5 what I call boutique products. The manufacturers of  
6 the power tools can only involve them in their highest  
7 level lines and not in their mid-grade lines or  
8 consumer lines, which reduces the number of pounds  
9 that we're able to or need to procure in the first  
10 place. And so, we are not -- then, as the gap gets  
11 wider, we have to seek lower volume programs where  
12 we're doing other things that have less to do with the  
13 magnesium component that has to do with it. So, it  
14 has been driving us to less pounds, very much so.

15 COMMISSIONER PEARSON: Mr. Schroeder?

16 MR. SCHROEDER: Allen Schroeder. I'd just  
17 like to say that we'd all like to buy our magnesium  
18 from a domestic supplier; but back in 2008, I buy  
19 almost all of my magnesium on the spot market. I'm a  
20 very small producer and we were in a position where we  
21 couldn't even hardly get any material. To my  
22 knowledge, I have never bought one pound of Chinese or  
23 Russian magnesium. I bought everything that I've ever  
24 bought from domestic suppliers. I have one customer  
25 that changed their entire product line from magnesium

1 to aluminum. I think if it were more competitive in  
2 the marketplace, they'd bring that back to magnesium.  
3 But, they can't do it now because they just -- they  
4 can't be competitive on a global market. And it's not  
5 an automotive product.

6 COMMISSIONER PEARSON: Okay. MR. Leibowitz?

7 MR. LEIBOWITZ: Yes. I think all of these  
8 comments have a common thread. We are losing the  
9 inventiveness when it comes to this particular  
10 material. This is perhaps not a unique story these  
11 days. But remember at the outset of our presentation,  
12 I mentioned that the International Magnesium  
13 Association keeps track of research papers that are  
14 prepared worldwide on the issue of magnesium  
15 technology and it used to be that half or more than  
16 half of the papers presented were by American  
17 metallurgists and engineers. Now, it's 10 percent.  
18 The world is changing and the United States has to  
19 change along with it. And I think this order is among  
20 the things that is making us less able to make those  
21 changes and to keep up with developments.

22 COMMISSIONER PEARSON: Okay. Well, for  
23 purposes of the post-hearing, I would ask of those of  
24 you, who have access to the confidential record, could  
25 you do the math on this proposition? Help me to

1 understand what percentage of the domestic demand  
2 would have to go away before there would start to be  
3 discernible negative effects for the domestic  
4 industry. In the hypothetical, in which all of the  
5 die casting demand in the United States goes away,  
6 does that make any difference to them, in terms of are  
7 they better off without the order than with it? Does  
8 my question make some sense?

9 MR. LEIBOWITZ: Yes. I think there's two  
10 questions really you want, pure and alloy, because I  
11 think the answers are very different.

12 COMMISSIONER PEARSON: Yes, I would accept  
13 that proposition. Mr. Sparks?

14 MR.SPARKS: Thank you, sir. One thing that  
15 I would like to mention is we've talked a lot about  
16 automotive today and we have a large commercial  
17 account in Arkansas and I noticed a letter from  
18 Congressman Mike Ross on their behalf. And we're a  
19 partner with them. We have been for 30 years. We  
20 provide them unique cylinders and crank cases that  
21 virtually every chainsaw, weed eater that you pick up  
22 has one of our products on it. And they are able --  
23 they're owned by a Swedish company and they're able to  
24 buy magnesium globally. They have companies they own  
25 in China and in Japan. And the letter here states

1 that we're partners, providing them with magnesium  
2 products. If they can't find a more suitable source,  
3 they run the risk of losing their ability to machine  
4 magnesium parts in Arkansas, which would mean they'd  
5 import finished engines from their child companies or  
6 their other companies. There are 1,600 jobs at stake  
7 in Arkansas; Hope, Arkansas. That's a good name,  
8 Arkansas, Hope, because they're hoping we work through  
9 this.

