

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:
PHOSPHOR COPPER FROM KOREA

) Investigation No.:
) 731-TA-1314 (FINAL)

Pages: 1 - 162
Place: Washington, D.C.
Date: Tuesday, February 28, 2017



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1 UNITED STATES OF AMERICA
2 BEFORE THE
3 INTERNATIONAL TRADE COMMISSION
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5 IN THE MATTER OF:) Investigation No.:
6 PHOSPHOR COPPER FROM KOREA) 731-TA-1314 (FINAL)
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11 Main Hearing Room (Room 101)
12 U.S. International Trade
13 Commission
14 500 E Street, SW
15 Washington, DC
16 Tuesday, February 28, 2017
17

18 The meeting commenced pursuant to notice at 9:30
19 a.m., before the Commissioners of the United States
20 International Trade Commission, the Honorable Rhonda K.
21 Schmidtlein, Chairman, presiding.
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1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Commissioners:

4 Chairman Rhonda K. Schmidtlein

5 Vice Chairman David S. Johanson

6 Commissioner Irving A. Williamson

7 Commissioner Meredith M. Broadbent

8

9

10

11

12 Staff:

13 William R. Bishop, Supervisory Hearings and
14 Information Officer

15 Sharon Bellamy, Records Management Specialist

16

17 Porscha Stiger, Investigator

18 Mary Brininstool, International Trade Analyst

19 Craig Thomsen, International Economist

20 Mark Klir, Accountant/Auditor

21 Heng Loke, Accountant/Auditor

22

23

24

25

1 APPEARANCES:

2 Opening Remarks:

3 Petitioners (Daniel B. Pickard, Wiley Rein LLP)

4 Respondents (David Schwartz, Thompson Hine LLP)

5

6 In Support of the Imposition of Antidumping and Duty Order:

7 Wiley Rein LLP

8 Washington, DC

9 on behalf of

10 Metallurgical Products Company

11 Michael H. Goodman, President, Metallurgical Products

12 Company

13 Erica Schafer, Sales Associate, Metallurgical Products

14 Company

15 Holly Hart, Assistant to the President, Legislative

16 Director, United Steelworkers ("USW")

17 Daniel B. Pickard and Usha Neelakantan - Of Counsel

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1 In Opposition to the Imposition of Antidumping Duty Order:
2 Thompson Hine LLP
3 Washington, DC
4 on behalf of
5 J.W. Harris Co. Inc. d/b/a The Harris Products Group (A
6 Lincoln Electric Company) Bongsan Co., Ltd.
7 Thomas Cavanaugh, Supply Chain Manager, J.W. Harris Co.
8 Inc.
9 Jennifer Lutz, Senior Economist, Economic Consulting
10 Services, LLC
11 Curtis Eward, Staff Economist, Economic Consulting
12 Services, LLC
13 David Schwartz - Of Counsel

14
15 Rebuttal/Closing Remarks:
16 Petitioners (Daniel B. Pickard, Wiley Rein LLP)
17 Respondents (David Schwartz, Thompson Hine LLP)

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

2 9:30 a.m.

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

5 CHAIRMAN SCHMIDTLEIN: Good morning. On
6 behalf of the U.S. International Trade Commission, I welcome
7 you to this hearing on Investigation No. 731-TA-1314, Final
8 Involving Phosphor Copper from Korea. The purpose of this
9 investigation is to determine whether an industry in the
10 United States is materially injured or threatened with
11 material injury, or the establishment of an industry in the
12 United States is materially retarded by reason of imports of
13 phosphor copper from Korea.

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

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

1 information.

2 Please speak clearly into the microphones and
3 state your name for the record for the benefit of the court
4 reporter. If you will be submitting documents that contain
5 information you wish classified as Business Confidential,
6 your request should comply with Commission Rule 201.6. Mr.
7 Secretary, are there any preliminary matters?

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

11 CHAIRMAN SCHMIDTLEIN: Very well. Then let's
12 begin with opening statements.

13 MR. BISHOP: Opening remarks on behalf of
14 Petitioner will be given by Daniel B. Pickard, Riley Wein.

15 CHAIRMAN SCHMIDTLEIN: Welcome, Mr. Pickard.

16 OPENING STATEMENT OF DANIEL B. PICKARD

17 MR. PICKARD: Good morning Madam Chairman,
18 Commissioners, thank you. I'm going to keep my opening
19 remarks relatively brief this morning. As you may be aware,
20 this is a smaller case than perhaps the Commission is used
21 to seeing. It's got a smaller record. It's got a smaller
22 amount of participants. But I would suggest it is perhaps a
23 more straightforward case than the Commission is used to
24 seeing.

25 Many of the legal issues are not contested.

1 There are no -- to the best of my knowledge, there are no
2 issues in regard to the domestic like product definition,
3 domestic industry. It's a one country case, so there is no
4 cumulation issue. However, this is a product that the
5 Commission hasn't examined before, and our witnesses will
6 explain some of the background in regard to the phosphor
7 copper industry, and it's an industry that consists of three
8 family-owned industries or three family-owned companies that
9 make a product that is sold to the same specifications as
10 the Korean product.

11 I would note at the beginning of this hearing
12 all responding producers, importers and purchasers indicated
13 that the Korean product and the U.S. produced product are
14 always or frequently interchangeable. So this is a product
15 that's sold to the same specifications, that's looked at as
16 interchangeable, and which highlights the importance of
17 price in this particular case.

18 And consistent with the staff report, price is
19 the most frequently cited top three factors in purchasing
20 decisions. There does not appear to be any contention or
21 any disagreement in regards to the fact that this was a
22 period of relatively stable demand over the Period of
23 Investigation, and the domestic industry has adequate supply
24 to satisfy all of U.S. apparent consumption.

25 So keeping these things in mind, what's the

1 evidence of record show in regard to the three statutory
2 factors? In regard to the volume of imports, we have a
3 clean HTS number in this case. So by the official import
4 statistics, there's a significant increase absolutely, and
5 the questionnaire responses also demonstrate significant
6 absolute increase.

7 Similarly, imports increased relative to
8 production, and consistent with one of the more important
9 factors in an attritional ITC analysis, subject imports
10 captured market share directly from the domestic producers.
11 In regard to the pricing analysis, the Commission's pricing
12 data was recently updated, and now it's public information
13 that the Korean imports undersold the domestically produced
14 product in 80 percent of comparisons, the vast majority of
15 comparisons.

16 In regard to the effect on the domestic
17 industry, COGS as a percentage of net sales increased
18 throughout the Period of Investigation. At least four
19 purchasers confirmed that they switched from buying
20 domestically produced product to Korean product on the basis
21 of price. The staff report demonstrates that the delta
22 between raw material costs and net sales price decreased
23 throughout the POI, further demonstrating the price
24 depression and suppression from subject imports.

25 Lastly in regard to impact, almost all of the

1 industry's financial indicators declined over the Period of
2 Investigation, specifically in products, shipments,
3 employment data and profitability levels. The last note I
4 would make is that while this is a very strong current
5 material injury case, it is just as strong as a threat of
6 material injury case. Foreign producers have increased
7 their shipments to the United States over the Period of
8 Investigation. They've done so at low prices.

9 The foreign producers have, pardon me,
10 significant excess capacity. The U.S. market is
11 attractively priced, and it is open. So with that, I'd like
12 to conclude our opening remarks and respectfully request
13 that consideration of the staff record demonstrates both
14 current material injury and threat of material injury.
15 Thank you.

16 CHAIRMAN SCHMIDTLEIN: Thank you, Mr. Pickard.

17 MR. BISHOP: Opening remarks on behalf of
18 Respondents will be given by David Schwartz, Thompson Hine.

19 CHAIRMAN SCHMIDTLEIN: Welcome Mr. Schwartz.

20 OPENING STATEMENT OF DAVID SCHWARTZ

21 MR. SCHWARTZ: Madam Chairman and
22 Commissioners, good morning. I'm David Schwartz with
23 Thompson Hine, and I'm appearing on behalf of the
24 Respondents in the proceeding. The Harris Products Group, a
25 U.S. purchaser of the subject imports and Bongsan, the only

1 producer of the subject imports.

2 I'm joined today by Tom Cavanaugh, the global
3 supply chain director for the Harris Products Group and
4 Jennifer Lutz and Curtis Eward, economists from the
5 consulting firm ACS. You should be hearing from all of us
6 during the course of today's presentation from Respondents.

7 To begin, the prehearing staff report shows
8 that subject imports have not caused material injury to the
9 domestic industry and are not threatening to cause material
10 injury to the domestic industry. There is no causal link.
11 These findings are either ignored by MPC or challenged as
12 inaccurate.

13 First, in its brief MPC fails to even
14 acknowledge the decline of published copper prices over the
15 POI, and their effect on phosphor copper pricing claims,
16 when the decline in copper pricing is in fact the cause of
17 the domestic industry's decline in phosphor copper pricing.

18 Two, MPC claims that Bongsan's capacity is
19 likely understated, based on MPC's visit to Bongsan in 2012,
20 and MPC's Internet research. Bongsan's answers regarding
21 this issue are accurate and certified, in contradiction of
22 MPC's assertions. Three, MPC claims that certain responses
23 submitted to the ITC during the final phase of this
24 investigation are inconsistent with responses submitted to
25 the ITC during the preliminary phase, and should be

1 discredited as a result.

2 Those responses have also been answered
3 accurately and certified. MPC's omissions and claims are a
4 tacit omission that the data in the report do not correspond
5 with MPC's perception of the U.S. phosphor copper market.
6 The record evidence indicates that other sources unrelated
7 to the subject imports are the cause of any injury alleged
8 by the domestic industry. Further evidence that subject
9 imports are not the cause of MPC's problems is Commerce's
10 determination to preliminarily assigned Bongsan a very low
11 dumping margin of 3.79 percent.

12 Moreover, Bongsan does not threaten the
13 domestic industry with material injury because one, it has a
14 very high production capacity utilization rate, two, given
15 that the record does not show that subject imports depressed
16 or suppressed domestic prices, it's not likely that subject
17 import prices will depress or suppress domestic prices in
18 the imminent future.

19 Three, Bongsan has strong economic
20 disincentives to hold the inventories, and four, Bongsan has
21 no product-shifting capabilities. The prehearing report
22 indicates that any alleged material injury to the domestic
23 industry or any alleged threat of material injury to the
24 domestic industry was likely caused by other factors, such
25 as one, a significant decrease over the POI in market index

1 pricing for copper, which is the primary raw material input
2 and most significant cost component in phosphor copper,
3 which led to a corresponding drop in phosphor copper prices
4 during the POI, two, decreases in U.S. producers' exports
5 during the POI, and three, other losses by U.S. producers
6 unrelated to subject imports that cannot be discussed here
7 because they involve information subject to the APO.

8 Contrary to the domestic industry's claims,
9 Bongsan is not a threat as a practical matter to take over
10 the U.S. marketplace, because it does not have the
11 production capacity or the excess capacity to do so. In
12 fact as you will hear, Bongsan was not even present in the
13 U.S. market until it was contacted by a U.S. purchaser that
14 was dissatisfied with the domestic industry.

15 Establishing inventories not even a practical
16 option for Bongsan because of the volatility of copper
17 pricing. The timing of production and the timing of sales
18 must be in close proximity to each other. In the end,
19 Bongsan is disadvantaged by its size and by its distance
20 from the United States. That's why more than two-thirds of
21 its sales occur outside of the United States.

22 If there are indeed problems besetting the
23 domestic industry, its members should point into the mirror,
24 not point at Bongsan. At the request of U.S. purchasers
25 seeing additional supply sources, Bongsan has done nothing

1 more than respond to their inquiries and sell into our U.S.
2 market with very few U.S. suppliers, a fairly-priced high
3 quality product that both U.S. manufacturers of downstream
4 product and U.S. consumers demand. Thank you.

5 MR. BISHOP: Would the panel in support of the
6 imposition of the anti-dumping duty order please come
7 forward and be seated?

8 (Pause.)

9 CHAIRMAN SCHMIDTLEIN: Mr. Pickard, you may
10 begin when you're ready.

11 MR. PICKARD: Thank you Madam Chairman. To
12 begin our direct presentation will be Michael Goodman.

13 STATEMENT OF MICHAEL GOODMAN

14 MR. GOODMAN: So good morning. I'm Michael
15 Goodman. I'm the president of Metallurgical Products
16 Company, a 108 year-old family owned business located just
17 outside of Philadelphia in Westchester, Pennsylvania. My
18 grandfather started the company in 1909, and next my father
19 was president of the company for 40 years, and then I took
20 over and I've worked for Metallurgical for 45 years.

21 Sitting at the end of the table to your left
22 is my daughter Erica, who has been with the company for six
23 years, and she represents the fourth generation of family to
24 work at Metallurgical Products Company. Metallurgical
25 currently has 24 employees, and our employees are like

1 family. Many have been with us for decades, some as long as
2 30 years, and the average employee at the company has been
3 with us for 15 years.

4 I'm here today because our company and its
5 employees have been injured by imports of phosphor copper
6 from Korea. Without something to stem these unfair imports,
7 I'm afraid we may be forced to shut down Metallurgical and
8 lay off our workers. Phosphor copper is a relatively simple
9 product. It's an alloy of copper and phosphorous, and it
10 generally consists of 15 percent phosphorous and the balance
11 is copper.

12 It's sold in two forms, shot and ingot forms,
13 and we manufacture and sell both of these forms. Phosphor
14 copper is used in copper and brass melting. It's used as a
15 deoxydizing additive and alloy additive, and it's also used
16 to make brazing alloys. Brazing is a process of joining two
17 pieces of metal together.

18 However, no matter how our product is
19 eventually used, it always starts out as the same phosphor
20 copper that we manufacture and know. Phosphor copper is
21 produced to two main standards. JISH-2501 and ASTM-B644
22 Alloy 3A. Metallurgical is easily able to meet and exceed
23 both these standards.

24 Over the past several years, demand for
25 phosphor copper has remained relatively stable. Given this,

1 we would have expected our production to at the very least
2 also remain stable. But instead, our capacity utilization
3 rate has fallen and so has our market share. This decline
4 happened despite the fact that we have ample available
5 capacity to supply the U.S. market.

6 Even without Korean material present, the
7 phosphor copper market in the United States is very
8 competitive. Phosphor copper is sold on the basis of price.
9 The U.S. industry consists of three phosphor copper
10 producers and customers shop all three for the best price.

11 Together, all three producers have the ability
12 to supply more than enough phosphor copper to satisfy U.S.
13 demand. Before 2012, we had no problems competing with
14 other phosphor copper producers, not just in the United
15 States but throughout the world, and we were consistently
16 profitable. Our phosphor copper met or exceeded customer
17 expectations and specifications, and it was always shipped
18 on time as promised.

19 We've consistently reinvested our profits in
20 the company, to ensure that we were using the most up to
21 date technology and equipment. But there has been a change.
22 During the past few years, we've seen our profitability
23 decline due to unfairly priced phosphor copper from Korea.
24 Prior to 2012, very little phosphor copper was imported into
25 the United States, and the Korean material was absent from

1 the U.S. market.

2 This all changed in 2012 as the volume of
3 Korean imports into the United States market increased
4 substantially. The story actually begins in 2011, when a
5 new group of buyers began purchasing at one of our largest
6 customers, the Harris Products Group. In fact, Tom
7 Cavanaugh, one of the witnesses today for the Respondents,
8 was part of this new group at Harris.

9 We supplied phosphor copper to Harris for 35
10 years, and until this time we were their primary supplier.
11 In November of 2011, we submitted our offer for 2012's
12 business. When it came time to award the business, we were
13 told that we would receive less business than in previous
14 years, and a portion of 2012's business would be purchased
15 offshore. This was the term that they used, "offshore."
16 This wasn't about quality or about the dependability; it was
17 about price.

18 We were told that the offshore price was lower
19 than ours, and that this was enough for Harris to give a
20 foreign competitor a portion of business that Metallurgical
21 had been supplying for years. In the beginning of 2012, all
22 that Harris would tell us was that the offshore price was
23 much lower than ours. Through import reports, we learned
24 that the material was coming from Korea, and in May of 2012
25 we went to Korea to investigate.

1 We learned that prices in Korea were 45 to 50
2 cents a pound over the price of copper. At the time, our
3 price to Harris in the U.S. was 35 cents. With 45 to 50
4 cent premiums in Korea and our price at 35 cents, we didn't
5 see why Harris had decided to buy from offshore. In the
6 fall of 2012, we began discussing 2013 business at Harris.
7 During these discussions, we were told that the Korean price
8 was actually 25 cents per pound over the price of copper,
9 and this price was delivered to Harris' plant.

10 Well, we just didn't believe this, especially
11 after seeing and being told firsthand from Korean customers
12 that they were paying 45 to 50 cents per pound over copper.
13 Why would the Koreans sell at such a low price? I mean this
14 just didn't make sense. We thought that Harris was telling
15 us the price was 25 cents, in an effort to get us to lower
16 our price. When it came time to visit Harris, I went along
17 with our salesman.

18 During the visit, I asked Harris to please
19 keep in mind that buying products made in America helps
20 Americans attain and retain jobs. Our workforce is higher
21 skilled and this ensures higher quality. By buying
22 American, you can put money into the pockets of working
23 Americans without any additional cost. I said to them work
24 with us and you can count on us working with you.

25 After I said this, their purchasing manager

1 looked me in the eye and he said the offshore price is 25
2 cents and that's a delivered price. It was only because I
3 was there in person and the buyer looked me straight in the
4 eye that I knew he was telling the truth. I left the
5 meeting quite shocked. There was no way that we could match
6 this pricing, and how could Bongsan be selling at such
7 ridiculously low prices and why? Why would they do this?

8 Well this was the beginning of our struggle
9 with imports from Korea. In 2013 and 2014, we started
10 losing large volumes of sales. Our losses became
11 particularly acute during the summer of 2015. We have been
12 using a subscription service to monitor imports into the
13 United States, and we learned that another one of our
14 customers, Lucas-Milhaupt, had also begin importing phosphor
15 copper from Korea.

16 Soon afterwards, another company, Totall Metal
17 Recycling, began importing Korean material also. Up to this
18 point, Harris and Lucas-Milhaupt were importing for their
19 own use. Totall Metal began importing for the purpose of
20 reselling as a distributor to both large and small users.
21 Prior to this time, Totall had never bought or sold phosphor
22 copper.

23 Totall imports large quantities of phosphor
24 copper in both shot and waffle form. They store it in their
25 warehouse and offer it for sale at very low prices. Totall

1 has experience in the copper industry, so they know which
2 companies buy phosphor copper and often they're already
3 familiar with those companies' buyers.

4 Totall has undercut our prices and has made
5 the Korean phosphor copper available to large and small
6 users. Many customers have remained loyal, but tell us that
7 we have to match the lower price in order to retain their
8 business. One thing that you may hear in the afternoon is
9 that U.S.-produced phosphor copper is inferior to Korean
10 produced phosphor copper in terms of quality.

11 This is completely untrue. Our product is
12 made using the same production process and to the same
13 product specifications as the Korean product. There's only
14 one producer of phosphor copper in Korea, Bongsan Company
15 Limited, and when I was in Korea in 2012, I had the
16 opportunity to visit and to tour Bongsan's facility. I can
17 tell you from firsthand experience that there are no
18 meaningful differences between their production process and
19 ours.

20 Like us, their production meets or exceeds
21 industry standards for phosphor copper, and their product is
22 completely interchangeable with ours. Moreover, our
23 customers have consistently given us the highest scores for
24 quality. For example, at Harris we receive quarterly
25 evaluations and we have evaluations from Harris that date

1 back to 2009.

2 These evaluations show that we have always
3 received extremely high scores. Harris' evaluations state a
4 supplier that scores 85 percent or more out of 100 is
5 considered a Grade A supplier and, as such as I quote,
6 "Harris Products Group will seek out areas to grow with
7 supplier."

8 Well for the first half of 2009, most of 2010
9 and the first quarter of 2011, Harris gave us 98.9 percent
10 scores. During the five year period from 2009 through 2013,
11 our score averaged 96.89 percent. That's for the entire
12 five year period average. Each and every quarter, we had a
13 perfect score for quality, 40 out of 40 points.

14 So during the period that Harris began buying
15 Korean product, we were consistently receiving supplier
16 evaluations with Grade A ratings. In 2014, we received 94
17 out of 105 points. We continued to receive perfect scores
18 for quality. Unfortunately in 2015, we had a single slip in
19 the first quarter. We had installed a new dryer and it
20 didn't properly dry a load. We immediately solved this
21 problem and outside of this one-off instance, we've had no
22 quality issues with Harris.

23 During the balance of that year, all of our
24 shipments had perfect scores for quality. In 2016, we also
25 made regular shipments to Harris. All were delivered on

1 time and there were no quality issues. However, Harris
2 stopped sending us evaluations. We've asked several times,
3 but Harris hasn't sent them. We can only assume that this
4 is because the evaluations confirm that there are not
5 quality issues; it's only price, and we'll be happy to
6 provide the evaluations that we do have with our
7 post-hearing brief.

8 During all these years, any time that we lost
9 points it was never for quality; it was mainly for pricing.
10 No supplier has a perfect record of no mistakes, but as far
11 as quality goes, we have no issues, not at Harris and not at
12 any other customer. The only difference between Bongsan's
13 product and ours is that Bongsan's product is sold at high
14 prices in Korea and unfairly low prices in the United
15 States.

16 Any notion that Bongsan produces a superior
17 product is just wrong. It's just not selling. Any claim
18 that our injury is due to our export operations rather than
19 incoming Korean imports is untrue. Korean phosphor copper
20 has injured our U.S. sales and they've also taken share in
21 our export markets. While we were able to export to Korea
22 for a short time, we found the Korean market to be closed to
23 fair competition from U.S. producers. We found the Korean
24 market was closed to U.S. producers due to cultural rather
25 than tariff barriers.

1 You may also hear later today that the price
2 of copper, not Korean imports, is to blame for the declining
3 health of our industry. Well this is simply wrong. Pricing
4 for phosphor copper is determined on a copper plus basis.
5 That is, the price of phosphor copper is based on two parts:
6 Not just copper, but copper plus a fabrication adder or a
7 premium.

8 So we're neutral as to copper. If copper
9 prices go up or if the copper price goes down, this cost is
10 essentially passed through to the customer. It's not the
11 price of copper, but it's the premium or fabrication adder
12 that determines the health of the U.S. industry, and it is
13 here in the United States that the Korean producer has
14 harmed us. They've taken market share and they have
15 depressed the fabrication adder that we can charge our
16 customers.

