

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
) Investigation No.:
TIN-AND CHROMIUM-COATED) 731-TA-860 (Second Review)
STEEL SHEET FROM JAPAN)

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Wednesday,
 April 11, 2012

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

The hearing commenced, pursuant to notice, at 9:31 a.m., before the Commissioners of the United States International Trade Commission, the Honorable DEANNA TANNER OKUN, Chairman, presiding.

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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 will 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 Mr. Secretary, are there any preliminary
11 matters?

12 MR. BISHOP: No, Madam Chairman.

13 CHAIRMAN OKUN: Very well. Let us begin
14 with our opening remarks.

15 MR. BISHOP: Opening remarks on behalf of
16 those in support of continuation of the order will be
17 by Kathleen W. Cannon, Kelley Drye & Warren.

18 CHAIRMAN OKUN: Good morning, Ms. Cannon.

19 MS. CANNON: Good morning, Madam Chairman
20 and members of the Commission. While I appear before
21 you today in yet another steel case involving Japan,
22 the tin mill market is very different from other
23 carbon steel markets you have examined.

24 The market for tin mill in the United States
25 has a very limited customer base. Those customers

1 generally have annual contracts that are negotiated in
2 the fourth quarter of each year. The customers are
3 familiar with alternative import prices and have shown
4 a willingness to use lower import prices to force U.S.
5 producers to reduce their prices in these negotiations
6 or lose the sales.

7 Given these facts, tin mill producers are
8 highly susceptible to the price effect of a relatively
9 small volume of lower priced imports competing for the
10 limited number of major customer accounts in this
11 market.

12 Now consider the health of the U.S. industry
13 facing these market conditions. The domestic tin mill
14 industry is in an extremely fragile state. Demand has
15 fallen by 18 percent over the review period, while raw
16 material costs have surged. In 2011, domestic
17 production and shipments declined to their lowest
18 levels of the past 15 years. The domestic workforce
19 has been significantly reduced, and a major tin mill
20 plant was recently idled.

21 The industry has incurred financial
22 operating losses in five of the past six years,
23 culminating with a loss of 9.1 percent last year. The
24 term vulnerable does not begin to fully describe the
25 U.S. industry's condition.

1 It is in the context of these competitive
2 conditions and this highly vulnerable U.S. industry
3 that the Japanese producers are urging that dumped
4 imports be permitted to resume sales unchecked into
5 this market. The Japanese industry has retained
6 sizeable capacity and has significant unused capacity
7 as well.

8 In 2011, unused Japanese capacity allocated
9 to the subject product totaled more than 300,000 short
10 tons, enough to supply over 10 percent of the U.S.
11 market. Moreover, total reported Japanese tin mill
12 capacity was even greater and also appears to be
13 understated, providing further ability for Japan to
14 increase exports from idle mill capacity even without
15 shifting any tonnage from other export markets.

16 It is likely, however, that Japan would also
17 divert shipments from other export markets to the
18 United States. Japanese home market shipments have
19 declined over the review period, and Japan has
20 increased its exports of tin mill products worldwide.
21 Those exports are sold to a wide array of countries
22 and exhibit significant shifts from year to year as
23 market conditions change.

24 For example, as Chinese production and
25 exports of tin mill products have increased Japanese

1 exports to China have fallen, forcing Japan to seek
2 out new markets. U.S. prices are higher than prices
3 in other export markets and are projected to remain
4 higher in 2012, providing a strong incentive for Japan
5 to shift exports to the United States if this order is
6 removed.

7 Despite claims of disinterest in shipping to
8 the United States, Japanese producers have maintained
9 ties with U.S. customers and have shown continued
10 interest in and ability to export excluded tin mill
11 products, as well as other steel products to the U.S.
12 market. It is in the interest of customers to seek
13 alternative sources of supply, like Japan, to leverage
14 domestic producer prices.

15 So how do the Japanese producers respond to
16 these facts? They ignore record data and instead look
17 at only selected years, compare pricing data on total
18 tin mill products with prices of subject products
19 alone and adjust the data by excluding certain
20 companies to make their points. They claim that the
21 U.S. market is not really price sensitive any longer,
22 despite nine of 10 responding purchasers in this
23 review reporting that price was very important to
24 their purchasing decisions.

25 They assert they cannot enter this market

1 because of the use of annual contracts, ignoring
2 Japanese importers' participation in these same
3 contracts preorder. Notably, most of these contracts
4 are up for renegotiation in the fourth quarter of this
5 year, providing Japanese exporters with an opportunity
6 to imminent inroads into this market.

7 And finally, they contend, as they have in
8 other cases, that you should look at their behavior
9 when other steel orders were revoked. Okay. Let's
10 look at the Hot-Rolled case. Significant increases in
11 imports from Japan occurred as soon as that order was
12 removed, despite JFE's and Nippon's claims of
13 disinterest in the U.S. market.

14 Similar behavior in the context of the
15 vulnerable tin mill industry will quickly lead to
16 disastrous consequences for the U.S. industry and its
17 workers. Thank you very much.

18 CHAIRMAN OKUN: Thank you.

19 MR. BISHOP: Opening remarks on behalf of
20 those in opposition to continuation of the order will
21 be by James P. Durling, Curtis, Mallet-Prevost, Colt &
22 Mosle.

23 CHAIRMAN OKUN: Good morning, Mr. Durling.

24 MR. DURLING: Good morning. My name is
25 James Durling, and I'm appearing today on behalf of

1 the Japanese Respondents.

2 The domestic industry has presented a great
3 deal of speculation about the Japanese industry's
4 intentions for the future, but this speculation cannot
5 be reconciled to the evidence. The Commission has
6 concrete evidence on its record and will collect even
7 more evidence today during its hearing, demonstrating
8 that the Japanese mills have little ability and no
9 incentive at all to export significant quantities of
10 tin mill steel to the U.S. market. Moreover, any
11 limited Japanese shipments are far more likely to
12 replace other import shipments, not domestic
13 shipments.

14 You will hear today from two large
15 customers. This evidence will demonstrate a few key
16 points. First, U.S. customers have always purchased
17 the vast majority of their needs from North American
18 suppliers because they must do so. The nature of the
19 can making business requires many specifications and
20 quick turnaround, two features that severely limits
21 the ability of can makers to use offshore supply.

22 Second, U.S. customers require annual
23 contracts. That is just a requirement for selling tin
24 mill steel in the U.S. market at least to large U.S.
25 customers.

1 Third, the U.S. customers that have dealt
2 with the Japanese mills in other markets have
3 consistently found the Japanese mills to be among the
4 higher priced alternatives and never the lowest priced
5 alternative. This evidence alone suggests the
6 challenges facing Japanese mills were they to try to
7 return to the U.S. market in any significant way.

8 You will also hear today from the Japanese
9 mills. Nippon Steel and JFE Steel are two of the
10 largest or the two largest of the three Japanese mills
11 producing tin mill steel. More importantly, they are
12 the only Japanese mills that have exported subject tin
13 mill steel to the U.S. market.

14 Toyo Kohan is not here today, but Toyo Kohan
15 overwhelmingly focuses on the Japanese market and
16 exports hardly at all and has never exported subject
17 tin mill steel to the United States over the 15 year
18 period before the Commission.

19 When you think about future Japanese mill
20 tin mill exports, it is entirely about Nippon Steel
21 and JFE. What will you learn from these two mills
22 today? First, they have strong customer bases in many
23 of their export markets with growing demand for tin
24 mill steel. Having built their business around a
25 diversified mix of growing markets, why would the

1 Japanese mills now switch their focus back to a mature
2 market in the United States?

3 Second, Japanese mills have stopped agreeing
4 to annual contracts. Because of the dramatic
5 increases in raw material price volatility, raw
6 material suppliers no longer agree to annual contracts
7 and so Nippon Steel and JFE simply cannot agree to
8 annual contracts. Why would the Japanese mills try to
9 re-enter a U.S. market that demands annual contracts
10 for any significant sales when the Japanese mills know
11 they cannot accept such contract terms?

12 Third, the Japanese mills have developed
13 markets that allow them to sell higher value products
14 at higher prices. Japanese mills sell highly
15 engineered products and provide extensive technical
16 support. They compete at a different price point than
17 other suppliers. On average, landed prices in key
18 Japanese export markets during 2011 were more than \$90
19 per ton higher than U.S. market prices.

20 Why would Japanese mills shift their focus
21 away from growing markets with higher prices back to
22 the U.S. market? The simple answer is that they would
23 not. The Japanese mills were largely excluded from
24 the U.S. market more than a decade ago, but life goes
25 on. The Japanese mills now have built their

1 businesses outside the U.S. market.

2 These other markets promise better long-term
3 growth at more attractive prices and with customers
4 that value the highly differentiated, high value added
5 Japanese tin mill steel. These customers in other
6 markets no longer require annual contracts. They have
7 accepted that Japanese tin mill steel is worth buying
8 even if it is more expensive and even if the prices
9 might change more frequently.

10 Moreover, these customers are in other
11 markets with few, if any, local suppliers. Rather
12 than competing with four local suppliers in the U.S.
13 market, the Japanese mills are competing in other
14 markets where the competition is with other foreign
15 suppliers.

16 The Japanese mills will tell you they have
17 no intention to ship significant quantities to the
18 U.S. market. The customers will tell you that they
19 have no intention to buy significant quantities from
20 Japan. But, more importantly, the record in this case
21 will demonstrate that the incentives facing the
22 Japanese mills and facing the customers confirm these
23 intentions.

24 It simply would make no sense for Japanese
25 mills to ship significant quantities in the future.

1 Any limited shipments would be in quantities and at
2 prices that cannot be injurious to the U.S. tin mill
3 steel industry. Thank you.

4 CHAIRMAN OKUN: Thank you.

5 MR. BISHOP: Would the first panel, those in
6 support of continuation of the antidumping duty order,
7 please come forward and be seated?

8 Madam Chairman, all witnesses have been
9 sworn.

10 (Witnesses sworn.)

11 CHAIRMAN OKUN: It looks like all the
12 witnesses have been seated. You may proceed.

13 MR. HECHT: Good morning. I am Jim Hecht,
14 and I represent U.S. Steel in this review. We would
15 like to begin our presentation by summarizing why the
16 order on tin mill from Japan should remain in place.

17 Every statutory factor strongly indicates
18 that revocation of the order would have disastrous
19 effects on domestic producers. The evidence of
20 vulnerability is simply overwhelming. Japanese mills,
21 which are currently chasing tin mill orders all over
22 the world, would certainly return to a market as large
23 and attractive as this one.

24 Because this market is so price sensitive,
25 any significant increase in imports will make it

1 impossible for domestic producers to obtain market
2 based prices, and because the challenges facing the
3 industry are so severe market distorting imports could
4 put the industry's very future at risk.

5 There is simply no question that the
6 domestic industry is highly vulnerable to material
7 injury. While the order has certainly helped domestic
8 producers by limiting unfair trade, those producers
9 are operating in an extremely challenging environment.
10 Here you can see that domestic consumption fell over
11 the period of review. Meanwhile, input costs were
12 being pushed dramatically upward by factors like
13 subsidized new steelmaking capacity in China and
14 rising energy cost.

15 The combination of weaker demand and rising
16 cost has had a severe impact. U.S. mills have
17 suffered heavy losses in five of the last six years,
18 and they have lost a total of more than \$600 million
19 over the period of review. For an industry as weak as
20 this one, even a small volume of dumped imports would
21 cause material injury.

22 The Japanese witnesses will no doubt tell
23 you of their efforts to develop markets elsewhere.
24 When you hear those claims, you should recall that
25 despite their efforts they are still reporting large

1 volumes of unused capacity. Significantly, these
2 figures only relate to unused capacity that has been
3 allocated to the subject product and do not reflect
4 any capacity that was allocated to excluded tin mill
5 products.

6 Our briefs contain extensive evidence
7 showing that the actual amount of unused capacity is
8 even greater than what you see here. In addition to
9 being burdened with significant unused capacity,
10 Japanese mills face major problems in their home
11 market. As you can see here, they lost almost 225,000
12 tons of home market sales over the period of review.

13 Because of their shrinking home market,
14 Japanese mills must export more and more tin mill
15 products or cut production. As you can see here,
16 Japan could soon be exporting over half of its tin
17 mill production. Where can those exports go?
18 Japanese exports of tin mill and tin mill black plate
19 increased somewhat from '06 to '08, but have been
20 stuck in a narrow range for the last four years.
21 There is no reason to believe the Japanese mills can
22 significantly increase exports unless they get access
23 to this market.

24 Furthermore, Japanese mills are facing heavy
25 competition from China. Chinese tin mill exports

1 soared by almost 377 percent over the period of
2 review, and China now exports more tin mill products
3 than Japan. Japanese mills have already been driven
4 almost completely from China's market. China was
5 importing almost 50,000 tons of tin mill products per
6 year from Japan in '06. Last year, that figure fell
7 to just over 10,000 tons.

8 In addition, data regarding all markets in
9 East Asia and Australia, the closest markets for
10 Japanese mills, show that Chinese exports have risen
11 since '08, while Japanese exports have declined.
12 Japanese producers may claim that these markets are
13 growing, but even if that were true Japanese mills
14 will not likely benefit from such growth.

15 Chinese mills also appear to be building
16 massive volumes of new capacity. Our brief contains
17 reports that roughly three million tons of new Chinese
18 capacity will come on line by the end of 2013. To put
19 that figure in perspective, this chart shows that
20 expected new Chinese capacity exceeds total U.S. tin
21 mill consumption in 2011.

22 Faced with growing Chinese competition,
23 Japanese mills have sought business all over the world
24 in almost any available market and on every continent,
25 but from a Japanese perspective many of these markets

1 are not stable. Last year, for example, they shipped
2 49,000 tons to the Netherlands, but in 2010 they sold
3 only 14,000 tons to that market. In 2010, they sold
4 almost 100,000 tons to Australia and New Zealand, but
5 last year that figure fell below 69,000 tons.

6 It is simply ludicrous to suggest that an
7 industry that is chasing sales in so many little
8 markets would have no interest in the United States.
9 Japanese mills no doubt realize that the United States
10 is far and away their best export option if they can
11 persuade the Commission to lift the order. Mexico,
12 right next door to the United States, is already their
13 biggest market, and no market has come close to
14 replacing the sales Japanese mills lost here after
15 relief was imposed.

16 It is also important to realize that while
17 the order has prevented Japanese mills from trading
18 unfairly, they have remained active here, selling
19 excluded products. Last year they were the fifth
20 largest source of U.S. tin mill imports. Thus, they
21 have the contacts and customers necessary to rapidly
22 increase their U.S. sales upon revocation.

23 U.S. prices are highly attractive. Just as
24 you found during the last five-year review of this
25 order, relatively high U.S. prices will give Japanese

1 producers an incentive to shift their exports from
2 other less attractive markets to this one.

3 As noted, Mexico is by far Japan's biggest
4 current export market. Japanese census data also
5 shows that the prices Japanese mills are receiving for
6 their Mexican sales are among their lowest in the
7 world. Indeed, Japan is shipping hundreds of
8 thousands of tons all over the world at prices far
9 less favorable than the U.S. market.

10 Japanese mills will no doubt insist that
11 they have no interest in this market, but they told
12 you the same thing in last year's Hot-Rolled reviews
13 and look what happened. Only a few months after the
14 order was revoked, their exports surged. In fact,
15 they shipped more hot-rolled steel to the United
16 States in the first three months of this year than
17 they did all of last year and have become one of the
18 biggest sources of hot-rolled steel in the market.

19 In fact, last year we saw a huge surge in
20 Japan's shipments of flat products to the United
21 States, including slab. These data show that factors
22 such as freight cost and exchange rates are no barrier
23 to Japanese exports to the United States and that they
24 have a strong interest in this market.

25 In short, Japanese mills have large volumes

1 of unused capacity, they are heavily dependent on
2 exports, they are extremely active in Mexico, they
3 have contacts and customers here, and they are already
4 shipping massive volumes of hot-rolled steel and other
5 flat products to the United States. In light of these
6 facts, there can be no doubt that upon revocation the
7 likely volume of Japanese imports will be significant.

8 The evidence on likely price effects is also
9 overwhelming. Here you see some key findings that the
10 Commission made in its last review. Prices are set
11 through intensive contract negotiations. Even a small
12 volume of low-priced imports would likely have
13 significant price effects. These findings remain
14 valid.

15 Japanese mills claim that customers care
16 more about quality than price, but there's no question
17 about the quality of Japanese tin mill products, and
18 when quality is not an issue competition is squarely
19 on the basis of price. Contracts will not insulate
20 domestic mills from harmful price effects. Contracts
21 are generally getting shorter.

22 Furthermore, as you previously found,
23 contract provisions may allow for price and quantity
24 adjustments in response to changes in market
25 conditions. The record leaves no question that

1 unfairly traded imports can and would impact domestic
2 pricing almost immediately.

3 The likely impact of unfairly traded
4 Japanese imports on the domestic industry would be
5 enormous. The Commission has heard many times that to
6 survive over the long run a business must generate a
7 rate of return sufficient to justify necessary
8 continued investment. That is not happening here.

9 You've already seen that the industry is
10 losing money. Here you see that its return on
11 investment is dangerously poor. To get some idea of
12 the threat posed by Japanese imports, consider that
13 their AUV into Mexico based on Census data, which
14 includes excluded products, in 2011 was \$10.37 per
15 ton. Compare that to the unit cost plus SG&A that you
16 have calculated for the domestic industry at \$11.04
17 per ton.

18 It's difficult to see how this industry can
19 avoid material injury or even ever return to
20 profitability if unfair trade from Japan is once again
21 allowed to impact this market. Such imports would
22 devastate a very weak U.S. industry.

23 Here you see that over the last four years
24 domestic producers have had to reduce their workforce
25 by almost one-fifth. Finally, since 2006, the value

1 of this industry's assets has fallen by 46 percent.
2 Japanese producers suggest that the industry's
3 problems are irrelevant to your analysis because they
4 are not directly related to Japanese imports.

5 Nothing could be further from the truth.
6 You have to decide whether revocation of relief is
7 likely to lead to continuation or recurrence of
8 material injury by reason of unfair trade, and a
9 highly vulnerable industry such as this one is at much
10 greater risk from dumped imports. For domestic tin
11 mill producers to have an opportunity to regain their
12 footing and return to profitability, the order on
13 Japan must remain in place. Thank you.

14 MR. SCHERRBAUM: Good morning. My name is
15 Joe Scherrbaum, and I'm Vice President of Sales of
16 United States Steel Corporation. I've been at U.S.
17 Steel for over 30 years, and I've held my current
18 position since September 2005. My position requires
19 detailed knowledge of key steel markets both here and
20 abroad. This morning I would like to talk to you
21 about the market for tin mill products and why it is
22 so important that the order on the Japanese imports
23 remain in place.

24 Tin mill products are high end steel sheets
25 that have been coated with tin or chromium. Because

1 of their purity and durability, these products are
2 used to make aerosol cans and cans for food or other
3 items such as paint. Of all the common types of sheet
4 such as hot-rolled, cold-rolled and corrosion-
5 resistant steel, tin mill products are generally the
6 most expensive to make, and they usually obtain the
7 highest price. They also require specialized
8 production facilities.

9 For years there has been a lot of talk about
10 the need for U.S. manufacturers to concentrate on high
11 value added products such as the ones before you
12 today. That is exactly the path we have followed by
13 making a commitment to this industry. In 2001, we
14 purchased a tin mill facility in East Chicago from LTV
15 Corporation. In 2003, we obtained another tin mill
16 facility when we bought the assets of National Steel.

17 As a result of these transactions, we now
18 have three tin or chromium coating lines in northwest
19 Indiana. This represents a significant investment.
20 Because these facilities are devoted to tin mill
21 products, their fate depends upon our ability to
22 obtain a favorable rate of return on that investment.

23 In short, we at U.S. Steel made a major commitment to
24 tin mill products, and this market is very important
25 to us.

1 Thanks to the order at issue today, Japanese
2 mills have not been able to dump tin mill products in
3 this country in recent years. Given that they dumped
4 almost 330,000 tons of tin mill products in the United
5 States in 1999, the order has obviously been a great
6 help to domestic mills. Unfortunately, the last few
7 years have presented all of us in this industry with
8 serious challenges.

9 As you know, the cans made from our products
10 face severe competition from other types of packaging,
11 such as those made from plastic. This competition in
12 turn places downward pressure on demand for our
13 products. Meanwhile, our costs have soared. The
14 global market for the raw materials used to make
15 steel, such as iron ore and coking coal, has been
16 distorted by a number of factors, including the fact
17 that China has artificially inflated demand for such
18 imports by subsidizing steel production.

19 At the same time, domestic steel mills have
20 been forced to deal with higher costs for electricity
21 and other forms of energy. It is therefore no
22 surprise that your records shows that on a per ton
23 basis the cost of goods sold with respect to tin mill
24 products rose by 43 percent from 2006 to 2011, an
25 increase of almost \$320 per ton.

1 Let me make an additional point. You may
2 hear that because U.S. Steel has its own iron ore and
3 coke facilities our tin mill operations are somewhat
4 insulated from higher raw material costs. Please do
5 not believe it. In the first case, we buy large
6 volumes of imports from tin to natural gas, all on the
7 open market.

8 In the second place, as managers our job is
9 to get the best rate of return possible on assets held
10 by U.S. Steel. From a business perspective, it makes
11 no sense to devote resources to tin mill production if
12 we can get a better return on those resources
13 elsewhere. Thus, our tin mill operations are under
14 the same pressure to cover their cost as any other
15 facility.

16 In addition to falling demand and higher
17 costs, we face significant competition against imports
18 from countries other than Japan. Chinese mills have
19 become more active here over the period of review.
20 U.S. imports of tin mill products from China rose by
21 over 108 percent, but they were not alone. In 2010
22 and 2011, imports from nonsubject countries held over
23 19 percent of the U.S. market.

24 We hear a great deal about these imports
25 because our customers refer to them in our contract

1 negotiations as part of their effort to obtain lower
2 prices. And these are no idle threats. We understand
3 that customers can and will look to imports if they
4 are unhappy with the prices that we are offering.

5 For example, your data show that 2009 was
6 the only year during the period of investigation when
7 U.S. prices were high enough to generate operating
8 profits for domestic mills. The very next year, 2010,
9 U.S. imports of tin mill products soared by
10 61 percent. Not coincidentally, in 2010 prices fell
11 to the point where U.S. mills were once again losing
12 money.

13 In short, we have faced an extremely
14 difficult market, one marked by falling demand, rising
15 costs and significant import competition. When you
16 put all these problems together, you can see why
17 domestic producers have been stuck in a brutal
18 cost/ price squeeze for most of the last few years.

19 Without getting into our own numbers, I will
20 say that I was not surprised to see that the industry
21 as a whole lost over \$600 million during the period of
22 review, that the industry used only 61 percent of its
23 capacity last year or that the domestic workforce was
24 cut by over 18 percent from 2008 to 2011. The last
25 thing that we need now is an influx of unfairly traded

1 imports from Japan.

2 I know that the Commission pays a great deal
3 of attention to an industry's operating income, and
4 I'd like to make a point about what operating income
5 means to us. As a business person, our goal is not
6 merely to get into the black. For an industry like
7 this one to survive over time, domestic producers must
8 be able to obtain a long-term rate of return
9 sufficient to justify making further necessary
10 expenditures on this product.

11 In a free market system like ours,
12 facilities that cannot generate such a rate of return
13 will inevitably fail to survive. Despite the
14 hardships we have faced, we remain committed to our
15 tin mill production because we still believe that
16 focusing on this type of high end product is the best
17 path for our company, and we are confident that there
18 are market-based solutions to our challenges. The key
19 term is market-based.

20 At U.S. Steel we believe in hard work and
21 innovation. Every manager, every salesperson, every
22 factory worker at U.S. Steel recognizes the importance
23 of meeting the world's best competition. For over 100
24 years, we have taken on all comers and we are prepared
25 to keep doing so. However, no U.S. company should be

1 forced to compete with dumped imports.

2 To understand how unfair this would be,
3 consider the difference between Japan's market and
4 ours. Last year, Japan imported less than 29,000 tons
5 of tin mill products. Meanwhile, in the United States
6 we were competing against over 518,000 tons of
7 imports. Because their market is largely closed,
8 Japanese mills are obtaining prices for sales in their
9 home market that we cannot imagine in our wildest
10 dreams.

11 Your record shows that their sales in Japan
12 went for \$1,763 per ton last year, more than \$700 per
13 ton above the average unit value of U.S. shipments by
14 domestic mills. This is why the Japanese mills can
15 afford to dump tin mill products in export markets.
16 It's also why they are able to charge prices for their
17 sales into Mexico at levels so low we haven't been
18 able to get business in that country, even though it's
19 right next door.

20 It would be the height of unfairness to make
21 us bid for business in our own market against Japanese
22 mills who don't face the same pressure we do to obtain
23 a true market-based price. Let me put this as plainly
24 as I can. If the order is revoked and Japanese mills
25 are free to ship dumped tin mill products to this

1 market, the results will be calamitous.

2 The domestic industry is in no condition to
3 deal with another surge of unfairly traded goods. The
4 industry needs more time to work through its current
5 difficulties in a market that's not permeated by
6 unfair trade. I urge you to give us that time. Thank
7 you very much.

8 MR. MULL: Good morning. I'm Daniel Mull,
9 Executive Vice President, Sales and Marketing, of
10 ArcelorMittal USA. I've held this position for six
11 years and have worked in the steel industry for 38
12 years. My job responsibilities include overseeing and
13 coordinating sales of a wide array of steel products
14 for ArcelorMittal USA, including tin mill products.

15 I am here today to support retention of the
16 order imposed against dumped tin mill products from
17 Japan. My company manufactures tin- and chromium-
18 coated steel sheet at our steel plant in Weirton, West
19 Virginia. Production of this tin mill product is
20 vital to Weirton's operations and to the employees at
21 that plant.

22 Unfortunately, times have been very tough in
23 the U.S. tin mill market. The most recent calendar
24 year, 2011, saw a significant drop in U.S. demand for
25 the product. This decline in demand has been ongoing

1 for a number of years as tin mill products have been
2 replaced by alternative packaging.

3 Declining demand has led to reductions in
4 production, shipments and employment for AMUSA and for
5 the industry. We have significant idle capacity that
6 needs to be put to use. As you are probably aware,
7 despite this idle capacity AMUSA has already seen a
8 significant reduction in capacity, as has the industry
9 overall during the review period.

10 Following the merger between Mittal Steel
11 and Arcelor, the Department of Justice required us to
12 divest our Sparrows Point facility. Just last month,
13 the current owner, RG Steel, announced it was idling
14 its Sparrows Point tin mill due to plunging sales.
15 The closure of this longstanding mill provides further
16 evidence of the problems our industry is facing.

17 In addition to falling demand, our raw
18 material costs are increasing. Tin mill prices,
19 however, have not kept pace with these rising costs.
20 As a result, our industry's financial condition has
21 been dismal over the past several years, culminating
22 in a significant operating loss in 2011.

23 On a global level, we are seeing an
24 increasing oversupply of tin mill products. Japan
25 remains a major producer of tin mill products and has

1 retained significant capacity, a large part of it
2 unused, to manufacture these products. Japanese
3 producers have always been export oriented, and their
4 exports have increased even further over the past five
5 years.

6 Japanese producers are exporting to the U.S.
7 tin mill products that are excluded from the order.
8 That tells me that they remain interested in this
9 market, have ties to our customer base and have only
10 stopped selling the subject product because of the
11 order. Imports from other countries are also present
12 in the market, including imports from our affiliated
13 company, Dofasco in Canada.

14 It is not true, as the Japanese producers
15 argue, that we are shifting production to Canada or
16 that our Weirton mill is reducing its production
17 because of imports from Dofasco. In fact, Dofasco has
18 reduced its operations in the past several years,
19 shutting down the box annealing operations and a
20 plating line. Moreover, Dofasco is not selling tin
21 mill products into this country at below market prices
22 as was true of Japan before the order was imposed.

23 If this order is removed, I have no doubt
24 that the Japanese producers will resume selling large
25 volumes of dumped subject tin mill products into the

1 U.S. market. Prices in the U.S. market for the
2 subject product tend to be higher than prices in other
3 markets to which Japan exports. China is building up
4 its own production of tin mill products to supply its
5 demand and will require less from Japan.

6 A return of significant volumes of
7 low-priced, dumped imports from Japan will mean lower
8 prices and lost sales to ArcelorMittal USA and other
9 domestic producers. Given the very fragile condition
10 of our industry, we are not in a position to withstand
11 this renewed, unfair competition. To preserve our
12 Weirton operations and the jobs of our workers
13 employed there, I urge you to leave this order in
14 place. Thank you for your time.

15 MR. PETERSON: Good morning, Madam Chairman
16 and members of the Commission. My name is Craig
17 Peterson, and until very recently I was the Vice
18 President of Commercial for USS-POSCO Industries, a
19 position I held since January of 1998. Previously, I
20 was the General Manager of Tin Sales for UPI. In my
21 position as Vice President, I oversaw the sales of all
22 sheet and tin mill products for UPI. I have over 20
23 years of experience selling steel products.

24 UPI is a joint venture between U.S. Steel
25 and POSCO and is located in Pittsburg, California,

1 about 45 miles east of San Francisco. UPI is not an
2 integrated mill. That is to say we purchase
3 semi-finished, hot-rolled steel from fully integrated
4 mills and convert it into finished products, including
5 tin mill products.

6 As the only domestic producer of tin mill
7 products west of the Mississippi, UPI is ideally
8 located to supply tin mill products to the small
9 number of can producers who supply packaging for
10 California's wide variety of fruits and vegetables.
11 We have only a handful of customers, nearly all of
12 whom are located in California. I had the privilege
13 of testifying before the Commission five years ago
14 when you last looked at this product and market. I
15 explained then why revocation of the order on tin
16 plate from Japan would cause material injury to UPI.

17 Unfortunately for UPI and the domestic
18 industry, little has changed over the last five years.
19 Demand for tin mill products continued to decline,
20 competition from other packaging forms looking to
21 replace cans increased, and greater price sensitivity
22 crept into the market. Increased cost, combined with
23 these pressures, generated operating losses over most
24 of these last five years.

25 I am here today to urge the Commission to

1 find that revocation of the order on tin plate would
2 cause material injury to UPI and to the domestic
3 industry. There are four reasons why revocation of
4 the order would cause material injury:

5 Firstly, Japanese producers' self-professed
6 capacity to ship another 300,000 tons of tin plate, as
7 they stated in their brief, represents the average
8 amount of tin plate that UPI has sold in recent years.
9 Since the western United States is the natural point
10 of entry for Japanese tin plate and UPI is the only
11 producer of tin plate west of the Mississippi River,
12 it would be highly likely that UPI would lose a
13 significant amount of tin plate business to Japanese
14 producers if the order were revoked.

15 Secondly, I believe that UPI would lose
16 business and/or revenue because Japanese producers
17 would compete on price. Once customers are assured
18 that quality standards are met, tin mill products then
19 compete on price. Japanese producers can easily
20 regain market share by selling high-quality tin plate
21 at a lower price.

22 Thirdly, contracts alone do not protect UPI
23 from price competition. The contracts that are
24 standard in the industry typically allow customers to
25 vary the tonnage they actually purchase. UPI's

1 contracts set price and volume targets, but only for
2 one year. Even then price is subject to competition
3 during the contract year, and volume is not binding.

4 Later this year we will be conducting price
5 negotiations for the year 2013 contracts after this
6 proceeding is over. If the order is revoked, it is
7 highly likely that we would see significant price
8 pressure from Japanese producers in our upcoming price
9 negotiations.

10 Fourthly and finally, UPI faces a cost/price
11 squeeze that has led to significant operating losses
12 over most of the period of review. The cost/price
13 squeeze is the result of volatility of raw material
14 costs that we have been unable to completely pass
15 through to our customers. In my opinion, revocation
16 of the order would worsen this problem based on the
17 strong likelihood that Japanese tin plate would enter
18 the west coast at low prices in an effort to regain
19 lost market share.

20 As I mentioned, under their own conservative
21 approach Japanese producers have acknowledged their
22 capacity to ship another 300,000 tons of tin plate.
23 This represents the average amount of tin plate that
24 UPI has sold in each of the last five years. In other
25 words, Japanese producers, by their own admission, can

1 essentially replace UPI without having to alter any of
2 their current commercial patterns.

3 The western United States represents about
4 15 percent of the U.S. market for tin plate and has
5 been UPI's natural and historic market for more than
6 four decades. In fact, almost 100 percent of UPI's
7 tin plate is shipped to customers within 100 miles of
8 our facility. In 1999, the year prior to the
9 imposition of the antidumping order, Japanese imports
10 to the west coast of the United States reached their
11 peak of nearly 163,000 tons. That was almost double
12 the volume of Japanese imports from 1997.

13 The west coast tin mill market was far more
14 robust in 1997 than it is today. As a result, the
15 threat to UPI from Japanese imports is far greater
16 today than it has ever been before. As I mentioned
17 earlier, I have been in the tin mill industry for over
18 20 years and had been the point person for UPI's sales
19 for most of that period. My chart entitled West Coast
20 Tin Market illustrates the continuing decline for tin
21 mill products on the west coast.

22 As shown here, west coast demand has
23 declined from over 700,000 tons in 1997 to slightly
24 more than 400,000 in 2011. The contributing factors
25 to this decline include customer consolidation, plant

1 closures and the shift of can end production from the
2 west coast to the midwest. For example, as recently
3 as December of 2011 Crown Cork and Seal Company closed
4 its last west coast manufacturing facility in
5 Portland, Oregon.

6 Since Japanese producers have admitted to
7 having more than 300,000 tons of excess capacity, the
8 only thing preventing those tons from arriving at
9 Pacific region ports is the dumping order. Without
10 the restraining effect of the dumping order, this
11 volume has the potential to effectively replace UPI's
12 tin plate business. The loss of UPI's tin plate
13 business would put the entire plant at risk,
14 jeopardizing the jobs of almost 700 workers.

15 In my opinion, the basis for the
16 reintroduction of Japanese tin plate to the western
17 United States would be solely on the basis of price.
18 I strongly disagree with the statement in the Japanese
19 producers' brief on page 2 that customers are less
20 concerned about price. In my experience, once
21 customers are assured that quality standards can be
22 met, tin mill products will compete on price and price
23 alone. The only reason California can manufacturers
24 would choose not to purchase tin plate from UPI is a
25 lower price.

1 Underselling was the strategy of choice by
2 Japanese producers during the original investigation,
3 and there was no reason to believe that it would not
4 be again. In response to low-priced offers from
5 Japanese producers, UPI would have two unattractive
6 choices. One, to reduce price and suffer huge
7 financial losses or, two, not to meet the price and
8 opt out of the market altogether. This would cripple
9 us from a fixed cost perspective and make it even more
10 difficult to remain a quality and on-time supplier of
11 tin mill products.

12 Contracts alone do not protect UPI from
13 price competition from imports. Our contracts specify
14 price and volume for no longer than one year and are
15 subject to change based upon competing quotes from
16 other suppliers, both foreign and domestic. Even the
17 targeted volumes are little more than forecasts since
18 there are no penalties if customers purchase less than
19 the contract volumes.

20 Later this year we will enter into contract
21 negotiations for 2013. If the order is revoked, we
22 can expect significant price pressures from customers
23 during the contract negotiation process due to the new
24 availability of Japanese tin plate. Those producers
25 are well known, remain in the market through their

1 sales of excluded products and have ample time to
2 qualify their products for delivery in 2013.

3 Finally, UPI faces a cost/price squeeze,
4 which has led to significant operating losses over
5 most of the period of review. Raw material prices are
6 extremely volatile, and we have not been able to pass
7 along raw material price increases on a regular basis.
8 This has been true for both hot bands and for tin.
9 Since UPI is not an integrated mill, our lack of
10 pricing power in the declining west coast market for
11 tin mill products puts UPI in a very difficult
12 cost/price squeeze scenario.

13 Over the last five years, UPI has continued
14 to make significant investments in its facilities used
15 to produce tin mill products and continues to be
16 recognized by our customers as having the best on-time
17 performance of any tin mill producer in the United
18 States. Revocation of the order would put those
19 investments and that performance at risk. Jobs will
20 be at risk. The ability to supply our customers on a
21 regular basis will be at risk, and UPI's existence
22 will be put at risk.

23 In conclusion, I urge you to find that
24 revocation of the order would result in the recurrence
25 of material injury to UPI and the domestic industry.

1 Thank you very much for your attention to this matter
2 of great importance to UPI, and I would be pleased to
3 answer any questions the Commission might have.

4 MR. GLYPTIS: Good morning. My name is Mark
5 Glyptis, and I'm President of the United Steel Workers
6 Local 2911 at ArcelorMittal's mill in Weirton, West
7 Virginia. I've been employed at the Weirton mill
8 since 1973, and I am a third generation steelworker at
9 Weirton.

10 I've had the honor of representing the union
11 steelworkers at Weirton as president of their local
12 since 1991. I am here today to speak on behalf of the
13 United Steel Workers employed at all of the domestic
14 producers to urge you to maintain the antidumping duty
15 order on tin plate products from Japan.

16 I am joined here today by United Steel
17 Workers from U.S. Local 9477 at the RG plant tin mill
18 who traveled here today to support this case. I would
19 ask them to please stand up and be recognized. Please
20 stand up. Thank you.

21 CHAIRMAN OKUN: Welcome.

22 MR. GLYPTIS: When I testified before you
23 during the original investigation, I represented 3,100
24 workers who made a variety of steel products,
25 including the tin mill products. Today we have fewer

1 than 900 United Steel Workers at the Weirton plant of
2 whom make tin mill products.

3 The Weirton mill that employed my
4 grandfather, father and me literally is the heart of
5 the City of Weirton, West Virginia. The main street
6 of town actually runs through the middle of the mill,
7 and if the mill is the heart of the town, the heart of
8 the mill is made up of the workers. Those workers
9 saved the mill in 1984 by buying it themselves when
10 National Steel was going to shut the mill down
11 permanently. Those employee owners then invested more
12 than \$1 billion to create a world class steel mill at
13 Weirton.

14 When RC bought the mill nearly a decade ago,
15 the workers again helped to save the mill by agreeing
16 to new work rules, job reductions and compensation and
17 benefit reductions. Our retiree benefits were also
18 cut to far less than what they earned and were
19 promised for their lifetime of hard work and
20 dedication to the mill.

21 At this moment, however, I am much more
22 concerned about what we could lose at Weirton than
23 what we have already lost. As I said, we make only
24 one product line at Weirton, tin mill products. Those
25 tin mill products are sold to only a few customers.

1 If the Japanese producers are permitted to sell dumped
2 tin mill products in the United States again, tin mill
3 production at Weirton will be seriously threatened.

4 Weirton Steel was the original Petitioner in
5 this case, and I was involved in the original
6 investigation. I saw just how fast imports from Japan
7 increased to take sales and market share from Weirton
8 with low dumped prices. I saw firsthand Japanese tin
9 plate being unloaded at the sites of Weirton customers
10 which are located on our property. It was shocking to
11 see these customers buying dumped Japanese tin plate
12 delivered to their door for less than they could have
13 from Weirton Steel, which is located right at their
14 doorstep.

15 ArcelorMittal has a world class mill at
16 Weirton and one of the most highly trained expert
17 workforces in the production of tin mill products of
18 any company in the world. The United Steel Workers
19 have sacrificed and done everything possible to help
20 ArcelorMittal make the Weirton mill as efficient and
21 successful as possible.

22 We produce a great product, but if the
23 antidumping duty order is revoked I have no doubt that
24 Japanese tin mill products will again rapidly return
25 to the market. If that happens, the Weirton mill will

1 have a bleak future ahead, and I fear that I will be
2 among the last generation to be employed as a United
3 Steel Worker at Weirton.

4 The outlook is the same for my brother
5 steelworkers at other domestic producers of tin mill
6 products. Recently the RG tin mill plant at Sparrows
7 Point in Maryland was idled, and 260 United Steel
8 Workers were laid off, including those who are joining
9 us today. That plant may remain on idle for many more
10 months and shows just how vulnerable domestic tin mill
11 producers are in this still recovering economy.
12 Please maintain the antidumping duty order on tin mill
13 products from Japan. Thank you.

14 MR. KOPF: Good morning. I am Robert Kopf,
15 and I am the General Manager, North American
16 Flat-Rolled Marketing, for United States Steel
17 Corporation. I have been actively involved in all
18 aspects of our efforts to sell tin mill products for
19 several years, from contract negotiations with key
20 customers to analyzing market conditions here and
21 abroad.