10 COMMISSIONER PEARSON: Okay, thank you.  
11 Well, as someone who picks up a chainsaw from time to  
12 time, I appreciate that they are light weight.

13 MR.SPARKS: The light weight, yes.

14 COMMISSIONER PEARSON: Madam Chairman, I've  
15 run out of time and questions, just like Commissioner  
16 Aranoff, so I'd better quit now. Thank you, very  
17 much, to the panel for your testimony this afternoon.

18 CHAIRMAN OKUN: All right. I think we've  
19 exhausted the questions from my colleagues. Let me  
20 turn to staff, to see if staff has questions of this  
21 panel.

22 MR. DEYMAN: I'm George Deyman, Office of  
23 Investigations. I do have one question. Of the six  
24 die casters here, the six consumers of magnesium, one  
25 of them, Spartan, is a producer of magnesium, as I

1 understand it. The other five, can you tell me if the  
2 other five are considered in any way producers of  
3 magnesium? Do you recycle scrap to produce it for  
4 yourself?

5 MR. RIVERS: Jeff Rivers with Pace  
6 Industries. We are not a producer, in the sense that  
7 all of our gates, runners, waste material that comes  
8 from a healthy die cast shop, including waste parts,  
9 are -- we use subcontract recycling. So, we do not  
10 re-alloy, re-manufacture that material into ingot form  
11 in our own shop.

12 MR. HARMON: Doug Harmon, Twin City Die  
13 Castings Company. We do not produce magnesium either.  
14 We toll it out.

15 MR. TREIBER: Eric Treiber, Chicago White  
16 Metal. The same as Mr. Harmon and Mr. Rivers.

17 MR. SCHROEDER: Allen, Mag-Tech Casting. We  
18 also toll our magnesium scrap and runners. We do not  
19 produce.

20 MR. TOTTEN: Alan Totten with AFT and we do  
21 the same, as well. We toll.

22 MR. DEYMAN: So those of you that are not  
23 producers, what do you do with the scrap? Do you sell  
24 it to producers of magnesium?

25 MR. TREIBER: A typical relationship is that

1 you sell your different recyclable materials to a  
2 producer, a recycler. There's different grades of  
3 material and that's how that material is handled,  
4 because you can't -- we don't have the ability to  
5 recycle it internally like we would do with aluminum  
6 or zinc.

7 MR. DEYMAN: All right. And my last  
8 question is for Spartan and this may be business  
9 proprietary, so you can answer in a post-hearing  
10 brief. Does Spartan sell any magnesium commercially?

11 MR.SPARKS: This is Mike Sparks. No, we do  
12 not. We use it internally. We have three die casting  
13 operations. We use it internally. In fact, we buy  
14 scrap on the market to supplement, as well as primary  
15 on the market to supplement.

16 MR. DEYMAN: Great. Thank you. I have no  
17 further questions.

18 MR. DIERKS: Could I make one comment? Mike  
19 Dierks from Spartan. It depends on your definition of  
20 "sell." We don't sell to other die casters and stuff,  
21 but we do sell our product, our magnesium product to  
22 our customers through our parts. Does that make  
23 sense?

24 MR. DEYMAN: Sure, I understand, through the  
25 downstream parts. Thank you all. The staff has no

1 further questions.

2 CHAIRMAN OKUN: Do those in support of  
3 continuation of the order have questions for this  
4 panel?

5 MR. JONES: No questions, Madam Chairman.

6 CHAIRMAN OKUN: All right. Before we turn  
7 to our closing, let me take this opportunity to again  
8 thank all of the witnesses for being here, for  
9 answering all the questions, and for your willingness  
10 to continue to provide information, as we complete  
11 this investigation. Let me review the time before we  
12 ship the panel back. Those in support of continuation  
13 of the order have five minutes remaining from the  
14 direct presentation and five minutes for closing, for  
15 a total of 10 minutes. Those in opposition to  
16 continuing the order have 23 minutes remaining from  
17 their direct presentation and five for closing, for a  
18 total of 28 minutes. It has been our practice to  
19 combine the closing and rebuttal. And if there's no  
20 objection to that, we will let this panel take the  
21 seats in the back of the room and we will turn to  
22 closing and rebuttal statements. Thank you.