17 Because phosphor copper is a commodity
18 product, any difference in price, even the smallest
19 difference, has a huge effect on sales. Customers will
20 easily switch suppliers if they can save just a penny or
21 two. This is why a dumping order on these unfairly priced
22 imports is so important to our customer and to our workers.
23 The 3.79 percent duty calculated in Commerce's preliminary
24 decision has had some benefit, and as I mentioned, our
25 customers will switch away for very small differences in

1 price.

2 That said, we're concerned that Korean imports
3 may increase again with importers themselves absorbing the
4 3.79 percent dumping duty. We're hopeful to see the dumping
5 margin increase in the final determination, which we believe
6 again will have a significant positive effect on the
7 marketplace.

8 I'd also like to add that the end use for
9 phosphor copper is irrelevant to the injury we have faced
10 due to Korean imports. It doesn't matter if the phosphor
11 copper is used to make a brazing rod or if it's used in a
12 different application. A lost sale is a lost sale. A lost
13 sale of phosphor copper for brazing rod manufacturing hurts
14 our business just as much as a lost sale of phosphor copper
15 for any other purpose.

16 You may also hear from the Respondents that
17 shot and ingot or waffle prices are unrelated to each other.
18 This is completely not the case. While the shot market is
19 larger than the ingot market, unfairly priced Korean imports
20 have had proportionately similar effects on both products.
21 We saw that in August of 2015, Totall began importing both
22 ingot and waffle and shot. As a result, we ran into price
23 battles for both products, and regardless of the product, we
24 were forced to lower our prices, to lower our fabrication
25 adder.

1 We faced pressure to lower prices for both
2 shot and ingot because we knew that Totall Metal Recycling
3 was stocking and shipping both, and regardless of whether a
4 shipment involves shot or ingot, the prices move together
5 because the two products are connected.

6 Indeed, we would never quote a customer one
7 price for shot and another one for waffle. That just isn't
8 done in our industry. Well today, it's gotten to the point
9 where if the increasing trend of low-priced Korean imports
10 continues, Metallurgical will be forced to go out of
11 business. We've already cut our costs as much as possible,
12 and we've reduced the number of employees.

13 We began 2015 with 28 people, and during the
14 course of the year we lowered our head count by 15 percent
15 to 24. Selling lower volumes at lower prices means we are
16 unable to cover costs. We're surviving in profits that we
17 made prior to 2012, when we were not harmed by unfairly
18 priced Korean imports and the company operated profitably.

19 It's possible that this could be the end of
20 108 year old family business, not because we were reckless
21 but because we were denied the level playing field that
22 existed in the marketplace prior to 2012. Without an order,
23 I have no doubts Korean imports into the United States will
24 continue to increase. I know from touring Bongsan's
25 facility that they have a substantial excess capacity that

1 will continue to be directed at the U.S. market.

2 The Korean home market has traditionally been
3 protected by both tariff and non-tariff barriers, and during
4 this time Bongsan was able to develop a sophisticated
5 manufacturing facility and to capture its entire domestic
6 market. Having done this, Bongsan is now focused on
7 exports. The U.S. market is a large and attractive market.
8 In fact, it's the single largest market for Korean phosphor
9 copper exports. Bongsan will continue to ship unfairly
10 priced phosphor copper here if they are not restricted from
11 doing so.

12 So in conclusion, I'm here today fighting for
13 Metallurgical's loyal employees and the other U.S. phosphor
14 copper workers who rely on companies like Metallurgical for
15 their livelihood. Imports of phosphor copper from Korea
16 have caused injury to the U.S. industry and its workers.

17 Without an anti-dumping order, Metallurgical
18 will have to shut its doors and our workers will be out of
19 jobs. I've also brought with me a few slides that I think
20 will be helpful in understanding our company and its
21 production process.

22 So as I said in my opening testimony,
23 Metallurgical was founded in 1909. It has been in business
24 for now 108 years now that we have entered 2017. It is
25 family-owned, four generations of family have worked at the

1 company. We have 24 employees. Our main product is
2 phosphor copper and we have a modern and up-to-date
3 production facility.

4 This is a picture of Metallurgical's facility.
5 We are located in Westchester, Pennsylvania which is just
6 outside of Philadelphia. Our employees are like family
7 members. Employees come with our company. We have good
8 jobs. We get the right employees. They tend to stay with
9 the company for long periods of time.

10 In this particular photograph is on our melting
11 deck, this is where our furnaces are located and this is
12 where we manufacture the phosphor copper. You can see there
13 is a pallet with copper on it and that is the type of copper
14 that is used in the manufacturing process. We started with
15 copper and then we add phosphorous. We melt the copper, add
16 the phosphorous to it and in addition to the melting part of
17 our business we have a 28000 CFM plant ventilation system.
18 This system handles all of the metal fume that is generated
19 during the production process.

20 Most companies in the melting industry need to
21 have ventilation systems that are similar to this. But in
22 phosphor copper manufacturing you also need to have what's
23 called a mist elimination system and that is what handles
24 the fumes that are generated from adding the phosphorous to
25 the copper and during the pouring process. This equipment

1 is fairly sophisticated and also fairly expensive equipment.

2

3 We pour the phosphor copper into either shot or
4 ingots and this is a picture of the molten copper being
5 poured out of the furnace and the next slide shows our ingot
6 or waffle casting line and you can see in the back of the
7 photograph the molten metals being poured out of the
8 furnace, it goes down a trough and into the ingot molds.
9 The ingots move in the direction toward the front of the
10 photograph and as they travel from the pouring area to the
11 front of the conveyor, the metal cools, is discharged from
12 the ingots and packaged and shipped.

13 We said we made phosphor copper in shot form,
14 this is what the shot looks like. It is simply pellets or
15 BBs of phosphor copper master alloy. These are the ingots.
16 The reason that they are silver and not copper in color is
17 because it's phosphor copper and it contains phosphorous.
18 The phosphorous gives the alloy a silver color. So the
19 phosphor copper is packed in drums, the drums are palletized
20 and we load the material onto trucks and ship it to our
21 customers.

22 Our customers make copper tubing so this is a
23 picture inside of one of our customer's plants where they
24 are making tubing in coils and another picture at a
25 customer's plant where they are making copper tubing in

1 straight lengths. This is the copper tubing that is in our
2 homes and in our buildings that is used to bring water into
3 the buildings and copper tubing is also used in air
4 conditioners in the heat exchangers in air conditioners.

5 Our customers also make brazing rods and this is
6 a picture of Harris' brazing alloy and that's the box that
7 it's shipped in and below are the actual brazing rods. The
8 next picture is a photograph of the brazing process. So
9 brazing is a metal joining process and what's happening here
10 is that a T is being attached to two pieces of copper and
11 you could see the brazing alloy, it's the thin rod and the
12 copper is heated. The heat melts the brazing alloy and it
13 forms a seal and joins the two pieces of copper together and
14 the brazing rod stops the tubing from leaking at the joint.

15 This is a photograph during our visit to Korea
16 and that's me and I'm standing in front of one of the
17 largest manufacturing companies of copper tubing in Korea, a
18 company that's a very large phosphor copper consumer and
19 this is one of the companies that I visited, that gave me
20 the pricing information about where prices were in the
21 Korean Marketplace.

22 This photograph is a photo taken at Bongsan
23 during our visit. So I'm the second person from the right
24 and the second person from the left was also one of the
25 people that were in the photograph of the melting operation

1 at Metallurgical, that's Gregg Kudlacik and he's been
2 Metallurgical's Plant Manager for twenty years. He also
3 visited and toured the Bongsan plant with me.

4 This is someone who has run a phosphor copper
5 manufacturing plant for quite some time, is very familiar
6 with the manufacturing process and was able to see firsthand
7 and understand firsthand exactly what was going on at
8 Bongsan but it really was not that hard to understand
9 because what they are doing there is just so similar to what
10 we do here in the United States at our plant.

11 Finally, this is our ISO Quality Registration
12 Certificate and probably the main point that I try to make
13 about our ISO Registration is that we were first registered
14 in 1996 so we've been registered for 20 years. At
15 Metallurgical, quality isn't something that all of a sudden
16 we've taken on because we've been faced with higher quality
17 product from an offshore competitor. You know, we were
18 committed to quality 20 and even more years ago and obtained
19 our ISO registration long before many companies became
20 registered in the United States. So that concludes my
21 testimony.

22 STATEMENT OF HOLLY HART

23 MS. HART: Good morning. I'm Holly Hart,
24 Director of the Legislative Department and Assistant to the
25 President of the United Steel Workers. You are probably

1 wondering why I'm here but I'm here to testify in support of
2 the Petition on behalf of our Union and USW Local 9777.
3 This is an amalgamated local in the Chicago area and many of
4 its members work at H. Kramer and Company a 129-year-old
5 family-owned U.S. Producer of phosphor copper and other
6 copper-based alloys.

7 In preparation for today's hearing I learned from
8 a union worker employed by H. Kramer about the impact that
9 cheap imports from Korea are having on he and his family and
10 on other workers and on their families in the community. As
11 his story quickly illustrated, it's critical to this
12 industry and these workers that an order be imposed on
13 phosphor copper imports from Korea. There are between 50
14 and 60 employees at the H. Kramer facility where our members
15 are employed and about 20 of them are dedicated to the
16 production of phosphor copper.

17 These are good jobs and they have more than
18 decent wages and the company has traditionally hired from
19 within the community. A substantial portion if not all the
20 workers at H. Kramer live in the Chicago area and some even
21 walk back and forth from home to the plant every day. These
22 jobs are not only very important to the workers but they're
23 essential to the local economy, the community and each of
24 their families.

25 As our member that I was speaking to put it, you

1 simply cannot find another job like it. In particular, the
2 workers at this plant have historically made very decent
3 money by working a lot of overtime shifts. As it was
4 explained to me, at one point in time shipments were so big
5 that 24-hour days were barely enough to keep up with them.

6 To these employees and their families, these jobs
7 have no comparison to other jobs and are leagues above other
8 low-wage options in the area. This plant and its workers
9 however have been severely hit by the low-priced product
10 coming from Korea. Rather than the typical production that
11 they are used to, the workers at H. Kramer have experienced
12 a slowdown in production. Recently they have started seeing
13 inventories of the product build up at the plant unlike ever
14 before with a storage room right now full of phosphor
15 copper.

16 They're producing phosphor copper but nothing is
17 going out the door. The workers are aware that these trends
18 have to do with the low-priced Korean product out in the
19 market, which is undercutting our American-made phosphor
20 copper. The impact of these low-priced imports really came
21 home last week to our members. Toward the beginning of last
22 week the company issued an announcement eliminating the 2nd
23 out of 3 shifts in the production of phosphor copper.

24 While the plant typically worked 24/7, a whole
25 shift has been taken out altogether, leaving some workers to

1 move into the 1st or 3rd shifts and forcing others to work
2 in cleanup around the shop rather than in production.
3 Overtime is also completely out of the question and
4 effecting their take-home pay. In fact, these workers at H.
5 Kramer are now "encouraged to take vacation", but what's
6 even more devastating is that without enough volunteers to
7 take vacation, the company has indicated that layoffs are
8 likely.

9 These workers are now facing less and less money
10 to take home to their families and they worry that they may
11 be laid off if these conditions continue. That's why this
12 case is so important to these workers, their families and
13 the local economies. I can say that all the phosphor copper
14 workers at USW Local 9777 are looking forward to an
15 affirmative vote in this case and are hopeful for that
16 outcome.

17 So on behalf of the Steelworkers and USW Local
18 9777 I urge the Commission to find that Imports from Korea
19 have injured the U.S. phosphor copper industry and that they
20 threaten it with further material injury. Thanks very much
21 for your time and for the opportunity to testify on this
22 critical matter on behalf of our members.

23 STATEMENT OF DANIEL B. PICKARD

24 MR. PICKARD: Thanks and for the record this is
25 Dan Pickard. What I'd like to do is spend just a few

1 moments going through the major legal issues of the case.
2 So as indicated in my open statement it doesn't appear that
3 we've got any disagreement in regard to the domestic like
4 product definition as we've suggested and as found in the
5 preliminary determination that it would be appropriate to
6 have a single domestic like product coextensive with the
7 scope, nor do there appear to be any issues in regard to the
8 Domestic Industry definition. No one has made any related
9 party arguments.

10 Accordingly, the Domestic Industry should be
11 defined as the three Domestic Producers: Metallurgical,
12 Milward and H. Kramer. In regard to some of the most
13 important conditions of competition the Staff Report is
14 pretty compelling in regard to the extent of
15 interchangeability between the domestically produced product
16 and the Korean product. As the Staff Report indicates all
17 responding producers, importers and purchasers report that
18 phosphor copper from Korea and the United States are always
19 more frequently interchangeable.

20 This shouldn't be particularly surprising because
21 both U.S. Producers and Korean Producer manufacture to the
22 exact same specifications and as detailed in our prehearing
23 brief as Mr. Goodman testified, these products are sold to
24 the exact same customers.

25 Because this is one of the more commodity-like

1 products that the Commission sees, it emphasizes the
2 importance of price. As the staff report also documents,
3 prices is the most frequently cited of the top three
4 purchasing factors. As a matter of fact, all eleven of the
5 responding purchasers indicated that pricing was very
6 important.

7 This becomes especially important in regard to a
8 product that is essentially sold on a dollars-per-pound
9 basis because now when everything is sold to the same
10 quality specs it emphasizes the role and the importance that
11 price has in purchasing decisions. I would emphasize that
12 it's important that all of the evidence of record documents
13 that demand stayed relatively stable over the Period of
14 Investigation, regardless if you look at res, non-res,
15 construction; you look at more precise indicators of demand,
16 specifically for demand, you look at documented apparent
17 U.S. Consumption in the Staff Report.

18 This is particularly important because in a
19 period of stable demand when all sides agree there are
20 essentially no non-Subject Imports. It's during this time
21 that imports grabbed market share as a result of being
22 underpriced, nor does there appear to be any contention that
23 the U.S. Industry can't supply all of the U.S. Apparent
24 Consumption. This is confirmed during the questionnaire
25 responses by both the Domestic Producers and three out of

1 four responding importers and purchasers reported no supply
2 constraints.

3 I would also note and emphasize that it's during
4 this period of stable demand with adequate supply that we
5 see already low-capacity utilization rates for the Domestic
6 Industry decreased throughout the whole POI.

7 So in regard to the statutory factor as far as
8 the significance of the volume of imports, when looking at
9 the official imports statistics because we have a clean HTS
10 number, you see a significant increase over the Period of
11 Investigation. Also, if you look at the ratio of imports to
12 U.S. Production, that increases, more about that later.

13 Perhaps most importantly, you see that Subject
14 Imports capture market share from the Domestic Industry over
15 the POI. In regard to price effects there were some
16 initially misreported pricing data which have now been
17 corrected. I would point out that even with the initially
18 misreported pricing data there were still significant
19 incidences of underselling. Now with the updated
20 information that was in the most recent APO release however
21 we see that imports are underselling the U.S. Produced
22 products in approximately 80 percent of comparisons.

23 There are a couple of things that I'd like to
24 briefly respond to in regard to the Respondents arguments.
25 The first is this kind of faulty notion that underselling

1 only becomes significant if it happens in the majority of
2 comparisons. I would suggest it just follows as kind of
3 common sense and logic that is my competitor undersells me
4 and just to pick a number, 25 percent of the time and takes
5 a quarter of my business away that's significant even if it
6 occurs less than 50 percent of the time. That being said,
7 the updated Commission data demonstrates that imports
8 undersold the domestically produced product in the majority
9 of comparisons.

10 There is also one other contention made by the
11 Respondents in their brief that I would like to clarify.
12 There is an argument, almost it's implied that prices for
13 phosphor copper should almost drop dollar for dollar for a
14 price against copper and that if the decrease in phosphor
15 copper is any less than the decrease in copper prices that
16 somehow that proves that imports are not the cause of
17 injury.

18 I'll talk about why that's wrong as far as an
19 industry practice in a moment, but just mathematically
20 that's functionally wrong. If the price of copper per pound
21 drops by one dollar and phosphor copper is only 85 percent
22 copper, one would imagine at most the decrease would only be
23 85 cents per pound, but we'll talk more about that in a
24 second, or maybe I'll talk about it right now. It was
25 suggested somehow that we ignored the effect of decreasing

1 copper prices on the price of phosphor copper in the market
2 place. That's wholly untrue.

3 From the very beginning of this investigation,
4 we've stated and all parties appear to agree that phosphor
5 copper is sold on the basis of copper plus, so our arguments
6 have always been that copper is essentially a pass-through
7 cost for the Domestic Industry. They're neutral. Their
8 profitability depends on the premium or what is frequently
9 called the fabrication adder on top of copper.

10 So as copper moves up or copper moves down in Mr.
11 Goodman's words "they're neutral to that". What they focus
12 on is the additional adder on top of the copper price and
13 what have we seen over the Period of Investigation. You see
14 cogs increase as a percentage of net sales and that is the
15 evidence of price suppression as the result of frequent
16 underselling.

17 On top of the underselling and on top of the
18 increase as cogs of percentage of net sales, one of the
19 reasons that you know that purchasers switch from
20 domestically-produced product to Korean product is because
21 the importers told you, or the purchaser told you. Four
22 purchasers confirmed that they switched from
23 domestically-produced product to import on the basis of
24 price.

25 Oh, and to back up, since this is essentially a

1 commodity-like product and you're heard me say a couple of
2 times already how important price is, purchasers will make
3 decisions based on very small changes in price. As Mr.
4 Goodman testified, for just a couple of pennies per pound
5 customers will make a switch.

6 So the idea that essentially increasing a
7 competitors price by 4 percent to round up the antidumping
8 margin has a significant impact and I would point the
9 Commission's attention to the underselling margins and while
10 I don't generally believe that dumping margins are supposed
11 to correlate to degrees of underselling, I would point the
12 Commission to examine underselling margins. I would also
13 point out that the final dumping margins for this
14 investigation are expected to be released at noon today and
15 we expect those to increase further demonstrating the
16 effectiveness of any antidumping order that would be issued.

17 Material injury; I don't know if we need to go
18 through all of the factors. It's pretty stark when you look
19 at the proprietary information as far as how quickly and how
20 badly the health of this Domestic Industry has deteriorated
21 both in regard to commercial shipments, production, capacity
22 utilization, the workers and the effect on operating income
23 and operating income margins.

24 Lastly, as I indicated in my opening statement,
25 this is just as strong a threat case as a current material

1 injury case. This is a particularly vulnerable Domestic
2 Industry as you can see from the Appendix C-1 Table.
3 Importers have demonstrated that they have in fact surged
4 into the marketplace, that they've done so at low prices.
5 There is contention in regard to the extent of the excess
6 capacity of the Foreign Producer but that's a question of
7 just how much.

8 There is clearly evidence of excess capacity and
9 divertible capacity and the U.S. Market is an important
10 destination for the Korean Product. So I would suggest that
11 while I think of it as primarily a current material injury
12 case, the evidence of record would clearly support a finding
13 of threat of material injury as well.

14 So to wrap up real quick, again a lot of these
15 issues have been conceded or not contested; domestic-like
16 product, Domestic Industry -- it's not contested. Hasn't
17 been contested as far as imports increased; hasn't been
18 contested by respondents that cogs is a percentage of net
19 sales increase or that U.S. Producers that sales have
20 declined. Nor has it been contested that there is an
21 absence of non-subject imports in the marketplace and
22 consequently that the increase in the Korean market share
23 came at the direct expense of the U.S. Producers.

24 With that, that concludes our direct
25 presentation. Thank you.

1 CHAIRMAN SCHMIDTLEIN: Alright, thank you very
2 much. I would like to thank all the witnesses for being
3 here today. And this morning actually I'm the first one in
4 the questioning order, so I will begin.

5 Mr. Goodman, thank you very much, again, for
6 being here. I wanted to focus on a couple of things you
7 said in your testimony.

8 You testified that prices for ingot and shot move
9 together, but the Respondents have argued, I'm sure you're
10 aware, that the price for ingot and shot do not affect each
11 other. And so I wonder if you could elaborate a little more
12 on how the prices affect each other?

13 MR. GOODMAN: So it's Michael Goodman. And the
14 production process for making the ingots and making the shot
15 is a similar process with the exception of the last step of
16 the process.

17 The ingots are poured into molds, and as you saw
18 on the slide the molds--the metal chills in the molds and we
19 produce an ingot. The shot is made by dripping the molten
20 metal into water and the water chills the metal and it forms
21 the shot or the pellets.

22 The cost of making both products is similar, and
23 traditionally both products have been sold at the same
24 price. As far as shot goes, what we saw -- the shot market
25 is a bigger marketplace, but what we saw in 2012 was that

1 the only product being imported into the United States was
2 shot. And it was imported by one company, the Harris
3 Products Group, and it was imported for their own use.

4 Later a second company began importing, and they
5 also imported shot. And then later this Totall Metal
6 Recycling began importing both products, and began selling
7 both products to large and small users at basically the same
8 price consistent with how it's always been sold. The only
9 problem with the price is that it was much lower than our
10 price.

11 CHAIRMAN SCHMIDTLEIN: Well my question really
12 goes to, though, how do these two, the price of these two
13 products affect each other? So I understand that they're
14 made in a very similar way with the small change at the end,
15 and I've looked at the staff report. I don't know if you're
16 looked at it. In terms of some of the responding firms and
17 whether or not they think these products are
18 interchangeable. Some do, some don't, right?

19 MR. GOODMAN: So generally if a company uses shot
20 in their manufacturing process, they possibly could use the
21 other product but they don't want to use the other product
22 nor do they need to use the other product. The shot's
23 always been readily available.

24 But maybe the best way I can give you a pretty
25 good example, if you drink a hot beverage like coffee or tea

1 and you like to use sugar, you can use powdered sugar, which
2 would be the equivalent of shot, and you take a spoonful of
3 sugar out of the sugar bowl and you pour it into your hot
4 beverage and it dissolves into your beverage and you have a
5 sweetened cup of tea or cup of coffee.

6 At the same time you could use a sugar cube,
7 which would be the equivalent of the ingot. And you unwrap
8 the cube from the paper that it comes in. You drop it into
9 your hot beverage and it dissolves and you have a sweetened
10 beverage. The only difference is that the powdered sugar
11 goes into solution a little bit quicker. Sometimes,
12 depending on how hot the beverage is, the sugar cube floats
13 a little bit. Maybe you have to push it under and kind of
14 stir it in a little bit more. But either one will sweeten
15 your hot beverage. And it's the same thing with phosphor
16 copper. It's a product that's melted. Either one will
17 melt, it's just a question of the melting technique.

18 CHAIRMAN SCHMIDTLEIN: Well if that's true, on
19 page 215 of the Staff Report there is a statement in here
20 that says "10 of 13 responding firms to the Commission
21 questionnaires reported that shot prices and waffle ingot
22 prices never affect each other." Ten of thirteen of the
23 responding firms.