22 I would like to focus my testimony on a few
23 key topics regarding the potential impact of dumped
24 Japanese imports. First, revocation of this order
25 will seriously hurt us in contract negotiations.

1 While the details of specific contracts are obviously
2 confidential, I can tell you that these days most
3 contracts are in place for one year only and that
4 annual contracts are more common today than they were
5 back in 2006, the last time you considered this order.

6 Thus, as a practical matter annual contracts
7 provide no real insulation from the harmful effects of
8 low-priced imports. For example, today is April 11.
9 In less than six months, we will be in the middle of
10 negotiating our one year contracts. I have no doubt
11 that if this order is revoked, our customers will
12 solicit and obtain offers from Japanese mills that
13 will undercut our prices. In other words, we will
14 feel the effects of Japanese imports almost
15 immediately.

16 It is unrealistic to expect long-term
17 contracts to insulate domestic mills from these
18 harmful effects. As I sit here today, I do not know
19 what any of our contract prices will be one year from
20 now. Furthermore, the last time you looked at this
21 order one of the U.S. Steel witnesses made two key
22 points about long-term contracts.

23 First, such contracts typically contain a
24 number of provisions whereby price or quantity terms
25 can be and are influenced by changes in market

1 conditions, and, second, the volume customers take
2 under such agreements is generally not fixed, but can
3 vary significantly based upon market conditions and
4 other potential supply options.

5 Without getting into confidential
6 information about specific contracts, I want to assure
7 you that those two points, particularly the latter,
8 are even more true today. You also need to understand
9 that price is absolutely central to tin mill contract
10 negotiations. Our customers care about factors such
11 as quality and deliverability, but you have to meet
12 those standards just to get your foot in the door. To
13 actually get the business you must be competitive on
14 price.

15 This business features only a few large
16 purchasers, and they are determined to get the best
17 possible price for their inputs. They can't afford to
18 do otherwise. For almost all end uses, tin mill
19 products account for a large percentage of the cost of
20 the finished good. Our major customers each have a
21 sophisticated team of purchasers who are very familiar
22 with this industry and whose job it is to get low
23 prices. From years of dealing with them, I can assure
24 you that they are very good at their job.

25 And that brings me to my second major point,

1 which is that tin mill customers can and will use the
2 threat of low-priced imports to obtain lower prices
3 from domestic mills. We certainly cannot afford to
4 disregard this possibility because of any alleged
5 advantage with respect to nonprice factors such as
6 deliverability.

7 In today's globalized market, companies know
8 all about how to manage offshore supplies in an
9 efficient manner, and once imports enter the United
10 States they are readily available to customers.
11 Customers can and do switch over to imports, even
12 imports from outside North America, very quickly. In
13 2009, for example, the United States imported just
14 under 71,000 tons of tin mill products from the
15 Netherlands. In 2010, that figure rose to over
16 176,000 tons.

17 Moreover, offshore imports continue to play
18 a major role in the United States. Last year, imports
19 from countries other than Canada held 11 percent of
20 this market. So if this order is revoked and a
21 customer tells me he or she may bring in Japanese
22 imports, I have to take that statement seriously.

23 Back in 1999, Japanese mills shipped over
24 320,000 tons of tin mill products to the United
25 States, and U.S. customers have gotten better at

1 managing foreign supply since that time. Furthermore,
2 Japanese mills remain active in this market selling
3 products that have been excluded from the order, and
4 their products will be widely accepted by American
5 customers.

6 Plus, because I know these imports will be
7 unfairly traded, I know that they are being offered by
8 companies who are primarily concerned with filling
9 their mills and who are not as concerned about getting
10 a profitable price as we are. In short, as soon as a
11 customer has access to dumped Japanese imports my
12 negotiating leverage will be dramatically weakened.

13 My final point this morning is that if this
14 order is revoked you should have no doubt that
15 Japanese mills will quickly become even more active
16 here. We know that Japanese mills exported around
17 915,000 tons of tin mill products last year and that
18 they are active in virtually every major tin mill
19 market, as well as a large number of minor markets
20 around the world.

21 It simply makes no sense that any producer
22 who is shipping to so many markets and who already has
23 contacts and customers here wouldn't want to increase
24 its sales to the United States. This remains one of
25 the largest potential markets in the world for the

1 Japanese producers.

2 Based on my familiarity of both markets, I
3 would estimate that the United States is roughly six
4 or seven times bigger than Mexico, for example, which
5 is currently Japan's largest export market. Moreover,
6 I am certain that Japanese mills can get better prices
7 here than in many other markets, such as Mexico. We
8 at U.S. Steel have tried to sell tin mill products in
9 Mexico and have been told that our prices, which were
10 consistent with those offered in the United States,
11 were far too high compared to the price of Japanese
12 shipments to that country.

13 Finally, I remember that just about this
14 same time last year Japanese mills told you they had
15 no interest in the U.S. market for hot-rolled steel,
16 that they were focused on Asian markets where they had
17 made investments. But look at what has happened since
18 the hot-rolled order was revoked. Japanese mills have
19 already shipped more hot-rolled steel to this market
20 in the first quarter of 2012 than they shipped in all
21 of 2011, so you should totally disregard their claims
22 that they have no interest in this market.

23 In conclusion, I cannot overstate the
24 importance of this order to domestic tin mill
25 producers. Yes, we have had difficulties. Yes, we

1 have faced tough market conditions, but we believe in
2 this product and we are fighting every day to make
3 this a sustainable American business for our workers
4 and shareholders.

5 Meanwhile, the Japanese are already selling
6 excluded products here, they're selling huge volumes
7 in Mexico, and they've recently started shipping a lot
8 more hot-rolled steel to this market. It is simply
9 ludicrous to suggest that they will not take advantage
10 of every potential opportunity to return. And if that
11 happens, we will be denied the fair chance we deserve
12 to obtain market-based prices for our tin mill
13 products. Please do not put us in such a position,
14 and thank you for the opportunity to testify.

15 MR. GOEDEKE: Good morning. I'm Tom
16 Goedeke, the Director of Tin Mill Products, Sales and
17 Marketing at ArcelorMittal USA. I have worked in the
18 steel industry for 45 years, most of which have been
19 in the tin mill sector. In my position as Director of
20 Sales and Marketing, I am familiar with the pricing
21 practices and conditions of competition faced in
22 selling tin mill products. I'd like to focus on these
23 issues this morning.

24 Many steel products, as you know, are sold
25 on the spot market based on transaction-by-transaction

1 negotiations. The tin mill products business is
2 largely based on annual contracts. The negotiations
3 between producers and purchasers generally occur in
4 the fourth quarter of the year. Domestic and foreign
5 producers participate in these negotiations with
6 purchasers.

7 The most critical factor discussed in these
8 negotiations is price. Purchasers are generally
9 meeting with multiple suppliers during this annual
10 negotiation process and are well aware of the prices
11 being offered by other domestic and foreign suppliers.
12 Even a slightly lower price offered by one supplier
13 can and has caused a buyer to choose that supplier
14 over others. Because tin mill products are highly
15 interchangeable regardless of the supplier, paying the
16 lowest possible price is critical to the customer.

17 The tin mill business is also different from
18 sales of most other types of steel products because
19 there are a small number of relatively large
20 purchasers in this business. Purchasers of tin mill
21 products tend to have significant buying power and can
22 dictate terms of sale. Even without the Japanese
23 producers in the market, we are suffering a cost/price
24 squeeze and have not been able to fully pass on our
25 raw material cost increases.

1 I understand the Japanese producers argue
2 that they will not be able to compete in the U.S.
3 market because they cannot enter into annual contracts
4 due to raw material cost volatility. This claim is
5 not true. High and volatile raw material costs are a
6 fact of life for all of us. We are not insulated from
7 variations in these raw material costs any more than
8 the Japanese producers. ArcelorMittal sources a
9 significant portion of its raw materials from market
10 sources. Moreover, all raw materials consumed from
11 ArcelorMittal mines that can be practically sold on
12 the open market are transferred at market prices.

13 Nor is the qualification process an obstacle
14 to re-entry by Japanese producers. Domestic producers
15 are familiar with using Japanese material and would
16 find it easy to substitute in their U.S. operations.
17 It would only take a few months, if that, for JFE and
18 Nippon Steel to be qualified to supply the subject tin
19 mill products.

20 If the Commission issues a negative decision
21 in this case in May of this year, I have no doubt that
22 the Japanese producers will be qualified and competing
23 with us for contracts in the fourth quarter when the
24 annual negotiations next occur. Buyers are not going
25 to refuse with the Japanese suppliers offering low

1 prices because of a qualification process.

2 If the order is revoked, Japanese producers
3 will re-enter this market on the basis of low, unfair
4 price offers as they previously did, driving down even
5 further the prices we can obtain on our sales. As Mr.
6 Mull testified, our industry is in a fragile
7 condition. We have seen our production, sales and
8 employment decline as other types of products are
9 substituted for tin mill products. We cannot obtain a
10 reasonable return on our sales, leading to the
11 consistent financial losses our industry has incurred.

12 Trying to increase export of this product is
13 not really an option, given global overcapacity, as
14 well as the low prices of tin mill products in other
15 markets compared to the U.S. prices. We have been
16 offered opportunities to sell tin mill products into
17 Mexico, but the market prices there have always been
18 lower than prices in the U.S. market.

19 Given these facts, reopening our market to
20 unfairly traded imports from Japan would be a recipe
21 for disaster for both my company and for our workers
22 in Weirton, West Virginia. Thank you.

23 MR. HECHT: That concludes our presentation,
24 and we would reserve the balance of our time. Thank
25 you.

1 CHAIRMAN OKUN: Thank you. Before we begin
2 our questions this morning, let me take this
3 opportunity to thank all the witnesses for being here,
4 for the many members of the industry, representatives
5 who have taken time to answer questions about your
6 business. We appreciate it.

7 I want to extend a special welcome, Mr.
8 Glyptis, to the workers who have joined us that we
9 recognized earlier during your testimony, so welcome
10 to all of you in the back of the room. We hope that
11 you find the hearing I guess -- what do we want to
12 say? That it's informative. That the hearing is
13 informative. That's what it's meant to be and part of
14 the transparent system in the United States.

15 So with that I'll remind everyone with so
16 many witnesses out there to please restate your name
17 when you're answering questions for the benefit of the
18 court reporter. We will begin our questions this
19 morning with Commissioner Johanson.

20 COMMISSIONER JOHANSON: Thank you, Madam
21 Chairman, and I would also like to welcome all of
22 today's witnesses here today, and I would like to give
23 a special welcome to the workers from RG Steel. I
24 visited the Sparrows Point facility a few months ago,
25 and I found that visit very informative, so thank you

1 all for hosting us there.

2 The record shows that the domestic industry
3 has supplied about 80 to 90 percent of the market
4 since 1997. What accounts for the limited share of
5 imports in this market? This is a question for anyone
6 on the panel.

7 MR. SCHERRBAUM: Well, I think the import
8 numbers in here are roughly 18 to 20 percent of
9 market, and I guess we would say that that is a fairly
10 significant amount of volume coming in here that is
11 imported. I believe last year it was approximately 19
12 percent.

13 COMMISSIONER JOHANSON: Is there an upper
14 limit on how much tin mill product purchasers buy from
15 any import sources?

16 MR. MULL: Would you repeat the question?

17 COMMISSIONER JOHANSON: Is there an upper
18 limit on how much tin mill product purchasers normally
19 will buy from import sources?

20 MR. MULL: I don't believe that's the case,
21 no.

22 COMMISSIONER JOHANSON: Okay. Thank you.

23 MR. KOPF: I would like to just make a
24 comment on that. I believe that the purchasers of tin
25 mill products here in the U.S. have a very

1 sophisticated just-in-time delivery system where they
2 will insist that we have product staged in inventory
3 ready for them. They would insist the same thing from
4 producers from other countries.

5 So essentially you have product sitting here
6 in the United States in a warehouse ready to ship to
7 them to be delivered within a very short period of
8 time, so I would argue that there really is no
9 difference between steel from a domestic producer or
10 imported steel because their demands are similar no
11 matter where the product comes from.

12 COMMISSIONER JOHANSON: And the quality is
13 the same?

14 MR. KOPF: And the quality is the same.

15 COMMISSIONER JOHANSON: Okay. Thank you.
16 I'd like to ask a question now regarding Sparrows
17 Point. How has the temporary shutdown of the Sparrows
18 Point facility affected the overall market? Have you
19 all seen impact at this point?

20 MR. MULL: It's been absorbed into the
21 market, number one. You know, if you look at the
22 operations of the industry in general, and I don't
23 necessarily want to speak for our competitors, but we
24 all have been running at lower levels. We all have
25 additional capacity. We've all taken times where

1 we've had to shut down parts of our operations.

2 And so the ability, there's excess capacity
3 and excess supply, and the demand has not been as
4 strong for tin mill products as we would like it to
5 be, and as a result that's the challenge and that's
6 one of the reasons we're so vulnerable is because the
7 business -- this segment of the business has not been
8 as strong of a recovery as some of the other things
9 we've seen in our business.

10 COMMISSIONER JOHANSON: Yes, Mr. Scherrbaum?

11 MR. SCHERRBAUM: Yes. Joe Scherrbaum with
12 U.S. Steel. I'd just like to concur with Mr. Mull.
13 There is plenty of capacity here, and the recent
14 idling of Sparrows Point, I think what volume they did
15 have has been absorbed amongst I think all the other
16 facilities that are available.

17 COMMISSIONER JOHANSON: Have you seen by
18 chance an uptick, even a slight uptick, in production
19 from the other facilities following the idling of
20 Sparrows Point?

21 MR. SCHERRBAUM: I'd say a slight uptick,
22 yes.

23 COMMISSIONER JOHANSON: Okay. Thank you for
24 your answer.

25 MR. KOPF: Excuse me. May I make one more

1 comment?

2 COMMISSIONER JOHANSON: Yes.

3 MR. KOPF: This is Rob Kopf. The
4 announcements out of Sparrows Point are that they are
5 temporarily ceasing production of their tin mill
6 facilities there, and there is no guarantee or
7 announcement that they're taking those facilities down
8 forever so if market conditions improve they have
9 every intention, from what we've read, to bring those
10 facilities back up and operate them again.

11 COMMISSIONER JOHANSON: I know that no one
12 on the panel is from RG Steel, but do you have any
13 idea as to how long it would take to bring a mill back
14 into production after it's been idle for a period of
15 time? Is that a complicated process?

16 MR. KOPF: I would say you could probably do
17 it within 30 to 45 days. Once you've winterized
18 equipment and all of that you can get it -- it's not a
19 matter of many, many months. It's more a matter of a
20 month.

21 MR. SCHERRBAUM: Right.

22 COMMISSIONER JOHANSON: Okay.

23 MR. SCHERRBAUM: Joe Scherrbaum here.

24 COMMISSIONER JOHANSON: Yes?

25 MR. SCHERRBAUM: Because they are continuing

1 to operate their steel making facility, so the only
2 thing they have to bring back up is the tin mill.
3 It's not a blast furnace. Everything else is already
4 operational.

5 COMMISSIONER JOHANSON: Okay. Thank you.
6 Yes, Mr. Rosenthal?

7 MR. ROSENTHAL: Thanks, Commissioner
8 Johanson. May I, if I could, just go back to your
9 initial question concerning the 20 percent import
10 penetration or thereabouts as being limited? I think
11 in historical terms the Commission has always seen
12 that as a significant import penetration, and if you
13 compare it certainly to the import penetration in
14 Japan it's gigantic.

15 The other thing that you have to keep in
16 mind when you're talking about 20 percent import
17 penetration is at what price? One of the things that
18 the purchasers have done a phenomenal job on over the
19 years and has been testified to by the domestic
20 producers is that they have managed to bring in
21 volumes at the prices, at the negotiated prices to
22 keep the domestic prices as low as can be, and so they
23 view this as leverage, as well as the ability to
24 supply their needs, and the price effect of that 20
25 percent is dramatic.

1 COMMISSIONER JOHANSON: All right. Thank
2 you, Mr. Rosenthal.

3 My next question regards the year 2009, and
4 in looking at the profitability charts 2009 was a
5 profitable year for the U.S. industry, especially
6 compared to other years during the period of review.
7 Can you all give an estimation as to what happened in
8 2009 to make that year profitable, whereas other years
9 were not profitable? Yes, Mr. Scherrbaum?

10 MR. SCHERRBAUM: Yes. As you know and as
11 we've testified, raw material costs are a key part of
12 this, and given that this business is annually
13 contracted there was a significant spike in raw
14 material costs during the year 2008 which played into
15 the negotiations that went on in late 2008 for 2009,
16 so we were able to raise our prices significantly to
17 assume the cost increase that happened in '08. We
18 could not do it during that year because we were
19 already in a contract period.

20 Then as you would notice in 2009 our price
21 did go up, and then if you look forward to 2010, first
22 of all in 2009 some of the imports reduced from
23 500,000 tons to 300,000. As the price, they came
24 right back into the market, and in 2010 we saw a
25 further increase back to the 19 percent or so level of

1 imports.

2 COMMISSIONER JOHANSON: All right. Thank
3 you, Mr. Scherrbaum.

4 I have a question now on sales in the U.S.
5 market. Basically how, if at all, does demand for
6 cans vary with the business cycle? Is it a cyclical
7 or countercyclical industry?

8 MR. KOPF: I think the demand for cans
9 really needs to be described in two different ways.
10 You have food cans, which many people tend to regard
11 as being countercyclical to a degree, where as
12 economies start to slow down and we entered the
13 recessionary period that we were in canned goods tend
14 to increase. That's the traditional movement.

15 COMMISSIONER JOHANSON: Why is that?

16 MR. KOPF: People don't go out as much.
17 They tend to eat at home more and will consume more
18 goods, canned goods at home, as they are trying to
19 watch their budgets.

20 However on the aerosol can side of things
21 those tend to be considered more discretionary in
22 nature, and as people don't go out and spend money
23 going out they also cut back on the things that they
24 spend on at home. For example, they will use less
25 furniture polish and things of that nature to try and

1 make sure they're not spending money where they don't
2 need to.

3 COMMISSIONER JOHANSON: All right. Thank
4 you. And for the representative from USS-POSCO, I was
5 wondering. I assume that since your plant provides
6 product for the agricultural industry in California I
7 assume that your plant is somewhat cyclical, your
8 production is somewhat cyclical. Is that correct?

9 MR. PETERSON: Craig Peterson with USS-POSCO
10 Industries. There is a so-called packing season. For
11 example, the largest crop packaged in California are
12 tomato products. The harvest season and packing
13 season for tomato products begins in June and may go
14 all the way through October, so in that regard we do
15 see a pickup, if you will, of shipments to the canning
16 industry specifically for tomato products.

17 However, we produce our production to meet
18 those needs somewhat in advance of the heightened
19 packing season, so production is spread out fairly
20 evenly throughout the year.

21 COMMISSIONER JOHANSON: All right. Thank
22 you. Well, my time is about up. That concludes my
23 questions for now. Thank you.

24 CHAIRMAN OKUN: Thank you. I wanted to ask
25 some questions about some of the issues you touched on

1 with respect to what might be the same, what looks the
2 same during this review as from the last review and
3 going back to the original investigation and what
4 would be different.

5 My first question is about nonsubject
6 imports. You were asked about the level of them, but
7 can the industry representatives talk a little bit
8 about what role the nonsubjects play currently in
9 contract negotiations? You've talked about a very
10 rigorous contract negotiation where there's a lot of
11 transparency of prices. Has that changed? Has that
12 had an impact on contracts themselves? Just talk a
13 little bit more about the role of nonsubject imports.
14 Mr. Mull?

15 MR. MULL: Yes. Dan Mull. At the time of
16 negotiations certainly all our competition is an
17 influence on the market, and the individual companies
18 will not necessarily tell you who the competition is,
19 but certainly lead you into the price negotiations
20 based upon what type of offerings they may have from
21 other types of supply -- often that could be from
22 offshore suppliers -- and the ability to be able to
23 use that as leverage in negotiations when there's two
24 things that are very sensitive to our business. One
25 is price and the other one is volume.

1 The risk of losing volume, and it's
2 particularly sensitive with the tin mill business
3 because there's so few customers and they are so
4 large, that the opportunity for them to use that
5 leverage and to use these other offerings from
6 offshore is always part of the negotiation.

7 CHAIRMAN OKUN: Mr. Scherrbaum?

8 MR. SCHERRBAUM: Yes. Just to add to that,
9 I can clearly recall when this was, without going into
10 any confidential information, an occurrence, and I
11 can't remember exactly when, the last two, three, four
12 years where we were moving along in our contract
13 negotiation and thought we were close to being
14 complete and all of a sudden our customer came back
15 and there was some nonsubject country offers of
16 significant volume that we were asked to adjust our
17 price to be competitive with, so they have a clear
18 factor.

19 CHAIRMAN OKUN: Okay. Would any other
20 producers or industry representatives want to comment?

21 MR. KOPF: This is Rob Kopf from U.S. Steel.

22 CHAIRMAN OKUN: Yes?

23 MR. KOPF: I would just say that I have
24 never been part of a contract negotiation with a tin
25 customer where the subject of imports was not a

1 significant part of the discussion in the next
2 contract volume and price that were negotiating, and
3 in several cases I can recall significant reductions
4 in price that we had to meet in those discussions in
5 upwards of 5 to 10 percent contract to contract
6 because of the impact of imports from around the
7 world.

8 CHAIRMAN OKUN: Okay. And then just looking
9 at what would happen were the order revoked and what
10 impact the Japanese imports would have in those same
11 contract negotiations where there's intense
12 competition, can you help me understand your argument
13 that they would necessarily come in and undercut the
14 nonsubject prices in order to gain market share?

15 MR. KOPF: Yes. This is Rob Kopf again. We
16 have very clear evidence that they are selling down
17 into Mexico significant quantities of steel every
18 year, and they are doing it at prices that we simply
19 cannot compete with down into Mexico.

20 We tend to have discussions with people down
21 in Mexico who consume tin mill products, and we are
22 often times so noncompetitive it's a triple digit
23 number. They have very sophisticated supply chains
24 down there, much like would be required here, to
25 service the U.S. market, and the transportation costs

1 from Japan to Mexico are I'm sure equivalent to what
2 it would be from Japan to the United States.

3 We have evidence that we'll be able to
4 submit later that suggests that they currently sell
5 not under three month agreements, but in six month
6 agreements down in Mexico. They are already in
7 discussions for the second half of the year at
8 virtually no price change, so essentially offering 12
9 month prices into Mexico at prices below our unit
10 value cost that was put up on the slide before.

11 CHAIRMAN OKUN: Yes, Mr. Hecht?

12 MR. HECHT: I would just point out we really
13 do think that the relative price story here is
14 anything stronger than what you saw even five years
15 ago. You know, we put up some published pricing data.
16 We've got an analysis in terms of AUV data in our
17 brief. You're hearing direct testimony of folks with
18 experience in the Mexican market.

19 The fact is they're shipping very large
20 volumes to a number of markets around the world, which
21 we think would not only undercut nonsubject. They
22 would undercut domestics who are competing with the
23 nonsubject as well.

24 So a lot of the data here unfortunately is
25 confidential, but we will certainly be continuing to

1 address that posthearing and show you why we think
2 they could easily undercut prices here.

3 CHAIRMAN OKUN: Okay. I'll appreciate
4 seeing that information posthearing.

5 You've discussed in your presentation China
6 I think focused more on the fact that Japan was
7 selling into China and with the increased production
8 in China that that market is not as attractive and is
9 also affecting their other Asian markets, and I'll
10 come back to have some questions about that.

11 But I guess one of the questions in looking
12 at the record, it appears China has grown in this
13 market, and I guess I'm curious whether you see any
14 distinction among the nonsubjects and the role of
15 China and what it might play going forward.

16 MR. SCHERRBAUM: Joe Scherrbaum. Our recent
17 experience has been with China coming into the U.S.
18 market is we are seeing continued growth of their
19 volume here, and we're also seeing them with their
20 product or their quality is continuing to improve.

21 So they are coming in and selling product
22 that is very comfortable on a quality basis into some
23 of our customers where we compete with them head on in
24 some of their plants.

25 CHAIRMAN OKUN: Okay.

1 MR. SCHERRBAUM: And it's improving.

2 CHAIRMAN OKUN: Yes, Mr. Mull?

3 MR. MULL: I'd like to add that certainly a
4 good example of part of our problem is that that is
5 being used in the marketplace. That is the leverage
6 that's being used and one of the reasons that we've
7 had a low ceiling on our pricing.

8 CHAIRMAN OKUN: Okay. And then if you could
9 help me understand the raw material and the
10 volatility? Have there been any changes in how your
11 contracts are negotiated to account or to take into
12 account the raw material volatility?

13 I obviously can see in the record what's
14 happened to raw material costs and I'm just wondering.
15 Are people reluctant to even enter into one-year
16 contracts? Are your purchasers? Is anyone reluctant
17 to do that just because it's so volatile? I obviously
18 don't want to get into confidential information, so --

19 MR. MULL: Yes. The one period of time Mr.
20 Scherrbaum had referenced where we did have a balance
21 in the leverage was in 2008 when the general economy
22 was strong. Raw materials were going up, and we did
23 negotiate some variable contracts at that time.

24 What we found was the next year we lost our
25 even position with our customers and they went back

1 pretty much pushing us for firm pricing for the year.
2 We have been back in that position the last couple
3 years.

4 CHAIRMAN OKUN: Okay. All right. I
5 understand that reference there.

6 I have some time left here, but with respect
7 to the argument about where Japan's -- whether the
8 U.S. is still an attractive market. What in the
9 record do you think is most probative on Japan re-
10 entering this market or seeing it as attractive?

11 I mean, obviously we've collected some
12 information on pricing worldwide and I think you
13 focused on that, but is it the size of the U.S.
14 market? Is it the price of the U.S. market? Is it
15 what we see in Mexico? What do you think is most --

16 MR. SCHERRBAUM: Joe Scherrbaum here. I
17 believe it's a number of things. First of all, even
18 though the U.S. market has been slightly declining
19 over the period it is still an extremely large market,
20 and if you look at the other areas where Japan
21 currently is shipping to there's a number of small
22 countries like the Dominican Republic and places in
23 the Mid East, et cetera, where they're doing 2,000 or
24 5,000 tons a year.

25 And with the size of our market, their

1 ability where they already are shipping hot-rolled and
2 slabs in here the logistics will be good and we think
3 it would just be very attractive to ship larger
4 volumes here versus fragmented volumes to a number of
5 smaller places around the world.

6 CHAIRMAN OKUN: So the volume, even if it
7 were a declining market. Mr. Mull?

8 MR. MULL: I'd just like to support. I'm
9 trying to make it more personal.

10 First of all, if I was representing one of
11 the can companies I certainly would be looking at all
12 these avenues of opportunity to lower my cost, and
13 then if I was a Japanese representative I certainly
14 would welcome the opportunity to be able to sell into
15 this market because it is an easier market to transact
16 and would certainly want the opportunity to do it.

17 Unfortunately what I am is a representative
18 of a mill in Weirton, West Virginia, producing tin
19 mill products in the United States that is in a very
20 challenging position, and adding additional supply
21 into an already oversupplied market will only make it
22 more difficult for not only the mill in West Virginia,
23 but for all the mills in the U.S. to compete.

24 CHAIRMAN OKUN: Thank you. I've got my own
25 red light here. Vice Chairman Williamson?

1 VICE CHAIRMAN WILLIAMSON: Thank you, Madam
2 Chairman. I too want to express my appreciation to
3 the witnesses for coming today.

4 Mr. Glyptis, Commissioner Johanson has
5 already talked about I guess the profitability of year
6 2009, but I was just wondering. What impact did that
7 -- and that was, as was explained, due to the decline
8 in raw material prices. But I was wondering what
9 impact that had on the workers in terms of employment
10 at the mills.

11 MR. GLYPTIS: Well, we've seen employment
12 decrease over the last several years. What the union
13 has done is negotiated contracts that have made us
14 more efficient. We're a very progressive union, and
15 we've negotiated the efficiencies.

16 For example, we have our operating employees
17 doing maintenance work. Instead of having one
18 operating person and one maintenance individual, we
19 just have one person that does both operating the line
20 and maintaining a good portion of the line. So there
21 has been a decrease in the workforce since '09, which
22 was our best year.

23 As the charts have shown here more recently,
24 at Weirton we have an average workforce of 60 years of
25 age. We're a very senior workforce. We've had

1 retirements, and some of those employees have been --
2 we've hired some new employees through attrition
3 primarily to replace those that have retired.

4 And to some extent there has been a slight
5 increase in the order book and some additional crews
6 have been added, but overall from a trend standpoint
7 there has been less employees working today than there
8 has been in '09.

9 VICE CHAIRMAN WILLIAMSON: Clearly
10 maintaining a skilled workforce as people retire is
11 probably important to the competitiveness. So what
12 does it take to ensure that a company can do that?

13 MR. GLYPTIS: We've negotiated, we being the
14 United Steel Workers along with ArcelorMittal and
15 other producers of steel negotiated a program called
16 Steel Worker of the Future.

17 We believe that there's a future for making
18 steel and specifically a Weirton template, so we've
19 engaged our community colleges both in West Virginia
20 and Ohio with a program called Steel Worker of the
21 Future, which is an agreement with both the union and
22 management and our colleges, our community colleges,
23 to provide training to become future steelworkers,
24 which we think is a very progressive way of
25 maintaining the skill needed to be the most efficient

1 steelworkers in the world.

2 So it's a combination of training that's
3 occurred through our community colleges, which is a
4 new phenomenon -- it's never happened before -- along
5 with our senior workforce. We take a great deal of
6 pride. Before some of our workers retire, many of
7 them have 35, 40, 45 and some have 50 years of service
8 to garner the knowledge that they've obtained in their
9 employment life and pass that on to new employees.

10 So we're in the infancy of doing that, but
11 that assures us that we have a qualified workforce
12 that could compete against anyone in the world.

13 VICE CHAIRMAN WILLIAMSON: Okay, so the
14 ability to continue with that, I guess, depends on --

15 MR. GLYPTIS: Right, that's very important
16 because templating is a -- it's marked. You don't
17 become a templater in two or three years. Many times
18 it takes many, many years, and we kind of lost a
19 generation. There wasn't anyone hired. I've waited
20 for a long, long time.

21 Finally there is some employment occurring
22 in the last several months. It's due primarily to
23 attrition, but one of the concerns is we maintain the
24 skill that we have today for our future generations.

25 VICE CHAIRMAN WILLIAMSON: Thank you for the

1 clarification.

2 MR. GLYPTIS: You are welcome.

3 VICE CHAIRMAN WILLIAMSON: That adds an
4 additional angle to the issue we're discussing.

5 In one point of the staff report shows that
6 over the last 15 years the domestic industry reported
7 on an operating income on each two years and an
8 operating loss in the other 13 years. Only three of
9 those 15 years were there sizeable quantities of
10 imports in the market.

11 So, I was wondering why do the domestic
12 producers continue to participate in this market if
13 they are losing money year after year? And does the
14 continuing production and money-losing product lend
15 support to the respondents' argument that even with
16 losses at the tin mill stage, tin mill production is
17 advantageous to integrative producers in part because
18 it helps them to achieve higher utilization rates on
19 upstream stages of production?

20 And Mr. Scherrbaum, you talked somewhat
21 about whether or not companies would stay in this
22 business.

23 MR. SCHERRBAUM: Sure. Joe Scherrbaum with
24 U.S. Steel.

25 As I said in my testimony, we do have

1 significant facilities dedicated to this product.
2 Obviously, the numbers show that it has not been
3 profitable and we're not happy with that obviously we
4 continue to lose money in a product line, but we
5 evaluate all of our various product lines by
6 profitability.

7 But we still believe, and we got through an
8 economic crisis this year. There was a significant
9 raw material spike, and we as an industry and as a
10 company are working very hard to try and grow some
11 market back for our product versus alternative
12 products, and with the green movement sustainability
13 efforts, you know, a tin can is 100 percent
14 recyclable, we still think there is a future for this
15 business, and just we're going to stick with it, keep
16 working at it, and do not need to be competing with
17 anymore unfairly traded imports, and again, we believe
18 that there is still a future for this business.

19 VICE CHAIRMAN WILLIAMSON: Okay.

20 MR. MULL: If I could just add a few
21 comments to support Mr. Scherrbaum's position.

22 VICE CHAIRMAN WILLIAMSON: Yes.

23 MR. MULL: The most important thing is we
24 can train additional workers, and we can make
25 investments and keep our facilities up, but we in 2009

1 and several of those where we're actually able to get
2 a fair pricing for our product, and eliminate
3 additional competition from being able to do that.

4 If we are able to do that, there is no doubt
5 in my mind the canning industry is going to survive in
6 the United States. It's a matter of whether we get
7 the opportunity to continue to be able to provide tin
8 to those products.

9 VICE CHAIRMAN WILLIAMSON: Okay. But I was
10 just wondering, the tin mill stage of it, how does
11 that relate to say the upstream production and
12 producing the tin mill products? Does that affect the
13 probability of the upstage stages of your -- if you
14 are an integrated producer, upstream activities?

15 MR. KOPF: This is Rob Kopf.

16 We go into our contract negotiations for all
17 products, whether they are tin plate, hot-rolled,
18 cold-rolled or other coated sheets, looking at each
19 product on their own merits, whether they make money
20 or don't make money. It's important to understand
21 that the facilities that produce these tin mill
22 products only make tin mill products once you get past
23 a certain stage, and we don't have avenues to sell
24 this product to other industries if the can makers do
25 not commit volumes to us to take away that material

1 that we make.

2 So, as we negotiate every year we don't
3 enter negotiations with our customers assuming we're
4 going to lose money on those units just because it
5 helps us somewhere else in the operation. We enter
6 into contract negotiations attempting to make money in
7 our tin mill products.

8 Unfortunately, early in the periods that you
9 were looking at, referring to, the industry had been
10 under a very long-term type contracts. Those contract
11 periods have shortened up and do tend to move a little
12 bit more with the markets now. Unfortunately, we face
13 our generation's largest economic challenge that
14 derailed a lot of things in this country in the end of
15 2008, 2009, 2010, that we are still recovering from

16 VICE CHAIRMAN WILLIAMSON: Okay. Mr. Hecht?

17 MR. HECHT: Yes, if I could just make a
18 point on that argument.

19 You know, I would point out the argument
20 they are making that somehow this is a product area
21 that people don't care about or producing at a loss,
22 it's diametrically the opposite of what they argued
23 five years ago.

24 I think Commissioner Okun, Commissioner
25 Aranoff got into this question of would you use

1 available capacity or not. Their argument was it's a
2 new steel industry, which was about pricing and not
3 necessarily about rushing volume out the door. That
4 was true of them. That was true of us. They had Dr.
5 Prusae here talking about the invulnerability of this
6 industry. So, I do want to highlight just the
7 absolute diametrically opposite position they are
8 taking now.

9 The fact is neither one of their arguments
10 is true. We did not have market power, obviously as
11 you can see from the record here, and it's not true
12 that we don't care about this product because you've
13 heard from the gentlemen here this morning. So, I did
14 want to make that point about just how different --
15 what a difference five years makes in terms of what
16 they are arguing, and I'd point out they are
17 integrated producers also.

18 If they are trying to describe how they
19 operate, that they just produce every last ton no
20 matter whether it's for a loss or not, that's
21 certainly something the Commission could take account
22 of, but I think you've heard from the witnesses today
23 that they operate and expect to make a profit on this
24 product, and that's what they are trying to do, and we
25 certainly don't need unfair trade in this market while

1 they are trying to do that.

2 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.

3 My time has expired. Thank you.

4 CHAIRMAN OKUN: Before I turn to
5 Commissioner Pearson, I wanted to note there is a pair
6 of keys that have been turned in by the lobby guard,
7 so they are wondering whether it might be from one of
8 the witnesses here, so please check to see if you
9 might have lost some keys are you were coming through
10 security, and just let the secretary know if he can go
11 collect those for you.

12 All right, with that, Commissioner Pearson.

13 COMMISSIONER PEARSON: Thank you, Madam
14 Chairman. I did check. I have my keys, so I'm okay,
15 I think. They would probably let me in anyway.

16 Greetings to all of you, so many familiar
17 faces, it's good to have you back again.

18 Mr. Glyptis, I wanted to say a special thank
19 you to you because you may not remember, but a number
20 of years ago I was part of a small delegation that did
21 tour Weirton, and that was in the previous review,
22 and I have good memories of that, the hospitality that
23 you and your fellow union members showed as well as
24 the ArcelorMittal officials that were there to help us
25 understand that process, and I absolutely agree with

1 your comment that the mill is integral to the
2 community. It's just built right in there. It's
3 almost hard to separate them.

4 MR. GLYPTIS: I remember you being there and
5 I greatly appreciated it, and thank you.

6 COMMISSIONER PEARSON: Well, I didn't have
7 time to come back this time but I remember it from
8 before.

9 MR. GLYPTIS: You are welcome back anytime.

10 COMMISSIONER PEARSON: Thank you.

11 Most of you are familiar with our processes
12 and our terminology, so I just want to start off by
13 saying this is not the happiest see table that I have
14 ever seen. You know, let me start at the top with
15 apparent consumption. You know, it's trending
16 downward and so my first question for you is, what's
17 the likely trend for domestic consumption of tin mill
18 products? Is it going to keep declining for quite
19 awhile or is it going to level off?

20 MR. KOPF: This is Rob Kopf with U.S. Steel.

21 There are fluctuations in apparent
22 consumption of tin mill products and obviously things
23 like weather actually impact how much food is produced
24 and canned every year, but I guess more importantly
25 this is a product line where we have tremendous hope

1 for the future for this product, and actually most of
2 us at these tables here are involved in activities to
3 actually promote growth in the canned food market. We
4 actively spend money and participate in the Canned
5 Food Alliance which is an industry group which is
6 attempting to promote the use of canned food,
7 talk about both the safety of canned food as well as
8 the sustainability. The steel can is an infinitely
9 recyclable product, very green product and has
10 significant advantages for the long-term good of the
11 planet we live on, and we have a very good message
12 that we're really just now starting to get all of the
13 hard data out and making people aware of the benefits
14 of canned foods.

15 So, I know the numbers have shown reductions
16 over the years, but we actually believe that we have a
17 story that will generate interest in canned goods and
18 increase the consumption of tin mill products.

19 COMMISSIONER PEARSON: Okay. So you see tin
20 mill products as holding their own in the marketplace
21 or based on the difficulties that other packaging
22 manufacturers might have in meeting certain
23 requirements, that there should be some solid basic
24 demand for tin mill?

25 MR. KOPF: Yes, I would say absolutely,

1 particularly given the fact that the food that is
2 grown here in the United States you really can't ship
3 it overseas to can it to bring it back. To preserve
4 the freshness of the material you really need to have
5 can plants relatively close to where the food is
6 harvested which is the case all throughout the United
7 States.

8 COMMISSIONER PEARSON: And there is some
9 upper limit on how much can go into plastic cups and
10 other types of packaging?

11 MR. KOPF: We think our story will paint a
12 picture that does support that.

13 COMMISSIONER PEARSON: Okay, thank you.

14 The original order dates to the late 1990s,
15 and I think it's correct to say that this is one of
16 those cases that was stimulated by the Asian financial
17 crisis. How important a factor was that in the surge
18 of imports that we saw at that time? Mr. Vaughn?

19 MR. VAUGHN: Well, I think that, you know,
20 the story of the Asian crisis is a story that has come
21 up from time to time. I think here it's probably not
22 as significant as it was in some other things. You
23 have heard from these guys that this market is
24 sometimes -- there are elements of this market that
25 are actually somewhat countercyclical, and I actually

1 think that if you look at sort of, you know, what was
2 happening in this market in the late 1990s is that
3 Japan was apparently shipping as much tin mill
4 products to this market as they could. And if you
5 look at your record now, that is what they are doing
6 today.

7 I mean, they seem to be in every possible
8 market. They seem to be shipping as much as they can
9 everywhere, so I don't think that that was -- I don't
10 think this was a situation of like, well, that was a
11 temporary thing and now things are different. They
12 are still very active in Mexico. They are still very
13 active in the rest of Latin America. They are in
14 Africa. They are in Europe. They are pretty much
15 everywhere they can be.

16 So, I think that Asian crisis story that
17 they sort of try to tell in other inventions, I just
18 don't think applies here.