23 MR. LEIBOWITZ: May we have a brief break to  
24 get ready for that or should we --

25 CHAIRMAN OKUN: You get to -- we will take a

1 stretching break for a couple of minutes and if you  
2 can just prepare while the other rebuttal is going on  
3 --

4 MR. LEIBOWITZ: Okay.

5 CHAIRMAN OKUN: -- a few minutes. I don't  
6 want to drag it on too long.

7 (Whereupon, a brief recess was taken.)

8 CHAIRMAN OKUN: Mr. Leibowitz, we'll just go  
9 ahead and just leave Mr. Jones up here for a moment.  
10 Mr. Jones, you can proceed.

11 MR. JONES: Thank you, Madam Chairman. I'll  
12 try to get through my notes quickly in the 10 minutes  
13 that we have. And thank you, again, to the Commission  
14 and to the staff for your attention today.

15 I'd like to start with a question that  
16 Commissioner Williamson made regarding the law and  
17 what the purpose of the law is, I think is what  
18 Commissioner was getting at. And I'd like to point  
19 out perhaps the obvious, but the die casters here are  
20 arguing for revocation of these orders, as consumers  
21 of magnesium. It's not surprising that consumers of  
22 magnesium want lower prices. And I would just point  
23 out that the views of consumers are not of central  
24 relevance under this law. It's the welfare of the  
25 domestic industry, the domestic manufacturers, the

1 domestic employees that produce the domestic like  
2 product that are the central focus of what the  
3 Commission is doing.

4 It's interesting here that the parties are  
5 really asking you or asking the Commission to make  
6 really vastly different interpretations of the law  
7 here. And I would just point out that it's certainly  
8 our position that -- our argument, the interpretation  
9 that we're urging on you is much more consistent with  
10 the intent of Congress, than the interpretation being  
11 urged by the Respondents.

12 The question that was interesting of the die  
13 caster witnesses about price volatility and so on, and  
14 we just hope that the Commission is not deceived by  
15 the testimony or what has been said or misled. When  
16 NADCA says that they need a reduction in price  
17 volatility or when the witnesses here today said that,  
18 in fact, what they want is a lower price. That's very  
19 clear. And when talking about why or in answering  
20 questions, why aren't producers in other countries  
21 coming in and offering lower prices, they said, well,  
22 they're afraid of a dumping case. Well, essentially  
23 what that's telling you is that the die casters said  
24 that the price that they're looking for is a dumped  
25 price. And that, to us, proves our point. And I

1 think Commissioner Lane made a really interesting  
2 observation about the conflict in NADCA's position,  
3 that on the one hand, reversal of the -- revocation of  
4 the orders will not lead to an increase of U.S.  
5 imports; on the other hand, the U.S. market -- the  
6 price in the U.S. market would come down. And there's  
7 a fundamental disconnect there.

8           Regarding import -- or the export data,  
9 there's a disconnect between the data presented today  
10 and the data reported in the questionnaire responses  
11 and we just would urge the Commission to compare the  
12 figures presented today with what's in the pre-hearing  
13 report. And we'll certainly address that in the post-  
14 hearing brief.

15           Regarding likely injury from China, Mr.  
16 Leibowitz pointed out that 16,000 metric of alloy  
17 magnesium came in, in 2004. To us, that's a pretty  
18 good indication of what's going to happen if the  
19 orders are revoked. And 16,000 metric tons is  
20 significant by any measure.