24 So what I'm trying--I guess ultimately, I mean
25 this is all leading to a question of, you know, I understand

1 that the copper in this product is driven by the copper
2 prices in the market.

3 MR. GOODMAN: Right.

4 CHAIRMAN SCHMIDTLEIN: And the COMEX versus LME, I
5 had a question about that as well, but let's focus right now
6 on how the premium is set, right? So then you charge a
7 premium for the fabrication portion of that. And so I guess
8 one question is: Are those premiums, because it's a slightly
9 different process so they're going to be slightly different
10 I assume for ingot versus shot?

11 MR. GOODMAN: No, they're the same, generally the
12 same.

13 CHAIRMAN SCHMIDTLEIN: They're the same? Okay.
14 So if some buyers find them to be interchangeable that
15 others don't, does that mean there is a market dynamic that
16 affects the price of one that doesn't affect the price of
17 the other?

18 MR. GOODMAN: I'm not really sure that I
19 understand the response. I haven't seen the report--you
20 know a lot of the report is redacted.

21 CHAIRMAN SCHMIDTLEIN: It's a staff report, yeah.

22 MR. GOODMAN: But generally buyers of shot are
23 buyers of shot, and buyers of waffle are buyers of--or
24 buyers of ingot are buyers of ingot.

25 CHAIRMAN SCHMIDTLEIN: They don't switch back and

1 forth.

2 MR. GOODMAN: They don't switch back and forth.

3 CHAIRMAN SCHMIDTLEIN: But they could if they
4 wanted to, you're saying?

5 MR. GOODMAN: Well generally no, because they're
6 just set up to make the product in a certain way. And
7 there's never really been a price incentive for them to
8 switch back and forth.

9 And in the copper tube industry, for example,
10 tubing used to be made in what's called in batches. And
11 when the tube producers made tubing in batches they used--a
12 lot of them used the waffle. But they've switched to what's
13 called a continuous process.

14 And in the continuous process they all use shot.
15 And the reason that they use shot is that they're
16 continuously producing the tubing and they're continuously
17 adding the phosphor copper into the molten copper to make
18 the tubing, and it's just easier to convey. They convey the
19 shot into the tubing and it's just easier for them to do it
20 that way.

21 And they wouldn't think of switching to waffle
22 simply because it doesn't fit into the process.

23 CHAIRMAN SCHMIDTLEIN: Okay. So when you started
24 seeing the imports from Korea coming in, and I guess in the
25 beginning it was just to Harris?

1 MR. GOODMAN: Right.

2 CHAIRMAN SCHMIDTLEIN: So did you see a price
3 effect in the ingot section of the market?

4 MR. GOODMAN: So the way that it worked was in the
5 beginning the only imports were Harris, and they were
6 importing for their own use. So we lost market share there.

7 CHAIRMAN SCHMIDTLEIN: But it wasn't affecting the
8 price more broadly.

9 MR. GOODMAN: The rest of the marketplace, you
10 know, it was okay. We didn't have to lower prices in the
11 rest of the marketplace. The damage was very isolated to
12 one, you know, one customer. And I would say that if Harris
13 was the only one that ever imported phosphor copper,
14 regardless of any other issue, that we probably wouldn't be
15 here today. Yeah, we missed the business that we lost at
16 Harris, but that wasn't enough to really dramatically injure
17 ourselves or our competitors.

18 It was really when this Totall Metal Recycling
19 began importing that the price suppression became widespread
20 that the damage occurred.

21 CHAIRMAN SCHMIDTLEIN: And when you say "price
22 suppression," you're being very specific, right? So you're
23 talking about you were trying to raise prices and you
24 couldn't? Or you were forced to lower prices?

25 MR. GOODMAN: Well we were attempting to raise.

1 At the end of 2015, going into 2016, it was our intention to
2 raise prices to customers for the calendar year 2016. And
3 in the Fall of 2015, this is when Totall Metal Recycling
4 began bringing Korean phosphor copper into the United States
5 and offering it to the marketplace at prices below ours.

6 So we were unable to increase prices, and in fact
7 we were forced to lower our prices in order to compete with
8 the Korean material coming into the United States in both
9 waffle and shot because both products were coming into the
10 United States.

11 CHAIRMAN SCHMIDTLEIN: So what was driving your
12 intention to try to increase prices, given that--weren't
13 copper prices going down?

14 MR. GOODMAN: Right. And the reason was that, you
15 know, copper prices were going down, so when we talk about
16 increasing prices we're not talking about--we're talking
17 about increasing the fabrication adder--

18 CHAIRMAN SCHMIDTLEIN: The premium.

19 MR. GOODMAN: Yeah, the product follows the copper
20 price up and down--

21 CHAIRMAN SCHMIDTLEIN: Right.

22 MR. GOODMAN: -- and the reason for that is when
23 there is a large decrease in the price of copper. If it's a
24 decrease, the fabrication adder theoretically needs to go up
25 because, as Dan pointed out, the product is only 85 percent

1 copper. So if copper drops a dollar, the metal cost of the
2 product, because it's only 85 percent copper, drops 85
3 percent of the increase, or 85 cents. So you need to adjust
4 the fabrication adder upwards to compensate for that.

5 CHAIRMAN SCHMIDTLEIN: I see. Okay. Alright,
6 well my time is up. Thank you very much.

7 MR. GOODMAN: You're welcome.

8 CHAIRMAN SCHMIDTLEIN: Vice Chairman Johanson.

9 VICE CHAIRMAN JOHANSON: Thank you, Chairman
10 Schmidtlein. And I would like to thank all of you for
11 appearing here today.

12 Continuing on the issue of the price of copper,
13 our apparent U.S. consumption data shows an increase from
14 2013 to 2014, and then a decrease in 2015. So that overall
15 consumption was fairly flat.

16 Why was there an increased consumption in 2014?

17 MR. GOODMAN: Michael Goodman. I'm not really
18 sure. What I can tell you is, what we go by is if we make
19 shipments to a customer, for example, a copper tube
20 manufacturer, the typical tube manufacturer uses about a
21 truckload of phosphor copper in a month.

22 And if our shipments are relatively stable, then
23 we know that the market is stable. And if our shipments
24 decline, we know their production has declined. But
25 interest rates have been low. The products that are made

1 using phosphor copper are copper tubing. It's going into
2 housing. It's going into air conditioning and
3 refrigeration. When they build homes now, homes are now
4 built with air conditioners, and I think we had an
5 improvement in the housing industry. We've seen that.

6 VICE CHAIRMAN JOHANSON: Alright, thank you, Mr.
7 Goodman.

8 The prehearing staff report indicates that
9 between 2013, between January 2013 and January 2016 copper
10 prices had decreased by more than 45 percent and were still
11 below the January '13 level at the end of 2016. And this
12 can be seen in the prehearing staff report at page 52.

13 What explains these trends, in your experience?
14 And also, how did all of this impact the U.S. industry?

15 MR. GOODMAN: Well, you know, the price of copper
16 is simply supply and demand. And one of the things that you
17 have to understand about copper is that it originates from a
18 mine. And the production process is quite a long process.
19 And it's very difficult to turn the spigot off or turn the
20 spigot on. It takes time for the production of copper to
21 react to a change in the marketplace. So that as
22 consumption slows, production doesn't necessarily slow at
23 the same rate.

24 And then the other side of the coin is that all
25 copper producers hope that the other guy reduces his

1 production in reaction to lower consumption, and that he can
2 maintain his production.

3 But basically we had, you know, high copper
4 prices which stimulated production. You know, let's make
5 hay while the sun shines. And a lot of copper was produced.
6 Consumption slowed, and then there was just copper
7 overhanging the market so the market began to decline.

8 VICE CHAIRMAN JOHANSON: How did that impact U.S.
9 producers of copper, of phosphor copper?

10 MR. GOODMAN: So in terms of our company, it
11 didn't affect us. Because as I said in my testimony, at
12 Metallurgical we're price neutral to copper; that we do what
13 I guess we call back-to-back business. If we make a sale at
14 a certain copper price, we buy the copper at the same price
15 to match the sale.

16 So if the market drops, we make a sale at the
17 lower price. We buy the copper at the lower price to match
18 the sale. And we don't get affected by the fact that the
19 price of copper has declined.

20 And just another, you know, decisions that we
21 made at our company a long time ago is, you know, we made
22 the decision that we're a manufacturer and that we want to
23 make our profits from manufacturing the product; that we are
24 not copper speculators, and that we're not going to
25 speculate and buy copper in hopes that the market is going

1 to go up, or sell copper in hopes that the market is going
2 to go down. And we've maintained the position of being
3 neutral to copper prices.

4 VICE CHAIRMAN JOHANSON: Thanks, Mr. Goodman.

5 Respondents take the position that decreases in
6 U.S. producers' exports help to explain injury that the
7 domestic industry experienced during the Period of
8 Investigation. Please explain the reason for any decreases
9 in exports during the Period of Investigation and how that
10 impacted your industry, the domestic industry?

11 MR. GOODMAN: Well the main portion of our
12 business is the domestic business. You know, we began as a
13 domestic producer making the product to sell to the industry
14 in the United States. And that's always been the main focus
15 of our business.

16 However, we also export. And we did see our
17 export volumes decline. A lot of it was because of low
18 prices that were being offered in the marketplace from the
19 Korean producer. And the other thing that we saw was that
20 when we went to Korea we saw that customers were paying very
21 high premiums, or fabrication adders for the phosphor
22 copper, and some of those customers were anxious to see
23 those adders lowered.

24 And they bought material from us so that they
25 could put pressure on Bongsan to lower their fabrication

1 adders in Korea. And then after they got the adders in
2 Korea lowered, they just kind of said, well, thanks but, you
3 know, but no thanks, and went back to buying from Bongsan at
4 slightly lower prices.

5 But the real issue here is the fact that quite a
6 bit of low-priced phosphor copper has come into the United
7 States and continues to come into the United States and has
8 forced us to lower our fabrication adders domestically.
9 That's the real source of the injury to us.

10 VICE CHAIRMAN JOHANSON: But do you know why U.S.
11 exports decreased during the Period of Investigation?

12 MR. GOODMAN: For the most part, it would just
13 generally pricing declines and not wanting to match lower
14 prices.

15 VICE CHAIRMAN JOHANSON: Okay, thanks.

16 I have a question that kind of jumped out at me
17 when I was reading through the materials. Petitioner has
18 noted that Totall Metal Recycling, among others, is an
19 important importer and warehouser of Korean product. This
20 makes me wonder about the extent to which phosphor copper
21 has ties to recycled metal.

22 Obviously copper scrap is an important raw
23 material, but why would a recycling firm get into this
24 business?

25 MR. GOODMAN: Michael Goodman, again, responding.

1 I think the reason is that they saw an opportunity to trade
2 in a product and make money. They were primarily in the
3 copper recycling business, in the copper scrap selling
4 business, and the consumers of phosphor copper are
5 traditionally large consumers of copper and also copper
6 scrap.

7 So they knew the consumers of phosphor copper
8 because they had been doing business with them selling them
9 other products, primarily copper. And they got into the
10 business simply because they saw that they could undercut
11 the U.S. producers and still make a profit buying and
12 reselling this product.

13 VICE CHAIRMAN JOHANSON: You all produce using
14 scrap? Is that correct?

15 MR. GOODMAN: Yes.

16 VICE CHAIRMAN JOHANSON: Just out of curiosity,
17 how much of copper in the market is recycled?

18 MR. GOODMAN: Almost all of it because of its
19 value.

20 VICE CHAIRMAN JOHANSON: Okay. That's
21 interesting. I know we deal with a number of metal cases h
22 ere and I'm always impressed by the amount that's recycled.
23 I think it's kind of interesting. That's a whole other
24 issue.

25 MR. GOODMAN: Right. It is.

1 VICE CHAIRMAN JOHANSON: Getting back, just
2 quickly, to the whole issue of exports, are there
3 differences in the end uses in the different export markets
4 for phosphor copper?

5 MR. GOODMAN: Generally, no, and we're exporting
6 and when we export we're exporting to companies that are
7 copper tube manufacturers just in other countries, and we're
8 exporting to companies that are manufacturing the brazing
9 alloys that are competitors of Harris making similar
10 products.

11 VICE CHAIRMAN JOHANSON: Okay, well thank you.
12 The yellow light is on, so I'm going to stop there.

13 CHAIRMAN SCHMIDTLEIN: Commissioner Williamson.

14 COMMISSIONER WILLIAMSON: I want to thank the
15 witnesses for coming today.

16 Mr. Goodman--and this you may want to do
17 post-hearing -- we talked about the export decline, but I
18 wasn't sure where your exports, you know, where are the
19 principal export markets that you export to, or the other
20 company exports to. And this can be done post-hearing, if
21 you prefer to do that.

22 MR. GOODMAN: I don't mind. I can't speak for the
23 other companies because they don't tell me where they export
24 to, but our company exports--we've exported to probably 30
25 different countries. We export throughout Europe, to

1 Africa, to Asia, Malaysia, Singapore, Thailand, South
2 America.

3 COMMISSIONER WILLIAMSON: So you're really a
4 global company, then?

5 MR. GOODMAN: Pretty much so, yes.

6 COMMISSIONER WILLIAMSON: Okay. Good. Okay,
7 thank you. And, well I know export markets vary, but you
8 talk about the fact of the competition with the Koreans.
9 Was this sort of globally also, too?

10 MR. GOODMAN: The Koreans now, I believe they're
11 focused on exports. And we've seen them more active in
12 export markets over the past few years than in the past.

13 COMMISSIONER WILLIAMSON: Okay. Thank you.

14 Okay, Ms. Hart, I was just wondering. You might
15 want to do this post-hearing. The company where your
16 workers are, I know they're not here today, and I was just
17 wondering if there's any explanation. But as I said, you
18 can do that post-hearing if you want.

19 MS. HART: What I understand from the gentleman
20 that I spoke to is that the company was threatened by their
21 major customer if they got involved in the case.

22 COMMISSIONER WILLIAMSON: Okay, thank you. Let's
23 see. Mr. Goodman, you said that your prices, on your prices
24 I guess you use cost indexes and fabrication adders, but I
25 was wondering how often do fabrication adders get

1 adjustment?

2 MR. GOODMAN: In general, not that often. We have
3 some customers where we set the price, and that's the price
4 for the year with the option that if we need to we can look
5 at it midway through the year and possibly revise. But
6 usually when they're set, they stay the same throughout the
7 year, and then they're set for the following year.

8 And then the rest of the business kind of follows
9 along. Because, for example, we're selling through -- I
10 think the fabrication adders that get set for the year, our
11 competitors find out what they are and they kind of base
12 their pricing on where they see the market going.

13 COMMISSIONER WILLIAMSON: Okay. So in other
14 words, your pattern is set purchaser by purchaser?

15 MR. GOODMAN: Yes. However, that in the Fall of
16 2015, Totall Metal Recycling began importing phosphor
17 copper, both shot and waffle, and also began approaching
18 buyers and saying to these buyers, we have material in our
19 inventory that if you want to buy it we have it to ship to
20 you. And by the way, our prices are lower than the prices
21 that you're paying to the domestic producers. And customers
22 called us and told us that they received lower offers from
23 Totall, and just said, you know, we want to keep buying from
24 you but you need to lower your price.

25 And I can probably name five or six customers

1 where theoretically their contract expired in December but
2 in September and October we lowered the price before the
3 contract expires because of low-priced material being
4 offered in the marketplace by Totall.

5 COMMISSIONER WILLIAMSON: Okay. Post-hearing,
6 maybe you could provide more evidence on this. I take it
7 you're saying there's also been a change in--you've kind of
8 changed the pattern of how you do the, adjust the
9 fabrication adders in response to this increase demand--
10 increased competition, at least that's the impression I'm
11 getting.

12 MR. GOODMAN: That's correct.

13 COMMISSIONER WILLIAMSON: Maybe post-hearing you
14 could provide more evidence on that. And on the specific
15 fabrication adders and how they've changed over time, and
16 how the import competition has affected that.

17 MR. GOODMAN: Yes. I guess one of the things I
18 didn't mention is that most of our contracts have what's
19 called "meet-or-release" clauses where if during the course
20 of you set an adder with somebody, and during the course of
21 the contract if the buyer receives a lower offer from a
22 competitor, we're given the option to meet the lower price
23 or release them from the contract.

24 So depending on what's going on in the
25 marketplace, that frequency can change. But we'll expand

1 upon this for you.

2 COMMISSIONER WILLIAMSON: Great. Thank you.

3 Are AUVs, average useful values, a useful policy
4 for prices in this investigation? Or have there been
5 significant changes in product mix over the Period of
6 Investigation that would make the AUVs less useful?

7 MR. PICKARD: Not product mix, Commissioner--I'm
8 sorry, again for the record this is Dan Pickard. Good
9 morning.

10 So there hasn't been a product mix change that
11 would render AUVs less probative, but I think consistent
12 with what we've argued is it's how the domestic industry
13 prices their product is copper plus a premium.

14 So just looking at AU--so copper is a
15 pass-through. So copper fluctuations are going to be
16 reflected in the AUVs, which is not necessarily probative
17 for you. I'm not saying that it lacks all probative value,
18 but I think where you start to see, if the product is priced
19 at a cost-plus, where you see the price depression and the
20 suppression is really in the diminishing plus, rather than
21 fluctuations in the AUV, if that makes sense.

22 So that's why--and I think everybody agrees that
23 that's how both U.S. producers and the Korean producers
24 price. It's copper plus. And that's why we frequently have
25 referenced COGs as a percentage of net sales increasing, or

1 raw material as a percentage of sales increasing. Because
2 what that shows you is the diminishing plus. I hope that
3 answers your question.

4 COMMISSIONER WILLIAMSON: So it's a decline in the
5 adder?

6 MR. PICKARD: Yes, exactly. Thank you. Yes.

7 COMMISSIONER WILLIAMSON: Okay, thank you.

8 This is probably for post-hearing, but what
9 accounts for changes in the domestic industry's internal
10 consumption over the Period of Investigation?

11 MR. PICKARD: Yes, I think we'll have to address
12 that in the post-hearing.

13 COMMISSIONER WILLIAMSON: Okay. Mr. Goodman, you
14 mentioned when you were talking about I guess exports to
15 Korea and the problems, you mentioned the word "cultural
16 barriers." Now I remember back in the '90s when U.S.
17 automakers were trying to sell to Korea. They seemed to get
18 audited more frequently by the Korean tax authorities. Can
19 you explain, how are you using cultural barriers?

20 MR. GOODMAN: Cultural barriers, how do I use
21 them? The way that I use them is that I try to be, when I
22 travel, a goodwill ambassador for America and the United
23 States. But cultural barriers have changed. And maybe
24 using the example that you cited, years ago when I would
25 visit a U.S. customer, you know, I'd fly to a city, I'd go

1 to the rental car counter, and they would hand me the keys
2 to a rental car and I'd look and, oh, it's a Toyota, and I
3 would tell them behind the counter, you know, I need a Ford.
4 I need a Chevy because I'm going to a U.S. company.

5 U.S. companies don't -- are much more open now.
6 And if they hand me the keys to the Toyota and I drive the
7 Toyota to the company, nobody really cares. But the point
8 of the story is that U.S. buyers are much more open to
9 sourcing from foreign suppliers.

10 What I found in Korea is that the Koreans want to
11 buy from Koreans. They just are not as open to buying from
12 people that are importing product, or non-Korean, as we are
13 here in the United States.

14 COMMISSIONER WILLIAMSON: Okay. Thank you for
15 that answer. In your prehearing brief you provide what you
16 believe is Bongsan's melting capacity based on a visit to
17 its plant. Can you provide here or post-hearing more detail
18 on how you arrived at this figure?

19 MR. GOODMAN: Yes. It's somewhat easy for us to
20 arrive at the figure because what we did is we evaluated
21 their melting capacity. And the way that we were able to do
22 that is that we saw their melting facility, and the furnace
23 is an electric furnace, and it has a rating of so many
24 kilowatts. So obviously a furnace that is 400 kilowatts can
25 melt more metal than a furnace that's 300 kilowatts because

1 it has more power.

2 So we were able to take the rating of their
3 furnace, establish a melt rate, and come up with a capacity.
4 And they also gave us indications of what their production
5 cycle was, and what their capacity was. So that's where it
6 comes from.

7 COMMISSIONER WILLIAMSON: Okay. Thank you. And
8 thank you for those answers.

9 CHAIRMAN SCHMIDTLEIN: Alright, thank you.
10 Commissioner Broadbent?

11 COMMISSIONER BROADBENT: Thanks. Mr. Goodman, can
12 you kind of go over your experience with the Korea FTA and
13 how this overlaid your situation?

14 MR. GOODMAN: So in terms of the Korea FTA, prior
15 to the time that Bongsan Company was established in Korea
16 the Korean marketplace imported all of its phosphor copper,
17 and a lot of it was purchased from the United States.

18 And then later what we saw was that Bongsan began
19 producing phosphor copper in Korea. The first product they
20 produced was waffle. And as their waffle production got up
21 and running, we stopped making waffle sales into Korea
22 because there was an import duty that protected them and
23 made our --

24 COMMISSIONER BROADBENT: How much was that import
25 duty?

1 MR. GOODMAN: Pardon me?

2 COMMISSIONER BROADBENT: How much was the import
3 duty?

4 MR. GOODMAN: The import duty was five percent.
5 Plus the Inland Shipping, the cost of getting it from the
6 pier to the customer was another two percent. So they had
7 like about a seven percent price advantage over us. And
8 then later they started producing shot, and our shot
9 business stopped.

10 That business completely stopped until the
11 Korea-U.S. Free Trade Agreement was signed, and that was
12 just before our visit to Korea in 2012. And when the Free
13 Trade Agreement eliminated the import tariff, but once again
14 the real issue was that the Koreans really wanted to buy
15 from the Korean company. And they wanted us in the
16 marketplace just for the purpose of keeping price pressure
17 on the Korean manufacturer.

18 COMMISSIONER BROADBENT: Okay, so our price on
19 MF duty was, what, 2.5 percent, theirs was 5 percent. So
20 you've sort of got a more level playing field. You both
21 went to duty-free upon implementation of the TFA or was
22 there a phase in or anything?

23 MR. GOODMAN: No, there was no phase in.
24 Understand, we had no duty here in the United States.

25 COMMISSIONER BROADBENT: I thought our MF duty

1 was 2.5 percent and then that was reduced.