19 COMMISSIONER PEARSON: Okay, but I think
20 there was testimony earlier that if the order was
21 revoked we would likely see a surge similar to what we
22 saw in the original investigation, and I'm wondering,
23 are you confident in that case or are you thinking
24 there may be some increase but perhaps not the surge
25 that arose because of the particular circumstances at

1 that time?

2 MR. VAUGHN: Well, I just think that when
3 you look at the data for this industry, I mean, it's
4 not evident at all to me that there has been any
5 change in sort of their behavior. In other words, I
6 mean, they seem to be very aggressively pursuing every
7 market. I mean, one year they shipped 14,000 tons to
8 The Netherlands, the next year they shipped almost
9 50,000 tons to The Netherlands. And some of these
10 markets are really small.

11 So, you know, I think that you can be
12 confident, I believe, that when you look at the fact
13 that they are so active in Mexico, when you look at
14 the fact that they're so active in so many other
15 markets, when you look at the pressure that they are
16 coming under from China in the markets that are
17 closest to them, and when you look at the fact that
18 they've recently increased shipments of hot-roll to
19 the United States and shipments of other flat-rolled
20 products to the United States, I think that these
21 Japanese mills are in real trouble. I mean, I think
22 they are facing real severe competition from China. I
23 think it is really squeezing them, and I think we
24 would see very significant volume.

25 COMMISSIONER PEARSON: Okay. Mr. Kaplan.

1 MR. KAPLAN: I would also like to add that
2 the demand and the consumption in the U.S. market has
3 changed over time, too, so that the quantity of
4 imports necessary to cause dramatic effects is less
5 than it would be in previous circumstances as well.
6 So, not only do you have no change in the behavior of
7 the Japanese producers who have similar incentives
8 with the U.S. being the largest single market, and
9 their behavior shown that they are searching for any
10 market possible, plus the pressure from China, but you
11 also have a weakened demand condition in the United
12 States which presents a situation that would certainly
13 cause a continuation or a reoccurrence of injury given
14 the vulnerability of the domestic producers.

15 COMMISSIONER PEARSON: Okay. Mr.
16 Scherrbaum, I think it was you who made the case that
17 Japan's own market for tin mill products is relatively
18 protected. Do you know, are the Japanese firms able
19 to achieve higher earnings at home?

20 MR. SCHERRBAUM: Joe Scherrbaum.

21 We know that their pricing as reported at
22 their home market, as I testified, was over \$1,700 a
23 ton, which is significantly higher than anything that
24 we see really in any other market in the world.

25 COMMISSIONER PEARSON: You probably wouldn't

1 be able to discuss this in a public hearing, but do
2 you have any competitor intelligence or any
3 information regarding their earnings on this product
4 line that perhaps you could provide in the post-
5 hearing?

6 Because the reason for asking is I hear you
7 and I think they must be making quite a bit of money
8 in their home market. I hear Mr. Vaughn, he thinks
9 the Japanese firms are under considerable pressure
10 from the Chinese product. And so I'm not sure whether
11 to think they are making money or they are not making
12 money. Mr. Vaughn?

13 MR. VAUGHN: Yes, Commissioner Pearson.

14 COMMISSIONER PEARSON: Did I misinterpret
15 your comment?

16 MR. VAUGHN: Yes, let me just explain a
17 little bit. I think that in the first place -- I
18 mean, to me this is a good example of why these laws
19 exist. Your data indicate that they have a protected
20 -- I mean, the trade data indicate that they have a
21 protected home market, and that as a result of that
22 protected home market they are able to get, you know,
23 artificially high prices.

24 Now, once that mechanism exists, then they
25 have an incentive to run their mills at the highest

1 capacity utilization they can get, and dump those
2 products into other markets, and that appears to be --
3 they have become more and more and more export-
4 oriented as time has gone on.

5 When I said that I think they face strains,
6 I think the strains that they face are that protected
7 home market, while still protected and while still
8 generating income no doubt for them is shrinking.
9 They are under more and more pressure to export. At
10 the same time they are under more and more pressure to
11 export Chinese production is soaring. China has now
12 exceeded them as an exporter. They will talk to you
13 about markets like Australia and the Philippines, and
14 when you look at the trade data from '08 to '11 their
15 sales to those markets are declining, so they are
16 really trapped between a rock and a hard place.

17 Shrinking home market on the one hand,
18 pressure from China in other markets.

19 COMMISSIONER PEARSON: Okay, I'm under
20 pressure in a tight place because my time has expired.
21 So, thank you.

22 CHAIRMAN OKUN: Commissioner Aranoff.

23 COMMISSIONER ARANOFF: Thank you, Madam
24 Chairman. I want to welcome all of the witnesses here
25 today.

1 Following on a similar vein to what some of
2 my colleagues have been asking, one of the arguments
3 that has been raised today and was just raised again
4 is that Japanese producers are being squeezed out of
5 some of their export markets by Chinese product, and
6 have been squeezed out of the market in China, and so
7 are in search of other export markets. But we also
8 know from the record that Chinese imports into the
9 United States have been growing and a number of you
10 have mentioned that, and so I have to ask you why the
11 growth of those Chinese imports in the U.S. won't have
12 the same effect of keeping Japanese product squeezed
13 out of the U.S. market as it appears to be having in
14 third countries?

15 MR. MULL: To me, it's just additional
16 competition. You know, we're trying to deal with the
17 Chinese as it is, and that's for another day, and we
18 will address that I am confident. Adding additional
19 supply and other competition and they would find
20 themselves having to keep somewhere in between
21 ourselves and the Chinese offerings at a minimum, so
22 that would put that much more pressure on the
23 marketplace and would certainly give the buyers that
24 much more leverage to use that in their negotiations
25 with us.

1 So, there is no doubt in my mind that if
2 this is lifted that we will see additional pressure
3 and competition as a result of it.

4 COMMISSIONER ARANOFF: Okay, thank you. Mr.
5 Hecht.

6 MR. HECHT: Yes. I guess I would say, and
7 this issue has come up in some past cases, and I think
8 our position would be pretty similar to what we've
9 said before which is we're definitely concerned about
10 the Chinese presence in this market and this product
11 area the same way we have been in others. We think
12 that it's quite likely they are trading unfairly for
13 some of the reasons we've seen in the past.

14 They are growing in the market in terms of
15 acceptability. It's sort of similar to some of the
16 other steel products we have seen in the past, that
17 some of their stuff may be not quite as much accepted
18 for all uses. On the other hand, they are building a
19 lot of new capacity with new mills which are at the
20 higher end of the market. As they gain an acceptance,
21 we are concerned about the role they are going to play
22 here, and to the extent they are trading unfairly
23 here, we are going to look at options to deal with
24 that.

25 But the idea that that would in any way say

1 that that puts us in a position to let the Japanese
2 back in who are accepted across the entire spectrum of
3 the market, no question about the quality, no question
4 about the incentives to come back in here, but that to
5 us makes no sense and that's certainly not what the
6 law would provide in this instance.

7 MR. ROSENTHAL: Commissioner Aranoff, Paul
8 Rosenthal. I might just add one other thing.

9 We're not saying that the Japanese will be
10 successful in undercutting the Chinese in this market
11 all the time, but we have a fairly high degree of
12 confidence that they are going to try. And if you
13 look at their prices in Mexico, you can see that they
14 are willing to go a lot lower there and a lot lower
15 here and put them in a place where they would be
16 competing very aggressively against the Chinese, and
17 the loser in that battle will be the domestic
18 industry.

19 Everyone has said before we don't need
20 another source of imports, we certainly don't need
21 another source competing against the Chinese for a
22 race to the bottom.

23 COMMISSIONER ARANOFF: Okay. Well, I
24 appreciate those answers and I hope you understand in
25 asking them that I'm not so much expressing skepticism

1 as I am saying you know what the history in the courts
2 is on this issue, and I want to make sure that we have
3 everything in the record.

4 I want to go back to the contracting
5 process. We have talked a lot about the contracting
6 process and how import prices factor into contracts,
7 but I just wanted to clarify. These annual contracts
8 that large can producers tend to enter into, after the
9 price negotiation portion is over do they tend to
10 award 100 percent of their needs to one supplier? Do
11 they tend to have multiple contracts with multiple
12 suppliers, or save a piece of their demands for the
13 spot market? What's generally the case?

14 MR. KOPF: Yes, this is Rob Kopf with U.S.
15 Steel.

16 Typically the "contract" awards are placed
17 across multiple suppliers for an expected volume or a
18 negotiated volume for the year. I do want to point
19 out that those negotiated volumes, once the contract
20 process is complete, the negotiation is completed, and
21 there is an award of volume, that doesn't necessary
22 mean that that awarded volume is going to remain in
23 place. If market conditions change and the purchasers
24 of tin mill products are afforded the opportunity to
25 buy tin mill products at much better prices, they will

1 have the ability to go ahead and purchase products
2 from other sources. For example, Japanese imports, and
3 leave us high and dry with the responsibility of
4 keeping the volume open for them if they want the
5 volume, but with no penalty if they do not purchase
6 all the volume.

7 So, while the imported prices when they are
8 offered during the contract negotiating period are
9 significantly important to the negotiation, it's
10 important to understand that once the negotiations are
11 complete that the threat of imported steel does not go
12 away. It is something that we face 12 months out of
13 the year, and if somebody walks away from a
14 negotiation unhappy that they were not afforded the
15 ability to sell steel here into this market, I'm
16 confident that they will keep at it for the following
17 12 months until the next contract negotiation.

18 COMMISSIONER ARANOFF: Okay. Well, if there
19 is anything that you want to add confidentially by way
20 of examples, I'm still trying to figure out whether
21 there is usually a primary incumbent supplier and
22 somebody for a small portion, or whether it's 40
23 percent, 30 percent, 30 percent, or just how that
24 typically works, and I understand that the volume is
25 not a commitment.

1 Let me ask also with regard to contracts.
2 There was testimony about profitability in 2009 and
3 what I thought I heard was that, you know, because of
4 a run-up in prices in 2008, prices going into the 2009
5 contracts were relatively high, but costs declined in
6 2009, and that that was a benefit, that producers were
7 able to benefit from in terms of profitability.

8 You've talked about the fact that there are
9 adjustment mechanisms in all these contracts if market
10 conditions change, so can you explain to me why that
11 didn't result in a downward adjustment in prices in
12 those contracts that were entered, you know, when the
13 market was at its peak in 2008?

14 MR. HECHT: Jim Hecht.

15 Unfortunately, on that one we would be happy
16 to address that but would like to do it confidentially
17 if we could given the nature of those provisions in
18 contracts at issue, at least speaking for U.S. Steel.

19 MR. MULL: We would be glad to provide that
20 information also.

21 COMMISSIONER ARANOFF: Okay. Obviously
22 there has been a lot of testimony that contract prices
23 can adjust when market conditions change. This is a
24 situation where at least at first glance it doesn't
25 look like that happened, and so I'm interested in

1 understanding it. Thanks very much.

2 I'm trying to see what I can do with a
3 minute and a half left without getting into something
4 too complicated.

5 There were a number of tin mill products
6 that are excluded from the scope of this order, and a
7 number of them are exported by Japanese producers to
8 the U.S. market. Are those used in the same kinds of
9 uses, cans for food and aerosols as the products that
10 are within the scope or do they have different uses?

11 MR. GOEDEKE: This is Tom Goedeke.

12 Many of those items are not used in the can
13 industry. They are used in various other products.
14 The one are that is used in the can industry though
15 are the very, very heavy tin-coated items, and they
16 would be used in a small segment of the food can
17 industry, but a lot of the other areas are not in the
18 food can or the aerosol can market.

19 COMMISSIONER ARANOFF: Okay. The reason I
20 ask is because I'm trying to assess the extent to
21 which we can look at imports of excluded products and
22 draw from that any information about what might happen
23 with respect to products within the scope if the order
24 were revoked, and it sounds like they mostly go to
25 different end uses so I'm not sure the conditions of

1 competition are that comparable. Mr. Rosenthal?

2 MR. ROSENTHAL: I know at least one of the
3 exclusions that goes into the food industry, food
4 canning industry, and I can provide more in the post-
5 hearing brief because it's a unique situation, at
6 least as far as that exemption goes, but it's
7 definitely a canning example.

8 COMMISSIONER ARANOFF: Okay, appreciate
9 that. My time is up. I want to just mention though
10 when we were talking about building demand for cans,
11 and I don't know if any of you are devoted as my
12 household is to the TV show Extreme Couponing, but
13 these people stockpile canned food like you wouldn't
14 believe, so it seems very popular. Hopefully, that
15 will help.

16 Thank you, Madam Chairman.

17 CHAIRMAN OKUN: Commissioner Pinkert.

18 COMMISSIONER PINKERT: Thank you, Madam
19 Chairman, and I join my colleagues in welcoming all of
20 you, including the workers in the back of the room,
21 and thanking you for being here today to help us to
22 understand what's likely to happen in this industry
23 with the order or without the order.

24 I want to begin with a question for you U.S.
25 Steel about your big can customers. Other things

1 being equal, do they have a preference for buying from
2 U.S. manufacturers the tin mill products?

3 MR. SCHERRBAUM: I guess could you repeat
4 that question. When you say other things being equal,
5 what are you referring to?

6 COMMISSIONER PINKERT: Well, let's assume
7 that the pricing is relatively equal, do they have a
8 preference for U.S. manufacturer?

9 MR. SCHERRBAUM: Well, we would like to
10 think that they do because -- but again if everything
11 is equal, and often it has to be equal because we have
12 to reduce our price to meet some type of an imported
13 price, and if we do that we like to think we do a
14 decent job on service and quality and perform well,
15 and earn their business.

16 COMMISSIONER PINKERT: Thank you. Anybody
17 else on the panel like to comment on that?

18 MR. MULL: I think we all offer value
19 packages and those value packages are evaluated by our
20 customers, and they pretty much determine whether they
21 are willing to pay any type of premium to us versus
22 another alternative supply. All things being equal
23 and that, I think there is no doubt that we get
24 support, that they would like to buy from U.S.
25 producers.

1 MR. ROSENTHAL: All things being equal we
2 wouldn't be here. The problem we find is that all
3 things are not equal, and if you look at the
4 purchasers and the promise of price, they recognize
5 that all of them, or nine out of 10 continue to say
6 despite what the Japanese briefs say, price is very
7 important in the negotiations, and so I think all
8 other things -- all other conditions are essentially
9 just the precursor to a discussion of price, and those
10 are never equal.

11 COMMISSIONER PINKERT: Those meaning the
12 pricing?

13 MR. ROSENTHAL: Correct. There is a
14 constant negotiation, a constant positioning on price.

15 COMMISSIONER PINKERT: Thank you.

16 MR. KOPF: Yes, I'm sorry, one more comment
17 I would just like to make to that. Rob Kopf with U.S.
18 Steel.

19 There is an assumption that all things are
20 going to be equal from the quality standpoint, from
21 the reliability standpoint. The only way that these
22 importers have the ability to gain the new business is
23 to in fact undercut the prices from the domestic
24 producers to be able to give the buyer a reason to
25 purchase from abroad and not from the domestic people.

1 COMMISSIONER PINKERT: Thank you.

2 Now this next question is probably a
3 question for the post-hearing, but since we have a
4 number of people from Arcelor here, including somebody
5 from the Weirton plant, Mr. Glyptis, I want to ask the
6 question in the hearing, and that is: How does
7 Arcelor view the Weirton plant relative to the
8 Canadian affiliate in terms of the importance of the
9 plants, in terms of the priority given to the plants?

10 MR. MULL: We go to market in North America
11 with both facilities, and we charge similar pricing.
12 Our two facilities in North America are one at
13 Dofasco, and one at Weirton, but they produce
14 different products so there is really a
15 differentiation from that standpoint, so we do view
16 Weirton as a very key part to our tin business because
17 a lot of what they produce there they are the only
18 ones that can produce it for us.

19 I would also like to point out that at one
20 time our companies, our sister companies in Europe
21 used to ship a significant amount of product, tin mill
22 product into the United States. We have made the
23 strategic decision that in order to give us an
24 opportunity to keep Weirton alive and to move forward
25 we do not have anything coming in from Europe at this

1 time, so the amount of product that comes from Dofasco
2 into the United States is very small in comparison to
3 what at one time we used to as an overall company ship
4 into this country.

5 So, we are doing everything we can to
6 sacrifice on that side of a volume at other facilities
7 in order to give our opportunity to the U.S. producers
8 to survive.

9 COMMISSIONER PINKERT: Mr. Glyptis, do you
10 wish to add anything to that?

11 MR. GLYPTIS: No, I agree with what Dan Mull
12 said. There is different product lines. What we try
13 to do at our facility at Weirton is to become the most
14 efficient producer anywhere in the world, so we are
15 constantly working to reduce cost and we view the tin
16 business being the global business and that we in
17 order to compete globally we have to be the best
18 anywhere. And if we get a fair set of circumstances,
19 we ought to be able to complete.

20 But the fact that we have two different
21 product lines between Dofasco and Weirton, you know,
22 we feel that every opportunity is being given to us to
23 compete in this country, and there was product coming
24 in from overseas. That's been stopped a number of
25 years ago when Arcelor bought Weirton, and as long as

1 we have a good union management relationship, which we
2 do, our costs are decreasing. We are producing more
3 tonnage with less people, that's the fact. The fact
4 is that's the only way we could compete, and the union
5 recognizes that, and we feel the USW is a progressive
6 union that's constantly looking at reducing our costs,
7 and our workers know that, and there is always
8 discussions out on the shop floor about what do we
9 need to do to reduce costs, and many ideas come off
10 the shop floor even though at times some of those
11 ideas literally result in less people working, but at
12 the end of the day that's what we need to do to be
13 able to complete.

14 COMMISSIONER PINKERT: Thank you.

15 This next question is pretty basic and I
16 apologize for asking it, but I'm wondering whether
17 electric or furnace product can be used to manufacture
18 the subject projects, the tin mill products. I had
19 been told many years ago that it was not possible, and
20 I'm wondering if that is still true today.

21 MR. KOPF: The electric arc furnace
22 manufacturers in this country have increased their
23 capacity very significantly over the last couple of
24 decades, and they have done it in many different
25 product lines. They have yet to attempt anything in

1 tin mill products, and as a result of that I don't
2 believe that they have the capabilities yet to make
3 all of the requirements that the can customers have to
4 manufacture this product.

5 MR. GOEDEKE: This is Tom Goedeke.

6 It really depends on the feedstock that the
7 electric furnace uses. If they are going to use
8 scrap, just general scrap, no, they can't make tin
9 mill products because of the residuals. But if they
10 want to use a feedstock that's let's say 100 percent
11 direct reduced iron, something like that, they have
12 the potential. They have the potential to then maybe
13 make tin mill products.

14 Tin mill products require low residual-based
15 steel. Using general scrap, the answer is no. Using
16 maybe 100 percent of a different type of feedstock,
17 they might have the ability.

18 MR. SCHERRBAUM: This is Joe Scherrbaum. If
19 I can just add one thing as a comparison to that.

20 In the automotive corrosion resistant
21 products we also see for those same reasons Mr.
22 Goedeke said, the electric furnace producers can make
23 the mild or lower grades of steel, but again when you
24 get into the high corrosion resistant product for the
25 same reason. That's why you don't see them in here in

1 that market, and the same with tin mill, again a high
2 value-added product.

3 COMMISSIONER PINKERT: Thank you very much.
4 I am at the end of my round of questioning.

5 CHAIRMAN OKUN: Commissioner Johanson.

6 COMMISSIONER JOHANSON: Thank you, Madam
7 Chairman, and I'd like to direct a question to Mr.
8 Vaughn and Mr. Scherrbaum.

9 You all a few moments ago were discussing
10 the state or the health of the Japanese industry, and
11 I understand, and this is perhaps a question that
12 would be better posed to the respondents' counsel or
13 representatives later today, but I thought I would
14 just ask you as well since the subject was discussed a
15 few moment ago.

16 It appears that the Japanese industry faces
17 certain strains. For example, producers using new
18 types of products such as plastic, there is most
19 likely in Japan as well a shift to frozen foods,
20 things like that. The population of Japan is
21 declining. The United States faces some similar
22 challenges and a shift away from canned to plastics,
23 et cetera, in packaging, so our market apparently is
24 going down as well, and I would think also that in
25 other countries producers are facing similar

1 challenges, let's say in the European Union. I
2 understand that The Netherlands is a fairly sizeable
3 producer of tin mill product. I would think that
4 there also there is probably being a shift to other
5 types of packaging and the population in Europe is
6 stable, if not going down.

7 So, is it safe to assume that around the
8 world producers of tin mill product are facing similar
9 constraints and challenges with perhaps the exception
10 of China where production is way up due to the
11 economic growth there? Yes, Mr. Vaughn.

12 MR. VAUGHN: Yes, we covered a number of
13 these, we've done quite a bit of research on these
14 markets and we have written about them in our brief,
15 and I think that it is important to understand that
16 there does seem to be a great deal of stress and
17 strain, you know, with respect to some of these
18 markets around the world.

19 I would also, you know, the situation with
20 China, it's important to understand that what's going
21 on there, at least what appears to be going on there
22 is what we have seen in other areas with respect to
23 China. They have not only -- this new capacity is
24 apparently not only designed to serve their home
25 market, it also appears to be designed to serve many

1 other markets.

2 If you consider what's going on, I think
3 they are at this point a major exporter of this
4 product, and if you sort of, you know, look at kind of
5 the projected capacity that's coming online it seems
6 as though those exports are likely to continue. So,
7 this seems to be another area where they may not
8 necessarily be reacting to market forces in the way,
9 for example, the people before you here have to react.
10 They have benefits to -- the Commission has recognized
11 a number of cases that they have access to subsidies
12 and other types of things that people here don't get.

13 With respect to the situation regarding
14 Japan, you know, if you look at what's going on in
15 their home market and you look at some of the
16 pressures that they are running up against in some of
17 these other markets it does seem that they are going
18 to be under a lot of pressure to find whatever markets
19 and outlets that they can get for this product, and
20 this is sort of really where the trade laws are so
21 important, because when you have this situation where,
22 you know, people are trying to sort of work through
23 these type of market challenges, you know, what
24 Congress has made clear is is that this is a
25 competition that has to be played under certain rules,

1 and that if a country wants to close its home market
2 and get artificially high prices in that home market
3 and then dump market elsewhere, and those imports are
4 going to hurt other people in the United States,
5 that's when tariffs are appropriate.

6 So, you know, to the extent that there are
7 challenges in different markets around the world it
8 seems to me that your task is to really make sure that
9 the solutions to these problems, especially in the
10 U.S. market, are market-based solutions and not
11 solutions that reflect unfair trade one way or
12 another.

13 COMMISSIONER JOHANSON: Thank you, and
14 getting back to one part of my question. Is it safe
15 to assume, for example, the European Union they are
16 facing similar strains, the producers there of tin
17 mill product?

18 MR. VAUGHN: I would like to address that
19 more in the post-hearing brief with respect to what's
20 going on in Europe. You know, you do see situations
21 where that's sort of what you would expect, I think,
22 but I would just like to write that up more in the
23 post-hearing.

24 COMMISSIONER JOHANSON: Okay, that would be
25 fine and thank you for your answer.

1 And getting back to China, several witnesses
2 have noted that Chinese product quality is improving.
3 At this point in time what is Chinese tin mill
4 product being used for in the United States? Is it,
5 for example, feed grade or is it food cans, aerosol
6 cans, et cetera? I'm just kind of wondering what the
7 quality is when people talk about the quality
8 improving.

9 Yes, Mr. Kopf.

10 MR. KOPF: Yes, Rob Kopf.

11 Our customers don't always share all the
12 applications to which they are buying Chinese quality
13 steel, but I will say this. With each year we hear
14 the name of Baosteel, and other producers referenced
15 more often in all of our negotiations as something we
16 need to consider as a threat to our business. So, I
17 would assume that with the new equipment that they
18 have put in over there and the 3 million tons of
19 additional capacity that's coming on in the next two
20 years, that it is all new and it is all going to be
21 capable of making food cans, aerosol cans, and
22 everything that is consumed here in the United States.

23 COMMISSIONER JOHANSON: All right, thank
24 you. But as of now you're not -- once again I guess
25 for proprietary reason it's not possible to get into

1 the current quality and uses?

2 MR. KOPF: I do not have personal knowledge
3 of all the uses but once again, it is being referenced
4 more often with each passing year.

5 COMMISSIONER JOHANSON: All right, thank you
6 for your answer.

7 Yes, Mr. Glyptis?

8 MR. GLYPTIS: This is Mark Glyptis.

9 I could drive right down the road from
10 where -- two miles into one of our customers whose
11 facility is on our property, see Chinese steel, okay,
12 and that customer makes food cans.

13 COMMISSIONER JOHANSON: Okay.

14 MR. GLYPTIS: I believe they have the
15 ability. They are exporting product that is used to
16 make food cans.

17 COMMISSIONER JOHANSON: Well, thank you, you
18 answered the question. That's very useful.

19 And in your knowledge do importers have
20 warehouses in the United States where they store
21 Japanese product, Chinese product, et cetera? I was
22 wondering how much actually they can draw down from.
23 You all might not know the answer. This might be a
24 better question for later today.

25 MR. KOPF: The only comment I'll make is --

1 this is Rob Kopf -- that our customers require us to
2 have stocks of material available to them if their
3 business conditions change a little bit higher than
4 they expected, and they make that very clear, that
5 that's part of doing business with them. So, those
6 companies that have done business here before or are
7 currently doing business here today from abroad, it
8 stands to reason that they are under the same
9 conditions of sale that we are, and so I have to
10 assume that they have warehousing locations all
11 throughout the country where they store material.

12 I have not personally ever walked through
13 one of those warehouses and seeing it, but it doesn't
14 stand to reason that they could take material off of a
15 vessel and immediately ship it to a can plant all at
16 once.

17 COMMISSIONER JOHANSON: All right, thank
18 you.

19 Anyone else? Okay.

20 And coming back to you, Mr. Kopf, I was
21 wondering. You spoke a few minutes ago about how you
22 all are working to promote the use of cans in the
23 United States. Could you perhaps go into a bit more
24 detail on that because from what we have seen it
25 appears that the industry is on a declining path, and

1 I'm wondering at what point do you see that abating?
2 In what ways is industry working to actually cause
3 that to actually go up again, if possible?

4 MR. KOPF: Sure. This is Rob Kopf.

5 There was a point in time where many
6 beverage cans here in the United States were
7 manufactured out of tin plate, and that is no longer
8 the case. Although I did read recently that one of
9 our customers is going to reintroduce a tin packaged
10 beer can, kind of a nostalgic beer can. So, there are
11 obviously some niches where they feel like they can
12 increase the use of tin plate in the manufacture of
13 cans.

14 The Canned Food Alliance specifically that I
15 talked about earlier is attempting to get factual data
16 that talks about the benefits, the nutritional value
17 of canned food. We are asking many government
18 agencies to make sure that canned food is included in
19 the women's, infant and children WIC programs, that
20 school lunch programs include canned food, so there is
21 a great deal of effort being made here in Washington
22 and as well as in local governments to try and promote
23 availability of canned food to all people.

24 I will say that there is some research that
25 we have conducted that will be released within a

1 matter of a couple of months that shows the unit cost
2 for nutrient value of canned food is better than
3 anything else there is available to people, and in
4 these kinds of economic times I think that is going to
5 weigh very heavily on peoples' future purchasing
6 decisions.

7 And lastly, I'll get back into the
8 sustainability discussion. We have a lot of
9 information that we have just finished gathering that
10 will support the fact that the recyclability of the
11 tin can being infinite is going to have a
12 significantly lower environmental impact than any
13 other package available out there today.

14 MR. KOPF: Well, thank you. That was very
15 informative, and my time has expired.

16 CHAIRMAN OKUN: Thank you. In responses and
17 testimony there has been a significant amount of
18 discussion about Japanese efforts in Mexico and what
19 that means in terms of the attractiveness of this
20 market and what would happen post order.

21 The respondents in their brief spent in
22 about 10 or 11 pages discussing what they see as the
23 attractiveness -- in discussing the issue of
24 attractiveness of the U.S. market point in very
25 specific instances where they have more attractive

1 opportunities in other markets, and I don't know if
2 there is anything you can say publicly now, but I'll
3 ask you all to respond to that specifically because
4 I'm sure we will hear this arguments this afternoon.

5 But is there anything you can add just based
6 on the public record?

7 MS. BECK: Commissioner Okun.

8 CHAIRMAN OKUN: Yes.

9 MS. BECK: Gina Beck from Georgetown
10 Economic Services.

11 CHAIRMAN OKUN: Nice seeing you, Ms. Beck.

12 MS. BECK: We will be happy to go into more
13 detail in post-hearing, but I think publicly we can
14 say that we recommend that you use caution in
15 reviewing that data, that it's flawed for multiple
16 reasons, and also very misleading. It's not comparing
17 apples to apples. First, to begin with, the
18 respondents use export AUVs, and in this particular
19 industry I think you have to be very careful when
20 reviewing the AUVs due to product mix. Instead, there
21 is record data that we've included in our brief that's
22 very specific pricing data, and it's also more
23 specific in terms of product. It only cover tin plate
24 as opposed to multiple other tin plate products.

25 So, we definitely will go into more detail,

1 but also on the freight issue I would recommend also a
2 caution there. It was not an impediment during the
3 original investigation and don't continue to be.

4 CHAIRMAN OKUN: Okay, Mr. Hecht.

5 MR. HECHT: Yes, we will address that in
6 detail. You are right. They spent a real long time
7 addressing that, and I would suggest the reason you
8 are seeing so many different avenues to try to do it
9 is that the traditional way to look at pricing data
10 does not work for them. We still think the way you
11 normally look at it, that it's normally done is the
12 more accurate way to do it. We have shown you some
13 published pricing data on that. Again, you've heard
14 direct testimony on it. We think all of those sources
15 of information are going to be the most relevant
16 evidence on that.

17 Having said that, that analysis with the
18 landed value and all they are doing has numerous, very
19 significant data problems with it. We will walk
20 through what that is, and I think we will be able to
21 show when you correct for that that you will see they
22 still
23 have -- even on their analysis which we don't agree
24 with the methodology -- they would have strong
25 incentives to undercut prices here.

1 CHAIRMAN OKUN: Okay, I appreciate those
2 comments, so we'll look forward to your analysis as
3 well.

4 One of the other contentions that the
5 Japanese tin mill producers have made with respect to
6 why they would not enter the U.S. market in
7 significant volumes is their joint ventures in other
8 markets, and I didn't have a chance to go back and
9 review the record.

10 Do you know whether, and obviously I'll ask
11 them this, but is this a change from the last review?
12 Have the Japanese producers entered increasingly in
13 joint ventures in other markets and does that limit
14 their incentive to shift into the U.S. market? Mr.
15 Vaughn?

16 MR. VAUGHN: Yes, I think some of the
17 information on that is confidential, so we will
18 address that in the post-hearing.

19 CHAIRMAN OKUN: Okay, I appreciate that.

20 Then the Japanese respondents have pointed
21 to corrosion-resistant steel, the revocation of the
22 order and the behavior of the Japanese post order to
23 support their arguments. You have come back and
24 argued hot-rolled steel.

25 I guess my question to the counsel here is,

1 are you actually asking us to place any probative
2 value on that or not?

3 MR. ROSENTHAL: I'll say we never -- when
4 we've heard this in other cases we have told you to
5 disregard it.

6 CHAIRMAN OKUN: I recall that.

7 MR. ROSENTHAL: Yes, and we don't think it's
8 particularly probative, but if you think it is take a
9 look at hot-rolled steel.

10 CHAIRMAN OKUN: Okay.

11 MR. ROSENTHAL: And it's a fairly recent
12 example, and they made a number of the same arguments
13 previously. And if I can just comment. It defies
14 credulity that when you look at all the export markets
15 that the Japanese have for this particular product,
16 and Mexico is their biggest export market, with lower
17 prices than the U.S., that the Japanese producers are
18 not going to find the U.S. market attractive when
19 they're shipping everything else they make here?
20 Please. One more reason to take another close look at
21 the number they provided. As Mr. Hecht pointed out,
22 they are totally -- bogus is the nice way to put it.

23 CHAIRMAN OKUN: Okay, appreciate those
24 comments.

25 This will just be a post-hearing request for

1 a submittal. In Exhibit 5 of your prehearing brief
2 there is an excerpt from an article from the Economist
3 Intelligence Unit. Would you be able to provide the
4 entire article for the post-hearing brief? Ms. Cannon
5 is nodding your head. Mr. Rosenthal.

6 MS. CANNON: Yes, Chairman Okun.

7 CHAIRMAN OKUN: Okay, appreciate that.

8 Then I think my last question will be just
9 to ask producers to respond, and I don't think you've
10 done this yet today but if you can you can tell me
11 that as well. In the staff prehearing report at page
12 26 in the public staff report there were seven of 10
13 responding purchasers indicated that their firm had
14 experienced delivery delays from suppliers of TCC
15 since 2006. Many of these purchasers report that
16 delay deliveries were common.

17 Mr. Kopf, I think in your comments about
18 whether you hold inventory you had just indicated that
19 your customers expect you to maintain supply so that
20 if there are changes in volume requirements you can
21 meet those. So, help me put that into context with
22 the information we received from purchasers, and
23 others are welcome to comment on that as well.

24 MR. KOPF: Yes. I was not involved in the
25 domestic industry. I was abroad in 2006. But

1 specifically in '07 when I came back here and being
2 involved in negotiations with my customers I have
3 heard many references to domestic competitors greatly
4 improving their on-time delivery performance. In
5 fact, one of my competitors here in the room was
6 referred to as having 100 percent on-time delivery for
7 everything that they supply to this particular
8 customer in one of the negotiations, so I don't think
9 you can get much better than 100 percent on-time
10 delivery.

11 I know specifically at U.S. Steel that we
12 have done an enormous amount of upstream and
13 downstream prioritization of our tin mill facilities
14 through all of the facilities that make the steel, and
15 I think that every customers were they to be asked
16 today is our delivery performance better than it was
17 in 2006, every single one of them would say yes.

18 CHAIRMAN OKUN: I should be clear. I didn't
19 look at the dates but this is since 2006.\

20 MR. KOPF: Oh, I apologize. I misunderstood
21 your question.

22 CHAIRMAN OKUN: Yes, and I probably just
23 didn't state it very clearly, but I have it in front
24 of me and you don't.

25 Would other producers like to comment on

1 supply timeliness, timeliness of supply?

2 MR. GOEDEKE: Tom Goedeke, ArcelorMittal.

3 The Weirton mill has, we believe, done a
4 very good job in the last several years of being a
5 very reliable on-time supplier. Looking at the
6 comments here, over the years there have been things
7 that have happened at various steel mills, within my
8 own company, within Sparrows Point, I would assume in
9 some of my competitors which have been acts of God,
10 lightening strikes, floods, things like that which
11 could cause a temporary delay in the production of tin
12 mill products.

13 But overall I think we are all doing a much
14 better job in being very high-quality reliable
15 supplier of tin mill products.

16 CHAIRMAN OKUN: Any other comments? I do
17 think in our last hearing we may have had a discussion
18 about this and that may be part of the reason there
19 may be multiple suppliers and contracts. Is that
20 accurate or not? Do purchasers want multiple
21 suppliers to try to make sure they don't have
22 disruptions or are those different products as I think
23 somebody testified? Just make sure I don't have a
24 fuzzy memory of what we discussed. Does supply have
25 anything to do with --

1 MR. GOEDEKE: Yes, this is Tom Goedeke
2 again.

3 CHAIRMAN OKUN: Make sure your microphone is
4 on or you are close enough to it.

5 MR. GOEDEKE: I'm sorry. This is Tom
6 Goedeke, ArcelorMittal.

7 I think each customer has their own strategy
8 as to how they want to source their material. Certain
9 products from certain suppliers may run -- on their
10 equipment they feel will run better. Their plants
11 feel more secure with that particular supplier. We
12 have some customers who are virtually a 100 percent
13 supplier to, and we have other customers where we are
14 one of several suppliers to. So, each customer has
15 their own strategy on how they want to source their
16 material.

17 CHAIRMAN OKUN: Okay. My time has expired.
18 I don't think I have any other questions for this
19 panel, but I will turn to Vice Chairman Williamson.

20 VICE CHAIRMAN WILLIAMSON: Thank you, Madam
21 Chairman.

22 Mr. Peterson, in your testimony, you made
23 representation of concern of revocation, and it would
24 cause fixed costs problems for you, and I was just
25 wondering if you could explain that. And also could

1 you clarify what is your current position?

2 MR. PETERSON: Well my previous position was
3 Vice President of Commercial with USS-POSCO
4 Industries, but I have just retired effective April 1.

5 VICE CHAIRMAN WILLIAMSON: Okay.
6 Congratulations.

7 MR. PETERSON: This is my first consulting
8 job. To answer your question, the point that I was
9 making was -- and I will elaborate just a bit -- that
10 USS-POSCO on the West Coast is both a unique company
11 and a unique marketplace.

12 We are unique in the sense that we are more
13 vulnerable I suspect than most of our peer companies
14 to foreign imports based purely on the geographic
15 location of the facility.

16 So previous to the installation of the
17 current order, Japan was a regular supplier of tin
18 mill products to the Western United States. Since the
19 order has been in place, we have seen a tremendous
20 growth in Chinese imports and South Korean imports.

21 All imports represent a big problem for USS-
22 POSCO Industries when you put it within the context of
23 a declining marketplace in the West. So to the extent
24 Japanese tin plates begin to flow, Japanese imports of
25 tin plate to flow back into the West Coast of the

1 United States, it is a big, big problem.

2 Today, imports represent about -- annual
3 imports to the Western United States of imported tin
4 plate represent about two miles worth of production to
5 us.

6 So the introduction of another supplier
7 could have dire consequences to us, assuming that the
8 Japanese do not displace our current foreign supplier,
9 which is highly unlikely.

10 That is to say that at the end of the day
11 that we would end up with China, South Korea, and
12 Japan, taking major positions of tin mill cells on the
13 West Coast of the United States, when we are already
14 in a very vulnerable position.

15 So the effect on us would be lost business,
16 and the effect on us would be trying to operate with a
17 production schedule that would be so low that it might
18 not be sufficient enough for us to continue to operate
19 at all, and that is the risk that we see.

20 VICE CHAIRMAN WILLIAMSON: Okay. Thank you
21 for that explanation. Mr. Kopf, you may have
22 partially answered this question, but you said that
23 can producers have gotten better at managing import
24 supply, and I was wondering if you could elaborate on
25 that?

1 MR. KOPF: There is an assumption that the
2 long lead times required to bring in steel from abroad
3 are prohibitive to being able to run a nimble
4 manufacturing plant, and my comments were in reference
5 to the fact that they have expectations now to be able
6 to run their manufacturing plants without 100 percent
7 reliable forecasts to still have the steel ready in
8 front of it if they want to run more of one size, or
9 more of another size.

10 And it is demanded of us as producers to
11 have safety stocks or buffers, inventory, or whatever
12 you want to call it, available to them to pull really
13 without a moment's notice.

14 There is almost 20 percent of this market
15 right now is imported, and there is no doubt in my
16 mind that those same types of shipping conditions are
17 placed upon those that currently sell into this
18 market.

19 And there is no doubt in my mind that the
20 300 plus thousand tons of Japanese imports from 1999
21 were largely done the same way. So that was the
22 purpose of my comment, that they are demanding
23 everybody, and not just certain suppliers, but
24 everybody, to keep their manufacturing facilities
25 nimble enough to be able to change on the fly without

1 a moment's notice.

2 VICE CHAIRMAN WILLIAMSON: Okay. Mr. Hecht.

3 MR. HECHT: If I could just add one point to
4 that to keep in mind as you sort of evaluate their
5 ability to manage import supply across the ocean as it
6 were, keep in mind that they are providing a huge
7 portion of the Mexican market right now.

8 They don't seem to have any trouble managing
9 that process of supplying those customers, and
10 supplying what they need on a timely basis, and we
11 would suggest that they did that preorder here, and
12 they are doing it in Mexico now. We don't see any
13 barrier to doing it going forward.

14 VICE CHAIRMAN WILLIAMSON: Okay. Yes, Mr.
15 Vaughn.

16 MR. VAUGHN: Yes. I think, Commissioner
17 Williamson, that you also -- I mean, look at what has
18 been happening with the industry. I mean, I this kind
19 of goes back to this whole question about whether or
20 not there is some sort of a cap on imports, or how
21 much imports.