21           The export tax in China, Mr. Leibowitz is  
22 correct, there is a WTO case on the export tax and  
23 it's unclear what will happen on that. But, let's  
24 just point out that in the staff report, there's a  
25 table on page -- it's Table V-13 on page V-38 that

1 provides the export data for China and Russia and we  
2 would just note that the export numbers for China are  
3 very significant, even after the imposition of export  
4 tax on magnesium.

5 Off spec pure is covered by the pure order,  
6 but the point is that revocation would lead to a  
7 surge in ASTM alloy from China. Just like before the  
8 order, aluminum alloyers can and did use AM-50 alloy.  
9 And that's our point, not that off spec pure would  
10 come in, ASTM alloy, subject merchandise would come  
11 in.

12 On the like product issue, NADCA's argument  
13 is simply that the Commission's 2005 like product  
14 determination is incorrect. And they're just asking  
15 you to reconsider it. They really haven't offered any  
16 new information about it, any reason why it's  
17 incorrect. They say that die casters can't use pure  
18 magnesium. Well, die casters made that argument back  
19 in 2005. There's nothing new there. The Commission  
20 found a one-way interchangeability is enough to find  
21 one like product. So, on the like product issue, we  
22 think the record fully supports continuation of what  
23 the Commission has determined along those lines.

24 Finally, before I go to Russia, slide four,  
25 the slide four data, let's try to clear this up. This

1 is a NADCA report from which the data were taken and  
2 it states that the data are only United States data.  
3 This is from the NADCA publication. It's just the  
4 U.S., not North America.

5 With respect to Russia, I noted, perhaps in  
6 frustration among the Commissioners today, that SMW is  
7 not here. So, you're really getting less than half  
8 the story on Russia. According to SMW's 2009 annual  
9 report, SMW's share of total production in Russia is  
10 60 percent. So, they are, again, more than half of  
11 the industry in Russia. They're not here. And  
12 AVISMA, I think very forthrightly said, they really  
13 couldn't speak for SMW. So, you're not getting the  
14 full story on Russia.

15 Regarding the emphasis on titanium, a few  
16 points on that. First, AVISMA was a titanium producer  
17 before the orders were imposed. Okay, that's not a  
18 change from -- that's not a post-order change.

19 Secondly, the more titanium produced, the  
20 more magnesium you need. So, more would be available  
21 for export.

22 Third, regarding SMW, its titanium business  
23 is far less developed than AVISMA. It's a recent  
24 startup. And the emphasis on titanium, to suggest  
25 that SMW's emphasis may be as great as AVISMA is

1 misleading and inaccurate.

2           And, finally, AVISMA's 2006 annual report,  
3 just after the order was imposed, Mr. Ken Button, in  
4 his testimony today, quoted from that report, and I'm  
5 not going to read it again, but we urge you go back  
6 and look at that testimony, and we'll have that in our  
7 brief, as well.

8           A couple of points, one was made by Mr.  
9 Gurley regarding ATI. You heard today, ATI is not a  
10 captive customer of U.S. magnesium. Mr. Gurley picks  
11 up on a press report that frankly is incorrect. And  
12 you heard Mr. Hassey address that today. You heard  
13 U.S. Mag witnesses address that today. It's not --  
14 ATI is not captive.

15           Second, long-term contracts do not insulate  
16 U.S. magnesium from dumped imports and they will not  
17 in the imminent future. So, we do dispute that,  
18 contrary to what Mr. Stoel said. And, in fact, Mr.  
19 Tissington said today that the trend is toward shorter  
20 term contracts.

21           Regarding cumulation, Mr. Gurley addresses  
22 the cumulation factors by pointing to what happened  
23 after the orders were imposed. Again, the focus  
24 should be on what happened before the orders were  
25 imposed. Volume has declined since the orders were

1 imposed. Why? Because of the orders. Prices have  
2 increases. Prices of imports from Russia have  
3 increased after the orders were imposed? Why?  
4 Because of the orders.