2 MR. GOODMAN: No, I'm sorry. It was 5 percent
3 import duty and about 2 percent was the cost of going from
4 the port.

5 COMMISSIONER BROADBENT: In Korea.

6 MR. GOODMAN: In Korea to the customer in Korea.

7 COMMISSIONER BROADBENT: Yeah.

8 MR. GOODMAN: So they had about a 7 percent
9 price advantage over the U.S. producers.

10 COMMISSIONER BROADBENT: Wasn't the U.S. market
11 protected by a 2.5 percent --

12 MR. GOODMAN: The U.S. had no duty. Phosphor
13 Cooper could come into the United States duty free. There
14 was no import duty.

15 COMMISSIONER BROADBENT: Okay, well, I think
16 that's not what our staff report says, but maybe we've made
17 a mistake on that.

18 MR. GOODMAN: Okay, but again, prior to 2012
19 there really were no imports.

20 COMMISSIONER BROADBENT: There were no imports
21 after 2012, okay. So then when did Bongsan get up and
22 running in Korea?

23 MR. GOODMAN: I'm not exactly sure, but it's in
24 their sales literature. We can get that information and put
25 it in the staff report for you.

1 COMMISSIONER BROADBENT: Okay. Well, when did
2 you start feeling their competitive pressure -- I mean the
3 competition from them?

4 MR. GOODMAN: We felt it here in the United
5 States in 2012 when we lost business at the Harris Products
6 Group because they took business that, historically,
7 Metallurgical had supplied and gave that portion of business
8 to the Korean producer.

9 COMMISSIONER BROADBENT: Okay. But you don't
10 think that had anything to do with the FTA.

11 MR. GOODMAN: No, no.

12 COMMISSIONER BROADBENT: Okay, got it. Alright.

13 Now you went to Korea and you got a tour of
14 Bongsan's facility, right?

15 MR. GOODMAN: Yes.

16 COMMISSIONER BROADBENT: And as a competitor
17 they were happy to have you come in?

18 MR. GOODMAN: Yeah. There really wasn't -- they
19 were very welcoming. We were selling phosphor copper to a
20 company in the UK who was a distributor and Bongsan was
21 anxious to get this distributor to also buy from them and
22 this distributor arranged for us to go and tour Bongsan's
23 plant.

24 COMMISSIONER BROADBENT: Okay, alright.

25 Now you mentioned in your testimony that there

1 was a quality slip in 2015 because a newly-installed dryer
2 didn't properly dry a load. Did this product get out to the
3 customers? Did you deliver it to customers and if so, which
4 customers?

5 MR. GOODMAN: It was only one customer. It
6 happened to have been at Harris. And you know,
7 unfortunately, they received a truckload of material that
8 wasn't dried properly. It did cause them a production issue
9 where they lost a few hours production, to the best of my
10 knowledge.

11 And what they did was they packed up the
12 material. They shipped it back to us and we replaced it
13 within a day or two with properly dried material. So there
14 was an interruption to their production. I mean not a
15 catastrophic interruption and it was just a one time, little
16 -- it was a glitch really that happened because of this new
17 dryer. And then the balance of the year we continued
18 shipping. You know everything was perfect. There were no
19 problems.

20 COMMISSIONER BROADBENT: Okay, so there wasn't
21 any kind of --

22 MR. GOODMAN: And understand this is long after
23 they began importing. They began importing in 2012. This
24 occurred in 2015, three years later.

25 COMMISSIONER BROADBENT: So you were already

1 losing business?

2 MR. GOODMAN: It wasn't because of this problem.

3 COMMISSIONER BROADBENT: Okay. And so you
4 didn't see any effect on your annual sales in 2015 from the
5 glitch?

6 MR. GOODMAN: No.

7 COMMISSIONER BROADBENT: Okay. You say you
8 export to like 30 different countries. How do you make sure
9 that you're not accused of dumping in your export markets?

10 MR. GOODMAN: Before we just "go into a market,"
11 we try to assess the market, either by visiting it or
12 working with someone as a sales agent who's already
13 established in that marketplace and we go and visit
14 customers and we just gather information as to where the
15 prices are in that marketplace.

16 COMMISSIONER BROADBENT: Okay, so you just
17 measure all the prices and make sure you're not pricing
18 lower than an average price?

19 MR. GOODMAN: Then we -- you know where the
20 metal's being sold in that industry. But you know one of
21 the other things that happens is let's just take the United
22 Kingdom. Until seven or eight years ago there were probably
23 two producers of phosphor copper in the United Kingdom.
24 Both have closed and gone out of business so that there is
25 no one in the UK that is going to accuse us of dumping

1 because there are no domestic producers and that's true of a
2 lot of these marketplaces.

3 COMMISSIONER BROADBENT: So as long as there's
4 no domestic producer, then you can sell at a pretty low
5 price?

6 MR. GOODMAN: Yes.

7 COMMISSIONER BROADBENT: And it just seems to me
8 the margin is so small here. I mean how we're not just
9 talking about just general competition of prices going up
10 and down and you see the raw material price going way down
11 and much more than the under pricing and with a very small
12 margin that Commerce has come up with and I'm just trying to
13 figure out how we really get a handle on whether the effect
14 here is from these prices.

15 MR. GOODMAN: Well, the effect is from the
16 prices simply because you know our fabrication adders in the
17 United States were roughly let's say around the 45 cent per
18 pound range and when Totall Metal Recycling began
19 distributing they began offering material at roughly the 40
20 cent rate, which is about a five-cent per pound discount
21 from where our prices were, so we were forced to lower that
22 fabrication adder by five cents in order to compete with the
23 imported Korean material. I mean it was that simple.

24 And then in mid-September of this year the
25 anti-dumping duty took affect and what we say was a period

1 of time where there were no imports and during that period
2 of time we were able to raise our fabrication adders. So
3 the 3.79 percent certainly had an affect. And again, this
4 is a product where a penny or two does make a difference.
5 Buyers will switch you know for -- if they can save a penny
6 or two.

7 COMMISSIONER BROADBENT: Right. But why
8 wouldn't you ^^- I still don't get this argument why prices
9 would not go down when raw material costs went down so
10 dramatically?

11 MR. GOODMAN: Well, they did. They followed
12 prices down.

13 COMMISSIONER BROADBENT: I mean if you look at
14 the graph on the raw material prices versus your prices in
15 the U.S. market and you're not growing as fast as that.

16 MR. GOODMAN: I'm not sure that's 100 percent
17 correct, Commissioner. If you take a look at the
18 Commission's price variance analysis and you see what
19 happens as far as prices moving in regard to costs and which
20 is also obviously reflected in the industry's profitability.
21 You see that again in that Table C-1 in regards COG's
22 percentage of net sales. And I think you see that as well
23 as in Table 6-1 where you see prices decreasing over raw
24 material costs. So all of those are demonstrating that the
25 parts that the domestic industry is most focused on, the

1 adder, is being compressed over the period of investigation.

2 COMMISSIONER BROADBENT: But at one point you
3 were telling me you expected the adder to go up when the raw
4 material prices went down, which sounds counter-intuitive,
5 right? I mean this is --

6 MR. PICKARD: Maybe to address that really
7 quickly because I know your red light's on. I think what
8 Mr. Goodman said was -- and it does seem somewhat kind of
9 counter-intuitive. It took me a little while to kind of get
10 my mind around this as well.

11 If copper drops by 10 cents, that's a 10 cents
12 drop of total price, but it's only an 8.5 cent decrease in
13 costs. So ideally, you would hope to be able to push your
14 adder up in order to maintain your consistent profitability
15 levels, but the domestic industry not only was not able to
16 increase their adders, it actually decreased over the period
17 of investigation. So even though copper prices are falling,
18 the health of the domestic industry is deteriorating
19 significantly and you can see that in their operating
20 margins and in their total operating income.

21 COMMISSIONER BROADBENT: But have we ever had
22 another case where raw material prices go down and you
23 expect an increase your adder or premium? I mean is there
24 any kind of allegorinous situation?

25 MR. PICKARD: I'm not aware of a case that's

1 come before the Commission that has this kind of unique
2 market dynamics, but it's not a stretch to say that when --
3 there are numerous cases that come before the Commission
4 that when their cost structure changes, right, so that it
5 become more expensive for the domestic industry they hope to
6 increase the margin, right? That hasn't happened for these
7 guys because of how pricing is tied to copper overall and
8 how that functions with a less decrease in the cost and how
9 that has ultimately suppressed their profit margin.

10 COMMISSIONER BROADBENT: Okay, thank you.

11 CHAIRMAN SCHMIDTLEIN: Mr. Pickard, I think
12 these questions are probably best for you.

13 So with regard to the price depression, I guess
14 and price suppression argument, when you look at the pricing
15 product data and you see that pricing for Products 1 and 2
16 both went down, how do you respond to the Respondents'
17 argument that if subject imports were the cause that you
18 should see pricing Product 1 declining more than pricing
19 Product 2 since that's where subject imports were
20 concentrated?

21 MR. PICKARD: I think they're missing kind of
22 the fundamental point that we've talked about. Obviously,
23 the cost of copper has a lot to do with the price charged in
24 the marketplace, right? I think Mr. Goodman has said a
25 couple different times the total price you see for the

1 pricing products are copper price, plus the adder. So for
2 the sake of the argument, if the adder stayed the same we
3 know copper decreased over the period of investigation, so
4 we would see those total prices fall. That's not a
5 surprise.

6 What we've consistently come back to is saying
7 that this domestic industry focuses on the adder, right,
8 that's really kind of their sale price that they can control
9 and that's not as readily apparent from the pricing
10 products. And what we'll do is we'll provide additional
11 evidence in the post-hearing brief because what you start to
12 see -- I'll speak about this, generally, before getting into
13 the proprietary information, it's for pricing Product 1
14 where there's more import competition. Earlier in the POI,
15 you see that margin suppressed earlier and for pricing
16 Product 2, although there is some interchange between the
17 two types of products, when you start to see more imports in
18 that pricing product, then you start to see that adder all
19 faster.

20 CHAIRMAN SCHMIDTLEIN: So my question is when
21 you say there is some interchange between those two pricing
22 products you think the prices are affecting each other?

23 MR. PICKARD: Yes.

24 CHAIRMAN SCHMIDTLEIN: And this is what we were
25 talking about in my first round. Can you elaborate on that?

1 Like why that's the case?

2 MR. PICKARD: Sure. I think the bottom line
3 that I've heard Mr. Goodman say is that regardless of form
4 you don't quote the same customer a different price for shot
5 as compared to waffle, so that's why there's some
6 interchangeability between the two or some connection.

7 CHAIRMAN SCHMIDTLEIN: It sounded like most
8 customers have their preformed form. I know, technically,
9 it can be used, but most customers have a process
10 established where they use a certain form of this, so are
11 you really quoting that customer both forms?

12 MR. PICKARD: And I think that's why there's a
13 little disconnect in the staff report. So you had pointed
14 that there were 10 out of 13 who had indicated that their
15 prices didn't move back and forth or that they didn't see
16 too much of a move. I think there's a disconnect between
17 understanding that waffle and shot are essentially
18 interchangeable, but that several producers have their
19 manufacturing line optimized for one versus the other.

20 Now there's certainly -- and where you see more
21 of the tie end and then you see other purchasers indicate
22 that clearly they buy both. And if they're buying both,
23 obviously, it would follow that there should be at least
24 some affect of one price versus the other.

25 CHAIRMAN SCHMIDTLEIN: I would agree with that.

1 I was just trying to get at how much is that the case, given
2 what the staff report is reporting?

3 MR. PICKARD: I don't know if it's been
4 quantified as far as like much of a one-dollar change
5 necessarily directly translates in what period of time from
6 shot to waffle. What I think is -- if your questions are
7 ultimately going for how can we tie the presence of imports
8 to price changes for the domestically-produced product, not
9 their overall price, but any real decrease in the adder what
10 we've been talking about, we can show you in the
11 post-hearing basis kind on a customer-by-customer basis
12 where the increase in shot and how you see that starts off
13 margins for shot sales and then when you start to see really
14 Totall Metal coming in selling both shot and waffle and the
15 acceleration or the deterioration in then the adder for
16 waffle.

17 CHAIRMAN SCHMIDTLEIN: Okay. And I think this
18 is probably best for the post-hearing, but on page 18 of the
19 Respondent's brief they include an analysis of the adder,
20 the premium and in their view, the trend was increasing.
21 They have an analysis that they've presented. I know you
22 can't respond specifically, but is that analysis incorrect
23 in terms of the trend?

24 MR. PICKARD: I think it's incorrect for a
25 couple of reasons. One, it's -- and I was -- spending this

1 almost of time in our post-hearing brief discussing this,
2 but it's an incredibly simplistic and partial analysis where
3 basically they take one average for COMEX and one average
4 for price and look at three numbers.

5 So it's contradicted probably in three different
6 ways. One is, again, COG's percentage of net sales. Two, I
7 think more specific as to this issue, your Table 6-1 which
8 really looks at raw material -- average unit values for the
9 product minus raw material costs and there you clearly see
10 the decline and what the adder would be, the delta. And I
11 think, most importantly, what they don't address in their
12 brief on page 18 and it's completely consistent with what
13 Mr. Goodman has testified, is that you really see it in the
14 third quarter of 2015 when total market really starts
15 bringing in things to sale as distribution and that's when
16 really prices start to fall off a cliff.

17 So even if you use the bare analysis and you
18 look at the interim periods for 2016 to 2015, you will see
19 what we've been describing as far as depression of the
20 adder.

21 CHAIRMAN SCHMIDTLEIN: Okay. Well, I would
22 invite you to include that in a post-hearing response to the
23 question.

24 Mr. Goodman, maybe you can answer this, the
25 Respondents point out that the domestic producers use the

1 COMEX Index and that Korea, I guess, uses the LME, can you
2 tell me are those two indexes are they presenting different
3 trends or even price levels? Is there a difference between
4 them?

5 MR. GOODMAN: It's Michael Goodman responding.

6 And what I can tell you is that COMEX is the
7 U.S. marketplace. All U.S. business is generally done on
8 the COMEX and the rest of the world uses the LME, which is
9 the London Metals Exchange. The two of them really are very
10 closely related. There's probably close to 100 percent
11 correlation between prices changes between the two and the
12 big change is that the London Metals Exchange now has
13 warehouses in the United States.

14 Sometimes it's the exact same warehouse as the
15 COMEX. So if let's say the London Metal Exchange price for
16 copper were to increase and the COMEX price for copper
17 didn't, someone who owned that copper in the Exchange
18 warehouse could simply transfer it from the COMEX to the LME
19 and so what you'd have is you'd have LME stocks increasing
20 and you'd have prices decreasing, so it equalizes both ways.
21 So there's really not much difference between the two
22 markets at this point in time.

23 CHAIRMAN SCHMIDTLEIN: Okay, alright. Well, my
24 time is about up, so I will defer to Vice-Chairman Johanson.

25 VICE CHAIRMAN JOHANSON: Thank you, Chairman

1 Schmidtlein.

2 The price comparison data have been revised and
3 the revision has a substantial impact on the amount of
4 underselling by subject imports that we see on this record.
5 In your view, are these data reliable or are there remaining
6 or new issues regarding the Commission's pricing data?

7 MR. PICKARD: Commissioner, the short answer is
8 I think the updated, corrected data is more reliable, so it
9 comports with what the Commission found in the preliminary.
10 And as you saw in our pre-hearing brief, the initial round
11 of data that was reported that needed to be corrected was
12 clearly wrong on its face just because we know how this
13 product is priced in the marketplace and without going --
14 I'm happy to go into the details, but I think it's a little
15 proprietary, that's why it was known to be wrong. So yes, I
16 believe that this updated information is credible and
17 reliable.

18 VICE CHAIRMAN JOHANSON: Thank you, Mr. Pickard.

19 Are there any other issues regarding pricing
20 data that we should be aware of or that remain outstanding?

21 MR. PICKARD: In regard to the pricing product
22 data?

23 VICE CHAIRMAN JOHANSON: Right.

24 MR. PICKARD: None that I'm aware of at this
25 time.

1 VICE CHAIRMAN JOHANSON: Okay, thank you, Mr.
2 Pickard.

3 Respondents have argued that some producers,
4 particularly, those that use phosphor copper in the
5 production of brazing rod may have a preference for subject
6 imports over domestic product for non-price reasons and this
7 can be seen at Respondents' brief at page 4. Are there any
8 differences between the Korean product and the domestic
9 product as it relates to brazing alloys?

10 MR. GOODMAN: You know I would say no, that they
11 are interchangeable. And you know we supply phosphor copper
12 to brazing alloy manufacturers throughout the world and you
13 know our product is readily acceptable and I'm sure the
14 Korean is also readily acceptable, so I would say the two
15 were somewhat interchangeable.

16 MR. PICKARD: And Mr. Vice-Chairman, this is
17 also confirmed by the staff report where -- and also by kind
18 of common sense that these products are sold to the exact
19 same specs and what, I believe it's 11 out of 11 purchasers
20 all agree that U.S. producers and the foreign producers are
21 always meeting the minimum specifications. So if
22 everybody's meeting the same quality requirements, then it
23 really just becomes a question of price.

24 VICE CHAIRMAN JOHANSON: Okay, thank you, Mr.
25 Pickard.

1 Continuing on that line of thought, how do
2 phosphor copper products differ, at all, depending upon the
3 end uses for which they are put?

4 MR. GOODMAN: I mean they don't. Phosphor
5 copper is phosphor copper. It's a commodity. It's produced
6 to meet the specification that the customer requires and you
7 know it's a commodity product.

8 VICE CHAIRMAN JOHANSON: Okay -- Mr. Pickard, go
9 ahead.

10 MR. PICKARD: I'm assuming, Commissioner, just
11 for purposes of clarification, that you're talking about
12 essentially phosphor copper of the same spec going to
13 various end uses?

14 VICE CHAIRMAN JOHANSON: Phosphor copper of the
15 subject -- for the association.

16 MR. PICKARD: For example, there are a decent
17 amount of arguments in the Respondents' brief in regard to
18 the percentage that the phosphor copper represents in the
19 end use of the product and I would suggest it's almost
20 entirely irrelevant that if phosphor copper represents a
21 larger percentage of brazing rods, but a smaller percentage
22 of copper tubes that lost sale, regardless of what the end
23 use and regardless of what the ratio is to the final end
24 product if the consumer is buying on the basis of price and
25 the domestic producer loses that sales regardless of what

1 that percentage is in the end use that doesn't diminish the
2 injury to the domestic industry.

3 VICE CHAIRMAN JOHANSON: Thank you, Mr. Pickard.

4 And I have one more question involving this
5 issue and it might involve proprietary information and if
6 so, please feel free to address it in your post-hearing
7 brief, but are there differences in the types of products or
8 parts of the domestic market to which each of the three
9 domestic producers sell?

10 MR. GOODMAN: I would say, no, definitely not.

11 VICE CHAIRMAN JOHANSON: Okay, that's a clear
12 answer.

13 MR. GOODMAN: Yes.

14 VICE CHAIRMAN JOHANSON: I appreciate it. Thank
15 you.

16 And now going onto a whole other issue, how
17 important are lead times in this industry?

18 MR. GOODMAN: So it's Michael Goodman
19 responding.

20 And you know lead times are important and I
21 guess that's one of the things that has hurt us is that
22 Total Metal Recycling has material in stock that they can
23 ship from their warehouse to the customer and it makes their
24 lead time pretty much the same as our lead time, so the lead
25 times have been eliminated.

1 -- for them stocking material in the United
2 States.

3 VICE CHAIRMAN JOHANSON: And from the
4 photographs that you all provided to us today, which we saw
5 up on the screen, I assume that this product has a -- you
6 can warehouse it for very long periods of time?

7 MR. GOODMAN: Relatively long periods of time.
8 But you know, the other thing that happened in the past is
9 that Harris Products Group imported material from Korea,
10 which has a long lead time, but by buying a portion of their
11 production from the domestic industry, we were there to get
12 them off the hook if there were ever any lead time issues
13 from the foreign producer.

14 There was a time where there was a port strike
15 in the West Coast, and a lot of this material comes into
16 that port. And during that period of time, they had
17 shipments delayed, that we supplied our material to get them
18 off the hook while they were waiting for the Korean material
19 to come in.

20 VICE CHAIRMAN JOHANSON: All right. Yeah, I
21 remember that port strike well. And that went on a long
22 time, from what I recall. Do domestic producers have a
23 significant advantage over subject imports when it comes to
24 lead times, as respondents have argued in their brief?
25 You've already addressed this somewhat, but I wanted to

1 follow a bit more on it.

2 MR. GOODMAN: I would say that we have an
3 advantage if the customers were buying material directly
4 from Korea and waiting the six weeks that it takes, from the
5 time they place an order until arrives in the United States,
6 that we have a stocking distributor of Korean material in
7 the United States, so in effect, the Korean material is
8 stocked here. It might not be financed by Bongsan. It's
9 probably financed by Totall Metal Recycling, but it's here.

10 MR. PICKARD: And if I could add, just very
11 quickly, Commissioner. You know, ten or fifteen years ago,
12 an argument that there's an advantage in delivery times made
13 very frequently at the Commission, I find it almost doesn't
14 pass the red-face test to say that, at this stage of the
15 game, Korean suppliers have not learned kind of global
16 supply logistics, and then this is even further magnified,
17 as Mr. Goodman has testified, in the fact that now, not only
18 are purchasers buying from Korea, but now it's being
19 purchased for distribution.

20 VICE CHAIRMAN JOHANSON: Thanks, Mr. Pickard.
21 Petitioner has supplied its own estimate of Bonsang's
22 capacity. Why should we find this more reliable than the
23 data that Bongsan itself submitted?

24 MR. PICKARD: Why don't I start with that one?
25 So, at the end of the day, the extent of the excess

1 capacity--and I think it's outcome-determinate for the
2 Commission--clearly there's some excess capacity, clearly
3 there's divertible capacity.

4 I think their reported capacity is impeached by
5 two primary sources. One is actual eye-witness accounts,
6 but the other is publicly reported information on the web.
7 And that is neutral, it's publicly available information and
8 it contradicts what they've said.

9 That being said, again, I don't believe that
10 Commission needs to reach -- has to throw out all of their
11 capacity information to reach either affirmative current
12 material injury or of threat. But the reported numbers
13 don't comport with what was witnessed and what's reported
14 separately on two different web pages.

15 VICE CHAIRMAN JOHANSON: Thank you, Mr. Pickard.
16 My time's about to expire, and I think that ends my
17 questions, so I would like to thank all of you for appearing
18 here today.

19 CHAIRMAN SCHMIDTLEIN: All right. Commissioner
20 Williamson.

21 COMMISSIONER WILLIAMSON: Okay, thank you. Just
22 a couple of questions. And this one, you'll probably have
23 to do post-hearing. On Page 13 of the respondents' brief,
24 their Table 4, they compare the changes in the AUVs and
25 prices to changes in the COMEX copper price, both in

1 percentage and absolute terms.