22 You have heard these guys testify that they
23 are asked to negotiate against import pricing. If
24 that wasn't credible, and that there was some reason
25 to believe that the imports couldn't actually come in,

1 or couldn't actually be used, then that would not be
2 an effective negotiating tactic.

3 And obviously if you look at what has been
4 happening in this industry, they are taking those
5 negotiations very seriously, and so therefore, I think
6 that you can feel comfortable concluding that when a
7 purchaser sits down and threatens to bring in imports,
8 that is a very -- that is something that has to be
9 taken very seriously.

10 VICE CHAIRMAN WILLIAMSON: Okay. I was --
11 thank you. I was wondering -- you know, we talked
12 about the fact that the one year contracts here, and
13 the negotiations in the fall. How prevalent is that
14 in other markets around the world?

15 Is that probably in Mexico? And what about
16 other markets? And does that probably explain why you
17 see in some of these smaller markets that Japanese
18 producers maybe selling a whole lot in one year, and
19 maybe lose the contract the next year, and they aren't
20 selling a lot? Does anybody have any information on
21 that, or anything that you want to say post-hearing?

22 MR. KOPF: This is Rob Kopf. I guess using
23 Mexico as an example, their exports to Mexico have
24 been very, very consistent over several years, and so
25 they have obviously figured out a sales and buy

1 relationship in Mexico that is working for them that
2 provides them stability over every year.

3 The Mexican market seemingly is operating in
4 a very similar fashion to that of the U.S. market. So
5 I have to believe that the long term types of sales
6 agreements that we are asked to sell to in Mexico are
7 being demanded of the Japanese, who by the way are
8 selling twice as much in Mexico as the local producer
9 does.

10 So obviously they have even figured out a
11 better solution perhaps than the local producer in
12 satisfying the needs of the can makers and purchasers
13 down there.

14 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
15 Mr. Scherrbaum.

16 MR. SCHERRBAUM: We know a little bit about
17 the European market, and can also offer there that we
18 believe that annual contracts are the norm in Europe.

19 VICE CHAIRMAN WILLIAMSON: Okay. Good.
20 Thank you. Mr. Vaughn.

21 MR. VAUGHN: Commissioner Williamson, I
22 mean, I would just comment that when you look at the
23 export data, I have some of the same curiosity that
24 you do about these fluctuations from year to year.

25 It seems to me that if you sort of look at

1 what they are doing, they really are -- the volumes
2 that you are dealing with are so large, in terms of
3 their capacity, and how much they need to export every
4 year given their shrinking home market, you will see
5 some markets where they ship very large volumes every
6 year, and then you will see other markets where they
7 kind of fluctuate back and forth.

8 And it just looks to me as though if you
9 want to have a large supply from them, they can give
10 you a large supply. If you have a small amount, they
11 can give you a small amount.

12 They just seem to be -- they seem to have
13 the tin mill ready to go, and that is why we think
14 sort of however you look at it in this market, they
15 are a major, major threat.

16 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
17 Do producers make any of the tin mill products that
18 have been excluded from the order? Do domestic
19 producers make any tin mill products that have been
20 excluded?

21 MR. KOPF: There are certain products. For
22 example -- and this is Rob Kopf. Laminate steels are
23 excluded from the order, and there is capability here
24 in the U.S. market to produce laminate steels for
25 consumption. That is one example I can cite.

1 VICE CHAIRMAN WILLIAMSON: Okay. So there
2 is some competition in the excluded market?

3 MR. KOPF: Yes, there is.

4 VICE CHAIRMAN WILLIAMSON: Okay. If there
5 is anything in post-hearing that you want to add that
6 would be fine. Thank you. I was just curious. I
7 have not heard the word aluminum once in this hearing.

8 Was the competition of aluminum and steel
9 can something that was from a bygone era, except for
10 the nostalgia of beer cans, or is this still relevant?

11 MR. SCHERRBAUM: The aluminum business has
12 basically taken over the beer and beverage can market.
13 So we are not in it. That's their business, and
14 that's it.

15 VICE CHAIRMAN WILLIAMSON: Okay. So that's
16 history.

17 MR. SCHERRBAUM: Right.

18 VICE CHAIRMAN WILLIAMSON: Okay. And my
19 time has expired. Thank you.

20 CHAIRMAN OKUN: Commissioner Pearson.

21 COMMISSIONER PEARSON: Thank you, Madam
22 Chairman. Does anyone on the panel know what the
23 import tariff is into Japan for tin mill products? I
24 am going back to what is the nature of the protection
25 that the Japanese market has?

1 So I was just wondering do we have that
2 information on the record already, Mr. Rosenthal?

3 MR. ROSENTHAL: I don't believe we do. We
4 can find that information for you.

5 COMMISSIONER PEARSON: Okay. And there may
6 be other non-tariff measures that are relevant in the
7 market. Anything that you can tell us would be
8 helpful, and I would ask that the Respondents also,
9 but they might have a different view.

10 MR. ROSENTHAL: I would love to hear the
11 Respondents answer to that one, but we will do our
12 best to get you something in the post-hearing brief.

13 COMMISSIONER PEARSON: Mr. Hecht.

14 MR. HECHT: Yes, just to concur with that,
15 we can obviously get the tariff for you. But as you
16 know that market is subject to a lot of other types of
17 barriers in many, many different product areas.

18 And going back to the question that you
19 asked before, I don't see any inconsistency at all
20 between saying that they are receiving very high
21 prices in their home market, and saying that they are
22 pressured in their export markets.

23 That is exactly the sort of situation that
24 you face. The \$1,700 a ton is on your record, and
25 that is just a fact. They allow many two percent, or

1 three percent, imports in that market on a consistent
2 basis. They are receiving very high prices there. On
3 the other hand, they have got capacity well beyond
4 what that shrinking domestic market can account for.
5 So when they go on these foreign markets, they are
6 desperately looking for sales.

7 And as Mr. Vaughn described, they are being
8 pressured in a number of different markets around the
9 world. So I think that those are fully consistent.

10 COMMISSIONER PEARSON: Does anyone know
11 whether the domestic pricing in Japan for tin mill
12 products is similar to the pricing for corrosion
13 resistant steel?

14 And I mention that because both of them are
15 highly sophisticated products, and nothing basic about
16 them. It is beyond the scope of this hearing, and so
17 don't worry about that.

18 And there has been some discussion already
19 about the imports of hot rolled steel from Japan that
20 have increased recently. Could you clarify how large
21 the imports are now relative to U.S. consumption?

22 Because, of course, I don't have that on
23 this record, and you don't need to do it now, but for
24 the post-hearing, help me to understand it, because I
25 see that the volumes are going up, and yet perhaps not

1 from a very high starting level. So it is hard for me
2 to interpret it.

3 MR. HECHT: This is Jim Hecht. We are happy
4 to do that. I want to say that they may be the third
5 highest import source at the moment, but it is
6 significant volumes.

7 COMMISSIONER PEARSON: Okay. Mr. Vaughn,
8 did you have anything to say?

9 MR. VAUGHN: No, I was going to make that
10 same point. I mean, in March, if you look at the
11 import licensing data, they were the third largest
12 source of hot rolled imports, and we will put more
13 information in on that in the post-hearing.

14 COMMISSIONER PEARSON: Okay. Thanks. So
15 this will be for people who have access to the
16 confidential record, but how do you respond to the
17 bracketed explanation in Respondents' prehearing brief
18 on page 49, Note 71, and this might be for post-
19 hearing.

20 But this has to do with their explanation
21 for the increase in imports of hot rolled steel, and
22 why it has happened. I read that explanation, and I
23 said, okay, maybe it is not a precursor of terrible
24 things to happen to come.

25 So if anyone wants to say anything now, you

1 may. Otherwise, in post-hearing, help us to interpret
2 the Respondents' view of this issue?

3 MR. HECHT: Jim Hecht. We would be happy to
4 do that. Our response was one of amusement. It was
5 in no way consistent with what they told the
6 Commission last year. We don't think it provides any
7 valid explanation for that, and we would be happy to
8 address it.

9 COMMISSIONER PEARSON: Okay. Now, the
10 Respondents also argue on pages 51 and 52 of their
11 brief that rather than looking at a comparison between
12 tin mill and hot rolled steel, the better comparison
13 is between tin mill and corrosion resistant.

14 So they would guide us towards looking at
15 the import pattern that we have seen from Japan of
16 corrosion resistant steel since that order was
17 revoked. How do you respond to that?

18 MR. VAUGHN: Commissioner Pearson.

19 COMMISSIONER PEARSON: Yes, Mr. Vaughn.

20 MR. VAUGHN: Yeah, I think there are a
21 couple of things to keep in mind on that. First of
22 all, you voted on that case in December of 2006, and
23 CRU data indicate that in 2006 the United States
24 consumed something on the order of 24 to 25 million
25 tons of coated sheet.

1 Beginning in 2007 the construction market
2 started to drop off, and that had an effect on
3 corrosion resistant demand. In 2008, the automotive
4 market started to drop off, and that had an effect on
5 corrosion resistant demand.

6 By 2009 or around 2009, that market had gone
7 from 25 million tons to around 10 million tons. It
8 still has not fully recovered, and to this day, data
9 will show that for 2011 coated sheet consumption in
10 the United States was down 30 percent from 2006
11 levels.

12 So I think that what happened there -- and
13 also I would point out that if you look at the import
14 numbers, you will see that the overall imports of
15 corrosion resistant steel dropped significantly from
16 2006 to 2011.

17 Japan's has stayed pretty much at the same
18 level. So I think that this is another situation to
19 be honest. They are shipping what they can ship. I
20 mean, that is a market that kind of collapsed, and it
21 had other problems, and it made it more difficult to
22 ship into that market. So I don't think the answer
23 really helps them at all.

24 MS. CANNON: Commissioner Pearson --

25 COMMISSIONER PEARSON: Mr. Rosenthal. I'm

1 sorry, Ms. Cannon.

2 MS. CANNON: If I could add. If you look at
3 Exhibit 8 to our prehearing brief, you will see some
4 selected pages from the brief that they submitted to
5 you in the hot roll case, and in that case, they
6 pointed specifically to the corrosion resistant case
7 as something you should look to as indicative of how
8 they behaved in high rolled.

9 So they tend to jump back and forth between
10 products, and their argument here is that you should
11 look only at corrosion resistant, and not at other
12 products, isn't consistent with the approach that they
13 have taken in past cases where they pointed clearly at
14 corrosion resistant.

15 So we, as Mr. Rosenthal said earlier, have
16 taken the position before you that we think each case
17 should be based on its facts, but to the extent that
18 they want you to look at this, their behavior really
19 hasn't followed what they have said. And when you
20 revoked the hot roll order, it wasn't consistent with
21 what they projected.

22 COMMISSIONER PEARSON: Okay. Thank you for
23 pointing out that that issue is on the record in your
24 brief. Now, let me shift to U.S. Steel's Chart 16,
25 which was up earlier on the screen.

1 We see on that chart that China's domestic
2 price for tin plate is even lower than Japan's.
3 Imports from Japan, or from China rather, are not
4 limited by any trade remedy measure, and yet they have
5 not overwhelmed the U.S. marketplace.

6 Given that situation why should revocation
7 of the order on Japan cause a concern? Would the
8 Japanese pricing gain some advantage relative to China
9 if we revoked the order, or is the Japanese product
10 going to have a price disadvantage relative to China
11 when competing in the U.S. market post-revocation?
12 Mr. Vaughn.

13 MR. VAUGHN: Yes, Commissioner Pearson, I
14 think first of all in terms of the issue of China and
15 Japan, I think it is important to understand that
16 there are a number of markets today if you look at the
17 export numbers where China and Japan are both active.

18 In other words, in a lot of the markets that
19 you are going to probably hear about this afternoon,
20 both China and Japan are active in those markets. We
21 think that what would happen in the event of
22 revocation is that they would both become active here.

23 And so that what you would have is that you
24 would have -- that China would be doing what they are
25 doing, but in addition, Japan would be shipping into

1 this market as well.

2 And the history of it is that Japan's
3 volumes to the United States have historically been
4 bigger than anything that we have seen from China.
5 Also, Japan's current shipments to Mexico are bigger
6 than what we are seeing in the United States from
7 China.

8 So we definitely think that Japan in and of
9 itself constitutes a major threat, and the notion that
10 they are going to be kept out by China, we just don't
11 think it is credible.

12 MR. ROSENTHAL: The other point that I have
13 to keep reemphasizing -- and this is Paul Rosenthal --
14 is that it is the introduction of one more vernal
15 competitor here who will be dumping by operation of
16 law, competing against the Chinese, and the domestic
17 industry, that is going to have a tremendous price
18 effect.

19 Even if there is not one more ton of sales
20 lost by the domestic industry, they will be having to
21 compete and drop their prices in order to go head-to-
22 head against the Japanese, the Chinese, and others in
23 this market.

24 That is a tremendous problem, because you
25 know, or you should know from the previous record, and

1 I am sure that the Respondent customers will tell you,
2 the price negotiations pit one supplier versus
3 another.

4 You get a low priced Japanese supplier, a
5 low priced Chinese supplier, and they are going to
6 force the U.S. producers to lower their prices in
7 order to maintain their volume.

8 COMMISSIONER PEARSON: Mr. Kopf, be mindful
9 that my time is close to expiring.

10 MR. KOPF: Okay. I just wanted to make one
11 more comment, and that is that the Japanese have
12 before the order historically shipped a great deal of
13 material into this country, and there is tremendous
14 familiarity with their product.

15 I think that it is worth noting that we have
16 not seen an enormous surge of Chinese yet because the
17 customers here are still getting familiar with the
18 product, because this is new equipment, and new
19 production over in China.

20 Obviously, we are mindful of what they are
21 sending here, but there is no doubt in my mind that
22 the minute there is an opportunity to bring in large
23 amounts of Japanese steel, they are familiar with the
24 product, and they know how it will run.

25 COMMISSIONER PEARSON: Okay. Thank you.

1 CHAIRMAN OKUN: Commissioner Aranoff.

2 COMMISSIONER ARANOFF: Thanks, Madam
3 Chairman. Just a few more questions left. This is
4 one of the Sunset Reviews in which the Commission has
5 a benefit of 15 years of data, which we are able to go
6 back and look over.

7 And those data show that this industry has
8 seldom been profitable since the late '90s, despite
9 this order being in effect, and despite some periods
10 of very good economic times.

11 And there is some discussion of this in the
12 Respondent's brief, and so I wanted to give you the
13 opportunity to address it. Can you explain why as
14 businesses you choose to remain in the industry in the
15 face of both declining demand and infrequent
16 profitability.

17 MR. SCHERRBAUM: Tho os Joe Scherrbaum. I
18 think we had addressed this a bit earlier, and
19 obviously we are not happy with the profitability
20 either. But we do believe that the declining demand
21 that we talked about earlier is starting to level off.

22 We are hopeful that we have got some things
23 going here, and only time will tell on that, about
24 potentially a little bit of market growth, and we have
25 significant investment in this business, and we are

1 not ready to give up on it quite yet, and we still
2 think there is an opportunity to turn this thing into
3 profitability.

4 COMMISSIONER ARANOFF: Okay.

5 MR. HECHT: Commissioner Aranoff, may I make
6 one point on that, too? Obviously there is a lot of
7 things that have buffeted this industry through that
8 period that you are talking about, a lot of external
9 factors which we have touched on.

10 There is also some confidential issues that
11 we can't talk about here that we would like to address
12 to sort of help explain some of the factors that have
13 driven profitability in past years, and also where
14 some of those things are headed as well.

15 So I am in no way suggesting that this
16 industry is not operating in a difficult environment,
17 but as you have heard, I think there is hope that this
18 is something that can be turned around, and we
19 certainly want the chance to do that, and a chance to
20 do that without unfair trade impacting the market.

21 COMMISSIONER ARANOFF: Okay. Well, in
22 particular, the Respondents in their brief make an
23 argument with respect to the relationship of this
24 industry to the broader hot rolled industry, and it
25 sort of suggests that basically you never need to make

1 a profit for it to make sense to be in this business.

2 So I hope that post-hearing that you will
3 also respond to that. One more question, and that is
4 that in light of these same factors, and this issue
5 infrequent profitability, how should the Commission
6 treat the question of vulnerability, and in particular
7 is it appropriate for us to find this industry -- I
8 want to use the word sort of chronically vulnerable in
9 light of some of the facts that we have discussed?

10 MR. ROSENTHAL: To the extent that -- this
11 is Paul Rosenthal. To the extent that the notion of
12 chronically vulnerable would somehow exempt you, or
13 allow you to dismiss relief from this industry as
14 unnecessary and unimportant, I think would be totally
15 inappropriate, and not within the law to do so.

16 The law does not have a category of
17 chronically vulnerable or not worth saving. This is
18 an industry that is vulnerable, and under the law, you
19 have to understand that like in tort law, you have to
20 take the victim as you find it or him.

21 And just like in tort law, if you find
22 somebody who is ailing, and another entity comes in
23 and delivers a blow, that is the way that you have to
24 look at this under the trade law.

25 So I don't think that you can dismiss the

1 chronic operating losses of the industry as somehow,
2 well, now, it doesn't matter if the Japanese come in.
3 They are only going to make matters worse. So what.
4 That can't be the way that the law operates.

5 COMMISSIONER ARANOFF: Okay. Way in the
6 back row.

7 MS. KAPLAN: I think the Commission has
8 often looked at vulnerability --

9 COMMISSIONER ARANOFF: Please state your
10 name for the record.

11 MR. KAPLAN: Seth Kaplan. The commission
12 has often looked at vulnerability in two ways. One is
13 the condition of the industry that Mr. Rosenthal just
14 spoke of, and that you seemed to refer to in your
15 question.

16 But the other is the susceptibility of the
17 industry to import competition, and being vulnerable
18 to an increase in imports, and I think the record
19 shows -- and your last opinion shows -- as it was in
20 the slides earlier, that this industry is particularly
21 price sensitive.

22 That it has become more price sensitive
23 since the last investigation with the shortening of
24 contracts, and so that the industry is suffering from
25 the double-vulnerability.

1 Its condition is being vulnerable, and its
2 susceptibility to imports, and I think that both of
3 those things should be considered in the content of
4 making your decision.

5 COMMISSIONER ARANOFF: Thank you. That is a
6 helpful point, and with that, I don't have any further
7 questions. I do want to thank everyone on this panel
8 for your answers today. Thank you, Madam Chairman.

9 CHAIRMAN OKUN: Commissioner Pinkert.

10 COMMISSIONER PINKERT: Thank you, Madam
11 Chairman. I just have a couple of additional
12 questions. Mr. Kaplan, looking out over the past 10
13 years or so, is there a relationship between subject
14 and non-subject imports, and their shares of the U.S.
15 market, such that any increase in imports from Japan
16 would have to come at the expense of non-subject
17 imports?

18 MR. KAPLAN: I would like to take this in
19 more detail in the post-hearing brief, but if you look
20 at terms of shares, you have seen share changes. If
21 you look in terms of volumes, it is slightly
22 different.
23 So I would like to decompose those and discuss that in
24 the post-hearing.

25 COMMISSIONER PINKERT: That would be

1 excellent. Thank you. Now, I recognize that this
2 panel might not be able to address some of my
3 questions about the Sparrows Point Plant, but I want
4 to put them out there in case you can obtain the
5 information.

6 And in particular, I am interesting in
7 knowing whether the Sparrows Point Plant under its old
8 management had a difficult time supplying the quality
9 that was demanded by the big can customers?

10 MR. GOEDEKE: Tom Goedeke, ArcelorMittal. I
11 spent probably most of my career at Sparrows Point.
12 No, they did not have trouble meeting the quality
13 needs of the big can companies under previous
14 management, under Bethlehem Steel, under ISG, and
15 under Mittal.

16 COMMISSIONER PINKERT: Well, let's stay with
17 you then, and ask whether you are aware of any steps
18 that RG is contemplating, or that they might
19 contemplate, to improve the overall quality of the
20 operation at Sparrows Points in the event that they
21 were to start back up again?

22 MR. GOEDEKE: I would have no knowledge of
23 that.

24 COMMISSIONER PINKERT: Anybody else on the
25 panel?

1 (No response.)

2 COMMISSIONER PINKERT: I would ask for post-
3 hearing to see if you can obtain any information on
4 that subject. I think that it would be helpful.

5 MR. HECHT: We will endeavor to do so.
6 Thanks.

7 COMMISSIONER PINKERT: Thank you very much.
8 And with that, I have no further questions for the
9 panel. Thank you very much

10 CHAIRMAN OKUN: Commissioner Johanson.

11 COMMISSIONER JOHANSON: Yes, I have just one
12 more question or an issue that I wanted to bring up,
13 and this is back to Mr. Kopf. We spoke a few minutes
14 ago on challenges faced by the industry in trying to
15 rebuild this market.

16 And one word that has not been mentioned
17 today, and I know that it is not a very good one. It
18 is not one that you all want to talk about probably,
19 but that is Bisphenol A BPA.

20 I know that there have been health concerns
21 expressed about that by certain people. I was
22 wondering how much impact that is having on the
23 industry?

24 MR. KOPF: This is Rob Kopf. As I am sure
25 most people know, on March 30th the FDA ruled that

1 there was no scientific evidence supporting the ban of
2 Bisphenol A in the products that it is currently going
3 in.

4 I am not a can maker, and I am not a
5 coatings manufacturer, and so I prefer not to comment
6 beyond that. Obviously it is something that everyone
7 involved in the can industry has been paying close
8 attention to.

9 And the fact that the FDA rules that there
10 is no scientific evidence that it is a damaging
11 compound is relatively good news.

12 COMMISSIONER JOHANSON: Thank you for your
13 response, and that concludes my questions.

14 CHAIRMAN OKUN: Vice Chairman Williamson.

15 VICE CHAIRMAN WILLIAMSON: Just one
16 question. The Respondents have highlighted the
17 growing amount by which the AUVs of non-subject
18 imports have exceeded the AUVs of domestic producer
19 shipments, and I was wondering if you could explain
20 why this is occurring, and what it means for our
21 analysis?

22 MR. SCHERRBAUM: Joe Scherrbaum with U.S.
23 Steel. We noted that also, and we believe that it is
24 due to just the product mix of what the import numbers
25 are shipping in here.

1 There is a wide variety of products in this,
2 with a wide range of price. So we think that it is a
3 product mix issue of what is coming in. But we do
4 know that when we need to compete with these subject
5 imports right now on an apples-to-apples basis, we
6 continue to see that on a product line, specification
7 by specification basis, that in most cases those
8 prices are lower than where we are as I said on an
9 item-by-item basis.

10 VICE CHAIRMAN WILLIAMSON: Good. Thank you.
11 Mr. Hecht.

12 MR. HECHT: And just one data point to
13 support that. You asked the purchasers to compare
14 pricing among many other factors between the domestic
15 product and nonsubject imports. I think all 16 of
16 them found that they were either comparable, or the
17 imports were lower priced. So I think that supports
18 the head-to-head competition there.

19 VICE CHAIRMAN WILLIAMSON: Okay. Thank you
20 for those clarifications, and I want to thank the
21 witnesses for their testimony.

22 CHAIRMAN OKUN: Mr. Pearson.

23 COMMISSIONER PEARSON: Thank you, Madam
24 Chairman. I have some, all for post-hearing. Could
25 those who have access to the bracketed explanations on

1 page 4-7 to 4-9 of the staff report regarding
2 limitations on Japanese firms ability to produce tin
3 mill products, could you address those explanations in
4 the post-hearing?

5 Because I read that, and I say okay, every
6 facility has some limiting constraint, and they talked
7 about what they believed to be their limiting
8 constraints, and suggested that that would have
9 certain limitations for the U.S. market, and if there
10 is more that you could tell us about that, that would
11 be great.

12 MR. ROSENTHAL: We will do our best.

13 VICE CHAIRMAN WILLIAMSON: Thank you.
14 Earlier, a question was raised regarding the bracketed
15 comments in Footnote 4 on page 2-6 of the staff
16 report, and this regards late deliveries, and
17 suboptimal on-time performance that was alleged by the
18 U.S. industry.

19 My question about this really is that I look
20 at that, and we see quite a few steel cases. I
21 thought that there were more -- for an industry that
22 has been kind of in a steady state and going pretty
23 well for a period of years, and no major disruptions
24 over a period of time, I was a little bit surprised
25 with that level of concern expressed by purchasers

1 regarding on-time performance.

2 So what I wanted to learn in the post-
3 hearing is whether there is something special about
4 this industry that would cause that, or am I just
5 reading this case wrong in relation to other cases?

6 I mean, is the level of customer expectation
7 of questionable delivery performance in this industry
8 the same as in all industries regarding steel?

9 MR. ROSENTHAL: We understand the question,
10 and we will do our best.

11 COMMISSIONER PEARSON: Thank you. I would
12 not win any award for succinctness with that one.
13 Okay. I think that my last one is for you, Mr. Mull,
14 and again this would be appropriate for post-hearing.

15 This grows out of my own view that it was
16 just never clear to me why ArcelorMittal was required
17 to divert of one of the tin mills. And if you look at
18 the overall conditions of competition in the market,
19 it didn't seem obvious to me that that should be
20 required.

21 I didn't get to vote on that one. Could you
22 explain in post-hearing why ArcelorMittal decided to
23 keep Dofasco, and divert Sparrows Point?

24 MR. MULL: We will do our best to do that.

25 COMMISSIONER PEARSON: Okay. Thank you very

1 much. Madam Chairman, I have no further questions.

2 CHAIRMAN OKUN: I don't see any further
3 questions. Oh, yes, I'm sorry, Commissioner Pinkert.

4 COMMISSIONER PINKERT: In connection with
5 this question about the upstream products, and whether
6 or not the profitability of the operations on tin mill
7 should be viewed in the context of the overall
8 operation, including upstream products, I believe that
9 there is one U.S. company that is just a stand alone
10 tin mill products.

11 It does not have that upstream issue, and I
12 am wondering if for post-hearing you could discuss how
13 the financial performance of that company fits into
14 this argument about the overall operations?

15 MR. HECHT: We can do that, yes.

16 COMMISSIONER PINKERT: Thank you very much.
17 That's all I have. Thank you, Madam Chairman.

18 CHAIRMAN OKUN: Let me see if the Staff have
19 questions for this panel.

20 MR. CORKRAN: Douglas Corkran, Office of
21 Investigations. Thank you, Madam Chairman. The Staff
22 has no additional questions.

23 CHAIRMAN OKUN: Thank you. Do those in
24 opposition to the continuance of the order have
25 questions for this panel?

1 MR. PORTER: Madam Chair, we have no
2 questions.

3 CHAIRMAN OKUN: Thank you for that response.
4 Before we break for lunch, let me take this
5 opportunity to again thank all of the witnesses, and
6 the workers who have attended, for being here today.
7 We very much appreciate your participation.

8 I will remind the parties that the room is
9 not secure, and so please take any confidential
10 business information with you, and we will stand in
11 recess until 1:45.

12 (Whereupon, at 12:39 p.m., the hearing in
13 the above-entitled matter was recessed, to recovene at
14 1:45 p.m. this same day, Wednesday, April 12, 2012.)

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1 steel, which is probably about half of all steel
2 consumed in the U.S. for food cans.

3 I want to start my testimony today by
4 addressing a simple question. Why am I here. My
5 friends at the domestic mills want you to believe that
6 I have come to Washington so that I can purchase large
7 quantities of tin mill steel from Japan. That is
8 simply not true.

9 I can state rather unequivocally that even
10 if the AD order is terminated, Silgan will not
11 purchase large quantities of Japanese steel. I will
12 address why in a minute, and so why am I here?

13 I have come to Washington because I believe
14 that it is critical that the Commission have a
15 complete understanding of the competitive dynamics for
16 buying tin mill steel in the U.S. market.

17 Why? Quite frankly, the Commission needs to
18 hear from the large customers like Silgan to achieve
19 this understanding. I have been told that the
20 Commission is trying to determine whether if the AD
21 order is terminated the Japanese mills will ship large
22 quantities of tin mill steel that will harm the U.S.
23 mills.

24 The answer to that question is no, and the
25 reason is simple. Silgan has no intention of buying

1 large quantities of the Japanese tin mill steel that
2 has been subject to the AD case.

3 And as importantly it is unlikely that the
4 Japanese mills will sell large quantities of tin mill
5 steel to the U.S. market. Both of these answers are
6 based on my actual experience.

7 Let me first address Silgan's actual
8 purchasing practice. Silgan has consistently
9 purchased the overwhelming majority of its needs, well
10 over 90 percent, from domestic mills and Dofasco, or
11 stated differently, Silgan has rarely purchased more
12 than 6 to 7 percent of its needs from offshore
13 suppliers, suppliers from outside North America.

14 I know this to be true for the five years
15 that I have been in charge of buying tin mill steel
16 for Silgan, and my understanding is that it was also
17 true for years before I took over.

18 We structure our purchases this way by
19 design. Silgan purposely limits the types and
20 quantities of tin mill steel that we will source from
21 offshore suppliers. The reason is a combination of
22 small order volume and change order flexibility.

23 As I believe you know well from supermarket
24 aisles, tin cans come in a variety of types, shapes,
25 and sizes, and when you add the different types of

1 tops, and how the can opens, you end up with quite a
2 few tin mill steel mill specifications that we require
3 to meet our customers' needs.

4 Indeed, most years, we will purchase 400
5 different specifications of tin mill steel. As you
6 can imagine, with so many different specifications,
7 the total tons for some of these specifications can be
8 rather small.

9 It is generally difficult to get an offshore
10 mill to agree to smaller volumes. As importantly, we
11 have a critical need for changing our steel orders on
12 short notice. A huge part of our business is
13 supplying food cans, cans for fruits and vegetables.

14 As you can imagine, in any given year, the
15 quantity of the harvest can change dramatically. One
16 year may be higher than the usual volume for peaches,
17 but lower than the usual volume for tomatoes.

18 Such differences require differences in the
19 types of cans that we need to supply to food
20 companies, which in-turn requires different types of
21 steel to make the different cans.

22 And so in our business as a can maker, we
23 must have the flexibility to call steel suppliers and
24 say, for example, the harvest is different than we
25 expected, and therefore we need to double the quantity

1 of one spec, but cut another spec by one-third.

2 The combination of smaller orders and
3 frequent changes means that we need more flexibility.
4 Such flexibility is not available with any off-shore
5 supplier.

6 With off-shore suppliers, by the time that
7 we would make this sort of call, the steel could
8 already be on a boat headed for the U.S., and we would
9 be forced to take delivery of material that we no
10 longer need.

11 We simply cannot take this risk of having
12 the wrong steel at the wrong time. Therefore, we
13 choose carefully any specifications that we will
14 purchase from off-shore suppliers.

15 It is for precisely this reason that the
16 overwhelming majority of steel specifications are
17 essentially dedicated to domestic mills. In fact, in
18 a typical year, Silgan will buy over 400 different
19 specifications of tin mill steel, but only a handful
20 will come from offshore suppliers.

21 That is why more than 90 percent of our
22 steel ends up coming from the North American suppliers
23 who can react quickly to our changing needs. Although
24 this market dynamic is not new, there seems to be some
25 confusion that I would like to clear up.

1 Six years ago, my predecessor, Bob Bowen,
2 came before the Commission and tried to explain this
3 real world constraint that we -- and I strongly
4 suspect other can companies -- face in making our
5 procurement strategy.

6 However, in addressing this point, the
7 Commission's 2006 report made the following statement.
8 "There is no suggestion in the record that Japanese
9 tin mill steel is no longer of high quality, or no
10 longer substitutable for domestic like product.
11 Accordingly, we reject Respondent's assertion that
12 there is a practical limit on the likely volume of
13 subject imports." This is from page 20 of the report.

14 Commissioners, my predecessor failed in his
15 explanation. The real world dynamic that I am talking
16 about has nothing to do with the ability of the
17 Japanese to make tin mill steel.

18 Rather, it has to do with Silgan's economic
19 incentives for sourcing from domestic suppliers, and
20 turning to offshore suppliers for only a small part of
21 our needs.

22 Because of the constantly changing
23 requirements imposed on us by the food companies,
24 Silgan has a very real economic incentive to limit the
25 types of steel source from offshore suppliers.

1 Consequently, this is all about the economic
2 incentives facing can companies like Silgan, and not
3 whether the Japanese can make the product. For the
4 past five years, we have averaged 6 to 7 percent of
5 our needs from offshore suppliers.

6 That constraint limits our sourcing of
7 imports, and that constraint will also limit any
8 future import from Japan, and this is the primary
9 reason. Foreign steel simply has too far to travel,
10 and too long a lead time in a U.S. market that
11 requires flexibility.

12 I next want to address why I do not believe
13 that the Japanese will sell large quantities of tin
14 mill steel to the United States, regardless of what
15 Silgan or other can companies might wish.

16 Over the past couple of years, because of
17 dramatic changes in how steel making raw materials,
18 such as iron ore and coke, are sold on the global
19 markets, the Japanese mills have become very hesitant
20 to committing to long term contracts to sell tin mill
21 steel in the United States.

22 I know this because I have experienced this
23 reluctance firsthand. As you know, there are some tin
24 mill steel products that are excluded from the AD
25 order because the domestic mills do not make them.

1 And over the years, Silgan has purchased
2 some of those excluded products from the Japanese
3 mills, and some from European mills. About a year
4 ago, I approached the Japanese mills about increasing
5 our purchases of one of the excluded products.

6 Our company expected increased demand for
7 the type of can that needs this steel, and so we
8 requested a meeting with the Japanese mills. Indeed,
9 this opportunity was important enough for our company
10 that we arranged a high level Silgan delegation to
11 visit Japan. Our president, and two senior vice
12 presidents, and three general managers.

13 We met with both Nippon Steel and JFE Steel.
14 During our conversation, we made it clear that not
15 only did we want to secure a certain quantity for the
16 upcoming year, but also thought that there was a good
17 prospect that demand for this product would grow
18 appreciably.

19 However, the Japanese did not bite at all.
20 Indeed, we did not even get a formal response for a
21 price quotation for the small quantity that we desired
22 for the upcoming year.

23 In followup conversations, I learned that
24 the Japanese mills are very reluctant to commit to any
25 long term contracts now that they are forced to

1 purchase raw materials on a quarterly basis.

2 The Japanese mills simply do not want to
3 incur the risk that raw material prices may increase
4 significantly while they are stuck with a fixed sales
5 price for a year.

6 It is my view that raw material volatility
7 is ingrained in the risk profile of all Japanese
8 mills. It is my further view that the annual contract
9 in the U.S. market will not disappear at any time
10 soon. At least it will not disappear at any time soon
11 for Silgan.

12 Given that the long term contracts that we
13 have with our customers require a fixed annual price
14 for our cans, we must insist on a fixed annual price
15 for the tin mill steel that we purchase to make the
16 cans.

17 However, quite honestly, my belief that the
18 Japanese mills will be reluctant to ship large volumes
19 to the U.S. is not only about annual contracts. It is
20 also about how the Japanese now approach new business.

21 My friends in the domestic mills are trying
22 their best to give the impression that the Japanese
23 mills are repatent entities, who will sell at any
24 price to get the sale.

25 Commissioners, this is not true, and I know

1 this firsthand. Please understand that Silgan has
2 manufacturing facilities located outside the United
3 States.

4 Indeed, we have 23 can making and enclosure
5 production facilities in other parts of the world,
6 including Asia. According, we -- that is, Silgan's
7 outside the U.S. facilities -- regularly obtain price
8 quotes for tin mill steel from the Japanese.

9 And I can tell you unequivocally the price
10 quotes from the Japanese are among the highest
11 compared to all other suppliers, and this has been
12 consistently true over the last five years.

13 Our production facilities outside the U.S.
14 also provide additional evidence of the Japanese
15 approach to the U.S. market. If the Japanese were
16 willing, we could easily buy Japanese tin mill steel
17 outside the United States, manufacture can ends, and
18 then ship those ends to our facilities in the U.S.

19 Food can ends affectively have no borders
20 since they can and are shipped efficiently around the
21 world. So if the Japanese were truly sell at any
22 price as the domestics would have you believe, why
23 hasn't this happened?

24 This volume is not small potatoes. Silgan's
25 U.S. business needs are 200 thousand tons of steel to

1 manufacture can ends, and so I ask again why hasn't it
2 happened.

3 The answer is that the Japanese are not
4 interested. The Japanese are not interested in
5 selling tin mill steel to Silgan's outside U.S.
6 operations at a price that would make this work.

7 Indeed, even though it is common knowledge
8 that other U.S. can companies are importing can ends,
9 the Japanese have never even approached us about doing
10 this. To me, this speaks directly to the Japanese
11 approach to selling tin mill steel to the U.S. market.

12 And now I am quite sure why you are
13 recalling asking why am I here. If my company has
14 real world economic constraints on buying large
15 volumes from offshore suppliers, and the Japanese will
16 most likely refuse to sell large quantities pursuant
17 to an ANGO contract for the U.S. market, why am I
18 here?

19 Well, because in my job, I need to worry
20 about the future. I am not appearing here because I
21 want to harm the U.S. mills. That is preposterous.
22 As I have explained, Silgan needs the U.S. mills, and
23 we need them to be good, efficient, competent
24 suppliers.

25 My very livelihood depends on this, and so

1 the last thing that we want to do is harm the U.S.
2 mills. Silgan desperately needs the U.S. mills to be
3 world-class to supply products that allow us to
4 compete in the global marketplace, versus imports, and
5 the ever increasing threats from alternative
6 packaging.

7 No, the reason that I am here is when the
8 U.S. mills cannot supply my needs, or there is a
9 problem with supply, we can have the option of
10 purchasing Japanese tin mill steel.

11 Forgive me if my next minute is a bit
12 technical, but it is important that you understand
13 that there are circumstances from time to time when
14 foreign steel is essential to supplying our customers
15 and being competitive.

16 There are definitely some tin mill products
17 still subject to the AD case that U.S. mills cannot
18 supply. Wide tin free steel is an example. Prior to
19 the AD case, Silgan had purchased 42 inch wide metal
20 from Japan for use in making what we call 603ns, the
21 tops and bottoms of institutional restaurant sized
22 cans.

23 We did this because some of our production
24 lines have equipment designed to run 41 inch wide
25 coils, allowing us to stamp seven ends per press. No

1 U.S. mill can provide 42 inch tin free steel, for tin
2 free steel, given the limitation of the plant, U.S.
3 mills can only supply 38 inch tin free steel.

4 So if we had to purchase only U.S. steel
5 mills narrower coils, we would lose 16 percent of our
6 can end making output. Such loss of productivity
7 would affect both our costs and our capacity.

8 And it is for this reason that when the AD
9 case kicked out the Japanese, Silgan did not switch to
10 narrower U.S. coils. Rather, we simply began
11 importing wider coils from other sources instead of
12 Japan.

13 And then one foreign supplier completely
14 stopped producing wide tin free steel, and so we are
15 currently left with only one single foreign supplier
16 for this essential product.

17 And so what we want is more than just one
18 option for purchasing wider tin free steel, and a few
19 other specs that are subject to the AD order, but
20 which are either difficult or impossible to get from
21 the U.S. mills.

22 And we want the option to turn to the
23 Japanese when other events makes supply from other
24 sources difficult. More specifically, we need options
25 among offshore suppliers.

1 There are relatively few steel suppliers
2 around the world that can produce the quality of tin
3 mill steel that Silgan demands. Rasselstein in Germany
4 is one of those.

5 However, about three years ago, Rasselstein
6 essentially made the decision to get out of the U.S.
7 market, and so we lost a valuable supplier. Given
8 that Japanese mills can more than easily substitute
9 for European mills than they can for U.S. mills, I
10 view the Japanese as a potential substitute for
11 Rasselstein.

12 This leads me to my final point. Honestly,
13 if the U.S. mills could supply all of our needs in a
14 manner that ensures our global competitiveness, we
15 would be comfortable if they had a hundred percent of
16 our business.

17 We need them, but because this has not yet
18 happened, then I think that Silgan is justified in its
19 use of imported steel sources in the limited fashion
20 that we do.

21 I might note that we have no assurances from
22 any of the U.S. steel mills that they will make the
23 investments necessary to further compete in the global
24 tin plate steel market, or more dramatically, that
25 they intend to stay in the tin plate business beyond

1 any contractual commitments.

2 And so that is why I have come to
3 Washington. The truth of the matter is that even if
4 the AD order is terminated, Silgan has no intention or
5 incentive to purchase large quantities of tin mill
6 steel from the Japanese. I know this from my own
7 experience.