5 Now, Mr. Gurley also said that overselling  
6 is not a common fact pattern in sunset reviews. Well,  
7 our experience it is. It means the order was  
8 effective. And antidumping duties are being imposed  
9 and prices increased. That's the way the law is  
10 supposed to work. So, we would certainly dispute  
11 that. And we would also note that there was  
12 significant underselling found in the public final  
13 determination in the original investigation from both  
14 China and Russia.

15 Finally, on the dumping duties that cover  
16 imports from Russia -- I guess my time is up -- if I  
17 might just finish up with just one sentence. The  
18 antidumping duties from Russia have been listed by the  
19 staff in the report. We'll be addressing this in our  
20 post-hearing brief. But, I would just point the  
21 Commission to I-18, where for both China and Russia,  
22 the antidumping duties that have been determined by  
23 Commerce are listed here in a very useful chart.  
24 We'll be addressing this further, but I would note  
25 that for AVISMA, particularly, there was a finding of

1 43.58 percent for the 2007-2008 period of review, so  
2 very significant dumping indeed, which we think would  
3 continue and cause injury, if the orders were revoked.  
4 That concludes our presentation and thank you, again,  
5 to the Commission for your attention today.

6 CHAIRMAN OKUN: Thank you.

7 (Pause.)

8 CHAIRMAN OKUN: You may proceed.

9 MR. LEIBOWITZ: Madam Chairman, members of  
10 the Commission, thank you, very much, for your -- not  
11 only your attention, but it was an enjoyable and  
12 stimulating day, although I think we can all agree  
13 we're in danger of enjoying too much of a good thing.  
14 We will try desperately not to use all 28 minutes of  
15 our rebuttal and closing comments.

16 We started out the day by seeing a very  
17 unusual event, Senator Claire McCaskill and  
18 Representative Michele Bachmann taking a common  
19 position on an issue. This is an important case.  
20 It's an important case for the heartland of the United  
21 States and perhaps symbolic of what we were talking  
22 about and I think what they were talking about. We  
23 have to balance interest.

24 Now, Mr. Jones referred to the purpose of  
25 the antidumping law and I want to refer to the purpose

1 of the antidumping law, as well. We did not present  
2 the die casters and of course one example of a  
3 domestic alloy magnesium producer to try to get you to  
4 weigh the interest of the die casters against the  
5 interest of the domestic producers. The focus is  
6 under the law on the domestic industry or industries.  
7 We heard today from one producer of alloy magnesium  
8 only. U.S. Magnesium makes pure and alloy magnesium.

9 Sure, consumers want the lowest prices they  
10 can get; but like everybody else, it's complicated.  
11 You don't always go for the lowest price. You go for  
12 the best value. And die casters, alloy magnesium  
13 producers, and others are no different from anyone  
14 else. So, we take the view that you assess the  
15 domestic industry or industries.

16 And what have we learned today? Well, from  
17 the die casting side of the industry, which was the  
18 focus of our presentation, it is not simply lower  
19 prices. It is a competitive market. And it is  
20 inevitable, this is the point that I want to make sure  
21 that all of the Commission understands, there's no  
22 disconnect about price levels, import volumes, and so  
23 forth. Over time, it is inevitable that competitive  
24 conditions globally and competitive conditions in the  
25 United States will converge. They won't necessarily

1 converge totally. They won't be identical  
2 necessarily. But the global marketplace is going to  
3 affect the United States inevitably and over a long  
4 enough period of time, and I would say a long enough  
5 period of time would be 10 years under an antidumping  
6 order, which is what we would be faced with, if this  
7 orders were continued, the competitive conditions will  
8 converge. The competitive conditions will include  
9 demand moving from the United States elsewhere or back  
10 again, not likely to remain static. And, again,  
11 that's the point that I want to make sure is  
12 appreciated.