2 Now, I recognize that some of the data will need
3 to be adjusted in light of the latest APO release. But I
4 wonder if you could comment on that difference of what the
5 Table shows in relationship to the argument about roller raw
6 material prices and --

7 MR. PICKARD: Sure, and if I understand your
8 question correctly, Commissioner, I believe this goes back
9 to what Chairman Schmidtlein and I were discussing, that --
10 and we're certainly going to be addressing this in our
11 post-hearing brief.

12 One, I think their analysis is overly simplistic
13 if we're really just kind of talking about an AUV to an
14 annualized COMEX price. So I think there's some masking of
15 the importance of the data there.

16 Two, I think that analysis is undermined by two
17 major parts of the Commission's staff report. Again, having
18 to do with COGS' as a percentage of net sales and similarly
19 again, on Page 6-3, Table 6-1, where the Commission's own
20 collected data, taking a look really at AUVs versus raw
21 material cost.

22 But more than that, and again what I would
23 emphasize is consistent with what Mr. Goodman has testified,
24 is where you really start to see the price effects magnified
25 are in the third quarter of 2015, when Totall Metal starts

1 bringing shot and waffle for sales for distribution and how
2 that crashes prices.

3 And I think, even if you apply in their
4 methodology to the interim period, to reflect what happened
5 in 2016 before Totall Metal starts significantly buying and
6 what happens to that spread in 2016, after Totall Metal's
7 price effects are felt on U.S. prices, that's where that
8 supports everything that we've said here today.

9 COMMISSIONER WILLIAMSON: Okay, good. I
10 appreciate your analysis of that.

11 MR. PICKARD: And I think what'll also be
12 helpful to kind of shed light on that analysis is kind of
13 consistent with some of the other requests that we've got
14 from Commissioners is, we can also break that down on a
15 customer-specific basis, so regardless of movements of
16 copper, we can demonstrate to the Commission how on a
17 customer basis, you see the adder decrease as imports
18 increase. And that'll be in our post-hearing brief.

19 COMMISSIONER WILLIAMSON: Okay, thank you.
20 Talking about the adder, Mr. Goodman, I think you mentioned
21 at one point that you've wanted to do a price increase in
22 the adder, and you weren't successful in doing that, and I
23 was wondering, is there--and we also talked about this 85
24 cents--

25 So if the price of copper falls, it's only 85

1 cents and therefore, I think you said there was a need to
2 increase the adder to offset that. And I was wondering is
3 there any other changes that would put pressure on you to
4 increase the adder? Other cost changes or things like that,
5 that we haven't addressed now?

6 MR. GOODMAN: In general, we've been pretty good
7 at managing overall costs, the cost of production, labor and
8 overhead. And the biggest issue for us has just been
9 recovering changes in the actual metal cost.

10 COMMISSIONER WILLIAMSON: Thank you. This is
11 kind of a broad question, but I think all three of these
12 companies are family-owned companies?

13 MR. GOODMAN: That's correct, yes.

14 COMMISSIONER WILLIAMSON: In this day and age,
15 that's rather unique. And is there something about this
16 particular business -- are your primary customers and many
17 of them primarily family-owned businesses, too?

18 MR. GOODMAN: So in certain industries, yes.
19 And in other industries, no. So one of the things about
20 these businesses that is unique, that lends themselves to
21 being a family business, is that they, number one, require
22 someone running the business to really be hands-on, that you
23 can't manage these businesses hands-off because they're so
24 -- you have metal prices changing in addition to the fact
25 that you have the manufacturing process that needs to be

1 overseen.

2 But also they historically have relatively low
3 profit margins, and when I first started in the industry,
4 there were several public companies that had the visions,
5 that manufactured phosphor copper and they eventually closed
6 down and went out of business simply because the nature of
7 the business was such that the profit margins didn't support
8 the corporate overhead that these larger corporations had.
9 So it just lends itself to a lower overhead management and I
10 think that is what you get from family businesses.

11 COMMISSIONER WILLIAMSON: Okay. Thank you. I
12 was always wondering what makes some companies successful
13 and others not. And with that, I have no further questions.
14 Thank you.

15 CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent.

16 COMMISSIONER BROADBENT: I have no further
17 questions. I just want to thank the witnesses for coming
18 and good luck with the plant in the future. To the daughter
19 that's about to take things over, right?

20 CHAIRMAN SCHMIDTLEIN: All right. I actually
21 have a couple more questions. Mr. Goodman, following up on
22 the conversation you were having with Vice Chairman
23 Johanson, and you referenced warehousing this product, and
24 Mr. Pickard, I think you also mentioned the fact that now
25 there's a distributor who's bringing it in, so were you

1 surprised to hear Mr. Schwartz in his opening statement say
2 that this is not an inventoried product because of the
3 volatility in copper prices?

4 MR. GOODMAN: I was surprised because I guess in
5 our business, we deal with the volatility in copper prices.
6 If you can't deal with that, you can't be in this business
7 because, just by nature, the copper market is volatile. So
8 there are methods of dealing with the volatility, they're
9 called metal hedging and every company, most companies in
10 the copper business manage price volatility.

11 CHAIRMAN SCHMIDTLEIN: So have you always
12 warehoused some portion of product?

13 MR. GOODMAN: Always. We have to own copper and
14 own inventory in order to -- I mean this is --

15 CHAIRMAN SCHMIDTLEIN: But the inventory of the
16 phosphorus copper?

17 MR. GOODMAN: Correct. So customers don't give
18 us enough lead time that they expect us to ship within a few
19 days from inventory -- or to make it within a few days and
20 ship -- and you don't always time when you buy the copper
21 for your production to when you sell it to the customer.

22 So you need a risk management program that does
23 that. We position the company so that we remain
24 price-neutral to copper. We match the selling price and the
25 buying price. And I'm sure that Totall Metal Recycling,

1 they know how to do this also.

2 CHAIRMAN SCHMIDTLEIN: Okay. My last question
3 is really for you, Mr. Pickard. With we've been focusing on
4 the questions of price depression and price suppression and
5 how that fits in with this concept of the premium and so
6 forth. Just sort of as a legal matter, do you think we
7 could get to an affirmative here just based on underselling
8 and loss of market share?

9 MR. PICKARD: Yeah, sure. So there have been
10 several determinations by the Commission and some pretty
11 recently that have talked about loss of market share as a
12 price effect. So, if it would be helpful at all, maybe we
13 could flesh that out a little bit in our post-hearing brief,
14 but yeah, I would say absolutely.

15 CHAIRMAN SCHMIDTLEIN: Well, I know the pricing
16 information was just recently updated, I think yesterday, I
17 guess is when it was --

18 MR. PICKARD: It was released to the parties
19 yesterday.

20 CHAIRMAN SCHMIDTLEIN: Released to the parties
21 yesterday. Okay. So if you want to address that in the
22 post-hearing, given that that new information just came out
23 yesterday, I would appreciate that.

24 MR. PICKARD: Yeah, sure. But just to put a
25 fine point on it, as far as a legal matter, has the

1 Commission on numerous occasions found an increase in volume
2 and then underselling at a loss of market share to amount to
3 price effects? Yes.

4 CHAIRMAN SCHMIDTLEIN: Okay. All right. I
5 don't have any further questions. Do you? All right.
6 Well, that brings us to our lunch hour. So we will recess
7 until 12:45. Let me remind you to take your -- oh, I'm so
8 sorry. I should've asked. Does the staff have any
9 questions for this panel?

10 MS. STIGER: Porscha Stiger, Office of
11 Investigations. Madam Chairman, we don't have any questions
12 at this time.

13 CHAIRMAN SCHMIDTLEIN: Okay. I apologize. All
14 right. Let me remind you that the hearing room is not -- Oh
15 my gosh, respondents. Do you have any questions for this
16 panel?

17 MR. SCHWARTZ: We do not.

18 CHAIRMAN SCHMIDTLEIN: Okay. All right. My
19 apologies. Anybody else? All right. Good. We will recess
20 for an hour, but let me remind you the hearing room is not
21 secure. So please take all of your papers with you.

22 (Whereupon a lunch recess was taken to reconvene
23 in one hour this same day.)

24

25

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

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

4 CHAIRMAN SCHMIDTLEIN: All right. Mr.
5 Secretary, are there any preliminary matters?

6 MR. BISHOP: Madam Chairman, I would note that
7 the panel in opposition to the anti-dumping duty order have
8 been seated.

9 CHAIRMAN SCHMIDTLEIN: And the witness has
10 been sworn, I assume?

11 MR. BISHOP: Yes, Madam Chairman.

12 CHAIRMAN SCHMIDTLEIN: Okay, all right. Mr.
13 Schwartz, you may begin when you're ready?

14 (Off mic comment.)

15 CHAIRMAN SCHMIDTLEIN: They're coming. They
16 haven't abandoned us. They're just running a few minutes
17 late.

18 STATEMENT OF DAVID SCHWARTZ

19 MR. SCHWARTZ: Commissioners, good afternoon.

20 I now have comments from M.J. Kim, Bongsan's managing
21 director, in the slide show that Mr. Goodman provided you
22 all this morning, in the photo that he took at Bongsan's
23 facility. Mr. Kim appears at the far right.

24 He's not present today, because his ability to
25 speak English is limited. He can, however, read, write and

1 understand English quite well, and he reviewed the public
2 versions of the submitted briefs and the public version of
3 the staff report. Here are his responses to the public
4 information on the record.

5 Mr. Kim's first point concerns the issue of
6 whether different qualities of phosphor copper are
7 substitutable with one other. He said that lower quality
8 phosphor copper is substitutable for use in the copper tube
9 industry, the aluminum industry as a deoxidizer at melting.
10 Mr. Kim said, however, that the phosphor copper used in the
11 brazing rod industry is of a higher quality, and is less
12 substitutable with lower quality phosphor copper. I note
13 that this is in contradiction to the Petitioner's direct
14 testimony earlier.

15 Mr. Kim's second point concerns why U.S.
16 purchasers buy subject imports. Mr. Kim noted that in the
17 prehearing staff report, quality is the most important
18 factor for purchasing Korean phosphor copper. Price is not.
19 This is because the brazing rod industry, which are the U.S.
20 purchasers of Bongsan's phosphor copper, requires a very
21 high grade of phosphor copper.

22 The brazing rod industry is less able to use
23 lower quality phosphor copper or phosphor copper of
24 inconsistent quality. Bongsan provides a product of
25 consistently high quality. Mr. Kim also wants to make sure

1 the ITC understands that the full name of phosphor copper is
2 phosphor copper master alloy or phosphor copper mother
3 alloy. The implied meaning of master or mother alloy is
4 that quality is very important, because the quality of the
5 master alloy affects the finished products quality.

6 For this reason, the quality of the phosphor
7 copper master alloy is more important than its price. Mr.
8 Kim's third point concerns Bongsan's pricing. Mr. Kim said
9 that Bongsan's price in the United States is at the same
10 general level as its prices in other markets outside of the
11 United States. That's because Bongsan relies on the LME
12 Copper Market Pricing Index for all of its sales worldwide,
13 and its premiums or adders are comparable worldwide.

14 Mr. Kim's fourth point concerns MPC's claim
15 about the production processes of the two companies. Mr.
16 Kim disagrees vigorously with MPC's characterization of
17 Bongsan's operations. Bongsan and MPC do not have the same
18 production processes, only similar ones. The differences
19 between those processes allow Bongsan to make a superior
20 product. That concludes Mr. Kim's testimony.

21 Now Mr. Tom Cavanaugh of the Harris Products
22 Group will testify, followed by the Respondents' consultants
23 from ECS, Jennifer Lutz and Curtis Eward, who will discuss
24 the nominal value effects, the nominal price effects and the
25 nominal impact on the industry of the subject imports, and

1 also why subject imports do not threaten the domestic
2 industry with material injury.

3 STATEMENT OF THOMAS CAVANAUGH

4 MR. CAVANAUGH: Madam Chairman and
5 Commissioners, good afternoon. I am Tom Cavanaugh, the
6 global supply chain director for the Harris Products Group,
7 which is a subsidiary of the Lincoln Electric Company. I'm
8 appearing here today on behalf of Harris to oppose MPC's
9 request that the U.S. government impose anti-dumping duties
10 on imports of Korean phosphor copper.

11 Before I explain our opposition, I think it
12 would be helpful if I provide you some context about our
13 company and about our product that is seriously affected by
14 this case. Both the Harris Products Group and Lincoln
15 Electric are U.S. manufacturers with a long and illustrious
16 history. The Harris Products Group started in 1905 in Ohio
17 as Harris Calorific, which produced and marketed the world's
18 first flame-cutting torch.

19 It branched out later to produce gas pressure
20 regulators, anesthesia equipment and other medical gas
21 applications. In 1914, J.W. Harris was launched in Ohio,
22 and specialized in the distribution and repair of parts for
23 automotive and foreign vehicles. It later expanded into
24 welding alloys and accessories.

25 Recognizing the complimentary product

1 offerings of Harris Calorific and J.W. Harris, Lincoln
2 Electric acquired both companies. In 1990, Lincoln
3 Electronic purchased Harris Calorific, and in 2005 Lincoln
4 purchased J.W. Harris to form the Harris Products Group.
5 The Harris Products Group is recognized as a world leader in
6 metal working products, used in the brazing, soldering,
7 welding, cutting and gas distribution industries.

8 Our parent company, Lincoln Electric, started
9 in 1895 in Ohio as a producer of electric motors. Since
10 then, it has become a market leader of the highest quality
11 welding, cutting and joining products. It should be obvious
12 to everyone that we are quite proud of a long history as a
13 manufacturer of American products that are used here and all
14 over the world. In fact, over half of the brazing alloy we
15 produced is sold outside the United States.

16 I appear today because the Harris Product
17 Group is one of the largest producers of brazing alloys in
18 the United States. Phosphor copper is an important input
19 for brazing alloys. Brazing is a method of joining pieces
20 of metal. A brazing alloy must have a melting temperature
21 below the melting temperature of the metal pieces being
22 joined, and must easily flow to fill the gap between the
23 metal pieces known as wetting.

24 The phosphorous and the brazing alloy both
25 lowers the melting temperature and improves the wettability

1 of the alloy. We purchase phosphor copper with the highest
2 possible concentration of phosphorous, 15 percent, to
3 produce the best possible brazing alloy. Fifteen percent by
4 weight is the highest possible concentration of phosphorous
5 and phosphor copper because that is the maximum solubility
6 of phosphor and copper.

7 We only buy phosphor copper shot, which
8 consists of small pellets because it works best with our
9 production processes. Our production equipment has an
10 automated loading system that uses shot, and it is not
11 practical for us to use waffle. We don't anticipate a time
12 when we would ever purchase waffle.

13 For our brazing rod products, phosphor copper
14 constitutes a significant portion of the finished product
15 and represents a significant percentage of the cost of the
16 product. That's why this case matters so much to us.
17 Without a variety of reliable sources for phosphor copper,
18 we cannot produce our brazing rod products.

19 Harris has been a loyal customer of the
20 domestic phosphor copper industry for decades. We continue
21 to be a loyal customer because the domestic industry's lead
22 times for delivery of recently produced phosphor copper will
23 always be better than the lead time for imports.

24 Well before the period of this investigation
25 however, dating all the way back to the 1980's, we have been

1 interested in diversifying our phosphor copper sources and
2 have purchased imports. Since the 1980's, we have also been
3 concerned about certain issues involving the entire domestic
4 industry, which consists of only three companies. Since
5 I've been personally involved in purchasing phosphor copper
6 for Harris starting in 2011, I have been able to confirm
7 first hand these issues involving the domestic industry and
8 have decided, as we have done historically, to consider
9 other supply options.

10 Based on my industry knowledge and research, I
11 found and sought out Bongsan, which as you know now is the
12 only phosphor copper producer in Korea. Bongsan offered a
13 comparable product, so we decided to take a chance on
14 Bongsan. We discovered quickly that Bongsan's product is of
15 better quality overall than the domestic industry's
16 products. The phosphorous level of the domestic industry's
17 product has varied significantly over time, and there have
18 been quality control issues with the domestic industry's
19 product.

20 We must have the maximum percentage possible
21 of phosphorous in our brazing rods for optimal performance.
22 We must be assured that the product will not be impaired in
23 any way. Improper production of phosphor copper can not
24 only result in an inferior product, but also can cause
25 significant safety issues. Unlike the domestic industry's

1 product, Bongsan's phosphor copper has been of consistently
2 high quality.

3 Here's a list of quality and safety issues for
4 the domestic industry that we have experienced. On the
5 quality side, we've had phosphor copper contaminated with
6 iron. We've also had insufficient phosphorous content in
7 the phosphor copper. In terms of safety, we've had
8 unsaturated phosphorous mixed with phosphor copper, which
9 created flare-ups when the drums were opened up by our
10 operators, and the phosphorous was exposed to the oxygen in
11 the air.

12 And as they point out earlier, we've had wet
13 phosphor copper. If uncaught, this would have caused some
14 significant or it would have been catastrophic to our plant.
15 The downside of purchasing from Bongsan is the long wait
16 times. We purchase phosphor copper on a spot basis. When
17 we place orders with our domestic suppliers, we can expect
18 delivery within a week.

19 For material from Bongsan, it takes about 45
20 days. Despite our concerns with the inconsistent quality of
21 the domestic industry's product, we remain customers of the
22 domestic industry. One, because of the long lead times
23 associated with the imports, two, because of the importance
24 of local sourcing and providing us flexibility with customer
25 demand, and three because of our loyalty to companies that,

1 like ours, have been manufacturing for a long time in the
2 United States.

3 For these reasons, we decided in 2011 to split
4 our purchases annually between domestic producers and
5 foreign producers. We have been very conscientious about
6 that. Prices for both domestic and import sources of
7 phosphor copper are linked directly to copper reference
8 prices, and phosphor copper prices track those benchmarks.
9 Because of this, Harris' phosphor copper purchase prices
10 have closely tracked COMEX and LME copper market prices,
11 declining as the copper price has declined.

12 The decline in the price of our purchases from
13 the U.S. producers is due to the decline in copper price and
14 is not due to subject imports. Harris will always keep
15 inventories of phosphor copper at a minimum from any
16 company, domestic or foreign, because we must manage our
17 working capital. Copper prices like prices for any
18 commodity can rapidly change.

19 This Period of Investigation is a perfect
20 example of that, how rapidly copper prices can change. If
21 we had bought copper phosphor to hold in inventory during
22 the Period of Investigation, we have been holding phosphor
23 copper at the end of the period with a value significantly
24 below our purchase cost, because of copper prices and as a
25 result, phosphor copper prices declined throughout the

1 period.

2 Again, we support the domestic industry and
3 will continue to buy from them. We, however, have had
4 concerns about the quality of the domestic industry's
5 product. By introducing imports into our purchase mix, we
6 have been able to address our concerns. I'm happy to answer
7 any questions you may have. Thank you.

8 STATEMENT OF JENNIFER LUTZ

9 MS. LUTZ: Good afternoon. I am Jennifer
10 Lutz, senior economist at Economic Consulting Services. You
11 already heard this morning some discussion of the conditions
12 of competition, but there are several conditions of
13 competition that the Commission should keep in mind while
14 evaluating the record of this investigation.

15 First, phosphor copper primarily contains
16 copper, usually 85 percent, and phosphorous, usually 15
17 percent, while also containing traces of other metals.
18 Copper prices are set by COMEX in the United States and the
19 LME in the rest of the world. Prices for phosphor copper
20 are generally formula-based, and made up of the referenced
21 COMEX or LME copper price plus a premium.

22 Copper prices have declined steadily over the
23 POI, and so too have phosphor copper prices. The U.S.
24 market is served by relatively few suppliers. There is a
25 single respondent country in this investigation, Korea, with

1 a single producer of phosphor copper, Bongsan. There are
2 three U.S. producers and almost no non-subject import
3 supply.

4 The prehearing report identifies three primary
5 uses for phosphor copper, as a deoxidizer, as an alloying
6 additive largely in the production of copper tube, and in
7 brazing alloys. While phosphor copper is a relatively small
8 portion of the cost of the first two end uses, you have
9 heard from Mr. Cavanaugh about the importance of phosphor
10 copper in the production of brazing rod.

11 Bongsan believes that a substantial portion of
12 its shipments to the United States are for this end use.
13 While MPC claims that Bongsan and MPC use the same
14 production process, Bongsan believes that there are some
15 significant differences in its production process that allow
16 Bongsan to produce a superior product, and that these
17 differences are particularly important to producers of
18 brazing rod. Purchasers identified quality most frequently
19 as the most important factor in their purchasing decisions.

20 Sales of phosphor copper in the U.S. market
21 are made largely on a spot basis. For purchases of phosphor
22 copper from Bongsan, the lead time is as long as 45 days,
23 giving the U.S. producers a significant advantage over the
24 subject imports for this factor. The lead time for a U.S.
25 producer is within a week.

1 Purchasers have provided
2 information to the Commission in this investigation with
3 respect to the importance of availability and lead time.
4 For certain purchasers like Harris, the advantage of higher
5 quality product, which makes the product more desirable, is
6 counterbalanced by the more significant lead times, which
7 make the product less desirable.

8 Most of the information regarding the domestic
9 industry in this investigation is confidential, and
10 therefore difficult to discuss in an open hearing. I'll
11 discuss our views on the topic of injury in general terms,
12 but they are discussed more fully in our prehearing brief.

13 Petitioner provides an overly simplistic view
14 of the phosphor copper market during the POI. Subject
15 imports increased, prices fell and the condition of the
16 domestic industry worsened. This assessment, however,
17 ignores differing trends between 2013 to 2014, and 2014 to
18 2015, as well as the market dynamics driving this industry.

19 Subject imports did increase in volume over
20 the POI. They accounted for almost all imports over the
21 POI, as there are almost no non-subject imports in the U.S.
22 market. Subject imports as a percent of U.S. production
23 likewise increased over the period, but this increase is not
24 significant as described on page seven of our prehearing
25 brief.

1 Subject imports also gained market share
2 during the period. Any increase in volume, however, when
3 considered within the context of the evidence on price
4 effects and impact of the subject imports, is not
5 significant. The record does not show evidence of adverse
6 price effects from the subject imports. Phosphor copper
7 prices follow copper prices, as prices are set using
8 published COMEX and LME prices, and an added premium.
9 Declines in phosphor copper prices during the period are
10 consistent with declines in the published prices.

11 Prices declined because of declines in copper
12 prices, not because of subject imports. We included several
13 tables showing trends in domestic industry prices and copper
14 prices at pages 13 and 14 of our brief. The lack of effect
15 of subject import prices on domestic producer prices is
16 particularly evident in the comparison of the pricing trends
17 of the two pricing products.