8 I am sure that you will have questions, and
9 I look forward to addressing them, and thank you so
10 much for your time.

11 MR. COSIO: Good afternoon. My name is Dan
12 Cosio. I am the director of metal supply. patching
13 operations, for Ball Packaging, Corp., which is a
14 subsidiary of the Ball corporation.

15 I have been involved in the steel industry,
16 including the purchase and sale of tin mill products,
17 since 1996. I have been with Balls since 2007, and
18 have served as Balls' director of metal supply since
19 August of 2010.

20 In that capacity, I am responsible for
21 Balls' steel sourcing for all steel packaging produced
22 in the United States. You probably know the Ball name
23 and our logo from the glass canning jars that many of
24 us grew up with.

25 Although Ball no longer owns the company

1 that produces those jaws, the steel products that we
2 make are probably in your kitchen pantries, and are
3 certainly on the shelves of the grocery stores that
4 you visit every week.

5 Ball produces the steel cans and ends that
6 contain many of the brands of canned fruit,
7 vegetables, infant formula, dietary supplements, soup,
8 seafood, and pet foods that you buy.

9 We are the largest manufacturer of aerosol
10 containers, and we may well have produced the can that
11 holds the hair spray or deodorant that you used this
12 morning.

13 We also manufacture steel cans for paint and
14 general line uses, as well as the specially tinned
15 that holds your Christmas cookies, or other specially
16 packaged goods.

17 Ball employs 14,500 employees worldwide.
18 About ninety-two hundred of those workers are in the
19 United States, including some twenty-two hundred
20 employees manufacturing steel cans in our U.S. steel
21 packaging plants located in nine States.

22 Ball is one of the largest purchasers of tin
23 mill steel in the United States. Ball requested the
24 opportunity to appear before the Commission today not
25 because we expect to purchase large quantities of

1 Japanese tin mill steel. That is not the case for
2 reasons that I will explain.

3 But we are here today in all candor, because
4 we would like to be able to add the Japanese companies
5 to our list of possible suppliers. That list has been
6 shrinking.

7 We need more options, especially for our
8 demanding specifications. We are also here today
9 because we know that this Commission has often been
10 called upon by our domestic suppliers to make
11 decisions that have an important impact on our
12 business.

13 We appreciate any opportunity to help you
14 develop an accurate picture of our industry,
15 especially given the suggestions often made by our
16 domestic suppliers that they may seek additional
17 restrictions on our non-U.S. supply sources.

18 As I am sure you will appreciate, Ball has
19 longstanding and robust commercial relationships with
20 our domestic suppliers of tin mill products. Two of
21 our plants are sited in our tin metals property in
22 Weirton, West Virginia, and a number of the others are
23 located approximate to the mills, which produce tin
24 mill steel.

25 In addition to our two West Virginia plants

1 utilizing tin mill steel. We have production
2 facilities in California, Ohio, Maryland, Tennessee,
3 Arkansas, Wisconsin, Pennsylvania, and Illinois.

4 The health and prosperity of the U.S. tin
5 mill industry is important to Ball. We depend heavily
6 upon our U.S. tin mill steel suppliers, and our
7 operations depend on the availability of tin plate
8 from nearby domestic mills. Let me explain.

9 As the data that you gathered from the U.S.
10 can producers demonstrates, the U.S. can industry
11 consistently sources 80 percent or more of tin mill
12 supply from the same domestic suppliers that you heard
13 from this morning.

14 If you include Canadian supply now
15 affiliated with a U.S. producer, that percentage moves
16 even higher. As you know from our questionnaire
17 response, Ball purchases the majority of our tin mill
18 steel needs from our domestic suppliers.

19 In 2011, of our hundreds of tin mill
20 specifications, only 60 were sourced from non-U.S.
21 suppliers. This is true even though our foreign
22 suppliers are able to produce all of the
23 specifications that we use.

24 There are several reasons that a domestic
25 can producer would want to limit its exposure to

1 foreign sourcing. First, there are inherent risks to
2 us in sourcing from abroad that do not exist when
3 dealing with the supplier suppliers.

4 Last year, for example, a vessel carrying a
5 shipment of coils that we had ordered from abroad was
6 caught in rough seas. A number of coils sustained
7 damage, which rendered some of them unusable.

8 As you can imagine, an event like this is
9 disruptive to the efficiency of our operations.
10 Second, for some specifications, where it is important
11 to have more flexibility in delivery schedules, and
12 shorter lead times, our domestic suppliers can be
13 responsive to changing needs.

14 Every month, we have customers making
15 changes to their requirements that in-turn results in
16 us changing our metal orders to our suppliers. An
17 example is a customer who asks for a different can
18 which has different material specifications within a
19 month of their delivery date.

20 To accommodate this, we had to change our
21 metal order with only about two weeks notice. Our
22 domestic supplier could do this. If we had been using
23 an offshore supplier, that metal would have been on
24 the water.

25 Third, a fundamental fact is that in any

1 event foreign suppliers have limited their
2 participation in the U.S. market. Some of them now
3 have U.S. affiliates from which they prefer to service
4 most U.S. customers. Many of them have good markets
5 closer to home.

6 In some cases offshore suppliers prefer the
7 quarterly pricing arrangements for tin mill products
8 that they can obtain in other markets, as compared to
9 the annual contracts that we use here.

10 Given these factors, along with threats of
11 new trade cases, offshore suppliers simply prefer to
12 limit their involvement with U.S. buyers.

13 Nevertheless, there are good reasons that we continue
14 to source some of our tin mill products from abroad.

15 For example, there are some specifications
16 that our U.S. suppliers do not produce, or for which
17 they have been unable to qualify or to maintain
18 qualification.

19 For those products, we have no choice but to
20 source from abroad. For example, our Finley, Ohio,
21 plant requires a wide steel that we use for our drawn
22 and ironed, or D&I production of two piece food cans.

23 Although we have used this wide coil for
24 many years, no U.S. mill producers of D&I product have
25 the necessary width. We source this product from non-

1 U.S. suppliers.

2 Similarly, our Milwaukee plant also uses a
3 wide D&I steel, although less wide than those used in
4 Finley, for which no supplier has been able to
5 maintain a qualification. We also source that steel
6 from foreign suppliers.

7 The majority of the tin mill steel that Ball
8 imports each year on a volume basis is for
9 specifications not produced by domestic mills, or for
10 which our domestic suppliers have been unable to
11 qualify or maintain qualification.

12 Second, if you have visited a can
13 manufacturing facility, you know that we cannot
14 efficiently produce cans unless we have a constant
15 supply of qualified coils. Steel cans cannot be made
16 from anything else.

17 A production disruption at any of Ball's
18 domestic suppliers can result in a negative impact on
19 our ability to serve our own customers in a timely
20 manner.

21 For this reason, Ball endeavors to maintain
22 more than one qualified supplier for each of its
23 specifications at every plant. We cannot responsibly
24 limit ourselves to a single supplier, and sometimes
25 offshore suppliers provide the best option for

1 alternative supply.

2 Finally, I recognize that the Commission's
3 job today is to look into this crystal ball and
4 predict the potential effects of lifting the order on
5 Japanese tin mill steel.

6 I would like to make three brief comments on
7 that score. First, Ball purchased very little from
8 Japanese producers prior to the time that this action
9 was taken against Japanese steel, and we are unlikely
10 to purchase significant quantities if the order is
11 revoked.

12 From Ball's perspective the opportunity to
13 speak with Japanese suppliers would principally mean
14 the possibility of an additional qualified source of
15 steel for our D&I applications, which is very
16 difficult to get domestically.

17 Second, the Commission should also recognize
18 that there is another important reason that Ball's tin
19 mill steel purchases from Japan would likely be
20 limited. The cost of the inland transportation to
21 move the product from the port to most of our plants
22 would make the delivered cost less than attractive.

23 Third, we believe that the Commission should
24 look closely at the fact that can companies over time
25 have consistently sourced an overwhelming share of

1 their tin mill steel from domestic suppliers, and even
2 more from North America as a whole.

3 There is no reason to believe that this
4 would change, or that Japanese suppliers, even if they
5 were interested in serving the U.S. market, would
6 serve a role different from any of our other foreign
7 suppliers.

8 Finally, we would ask the Commission to take
9 into account the fact that the U.S. tin mill industry
10 has had protection, complete protection, from Japanese
11 imports for more than 12 years, as well as a period of
12 protection from all imports under Section 201.

13 During this time domestic producers have
14 made limited investment in upgrading their facilities
15 to create products that are consistently on spec, or
16 to produce products that we need today.

17 The U.S. industry's reject rates are
18 substantially above those of our non-U.S. suppliers.
19 Under these circumstances, it seems particularly
20 inappropriate to continue or to deny U.S. can
21 producers at least the opportunity to discuss
22 obtaining access to limited supplies of high quality
23 tin mill steel from Japan.

24 We respectfully submit that the Commission
25 should allow this dumping order to Sunset. Thank you

1 for the opportunity to appear today, and I look
2 forward to answering any of your questions.

3 MR. AOYAMA: Good afternoon. My name is
4 Takeo Aoyama. In April of 2009, I became the
5 Executive Vice President and General Manager of the
6 Chicago Office of Nippon Steel U.S.A.

7 Prior to this position, I had been in
8 various marketing positions during my almost 30 year
9 career at Nippon Steel. My current responsibilities
10 include all North and Central American marketing for
11 all products from Nippon Steel, including tin mill
12 products.

13 This position also includes Nippon Steel
14 activities in Mexico, a major market for Japanese
15 exports. My job is to expand our business in the
16 United States, but those efforts take place in the
17 broader context of the opportunities in many other
18 markets around the world.

19 We have not been able to compete for a large
20 segment of the U.S. steel mill market for more than a
21 decade, but business goes on, and we developed an
22 overall strategy for our tin mill business that has
23 been working.

24 The U.S. market has not been and will not
25 become a major part of that strategy. During the past

1 decade, our business has refocused. We are now very
2 well positioned in those emerging markets that are
3 growing and offering better prices than we could
4 obtain in the U.S. market.

5 There is simply no reason for us to change
6 our strategy. Our strategy has three basic elements.
7 First, we have focused on growing emerging markets,
8 where there are both current and future opportunities.

9 Second, we have focused on differentiating
10 our products, leveraging the steel mill
11 characteristics of our steel to better meet customer
12 needs. Third, we have focused on long term
13 relationships in key markets, where we invest in
14 technical support of our products. Let me discuss
15 each of these points.

16 Our overall strategy starts with the simple
17 premise that we should focus on those export markets
18 that are growing and present the greatest long term
19 opportunities.

20 This growth has been to markets all over the
21 world, but primarily in Asia and other emerging
22 markets. As you can see on the screen, during 2011,
23 the Japanese industry exported tin mill steel to 45
24 different countries.

25 Over the longer period of 2006 to 2011

1 period, the Japanese industry exported to 60 different
2 countries. Japan's exports to these other markets
3 have increased about 30 percent over the 2006 to 2011
4 period. Why would we shift our focus from these
5 growing markets to a declining market like the United
6 States? Why would we shift our focus from a market
7 with few, if any, local producers, and market that
8 much imported steel to a market like the United
9 States, with four local producers, who have lots of
10 excess capacity. It would make no sense.

11 These markets are all over the world. Of
12 the top 10 export markets in 2011, five are in Asia,
13 namely The Philippines, Australia, Indonesia, Taiwan,
14 Singapore and five were in four other regions; Mexico
15 in Central America, and Peru in South America, The
16 Netherlands in Europe, and finally Saudi Arabia and
17 Iran in the Middle East.

18 Besides better growth prospects, these
19 diverse markets create a geographic diversity that
20 avoids too much exposure to the economic risks in any
21 one market. Beyond this focus of growing markets, we
22 have also focused on providing technical superior
23 products to these markets.

24 We have succeeded because we have
25 differentiated our products. Japanese tin mill steel

1 is the lowest priced option, but we are often a lower
2 cost option for our customers.

3 The key issue for customers is how they
4 improve their productivity. How can they produce more
5 cans faster using less steel. How first, and how
6 error free can they operate their operations.

7 Through a combination of more uniform
8 thickness of the substrate, and coating, and more
9 consistent hardness, and other mechanical and
10 technical properties of the steel, Japanese steel
11 allows customers to achieve higher productivity.

12 Let me give you a concrete example. We have
13 been developing products that allow customers to down
14 gauge, to use steel for the same applications. I have
15 provided an example, on the screen.

16 We can make steel with a higher tin steel
17 strength that can substitute for thicker steel. This
18 allows the customer to use 20 percent less steel.
19 Even if the steel price is 10 percent higher, the
20 higher priced steel is actually a much better value to
21 the customers.

22 Moreover, by providing steel with extremely
23 consistent mechanical properties, we also allow
24 customers to reduce errors and manufacturing
25 interruptions. This product differentiation has been

1 a key to our market success.

2 Consider Mexico. In each year from 2006 to
3 the 2011 period, Mexico has been the largest single
4 export market for Japan. Let me spend a bit more time
5 on Mexico since it really illustrates all the key
6 elements of the Japanese industry's thinking.

7 Mexico has grow. Japanese exports to Mexico
8 increased more than 32 percent over the 2006 to 2011
9 period by almost 53 thousand tons. Moreover, Mexico
10 grew even in 2009, a year in which many other markets
11 shrunk, and in which total exports declined.

12 So, Mexico is both a story of growth, and
13 the illustration of the benefits of diversity, but
14 Mexico also illustrates the benefit of higher coated
15 products. Nippon Steel sells tin mill steel to Mexico
16 that better meets the specific needs of customers.

17 For example, we supply tin mill steel with a
18 special chemical composition that has excellent
19 formabilities for us in three piece welded cans. We
20 also sell tin mill steel with highly consistent
21 mechanical properties and a flatness that provides
22 excellent durabilities that is ideal for two piece
23 grow and regrow cans.

24 We also export to Mexico tin mill steel with
25 a different chemical composition that has particular

1 good performance in easy open can tops. Consistent
2 easy opening and with deep durability. These are not
3 generic tin mill steel, but a specialized high
4 performance products.

5 We also provide technical assistance to
6 customers and work with them to adopt their production
7 process to maximize the benefits of using technical
8 experience steel that will improve their productivity
9 and lower their cost. Japanese exports to Mexico
10 continue to grow even when faced with competition from
11 other suppliers because we can provide distinct
12 products that better meet customer needs.

13 Note that I have not mentioned China. Japan
14 exports some tin mill steel to China, but it is not
15 major export market for finished tin mill steel.
16 Instead, Japanese mills have set out joint ventures in
17 China that my colleague from JFE, Mr. Okamoto, will
18 discuss shortly. You Commissioners heard this morning
19 that U.S. steel industry people have argued increasing
20 Chinese exports will displace Japanese export, but
21 this argument simply misunderstands the market.

22 At the outset, I know that in 2011 about 67
23 percent of total Japanese tin mill steel exports
24 subject to this case went to markets outside of Europe
25 and outside of Asia. The Japanese exports are

1 extremely well diversified. During the past four
2 years during which Japan exported about 900,000 tons
3 to Mexico, China exported less than 20,000 tons. The
4 world is a large place, and our geographic focus is
5 different than China.

6 Moreover, the Japanese mills are supplying
7 fundamentally different products. We have growing
8 joint ventures in China that succeed precisely because
9 the products are different. Other than Japanese joint
10 ventures, Baosteel is an integrated producer in China
11 that only qualifies as a Tier 1 supplier of quality
12 tin mill products. The other Chinese mills are not
13 integrated producers and using much lower-grade
14 substrate.

15 The substrate is not even really tin mill
16 black plate. It is not clean enough and does not have
17 consistent mechanical property but is really just
18 single-roll steel that are used in mostly lower-end
19 applications like paint cans. They cannot compete for
20 food or beverage cans. Their steel is just too thick
21 and too inconsistent. It would jam the machinery in a
22 high-speed food can operation.

23 The details are confidential, but I will
24 submit with our post-hearing brief some test results
25 that compare tin mill steel from the Japanese joint

1 ventures in China with the tin mill steel from Chinese
2 producers. The Japanese product is sufficiently
3 different that it means very different market needs.
4 You can also see this difference between and China in
5 Australia. The local producer decided to stop
6 production. China thus expanded its export to
7 Australia by about 29,000 tons, but over the same 2006
8 to 2011 period, Japan expanded its exports to
9 Australia by about 54,000 tons.

10 That is a point about growing market and
11 differentiated products. Opportunities exist without
12 being there some game. The final element of our
13 strategy is long-term relationship. Again, Mexico
14 provides a good example. Nippon Steel has been
15 exporting tin mill steel to Mexico more than 40 years.
16 Our largest customer in Mexico is a food can company
17 that we have been supplying for more than 30 years.
18 We grow with our customers.

19 Our basic premise is that it makes more
20 sense to have a stable long-term relationship with
21 customers rather than switching around
22 opportunistically. Making some extra money this
23 quarter does not make sense when it undercuts the
24 longer-term strategy. More importantly, in long-term
25 relationships, we can invest in the technical support

1 of our products that helps our customers use higher-
2 quality steels to improve their own productivity.

3 I have engineers on my staff in Chicago who
4 work with our customers in this region, including
5 Mexico, to allow our customers to better leverage the
6 benefits of our highly-engineered steel products.
7 That is our basic strategy, and it does not depend on
8 increasing exports to the United States, but there is
9 another reason we cannot increase our exports to the
10 United States, the disconnect between the U.S. market
11 that demands annual contracts and our unwillingness to
12 enter into annual contracts.

13 One of the most serious challenges facing
14 the steel industry has been the growing challenge of
15 obtaining raw material at a stable price. The
16 Japanese mills are integrated producers. We run blast
17 furnaces and melt steel, but we do not have access to
18 key raw materials like iron ore and coke and coal in
19 Japan. We must import these raw materials and
20 although we have been investing to secure better
21 access to key raw materials, this ongoing process has
22 been challenging.

23 This slide shows the problem. As China
24 consumed more and more of the global supply of these
25 key steel-making raw materials, world prices have

1 spiked. Even more troubling, the old pattern of
2 annual contracts, note that tracked one-year segments
3 on this graph has been replaced with rapidly changing
4 prices on a quarterly or monthly basis. Raw material
5 suppliers are unwilling to agree to annual contracts.

6 In most steel markets, this productivity is
7 not a major issue. In most steel markets, pricing is
8 set for transactions or set quarterly. It's a deal
9 when for longer-term there are mechanisms for price
10 adjustments. The tin mill business in the United
11 States is different. Customers in the United States
12 have a strong preference for annual contracts, and
13 these U.S. customers also strongly resist price
14 adjustment within a contract year. They need to
15 commit to pricing for their customers, and so they
16 want to lock in their own material cost.

17 That adjusts their reality in the U.S.
18 market for tin mill steel, and the U.S. market is
19 different than our other markets. For example, in
20 Mexico, although we previously had annual contracts,
21 over the past few years, we have moved all those
22 customers to quarterly pricing. In fact, Nippon Steel
23 now has a policy of not agreeing to annual contracts
24 for steel, but this reality puts Japanese mills in a
25 box.

1 The U.S. customers want to lock up a price
2 for a year, but we have less ability to know our own
3 cost with enough certainty to allow us to lock into a
4 price for a year. Entering into an annual contract
5 with U.S. steel mill customers is just a significant
6 risk for a Japanese mill. It really does not make
7 sense for us to take this risk, particularly given our
8 10-year effort to build customer relationships within
9 other markets, so where does that leave Japanese mills
10 for the future?

11 China is not going away. Indeed, rapidly
12 growing Chinese consumption of key steelmaking raw
13 materials will continue to be a major issue in the
14 industry. Those integrated mills like U.S. Steel with
15 captive sources of key raw materials are at the
16 significant advantage competing in the U.S. market.
17 They can lock in annual contracts and even longer-term
18 contracts with less risk.

19 Japanese mills, in contrast, face a
20 disadvantage. This is not just some abstract theory.
21 We just don't sell steel to the U.S. market based on
22 annual contracts that lock in price. Indeed, you can
23 see this pattern in our shipments of excluded tin mill
24 products. The quantities have been limited. Since we
25 will not lock in prices longer term, customers have

1 placed orders for only limited quantities.

2 During 2006 to 2011 period, all of our sales
3 of excluded products have been quarterly contracts,
4 not annual contracts. Thank you. I'll be happy to
5 answer questions when our panel is finished.

6 MR. OKAMOTO: Good afternoon. My name is
7 Kaoru Okamoto. In April 2011, I became President of
8 JFE America based in New York City. Prior to this
9 position, I had been the Vice President Marketing here
10 at JFE Steel America since May 2005. My
11 responsibilities include all North American marketing
12 for all products from JFE Steel, including tin mill
13 products. This position also includes JFE's
14 activities in Mexico, a major market for Japanese
15 exports.

16 Earlier in my career with JFE and its
17 predecessor, NKK, I held various other marketing
18 positions, including a position in the export
19 department NKK Corporation, where I was specifically
20 responsible for marketing tin mill black plate, the
21 substrate for tin mill products. You have heard a lot
22 this morning from the domestic industry about what
23 they think will happen with the AD order on tin mill
24 steel is terminated. Well, I am here today to share
25 with you what JFE, my company, actually will be doing

1 in the future.

2 We have plans to grow our business, but
3 those plans have nothing to do with significantly
4 expanding exports or finished stainless steel to the
5 U.S. market. You have already heard a great deal
6 about the Japanese strategy for selling finished tin
7 mill steel to various markets around the world from
8 Mr. Aoyama of Nippon Steel. I would therefore like to
9 focus on a different aspect of the Japanese steel
10 approach to this product.

11 Why Japanese mills, and JFE in particular,
12 have and will continue to focus on the strategy of
13 supplying tin mill black plate to joint ventures
14 around the world. As you can see on the screen,
15 Japanese mills have established several tin mill steel
16 joint ventures around the world. There are a total of
17 nine joint ventures in six different countries, three
18 in China, two in Thailand and one each in Colombia,
19 Indonesia, Malaysia and Vietnam. Of the total, six of
20 these joint ventures involve JFE, and three involve
21 Nippon Steel.

22 Moreover, these joint ventures consume the
23 vast majority of the tin mill black plate that
24 Japanese mills export. In 2011, total black plate
25 exports to these six countries totaled 1.15 million

1 tons. This amount represents about 96 percent of
2 total Japanese black plate exports. This amount is
3 also larger than the 915,000 tons of finished tin mill
4 products exported during 2011. Thus, you can see that
5 black plate shipments to joint ventures are a major
6 part of Japanese Mills strategy for this product area.

7 To make all this more concrete, let me tell
8 you a bit more about the joint ventures in Thailand
9 and how they affect our approach to that market.
10 Thailand has two Japanese joint ventures, one in which
11 JFE is the partner, and one in which Nippon Steel is
12 the partner. For both companies, the Thai joint
13 venture is the largest of the joint ventures. Because
14 of these joint ventures, Japan has consistently
15 exported on average about 240,000 short tons of black
16 plate per year over the 2006 to 2011 period.

17 At least for the JFE joint venture in
18 Thailand, we expect steady growth in 2012 and 2013.
19 These joint ventures use Japanese black plate for some
20 of their production and also use local black plate for
21 their production. They use Japanese black plate to
22 make higher-quality products that better serve
23 specific applications. That is the competitive niche
24 for the joint ventures and how they differentiate
25 themselves from other suppliers of more commodity

1 types of tin mill steels.

2 As the slide shows, we also have continued
3 to sell some finished tin mill steel mill steel
4 products to Thailand that average about 25,000 short
5 tons per year over 2006 to 2011 period. These exports
6 of black plate and finished tin mill steel are both
7 parts of serving the market need for the higher-
8 quality tin mill product we can supply. Black plate
9 and finished tin mill steel are two different parts of
10 the same basic strategy of supplying customer need for
11 the highest-quality products that better meet their
12 specific applications.

13 Why are these joint ventures so important to
14 the Commission's analysis? I think there are several
15 key points. First, every ton of black plate that
16 Japanese mills ship is a ton that cannot become tin
17 mill products. A ton of cold-rolled steel needs to go
18 through the same annealing process whether it's going
19 to be sold as black plate or further processed into
20 tin mill products.

21 Historically, this annealing process has
22 been the practical constraint on how much black plate
23 and tin products JFE could produce, so the Commission
24 can really understand our future capabilities only by
25 considering both black plate and tin mill products.

1 Second, these joint ventures represent long-term
2 commitments.

3 We at JFE like to think that all our
4 customer relationships are longer term, but the joint
5 ventures are different. We have a longer-term
6 commitment to supply them the black plate substrate
7 that is the key to their operations. We cannot
8 abandon the joint ventures just because tin mill
9 prices may be higher somewhere else. Black plate is
10 not widely available on the open market. Our joint
11 ventures buy most of their tin and BP from their
12 Japanese mill partners.

13 Finally, these joint ventures are in faster-
14 growing emerging markets and thus represent a better
15 long-term strategy for the Japanese mills. In mature
16 markets like the United States and Japan, tin mill
17 consumption has been falling in the face of limited
18 population growth and a shift to alternative
19 packaging. In emerging markets however, tin mill
20 consumption has been strong.

21 We provided in our questionnaire response a
22 market study JFE prepared that projected tin mill
23 consumption growth in Asia of about four percent
24 annually through 2015 and beyond to 2020. The joint
25 ventures in Asia represent a concentrated effort by

1 JFE and other Japanese mills to compete for this
2 growing market in Asia. Thus, these joint ventures
3 serve as a practical constraint on the ability of
4 Japanese mills to significantly increase tin mill
5 exports.

6 Black plate is already a larger portion of
7 total shipments than tin mill steel, and that portion
8 is likely to grow over time. At JFE, we build our
9 production planning for this product area around our
10 commitments to the joint ventures. We first supply
11 the joint ventures with black plate. We then supply
12 tin mill products to our existing customer base, many
13 of whom are long-standing customers both in Japan and
14 in other emerging markets around the world.

15 The black plate comes first since it
16 represents a more important part of the longer-term
17 JFE business strategy of combining Japanese steel-
18 making technology with local partners to compete in
19 key growth markets. Continuing to meet the existing
20 customer needs comes second. It simply does not make
21 any business sense to abandon long-standing customers
22 to chase a new opportunity that may exist this year
23 but be gone next year.

24 These joint ventures have become even more
25 important to JFE in light of the raw material price

1 volatility Mr. Aoyama just discussed. This volatility
2 affects JFE as well. We have also had to abandon
3 annual contracts and switch to more frequent prices
4 changes. It is simply not possible to quote an annual
5 price when the raw material costs can vary so much
6 during that year.

7 In closing, I would like to summarize how
8 Japanese mills see the current incentives in the tin
9 mill market. On the one hand, we have fast-growing
10 emerging markets that have been offering higher prices
11 than the United States market. In many of these
12 markets, we have joint ventures to which we have made
13 a longer-term commitment. On the other hand, we have
14 the U.S. market.

15 The U.S. market has been shrinking, not
16 growing. The prices have been lower. Customers in
17 the U.S. market strongly favor the annual contracts
18 that are very high risk for Japanese mills, nor are
19 any of these situations likely to change any time
20 soon. Given this situation, it simply makes no sense
21 for the Japanese mills to significantly increase
22 exports to the United States. Thank you very much.

23 MR. DURLING: Good afternoon. My name is
24 James Durling. I'm counsel to the Respondents in this
25 proceeding. I'm going to discuss two key issues in

1 this case, the ability of the Japanese to export more
2 to the United States and, more importantly, their
3 incentive to do so.

4 Let me begin with capacity. Current
5 Japanese capacity is much lower than during the
6 original investigation having eliminated more than 1.5
7 million tons of capacity over the past decade.
8 Compared to the peak in 1998, capacity is down about
9 46 percent, so where does that leave the Japanese
10 mills? This slide shows capacity utilization in each
11 year of the period of investigation.

12 Capacity utilization has averaged about 84
13 percent over the full period and has averaged about 88
14 percent over the most recent two years, but these
15 aggregate numbers by themselves in fact exaggerate the
16 Japanese capacity truly available for increasing
17 exports to the United States. First, these numbers
18 include all three Japanese mills including Toyo Kohan.
19 Unlike Nippon Steel and JFE that have a history of
20 exporting, Toyo Kohan does not.

21 Regardless of its level of capacity
22 utilization in year after year, Toyo Kohan has always
23 focused on the Japanese market and has never
24 significantly increased its tin mill exports to any
25 market. Toyo Kohan has not exported subject tin mill

1 steel to the United States in decades. When thinking
2 about Japanese capacity therefore, it is simply not
3 credible to think that Toyo Kohan is going to behave
4 any differently and begin exporting to the United
5 States when it has never done so in the past.

6 Almost half of the available Japanese
7 capacity in fact belongs to Toyo Kohan, and there is
8 no basis to believe that this capacity would ever lead
9 to increased exports to the United States. Second,
10 these numbers also do not reflect the seasonality of
11 tin mill shipments in the export markets served by the
12 Japanese mills. Since so much of tin mill production
13 is used for cans to package food, and since food has
14 seasonal peaks of production, Japanese tin mill steel
15 export shipments tend to be seasonal.

16 Mills need capacity for these peak periods
17 earlier in the year, even if that capacity will
18 sometimes be more than needed for the slower fourth
19 quarter. For example, over the two most recent years,
20 Japanese export shipments in the fourth quarter was
21 about 15 to 20 percent below the average of the first
22 three quarters. Some extra capacity in the four
23 quarter is not going to help Japanese mills ship
24 significant quantities to the U.S. market that is
25 dominated by annual contracts.

1 Third, as you've seen in the testimony by
2 Mr. Aoyama, Japanese mills are currently serving many
3 different markets in many different regions. They
4 need capacity to meet possible peak needs in many
5 existing markets. It makes little sense to abandon an
6 existing customer base that can often consume
7 virtually everything that Nippon Steel and JFE can
8 produce a peak year like 2010.

9 For all of these reasons, Nippon Steel and
10 JFE are busy serving existing customers in growing
11 established markets. They have little ability to
12 significantly increase their exports to the U.S., but
13 even if they had the ability, would they have any
14 incentive to ship large quantities to the U.S.? The
15 answer is no. Beyond the fact that these emerging
16 markets are growing and present opportunities to ship
17 more tin mill steel, these emerging markets have also
18 been presenting more attractive prices.

19 Our brief presented a variety of pricing
20 data. Let me discussed landed prices here with you
21 this afternoon. One must start with market prices in
22 a country. Japanese mills have to sell at a price
23 that customers are willing to pay, and customers want
24 the price to cover the steel already delivered to
25 their country. The price has to reflect the cost of

1 getting the steel to the customer. The Japanese mill
2 only receives on an FOB basis what is left after
3 subtracting the costs of delivery.

4 Since the Japanese export statistics only
5 present FOB prices and include both the tin mill steel
6 subject to the case as well as excluded products, we
7 had to collect data on prices and transportation
8 costs, so we asked Nippon Steel and JFE to separately
9 send us FOB prices of just the tin mill steel subject
10 to the case to their largest export markets.

11 Both mills also separately asked their
12 trading companies, companies who handle the
13 transportation and logistics for their export sales,
14 to provide the average cost of freight to each market.
15 We then combined the mill-specific data for each
16 market, constructed a weighted-average C and F price
17 and then added an amount for insurance. This exercise
18 provides a CIF price of subject tin-mill steel for
19 each of the major Japanese export markets.

20 This is our best estimate of the actual
21 landed price in each of these markets. The graph on
22 the screen shows the results for 2011. We have left
23 out the specific countries to make the graph public.
24 We have also added a bold, horizontal line at the
25 average price that U.S. customers reported paying to

1 U.S. steel mills in 2011 to provide a basis for
2 comparison. This graph makes two important points
3 that I would like to highlight.

4 First, all of the countries have landed
5 prices at or above the average U.S. price. For those
6 countries with higher-landed prices, the average gap
7 was about \$93 per ton, a significant gap. The two
8 countries with lower-landed prices are only slightly
9 lower. We did the same analysis for 2010, which is in
10 our pre-hearing brief, and that shows that the prices
11 were higher in 2011 than 2010.

12 For both 2010 and 2011, the two most recent
13 years of the period you're now looking at, the main
14 export markets for Japanese mills had higher-landed
15 prices than were available in those two years in the
16 U.S. market. The second point is transportation costs
17 matter. We know from Japanese mill shipments of
18 excluded tin mill steel that the average cost of
19 getting tin mill steel to the U.S. market was about
20 \$114 per ton in 2011.

21 This cost is higher than 11 out of the 14
22 markets in this comparison. In other words, once one
23 subtracts the transportation costs from the price paid
24 by the customer, the Japanese mills received more
25 revenue on exports to these other markets than they

1 would receive from an export to the United States, and
2 that brings me to Slide 16 from the domestic industry
3 presentation this morning.

4 I would just like to make three points about
5 slide 16 and how it relates to the analysis that I
6 just represented to you. The first point I would make
7 is that this price for the U.S. market makes
8 absolutely no sense. It is not consistent with the
9 shipment AUV reported by the domestic mills in their
10 questionnaire responses to you. It is not consistent
11 with the pricing product information that they present
12 to you. This number makes no sense at all for the
13 U.S. market.

14 The second point I would make is that if you
15 in fact took their graph and put in this the U.S.
16 prices that they reported to you in your
17 questionnaire, it in fact shows, by their own
18 analysis, that prices outside of the U.S. are
19 significantly higher than the prices that are
20 available in the U.S. The third point I would like to
21 make about is the geographic representation here is
22 not the same as where the Japanese are shipping. We
23 did our analysis on those specific countries that in
24 fact account for the vast majority of Japanese
25 exports.

1 In closing, I would like to summarize how
2 Japanese mills see the current incentives in the tin
3 mill market. The U.S. market is shrinking, not
4 growing. The U.S. market has lower prices than other
5 export markets, and after accounting for
6 transportation costs, a Japanese mill receives less
7 per ton that it would from an export to some other
8 market. The U.S. market has four domestic producers
9 that have a natural advantage in their home market,
10 and the U.S. market has some of the largest customers
11 in the world who drive a very hard bargain.

12 In theory, the large U.S. market might seem
13 attractive, but in reality, there are many, many
14 reasons why Nippon Steel and JFE will continue their
15 focus on other export markets. Thank you, and we'd
16 like to reserve the remainder of our time.

17 CHAIRMAN OKUN: Thank you. Before we begin
18 our questions this afternoon, let me take this
19 opportunity to thank all the witnesses for being here.
20 We appreciate those of you have taken the time to
21 travel long distances to be with us and the business
22 representatives for being here to respond to our
23 questions. We very much appreciate your being here,
24 and I begin the questions this afternoon, and so let
25 me start with our Japanese producers and talk a little

1 bit more about Mexico. I'm going to focus both on
2 Petitioners' side and in your presentation this
3 morning.

4 It's interesting because the price issue is
5 in dispute, and I understand the point you're making,
6 and obviously I think a lot of this is going to have
7 to be done post hearing in looking at the numbers that
8 you've put together versus what the Petitioners are
9 pointing to, and I think those are important points,
10 and so I appreciate all the material you have, and
11 we'll also look at that post hearing.

12 Let me just ask in terms of the Mexican
13 market, just give me a sense of the market in general.
14 Are you the largest exporters into the Mexican market?
15 Does anyone else come close? Mr. Aoyama, let me start
16 with you. Make sure your microphone is on, please.

17 MR. AOYAMA: Sorry. This Aoyama, Nippon
18 Steel. Yes, you're right. Japan is the largest
19 exporter to Mexican tin plate market.

20 CHAIRMAN OKUN: Okay. And the Mexican
21 producers, what's their market? Do you have a sense
22 of their market share versus Japanese market share?

23 MR. AOYAMA: Actually, in Mexico, there is
24 only one domestic producer of tin plate, and their
25 market share I suppose is at 25 or 30 percent or

1 something.

2 CHAIRMAN OKUN: Okay. And you had a chart
3 there indicating that Chinese producers are not yet in
4 Mexico. That doesn't seem to yet be a focus of their
5 product. Who's the other competition in Mexico that
6 you compete against?

7 MR. AOYAMA: Our main competition is the
8 European mills.

9 CHAIRMAN OKUN: European mills?

10 MR. AOYAMA: Yes.

11 CHAIRMAN OKUN: Okay. Okay. And so then,
12 Mr. Okamoto, did you want to add anything with respect
13 to your sense of the Mexican market?

14 MR. OKAMOTO: No. I have the same
15 observation of the Mexican market.

16 CHAIRMAN OKUN: And this information might
17 be, as I turn to look back quickly, so if it is, just
18 point it to me, what are your demand forecasts for the
19 Mexican market going forward, so 2012, 2013? Do you
20 have a demand forecast for this product in Mexico, and
21 obviously if anything's confidential, you could just
22 point me to the confidential information.

23 MR. AOYAMA: Yes. As you know, the demand
24 for tin plate is closely related to the quota that our
25 customer is, the food can manufacturers, so the demand

1 for our product is depending on the crops, so it
2 depends, but at least as far as we have been informed
3 from the customers through trading firms, this year,
4 2012, is a rather good year because last year in
5 Mexico they suffered a lot because of the crop is not
6 so good, but this year is relatively a good year.
7 That is what we have now.

8 CHAIRMAN OKUN: Okay. And for just a little
9 background, can you comment on that?

10 MR. ARENA: Yes, it's not clear. Mexico is
11 a net import market for tin plate, so let's just say
12 the Japanese got out of Mexico. Someone would have to
13 replace them for imports.

14 CHAIRMAN OKUN: Okay.

15 MR. ARENA: There's not enough capacity to
16 satisfy local demand, so it's a market that needs
17 imported steel, so for them to leave, it's going to
18 create a void in that market if that wasn't clear from
19 the conversation.

20 CHAIRMAN OKUN: Okay. And can you comment,
21 and you may have done this already in your testimony,
22 with respect to pricing or pricing competition in
23 Mexico?

24 MR. ARENA: I can better speak to where we
25 compete just on the can side, and on the can side, we

1 generally win business when the Mexican can companies
2 try to sell product into the U.S., but they are
3 present.

4 CHAIRMAN OKUN: Okay.

5 MR. ARENA: Generally, you win business on
6 the economics package.

7 CHAIRMAN OKUN: Okay. And your sense of
8 demand going forward in Mexico on the can side, do you
9 have any predictions?

10 MR. ARENA: I can only anticipate that it
11 would be growing because the per capita consumption is
12 behind those sort of more mature markets, and so I
13 would only assume that it would grow, but I don't have
14 anything that I can state as fact.

15 CHAIRMAN OKUN: Okay. And then if I could
16 ask the Japanese producers to respond. One of
17 Petitioners' arguments is the fact that the Japanese
18 producers are sending as much as they are to Mexico,
19 but then sending product around the world, and you've
20 talked about your joint ventures. I'll come back to
21 that part, but let's just say Japanese exporting to
22 many different countries.

23 One of the arguments made this morning is
24 that the reason that the U.S. market would still be
25 attractive to the Japanese producers is because of the

1 size of the market and the fact that you can send
2 large quantities, so while Mexico is a large market
3 for your product, why wouldn't you shift out of other
4 markets, including Mexico? You sold more into the
5 U.S. market, not you personally, but Japanese
6 producers sold more into the U.S. market in 1999, for
7 example, than you're selling into Mexico now, so if
8 you could address the size of the U.S. market and how
9 that relates to your product both in Mexico and in
10 other countries? Ms. Okamoto?

11 MR. OKAMOTO: I think from the morning
12 session also, I think everybody understands that the
13 U.S. market structure is dominated by a few large
14 customers, and there are many domestic producers are
15 competing fiercely within this market, and this is a
16 highly-competitive market. Japan has, as Mr. Aoyama
17 explained, many potential growing markets outside of
18 the United States.

19 We are pursuing that market where the
20 competition is less from our perspective, so the size
21 itself is not so attractive in terms of coming back to
22 the United States. We think U.S. is a very
23 competitive market as well as the annual contract that
24 is prevailing in the U.S. market. Virtually, it
25 precludes us to re-enter into the U.S. market in a

1 large-quantity basis, substantial-quantity basis.

2 CHAIRMAN OKUN: And I'll ask Mr. Aoyama to
3 respond as well, but on that last point, Mr. Okamoto,
4 is that the case when purchasers apparently do use
5 multiple suppliers, so it's not, from what I
6 understand, always an all or nothing annual contract.