13 In the alloy segment of the industry, which  
14 is largely dependent, as Mr. Twarog said, on the  
15 automobile industry and a few other very important  
16 industries of the United States, we've already seen a  
17 migration away. We've seen a reduction in demand.  
18 Mr. Jones may deny it, but it is there. It's  
19 inevitable and the record speaks for itself.

20 Now, we put before you export data that  
21 shows that both pure and alloy magnesium exports from  
22 the United States are increasing dramatically in the  
23 fact of the economic downturn of 2008 and 2009.  
24 That's because that's where the demand is going. And  
25 we have to accept the fact that demand is going to

1 grow, if the global production of automobiles are  
2 going to double, from 62 million now to 134 million in  
3 a few years, inevitably most of that growth is going  
4 to take place outside of the United States. But the  
5 producers of alloy magnesium need to participate in  
6 that and they're not going to participate as  
7 effectively with these orders as they are without  
8 them. And so that is a key point.

9           There is competition in alloy magnesium.  
10 You only heard from one producer today, but there are  
11 several and the record shows there are several  
12 producers of alloy magnesium in the United States.  
13 So, it is a relatively competitive market. The market  
14 for pure magnesium in the United States is not. We do  
15 not think it's the purpose of the law, to get back to  
16 that, to extend a monopoly in one market to another.  
17 And it's as simple as that. Are you going to permit  
18 that to happen? I think that should be a  
19 consideration of the Commission.

20           Getting back to the domestic industry, I  
21 think we've laid out a plausible scenario that if the  
22 orders were revoked, it is likely that demand for  
23 alloy magnesium in the United States will at least  
24 reduce its currently decline and could well turn  
25 around. This will increase demand for alloy

1 magnesium. This will increase production of alloy  
2 magnesium. And because of the uncertainties we've  
3 heard about today, certain imports that are now  
4 subject and may not be subject in the future are not  
5 necessarily the best choice for consumers, who want to  
6 impress their customers with reliability and certainly  
7 of supply.

8 I'm going to stop there and turn it over to  
9 Mr. Gurley to talk about cumulation and whatever else  
10 he wants to talk about.

11 MR. GURLEY: It is now good evening. I will  
12 try to be brief. I just want to remind the Commission  
13 what it already knows, is that U.S. Magnesium is  
14 really the only producer of pure magnesium in the U.S.  
15 market. And in doing your analysis, I hope that you  
16 take a look at the capacity figures provided by U.S.  
17 Magnesium and look at the total capacity and you back  
18 out what you think they're going to be selling in the  
19 outlay market and you heard their own words today that  
20 they're predicting good things, good demand in the  
21 alloy market, and I'd like you to back out what  
22 they're going to sell to ATI. You had some very vivid  
23 testimony today from ATI about how much they're going  
24 to be buying from U.S. Magnesium and then you see  
25 what's left over. And you'll see what's left over is

1 really not that much magnesium capacity to serve the  
2 entire U.S. market. Now, this isn't at a time when  
3 they think demand is going up. This is a time when we  
4 all know that Canada has already left the stage. Now,  
5 this spells only thing. It's very good news for U.S.  
6 Magnesium.

7 Let's talk again about ATI. Well, they're  
8 disclosure, ATI and VSMPO have a very big joint  
9 venture. We have one of the most important titanium  
10 joint ventures in the world. It was a little bit  
11 awkward for me to see Mr. Hassey in the room today.  
12 But then I listened to his testimony and it became a  
13 little bit less awkward to me. And then before the  
14 door even shut and his seat was still war, the Mr.  
15 Tissington took the time to say, well, these titanium  
16 guys, they seem to be very optimistic. He was  
17 accusing them basically of irrational exuberance.