18 While subject imports of phosphor copper shot
19 were present in the market throughout the POI, imports of
20 waffle were not. And yet the prices follow the same general
21 trends despite the fact that 10 of the 13 responding
22 purchasers reported that shot prices and waffle prices never
23 affect each other.

24 While the record on underselling seems to
25 change pretty dramatically based on whatever revisions have

1 been received most recently, it is clear that U.S. producer
2 and subject import prices are similar and tied closely to
3 copper prices. There is no evidence of price suppression by
4 the subject imports. While the COGs to net sales ratio did
5 increase, which is often considered a sign of a cost-price
6 squeeze, this is an effect of the way prices are set.

7 Falling copper prices caused both falling
8 sales values and falling raw material costs. In fact, MPC's
9 brief at page 18 describes this dynamic and concludes that,
10 as copper prices fall, phosphor copper producers must
11 increase their premiums to maintain the same margin. While
12 this is mathematically correct, I suspect most purchasers do
13 not view falling raw material prices as a valid reason for
14 producers to increase prices, whether subject imports are
15 present in the market or not.

16 The Commission considered this issue in the
17 prelim, and I encourage you to look at your determination.
18 It is notable, however, that this is the only place in MPC's
19 brief where it acknowledges that copper prices fell during
20 the POI, which is the key factor in price changes during the
21 POI. Now during testimony, counsel for MPC certainly cited
22 the ratio of COGS to net sales, but also identified the
23 ratio of raw material costs to net sales as probative to
24 this question, and we agree. We think the trends show a
25 different, tell a different story.

1 Subject imports have not adversely impacted
2 the domestic industry. While the profitability of the
3 domestic industry declined over the period, it was not
4 caused by the subject imports but by other unrelated
5 factors. Most of that evidence, however, is proprietary and
6 cannot be discussed here. However, domestic industry
7 exports, for example, declined over the period. While MPC
8 may attribute that decline to competition with Bongsan in
9 other markets, it is clear that subject imports into the
10 United States did not cause that decline.

11 As I already noted, the industry is not facing
12 a cost-price squeeze due to the subject imports. Prices
13 were comparable and the low preliminary dumping margin
14 calculated by Commerce confirms the minimal impact the
15 subject imports had on the domestic industry. This provides
16 clear evidence that the subject imports did not gain market
17 share through aggressive pricing designed to take sales from
18 the domestic industry.

19 Rather, it sold at prices consistent with its
20 export prices in third country markets, which were very
21 similar to domestic producer prices in this market.
22 Finally, subject imports do not threaten the domestic
23 industry. First, contrary to Petitioners' testimony,
24 Bongsan does not have significant excess capacity. Instead,
25 it operated at high levels of capacity utilization

1 throughout the period.

2 While Petitioner included several pages in its
3 brief devoted to a discussion of Bongsan's production
4 capacity, Bongsan followed the questionnaire instructions
5 which asked for the level of production that your
6 establishment could reasonably have expected to attain
7 during the specified periods for all products manufactured
8 in that establishment using the same manufacturing
9 equipment.

10 Assume normal operating conditions, i.e.,
11 using equipment and machinery in place and ready to operate,
12 normal operating levels, hours per week and weeks per year,
13 and time for downtime, maintenance, repair and cleanup in a
14 typical or representative product mix. That is what Bongsan
15 did.

16 Second, given the record evidence that subject
17 import prices did not depress or suppress domestic prices
18 during the POI, it is not likely that subject imports would
19 cause adverse price effects in the imminent future. Third,
20 inventories of phosphor copper do not threaten the domestic
21 industry. Given the importance of the price of copper to
22 both raw material costs and sales prices for phosphor
23 copper, and the immediate effects on phosphor copper prices
24 caused by changes to the reference price, there are strong
25 economic disincentives to holding inventories.

1 Bongsan does not hold significant inventories
2 in Korea, and it holds no inventories in the United States.
3 Subject import inventories in the United States at the end
4 of the POI were low, and there is no reason to believe that
5 they have increased.

6 Fourth, there is no potential for
7 product-shifting. Although Bongsan does produce other
8 products on the same equipment and machinery used to produce
9 phosphor copper, phosphor copper accounts for almost all of
10 its production, and any potential product shifting would be
11 insignificant. That concludes my testimony, and I would be
12 happy to answer questions.

13 MR. SCHWARTZ: And that concludes our direct
14 testimony.

15 CHAIRMAN SCHMIDTLEIN: All right. Well thank you
16 very much. I would like to thank all the witnesses for
17 being here today. And this afternoon we will start with
18 Vice Chairman Johanson.

19 VICE CHAIRMAN JOHANSON: Thank you, Chairman
20 Schmidtlein. And I would like to thank all of you for
21 appearing here today.

22 The newly revised pricing data changes the story
23 on underselling, in particular the Respondent should now
24 find it more difficult to argue as it did in the prehearing
25 brief that subject imports did not undersell the domestic

1 industry.

2 What is your position on underselling based on
3 the revised data? And do you take issue with the
4 reliability of the data?

5 MS. LUTZ: This is Jennifer Lutz with ECS. We
6 have gone through several revisions of the pricing data
7 during this final investigation, and the --- as is a bit
8 unusual in these investigations, the changes have not led to
9 marginal changes in the pricing and underselling data. They
10 have changed the pattern entirely, which makes me a little
11 suspicious of the data.

12 While we did mention the overselling record in
13 our brief, the vast majority of our price effects section
14 did not address that. It was more tied to the fact that the
15 declines in prices in the U.S. market tracked decline in
16 copper prices, which you would expect given how prices are
17 set in the market, and that there really is not much
18 evidence that the subject import prices had any effect on
19 this trend.

20 VICE CHAIRMAN JOHANSON: Thanks.

21 MS. LUTZ: I think that covered all of it.

22 VICE CHAIRMAN JOHANSON: Okay, thank you, Ms.
23 Lutz. I appreciate it. And feel free to address this
24 further in a post-hearing, if you would like. I assume
25 you're probably going to do that anyway.

1 MS. LUTZ: You can be sure of that.

2 VICE CHAIRMAN JOHANSON: I'm very clairvoyant
3 today. And here, or in your post-hearing brief, could you
4 please discuss how the Commission should take into account
5 the instances of confirmed lost sales and lost revenue in
6 this record?

7 MS. LUTZ: We can certainly address this more
8 thoroughly in the post-hearing brief, but I think that
9 regardless of the instances of underselling and overselling,
10 it's pretty clear that prices are very similar. And so it
11 would not be surprising that in some instances the subject
12 imports would be less expensive, and in some the domestic
13 product would be less expensive. There are three U.S.
14 producers whose prices vary. But we can certainly discuss
15 this more in the brief.

16 VICE CHAIRMAN JOHANSON: Okay. Thank you, Ms.
17 Lutz.

18 Respondents have highlighted the importance of
19 quality in purchasing decisions, citing Table 2-6 of the
20 prehearing staff report. And this can be seen at
21 Respondent's brief at page 8.

22 However, isn't it also true that purchasers
23 unanimously reported that domestic and Korean product are
24 comparable in terms of quality, exceeding industry standards
25 in quality meeting industry standards, as seen at Staff

1 Report Table 2-9. How does quality impact substitutability
2 if purchasers are indicating that the quality is comparable
3 from the two sources?

4 MR. SCHWARTZ: This is David Schwartz. I'd like
5 to start the discussion in response to that question. We
6 have Harris here, and Harris has made it clear that they
7 purchase the phosphor copper for their brazing alloy.

8 The responses that you have there cover all uses
9 of phosphor copper for all end products. But it's of more
10 particular concern in the brazing alloy industry, and I'll
11 let Mr. Cavanaugh expand on that.

12 MR. CAVANAUGH: Tom Cavanaugh. In terms of
13 brazing alloy, the reason for phosphor copper isn't the
14 copper; it's for the phosphorus. And the maximum that you
15 can get from--you want to maximize your phosphorous for
16 brazing alloys for the reasons that I had explained earlier.

17 So it's important that we achieve that 15, the
18 maximum of 15 percent of phosphorous in the phos copper.

19 MS. LUTZ: Vice Chairman, I think that one of the
20 things that we discussed is that certainly Harris does use
21 both domestic product and subject imports, and it aims to
22 divide these purchases roughly evenly.

23 Some of the differences in the domestic product
24 they can use in their production, but it may cause their
25 production time to increase or cause other delays. And

1 maybe you can explain that a little more.

2 MR. CAVANAUGH: Tom Cavanaugh. Certainly. So
3 like I said, we need to hit the maximum 15 percent. So we
4 end up testing our product as we make the heats. And what
5 happens is we will finish the heat and we'll have to go
6 back. We take a chemistry. We'll then have to--basically,
7 if we don't hit the 15 percent we have to add more phos
8 copper to the heat. So essentially what we're doing is
9 we're adding on to production costs in order to achieve that
10 maximum phosphorous level.

11 VICE CHAIRMAN JOHANSON: Would you all agree with
12 the staff's assessment that domestic phosphor copper and
13 Korean product have a moderate to high degree of
14 substitutability? Are the differences just at the edges?
15 Or are the products indeed substitutable to a moderate to
16 high level?

17 MR. CAVANAUGH: From a quality standpoint, if you
18 look at the material you can tell a difference between the
19 domestic industry product and the Korean product. We've
20 had, as I said, you can use both, except the problem is if
21 you have inconsistent phosphorous, for example, it causes
22 operational delays.

23 And we have not seen any issues from the Korean--
24 from Bongsan regarding hitting the phosphorous level. Okay?
25 So they are--I'm going to say we use both of them today, and

1 we will continue to use both of them.

2 However, we have to take extra precaution when we
3 are using domestic industry. Also, as I pointed out
4 earlier, we've had some safety issues in the past which
5 obviously we have to be more careful when addressing that
6 material.

7 MR. SCHWARTZ: This is David Schwartz. We intend
8 to address this issue further in the post-hearing brief.
9 We'll be introducing evidence on the record.

10 VICE CHAIRMAN JOHANSON: Okay, thank you, Mr.
11 Schwartz.

12 And this question might lead into that, and if
13 this is proprietary let me know and you can address it in
14 the post-hearing brief, but I assume--Mr. Cavanaugh, you had
15 stated that Harris has made purchasing decisions based on
16 quality issues?

17 MR. CAVANAUGH: That is correct.

18 VICE CHAIRMAN JOHANSON: Okay. Does Harris have
19 any contemporary --- contemporaneous business records of
20 quality complaints regarding any domestic producer?

21 MR. CAVANAUGH: Yes, we do.

22 VICE CHAIRMAN JOHANSON: Okay, feel free to let us
23 see those. Thanks.

24 How do you respond to Petitioner's contention
25 that starting in 2015 the import and local warehousing of

1 Korean product have made Korean phosphor copper available to
2 U.S. purchasers at minimal lead times? You heard Mr.
3 Goodman this morning speaking on this at some length.

4 MS. LUTZ: Well I think we certainly do not
5 represent Totall, and we don't know that much about their
6 operation, but the level of inventories is pretty minimal.
7 And I suspect that they, like other parties, would prefer
8 not to hold inventories for a very long period because of
9 changes in copper prices, and then changes in the inventory
10 values.

11 But during the POI, the vast majority of the
12 imports were not made in this manner. So it's--and it was a
13 little unclear from the domestic industry's testimony this
14 morning. First they were talking about the whole period the
15 increase in imports and the injury to the domestic industry.

16 And then while being questioned, and it sounded,
17 well, but if you look at the second quarter of 2015, that's
18 where the injury is. So it's harder to evaluate, given the
19 non-specificity of their claims.

20 MR. SCHWARTZ: This is David Schwartz. As Mr.
21 Cavanaugh said in his testimony, there are good reasons why
22 you do not want to maintain inventories of phosphor copper.
23 Do you want to elaborate further on that?

24 MR. CAVANAUGH: Well certainly as a corporation
25 it's our duty to manage our working capital. So when it

1 comes to metals, we do our best to bring material in and not
2 have it sit for very long on our floor. And we will get it
3 through our processing and out through to the customer as
4 quickly as possible.

5 So it is not our practice to hold onto large
6 inventories of any type of metal.

7 MR. SCHWARTZ: This is David Schwartz. Again, we
8 can't speak on behalf of Totall, but at least it's our
9 understanding that it would not be advantageous to maintain
10 inventories.

11 VICE CHAIRMAN JOHANSON: Okay. Well this is
12 interesting because we have the Respondents and Petitioners,
13 perhaps not too surprisingly, looking at this in very
14 different terms. So I'm a little perplexed with it.

15 But that being said, my time is up. So I'll let
16 the next Commissioner start questions.

17 CHAIRMAN SCHMIDTLEIN: Commissioner Williamson.

18 COMMISSIONER WILLIAMSON: Thank you. And I want
19 to thank the witnesses for presenting their testimony today.

20 Mr. Harris, I was wondering --- I'm sorry. Yes.
21 Excuse me.

22 Mr. Cavanaugh, I want to know how you make your
23 purchasing decisions, and what factors do you look at
24 besides price. You've already talked about the quality
25 issues, but I guess are there other things that should be

1 added there?

2 MR. CAVANAUGH: Sure. Tom Cavanaugh. So in terms
3 of from a purchasing standpoint, we're looking at obviously
4 the quality portion of it. We look at lead times. We look
5 at flexibility. We look at on-time delivery. And we look
6 at supply options. And we take all that into consideration
7 when we make our decisions on where to purchase from.

8 COMMISSIONER WILLIAMSON: Okay. Thank you. Okay,
9 and you would agree that your prices for your purchases are
10 determined by the raw material prices and the fabricator
11 adder, and so how is the adder negotiated? And how often do
12 they change? You may remember I mentioned this this
13 morning, I raised this this morning, too.

14 MR. CAVANAUGH: Tom Cavanaugh. So what we
15 typically do is we will go out for our annual--we'll send a
16 request for quotes out to the, for the following year's
17 business. And that's the time when they will come back and
18 they will provide quotes based on the premium for the
19 following year.

20 COMMISSIONER WILLIAMSON: Okay. Has there been
21 any change in this pattern over the period?

22 MR. CAVANAUGH: No.

23 COMMISSIONER WILLIAMSON: Okay, because --- you
24 say you would disagree with the Petitioners arguments this
25 morning that competition has gotten more intense and it's

1 been more frequent.

2 MR. CAVANAUGH: Again, I can't speak for the rest
3 of the industry, I can only speak for myself. And I know
4 that our company has been doing the same process for the
5 last several years.

6 COMMISSIONER WILLIAMSON: Okay. How about
7 purchase prices for subject imports? Is there any
8 difference in the way that gets determined? Are they based
9 on the copper price and the fabrication adder?

10 MR. CAVANAUGH: It's based on the same principle.
11 There's a difference between, we use COMEX pricing for
12 domestic sources, and LME based on--for the Korean product.

13 COMMISSIONER WILLIAMSON: Any differences in those
14 indexes that we should be aware of?

15 MR. CAVANAUGH: I think they're fairly close, as
16 was mentioned earlier. I think they tend to trend each
17 other. They are different indices, but they tend to be
18 somewhat similar, from what I know.

19 COMMISSIONER WILLIAMSON: Okay. Post-hearing
20 could you provide more evidence on the specific fabrication
21 adders and how they've changed over time? This is a similar
22 question I raised this morning.

23 MR. CAVANAUGH: Certainly.

24 COMMISSIONER WILLIAMSON: Okay. Thank you. Are
25 any of these used as proxies for price in this

1 investigation? And have there been any significant changes
2 in product mix over the Period of Investigation that would
3 make the AUVs less useful?

4 MS. LUTZ: This is Jennifer Lutz. We're not aware
5 of any changes in product mix. It's almost all 15 percent
6 phosphor. I guess there's some 8 percent product, but it
7 doesn't seem like that's been significant. And the rest of
8 your question was?

9 COMMISSIONER WILLIAMSON: Okay, about how--

10 MS. LUTZ: The usefulness of AUVs, sorry.

11 COMMISSIONER WILLIAMSON: Yes.

12 MS. LUTZ: They certainly on their own are not
13 probative. To the extent that they follow generally the
14 same trends, they have the advantage of averaging out larger
15 volumes over the period. And because there's not much--
16 there's no product mix difference, they provide some
17 indication.

18 I know Petitioner criticized our calculations
19 subtracting copper prices from AUVs to estimate the
20 fabrication adder. Certainly we would not claim that that
21 is a perfect representation of it.

22 It is a proxy that we came up with because they
23 had not placed any information on the record with respect to
24 adders, so we tried to see what the record showed on that
25 matter.

1 COMMISSIONER WILLIAMSON: Okay, thank you. The
2 domestic industry's U.S. commercial shipments fell from 2014
3 to '15, as well as from 2013 to '15. What accounted for
4 this decline, if it wasn't subject imports?

5 MS. LUTZ: I think we'll have to address that
6 post-hearing.

7 COMMISSIONER WILLIAMSON: Okay. Good. And also
8 could you respond post-hearing, if necessary, to the
9 Petitioner's allegations that Bongsan's capacity may be
10 higher than reported?

11 MS. LUTZ: We certainly can. But I think, as I
12 said in my testimony, they reported their capacity using the
13 method laid out in the questionnaire. But we'll certainly
14 address this further in the brief.

15 COMMISSIONER WILLIAMSON: Okay. Now I realize that
16 Harris is the only one, the only significant importer that
17 is here, but I was curious. If the decision to go--to
18 diversify your supply was made in 2011, was that implemented
19 pretty quickly?

20 MR. CAVANAUGH: Tom Cavanaugh. It was over a
21 matter of several months, because obviously we validate
22 product before. So we test it. We confirm it, and before
23 we make any changes to our raw materials.

24 COMMISSIONER WILLIAMSON: No, I was saying I
25 recognize that you all aren't the only people importing, but

1 if you look at the volume of imports from Korea over the
2 Period of Investigation, and the changes during the period,
3 you know, '13-'14/'14-'15, you see changes there that
4 wouldn't be explained by having implementing this strategy
5 in 2011.

6 Now there are other things going on, so I'm
7 asking you can you help me sort out what else is going on to
8 explain the import volume changes?

9 MR. SCHWARTZ: Well as Harris explained, they
10 changed their purchasing strategy in 2011 to split purchases
11 between domestic and foreign product. And they've been
12 very, as they put it, conscientious about that.

13 I think as has been made clear during the course
14 of this discussion in this hearing, there's been another
15 importer that has since gotten involved in purchasing
16 foreign product.

17 COMMISSIONER WILLIAMSON: And what I'm trying to
18 get at, and if you have to do it post-hearing, how much do
19 we attribute to them versus this change in import strategy?
20 This change in sourcing strategy that Harris introduced?
21 And as I say, if you want to do it post-hearing you're
22 welcome to do that.

23 MR. SCHWARTZ: I think, because we still need to I
24 guess fully understand what you're asking, it's probably
25 best if we address it in a post-hearing brief.

1 COMMISSIONER WILLIAMSON: Okay. That's fine. But
2 I'm trying--you know, we have to assess what's been the
3 impact of the imports, of the subject imports on the
4 domestic industry. And you talk about the quality issues
5 and the fact that you diversify your supply. I guess apart
6 from that, we have to find out why do we have this huge
7 jump.

8 And I realize there's a new player in there, but
9 I'm trying to sort it all out. And it would be attributed
10 to what?

11 MR. SCHWARTZ: And I guess we're not in a position
12 to speak to the other player, Totall.

13 COMMISSIONER WILLIAMSON: But to the extent you
14 can help us out, that would be helpful in that respect.

15 MR. SCHWARTZ: We'll do our best post-hearing.

16 MS. LUTZ: I would just add that in our prehearing
17 brief we did provide the percentage of subject imports
18 during the 2013 to 2015 period accounted for by Harris, so
19 that you can see just how much of the subject imports are
20 due to them.

21 COMMISSIONER WILLIAMSON: Good. That's helpful.
22 Thank you. And my time is about to expire, so thank you for
23 those answers.

24 CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent?

25 COMMISSIONER BROADBENT: Thanks. I want to welcome

1 the witnesses. Thank you for being here.

2 Mr. Cavanaugh, we heard from Metallurgical
3 Products this morning who said that Harris has routinely
4 indicated that they receive--that Metallurgical Products
5 receives the highest quality marks. Is this true? And then
6 did Harris cease sending quarterly reports to Metallurgical
7 Products in 2016?

8 MR. CAVANAUGH: This is Tom Cavanaugh. And what
9 they've depicted in terms of their quality evaluations is
10 correct. Typically when I speak, I speak of the overall
11 domestic industry from a quality standpoint. The major
12 issue that we did see was back, was we talked about with the
13 wet phosphorous, and that did have an impact during that
14 quarter.

15 I don't hold that over people in terms of the
16 following quarter. So depending on how they--I just quarter
17 by quarter on how they do. So it only impacted that one
18 quarter for them.

19 In terms of the--in terms of not providing them
20 the last half of 2016, I'm not aware of that and we need to
21 find out why we had not sent these, because there's no
22 reason why we would've held that back.

23 COMMISSIONER BROADBENT: Okay, but they're
24 continuing to receive good marks as far as you--

25 MR. CAVANAUGH: I believe so, yes.

1 COMMISSIONER BROADBENT: Okay. So in terms of--I
2 guess I've got to get a grip on this, then, in terms of the
3 quality issues. These are problems with other companies?
4 Is that what you're saying?

5 MR. CAVANAUGH: With regards to the quality issues
6 I have--

7 COMMISSIONER BROADBENT: You said iron content,
8 insufficient phosphorous--

9 MR. CAVANAUGH: That is correct. It's other
10 companies.

11 COMMISSIONER BROADBENT: And then what are the
12 other safety issues you're worried about?

13 MR. CAVANAUGH: We've had issues with issues with
14 unsaturated phosphorous in the drums. So when you open up--
15 an operator will open up the drum. Once that phosphorous is
16 exposed to the air, or exposed to the oxygen in the air, it
17 will flare up, which obviously is a safety--

18 COMMISSIONER BROADBENT: That sounds dangerous,
19 yeah.

20 MR. CAVANAUGH: Right. And the other one you said
21 is the wet, the wet phosphor copper, which we discussed.

22 COMMISSIONER BROADBENT: Okay. Do you bring up
23 these quality issues with U.S. producers? And do you have
24 any sort of timely evidence of those communications, any
25 emails or anything?

1 MR. CAVANAUGH: We get better as the years go in
2 terms of as a company responding back to our suppliers on
3 quality issues. It's an ever-improving process. With
4 regards to the off-and-on percentage of phos, we have
5 discussions with the suppliers. With regards to the wet
6 phosphor, we do have a corrective action request. I know
7 that that was issued and responded to by the manufacturer.