7 Wouldn't Japanese producers have an
8 opportunity to take a share of that fairly quickly
9 given that they're exporting into Mexico and are
10 sending excluded product, I guess, is one of the other
11 issues raised, that you're already familiar with this
12 market, and so it wouldn't be hard to re-establish
13 those contacts to take a part of those annual
14 contracts as early as this fall?

15 MR. OKAMOTO: Well, first, the excluded
16 products that we currently market in the United States
17 market is not under an annual contract basis, and that
18 is in a more shorter-term contract basis, and we are
19 not competing on the annual contracts with the
20 domestic suppliers.

21 CHAIRMAN OKUN: But why wouldn't you want to
22 get into that? I mean, I guess, maybe you have to
23 help me understand a little bit more why wouldn't you
24 want to be part of an annual contract? Why wouldn't
25 you want to get a piece of that?

1 MR. OKAMOTO: Well, as we have explained,
2 and Mr. Aoyama has explained more extensively, the
3 fluctuation in our cost unfortunately varies at the
4 very short term, and having to have to place a price
5 on one year, fixed-price term, is very, very risky for
6 our business, and that simply is not an option, at
7 least for JFE.

8 CHAIRMAN OKUN: Okay. Mr. Arena, you had
9 your hand up back there?

10 MR. ARENA: Yes. Just to clarify what you
11 might have heard earlier, we are not qualified with
12 either of these two folks, and if we were to try and
13 buy steel from them, it would not happen in 2013 just
14 based on our qualification procedure. You know you
15 get X amount of coils. You have to make sure they're
16 good, and then they make the steel from scratch. They
17 put it on a boat, and it takes a month to six weeks,
18 and then we have to break into our line to run it.

19 We have to tell them those coils work, and
20 then you do it again, and it's a four-step process, so
21 from when you folks make your decision to when we
22 could actually start something? 2013 is not practical
23 or even reasonable to think is an option. Much of
24 their decision to sell, it's more weighted on us to
25 buy, and their dynamic of having prices that need to

1 change quarterly or semi-annually to offset their risk
2 doesn't work in our business model, so the framework
3 of the earlier discussion was almost like the ball's
4 in the Japanese court.

5 I don't view it that way. I view it as the
6 ball's in the consumer's court on this, and the
7 consumer is rejecting this notion for volumes that are
8 substantial. You're talking 5,000 tones, 10,000 tons.
9 Then, we can manage that in a much bigger portfolio,
10 but on a large scale, it can't be done.

11 CHAIRMAN OKUN: Okay. My red light's come
12 on, so I'll have to return to that, but I thank you
13 for all those responses. Vice Chairman Williamson?

14 VICE CHAIRMAN WILLIAMSON: Thank you, Madam
15 Chairman. I'm going to extend my appreciation to the
16 witnesses for coming today. I appreciate it very
17 much. Mr. Okamoto, Mr. Aoyama stated that Nippon
18 Steel has a specific policy not to agree to annual
19 contracts. Does JFE have a similar policy?

20 MR. OKAMOTO: Yes, sir. JFE also have a
21 similar policy of not to engage in one-year annual
22 contract or longer.

23 VICE CHAIRMAN WILLIAMSON: Okay. Now, is
24 this a relatively recent policy, or has it been in
25 place for a long time?

1 MR. OKAMOTO: It's within the past few
2 years.

3 VICE CHAIRMAN WILLIAMSON: Okay. And the
4 same for your firm, for Nippon?

5 MR. AOYAMA: Yes.

6 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
7 Mr. Cosio, do you buy any tin mill products
8 based on agreements shorter than one year?

9 MR. COSIO: That is covered under some
10 confidentiality agreements we have.

11 VICE CHAIRMAN WILLIAMSON: Sure.

12 MR. COSIO: We'd be more than happy to
13 supply any information post hearing to that effect.

14 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
15 I appreciate that.

16 MR. ARENA: We do not.

17 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.
18 And I guess would either one of you post hearing say
19 whether would you consider more agreements of less
20 than one year in order to obtain a higher-quality
21 product? No? What might lead you to say okay, I'll
22 go for something shorter or agree to something
23 shorter?

24 MR. ARENA: The issue for us is our
25 commitments that we've made to our customers.

1 VICE CHAIRMAN WILLIAMSON: Okay.

2 MR. ARENA: And so if you get into a middle
3 of a pack season and Del Monte has contracted out
4 acreage, and they've agreed to sell their cans to
5 Walmart, and then we go to them mid-year and say well,
6 we've got to change your price, that just doesn't
7 work. It's not how our contracts are structured, but
8 it also puts their business, our end customer, at
9 risk, so it's not a function option for us in the way
10 we manage our business with our customers. As much as
11 I might want to on the supply side diversify, we don't
12 have the option on the end with our customers.

13 VICE CHAIRMAN WILLIAMSON: Okay.

14 MR. ARENA: So then we would have to absorb
15 the risk of raw material changes, and these aren't
16 high-margin businesses where you can absorb raw
17 material risk.

18 VICE CHAIRMAN WILLIAMSON: Okay. Both of
19 you, I think, have extensive operations in other
20 countries. Do you operate differently there in terms
21 of the length of contracts? Again, if you want to do
22 it post hearing, it's okay.

23 MR. ARENA: No, that's quite all right. The
24 food can market in Europe is different, and it's
25 really the end customer that drives how the can makers

1 behave, so in Europe, you can have quarterly or semi-
2 annual prices, and the food can manufacturers can go
3 the market quarterly and semi-annually and protect
4 their risk. That's not how the market works here, so
5 you've got two different market dynamics that behave
6 in some ways opposite, and it's difficult for the
7 steel mills to appreciate how the different regions
8 just behave completely different.

9 VICE CHAIRMAN WILLIAMSON: Okay.

10 MR. COSIO: This is Dan Cosio. Our
11 operations overseas are average operations. We do not
12 have any food operations overseas, so it's a different
13 segment in a different industry, and in some cases
14 different substrate, or in the majority of cases
15 different substrate.

16 VICE CHAIRMAN WILLIAMSON: Okay. I
17 understand. Okay. Back to you, Mr. Arena. I didn't
18 quite understand. The European market, how does it
19 operate differently?

20 MR. ARENA: So our division in Europe can go
21 to its customer as soon as it gets a change in its
22 steel cost and attempt to pass through that change in
23 steel cost.

24 VICE CHAIRMAN WILLIAMSON: Okay.

25 MR. ARENA: On our side, if we were take a

1 change in steel cost mid year, we don't have the
2 ability to pass that through to our end customers.
3 It's not the way our business is structured.

4 VICE CHAIRMAN WILLIAMSON: Okay.

5 MR. ARENA: I would say the obligations we
6 have to our customers are that when we tell what the
7 price is, that's the price for the duration.

8 VICE CHAIRMAN WILLIAMSON: Yes, I understand
9 that. Okay.

10 MR. ARENA: So any costs that would happen
11 in between would be on our nickel, and in the food can
12 business, you're buying something and just
13 transforming it.

14 VICE CHAIRMAN WILLIAMSON: Okay.

15 MR. ARENA: And the market to transform it
16 is dwarfed by the cost of the raw material.

17 VICE CHAIRMAN WILLIAMSON: Okay. So you're
18 saying the canners in Europe are used to adjusting?

19 MR. ARENA: They've conditioned the market.

20 VICE CHAIRMAN WILLIAMSON: Okay.

21 MR. ARENA: The change in raw material cost
22 flows through to the end customer.

23 VICE CHAIRMAN WILLIAMSON: Okay. What about
24 in Asia?

25 MR. ARENA: I'm not as familiar with Asia.

1 VICE CHAIRMAN WILLIAMSON: Okay.

2 MR. ARENA: Although our price volatility in
3 Asia on steel is significant, so I'd imagine it's the
4 same business model, but I can't confirm that.

5 VICE CHAIRMAN WILLIAMSON: Same as in Europe
6 where you can adjust it?

7 MR. ARENA: Yes.

8 VICE CHAIRMAN WILLIAMSON: Okay. And does
9 anyone have anything with Mexico, Central America in
10 terms of how they operate there?

11 MR. PORTER: Commissioner Williamson?

12 VICE CHAIRMAN WILLIAMSON: Yes.

13 MR. PORTER: This is Dan Porter. Our
14 understanding is that United States is the only large
15 market which is dominated by annual contracts, and in
16 essence, both JFE and Nippon Steel adopted this policy
17 around I guess it was 2008 or so when the iron ore
18 folks abandoned annual contracts, so they went to a
19 quarterly basis, and then the steel guys said we have
20 to go to a quarterly basis, and they were able to do
21 that all over the world except the United States, so
22 in Mexico, in other countries, JFE and Nippon steel
23 are able to have much shorter-duration orders.
24 Therefore, they're able to manage their raw material
25 volatility more easily. This just simply cannot be

1 done because of customers like Silgan, who are
2 demanding annual contracts here in the United States.

3 VICE CHAIRMAN WILLIAMSON: Okay. Thank you
4 for that clarification. Mr. Arena, just one other
5 question. This is the first time in five years I
6 could remember a domestic purchaser saying there's
7 more flexibility with the U.S. producers than the
8 foreign producers, that you could do smaller runs and
9 just have much more flexibility, so I'm just
10 remarking. I don't know if you want to comment on
11 that.

12 MR. ARENA: Well, to their credit, I think
13 the U.S. industry has gotten significantly better in
14 their on-time delivery performance. It's not to what
15 I would say is the global standard, but it's
16 significantly improved, and it's allowed us to manage
17 our business a little better. The deficiency in the
18 market are certain products that they either can't
19 make or aren't as good as making, and that's really
20 where the deficiency in the market is.

21 VICE CHAIRMAN WILLIAMSON: Okay.

22 MR. ARENA: The U.S. folks, they're
23 improving without a doubt.

24 VICE CHAIRMAN WILLIAMSON: Okay. Yes.
25 Thank you. Mr. Porter?

1 MR. PORTER: Yes. Commissioner Williamson,
2 since I was among those panels where you heard about
3 the flexibility of the foreigners versus the United
4 States, I think there's a little bit of a difference.
5 In some of those other cases talking about flexibility
6 and product mix, that at least in some of those cases
7 the foreigners were saying we have a larger ability to
8 make different specifications in products.

9 Here, the issue is change order flexibility
10 and can Silgan say I've got to cut this order for this
11 spec and change it to this spec, and I need you to do
12 it in a week's time. The U.S. mills, because they're
13 located right here, they can do it. Now, it's only
14 because Japan is so far away that it can't be done.
15 It's not that these guys can't do it. They can't get
16 it to Silgan in a week. That's the issue.

17 VICE CHAIRMAN WILLIAMSON: Okay. Okay.
18 Thank you for that clarification. As I said, I was
19 just struck by that. Okay. Japanese producers
20 reported a much higher tin mill capacity during the
21 original investigation than in this review, and I was
22 wondering what is the basis for the lower recent
23 capacity? Have Japanese producers shut down any prior
24 tin mill capacity, and if you want to give more detail
25 in the post hearing, that's fine.

1 MR. AOYAMA: Okay. This Aoyama, Nippon
2 Steel. One of the reason of the reported capacity is
3 reduced is that increase of the export of tin black
4 plate. In our report, in terms of the tin mill
5 production capacities, we exclude the tin mill black
6 plate production out of it because our bottleneck
7 process is not coating tin line but the unyielding and
8 temporary line in which the both tin mill black plate
9 and the tin plate is processed.

10 VICE CHAIRMAN WILLIAMSON: Okay. Does that
11 mean then that your tin coating lines, you have
12 actually excess capacity there now?

13 MR. AOYAMA: I cannot say excess, but
14 according to your guidance to show the practical
15 capacities, we do present you the practical capacity
16 in considering the actual bottleneck process. I mean,
17 namely the tempering process is a bottleneck, so we
18 calculate our practical production capacities.

19 VICE CHAIRMAN WILLIAMSON: Okay. Okay.
20 Thank you for that answer. My time has expired.
21 Thank you.

22 CHAIRMAN OKUN: Commissioner Pearson?

23 COMMISSIONER PEARSON: Thank you, Madam
24 Chairman. I also offer my welcome and appreciate you
25 being here very much. Mr. Arena, how do you see the

1 prospects for consumption of tin plate in the United
2 States in the years ahead? Is it going to continue to
3 decline, or is there a floor waiting for us somewhere?

4 MR. ARENA: Well, it's all we do, so we're
5 pretty bullish on it, and we're taking measures to
6 protect the package against alternatives, and we've
7 got some victories in converting stuff back, so we're
8 pretty bullish on it. We're anxious for the mills to
9 develop new products that allow us to be more
10 competitive with the alternatives. We're exploring
11 everything on our side get cans to their optimal
12 structures from a cost standpoint, and so we think
13 we're taking the right steps to protect the decline.

14 The decline you're seeing is in tons, but if
15 you look at unit volume, it's nowhere near that.
16 Because we've been taking a lot of weight out of the
17 can, the tonnage across the tin line seems like it's
18 dropping a lot different than the can volume is, so
19 the mills get paid for that increased rolling that
20 they're doing to get it thinner which doesn't appear
21 when you look at that drop in volume, so the can, it's
22 not as precipitous as the point as what it looks.

23 CMI data would suggest that if you take a
24 curve for the last five or six years, it's relatively
25 flat. I mean, there's a slight drop in 2011 because

1 of inventories. It was a really worse year than the
2 norm, so the data would seem like we're in free fall.
3 We're not, and we're very bullish on it.

4 COMMISSIONER PEARSON: Mr. Porter?

5 MR. PORTER: I just want to echo those
6 points with this slide, Commissioner Pearson.
7 Essentially what has happened, and the staff has noted
8 it, it actually noted this last time and noted it this
9 time, this idea of a down-gauging and customers
10 wanting a thinner stronger steel, and essentially
11 Silgan makes 1 million cans in year one of product
12 one. I'm sorry. They make a million cans in year of
13 product 2.

14 The domestic industry says we lost 20
15 percent of consumption, but Silgan's made the same
16 number of cans, and so it's just in this particular
17 market, tons may not be the absolute best metric to
18 measure sort of underlying demand. I guess they could
19 say that. I'm not sure what else can be done, but I
20 think it needs to be put into some context.

21 COMMISSIONER PEARSON: Those are helpful
22 explanations. Mr. Arena, would I be correct to
23 understand that as you deal with customers for
24 packaging materials, you're happy enough to be in the
25 tin can business rather than in plastic. I mean,

1 you'll take them on, and you're confident of your
2 ability to do well in that competition?

3 MR. ARENA: Yes. We like our package. We
4 think it's the most sustainable package. On a cost
5 per unit, it delivers the most value. It's a business
6 of relationships, and we have a lot of long-standing
7 relationships with our customers, and so we think it's
8 a very solid business to be in, and we're happy that's
9 the space that we play. It's the only space that the
10 containers business plays in, and so we're happy we're
11 in it.

12 COMMISSIONER PEARSON: And have your firms,
13 both Ball and Silgan, have you been involved in
14 efforts to develop or to support the packaging use of
15 steel tin plate for packaging that was discussed this
16 morning by the domestic industry? That's what I'm
17 trying to say. Are you working together?

18 MR. ARENA: The CFA is more focused on the
19 steel manufacturing side, and then there's a CMI,
20 which is more of the commercial folks that also has
21 suppliers involved, but yes, there's an active, and I
22 suspect you'll be seeing a lot more of the steel can
23 in both the press and maybe on the side of trucks.
24 There's a lot of campaigns going on to expose the
25 steel can better to the marketplace.

1 COMMISSIONER PEARSON: Mr. Cosio, would
2 you --

3 MR. COSIO: Yes, I agree with Mr. Arena, and
4 we too support CMI, which is the Can Manufacturers
5 Institute, and it was brought up earlier this morning,
6 the can, the old-school beer can and a steel can, is
7 product that we are launching, and we're extremely
8 excited about that as well. We spent a lot of time
9 and effort on promoting not only the steel can but all
10 our packaging operations as well.

11 COMMISSIONER PEARSON: And I'll get to you
12 in moment, Mr. Durling, but, Mr. Cosio, would I be
13 correct to understand that you also aren't terribly
14 worried about losing your job to plastic or to other
15 alternatives? You see the future for tin-coated steel
16 cans to be pretty good?

17 MR. COSIO: I think it's my job to worry,
18 and I'm a very good worrier, by the way. There are
19 threats in most every industry out there, so to say
20 there's no threats to the steel can would be
21 inaccurate. However, we are extremely behind the
22 steel can. We promote it. We believe in it. We're
23 committed to it, and we think it has a very bright
24 future.

25 COMMISSIONER PEARSON: Okay. Mr. Durling?

1 MR. DURLING: Just one other piece of
2 optimism, especially if you're looking beyond just the
3 narrow confines of the U.S., there are opportunities
4 here. Commissioner Williamson was asking about
5 differences in other markets. This morning, you heard
6 that beverage cans in the U.S. have gone completely to
7 aluminum. In Japan, half of the beverage market is
8 steel cans.

9 There's still possibilities. It's just the
10 possibilities vary market by market, and the
11 possibilities are different depending on the
12 technological qualities of the steel you bring to the
13 market. I mean, the Japanese mills have found a steel
14 product that is competitive with aluminum for beverage
15 cans in the Japanese market.

16 COMMISSIONER PEARSON: Okay. Mr. Aoyama?

17 MR. AOYAMA: This is Aoyama, Nippon Steel.
18 In the emerging market to which we are exploding,
19 usually their infrastructures like roads, it's bumpy,
20 so the steel containers, steel can is good advantage
21 against the paper or plastic.

22 COMMISSIONER PEARSON: Plus, it's a very
23 solid packaging, and it will withstand any conditions
24 that a developing country market might present to it,
25 yes.

1 MR. AOYAMA: Right. Exactly.

2 COMMISSIONER PEARSON: Okay. This might be
3 best answered in post hearing, but I'm wondering
4 whether you can clarify whether there have been
5 changes in the Yen-Dollar exchange rate since the
6 previous review or since the original investigation?
7 I'm just wondering if any change in currency value
8 should influence our analysis of this case. Mr.
9 Durling?

10 MR. DURLING: Well, we can certainly give
11 you the data post hearing, but I can give you two
12 general comments now. The first is that for most of
13 the export markets, the sales are in dollars, so if
14 you're comparing kind of the U.S. market to other
15 export markets, at least from the Japanese mill
16 perspective, they're generally exporting in dollars.
17 I think where the Yen-Dollar exchange rate has a
18 really big effect on your analysis is in evaluating
19 the rather kind of wild discussion this morning about
20 the Japanese market.

21 Prices in Japan in dollar terms have gone up
22 a lot, but prices in Japan in constant Yen terms, are
23 a very, very different picture, so it's not as if
24 there's this kind of crazy market in Japan where
25 customers are willing to pay twice the price of

1 customers anywhere else in the world. It's just not
2 the reality, and a big part of that is the exchange
3 rate.

4 COMMISSIONER PEARSON: Mr. McCullough, did
5 you have something to add?

6 MR. MCCULLOUGH: I was just agreeing with
7 what Mr. Durling said.

8 COMMISSIONER PEARSON: Okay. Fine. Well,
9 following up on that comment then, what can you tell
10 me about the conditions of competition in the Japanese
11 market? Is it a protected market, and are Japanese
12 manufacturers of tin plate able to make substantial
13 earnings there that help them then to be able to
14 export at relatively low prices to other markets?

15 MR. AOYAMA: Okay. This Aoyama, Nippon
16 Steel again. As you know, there is no import duties
17 of tin plate in Japan.

18 COMMISSIONER PEARSON: The current import
19 duty on tin products is?

20 MR. AOYAMA: Zero percent.

21 COMMISSIONER PEARSON: Okay.

22 MR. AOYAMA: And I can say that when Nippon
23 Steel and JFE, I believe, very, very successfully
24 differentiate our products in a way that our customer
25 can improve their productivities, which mean that it

1 is not so easy for them, for our customers, to switch
2 the material, and on top of that, as Mr. Durling
3 mentioned, more than 50 percent of the beverage cans
4 is now steel. In such a way, we are investing our
5 technology in order to serve our customers in Japan.

6 COMMISSIONER PEARSON: Okay.

7 MR. OKAMOTO: Yes. May I add to Mr.
8 Aoyama's comment?

9 COMMISSIONER PEARSON: Please. Yes. My
10 light's about to change, but I'm interested to hear
11 your answer.

12 MR. OKAMOTO: I would like to reiterate that
13 Japanese market is a unique market and that the
14 Japanese producers work very closely together with our
15 end customers, the canning industry, to develop a
16 specialized product so that their productivity is
17 maximized, and we work very closely with them together
18 with our R&D groups so that it would be for their
19 benefit to work closely with us rather than with
20 somebody else.

21 COMMISSIONER PEARSON: Okay. Thank you very
22 much.

23 CHAIRMAN OKUN: Commissioner Aranoff?

24 COMMISSIONER ARANOFF: Thank you, Madam
25 Chairman, and welcome to everyone on the afternoon

1 panel. A question for the two purchasers on just-in-
2 time delivery. There was some discussion with the
3 panel of domestic producers this morning about the
4 idea that offshore suppliers sell to importers and
5 then importers can have warehouses and inventory
6 product so that they can provide just-in-time delivery
7 the same as a domestic supplier could. Is that in
8 fact the way the U.S. market is set up? Do importers
9 have warehouses with supply waiting near your
10 production locations?

11 MR. COSIO: It's our policy -- sorry, this
12 is Daniel Cosio from Ball. It's our policy within our
13 company, the confidentiality of our contracts, that
14 we're unable to disclose that in public. However we'd
15 be more than happy to provide information post-
16 hearing.

17 MR. ARENA: Mike Arena from Silgan.

18 As you said, we don't buy a significant
19 amount of steel from overseas, but it's commonly known
20 that the Europeans who do import, they have a
21 footprint in the U.S. and that footprint is beyond
22 just tin plate. So they do have forward facilities.
23 Not next to Silgan's facilities but properly based on
24 where their customers are disbursed.

25 So yeah, and it comes at a significant cost

1 for them to stage inventory of keep inventory, but the
2 issue for a foreign shipment is helping optimize the
3 boat. You want to get as much steel on the boat
4 because the boat's going to cost more than storage,
5 especially with the time, the cost of money today, so
6 if the cost of money were 15 percent, they might have
7 to change that dynamic. But today because they have a
8 business presence in the U.S. they can have a forward
9 warehouse. I wouldn't suggest that that's how tin
10 plate is purchased in general in the U.S., though.
11 It's much different than that from our other sources.

12 MR. COSIO: Just one additional point that I
13 made in my testimony and Mr. Arena hinted at as well
14 in his testimony. If that were the case, it still
15 gets to the point that if we had an order in place
16 that we would have to change at a late stage of the
17 game, we would not have that flexibility with an
18 import source in comparison to a domestic source so if
19 they were setting up warehouses with the just in time,
20 that would not necessarily allow us or change the fact
21 that we would be responsible for something that was in
22 that situation.

23 MR. ARENA: Just to further that comment.
24 Real life example. There's a Pea-Pack and it lasts
25 three weeks. If it rains 12 days into the Pea-Pack,

1 that pack's, they're no longer putting peas in cans.
2 If you've got inventory that came from Europe or some
3 other place and it's sitting in a warehouse, what do
4 you do with that inventory?

5 In theory, we would have the obligation but
6 what are we going to do with it because we've already
7 packed all our pecans.

8 So that's why it's sort of -- I try to, that
9 might not be a perfect example, but it's
10 representative of what can happen in the market place
11 that quickly changes our requirements and why foreign
12 metal doesn't work in that business model.

13 COMMISSIONER ARANOFF: That's what I'm
14 trying to understand, because when I go into the
15 grocery store and look at the canned vegetables I see
16 maybe four or five can shapes and sizes. Maybe it's a
17 few more than that. So you guys are talking about --

18 MR. ARENA: It's a lot more than that.

19 COMMISSIONER ARANOFF: You guys are talking
20 about 400 specs and I'm thinking to myself, well, when
21 I go into grocery store X that I shop at, they've got
22 16 vegetables all packaged in a can that looks exactly
23 the same to me.

24 MR. ARENA: If it's corn, it's coated with a
25 different amount of tin than if it's peas than if it's

1 tomatoes. The inside of that, that metal has
2 different properties, even though the can might look
3 the same.

4 COMMISSIONER ARANOFF: Okay. I'm thinking
5 to myself well, you must know that even if there are
6 400 specs, some of them are big ones and maybe you can
7 afford to inventory those because you can use them for
8 a couple of different vegetables, but you don't think
9 that's the case?

10 MR. ARENA: In Silgan's situation, like I
11 tried to communicate earlier, we have identified where
12 we can and it happens to be, we one, identified where
13 we can, and two, it happens to be places where the
14 U.S. mills are deficient in supply. So the
15 combination of the two breeds the ability to go off-
16 shore.

17 MR. COSIO: This is Dan Cosio.

18 We have a diverse customer base as does
19 Silgan, and Customer A and Customer B might be packing
20 the same exact product in the same exact can in
21 appearance on the shelf in the grocery store, however
22 it could be something different with that material
23 specification that would not be apparent to the
24 consumer. However, it does cost us to have a
25 different inventory skew that we have to maintain.

1 COMMISSIONER ARANOFF: Okay.

2 I wanted to follow up on one thing. I know
3 there's been mention of the fact that there's some can
4 production that's collocated at Weirton's facility.
5 I'm trying to remember from the last review, that's
6 the only facility in the U.S., tin mill facility in
7 the U.S. that has collocated can production? Or is
8 that common throughout the country?

9 MR. COSIO: This is Dan Cosio. It is the
10 only facility that Ball has a collocated operation on
11 a steel mill facility. I believe in my experience
12 that that is the only facility in the country for any
13 of the can companies. However, I don't know that for
14 an absolute fact.

15 MR. ARENA: I'm not aware of any collocated
16 steel mill and can manufacturer.

17 COMMISSIONER ARANOFF: Thanks.

18 I wanted to go back to this idea of one year
19 contracts and the price risk, the raw material supply
20 risk. The domestic industry said, and indeed we have
21 evidence from questionnaires that would support, that
22 there are price adjustment mechanisms built into some
23 of the contracts, the one year contracts, that U.S.
24 tin mill producers have with can producers.

25 I want to make sure that I understand that

1 correctly because it sounds to me as though the
2 mechanism is that if you, the can company, get a
3 better price offer from someone else, you can go to
4 the supplier during the year and say lower your price
5 or I can go buy from somebody else. Or just not
6 exercise the volume that I projected to you. But
7 there's not a mechanism for the price to go up during
8 the year. Is that an accurate understanding?

9 MR. ARENA: My understanding is there is
10 risk on volume. It's the same risk we have. So
11 again, if the pack fails, if people aren't buying X
12 brand of soup on the shelf, then we generally have
13 what are called requirements contracts and whatever
14 our needs are, and in some cases it might be a floor
15 of a minimum, but in general, in my experience, I'm
16 not aware of that market condition that says a tin
17 maker goes back mid-year. I'm not aware of it. I
18 can't suggest that it's not happening, but I'm not
19 aware of it.

20 COMMISSIONER ARANOFF: So from your
21 perspective, you agree in your contract negotiation on
22 a price and you may vary the amount of cans you buy,
23 but you're going to pay that price for a year.

24 MR. ARENA: The deal we strike is the deal
25 we strike. So I'm not aware of situations where the

1 marketplace has changed the price mid-year. I'm just
2 not aware of it. I can't say that it doesn't happen,
3 I'm just not aware of it.

4 MR. COSIO: This is Dan Cosio. The last
5 statement by Mr. Arena, I do agree with. Your
6 original statement about the pricing mechanism
7 potential change, that's what I heard this morning
8 from the domestic suppliers, and I'd be more than
9 happy to share some details of Ball Corporation, how
10 we operate in post-brief, to give our accurate picture
11 of how we do it. It's just, unfortunately with
12 confidentiality I can't disclose that publicly.

13 COMMISSIONER ARANOFF: Okay. I encourage
14 you to do that and I also encourage the domestic
15 industry to provide any details that you can of how
16 the price adjustment mechanisms that you discussed
17 this morning work from your perspective.

18 Let me ask a short question since I just
19 have a minute left. The statement was made that the
20 Commission shouldn't pay that much attention to the
21 third Japanese supplier Toyo Kohan because they've
22 never exported subject product to the United States.
23 Have they ever exported excluded tin mill product to
24 the United States?

25 MR. DURLING: This is Jim Durling.

1 It's company-specific information, so we can
2 certainly get into that in detail in the post-hearing,
3 but the questionnaire response from this company, Toyo
4 Kohan, provides quite a bit of detail. So what you
5 can see is that if you look at their total exports of
6 everything, subject, excluded, just everything, the
7 number is really, really small. And in many years
8 it's so small that it's nothing at all.

9 So beyond that we'll have to do it in post-
10 hearing.

11 COMMISSIONER ARANOFF: Okay. Thank you for
12 those answers.

13 Thank you, Madame Chairman.

14 CHAIRMAN OKUN: Commissioner Pinkert?

15 COMMISSIONER PINKERT: Thank you, Madame
16 Chairman.

17 I join my colleagues in welcoming all of
18 you. I guess you've been here for a while now, but
19 thank you for being here and for helping us to
20 understand this industry.

21 I want to begin with some questions about
22 the market in Japan. I know Mr. Okamoto and Mr. Aoyama
23 have already testified about this subject, and you've
24 testified that you work very closely with the customer
25 and that it would be difficult for the customer to

1 switch. That is for the Japanese customer to switch
2 to another supplier. But I'm wondering, first of all,
3 whether you agree with the characterization that was
4 offered by the petitioners this morning, that there is
5 very, very little participation by foreign producers
6 in the Japanese market.

7 MR. AOYAMA: I am not sure we can say very
8 little or not, but anyway, the volume of import tin
9 plate steel in Japan is not yet significant.

10 COMMISSIONER PINKERT: I think Mr. Okamoto
11 and then Mr. Porter.

12 MR. OKAMOTO: Yes, Mr. Pinkert. The level
13 of input of all steel products, as you can probably
14 see on the statistics, is increasing and is being
15 significant, so that shows the state of the Japanese
16 market.

17 MR. PORTER: I'm a bit confused by the
18 allegation this morning because their measure of
19 closed versus not closed is import penetration. The
20 off-shore import penetration in the United States has
21 never been higher than about 10 to 13 percent. Ever.
22 Next door, Mexico, 75 percent is imports. That means
23 the U.S. is much more a closed market than Mexico?

24 COMMISSIONER PINKERT: Just staying with
25 this question of what's going on in the Japanese

1 market for the tin mill product, what I'm wondering is
2 whether the purchasers entertain offers from foreign
3 producers. A foreign producer may have a value
4 proposition. We'll give you a good price. We may not
5 be able to have the kind of experience in dealing with
6 you that the Japanese producer has, but we'll give you
7 an overall value package.

8 Is that kind of negotiation, is that kind of
9 offer being made or are the foreign producers just not
10 part of the picture in the Japanese market in terms of
11 the tin mill?

12 MR. OKAMOTO: As I told you on my testimony,
13 I've been involved on heavily on the export side of
14 our business and domestic sales is simply not my
15 expertise. So I would like to give you information on
16 the post-hearing.

17 COMMISSIONER PINKERT: That would be very
18 helpful.

19 Mr. Aoyama?

20 MR. AOYAMA: Sorry, I also don't have enough
21 knowledge about such detail in the domestic business
22 in Japan. So I will try to explain in the post-
23 hearing brief.

24 COMMISSIONER PINKERT: Thank you very much.

25 MR. CORKRAN: Commissioner Pinkert, I guess

1 for future reference we'll bring the domestic
2 marketing guys, but then you'll have to provide a
3 translator for us because kind of the difference is if
4 you want people to speak to you in English you're
5 going to get the export guys. Sorry about that.

6 COMMISSIONER PINKERT: I'm not complaining
7 about the kinds of witnesses that you're bringing to
8 the hearing, but if you can supply any information in
9 the post-hearing on this issue. Again, the question
10 is to what degree are offers even being entertained by
11 foreign producers.

12 MR. CORKRAN: What I can tell you, because
13 we know this for other steel markets and what we need
14 to confirm is the extent to which this is true for tin
15 mill steel as well, is that the top tier one suppliers
16 in Asia are having an expanding presence in the
17 Japanese steel markets. Whether that extends to tin
18 mill steel is the specific point we need to confirm.
19 But certainly it is the case that there are no
20 systemic barriers to imports of steel into the
21 Japanese market because the numbers have been going
22 up. If there were systemic barriers, there's no
23 reason to think that they're very narrow, sector
24 specific barriers. If you can ship cold-rolled steel
25 to the Japanese market, you have that option. Whether

1 the particular proposition makes sense for a
2 particular customer, a particular segment, that's a
3 we need to get into.

4 But we know that there is imported steel in
5 the Japanese market because we hear about it all the
6 time.

7 COMMISSIONER PINKERT: Thank you.

8 Now I'd like to turn to the issue of the
9 Chinese steel production, and just as a piece of
10 background information, are the big Chinese steel
11 producers who would be supplying the raw material for
12 the tin mill products production, are they using
13 electric arc furnaces or are they using other
14 technologies like the ones that we were talking about
15 this morning?

16 MR. AOYAMA: This is Aoyama, Nippon Steel.

17 To the best of my knowledge no arc furnace
18 producer is involved in the supply of substrate of the
19 new product to the producers in chain.

20 COMMISSIONER PINKERT: Could you repeat that
21 again, no what producers?

22 MR. AOYAMA: No electric arc furnace.
23 Because your question is, is there any involvement of
24 electric arc furnace mills in the production of tin
25 mill plate, of tin mill products in mainland China, right?

1 COMMISSIONER PINKERT: Correct.

2 MR. AOYAMA: My answer is no.

3 COMMISSIONER PINKERT: Okay. So my next
4 question then is does the availability of the blast
5 furnace production for the substrate give the Chinese
6 producers of tin mill an advantage? In other words,
7 the broad availability of blast furnace production for
8 the substrate, is that an advantage for the Chinese
9 producers of tin mill products?

10 MR. AOYAMA: This is Aoyama again. I don't
11 think so, because as I explained in my testimony, the
12 substrate which now the Chinese integrated mill supply
13 to the tin mill producers in mainland China, is not
14 the tin mill black plate or the special hot bound
15 suitable for the production of tin mill black plate.
16 You know, the normal hot bound or normal cold-rolled
17 steel, for example, for the use of construction, it is
18 enough that when we think about the quoted requirement
19 of tin plate, it does not meet the requirement.

20 MR. DURLING: Commissioner Pinkert, if I
21 could just elaborate on that.

22 There is tin mill steel production in China
23 but because it's basically coated lower grades of
24 substrate, it's fine for low end applications. It's
25 fine for paint cans or storage cans. That was kind of

1 the point in our presentation. You can have a market
2 where there can be both increasing exports from Japan
3 and increasing exports from China because they serve
4 very, very different markets. Where the Chinese
5 product has severe limitations is, if it's the food
6 and beverage can stuff, their production lines are
7 very, very high speed. So the premium is on steel
8 that's very clean, very smooth, very consistent
9 mechanical properties. You have a bump in the steel
10 and it basically shuts the machine down. That's what
11 they want to avoid.

12 So the niche that the Japanese and other
13 tier one suppliers are competing for are these sort of
14 higher end applications for food and beverage cans.
15 And the Chinese have a niche and they're serving that
16 niche, but whoever they're displacing in these
17 markets, it's the people who have been competing for
18 these lower end applications. That's not where the
19 Japanese have predominantly been.

20 In terms of the U.S. market, I just think
21 it's going to be, we've read and heard lots of stories
22 about kind of the challenges of people using Chinese
23 inputs in the food chain. So I can just imagine the
24 challenges some of these low end suppliers would have
25 trying to convince a major can company to risk their

1 reputation on kind of an unknown, unproven suspicious
2 supplier. You can ask them, but I don't think that's
3 likely, to use the word that's so common in our
4 statute. I don't think that's likely.

5 MR. OKAMOTO: To add a little bit more.

6 Our joint venture in China, JFE has two
7 joint ventures, tin coating line companies in joint
8 venture, but none of these would use a Chinese
9 substrate because of the very reason that Mr. Aoyama
10 and Mr. Durling elaborated.

11 COMMISSIONER PINKERT: I appreciate those
12 answers. For the post-hearing what I'd like you to do
13 is to project forward a year and tell me whether the
14 Chinese producers will continue not to be all that
15 competitive in that tier one category that you're
16 talking about, or is there a dynamic going on where
17 the Chinese producers are going to be able to move up
18 the value chain, if you will.

19 MR. DURLING: We'd be happy to.

20 COMMISSIONER PINKERT: Thank you very much.

21 CHAIRMAN OKUN: Commissioner Johanson?

22 COMMISSIONER JOHANSON: Yes, thank you,
23 Madame Chairman.

24 I have a question on annual contracts. I
25 understand from the witnesses today that the Japanese

1 suppliers do not agree to enter into long term
2 contracts.

3 Mr. Arena and Mr. Cosio, are you aware of
4 any other producers, foreign producers, who are
5 unwilling to enter into annual contracts here in the
6 United States or have grumblings about the annual
7 contracts and want to see that changed?

8 MR. ARENA: I spoke in my testimony, this is
9 Mike Arena, of a particular supplier who exited the
10 U.S. market, in my opinion, and that was from an
11 economic reason, part of which was the raw material
12 exposure. Rasselstein.

13 COMMISSIONER JOHANSON: That was largely
14 because of the annual contract problem, or partly
15 because of the annual contract?

16 MR. ARENA: Combined with a lower market
17 price in the U.S. than their local market. How they
18 conveyed it. So this is just how they conveyed it,
19 was the combination of the price required to get
20 business in the U.S. and the volatility that they
21 expected to experience during the year which they
22 couldn't absorb, was a non-starter for them.

23 COMMISSIONER JOHANSON: Thank you. That's
24 one country. Do you know of any other -- That's
25 Germany, I believe?

1 MR. ARENA: Germany.

2 COMMISSIONER JOHANSON: Are you aware of any
3 other countries where this is, producers in other
4 countries where they see this as a problem by chance?

5 The U.S. is unique in this way.

6 MR. ARENA: The imports -- We have a
7 business model that we have to manage with our
8 customers, and all of our supply right now follows
9 that business model.

10 COMMISSIONER JOHANSON: Mr. McCullough?

11 MR. MCCULLOUGH: Part of what makes it
12 unique in the United States though is what we were
13 trying to do is draw the comparison between the
14 challenges facing the Japanese mills who have no
15 captive supplies of raw materials, in particular iron
16 ore which is the most significant and producers in the
17 U.S. who in some cases are largely sufficient in
18 things like iron ore.

19 I know you heard a couple on this morning's
20 panel, two of the U.S. mills speaking about this and
21 suggesting that they have the same exposure to raw
22 materials as the Japanese and in light of the fact
23 that you have a mill like U.S. Steel who is close to
24 sufficient in things like iron ore, I think you have
25 to take a response like that at fair value.

1 It can't be the same exposure. I think they
2 realize that and this morning the gentleman from U.S.
3 Steel was talking about other raw materials they may
4 purchase on the open market like natural gas, but
5 that's not subject to the same phenomenon. Natural
6 gas is at a ten year low.

7 The key driver is iron ore. I think you saw
8 in that graphic before the change in attitude about
9 annual contracts really coincided with the fact that
10 you can't source iron ore on an annual contract basis
11 any more. And that kind of exposure has clearly
12 caused the Japanese mills to be much more apprehensive
13 and cautious about engaging in that kind of a contract
14 with their purchases.

15 COMMISSIONER JOHANSON: Mr. Arena?

16 MR. ARENA: One of the parts that struck me
17 in the review this morning was how poorly the mills
18 had presented what they were doing over the last
19 decade, and I don't know how to interpret this, but if
20 you were to look at ArcelorMittal's published
21 financials, they have a mining division, I might not
22 get the numbers exactly right, but in 2011
23 ArcelorMittal made 37 percent in mining, but in
24 packaging they lost 1 percent margin.

25 So it's almost the premise that when you dig

1 the dirt out of the ground it's automatically going to
2 be sold and not that when you sell tin plate it's
3 incremental sales of that same iron ore.

4 So it's hard to process what these losses
5 mean because I think each mill records each step in
6 the process different. Like perhaps maybe they
7 transfer iron ore to the hot mill at market, hot mill
8 to the cold mill at market. Cold mill to the tin
9 plate operation at market. And then you're left with
10 a tin mill with a very small area to operate. I don't
11 know how ArcelorMittal does things, but if you look at
12 their published financials it would sort of suggest
13 that.