18 But, I ask you to look at the record we have  
19 put on with respect to titanium, Mr. Hassey's own  
20 calculations and I ask you to look at what I think  
21 you're going to be receiving from U.S. Magnesium,  
22 which is their long-term agreement with ATI, and  
23 you're going to see that they're going to be selling  
24 them up to 12,000 metric tons of magnesium in 2012.  
25 It will be slightly south of that in 2011 because ATI

1 is still going through the qualifications for  
2 aerospace grade. His own testimony, he says they're  
3 not completely there yet, but they will be very soon.  
4 So, I hope you understand that the titanium sponge  
5 issue, while not particularly new to VSMPO, is very  
6 new to Solikamsk and it's very new to U.S. Magnesium  
7 and it presents a new and fundamental challenge for  
8 you at the Commission to look at this new fact  
9 pattern, both for purposes of cumulation, but also for  
10 purposes of like product.

11 Now, if I could bore you just a couple more  
12 minutes, I'd like you to take slide seven of the  
13 Petitioners, if you have it handy. If you don't have  
14 it handy, then so be it. It's an interesting slide  
15 basically because it's missing a couple of things.  
16 But first, I'd like to point out that Dr. Button said  
17 specific in his testimony that the Russians were  
18 unable to sell in the U.S. market without dumping.  
19 All right, well, before I make a comment about that,  
20 but I would like to point out that in the first  
21 administrative review, which covered from 2004 to 2006  
22 and was issued in 2007, you'll notice that AVISMA got  
23 a 0.41 percent. That's de minimus. That's a negative  
24 determination. That's officially selling a lot of  
25 magnesium without dumping.

1           The second period of review, where they have  
2   15.77 percent, well, it's breaking news, but just last  
3   week, the Department -- two weeks ago, the Department  
4   of Commerce has already issued remand results to the  
5   CIT, which that number has been reduced from 15.77, to  
6   8.51. Now, the court has not issued a final opinion,  
7   so it's not final. But I think it's worth noting that  
8   that 15.77 is likely going to be 8.51, if not lower.

9           The next period of review, which Mr. Jones  
10  was so ballyhooing, that's a high number. We don't  
11  like it. That was appealed, as well. You don't  
12  really care that we appealed it, but I will tell you  
13  that is not a calculated rate. That was a rate  
14  because shortly after the Carnallite and all the other  
15  issues, we withdrew from the case. So whether you  
16  like it or not, it's not a calculated rate. It's  
17  simply one that was imposed as facts were available.

18           Now, I thought maybe there was a missing  
19  page, but it turns out there wasn't. It seems there's  
20  a fourth administrative review that was omitted from  
21  this chart. They simply stop at the third  
22  administrative review. Well, the fourth  
23  administrative review resulted in AVISMA getting  
24  another zero antidumping rate. I go back to Dr.  
25  Button's comments about we can't sell without dumping.

1 Well, I'm no economist, but I think two periods of  
2 review that have no dumping out of four signifies that  
3 we really can sell without dumping.

4 Now, the last part I'd like to mention is  
5 all the discussion we've had today with the die  
6 casters. I listened with great interest. It was very  
7 academic and intellectually very nice for me; but,  
8 frankly, it had no relevance to my client. Our client  
9 is in the pure business and what happens in the die  
10 casting world, what happens in the alloy world, really  
11 has no relevance to VSMPO or Solikamsk. And so when  
12 the Commission is making its decision about like  
13 product or cumulation, et cetera, I hope you recognize  
14 that, is that VSMPO is over here and Solikamsk is over  
15 here with us and the die casters and the Chinese are  
16 over there. They have two very different roles and I  
17 hope you make a legal decision commiserate with that  
18 analysis. Thank you, very much.

19 CHAIRMAN OKUN: Thank you. Post-hearing  
20 briefs, statements responsive to questions and request  
21 for the Commission, corrections to the transcript must  
22 be filed by December 16, 2010. Closing of the record  
23 and final release of data to parties if February 1,  
24 2011. And final comments are due February 3, 2011.  
25 With no other business to come before the Commission,

1 this hearing is adjourned.

2 (Whereupon, at 5:27 p.m., the hearing was  
3 concluded.)

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