8 Did I answer your question?

9 COMMISSIONER BROADBENT: Um, just say the last
10 sentence there?

11 MR. CAVANAUGH: We have a, with the wet phos
12 material we received, we do have a written corrective action
13 request that we issued to the supplier, and the supplier had
14 responded back with the corrective actions. That's all been
15 documented.

16 COMMISSIONER BROADBENT: Okay, so you might be
17 able to supply that for the record?

18 MR. CAVANAUGH: Yes.

19 COMMISSIONER BROADBENT: That would be great.

20 Okay

21 Ms. Lutz, you touched on this and I just wondered
22 if you'd kind of repeat your view. I mean the Petitioners
23 are saying at page 18 of their prehearing brief that the
24 fabrication adder, which is the premium above the COMEX
25 copper price, would normally increase when copper COMEX

1 copper prices decrease. And then this is their evidence of
2 price suppression. And I'm having a difficult time
3 understanding that, but--

4 MS. LUTZ: Well I think mathematically it is
5 certainly true that they would have to increase them to
6 maintain the same margins. I don't know that they have ever
7 claimed that this has happened in practice.

8 And as I said, I don't buy phosphor copper
9 personally, but if I was buying something and I was told
10 that because of the decline in raw material costs I had to
11 pay a higher price, I would probably think they were crazy.

12 The other question is, well, since the end of the
13 POI, copper prices have gone up quite a bit. I suspect that
14 they have not lowered their premiums in response to that,
15 even though they would maintain the same margin.

16 So I think that they are making a mathematical
17 argument that is true, but the increase in the cost of goods
18 sold ratio to net price is not indicative of a cost price
19 squeeze.

20 In this case, where prices and costs--raw
21 materials' costs are linked directly to copper prices,
22 looking at raw material costs as a percent of net sales
23 would be a more probative exercise to see whether there is
24 price suppression.

25 COMMISSIONER BROADBENT: Okay.

1 Mr. Cavanaugh, if subject imports tend to be of
2 higher quality, why are they underselling U.S. prices?

3 MR. CAVANAUGH: I think we can answer that in the
4 post-hearing.

5 COMMISSIONER BROADBENT: Okay.

6 (Pause.)

7 Are there certain applications where you prefer
8 to have U.S. product over Korean product, or vice versa?
9 And I'm guessing it's the lap applications, is that right?
10 Maybe you could summarize that for me?

11 MR. CAVANAUGH: I'm sorry? Can you please repeat
12 that?

13 COMMISSIONER BROADBENT: Yes, sorry. Are there
14 uses of products where you would --- uses of the product
15 that you would prefer a Korean product over a U.S. product?
16 Are there particular uses? I think you had touched on that
17 earlier in your testimony.

18 MR. CAVANAUGH: We would use the product for the
19 same customer base. However, obviously we, like I said,
20 when it comes to the levels of phosphorous and the material
21 you have, it creates an operational issue.

22 But the phos copper we do not make a
23 determination that we put certain phos copper from one
24 supplier for a certain customer, if you will.

25 COMMISSIONER BROADBENT: Okay, so but for a

1 particular end use, you don't prefer the import over the
2 domestic product?

3 MR. CAVANAUGH: It's the same use that we make to
4 the brazing alloy that we produce is the same. It's for one
5 purpose.

6 COMMISSIONER BROADBENT: Okay, so there's no
7 preference there for the import in any usage, any final use?

8 MR. CAVANAUGH: No.

9 MS. LUTZ: I'm sorry, just to clarify, Harris only
10 uses it to make brazing rod. I think I referred in my
11 testimony to the other uses, for example copper tube where
12 the phosphor copper is a very small portion of what ends up
13 in the final product. So they may not have as much concern
14 over the exact levels in their mix.

15 COMMISSIONER BROADBENT: But for that brazed,
16 which is what your testimony says, there's this one use
17 where you tend to want the import for this brazing process
18 as opposed to the domestic.

19 MR. SCHWARTZ: This is David Schwartz.

20 I think Mr. Cavanaugh has made clear that while
21 he recognizes that the foreign product was of a consistently
22 higher quality in maintaining the level of phosphors that
23 the need for the end use for the brazing alloy they have
24 other non-holiday reasons why they continue to purchase from
25 the domestic industry and that's why they've been

1 maintaining a split between the two.

2 He has identified, as you know, issues, both
3 with quality and safety with the domestic industry, but that
4 has not steered him clear of the domestic industry product.
5 It has raised concerns, but he still intends, as they have
6 over the course of the period of investigation, as they have
7 since they introduced foreign product into the market or for
8 their use rather they've been trying consciously to maintain
9 a split between the two.

10 COMMISSIONER BROADBENT: Okay, thank you very
11 much.

12 CHAIRMAN SCHMIDTLEIN: Alright, thank you.

13 So also I want to get a full grasp on the
14 decision to seek out the subject imports. And so Mr.
15 Cavanaugh, I understand your testimony, as was just
16 mentioned, that started in 2011.

17 MR. CAVANAUGH: That is correct.

18 CHAIRMAN SCHMIDTLEIN: Right. And were you
19 working at Harris before 2011?

20 MR. CAVANAUGH: No, I'd just started.

21 CHAIRMAN SCHMIDTLEIN: You had just started.
22 And so where were you working before Harris?

23 MR. CAVANAUGH: I worked for a company by the
24 name of Valio which is an automotive Tier I supplier.

25 CHAIRMAN SCHMIDTLEIN: A supplier of?

1 MR. CAVANAUGH: Air conditioning systems and --
2 just mostly air conditioning.

3 CHAIRMAN SCHMIDTLEIN: Okay. And so what did
4 you do for them?

5 MR. CAVANAUGH: I was a lead buyer from them.

6 CHAIRMAN SCHMIDTLEIN: A lead buyer for team?

7 MR. CAVANAUGH: Yes.

8 CHAIRMAN SCHMIDTLEIN: And what kinds of things
9 were you buying for them?

10 MR. CAVANAUGH: At the end, I was -- I'm trying
11 to think all of what I did buy. I was buying aluminum
12 tubing for them. I was involved as a project buyer for
13 General Motors for a project that we had with them, so I was
14 buying a variety of different items -- motors.

15 CHAIRMAN SCHMIDTLEIN: So it wasn't copper
16 related?

17 MR. CAVANAUGH: Well, I'm also involved in --
18 prior to working for Valio I was involved in the
19 steel-making, so I do have a background in terms of raw
20 materials, in general.

21 CHAIRMAN SCHMIDTLEIN: Okay. And so you came to
22 Harris in 2011 and found that they were having quality
23 problems with their phosphors copper?

24 MR. CAVANAUGH: It's been an ongoing issue, yes.

25 CHAIRMAN SCHMIDTLEIN: But in 2011 they had had

1 some quality problems with purchases they'd made from one of
2 the three domestic players.

3 MR. CAVANAUGH: They've had over the period --
4 for a long time they've had issues with regards to the level
5 of phosphors in the mix. That wasn't something new.

6 CHAIRMAN SCHMIDTLEIN: That wasn't something new
7 in 2011, but that wasn't a problem that you had with
8 Petitioner.

9 MR. CAVANAUGH: To the best of my knowledge,
10 you're correct.

11 CHAIRMAN SCHMIDTLEIN: Correct. So it was the
12 other two companies that were a problem.

13 MR. CAVANAUGH: Yes.

14 CHAIRMAN SCHMIDTLEIN: And so how did you become
15 to be aware of Bongsan in Korea?

16 MR. CAVANAUGH: Through research.

17 CHAIRMAN SCHMIDTLEIN: You just discovered them
18 through the Internet.

19 MR. CAVANAUGH: Did a lot of Internet searching
20 and that's mostly how we came about finding them, yes.

21 CHAIRMAN SCHMIDTLEIN: I see. And so it was
22 inconsistent phosphors content back in 2011 that lead Harris
23 to seek out subject imports?

24 MR. CAVANAUGH: Well, like I said, we've always
25 -- back in the 1980s, we had purchased from overseas. We've

1 always looked for imports to broaden our supply, so that's
2 nothing that was new to our company.

3 CHAIRMAN SCHMIDTLEIN: If you hadn't had any
4 quality problems with the Petitioner at that time, why not
5 give them more business? Why take business away from them
6 in 2012 with subject imports since you hadn't had a quality
7 problem with them at that time?

8 MR. CAVANAUGH: As a company, when I purchase
9 any kind of material, I don't like to put, if you would, all
10 of my eggs in one basket. I like to diversity where I get
11 my product from.

12 CHAIRMAN SCHMIDTLEIN: But wouldn't you be
13 diversifying if you were buying from different domestic
14 suppliers? Why does it have to be offshore?

15 MS. LUTZ: Madam Chairman, this is something
16 that we have discussed and there are some --

17 CHAIRMAN SCHMIDTLEIN: You know I'd like to hear
18 from him directly --

19 MS. LUTZ: There are some proprietary issues
20 that we would like to address in the post-hearing brief.

21 CHAIRMAN SCHMIDTLEIN: Having to do with?

22 MS. LUTZ: Having to do with some issues with
23 the domestic industry that were not necessarily quality.

24 CHAIRMAN SCHMIDTLEIN: That have not been
25 addressed in your brief already?

1 MS. LUTZ: I do not believe they have.

2 MR. SCHWARTZ: David Schwartz.

3 That's correct.

4 CHAIRMAN SCHMIDTLEIN: Okay, so you're saying
5 there's a whole other reason for why they decided to switch
6 from the Petitioner to Korea that you, until now, have not
7 raised? And why, why has that not been raised?

8 MS. LUTZ: We were not fully aware of the issue
9 until we started preparing in more detail for the hearing.

10 CHAIRMAN SCHMIDTLEIN: Okay. Well, I'd like a
11 full explanation, obviously, of what this is and also why it
12 was only discovered recently.

13 MR. SCHWARTZ: We will address that and provide
14 evidence in support in our post-hearing brief.

15 CHAIRMAN SCHMIDTLEIN: Okay.

16 MR. SCHWARTZ: And explain why it wasn't raised
17 earlier.

18 CHAIRMAN SCHMIDTLEIN: Okay.

19 Alright, in terms of the other types of quality
20 issues that you've listed, do you have a recollection of
21 when those were occurring? You know you've mentioned also
22 the contamination with iron, I think, was one of them; the
23 unsaturated phosphor was another one.

24 MR. SCHWARTZ: We can provide information in the
25 post-hearing.

1 CHAIRMAN SCHMIDTLEIN: Okay. So I'd like to see
2 sort of specific information with contemporaneous
3 documentation, so not just a list that's very general, but
4 pinning it to dates and, as I mentioned, contemporaneous
5 documentation of when these issues were raised.

6 MR. SCHWARTZ: Certainly, we'll get those to
7 you.

8 CHAIRMAN SCHMIDTLEIN: Okay. Alright, let's see
9 if I have anything else?

10 I'm not sure I have any more questions right
11 now, so I will turn it back to Vice Chairman Johanson, and
12 if I think we'll take them all in the second round.

13 VICE CHAIRMAN JOHANSON: Thank you, Chairman
14 Schmidtlein.

15 In my life prior to coming to the ITC, I worked
16 extensively on the U.S.-Korea Free Trade Agreement and so I
17 have a question or two about that one. In fact, I was voted
18 out of the Finance Committee in the Senate the same day my
19 nomination was voted out, so I remember very well the date
20 this ball was moving through the Senate.

21 What role did the U.S.-Korea Free Trade
22 Agreement play in the Korean imports of copper phosphors or
23 phosphors copper coming into the United States starting in
24 2012? Was it the elimination of the 8 percent import duty
25 imposed on phosphor copper from Korea that caused an

1 increase in imports?

2 MR. CAVANAUGH: That was not a part of my
3 purchasing decision.

4 VICE CHAIRMAN JOHANSON: Okay, so you don't see
5 a --

6 MR. CAVANAUGH: I was not even aware of that.

7 VICE CHAIRMAN JOHANSON: Okay, okay. If you all
8 could look into this in your post-hearing brief in your
9 response to questions or wherever you want to put it, I'd
10 appreciate it because if it was, indeed, an 8 percent import
11 duty, which is what I see right here, that's actually quite
12 high for a commodity product.

13 And do you all know how the U.S.-Korea Free
14 Trade Agreement might've impacted Bongsan's export
15 decisions?

16 MR. SCHWARTZ: This is David Schwartz.

17 I think it's been made clear in our testimony
18 that, but for Harris reaching out to Bongsan, Bongsan
19 wouldn't have been in the market. Harris contacted Bongsan.

20 VICE CHAIRMAN JOHANSON: Okay. Thanks, Mr.
21 Schwartz.

22 Is it fair to argue that prices for the domestic
23 industry are copper neutral and the only relevant
24 considerations in terms of prices and price trends are the
25 movements of the premium or the adder? This is something

1 that was at least alluded to this morning by the
2 Petitioners.

3 MS. LUTZ: I think as a practical matter that it
4 does appear that competition largely occurs with respect to
5 the adders and prices rise and fall, along with copper
6 prices, so yes, I guess we agree with that.

7 VICE CHAIRMAN JOHANSON: Okay. And following up
8 on that, can raw material costs be pass through and yet the
9 total price remain an important consideration in terms of
10 analyzing price and impact?

11 MS. LUTZ: I'm sorry; can you repeat that?

12 VICE CHAIRMAN JOHANSON: Can raw material costs
13 be passed through to the consumer and yet the total price
14 remains an important consideration?

15 MS. LUTZ: Well, I think that the general idea
16 of how the prices are set is that the copper price component
17 covers the copper raw material costs and the fabrication
18 adder covers other raw materials, labor, other factory costs
19 as GNA. So you could have changes in the other costs,
20 certainly, that would presumably require a change in the
21 adder or that the domestic industry would like a change in
22 the adder.

23 VICE CHAIRMAN JOHANSON: Okay. I guess that's
24 kind of a confusing question, but I mean all the value added
25 is, of course, done by the adder. I guess that make sense.

1 MS. LUTZ: Yes.

2 VICE CHAIRMAN JOHANSON: Maybe that's why they
3 call them the adders, right?

4 MS. LUTZ: I think in some ways it's almost
5 comparable to a toll processing agreement where a company --
6 so the cost of the copper is not figuring into their
7 calculation so much as the adder, which would be their
8 processing charge and include the other raw materials. So I
9 think it would be analogous to that.

10 VICE CHAIRMAN JOHANSON: Okay, that seems to
11 make sense to me, Ms. Lutz.

12 Do you all agree with the Petitioner's
13 contention that the U.S. industry has ample capacity and
14 capacity utilization to serve the U.S. market?

15 MS. LUTZ: The data they reported suggest that
16 they do have enough capacity to supply the U.S. market, but
17 there are only three producers. As Harris has testified,
18 there have been some quality issues and they like to
19 diversify supply. There are almost no other import sources
20 in the market, so it's still a relatively small number of
21 suppliers to a market.

22 VICE CHAIRMAN JOHANSON: Right. Yeah, I was a
23 little surprised that there are so few import suppliers. I
24 guess there's really not many, what can I say, as you all
25 know well.

1 At pages 32 to 34 of their pre-hearing brief,
2 Petitioners have raised arguments respecting the Korean
3 producer, Bongsan and its production capacity based on the
4 Petitioners' research. Because the contentions are
5 proprietary, could you all please respond post-hearing to
6 the claim of the Petitioners that Bongsan likely understated
7 its production capacity?

8 MR. SCHWARTZ: This is David Schwartz and we'll
9 address that in the post-hearing brief.

10 VICE CHAIRMAN JOHANSON: Okay. And just to help
11 you out, that's at page 33 of the Petitioners' brief. You
12 could probably find it, but I'll save you a few minutes.

13 And I have just one more questions, and this is
14 something that I raised this morning with the Petitioners,
15 but just how important are lead times in this industry. We
16 heard this morning that the Petitioners have been able to
17 cut down their lead times due to warehousing, which you all
18 contend is not the case, but just how important are lead
19 times anyway?

20 MR. CAVANAUGH: This is Tom Cavanaugh.

21 Lead times for us are important and that's why
22 we continue to do business with the U.S. industry. For us,
23 customer demand, even though it's relatively been stable
24 over a period of time, can change quite abruptly from week
25 to week and at time you need material relatively quickly and

1 sometimes you have to hold back so, so for us lead time is
2 an important factor.

3 VICE CHAIRMAN JOHANSON: And Ms. Lutz.

4 MS. LUTZ: Vice-Chairman Johanson, on Table II-6
5 of the pre-hearing report lists the factors used in
6 purchasing decisions as reported by U.S. purchasers and
7 availability/delivery/lead time shows up third on the list,
8 so it's pretty important.

9 VICE CHAIRMAN JOHANSON: Okay. Well, thank you
10 for your responses. That's all my questions for now. And
11 in case I do not come with any further ones, I would like to
12 thank you all for appearing here today.

13 CHAIRMAN SCHMIDTLEIN: Okay, Commissioner
14 Williamson.

15 COMMISSIONER WILLIAMSON: No further questions.

16 CHAIRMAN SCHMIDTLEIN: No further questions,
17 okay.

18 COMMISSIONER BROADBENT: Yes, in your
19 post-hearing brief could you please describe why the
20 domestic industry's loss of market share between 2013 and
21 2015 and interim 2016 does not represent material injury to
22 the domestic industry. If we accept that Harris maintained
23 a stable division between domestic and subject import
24 purchases for non-price reasons, why did the subject
25 imports gain market share at the expense of U.S. producers

1 over the 2013 to 2015 period?

2 MS. LUTZ: We will address that in our brief.

3 COMMISSIONER BROADBENT: That's all I have.

4 CHAIRMAN SCHMIDTLEIN: I guess just to wrap up I
5 wanted to make sure also I understand I guess, Mr. Schwartz,
6 from you, given what the staff report says about the
7 responses from the 11 purchasers, I guess, that submitted
8 questionnaire responses are you all representing that those
9 other purchases, besides Harris, also had quality issues
10 with the domestic industry?

11 MR. SCHWARTZ: This is Mr. Schwartz.

12 We rely on the data that's in the staff report
13 and we take it on its face, but we only are representing in
14 this particular matter Bongsan and Harris.

15 COMMISSIONER BROADBENT: Okay. Well, the reason
16 I ask is because I think, as somebody else pointed out, in
17 the staff report you know you have the question about how
18 the U.S. compares to Korea and on the two quality questions
19 they were all unanimous -- it was unanimous that they were
20 comparable from the purchasers. And so I understand that
21 Harris is asserting that they have quality issues and so my
22 question was are you suggesting that there are other
23 purchasers that also have quality issues? Are you
24 representing that?

25 MR. SCHWARTZ: This is David Schwartz again.

1 I think the issue that we've raised during the
2 course of the hearing and in our testimony is that there are
3 a handful of end users and the end use of brazing alloy, I
4 think, faces more quality issues than the other end uses
5 because of the importance of having 15 percent phosphors
6 consistently in the phos copper. That information that
7 you're describing about the number of purchasers those are
8 purchasers that will use the phos copper for a variety of
9 end users.

10 I can't speak for the other -- maybe Tom has
11 industry knowledge, but I can't speak for the others in the
12 U.S. purchasers that used the phos copper for brazing alloy,
13 but I would think that they probably have the same concerns
14 that Harris does.

15 CHAIRMAN SCHMIDTLEIN: But you haven't spoken to
16 them?

17 MR. SCHWARTZ: I have not.

18 CHAIRMAN SCHMIDTLEIN: Okay.

19 MR. CAVANAUGH: No, I have not.

20 MS. LUTZ: Madam Chairman, I would add that,
21 although the numbers are proprietary, in our pre-hearing
22 brief we noted the portion of subject imports accounted for
23 by Harris during the 2013 to 2015 period and it's a large
24 portion of it. And particularly given MPC's focus on the
25 dynamics with Harris, I think that Harris's account should

1 be given a fair amount of weight, given how much MPC has to
2 say about what Harris has done.

3 CHAIRMAN SCHMIDTLEIN: Okay.

4 My last question actually is related to your
5 recitation of Bongsan's talking points at the beginning, Mr.
6 Schwartz and I believe you had said that they do not believe
7 they have the same process as MPC, that is, a similar
8 process and that the process makes their product superior.
9 Did I understand that correct?

10 MR. SCHWARTZ: Exactly.

11 CHAIRMAN SCHMIDTLEIN: Okay.

12 MR. SCHWARTZ: That's correct.

13 CHAIRMAN SCHMIDTLEIN: Okay, so can you
14 elaborate on what those differences are between the two
15 processes and why those differences make their product
16 superior?

17 MR. SCHWARTZ: May I elaborate in the
18 post-hearing brief?

19 CHAIRMAN SCHMIDTLEIN: Okay, fine. If you could
20 do that in the post-hearing brief that would be helpful. If
21 you have any sort of documentation, contemporaneous or even
22 independent sort of evidence that these are -- this type of
23 process makes the product a superior product that would be
24 helpful.

25 MR. SCHWARTZ: We'll do our best to provide it

1 in the post-hearing brief.

2 CHAIRMAN SCHMIDTLEIN: Okay, alright. Thank
3 you.

4 Well, since we have come to the questions by the
5 Commissioners, do the staff have any questions for this
6 panel.

7 MS.STIGER: Porscha Stiger, Office of
8 Investigations. Staff does not have any questions, Madam
9 Chairman.

10 CHAIRMAN SCHMIDTLEIN: Okay. Do the Petitioners
11 have any questions for this panel?

12 MR. PICKARD: Just a few, Madam Chairman.

13 With the Chair's permission, would you mind if I
14 moved to the podium.

15 CHAIRMAN SCHMIDTLEIN: Okay, sure.

16 MR. PICKARD: For the record, again, this is Dan
17 Pickard.

18 I'd like to ask just a very few questions, and
19 Mr. Cavanaugh, these are going to be directed to you. I'm
20 going to attempt to make these questions so they're very
21 easily answered as yes or no questions, but if for any
22 reason the question is confusing or you don't understand or
23 you don't think it's easily answerable with a yes or no,
24 just please let me know and I'll re-ask. Is that fair?

25 MR. CAVANAUGH: That's fair.

1 MR. PICKARD: Just to confirm, your economic
2 consultants today testified that the increase in imports in
3 the domestic -- or the increase in imports did not have
4 price affects on the domestically produced product; is that
5 your understanding? I can certainly restate if that was not
6 done well.

7 MR. CAVANAUGH: Can you repeat?

8 MR. PICKARD: Sure. So your economic
9 consultants testified today that the imports did not depress
10 U.S. prices; is that your understanding as far as what they
11 testified to today?