14 So it's hard to, and then you take somebody
15 like UPI who buys a hot van in the open market, or
16 from their joint venture partners, I don't know how
17 they do that, but that's their input cost. So what
18 does that number mean?

19 When I look at that the key question for me
20 is were they better off with this business or not? I
21 can only assume because they take the orders, that
22 they'[re better off with this business, not without it
23 . But I have trouble reconciling that with how they
24 present the financial situation.

25 To me, it's incredibly concerning because we

1 absolutely have to rely on them. Silgan especially
2 has to rely on this U.S. steel industry, and if
3 they're really losing money I don't know what to do
4 with that. They're forcing me to think of things
5 differently if I'm to take that data as factual. So I
6 don't know how to process it. It's quite a shock for
7 me, to be honest with you.

8 COMMISSIONER JOHANSON: Mr. Cosio?

9 MR. COSIO: I just wanted to answer your
10 original question on whether or not others have hinted
11 at or told us that they are not interested in
12 supplying the annual contracts, were more interested
13 in supplying a contract that has price provisions for
14 annual change. We have seen that. I cannot publicly
15 disclose the name of people who have done that,
16 however, that is an accurate statement.

17 COMMISSIONER JOHANSON: Thank you for your
18 comments.

19 Mr. Durling, I believe you mentioned that
20 Toyo Kohan produces primarily or almost exclusively
21 for the internal market in Japan. That is correct?

22 MR. DURLING: Yes.

23 COMMISSIONER JOHANSON: Perhaps you could
24 answer this question or perhaps Mr. Aoyama or Mr.
25 Okamoto could as well. Given the declining population

1 in Japan and the changing to different types of
2 packaging, do you think it would be feasible for that
3 company to continue to supply primarily for the
4 Japanese market? I know they are not here today so
5 you can't really answer on their behalf, but it seems
6 to me that if the market's going down, at some point
7 they're going to have to start looking for new places
8 to ship their product.

9 MR. DURLING: First we will have to respond
10 post-hearing. We need to communicate with them and
11 make sure that what we're presenting is the answer
12 they're presenting, because they're not here and they
13 can't speak for themselves.

14 But I would make the following observation.
15 Whatever challenges Toyo Kohan will be facing in the
16 future, there are challenges that they're facing right
17 now. And right now the data you have before you for
18 this six year period presents pretty compelling
19 evidence of Toyo Kohan on a consistent basis having
20 available capacity and never choosing to export it.

21 I guess my point is if they've never done it
22 and we actually asked Toyo Kohan to go back in its
23 record and find its questionnaire responses to the
24 Commission in earlier proceedings. In their
25 questionnaire response, if you kind of dig into it,

1 you'll see data for kind of the prior periods of time.

2 They just have never exported significant amounts.

3 If they never have in the past, even with
4 available capacity, I think that speaks quite
5 probatively to what is likely to happen over the next
6 couple of years. What happens to Toyo Kohan in ten
7 years, no one can see that far in the future. But as
8 you're thinking about sort of the next two or three
9 years, I think this consistent experience over the
10 past 10, 15 years is quite probative.

11 COMMISSIONER JOHANSON: Mr. Okamoto?

12 MR. OKAMOTO: Yes, I may add a little
13 comment.

14 Obviously I cannot speak for Toyo Kohan, but
15 Toyo Kohan has a sister company, Toyo Seika which is a
16 major can manufacturing company in Japan. So many of
17 their output is captive in that way so it's a little
18 bit different structure than JFE or Nippon Steel.

19 COMMISSIONER JOHANSON: Thank you.

20 And this is a question also for Mr. Aoyama
21 and Mr. Okamoto. Can you describe the competition
22 that your companies are now facing from Chinese
23 production in third country markets, and I'd say
24 particularly in Asia?

25 MR. AOYAMA: This is Aoyama, Nippon Steel.

1 As I explained in my testimony, our major
2 target or segment is the food can segment, and food
3 can segment that only first tier Chinese producers
4 like Baosteel can compete with us. Because the other
5 Chinese producers' material is simply too thick and
6 too inconsistent for the high speed canning machines.

7 When customers try to use such Chinese
8 materials, simply the machine has jammed.

9 So we have not experience serious
10 competition with such second tier Chinese materials.

11 Yes, we have a competition with Baosteel,
12 but that is an area where we are competing in the food
13 can and beverage cans market.

14 COMMISSIONER JOHANSON: Thank you. I'm over
15 four seconds, but I might just follow up that very
16 quickly with, I assume you must be concerned, though,
17 in the future that as the quality of Chinese
18 production improves that that will create pressure in
19 those markets?

20 Maybe make your answers a little brief since
21 I realize I'm over. Thank you.

22 MR. OKAMOTO: This is Okamoto from JFE.

23 Obviously I don't have a crystal ball to
24 foresee the future, but tin product is a very
25 sophisticated product, especially when it concerns

1 food applications. It is not only the tinning process
2 that is in question. It is the whole expertise and
3 technology from the very first stage of steelmaking
4 that we need to be very accurate, consistent, so that
5 there is no safety issue on the end product. This is
6 a very, very difficult product to produce. I don't
7 think in the near future that many of the Chinese
8 producers that have started up producing this product
9 will be able to compete us in those high end
10 applications.

11 COMMISSIONER JOHANSON: All right. Thank
12 you for your answers.

13 CHAIRMAN OKUN: Thank you.

14 Commissioner Johanson hasn't been here very
15 long but how he's realized it just runs right over
16 that red light and --

17 (Laughter.)

18 He learns quickly.

19 I wanted to just follow up with respect to
20 Japanese competition with the Chinese in other
21 markets, and whether what you're discussing here about
22 the tier one and the tier two is relevant. One of the
23 arguments made from Petitioners is while Japan has
24 found other export markets after the order was put in
25 place on the U.S. side, that in a number of those

1 markets China has increased its imports.

2 Can you go through that with me with
3 respect, in particular, I think you're getting up to
4 where your top ten markets, Japan's top ten, and mill
5 export markets, and go through for me whether those
6 are markets where you're competing with China and
7 whether you've seen your imports increase or decrease,
8 and what would be the reasons.

9 MR. PORTER: If I may, Commissioner Okun.
10 We actually had this for our rebuttal, but hopefully
11 to save time --

12 CHAIRMAN OKUN: You keep saying that chart.
13 Where is that chart from?

14 MR. PORTER: Right here. We have extra
15 copies here we can hand out. It was going to be for
16 rebuttal.

17 What we did here, this is the top 20 Chinese
18 export markets, all coming from the same World Trade
19 Atlas data that everyone is using.

20 So it's top 20 for Japanese, top 20 for
21 Chinese. The overlap is vis-a-vis Japan.

22 So what we've done is overlap, the top 20
23 overlap. The top 20 for the Japanese account for
24 about 90-something percent. The top 20 for the
25 Chinese I believe count for over 70 percent.

1 So you can see, sure, there are some
2 countries which have an overlap and some competition,
3 but there are a whole lot of countries where there is
4 no overlap . It gets back to sort of my partner Jim
5 Durling's point. It's a big world out there, and you
6 can have growing Chinese and growing Japanese. It's
7 not a zero-sum game in every single place.

8 CHAIRMAN OKUN: And you'll provide this
9 information with your post-hearing as well? It's not
10 in the record yet?

11 MR. PORTER: No. Quite honestly, we did not
12 anticipate the China push-out argument from the
13 domestics, so we didn't address it in our pre-hearing.
14 But since they addressed it will definitely put this
15 in our post-hearing along with all the backup
16 underlying data.

17 MR. DURLING: Commissioner Okun, actually
18 this data is all on the record, it's just not
19 presented this way. In other words, we had provided
20 data on Japanese exports. They provided data on
21 Chinese exports. We're just putting Respondent's data
22 and Petitioner's data on the same slide. But we can
23 go through and it probably makes more sense as a post-
24 hearing exercise to kind of go through country by
25 country, because this is just a basic snapshot. There

1 is a lot where there's no overlap at all in terms of
2 major markets. But the other overlay of this is a lot
3 of these are markets where the Japanese are
4 participating in a different way. A country like
5 Thailand, they have the joint ventures so it's the
6 joint venture strategy so you need to do that overlay
7 as well, which is kind of another layer on which
8 there's really not that much competition. But we can
9 do that in more detail in post-hearing.

10 As I understand your question, you'd like to
11 see it for the ten largest Japanese export markets.

12 CHAIRMAN OKUN: Right. That would be
13 helpful.

14 I'll look for all that post-hearing then.

15 I'll follow up on the joint venture
16 question. With respect to countries where there are
17 joint ventures.

18 Maybe I'll just start with this. In the
19 markets where Japanese producers are exporting, for
20 all those markets you're not using contracts? This is
21 all just being sold in a spot basis?

22 MR. OKAMOTO: Madame Chairman, There are no
23 annual contracts, if that was your question. There
24 are no annual contracts. Is the contract solely based
25 on spot pricing? No. They are contracts for let's

1 say a three month contract.

2 CHAIRMAN OKUN: I misspoke then. But no --

3 MR. OKAMOTO: No annual contract.

4 CHAIRMAN OKUN: And no longer term
5 contracts.

6 MR. OKAMOTO: Exactly.

7 CHAIRMAN OKUN: Is that the same for you,
8 Mr. Aoyama?

9 MR. AOYAMA: Yes. There are contracts
10 basically that are quarterly based.

11 CHAIRMAN OKUN: Let me go back to the
12 purchasers for a moment. You have had this question
13 when I walked out, so if you did I can just look at
14 the transcript.

15 To the extent you talked about the Japanese
16 being unable to qualify for 2013 were the order to be
17 lifted, that they would not qualify for your contract
18 season. If I understand your answer.

19 But there are, as I understand it, ability
20 under current contracts to, not like a meet and
21 release, but something like it. In other words, if a
22 producer were to come in from any non-subject country,
23 it doesn't have to be Japanese, to offer to supply, do
24 you entertain those offers beyond your contract
25 negotiation season?

1 MR. ARENA: -- Arena, Silgan.

2 When we commit to a supplier a certain
3 volume, that volume and a certain price, we expect a
4 commitment on their side as well, and we honor that
5 commitment.

6 Like I mentioned before, I'm not aware of
7 the situation that they presented. I can't say that
8 it doesn't happen, but I'm not aware of it.

9 CHAIRMAN OKUN: And Mr. Cosio, did you
10 already comment on that as well?

11 MR. COSIO: I did not comment on that.

12 CHAIRMAN OKUN: If you could.

13 MR. COSIO: The statement that Mr. Arena
14 made on the qualification time, I don't know exactly
15 his qualification policy, however, I would believe
16 that ours is similar to that. If someone approaches
17 us who is not qualified, we would have to go through
18 process prior to awarding them any business.

19 CHAIRMAN OKUN: And with respect to whether
20 you entertain or if anyone was to approach you for
21 additional supply outside of the contract negotiation
22 season, do you entertain those offers?

23 MR. COSIO: You're asking if someone who is
24 considered qualified in between the contract periods
25 approaches us?

1 CHAIRMAN OKUN: Right.

2 MR. COSIO: If we've made commitments to the
3 people we've made commitments to, we are to honor
4 those commitment as best as possible. There is some
5 fluctuation sometimes in our demand and the demand
6 might affect the volume that we believe we're going to
7 have, however we do honor those commitments.

8 CHAIRMAN OKUN: Let me just stay with you,
9 Mr. Arena, for a moment.

10 In discussing what the contract negotiations
11 look like in this industry there was a fair amount of
12 discussion about a lot of understanding of other
13 offers out there, that other offers are used in
14 contract negotiations. Is that an accurate
15 description of your negotiations? In other words,
16 when you are discussing contracts, are you using other
17 offers as leverage?

18 MR. ARENA: We buy a limited amount from
19 overseas and it's a very specific application that
20 wouldn't be right for me to interject into the U.S.
21 supply conversations.

22 I can't speak for what they were referring
23 to, but my experience is the U.S. market competes for
24 our volume voraciously. So the folks that were at the
25 table and others who weren't here, are all after our

1 business and they don't need help from the foreigners
2 to reach a market price. That's my personal
3 experience.

4 CHAIRMAN OKUN: Mr. Cosio, would you like to
5 comment on that?

6 MR. COSIO: The policy that Ball Corporation
7 follows when we entertain offers for the next year's
8 contract is that we have confidentiality agreements
9 with all the individuals who we talk to. We respect
10 the confidentiality agreements. It would be
11 inappropriate for us to comment on someone's offer to
12 someone else at any time, regardless of their import
13 if they're domestic. So we follow those policies at
14 all times.

15 MR. PORTER: Commissioner Okun, you can
16 confirm the accuracy of Mike Arena's statement by his
17 questionnaire response. You have actual purchases of
18 domestic, actual purchase of imports. He today has
19 broken out essentially his off-shore . And over the
20 last five years he has never purchased more than six
21 to seven percent of his total from off-shore.

22 If the domestics proposition were true, and
23 Mike's a really tough businessman, and we have all
24 these imports throwing themselves at him with low
25 prices, why has he never bought more than six to seven

1 percent?

2 So I'm saying the data doesn't support their
3 contention. And I want to sort of marry testimony and
4 data, which you've been doing this a long time, you
5 like to do.

6 So they're making a proposition which is
7 belied by the data that you have.

8 CHAIRMAN OKUN: I appreciate all those
9 comments. My time is about to run out. So I'll turn
10 to Vice Chairman Williamson.

11 VICE CHAIRMAN WILLIAMSON: Thank you, Madame
12 Chairman.

13 The largest off-shore supplier in the period
14 of investigation has been the Netherlands. Does
15 anyone have any details on the company or companies
16 buying from there and how are they dealing with the
17 raw material cost variability problem that's been
18 raised?

19 MR. ARENA: The company in the Netherlands
20 is Tata, formerly Course. They supply into this
21 market to service centers. I don't know that business
22 model. They supply laminated steel and I think they
23 supply some wider DNI applications. They also supply
24 an application for an aerosol can.

25 VICE CHAIRMAN WILLIAMSON: Do you know

1 whether or not they're -- Sorry, go ahead.

2 MR. ARENA: So the business model that
3 Silgan has is in force for all of our suppliers. And
4 we have foreign suppliers in that mix, the six to
5 seven percent, so it's just right now, it's just the
6 way we do business.

7 So to answer your question, I guess I've
8 given enough information to say yes. They honor an
9 annual contract.

10 VICE CHAIRMAN WILLIAMSON: Okay.

11 Are there any -- Tin goes into lots of
12 different types of packaging. Are there any sort of
13 segments of the business or users that might have a
14 different approach to, might not be doing it on an
15 annual basis in the U.S.? What happens say if
16 somebody decides to introduce a new product in the
17 middle of the year and says okay, I need a package to
18 put this product in. I realize that's not the
19 majority of cases, but how does all of that work?

20 MR. COSIO: This is Dan Cosio.

21 The business segment that Ball is in, our
22 customers require fixed annual pricing whether it's
23 food or aerosol. So the segments that we're in with my
24 experience, I don't know any scenarios that would
25 satisfy the example you have expressed. However, are

1 there some out there in the U.S. that might be
2 segments that we're not in? There might be.

3 VICE CHAIRMAN WILLIAMSON: Thank you.

4 Mr. Aoyama, Mr. Okamoto, I understand why
5 Mr. Arena and Mr. Cosio sort of indicated why they're
6 here and their position. I was just kind of
7 wondering, if you're not going to be bidding for the
8 long term contracts, what is your reason for sort of
9 being here, spending your time to get the order
10 lifted?

11 MR. AOYAMA: Because I am in charge of the
12 marketing in the United States and these antidumping
13 orders is closely related to our activities to our
14 customers.

15 Also --

16 VICE CHAIRMAN WILLIAMSON: I'm sorry, would
17 you repeat that last sentence?

18 MR. AOYAMA: These antidumping order is
19 United States and this is related to our marketing
20 activity.

21 VICE CHAIRMAN WILLIAMSON: Okay.

22 MR. AOYAMA: Also as I explained to you in
23 my testimony, we have no intention to make a big
24 volume export to the United States, but as the
25 customers' testimony showing you, there are some

1 limited but special material which we can serve the
2 customers in United States.

3 So in order to realize that we need to
4 revoke antidumping orders. That is the reason why I'm
5 here.

6 VICE CHAIRMAN WILLIAMSON: Okay.

7 Without getting into anything business
8 confidential, would those products be supplied on a
9 less than a year contract basis? Or is there
10 something special about them?

11 Yo may want to answer post-hearing.

12 MR. AOYAMA: I submit.

13 MR. OKAMOTO: Mr. Williamson, it has been
14 ten years since the, more than ten years I should say,
15 since the order is in place. We think it is only fair
16 that this is lifted. That's the major reason that I
17 am here today, to tell you and show you that this
18 order should be lifted.

19 On our business side, as Mr. Aoyama
20 explained, we would like to pursue the high end
21 opportunities if this is revoked, so that we'll be
22 able to capture with our better product the niche
23 segment that this market has not been served
24 correctly.

25 VICE CHAIRMAN WILLIAMSON: Mr. Durling?

1 MR. DURLING: Let me just elaborate and tie
2 together a few strands that you've been hearing in the
3 different testimony.

4 The Japanese mills are already supplying a
5 tin mill product to the U.S. market on a less than
6 annual contract basis. It's high value added,
7 excluded products, because the quantity is small.
8 That's the point.

9 You heard Mr. Arena testify that his policy
10 on annual contracts that's for the large volume
11 contracts. The raw material risk. It's one thing to
12 take a raw material risk on an order of 5,000, 10,000
13 tons, especially if it's high value added specialty
14 stuff. Because whether you're the supplier getting
15 the higher price or the customer getting the product
16 with the special characteristics, there's a reason to
17 take that raw material price volatility. The parties
18 have to negotiate and kind of where that risk ends up
19 is subject to the negotiation between the parties.
20 The risk is manageable if the quantity is small.

21 As the quantity gets larger, the risks
22 become so unmanageable that no one wants to bear it.
23 The Japanese suppliers don't want to bear it, and the
24 big customers like Mr. Arena don't want to bear it.
25 That's the point.

1 Small quantities, it can work. Larger
2 quantities, it just can't work. At least not in the
3 Japanese and the U.S. market.

4 MR. ARENA: Silgan is taking no price risk.
5 The product he's referring to we order once a year,
6 so there's just one order. So we're not changing
7 prices every quarter for that product. There's only
8 one order, and then the next year we order it. So
9 there is no business model where we're accepting price
10 changes quarterly, correctly in place between us and
11 either of these two companies.

12 VICE CHAIRMAN WILLIAMSON: Okay. Thank you
13 for that. That's helpful.

14 If there's any post-hearing you can give us
15 that kind of shows this. You say these are small
16 quantities, not much big risk, just to put it in
17 context and if there's anything you can tell us post-
18 hearing about this, because we've gotten so, in a
19 sense, hung up on this question of one year contracts.

20 So if you can sort of document the
21 distinctions that you're drawing here, I think it
22 would help us a lot.

23 Thank you for that.

24 In your post-hearing brief, please provide
25 details on the matter described in your brief at

1 footnote 71 including quantities and likely duration.

2 Also post-hearing, please respond to the
3 arguments at pages 27 to 30 of U.S. Steel's brief
4 pertaining to available capacity in the Japanese
5 industry.

6 MR. PORTER: Commissioner Williamson, we
7 will do our best, but a lot of that is bracketed so
8 the only way we can respond is to be able to talk to
9 our clients and if it's BPI it's going to be a little
10 difficult. We'll do our best, but it's one of those,
11 they're citing some stuff that they've chosen to,
12 reports and such that they've chosen to bracket as
13 confidential. Unless we can show those reports to our
14 clients we're not sure exactly what we can say.

15 VICE CHAIRMAN WILLIAMSON: Understood.
16 Thank you. Do your best.

17 I think that's all I have for now. Thank
18 you.

19 CHAIRMAN OKUN: Commissioner Pearson?

20 P: Thank you, Madame Chairman.

21 Mr. Cosio, I believe earlier Mr. Arena
22 indicated that Silgan would not be able to qualify
23 Japanese material for use in its production in 2013.
24 If the order was revoked the inference I would draw is
25 that Silgan would not be using any Chinese, Japanese

1 tin mill in its production until at least 2014.

2 Is the situation similar for Ball or would
3 you be able to qualify the product more quickly, to
4 put it in use in 2013?

5 MR. COSIO: I agree with Mr. Arena's
6 statement. I don't understand his qualification
7 policy as compared to ours, however it is a long
8 process to qualify and with the time limitation of
9 that, it would be extremely difficult to have any
10 business in 2013.

11 P: Do either of your firms that manufacture
12 cans have knowledge of others in your business, are
13 there some that might have shorter qualification
14 processes such that if the orders were revoked we
15 might start to see some Japanese product in U.S. can
16 production in 2013?

17 MR. ARENA: Much of our process
18 qualification actually goes back to our end customer
19 who used to be can makers. That's not everybody
20 else's business model. It might be different and it
21 might be different for the type of steel. But
22 generally speaking, I would say the folks in front of
23 me are equally as cautious if not more.

24 So while we have a protocol, their protocol
25 is a little bit more stringent because they're the one

1 who has the raw material risk when it's on the boat,
2 and if the product doesn't work and they've already
3 made it, it's their exposure.

4 P: Ms. Slater?

5 MS. SLATER: Just because I can't possibly
6 go through a whole hearing without speaking, maybe I
7 can just clarify a bit.

8 One of the other components of this issue
9 about the earliest point at which Japanese steel could
10 enter following revocation has to do with the timing
11 of the annual contract negotiations. And because the
12 negotiations for 2013 will happen beginning in the
13 fall, that will be well before any qualifications will
14 have certainly started or been completed. SO it would
15 be imprudent or impossible somewhere in that range for
16 can companies to count on supply from suppliers who
17 are not yet qualified.

18 P: Well, an invitation to counsel if you
19 want to elaborate on this a bit in the post-hearing,
20 and perhaps give us guidance as to how we have looked
21 at the period of the reasonably foreseeable future,
22 how we might apply that standard to this situation.

23 Thanks.

24 Again, for Mr. Arena and Mr. Cosio, have
25 your firms purchased Chinese -- and I meant to say

1 Chinese that time, it wasn't a mistake -- Chinese tin
2 plate for the manufacture of cans in the United
3 States?

4 MR. ARENA: We've purchased twice, small
5 volume. The first supplier didn't work in our
6 systems. The second worked okay. The pricing wasn't
7 anywhere near competitive for the pricing that product
8 could potentially replace.

9 So we ceased further developments.

10 MR. COSIO: I'd be more than happy to
11 provide information post-hearing to the question.

12 P: Okay. Then if for post-hearing, if
13 you've learned things about Chinese product, which I
14 assume at least one of you has, could you let us know
15 whether what you've learned confirms what others on
16 this panel have indicated, that there are quality
17 differences between Chinese product and some other
18 product that would tend to put the Chinese tin mill
19 into a lower quality, lower value use as compared to
20 the Japanese product?

21 If you want to comment now, by all means
22 feel free. Do you see segmentation in the market
23 between what the Chinese are able to provide and what
24 the domestic producers might provide or the Japanese
25 might provide.

1 MR. ARENA: This is Mike Arena. I think
2 it's clear by the imports into the U.S. China's pretty
3 aggressive and that tin place doesn't find its way
4 here and I don't think it particular finds its way
5 into food cans. So I would agree with their
6 assessment. Honestly, it's not particularly on
7 Silgan's radar screen. We have very good local
8 producers. The issue here is not our local producers
9 per se, it's what they can't do right now. And the
10 Chinese certainly can't fill the void of what the U.S.
11 mills can't do together.

12 P: Would I be correct to infer then that
13 the role for Chinese product in the U.S. market place
14 at the current time would tend to be for those users
15 that have equipment that can handle --

16 MR. ARENA: Less stringent applications,
17 perhaps?

18 P: Maybe older equipment, older processes.

19 MR. ARENA: Different type of containers.
20 Not as high speed, slower presses.

21 CHAIRMAN OKUN: So there could be a toe hold
22 for product along the lines of what the Chinese are
23 producing, but it's not going t get into some of the
24 uses that are of most interest to your two firms.

25 MR. COSIO: It's the lower volume side of

1 that 2.6 million tons they've showed you. It's a
2 lower component of that.

3 MR. COSIO: The only thing I'll add is we
4 have material specifications for all the items that we
5 purchase, regardless of supplier. Those
6 specifications are not catered to, each supplier
7 individually. They're catered to our requirements and
8 we would not change the specification based on a
9 supplier request, whether that's supplier or domestic
10 or import.

11 MR. ARENA: Just to further that, the
12 challenges that the Japanese have for doing business
13 here are similar to the challenges that the Chinese
14 had. So all the reasons why we wouldn't buy from
15 Japan are the same reasons why we wouldn't buy from
16 China. Then you have to add the quality issue on top
17 of that.

18 P: I asked the question largely to
19 understand the basic situation that threatens domestic
20 producers. We have seen some markets where Chinese
21 product comes in quite happily and in large volumes
22 and meets the customer requirements in the United
23 States. What I'm hearing from you is that the tin
24 mill product from China may not yet be at that level.
25 It's nibbling around the edges, perhaps, but not

1 coming in four-square. Okay.

2 Again for Mr. Arena and Mr. Cosio, could you
3 comment on the on-time delivery performance of U.S.
4 producers? And this refers to a footnote that's
5 bracketed that you won't have been able to see, but
6 it's footnote four on page 2-6 for those who have
7 access to the confidential version. What that
8 footnote does is it summarizes some comments that
9 domestic can manufacturers have made regarding the on-
10 time performance of the domestic producers.

11 MR. COSIO: This is Dan Cosio. I believe
12 Mr. Arena commented earlier that in the recent past
13 our domestic suppliers have made good progress in
14 improving their on-time delivery performance.
15 However, they still have not gotten to the level that
16 we expect and require them to be for on-time delivery
17 performance.

18 MR. ARENA: This is Mike Arena. I would
19 echo that tremendous improvement, but coming off of a
20 really low level. We've had to build a lot of
21 inventory into our system to manage around the
22 potential misses. But, they have a tough job, the
23 U.S. steel mills do, because they're getting the bread
24 and butter part of the business that has frequent
25 changes. And so, I think they've made -- they've put

1 resources against this and they've made great strides
2 in improvement.

3 COMMISSIONER PEARSON: Okay. Well, I
4 appreciate that. And I understand that some of your
5 major suppliers are here in the room and so you may
6 wish to be circumspect in what you would say. If
7 there's more that we should know in the post-hearing,
8 by all means, you know, provide it.

9 MR. ARENA: This is just something they've
10 already heard.

11 COMMISSIONER PEARSON: Okay, fine, thank
12 you. I believe my last question -- hey, I'm almost
13 out of time, so it's about time I get to the last
14 question. This is for counsel and probably can be
15 addressed in the post-hearing, but how much weight
16 should we place on developments that took place
17 following revocation of the orders on hot-rolled steel
18 and on corrosion-resistant steel, because we've got
19 both those issues placed in front of us. I'm not sure
20 that I would place much weight on them, but perhaps I
21 can be persuaded. And so for purposes of the post-
22 hearing, if you could help us understand that, that
23 would be great. And might I add, too, if you're going
24 to do those comparisons, look at cut-to-length plate
25 and see whether that tells us anything.

1 MR. PORTER: We will do all of that.

2 COMMISSIONER PEARSON: Okay. Thank you,
3 very much. And with that, Madam Chairman, and will a
4 few seconds left, I believe I have no more questions.
5 So, I'd like to thank, very much, the members of this
6 panel.

7 CHAIRMAN OKUN: Commissioner Aranoff?

8 COMMISSIONER ARANOFF: Thank you, Madam
9 Chairman. I want to clarify a conversation that you
10 were having with the Chairman about the ability or
11 lack thereof of Japanese producers to qualify product
12 in time for the fourth quarter 2012 round of contract
13 negotiations. And the testimony that I understood was
14 there's no way that can happen because we have these
15 very long and complicated qualification procedures.
16 And I guess I want to project into the future, as the
17 Commission is getting closer to its vote, and I just
18 predict that we're going to get a post-hearing brief
19 from the domestic producers, if they don't already say
20 it in their rebuttal today, that's going to say, that
21 is totally not credible. Everyone knows the Japanese
22 producers are world class producers. You're already
23 buying some products from them. Lots of the time it's
24 taken in qualification process is for things like
25 making sure that the suppliers is financially sound

1 and, you know, they're not beating their workers and
2 all kinds of things that basically you can skip those
3 steps and all you need to do is get a sample, run it
4 through your machine, and that's it. So, can you just
5 go ahead and respond to that now, so we have it on the
6 record?

7 MR. ARENA: Sure. This is Mike Arena. It's
8 been a significant amount of time since we've run the
9 steel through our equipment and this equipment, some
10 of it's like art. You have to tweak to the raw
11 material that's coming in. And so, our material is
12 somewhat conditioned to the supply base that we have
13 today and to suggest that we're going to run a couple
14 of coils and everything is going to be fine, while in
15 the meantime we have ongoing production and we're
16 going to make this the most -- the biggest priority in
17 the company. We don't have redundant capacity. Can
18 makers would go out of business if you had redundant
19 capacity. So, we're going to break into production to
20 do trials.

21 Beyond that, I don't necessary have the
22 desire either at this point. We've got other
23 initiatives that quite frankly in 2013 are more
24 important than getting this steel qualified. But the
25 reality is, if I'm going to commit volume in November

1 for next year to other suppliers, there's not a window
2 for them to participate.

3 MR. COSIO: This is Dan Cosio. The only
4 thing I'd like to add is in the past 12 years, can
5 maker is still can making. However, it has changed
6 dramatically. We've invested a lot of money on our
7 process, which includes different types of equipment
8 that we did not use in -- did not use 12 years ago,
9 higher speeds. So, we have to following the
10 qualification policies that we have in place, to
11 ensure that we will successfully be able to run
12 product, because it does not allow -- we jut don't
13 have the ability to run something that we're not
14 certain of that would affect our deliveries to our
15 customers.

16 COMMISSIONER ARANOFF: Mr. Porter?

17 MR. PORTER: Real quickly. Just, I think
18 it's also important to understand that their customers
19 require that they only use qualified suppliers. I
20 mean, 75 percent of all cans go in for food, okay, and
21 maybe even a higher proportion for some of the foods
22 from these guys here. This is food. You take the
23 can. They actually heat it. They cook the product in
24 it. And so, talking about food, the fact that
25 Japanese have a reputation for high quality, the steel

1 that's going to touch the food has to be qualified and
2 they have to run it through their qualification
3 process, as they've promised their customers. So, no
4 matter what they think they still have a process that
5 has to be followed.

6 MR. ARENA: Just to augment that, I think
7 the folks in front of me, again, this timetable would
8 be way too fast for them. We have things in motion
9 for products that's not covered by the regulation,
10 that we're in the 18th month of qualification. This
11 process is tedious, more tedious with these folks than
12 any other folks we deal with.

13 COMMISSIONER ARANOFF: Okay. I appreciate
14 those answers and if there's anything you want to add
15 post-hearing, if you want to tell me about
16 qualification by the fourth quarter of next year for
17 that next round of contracts, whether that's within
18 the reasonably foreseeable future, that would be
19 helpful, too.

20 Okay. Let me turn to something else. Well,
21 I have one request. Commissioner Pearson had
22 requested information from you with respect to on-time
23 delivery complaints that you were talking about and to
24 the extent that you provide any information on that,
25 if you could just make sure you're telling us what

1 time period you're talking about. That would be
2 helpful for the record because I'm worried that some
3 of this may go back some in history. Okay. People
4 are nodding for the record.

5 There's been some reference today to
6 discussion of tier one suppliers and whether there are
7 tier one suppliers in China and reference to Baosteel
8 as potentially a tier one supplier. Are there other
9 tier one Chinese suppliers?

10 MR. AOYAMA: I can say that the other tier
11 one Chinese supplier is our joint ventures, the men in
12 China. And the reason I'm saying that is that as Mr.
13 Okamoto mentioned earlier, the production of tin plate
14 needs that integrated steel technologies, starting
15 from making a very, very clean steel and center gauge
16 rolling. So it's not easily possible for the non-
17 integrated mills to produce a good quality.

18 COMMISSIONER ARANOFF: Okay. So for post-
19 hearing, I invite anyone who would like to address how
20 big Baosteel is, as a tier one Chinese supplier, and
21 the implication of that for some of the arguments that
22 are being made about whether or not there is or can be
23 competition in various markets between Japanese and
24 Chinese producers. In general, Baosteel is a very
25 large company. I don't know how big they are in tin

1 mill product. So, I'd appreciate that.

2 Let me turn to -- one thing I wanted to
3 clarify on contract negotiations, there was discussion
4 of wanting to qualify multiple suppliers or having
5 backup suppliers for some products. And so, I just
6 wanted to get the gentlemen to clarify for me, you
7 tend to have one supplier per specification. Is that
8 how -- when you say that you have multiple suppliers,
9 it's different suppliers for different specifications
10 or might you have multiple suppliers for a single
11 specification?

12 MR. COSIO: This is Dan Cosio. We testified
13 that we buy a lot of specification, so they are
14 definitely our items. Of the majority of our items,
15 we have multiple qualified suppliers for that
16 specification. Some items are similar to other items
17 that we buy, so you might try to lump the end use in,
18 even though it might be a different specification and
19 qualify for that end use.

20 MR. ARENA: This is Mike Arena from Silgan.
21 We don't have a set way of doing it. You can have
22 any combination of what you suggested: one supplier
23 supplying one spec. Three suppliers on a particular
24 line, each with a different spec. We generally are --
25 it's more about a location than a specification. But

1 when there's a unique specification that only a few
2 people can make or only one person can make, then,
3 obviously, that dictates that type of decision.

4 MR. COSIO: And one more comment. This is
5 Dan Cosio. In my testimony earlier, I had indicated
6 we have an issue last year with some damage on a
7 vessel. And earlier this morning, the domestics
8 indicated that, in some cases, there are, you know,
9 different acts of God that can restrict their on-time
10 delivery. It's for reasons like that, that we feel
11 it's in our best interest to have multiple supplied
12 options for our different items that we source.

13 COMMISSIONER ARANOFF: Okay. I appreciate
14 those answers. Let me turn to another question. One
15 of the slides that was shown at the beginning of
16 Respondent's presentation had to do with declines in
17 production capacity in Japan since the original
18 investigation. Either now, if it's public, or post-
19 hearing, I'd just like to understand to what extent
20 this represents capacity that's actually been
21 decommissioned versus capacity that's still there, but
22 not being used or is now being allocated to a product
23 that's not the subject product. I want to know how to
24 understand that, because there is some argument from
25 the other side that there hasn't actually been a

1 decline.

2 MR. DURLING: We can go into detail in post-
3 hearing and since it involves mill specific
4 information, it's hard to get into detail now. But,
5 it really is a combination of kind of reduction in
6 capacity, but also, a reallocation. Capacity, as we
7 always have in proceedings before the Commission, we
8 follow your instructions and we report capacity based
9 on kind of a normal product mix. So, the way we look
10 at is that if our business model has changed and so we
11 establish a bunch of joint ventures and we have to
12 supply them with back plate, it's completely
13 reasonable and consistent with your data, your request
14 for data, that we take that into account. So, it's a
15 combination of all those things. But what we'll try
16 to do is go into detail and decompose the nature of
17 that decline over the period as best we can.

18 COMMISSIONER ARANOFF: Thank you, very much.
19 Thank you, Madam Chairman.

20 CHAIRMAN OKUN: Commissioner Pinkert?

21 COMMISSIONER PINKERT: Thank you, Madam
22 Chairman. I know that Commissioner Pearson asked a
23 question about this next topic and offered a post-
24 hearing opportunity. But, I want to give you the
25 opportunity here to talk about the argument that we

1 heard this morning, that if you look at hot rolled,
2 that when the order came off of hot rolled from Japan,
3 there was an increase in shipments and I think it was,
4 in particular, right at the end of 2011 and then into
5 2012. So, perhaps you can comment on that.

6 MR. PORTER: We anticipated this argument,
7 obviously, and we have a confidential footnote that
8 provides pretty explicit details of exactly what
9 that's about. And I can say, generally, and
10 Commissioner Pearson definitely sort of indicated this
11 morning, that at least the footnote suggested that the
12 inference that the domestic mills were making, that
13 this was all coming to the merchant hot-rolled market
14 and replacing domestic mills' production, that
15 inference was wrong. And we put explicit details that
16 are confidential in the footnote that explained the
17 increase, that actually showed that the inference was
18 wrong.

19 With respect to the general question that I
20 think you and Commissioner Pearson are asking about,
21 the probative value of the experience in other flat-
22 rolled products, we submit that it's evidence. This
23 ask is extremely difficult. You look in the future and
24 decide what is like. We believe it is relevant when
25 you're talking about the very same exporters in these

1 other product areas and we think corrosion is a little
2 bit more probative because it's a coated product, it's
3 a little further down the production line, and you
4 have some of the similar dynamics. But more
5 importantly, talking about the same producers and we
6 think that that is some evidence of what they're going
7 to do what these same producers have done in similar
8 products in the past.

9 And Petitioner has every right to identify
10 the hot rolled and the plate. We have identified
11 corrosion. And, of course, it's your job to weigh it
12 all in and evaluate it. But, we believe we have
13 explained the hot rolled situation and dispelled the
14 inference that Petitioners are trying to convey.

15 COMMISSIONER PINKERT: I appreciate that.
16 Thank you. But what I would like to focus on for
17 present purposes is whether that increase that they
18 showed at the very end of 2011 and then into 2012,
19 whether that was a reflection of conditions in the
20 overall market. In other words, was demand up and,
21 hence, shipments up or was there some other factor?
22 And I understand your point about the merchant market,
23 but I'm just saying, as a general matter, can you
24 relate this to demand conditions?

25 MR. PORTER: So are you talking about hot

1 rolled?

2 COMMISSIONER PINKERT: Yes.

3 MR. PORTER: I apologize. But, I think it's
4 almost the entire increase from Japan of hot rolled is
5 described in the footnote and it's a very special,
6 unique situation. So, it doesn't have to deal with
7 demand. It has to do with something else. And if you
8 look at that footnote, I think your questions can be
9 answered.

10 COMMISSIONER PINKERT: Thank you. Now,
11 turning to opportunities in Asian markets in the next
12 year or so, is the opportunity to supply cans for
13 canned seafood demand in Asian markets down and is it
14 expected to be down? Are those opportunities
15 dwindling?

16 MR. DURLING: I'm not seeing any seeing
17 either of the mill reps jump at this one, so I guess
18 if we could deal with that post-hearing. Obviously,
19 we have the folks here, who are, you know, more
20 familiar with this part of the world. We can
21 certainly find out. But, if you have anything that
22 you can share now, otherwise, we'll just have to do
23 that post-hearing.

24 COMMISSIONER PINKERT: Thank you. And,
25 finally, I know that you testified quite a bit about

1 the business strategy of serving emerging markets.
2 And I want to focus in on perhaps one or two of those
3 emerging markets and ask you, what is it about, say,
4 for example, an emerging market like Peru, that makes
5 it more attractive, even in the event of revocation,
6 than the U.S. market?

7 MR. AOYAMA: Okay. So, first of all, there
8 is no domestic tin mill plate producers in Peru. This
9 is Aoyama from Nippon Steel. And there is no domestic
10 producers of tin plate in Peru. So, as Mr. Okamoto
11 mentioned earlier, there is less competition. And, on
12 the other hand, they need their customers -- their
13 customers in Peru need high quality materials because
14 there are food manufacturing or canned food
15 manufacturers that request the high quality can, which
16 request the high quality tin plate. So, we put more
17 priority to the growing market like Peru, comparing to
18 the United States.

19 COMMISSIONER PINKERT: And same question
20 about Mexico.

21 MR. AOYAMA: Mexico is also requesting the
22 very, very strong, high quality tin plate and there is
23 only one domestic producer, whose capacity and quality
24 is rather limited. So, the food can companies in
25 Mexico, which operate at a high speed food can

1 manufacturing factories, that need the high end
2 products of tin plate, which cannot be supplied by the
3 domestic producers. So, in such a market, we build a
4 long term relationship for many years with customers.
5 That is the reason why we put the priority on Mexican
6 market when we are comparing it to the United States
7 situation.

8 MR. OKAMOTO: Maybe I should add a little
9 bit. I completely would like to reiterate what Mr.
10 Aoyama has explained about Mexico. The Mexican
11 producers have limitations, much more limitations than
12 the U.S. producers here. So, there are many more
13 opportunities for us, JFE, or I suppose Nippon Steel
14 with our high-quality material to go in, in that
15 market and capture the high-end market that exists in
16 Mexico.

17 MR. DURLING: Just two other points to add,
18 growing markets need to install new equipment. When
19 you install new equipment, more often than not, you're
20 installing higher speed equipment and so that
21 naturally plays to the Japanese strengths. High speed
22 equipment needs higher quality input to operate
23 smoothly. And last, these are markets where when the
24 raw material price volatility changed the business and
25 required the Japanese to switch to quarterly pricing,

1 these are markets that could accept that.

2 You started your question with why are these
3 markets different. I think one of the most important
4 differences is, you know, kind of the -- you know, the
5 domestic industry focused on just the pure size of the
6 market and there's -- you know, it's a big market, so,
7 of course, this is very attractive. But, you need to
8 put that in context and when you're a foreign supplier
9 facing this raw material price volatility, when you've
10 made a policy decision not to do annual contracts and
11 you're looking at markets, do you lock horns with Mr.
12 Arena and try to convince him to abandon his policy of
13 annual contracts, or do you focus elsewhere, where,
14 you know, it was a struggle there, too, because no one
15 wants to give up the benefit of an annual contract?
16 But the end result is, in these other markets, the
17 Japanese suppliers were able to convince their
18 customers that the value of buying their product was
19 sufficient to, you know, justify switching from annual
20 or longer-term contracts, to quarterly contracts that
21 mitigated the raw material price volatility.

22 COMMISSIONER PINKERT: Now, you testified
23 that there's one Mexican producer. Are there
24 opportunities for North American producers outside of
25 Mexico to compete in that market?

1 MR. AOYAMA: Yeah, I think so. Yeah. From
2 our customers in Mexico, through the trading
3 companies, we have been informed that they are
4 contacted by U.S. mills. I'm not sure of the exact
5 transaction between U.S. mills and Mexican customers,
6 but it might be possible.

7 MR. OKAMOTO: Yes. I, also, would like to
8 add that we have experienced competition from the U.S.
9 mills with our very long-time customer, also.

10 COMMISSIONER PINKERT: Thank you, very much.
11 Thank you, Madam Chairman. I see that I'm almost a
12 minute over the time in my round.

13 CHAIRMAN OKUN: Commissioner Johanson?

14 COMMISSIONER JOHANSON: Thank you, Madam
15 Chairman. This is a question for Mr. Arena or Mr.
16 Cosio. I was wondering, how much flexibility is there
17 in using different grades or specifications in tin
18 mill products, if you're -- let's say, if you're a
19 cannery, what happens if you use the wrong grade or
20 specification? Does that jam up the machinery? In
21 other words, you mentioned there is some 400 different
22 specifications. What if you use the wrong one and how
23 big a problem is that?

24 MR. ARENA: This is Mike Arena. I think it
25 depends on the extent of the problem for sure. We've

1 got customers who have filling equipment that can only
2 handle certain thicknesses of the metal. In other
3 words, if it's too thin, the can might not make it
4 through the cooking process or it might blow the top
5 off. So, our specifications are what they are for a
6 reason and they're optimized for a reason. They're
7 optimized around cost and performance. So anything
8 that's different is going to throw off one of those
9 two parts to the equation. The performance is not
10 acceptable. The cost would be a different issue. But,
11 our specifications are pretty tight and they need to
12 be adhered to and we've got pretty tight tolerances on
13 the inbound metal to accommodate that.

14 COMMISSIONER JOHANSON: Have either of your
15 companies ever experienced a problem where you used a
16 wrong grade and it causes a foul up?

17 MR. ARENA: I'm not personally aware of --
18 we thought a metal was 78 pound and it came in 73
19 pound, I'm not personally aware of that --

20 COMMISSIONER JOHANSON: Okay.

21 MR. ARENA: -- event happening.

22 COMMISSIONER JOHANSON: Thank you. Mr.
23 Cosio?

24 MR. COSIO: I was going to comment on the
25 original question. We specify based on the

1 requirements of our customer, so we might spec a corn
2 can different than we would a pea can and obviously a
3 more acidic fruit can. So, if there a mistake to
4 happen in using a corn specification for a heavy fruit
5 application, that can be catastrophic. It's something
6 that we would not -- we would obviously not do. I'm
7 not sure if that was what you were asking when you
8 referenced the grade.

9 COMMISSIONER JOHANSON: Yeah, I think you
10 got to it. It was just, basically, you all have
11 explained that at times, you cannot source the
12 appropriate grade of product or specification of
13 product from domestic producers, so you have to get
14 them from foreign sources. I just want to know how
15 much wiggle room is there to use either one. I think
16 you got to the -- you gave me a good answer there.

17 And kind of following up on that, how
18 difficult is it to change the grades or specifications
19 of the tin mill product to meet the new requirements
20 of customers, when those requirements change?

21 MR. ARENA: This is Mike Arena. Some of the
22 requirements that we're talking about that aren't
23 available domestically have to do with maybe the width
24 or the elongation properties or the thickness of the
25 metal and these are cost initiatives on our side. So,

1 we're running wider metal. We can get more cans out.
2 We can be more efficient. We don't have to have more
3 equipment to make the cans. And so that tends to be a
4 situation where we might look to a supplier who can
5 supply those needs. If a customer wants to change
6 specifications, that usually stays within the same
7 supplier because usually a supplier is capable. So,
8 we're talking about where there's a void is more on a
9 technology side, not on a specification.

10 Now, if a customer said they had filling
11 equipment that could run metal gauges that were 50
12 percent of what they are today, we would not be able
13 to find a sample of that metal to get domestically.
14 We might be able to find something close to it in
15 Europe. So, if you're talking about extreme changes
16 in requirements, then the U.S. mills definitely have a
17 floor that they can get to on metal thickness that
18 other folks around the world have a different floor.
19 Have I answered your question completely?

20 COMMISSIONER JOHANSON: Yes, yes you have.
21 Thank you. I appreciate it. And this is again
22 another question, have changed in tin mill prices over
23 the past few years increase or shift to substitute
24 products? Because, I know we see a large shift to
25 these new types of packaging products and I was

1 wondering if price might be part of that, in part
2 moving packaging in that direction.

3 MR. ARENA: This is Mike Arena, again. The
4 inherent price in what we then, therefore, charge for
5 a can becomes just math to the purchasers at the
6 Campbell Soup of the world, for example. The
7 volatility and the difficulty in planning and
8 forecasting that the changes in raw material have
9 introduced into what was once a stable product has put
10 a target on the can's back. And so, we've got two
11 things working here: both the fundamental cost that's
12 changed and using raw materials as a backbone for that
13 and then the now new found volatility over the last
14 four or five years. And you've got -- it's forcing
15 our customers, the CPG companies, to take a different
16 look at different alternatives, things that are more
17 readily hedgeable, like aluminum and other type of
18 packages that they can manage the cost side better or
19 we can predict the cost side better. So to answer --
20 I know it's a longer answer than you expected, but the
21 nuances around price and volatility have put a target
22 on the back of the can.

23 COMMISSIONER JOHANSON: Thank you. Mr.
24 Cosio?

25 MR. COSIO: Yes. I would agree with what

1 Mr. Arena has commented on and we have lost some
2 business to alternative packaging. Was the primary
3 motivating factor price? I think we'd have to ask our
4 old customers on that fact. I would believe it has to
5 be a factor, in my experience. I don't know if it was
6 the motivating factor or not.

7 COMMISSIONER JOHANSON: Thank you. Well, I
8 went over briefly during the first round of
9 questioning, so I will give back my time now. That
10 concludes my questions. Thank you.

11 CHAIRMAN OKUN: I don't have any further
12 questions for this panel, but want to thank you for
13 your responses. Commissioner Williamson?

14 VICE CHAIRMAN WILLIAMSON: Thank you, Madam
15 Chairman. Just a couple of questions. Mr. Durling,
16 probably for you post-hearing, could you take a look
17 at Table III-13 of the staff report and discuss what
18 should be the meaning for analysis of the domestic
19 industry's level of capital investment from 2008 to
20 2011? So, you just take a look at that and then say
21 what we should make of that post-hearing.

22 MR. DURLING: Sure.

23 VICE CHAIRMAN WILLIAMSON: Thank you. For
24 Mr. Arena and Mr. Cosio, do you buy from Dofasco and
25 is its role in the U.S. market more like U.S.

1 producers, rather than the role of an offshore
2 producer? So, I'm sort of asking what is the role of
3 the Canadian producers in the U.S. market?

4 MR. COSIO: I'm sorry, can you repeat the
5 last part of that question?

6 VICE CHAIRMAN WILLIAMSON: I'm trying to get
7 an idea of what is the role of Dofasco, you know, the
8 Canadian producers in the U.S. market and I had
9 specifically asked whether you had bought from them.
10 But the real question is really what is their role in
11 the U.S. market?

12 MR. COSIO: What is their role? Dofasco is
13 the only tin mill producer in Canada and they are
14 active, if you look at the import statistics, in the
15 U.S. market and we do buy from them currently.

16 VICE CHAIRMAN WILLIAMSON: Okay. Do you
17 sort of treat them like -- you know, this is a NAFTA,
18 do you treat them like another U.S. supplier, in a
19 sense?

20 MR. COSIO: They have the same owners as
21 does ArcelorMittal Weirton and they -- I guess I'm a
22 little uncertain of how to answer that. There are
23 some different products that they make, that --

24 VICE CHAIRMAN WILLIAMSON: Okay. But, it's
25 more of a difference -- it's not the fact that they

1 are a Canadian company or anything. It's just a fact
2 that they may specialize in some products versus
3 others?

4 MR. COSIO: For the most part, yes.

5 VICE CHAIRMAN WILLIAMSON: Okay. Mr. Arena?

6 MR. ARENA: Yes, this is Mike Arena.

7 Dofasco, to me, is ArcelorMittal.

8 VICE CHAIRMAN WILLIAMSON: Okay.

9 MR. ARENA: And how ArcelorMittal decides to
10 serve Silgan, based on our requirements, we ask for
11 the highest quality product that they can supply us
12 and it's really their choice of the mill that they
13 supply from. We end up with a lot of our product
14 coming from Dofasco versus Weirton. But, I think that
15 -- so, I look at it as it's a commercial negotiation
16 around supply. And we're not picking the mill. We're
17 picking the quality and they're choosing how to supply
18 us.

19 VICE CHAIRMAN WILLIAMSON: Okay.

20 MR. ARENA: And it happens to be that it
21 ends up out of Dofasco, because some of the products
22 probably Weirton can't make or we've got a history of
23 having that product supplied from Dofasco, so it
24 doesn't require like a qualification.

25 VICE CHAIRMAN WILLIAMSON: Okay. Now, can

1 they respond as quickly as the U.S. mills? Because,
2 you've talked about this flexibility that the U.S.
3 mills have. Do you include them in that category?

4 MR. ARENA: Certainly, certainly. Their
5 infrastructure to support the U.S. market allows them
6 to compete effectively on lead times and on delivery.
7 And they're -- you know, they're one of the better
8 North American mills in how we measure, both on lead
9 time, quality, and on time delivery.

10 VICE CHAIRMAN WILLIAMSON: Okay, thank you.
11 Okay with that, I have no further questions. I want
12 to thank the panel for their answers this afternoon.

13 CHAIRMAN OKUN: Commissioner Pearson, did
14 you have any other questions? Commissioner Aranoff?

15 COMMISSIONER ARANOFF: Thank you, Madam
16 Chairman. A couple of follow-ups and I think these
17 are all for post-hearing. There's been considerable
18 discussion about the strategic decision that the
19 Japanese producers have made to supply tin mill black
20 plate to joint ventures. And for post-hearing,
21 because I just assume that this is confidential, it
22 would be good to have on the record whether these
23 joint ventures are contractually or otherwise actually
24 required to buy their black plate from the Japanese
25 parent company or whether they're free to buy some or

1 all of it from another source and what other sources
2 might be available to them, because the domestic
3 producers' brief does posit that there are other
4 suppliers and that these joint venture could go out
5 and buy from these other suppliers and leave this
6 capacity available.

7 MR. DURLING: Yeah, we'll do that on a mill-
8 by-mill basis but, confidentially, in post-hearing.

9 COMMISSIONER ARANOFF: Perfect. Thank you.
10 A question for the tin producers. When you're
11 purchasing tin mill product, are you comparing the
12 prices that you're offered on a delivered basis or on
13 a different basis?

14 MR. COSIO: This is Dan Cosio. We feel it's
15 important to compare apples to apples when looking at
16 all the offers, so we make sure that we do compare the
17 same terms regardless of where the supply is coming
18 from.

19 MR. ARENA: This is Mike Arena. The
20 question sort of implies that price is the most
21 critical factor and so to limit the value proposition
22 to just price, I think doesn't do the process justice.
23 So, whether it's delivered price or f.o.b. price,
24 there's a whole package that different mills offer and
25 we tend to reward the mills based on that value

1 proposition. And it might be that we pay someone a
2 little bit more because they take cost out of our
3 business and vice versa.

4 COMMISSIONER ARANOFF: Okay. That's fair
5 enough. But, actually, that wasn't where I was going
6 with the question but I do want to take that into
7 account. But, really, it was because in the
8 Respondent's brief, they present price comparisons in
9 a number of different ways, by constructing delivered
10 prices and some other different presentations. So, I
11 guess I'm trying to understand --

12 MR. ARENA: I understand.

13 COMMISSIONER ARANOFF: -- I understand that
14 there's more that goes into valuing --

15 MR. ARENA: Yes, this is Mike Arena, again.
16 I apologize, I misunderstood the question. Without a
17 doubt, all else being equal, then you're going to
18 compare delivered price to delivered price.

19 COMMISSIONER ARANOFF: Okay, thanks. For
20 post-hearing, I wanted to ask, in ArcelorMittal and
21 U.S. Steel's briefs, they quote various public reports
22 that refer to planned or pending increases in capacity
23 for production of tin mill products in Japan, and this
24 way you get out from under the page limit, and I do
25 want to ask you to respond specifically to each of

1 those articles that are cited, as to what it is, in
2 fact, that they're referring to, whether it is subject
3 product, whether the expansion that's being discussed
4 is actually taking place.

5 MR. PORTER: We'll be happy to respond to
6 each and every article that is public and we can share
7 with our clients.

8 COMMISSIONER ARANOFF: Thank you.

9 MR. OKAMOTO: Just one comment. The article
10 that was referenced to JFE, there is no truth behind
11 that article. But, as Mr. Porter said, we will be
12 happy to extensively explain that in our post-
13 briefing. Thank you.

14 MR. AOYAMA: Yeah. And Nippon Steel,
15 Aoyama. I, also, have one comment, although I will
16 explain in the post-hearing brief, regarding the
17 Nippon Steel's article or I suppose that is an
18 economist kind of thing. There is totally no ground
19 of that information. And when we think about why such
20 kind of things out of the article is coming, I suppose
21 that almost all the same -- at the same time we
22 announced the capacity expansion of one of our joint
23 ventures in Indonesia and that reporter may
24 misunderstood that production capacity is expanded in
25 Japan, which mean that expansion of our joint venture

1 in Indonesia mean that we have to supply more tin
2 black plate to them, which reduce our practical
3 capacity of tin plate more in the future.

4 COMMISSIONER ARANOFF: Okay. I appreciate
5 those answers and I don't have any further questions.
6 I do want to thank everyone on this panel for all of
7 your help this afternoon. Thank you, Madam Chairman.

8 CHAIRMAN OKUN: Commissioner Pinkert?

9 COMMISSIONER PINKERT: I want to give this
10 panel and particular the folks in the back row on this
11 panel the opportunity to address the question of
12 whether the domestic industry, the domestic tin mill
13 product industry is chronically vulnerable and what
14 that means for the disposition of this case.

15 MR. ARENA: This is Mike Arena, obviously,
16 quite a complicated question. As I look at
17 specifically why I'm here, my objectives haven't
18 changed since I was asked to participate. There's
19 some stuff that they can't supply us and my options
20 are just getting more and more limited to fill that
21 gap, and these are things we need to run our business.
22 We've got a vested interest in keeping these mills
23 running. I mean, we can't rely on -- we don't want to
24 be a Mexico that relies just strictly on imports. We
25 have a responsibility to the mills and we think we've

1 lived up to that part of the responsibility of making
2 sure we limit how much we go offshore.

3 So, I don't want to pontificate -- sound
4 like I'm pontificating too much, but the sole
5 objective here is that we create alternatives for the
6 stuff that they're just not good at doing or they
7 can't currently do. And I don't really think it's
8 unfair ask, per se. These are things that we've
9 challenged them to get better at. But, if we want to
10 be the can maker who we want to be 10 years from now,
11 we might be running thicknesses that are 30 percent
12 different than what they are today. Someone has got
13 to keep up with our ambition and so that's the
14 challenge that we have. I think they want to embrace
15 the challenge.

16 But the reason we're here, to me -- it was a
17 little discomfoting in the morning session because I
18 think -- I hope they don't misinterpret why Silgan is
19 here. We have a vested interest in these folks.
20 These folks have to be successful. And Silgan is
21 successful because of our suppliers. This isn't
22 mother and apple pie. This is real stuff here and we
23 really -- we appreciate our supplier but they have
24 some voids. So, is that the type of response -- did I
25 target the response to your question?

1 COMMISSIONER PINKERT: You did address the
2 question. There's more of a legalistic side to it,
3 which I'm sure that Mr. Porter or Ms. Slater will
4 address but I want to give your colleague to your
5 right an opportunity to respond to this question, as
6 well.

7 MR. COSIO: This is Dan Cosio. It is
8 extremely important for our domestic suppliers to be
9 strong and to be financially profitable. It is not in
10 our best interest to have them chronically injured.
11 So, we work very closely with them to push them to
12 become a better supplier. We do that constantly. We
13 work very closely with our domestic suppliers to point
14 out where we need them to improve, why we need that
15 improvement to happen, so that we can be the best can
16 company that we can be. We cannot be the best can
17 company without our suppliers being the best, as well.
18 It has to be both sides of that to have our success
19 occur. And so, we will continue to support our
20 domestic suppliers and push them to improve. And as
21 Mr. Arena pointed out, there are some items that they,
22 at this current time, are unable to produce.
23 Hopefully, that will change in the future.

24 COMMISSIONER PINKERT: Mr. Porter?

25 MR. PORTER: I'll give a shot at the

1 legalistic answer, Commissioner Pinkert. I'm going to
2 take issue with my friend, Paul Rosenthal. This
3 morning, he suggested that as a matter of law, and I
4 think that was his phrase, that because domestic
5 industry was chronically vulnerable or that the
6 indicators think that, that you have to continue to
7 the order, and I have to respectfully disagree. That
8 is not the standard.

9 The standard is will termination lead to a
10 likely continuation or recurrence of material injury.
11 By focusing on termination, obviously, the focus is
12 will there be recurrence or continuation from the
13 subject imports. That's what you need to look at,
14 will material injury come from the subject imports.
15 And so, if there are no vulnerable effects and if
16 there are no price effects, then I would say, as a
17 matter of law, you cannot continue the order even if
18 you find that the industry is chronically vulnerable.
19 So, I do think that, well, of course, it's something
20 to continue. It is not this legal situation, as Mr.
21 Rosenthal suggested, that, as a matter of law, the
22 order continues because the domestic industry hasn't
23 made any money in the entire time that they kicked out
24 the Japanese.

25 COMMISSIONER PINKERT: Ms. Slater?

1 MS. SLATER: It's always hard to improve on
2 what Mr. Porter says, so I won't do that. I just have
3 to say, first of all, the term "chronically
4 vulnerable" reminds me of a guy I used to date in high
5 school, but other than that --

6 COMMISSIONER PINKERT: You can supply that
7 in the post-hearing.

8 (Laughter.)

9 MS. SLATER: Other than that, you know, this
10 is -- I mean, It's actually -- It's a really
11 interesting question and I think Mr. Rosenthal, also,
12 reminded me when he talked about It this morning and
13 he made a point of mentioning the words "by reason of
14 the imports." If you have an industry which year
15 after year, indeed decade after decade continues to
16 show not just losses, but increasing losses and
17 sometimes stunning losses and you have to ask yourself
18 and you have to ask them, as you rightly did this
19 morning, why are you still in this business.

20 Here, we understand that there is underlying
21 ways, number one, in which the data is presented to
22 you and in which their financial results on this
23 particular segment of a business, which has numerous
24 upstream components, leads to this result. They are
25 showing these losses in the data reported to you, even

1 though in the data that they're showing you about
2 relative prices, they're sustaining losses in what
3 they claim to be the highest price market in the
4 world. That's not the case, but they claim It is and
5 so you might ask how is this happening.

6 Nonetheless, year after year, decade after
7 decade, they are. So what does that mean? Does the
8 dumping order stay in place merely because an industry
9 is in that state of chronic losses? You have to step
10 back and almost accept -- not almost, accept that as a
11 condition of the industry and part of the nature of
12 their operations and then ask will revocation of the
13 order cause material injury, an additional material
14 change by reason of these imports. And I think if you
15 don't do that, then you're ignoring a really important
16 -- I would call It even a condition of competition, in
17 terms of the condition of this industry, which is
18 chronic.

19 MR. COSIO: This is Dan Cosio. I'd like to
20 make one additional comment. I had in my testimony
21 earlier indicated that there are some quality issues
22 we do have with our domestic suppliers that are higher
23 than we might with some of our other suppliers and you
24 might ask, based on that fact, why do we continue to
25 buy from our domestic suppliers, if that's a reality.

1 And the answer to that is for reasons I gave in my
2 testimony, flexibility, annual pricing, et cetera, and
3 the fact that we need our domestic suppliers to be
4 successful because of those factors and we will
5 continue to work with our domestic suppliers, even if
6 they might have quality numbers that are not
7 acceptable to us. It's not a message that they're
8 going to be surprised for me to say right now, they've
9 heard it from Ball for many years, we will continue to
10 push them to improve their quality. We need them to
11 be successful. I can't stress that enough.

12 MR. DURLING: If I could just, Commissioner
13 Pinkert, Jim Durling, I think a lot of these answers
14 actually go to Commissioner Williamson's question
15 about Table III-13. I think if you look at Table III-
16 13 and reflect what you just heard from the industry
17 representatives, things start to become a little more
18 clearer. I can't say more now in a public setting,
19 but I am just struck by the extent to which the panel
20 has just largely addressed Commissioner Williamson's
21 question about the table that they can't see, but the
22 rest of us have.

23 COMMISSIONER PINKERT: Thank you. I just
24 want to ask Mr. Porter a quick follow-up. Do you at
25 least agree with Mr. Rosenthal that there's not a

1 legal distinction between chronically vulnerable and
2 vulnerable. That is, under the statute that requires
3 us to consider whether or not the industry is
4 vulnerable, is there a legal distinction between
5 chronically vulnerable and vulnerable?

6 MR. PORTER: Of course, the statute does not
7 use the term "chronic vulnerability." However, the
8 statute very explicitly ask you to consider whether
9 the imposition of the order led to an improvement in
10 the domestic industry's condition. That's an explicit
11 statutory request. The domestic industry, as you well
12 know, is quite fond of coming here when they're doing
13 well and saying, see, we kicked out, It could be the
14 Chinese, the Japanese, Korean, you can insert
15 whatever, and we did well, that proves we need to
16 continue the order. Well, Commissioner Pinkert,
17 what's good for the goose is good for the gander.

18 COMMISSIONER PINKERT: Thank you. And with
19 that, I have no further questions. I thank the panel
20 and I look forward to the post-hearing submission.

21 CHAIRMAN OKUN: I don't think there are any
22 other questions from Commissioners. Let me turn to
23 staff to see if they have questions for this panel.

24 MR. CORKRAN: Douglas Corkran, Office of
25 Investigations. Thank you, Madam Chairman. Staff has

1 no additional questions.

2 CHAIRMAN OKUN: Thank you. Do those in
3 support of continuation of the orders have questions
4 for this panel?

5 MR. ROSENTHAL: No.

6 CHAIRMAN OKUN: Okay. Well, before I turn
7 to the time allocations for closing and rebuttal, let
8 me take this opportunity, again, to thank this panel
9 of witnesses, very much, for all the responses you've
10 given in this late afternoon. I very much appreciate
11 your participation and look forward to post-hearing
12 briefs.

13 To go over the time remaining, those in
14 support of continuation have a total of 13 minutes,
15 eight from the direct and five for closing. Those in
16 opposition to continuation have a total of seven
17 minute, two from their direct and five from closing.
18 If counsel have no objection, we would ask that you
19 just combine the times and present your closing and
20 rebuttal together. And we will take a couple of
21 minutes to let this panel of witnesses go back and to
22 bring up those in support of continuation.

23 (Pause.)

24 CHAIRMAN OKUN: All right. I see that
25 you're now prepared to proceed.

1 MR. VAUGHN: Steven Vaughn for U.S. Steel.
2 I'd like to start with a few data points. First, I
3 wish we still had up that overlap slide that they had
4 because if you looked at it, you would see that the
5 countries where they showed an overlap between Japan
6 and China added up to 384,000 tons of shipment for
7 Japan last year. And you would also see that while on
8 the overlap slide, there are two countries, I believe
9 they were Singapore and India, that they have not
10 listed as overlaps. They actually are overlaps. And
11 they, also, have China not listed as an overlap and
12 I'm pretty sure that the Chinese mills are shipping to
13 China. And when you add that tonnage to the other
14 tonnage, then their own chart shows that the overlap
15 accounted for -- the countries in the overlap are
16 almost 451,000 tons of shipments. So, there is
17 massive real competition going on between Japan and
18 China and that is why in market after market after
19 market, you're seeing their import levels, you know,
20 which -- their export levels level off.

21 Second, on another data point, they talked
22 about our slide 16, which was simply us taking
23 reported prices from a widely recognized industry
24 source. This is only one example of the
25 attractiveness of the U.S. market. Those are prices

1 on a metric ton basis and they appear to be spot
2 prices. But, in our brief, where we had access to the
3 confidential data, we were able to show additional
4 evidence of the attractiveness of the U.S. market.
5 They've pointed to their own analysis and, once again,
6 we think that analysis of the landed value that they
7 tried to do is flawed and we will demonstrate that in
8 our post-hearing.

9 On the closed market issue, just a data
10 point for you to keep in mind, and we will put these
11 data on the record in the post-hearing, we imported --
12 the U.S. imported roughly 518,000 tons of tin mill
13 products last year. In the last 10 years, from 2002
14 to 2011, Japan imported less than 260,000 of tin mill
15 products. It is the very definition of a closed
16 market and that has made a huge difference.

17 On one final data point, there were
18 references to Mexico and how Mexico is a growing
19 market for them. Actually, their exports to Mexico in
20 2011 were below their exports to Mexico in 2003. That
21 market has been basically flat and stable for a long
22 time and their arguments to the contrary are just
23 incorrect.

24 Now, finally, they made three big arguments,
25 none of which are credible. First, they told you they

1 have no interest in this market, but since 2008, they
2 have lost sales in the Philippines. They have lost
3 sales in Australia. They have lost sales through East
4 Asia and they are likely to lose more sales, as new
5 Chinese capacity comes on line. To make up for these
6 losses, they have been active in almost every
7 potential market in the world. Even if you didn't
8 think they would shift any of their exports from
9 Mexico, Australia, or East Asia, a conclusion with
10 which we would strongly disagree, that would still
11 leave almost 340,000 tons of exports unaccounted for.

12 It is absurd to believe that producers, who are
13 eagerly selling tin mill in every potential market,
14 from Nigeria, to Iran, to the Dominican Republic, and
15 who are already selling excluded products here, would
16 ignore the biggest potential market in the world.

17 Second, they have argued that major U.S.
18 customers are not willing to buy low-priced imports.
19 Does that make any sense? Look at the record before
20 you. Look at the losses domestic mills have suffered.
21 Look at the testimony about hard fought contract
22 negotiations. Look at the way prices and import
23 volumes fluctuate from year to year. Does this look
24 like an industry whose customers are not willing to
25 buy low-priced imports? Does this look like an

1 industry whose customers are not at least willing to
2 use such imports in contract negotiations? If the
3 other side's explanation of how the market works were
4 correct, domestic mills could charge basically
5 whatever price they want because imports could never
6 rise above a certain level. That is obviously not the
7 case and this argument should be utterly rejected.

8 Finally, they have the audacity to imply
9 that the very fact of the industry's problem should be
10 held against it, that you should revoke relief because
11 the industry has too many other troubles. Such a
12 claim rejects the whole premise of the trade laws.
13 Domestic mills may face major challenges, but that
14 does not mean that Japanese producers, who have the
15 unfair advantage of a closed home market, should have
16 free reign to flood this market with dumped imports.
17 The future of this industry should be decided by hard
18 work and innovation and true market competition, not
19 by Japan's mercantilism policies. Do not let them
20 cause anymore harm to domestic producers, allow true
21 market forces to decide the future of U.S. tin mill
22 production, keep this relief in place.

23 MR. ROSENTHAL: First, I want to go on
24 record and state that I did not know Ms. Slater in
25 high school.

1 (Laughter.)

2 MR. ROSENTHAL: Regarding vulnerability,
3 there is no real question here. Demand is down by 18
4 percent over the period of review. Costs are up by 43
5 percent over the POR. The cost-price squeeze has
6 meant the industry has lost hundreds of millions of
7 dollars over the period of review. And there have
8 been shutdowns of mills and the outlook is abysmal.
9 Capacity utilization is terrible.

10 Now the Respondents somehow think that
11 things are so bad, you don't have to provide relief.
12 I heard Ms. Slater, who I was shocked did not hear her
13 refer to me as her good friend, although not her high
14 school friend, question the credibility of the
15 numbers, suggesting that somehow those are not real
16 losses and that the industry is truly not in jeopardy.
17 And you heard an argument somehow that because of the
18 nature of the integrated industry, that the in mill
19 side of the business really doesn't matter and the
20 industry doesn't care about whether they make money on
21 that. That is totally incorrect. I mean, all you
22 have to do is look at RG and you'll know that's not a
23 correct statement to make.

24 But even -- I will speak only for
25 ArcelorMittal U.S.A. at this point, this is not a

1 company that has operations that It expects to lose
2 money on. They're not trying to make money on their
3 iron ore mines and are indifferent to what happens to
4 their downstream products. They want to make money on
5 tin mill and unless they do, they are not going to
6 stay in this business indefinitely. I'm not making
7 any threats. I don't do that. And I don't like when
8 people come to the Commission and say, if you don't
9 help us, we're going out of business tomorrow. All I
10 can tell you is that these are rational business
11 people, who will not stay in the business
12 indefinitely.

13 You may talk about losses going back for a
14 number of years, but ArcelorMittal has been in this
15 business, at least in the U.S. and configured this
16 way, only for the last few and is working very, very
17 hard to restructure the business and made major
18 investments in its facilities and its people. It
19 wants to stay in business. But, I can tell you that
20 introducing a dumped import source, especially one as
21 voracious as the Japanese, is a recipe for disaster.
22 I'll come back to that in a minute.

23 So, you've got an extremely vulnerable
24 industry and the question is, what are the Japanese
25 going to do if they're back in the market, if they're

1 allowed back in the market. Is this market attractive
2 or not? Now, I've lived in Washington for a long time
3 and I feel It's my obligation as somebody who works in
4 this town to be able to hold two totally contradictory
5 ideas in my head at the same time and to not be
6 troubled by that. But, I heard the Respondents here
7 basically say, we're not interested -- or the Japanese
8 aren't interested in this market, but we want them in
9 because we want to be able to buy product from them in
10 a variety of areas. And, of course, we're not going
11 to -- they don't do long-term contracts but maybe for
12 the pickier things we want, they'll do a long-term
13 contract. And, of course -- and this is a curious bit
14 of artful answering, when Commissioner -- I think It
15 was Chairman Okun was asking about the negotiation
16 process, I heard one other Respondent say, well, the
17 domestic industry members compete very well amongst
18 themselves. So the suggestion was that somehow import
19 pricing doesn't ever get introduced in that
20 conversation. Then, I heard another Respondent say,
21 well, we have confidentiality agreements. I didn't
22 hear any one of them actually declare, however, that
23 they don't use competitive import pricing in the
24 negotiations with their domestic industry suppliers.
25 And I'm hoping that I won't hear that now, because we

1 know that's not correct.

2 And the problem we have here is defining how
3 much volumes are going to come in and what impact
4 those prices will be. The Japanese have said, oh,
5 we're not going to bring in big volumes and I don't
6 know what "big" is to them. They're happy to go after
7 all sorts of markets. Mexico is their biggest market
8 outside of Japan. I don't think that you need a
9 tremendous amount of additional volume in this market
10 to end up with a devastating impact, especially if
11 It's a low price or a low enough price to just get
12 into the market. And you know, based on the testimony
13 of the Respondents, they are in a very, very tough
14 business with their customers. They're not in the
15 business of paying more than they have to and they use
16 their leverage very, very well to negotiate the lowest
17 price possible. You've heard the suggestion that
18 they're going to bring in Japanese prices -- Japanese
19 products at higher prices than the prevailing market
20 place. I don't think you should treat It very
21 credibly.

22 The Mexico prices, there are number of times
23 -- and thank you, Commissioner Aranoff, for suggesting
24 that there have been a number of occasions, at least
25 one where my response and others would be, that is

1 totally not credible. I don't limit that response to
2 just a question of qualifications, however. The whole
3 questions about pricing in Mexico and elsewhere lack
4 credulity and you'll hear more -- or you'll see more
5 in the post-hearing briefs about the way that they've
6 managed to manipulate the data. And by the way, I
7 have to say, I do really respect opposing counsel. I
8 think the arguments they present are not credible and
9 the data they presented are not credible but I think
10 they've argued them very well and I do respect them.

11 And I will refer to my very good friend, Mr.
12 Porter -- this is Washington. We get to exaggerate --
13 and say that he has misrepresented my argument when it
14 came to the question of chronic vulnerability. I
15 didn't say that we automatically win or you have to
16 reach an affirmative if the industry is vulnerable or
17 chronically vulnerable. What I said was that that
18 notion that the industry is chronically vulnerable
19 can't be used as an excuse to say that we're not going
20 to help them in the future. There's nothing we can do
21 because they have suffered for a long time and import
22 relief won't matter to them. My point was that you
23 cannot ignore their vulnerability. You, obviously,
24 have to look at what will happen if imports come into
25 this marketplace and what will happen will be a

1 continuation and recurrence of injury if you introduce
2 the Japanese imports into this very, very difficult
3 environment.

4 I have to say, It's been very rewarding to
5 participate in this hearing. It's obvious that the
6 Commissioners take this seriously, as you should. The
7 questions have been great for both sides and the
8 argumentation has been very, very good. The RG
9 employees that were here in the back of the hearing
10 room obviously would like to go back to work. The
11 folks who work at Weirton and the other mills would
12 like to stay at work. I know you understand the
13 stakes and It's gratifying to have the thorough
14 examination we've had today. But, I don't think there
15 could be any question about the vulnerability of the
16 industry and how fragile and how delicate this time
17 is. The industry cannot afford to have another
18 competitor in this marketplace with the capability to
19 supply high volumes of low-priced imports. I do not
20 think that the status quo would be maintained and I
21 can pretty much guarantee you that there will be
22 losses, additional financial losses and losses of jobs
23 in the future, if there is not a continuation of this
24 order. Thank you.

25 CHAIRMAN OKUN: Thank you. Mr. Porter, you

1 may proceed.

2 MR. PORTER: Thank you, Madam Chairman. As
3 is most often the case, we were able to address a lot
4 of our rebuttal points during our presentation. It
5 definitely is an advantage going second. So, I don't
6 have a lot to add, but I did want to address just sort
7 of three points.

8 The first point is the Petitioners' argument
9 focused a tremendous amount on the Japanese producers
10 and I think they called them voracious and they gave
11 the impression that It's all about what they're going
12 to do. And we were just in the hallway discussing
13 about, you know, what I should say and the two can
14 companies were actually a bit outraged. They said,
15 the other side makes It like they have no part in this
16 whole equation. Well, of course, that's not true.
17 It's all about them. They're the ones making the
18 buying decisions. And what you heard today was why
19 and how they make the decisions that they do and, most
20 importantly, why they continue to need and want and
21 buy from the domestic mills.

22 Which leads me to my second point about what
23 has changed and what has not changed. One of the
24 things that has not changed in 15 years of data is the
25 very high market share of the domestic industry. You

1 know, you guys are doing a lot of steel cases. Go
2 back and show me another steel product where 15 years
3 that the domestic industry has been able to maintain
4 upwards of 90 percent market share and if you throw
5 Dofasco in, you get over 90 percent. And that's
6 happened year in and year out and that is -- that's an
7 important thing to consider because the can companies
8 are correct, offshore suppliers find it difficult to
9 sell here given the requirement that the can companies
10 have, which are based on their requirements with the
11 food companies. That is a fact of this market that
12 really needs to be addressed when thinking about the
13 future.

14 The final point I want to make is something
15 I think each Commissioner has addressed and it really
16 is the so-called proverbial elephant in the room. And
17 actually I want to tell you sort of what happened when
18 I came in this morning. I came in about 9:00, came
19 here early, went through security, doing the security
20 thing, and I happened to look up at the board, which
21 tells where everything is. And it said, "main hearing
22 room, tin and chromium coated sheet, third review."
23 And I did a little double take, I said, geez, it's
24 over, I haven't even started.

25 And I have to tell you, that is how the

1 domestic industry has presented their case. They come
2 in and they've held up their offering performance 13
3 out of the 15 years and they said, look, we've been
4 losing money, case over, and that's how they want to
5 present It. And I think correctly, almost every
6 Commissioner said, what do we do with that, because It
7 really is a little bit different than you've seen in
8 especially in a second review -- It is the second
9 review -- and what do you do with that.

10 And I wanted to make a couple of additional
11 points. I tried to address this in response to
12 Commissioner Pinkert's question, but I do want to
13 address a couple of additional points. First, you do
14 have a little bit of a data issue. Now, I'm not
15 challenging the data. I'm just saying we need to put
16 It into context. And we heard something today that
17 actually struck me. One of the mill people said, we
18 transfer our raw materials at market. So, It said to
19 me, oh, okay. So the tin mill division is buying the
20 tin mill black plate, the substrate, at market, which,
21 in turn, is buying the hot band at market, which is,
22 in turn, buying the iron ore from the mines at market.
23 So what does that mean? It means the tin mill is
24 paying market prices, is paying the run up in market
25 prices. Well, that market prices is profit that the

1 very steel company has enjoyed. So, again, It
2 suggests that perhaps the data doesn't depict the true
3 nature of how steel companies look at tin mill, in
4 terms of whether It really is as bad as It is.

5 Now, I know at this late stage, there's not
6 a lot you can do with that, but I do want -- I think
7 It is something you can take into context about
8 whether there's some profits that the very steel mills
9 that are here have enjoyed in selling the tin mill
10 that are not recognized in the like product specific
11 data that you have obtained.

12 Then, It gets to what do you do with this
13 idea that if we have to accept the data, that the
14 industry is not able to make any money. And that's a
15 hard question, which is why all the Commissioners have
16 asked about It. But, I do -- again, Mr. Rosenthal
17 says, It can't be an excuse not to continue and he
18 says, I misinterpreted in saying - I said, It had to.
19 Well, I think those are very close.

20 The question is -- I put a thought
21 experiment. If you were going to have the exact same
22 condition with or without the Japanese, what do you
23 do? I actually submit that that does not indicate
24 likely recurrence of major injury by -- you know, from
25 the Japanese and, therefore, you actually must

1 terminate the AD order. That's what I submit. Thank
2 you.

3 CHAIRMAN OKUN: Thank you. Post-hearing
4 briefs, statements responsive to questions, and
5 requests of the Commission and corrections to the
6 transcript must be filed by April 19, 2012, closing of
7 the record and final release of data to parties is May
8 8, 2012 and final comments are due May 10, 2012. With
9 no other business to come before the Commission, this
10 hearing is adjourned.

11 (Whereupon, at 5:32 p.m., the hearing in the
12 above-entitled matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Tin and Chromium Steel Sheet from
Japan

INVESTIGATION NO.: 731-TA-860 (Second Review)

HEARING DATE: April 11, 2012

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: April 11, 2012

SIGNED: LaShonne Robinson
Signature of the Contractor or the
Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Rebecca McCrary
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Gabriel Gheorghiu
Signature of Court Reporter