12 MR. CAVANAUGH: That's correct.

13 MR. PICKARD: And this morning my witness or my
14 client, Mr. Goodman, testified that starting in 2011 bidding
15 for 2012 prices your company made a decision to move
16 purchases to Korea on the basis of price and that's what
17 lead to this increase in imports; is that your understanding
18 as to what he testified to this morning?

19 MR. CAVANAUGH: That is not correct.

20 MR. PICKARD: I'm sorry, Mr. Cavanaugh, just to
21 be clear, I'm not asking you if you agree with him. I'm
22 just asking you if it's your understanding this is how you
23 heard my witness testify this morning that in 2011 they met
24 with Harris and Harris made a decision to buy Korean product
25 on the basis of price and that's what lead to the increased

1 prices. Is that your understanding of what Mr. Goodman
2 testified to this morning?

3 MR. CAVANAUGH: I understand his position. We
4 made a change.

5 MR. PICKARD: Fair enough. Do you believe the
6 increase in Korean imports depressed U.S. prices?

7 MR. CAVANAUGH: Overall, phosphor copper prices
8 follow the trend of the copper market.

9 MR. PICKARD: No, I'm sorry. And again, if it's
10 an unfair question, please let me know, but just try and
11 keep it as simple as possible because I think we all want to
12 wrap up. Do you believe, regardless of movements in copper,
13 that the imports lead to price decreases for the U.S.
14 industry?

15 MR. CAVANAUGH: I can't answer for the U.S.
16 industry.

17 MR. PICKARD: Okay. Has Harris ever told a U.S.
18 producer that if they don't lower prices they're going to
19 start buying more offshore, to the best of your knowledge?

20 MR. CAVANAUGH: No.

21 MR. PICKARD: Mr. Cavanaugh, do you know who
22 Jack Kerr is?

23 MR. CAVANAUGH: Yes.

24 MR. PICKARD: Was Jack Kerr your colleague at
25 Lincoln Electric?

1 MR. CAVANAUGH: He is no longer employed with
2 Lincoln Electric.

3 MR. PICKARD: In 2011 was he your colleague?

4 MR. CAVANAUGH: Yes, he was my manager.

5 MR. PICKARD: Was his title the Global Supply
6 Chain Manager?

7 MR. CAVANAUGH: No, he was purchasing manager.

8 MR. PICKARD: Purchasing manager. And are you
9 aware of who Frank Macusko is?

10 MR. CAVANAUGH: Yes, I am.

11 MR. PICKARD: And would he be a salesperson at
12 Metallurgical Products?

13 MR. CAVANAUGH: Yes, he is.

14 MR. PICKARD: Mr. Cavanaugh, I'm going to show
15 you a document, but first, I'm going to give a copy to your
16 attorney and I'm going to give a copy to the staff and for
17 the Commission and give everybody a moment to review before
18 I ask one or two more questions and then we'll wrap up.

19 MR. CAVANAUGH: Okay.

20 (Pause)

21 MR. PICKARD: Have you had an opportunity to
22 review the document, Mr. Cavanaugh?

23 MR. CAVANAUGH: Yes, I have.

24 MR. PICKARD: If you're comfortable with it,
25 there are about six or seven sentences on this page. Would

1 you be kind enough to read the document starting with
2 "Frank" out loud?

3 MR. SCHWARTZ: I object to that. If you want to
4 put this on the record, you can read it into the record.

5 MR. PICKARD: I'll be happy to do that.

6 So again, this is Dan Pickard for the record.
7 So this is an email from Jack Kerr of Lincoln Electric dated
8 Thursday, April 21, 2011 to Frank Macusko of Metallurgical.
9 The email reads as following: "Frank, I appreciate your
10 efforts to help us. As we discussed during our visit, we
11 are under a lot of pressure to lower our cost of goods sold.
12 Since your visit, our parent, Lincoln Electric, just set a
13 corporate goal of a 2 percent annual reduction in material
14 costs, so the heat is being turned up even higher on all the
15 Lincoln business units to drive lower costs.

16 "Our raw materials are over 90 percent of our
17 cost of goods sold. I've had the same conversations with
18 other domestic suppliers that I had with you during our
19 visit. They have responded with better pricing. I've also
20 been looking at offshore sources and that pricing looks
21 extremely favorable.

22 "There's an obvious downside to moving in that
23 direction, but I have an obligation to investigate all
24 possible alternatives available. Thanks. Jack."

25 Mr. Cavanaugh, would you say that what I've read

1 into the record is that also what appears before?

2 MR. CAVANAUGH: That's correct.

3 MR. PICKARD: Thank you. No further questions.

4 CHAIRMAN SCHMIDTLEIN: Alright, thank you, Mr.
5 Pickard.

6 Alright, I believe with that we are ready to
7 move to closing statements. And I just want to before we
8 move to closing statements mention that with regard to the
9 information that the Respondents are going to put on the
10 record in response to my question about the shift from sales
11 in 2011 and this new information that you've only become
12 very recently aware of I would invite the Petitioners if you
13 feel you need an opportunity to comment on that because it's
14 new information that I would reach out to the staff after
15 that has been placed on the record.

16 MR. PICKARD: Thank you, Madam Chairman.

17 CHAIRMAN SCHMIDTLEIN: Okay. Okay, so for
18 closing arguments Petitioners have a total of 12 minutes and
19 Respondents have a total of 42 minutes. You do not have to
20 take all your time.

21 MR. BISHOP: Madam Chairman, I have a request if
22 we could just take a break for two minutes.

23 CHAIRMAN SCHMIDTLEIN: Of course. We'll break
24 for five minutes.

25 MR. BISHOP: Okay, thank you so much.

1 CHAIRMAN SCHMIDTLEIN: Thank you.

2 MR. BISHOP: Will the room please come back
3 to order? Madam Chairman, we will now turn to rebuttal and
4 closing remarks. Rebuttal and closing remarks on behalf of
5 petitioner will be given by Daniel B. Pickard, Wiley Rein.
6 Mr. Pickard, you have 12 minutes.

7 CLOSING REMARKS OF DANIEL B. PICKARD

8 MR. PICKARD: Thank you Madam Chairman and
9 Commissioners. As always, I'd like to begin by thanking
10 staff for their hard work. This was a smaller record than
11 usual, but it was still as usual a phenomenal job by staff,
12 continuing to collect all of the relevant information and my
13 thanks.

14 So it is certainly my intention not to use all
15 my rebuttal time and all my closing time. I'd like to make
16 a couple of quick rebuttal comments, and then summarize
17 very, very quickly. So in regard to the importance of
18 inventory on the ground, I think sometimes it's important to
19 parse what you hear Respondent's counsel say.

20 Just because Bongsan may not keep inventory on
21 the ground, it doesn't mean that other individuals are not
22 keeping inventory on the ground, and the record clearly
23 shows that there's been a new dynamic in this industry,
24 where now inventory of phosphor copper is beginning to be
25 maintained in the United States. That inventory is of

1 Korean origin, and that has effects on the marketplace.

2 It's been conceded by the other side that
3 there is more than adequate supply in the U.S. industry. I
4 heard a couple of times there's only three U.S. suppliers.
5 That's nothing new in an ITC investigation. There are
6 numerous cases where there is one U.S. supplier. I think
7 the most important part is here, for purposes of the
8 Commission's analysis, the admission that there is more than
9 adequate supply.

10 It was indicated that there were some
11 instances of underselling over the Period of Investigation.
12 I just call that out because it's such a dramatic
13 understatement. There were 80 percent of instances had the
14 Korean product underselling the domestically produced
15 product. That is not "some instances."

16 I'd like to talk a little bit about some
17 quality issues and then some price issues, and then I will
18 wrap up relatively quickly. So following on the observation
19 that imports undersell the domestically produced product in
20 80 percent of price comparisons, there's a logical
21 disconnect to the notion, and Commissioner Broadbent called
22 this out, in regard to the idea that if Korean product is of
23 higher quality, why would it be selling at a lower price?

24 It's our contention because it's not of a
25 higher quality, and 11 out of 11 purchasers agree, right,

1 that they are essentially interchangeable, and I believe
2 that's 10 out of 11 purchasers said that U.S. and Korean
3 product always meets quality requirements. So if purchasers
4 believe that they're interchangeable and that they always
5 meet the minimum quality requirements, then it comes down to
6 price, and then we know that in the vast majority, the
7 Korean imports are lower-priced.

8 It's further conceded or this finding is
9 further supported by Mr. Cavanaugh's statement, right, that
10 it's true. Metallurgical Products, the largest phosphor
11 copper producer in the United States, consistently received
12 A grade quality reports, and I believe his direct response
13 up until the present days that they "continue to receive
14 good marks." So we know it's not quality.

15 So that then brings us to the question of
16 price. After there was a round of questions, the response
17 panel conceded the point that it's not the copper movement
18 that is important to the phosphor copper producers. Copper
19 is passed along. What matters is the adder. It wasn't the
20 Korean Free Trade Agreement, as the witness conceded. It
21 was the fact that Korean product was lower priced than the
22 domestically produced product that led to the increase in
23 market share.

24 How do we know it? We know it because there
25 are confirmed lost sales, you know, because there's

1 confirmed lost revenues and because multiple purchasers told
2 you, told the Commission that they switched from
3 domestically produced product that they otherwise would have
4 bought to Korean imports on the basis of price. There's an
5 issue that I think that we will need to further clarify, and
6 Commissioner Broadbent asked a couple of questions about
7 this and perhaps we didn't explain it satisfactorily.

8 What I heard -- how I heard the questions
9 asked were because there's a lower price in copper, a
10 decrease in copper prices, it would be unfair to increase
11 the total price. That's not what's happening here. What's
12 been suggested is that as copper decreases, the domestic
13 industry hopes to have an increase in adder, which does not
14 lead to an overall increased price; it just leads to less of
15 a price decrease.

16 Then what the domestic industry's testifying
17 to is the fact that because of the presence of subject
18 imports, they were unable to get these. So to be clear,
19 it's not a price increase; it's just less of a price
20 decrease based on the copper decrease.

21 Two remaining thoughts and then I'll
22 summarize. We had indicated earlier that this is an
23 incredibly price sensitive product, and that with only a
24 couple of pennies, purchasers will switch their pricing
25 decisions, and we respectfully submitted that approximately

1 a four percent anti-dumping duty, and nobody has made
2 arguments to the best of my knowledge at the ITC in many
3 years that the dumping margin necessarily correlates to the
4 degree of underselling, right, that they are two
5 fundamentally different propositions.

6 But the question was raised, I think, how much
7 benefit can a four percent anti-dumping duty provide to a
8 domestic industry? What you heard Mr. Goodman testify to is
9 a four percent duty in such a price sensitive product has
10 already turned into some benefits for the domestic industry.
11 But more than that, what I would point out is at noon today
12 the Department of Commerce released their final anti-dumping
13 duty results, which are approximately 8.5 percent, more than
14 doubled.

15 So for a product that is so price sensitive,
16 and eight percent switch in prices can have a dramatic
17 effect on the domestic industry. Last but not least, and
18 this goes to some of the questions Commissioner Schmidtlein
19 was particularly focused on, it had always been our
20 contention that this story really begins in 2011 with Harris
21 basically putting my client on notice that they were going
22 to switch to Korean produced product on the basis of price,
23 and that this is kind of what triggers the increase in
24 imports.

25 There's been testimony really on both sides of

1 this. But not to put too fine a point on it, in the cross
2 Mr. Cavanaugh and in the email from his boss, it
3 specifically says that they're forcing prices lower, that
4 Harris has had this conversation with Metallurgical's other
5 domestic producers, and that they have quote-unquote
6 "responded with better pricing," and in the context of
7 asking Metallurgical to reduce their prices, that they have
8 quote-unquote "I've also been looking at offshore sources
9 and that pricing looks extremely favorable." That's price.
10 That's not quality.

11 So in conclusion, in regard to the basic
12 statutory factors, this is a small industry that saw a
13 significant increase in imports, absolutely and they took
14 market share, and they took, because there are no
15 non-subject markets or non-subject imports, the market share
16 gained by the Koreans came at the direct expense of the
17 domestic industry.

18 Imports undersold the domestically produced
19 product. We will be providing additional information in
20 regard to the effect on the adder. But the Commission's own
21 staff report and Appendix C demonstrates that COGS as a
22 percentage of net sales increased, which is kind of classic
23 evidence of price suppression.

24 Also, as I've mentioned before at Table 6-1,
25 you see the decrease between raw material costs, essentially

1 copper, and total sales price decrease, which is again is
2 the decrease in adder, and on top of that you now have
3 documentary evidence that it was the purchasers requesting
4 the domestic industry to lower prices under basically the
5 threat. Otherwise, we will go and we'll buy from Korean
6 products.

7 Lastly, this is an industry that is in dire
8 shape, that operating margins are at an unhealthy level.
9 You've seen decreases in essentially all of the primary
10 financial indicators for the domestic industry. This is an
11 industry that is currently materially injured, and
12 accordingly we respectfully request an affirmative
13 determination by the Commission. Thank you.

14 MR. BISHOP: Rebuttal and closing remarks on
15 behalf of Respondents will be given by David Schwartz of
16 Thompson Hine. Mr. Schwartz, you have 42 minutes. Joining
17 Mr. Schwartz will be Jennifer Lutz, senior economist with
18 Economic Consulting Services.

19 CLOSING REMARKS OF JENNIFER LUTZ

20 MS. LUTZ: Good afternoon. I solemnly promise
21 we will not use all of our time. I wanted to make a few
22 points responding to what Petitioner has said today, and
23 then Mr. Schwartz will give his points and the closing.

24 When asked by Commissioner Williamson about
25 Table 4 in our brief showing declines in annual average unit

1 values and copper prices, showing the declines in COMEX and
2 declines in AUVs, Petitioner responded that annual prices
3 masked the real effects, particularly after Total entered
4 the market in the third quarter of 2015.

5 Table 5 of our brief, however, shows the same
6 calculations using pricing AUVs, showing changes from Q1
7 2013 to Q4 2015, and Q1 2013 to Q3 2016, and they show the
8 same results. Let's see. With respect to the COGS to sales
9 ratios, as a general matter one might expect prices to
10 decline as raw material costs decline. You see it in a lot
11 of markets. In this case, however, the price formulas cause
12 this effect. It's not the subject imports; it's we set our
13 pricing so that our prices change in response to changes in
14 copper prices.

15 In Slide 10 of Wiley Rein's presentation, it
16 says a \$1 decrease in the price of one pound of copper
17 should generally lead to an 85 cent decrease in the cost of
18 one pound of phosphor copper. Well, that's the changing
19 cost and given the percentages that's true. But the way
20 they have the prices set up, a \$1 decrease in the price of
21 one pound of copper causes a \$1 decrease in the price of one
22 pound of phosphor copper. It's not the subject imports; it
23 is the way the pricing is set up.

24 It's a little unclear they're actually
25 claiming that injury took place. They made claims two years

1 prior to the beginning of the POI. They discuss the overall
2 2013 to 2015 trends. But when questioned by the Commission,
3 they suggest oh well but it's starting in Q3 2015. Well,
4 I'm not sure which period they would like us to look at.

5 With respect to the shot versus waffle
6 pricing, which I started calling pancake at some point
7 because apparently I was very hungry, they claim they don't
8 charge different premiums for the two forms. But they also
9 claim that the declines in premiums were directly caused by
10 negotiations with purchasers who were threatening to buy
11 Korean material.

12 There were no imports of waffle earlier in the
13 period. It should not have affected the premiums if they
14 were declining due to their negotiations with purchasers.
15 Certainly there is a question if this product is higher
16 quality, why is the price lower? Again, prices are very
17 similar. For most purchasers, the slightly lower quality
18 does not make a material effect in their use.

19 But this is a clear, the downside of lead
20 times. Harris buys on a spot basis. When they order their
21 product, they get the U.S. product in a week. They get the
22 Korean product in 45 days. It's a lot harder to manage your
23 raw materials and production if you have to wait 45 days to
24 get the material, and they do not buy from Total. So any
25 inventories that they may hold are irrelevant to their

1 decision.

2 So we have not been claiming that the
3 declining copper price is what harmed the domestic industry,
4 as was just claimed by Petitioner's counsel. We didn't
5 claim that. Instead, we said that is why prices declined.
6 Subject imports did not cause prices to decline. They
7 declined because of the decline in copper prices, which are
8 a direct factor in the price, and I think that's where my
9 comments will stop.

10 CLOSING REMARKS OF DAVID SCHWARTZ

11 MR. SCHWARTZ: Madam Chairwoman,
12 Commissioners, I too thank you for your time today and
13 listening to both sides discuss this very important issue.
14 At the outset, I want to make clear that Harris is very
15 sympathetic to the plight of the domestic industry. We're a
16 loyal customer and as you know, we were splitting our supply
17 and we'll continue to be a loyal customer.

18 But we want to make clear that it's not
19 Bongsan's fault. We've heard a lot of anecdotal evidence,
20 even dramatic anecdotal evidence, but the anecdotal evidence
21 doesn't match the record evidence. This document that was
22 presented by counsel for MPC contradicts what Mr. Goodman
23 told us in his testimony. He said that if Harris were the
24 only party involved in this matter, then there would be no
25 dumping case.

1 Mr. Goodman pointed out that it was only in
2 the third quarter of 2015 that issues arose. This took
3 place in 2011. What I mean by "this," the letter that he
4 introduced onto the record. So he impugns the evidence that
5 he introduces, Mr. Goodman does, by suggesting that this
6 somehow is all about price. He himself said that Harris, if
7 it was only Harris involved, then there would be no dumping
8 case.

9 Further, and I don't know if this is going to
10 please Madam Chairman or enrage her, the issue that we
11 mentioned earlier, and that we're going to address in the
12 post-hearing brief, which hasn't been raised up to this
13 point is directly on point with this particular letter that
14 was introduced into evidence.

15 I think that the Commission has latched onto
16 an important point. I think all of us have except for the
17 Petitioners, and that is very simply that during the POI,
18 copper prices declined, and as copper prices declined
19 phosphor copper prices declined, and that was what was
20 taking place here. There's a correlation, and it needs to
21 be acknowledged.

22 Bongsan's prices were tied to the copper
23 pricing as well, as the other members of the industry also
24 had their prices tied to the copper pricing also. What
25 needs to be emphasized here, and we've tried our best to do

1 so, is that even though MPC emphasizes that pricing falls
2 into the top three of important factors, quality is number
3 one.

4 Quality is what kept Harris to continue
5 purchasing from Bongsan. If it weren't for the quality that
6 they've discovered with the Bongsan's product, MPC would not
7 be purchasing from -- I'm sorry, Harris would not be
8 purchasing from Bongsan. They tried out Bongsan and it's
9 quality that kept Harris with Bongsan.

10 Also, I want to emphasize as to
11 substitutability for the brazing rod, brazing alloy market,
12 it is important to be aware that end use does matter and the
13 quality of the phos copper does matter. That's what is
14 important to those in the brazing rod market, and that's why
15 quality control is critical, and that's why the differences
16 that we'll discuss in our post-hearing brief about the
17 production processes between Bongsan and the domestic
18 industry is so important.

19 With that, I'd like to go into my closing
20 remarks. The evidence does not show that subject imports
21 have caused or threatened to cause material injury to the
22 domestic industry. The prehearing report shows no causal
23 link between the domestic industry's claims of injury and
24 subject imports.

25 Much of that evidence in the report MPC does

1 not address head on or challenges as inaccurate in its brief
2 here or at the hearing. MPC never adequately addresses one,
3 the Commission's concerns about the decrease of copper
4 pricing and its impact on pricing, two, and this is
5 something that bears emphasis, MPC never adequately
6 addresses the domestic industry's export losses during the
7 POI. We feel that's a very important factor that's at play
8 here in causing injury to the domestic industry.

9 Three, the domestic industry's other losses
10 during the POI, unrelated to subject imports, which we can't
11 discuss here, is also an important factor that needs to be
12 addressed that hasn't been adequately addressed, and we'll
13 further discuss that and we hope the Petitioners will as
14 well in the post-hearing brief. Finally, the quality and
15 safety issues raised by Harris remain important, and will be
16 looming in the background.

17 But Harris still feels strongly that while
18 they needed a diversification of supply, that they do want
19 to continue supporting the U.S. industry, but they're doing
20 so by splitting their supply among members of the industry,
21 domestic industry as well as foreign product.

22 Any of these reasons that I've given are
23 reason enough for the ITC to make a final determination, a
24 final negative material injury determination. Taken
25 together, there are strong reasons for the ITC to make such

1 a determination. As for threat, MPC claims that Bongsan's
2 capacity is likely understated based on MPC's own evidence.
3 The record evidence from Bongsan, however, shows that
4 Bongsan does not threaten the domestic industry with
5 material injury because it has a very high production
6 capacity utilization rate.

7 Given that the record does not show that
8 subject imports depressed or suppressed domestic prices,
9 it's not likely that subject import prices will depress or
10 suppress domestic prices in the imminent future. Three, it
11 has strong economic disincentives to holding inventories,
12 and we're discussed that, even though it's contrary to the
13 position of the Petitioners. We hold firm about the
14 disincentives, economic disincentives to holding
15 inventories. And four, Bongsan does not have product
16 shifting capabilities.

17 Please remember that Bongsan entered this
18 market at the request of a U.S. purchaser. More than
19 two-thirds of its sales remain outside of the United States.
20 Due to its modest size and its distance from the United
21 States, it's prevented from increasing shipments to the
22 United States. For these reasons, the ITC should also make
23 a finding of negative injury determination as to threat.
24 Thank you again for your time.

25 CHAIRMAN SCHMIDTLEIN: All right. Thank you,

1 Mr. Schwartz. Again, I'd like to thank all the witnesses
2 for being here today. It's been a bit of an exciting
3 afternoon for the ITC with one party questioning the other.
4 So I guess I'll have to dust off my copy of the Federal
5 Rules of Civil Procedure or rules of evidence if that's
6 going to keep happening. With that, we do appreciate
7 everyone's time.

8 So with that, post-hearing briefs, statements
9 responsive to questions and requests of the Commission and
10 corrections to the transcript must be filed by March 7th,
11 2017. Closing of the record and final release of data to
12 parties will be March 24th, 2017, and final comments are due
13 March 28th, 2017. With that, this meeting is adjourned.

14 (Whereupon, at 2:40 p.m., the hearing was
15 adjourned.)

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CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Phosphor Copper from Korea

INVESTIGATION NOS.: 731-TA-1314

HEARING DATE: 2-28-17

LOCATION: Washington, D.C.

NATURE OF HEARING: Final

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 2-28-17

SIGNED: Mark A. Jagan

Signature of the Contractor or the
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